

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Master in Equity

The Honorable Cynthia Graham Howe

Case No. 2017-002365

Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of
the 15th Circuit Drug Enforcement Unit,

Respondent,

v.

Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various
Jewelry, Defendant Property, and Marvin Joshua White,

Appellant.

RECORD ON APPEAL

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Volume II

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INDEX

Volume I:

Orders

Consent Order of Reference dated September 19, 2016	1
Order of Forfeiture dated October 10, 2017	2

Pleadings

Plaintiff's Summons and Complaint	11
Defendant's Answer	18

Discovery

Richardson's Discovery Requests	21
White's Discovery Responses	26
White's Discovery Requests	34

Trial Exhibits

Cell Phone Search Warrants	42
Bank Search Warrants	58
Photos of Appellant White	67
Video	-A
Safety Deposit Box Photos	74

Correspondence

August 3, 2015 Letter Wilson to Battle	79
December 1, 2016 Battle to Wilson Email	80
September 14, 2017 Email from Judge Howe	81

Transcripts

Hearing Transcript	84
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1 did do discovery. We answered his discovery. We
2 sent discovery to him, requests, and then he failed
3 to answer. That's his responsibility. Now, if I
4 had not filed my answer to his discovery, I'd say,
5 okay, well, that's it, but that's not what
6 happened. We answered his discovery. That's my
7 obligation under the law, the rule. And I didn't
8 have to respond. I did because, again, he's going
9 to end up either going and filing a motion to
10 compel, or I'm going to be in violation of the
11 rule. I asked him to actually give me the
12 discovery. So if I'm giving him discovery, why in
13 the Lord's name would I not send him discovery?

14 THE COURT: A lot of attorneys don't.

15 MR. WILSON: I do every single time,
16 and you can ask him. He's right there. Every
17 single time I send discovery, Judge. Every single
18 time, especially in these seizure cases because,
19 again, you never know what you're going to get.
20 And that's my issue, Judge. Again, you know, we
21 never received any.

22 My last comment will be this. We never
23 received anything, no witness list. I think it's
24 highly prejudicial to allow the State to go forward
25 with the seizure action when obviously the reason

1 that we never got any documents is because we never
2 received anything. Not one shred of -- and not one
3 thing until literally days before trial. And I
4 think that in itself is indicative of simply either
5 not willing to turn it over or simply thinking that
6 obviously that they can respond and give me e-mails
7 with documents in it but show me that obviously
8 they had some obligation to turn it over.

9 THE COURT: Well, let me ask you this.
10 And this is -- maybe this is something I shouldn't
11 even ask, but I did notice it yesterday.

12 MR. WILSON: Yes, Your Honor.

13 THE COURT: The motion to continue that
14 was sent yesterday.

15 MR. WILSON: Yes, Your Honor.

16 THE COURT: Did you serve that on the
17 plaintiff?

18 MR. WILSON: I don't know if we did or
19 not. I think we did e-mail this morning is when we
20 served it, Judge.

21 THE COURT: Okay. Because there was no
22 certificate of service that was sent to me.

23 MR. WILSON: Your Honor, I think what
24 we were trying to -- we were trying to go ahead and
25 get this case continued, obviously, so that Brooker



1 could take over for this defendant because he was
2 so gung ho about Brooker taking over. I was trying
3 to accommodate him. And for the record, Judge, I
4 told Brooker a month and a half ago that he could
5 have this case. I don't want any money from this
6 defendant.

7 THE COURT: I understand. I believe
8 you, Mr. Wilson.

9 MR. WILSON: Yes, ma'am.

10 THE COURT: I totally believe you, Mr.
11 Wilson.

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: Well, I'm going to go ahead
14 and allow the case to go forward. You know, I
15 don't know what to do in a case like this when
16 Mr. Battle has, as an officer of the court, said he
17 never received the discovery request. Mr. Wilson's
18 office says that -- and I've got a certificate of
19 mailing that says that it sent the document
20 request. Then no motion to compel was ever made
21 where this could have been straightened out. I
22 don't know what else to do but allow the case to go
23 forward. And we've spent -- I don't know --
24 30 minutes on it already.

25 Do we have another issue, Mr. Wilson?



1 MR. WILSON: Judge, but it's going to
2 be an issue throughout trial because obviously I'm
3 going to object every time he puts anything up.

4 THE COURT: I'm going to let you make
5 one objection, and then we'll have it continuing
6 throughout --

7 MR. WILSON: Thank you, Your Honor.

8 THE COURT: -- so that you don't have
9 to jump up every single time.

10 MR. WILSON: Thank you, Judge.

11 THE COURT: Okay. Mr. Battle?

12 MR. BATTLE: Thank you, Your Honor.

13 THE COURT: You already look tired.

14 MR. BATTLE: I call to the stand Agent
15 Derek Suggs.

16 THE COURT: Agent Suggs, if you will
17 come around all the way to your right and up to the
18 front. And if you will place your left hand on the
19 red Bible once you get around and raise your right
20 hand to be sworn or affirmed by the court reporter,
21 sir.

22 (The witness was duly sworn.)

23 THE COURT: Agent Suggs, if you will
24 state your full name for the record, please.

25 THE WITNESS: It's Randall Derek Suggs.



1 THE COURT: Randall Derek Suggs. Are
2 there two 'Ls or one?

3 THE WITNESS: Two.

4 THE COURT: Two?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you, sir. And is
7 Derek with a K?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Okay.

10 RANDALL DEREK SUGGS,
11 being first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BATTLE:

14 Q. Agent Suggs, where are you employed?

15 A. I'm employed with the Horry County
16 Sheriff's office.

17 Q. And what is your rank with the
18 Sheriff's office?

19 A. I'm a deputy or agent.

20 Q. And have you been assigned to a
21 specific unit?

22 A. Yes, sir. I'm currently assigned to
23 the 15th Circuit Solicitors Drug Enforcement Unit.

24 Q. What do you do as an officer assigned
25 to that unit? What are your day-to-day

1 responsibilities?

2 A. We proactively enforce the drug laws,
3 most local and state, in regards to drug
4 trafficking, smuggling and/or distribution within
5 our jurisdiction.

6 Q. And how long have you worked in
7 narcotics?

8 A. Approximately four years.

9 Q. Prior to working in narcotics, did you
10 receive any training as far as identifying drugs or
11 the drug trade?

12 A. Yes, sir. With my tenure back with the
13 Horry County Police Department, I've attended
14 several narcotics-related classes to include drug
15 interdiction, criminal interdiction, multiple
16 classes in regards to that.

17 Q. Okay. And would that include
18 identifying cocaine?

19 A. Yes.

20 Q. And heroin?

21 A. Yes.

22 Q. And in your law enforcement activities,
23 how many controlled buy investigations have you
24 conducted?

25 A. It's in excess of 85. We don't -- it's



1 kind of hard to keep track the way it's switched
2 over, but it's in excess of 85 drug cases in the
3 past four years.

4 Q. Sure. And how many drug related search
5 warrants have you executed?

6 A. At least 60 on residences. That's not
7 including phone search warrants or safe deposit
8 search warrants or anything. That's just
9 residential search warrants executed.

10 Q. Do you feel that you are familiar with
11 identifying property used in the drug trade and
12 identifying drugs and that type of thing?

13 A. I do.

14 MR. BATTLE: Your Honor, at this time
15 I'd like to submit Agent Suggs as an expert in
16 characteristics common to the drug trade and
17 property used to conduct that activity.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Judge, this was an issue
20 brought up at the last trial. And, again, the
21 judge denied that motion. I would ask the Court to
22 not qualify this person as an expert. One of the
23 things that is mandated is that they turn over an
24 expert's report if he's going to be an expert
25 witness. And again, I don't think they've laid a

1 foundation for him to be an expert. But not only
2 that, I don't think that any officer can come in
3 and say that they are an expert in how to identify
4 characteristics related to the drug business.

5 THE COURT: Did you say something about
6 a report?

7 MR. WILSON: Yes, Your Honor.

8 THE COURT: What did you say about the
9 report?

10 MR. WILSON: There was no expert's
11 report given in this particular case. There was no
12 report provided by the State. If he's going to be
13 an expert, he was supposed to provide a report to
14 us. We never received any report whatsoever that
15 they were going to give any expert testimony or a
16 report which could be obviously then determined --

17 THE COURT: Analyzed?

18 MR. WILSON: That's right.

19 THE COURT: If he had given a report,
20 would you consider him an expert?

21 MR. WILSON: No, Your Honor.

22 THE COURT: You just wanted a report if
23 he had --

24 MR. WILSON: So we could prepare, one,
25 to actually make our motion against it, obviously

1 in limine if we have to. But also, again, I don't
2 consider him to be an expert. There's no experts
3 in this field. It's not a recognized field of
4 science.

5 THE COURT: Expertise?

6 MR. WILSON: Yes. Well, this is not a
7 science anywhere.

8 THE COURT: Well, somewhat area of
9 expertise do you believe Deputy Agent Suggs has.

10 MR. BATTLE: So the testimony, for
11 example, would be we found digital scales in
12 somebody's car, a scale used to weigh something.
13 Agent Suggs, are digital scales common in the use
14 of selling illegal drugs? Yes. That type of
15 thing. It's not -- it's a narrow area of expertise
16 and I think one in which Agent Suggs has dealt with
17 over and over.

18 THE COURT: Are you going to have him
19 testify as to what one drug looks like versus what
20 another drug looks like?

21 MR. BATTLE: He conducted field tests
22 on all the drugs related to this case, so I don't
23 know that he'll be identifying just by sight, but
24 yes as to the field test.

25 THE COURT: Okay.



1 MR. WILSON: Judge?

2 THE COURT: Yes, sir. What about his
3 being an expert as to that?

4 MR. WILSON: Judge, he is not a
5 pharmacologist or -- my issue is this. This is not
6 a science area. It's not an area where experts --
7 he can give his testimony about what he found and
8 what he saw, but there's no expert, there's no
9 social science field, about characteristics of
10 things that are found or --

11 THE COURT: Well, it doesn't have to be
12 a science area to be an expert in. I mean, it's
13 not the kind of thing that I could be. It's any
14 area where a normal person would not be able to
15 testify to that can give -- to give help to the
16 Court. I mean, certainly I couldn't tell what
17 someone dealing in drugs might have in his or her
18 car, and I certainly can't do any kind of field
19 test to know what one drug might be versus what
20 another drug might be. And if this gentleman can
21 testify to that and give aid to the Court, he may
22 be considered an expert. Do you think -- if this
23 gentleman can do that, then he may very well be an
24 expert in that particular area.

25 MR. WILSON: Judge, I would say that



1 that's not the case. Again --

2 THE COURT: I mean, I don't know if he
3 is or isn't. But if he is, then I would qualify
4 him as an expert in whatever that field is.

5 MR. WILSON: Officers get up all the
6 time in civil cases and in criminal court and talk
7 about what they found and where they found it.

8 THE COURT: Yes, sir.

9 MR. WILSON: And they can also say,
10 look, in my experience, this is what we normally
11 find in these situations. There is no field that
12 can be either analyzed or somehow tested to see.
13 Again, being an expert, there's a way to see if
14 that person is an expert or not. Okay? Because
15 you can go in and see what are their qualifications
16 and also is the science testable. That's what the
17 court has said over and over again. There's no way
18 to me -- obviously he's an agent. He can testify
19 to what he saw and what he found. But, again, to
20 give that weight to testimony which is what the
21 State is trying to do, to put it in as an expert,
22 there is no field of study called characteristics
23 of drug dealers. I've never heard of it before.
24 The first time I heard of it was in a trial with
25 Judge Culbertson. And, again, you know, that



70
1 precedent is set. The judge denied that motion to
2 allow him to enter him as an expert witness. I
3 would ask the Court be consistent with that
4 because, again, this is not an area of expertise
5 that can be tested at all. Period.

6 THE COURT: Well, let's see what other
7 area he may be qualified in.

8 MR. WILSON: Thank you, Your Honor.

9 THE COURT: Is there another area?

10 MR. BATTLE: That's it, Your Honor.

11 And the hang-up with Judge Culbertson was I asked
12 for an expert in the area of illegal drugs. I
13 didn't specify it to property used to sell illegal
14 drugs. And I think that Culbertson took issue with
15 that broad qualification.

16 THE COURT: Of illegal drugs?

17 MR. BATTLE: Right. Just an expert in
18 illegal drugs. And so I tried to kind of narrow it
19 in this case. And it's not -- it's a small feature
20 of his testimony. It's not the main reason that
21 Agent Suggs is here.

22 THE COURT: I understand, because he's
23 a fact witness as well.

24 MR. BATTLE: Right. Correct, Your
25 Honor.



1 THE COURT: I'm not sure what area that
2 really is.

3 MR. BATTLE: It would just be in his
4 law enforcement -- his observations in law
5 enforcement on the property that drug dealers use
6 to conduct that trade.

7 THE COURT: That might be stretching it
8 kind of, Mr. Battle.

9 MR. BATTLE: So like plastic bags or
10 plastic baggies. Anyway...

11 THE COURT: I'm going to deny that.

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: I'm going to sustain
14 Mr. Wilson's objection.

15 MR. WILSON: Thank you, Your Honor.

16 UNIDENTIFIED FEMALE: Good.

17 MR. WILSON: Shhh.

18 THE COURT: I'm sure he's a very good
19 agent, and I'm sure he's an expert in his own way.
20 I'm just not sure the area that we can get our arms
21 around. I'll take his testimony, but I don't know
22 that he can give an opinion. He can talk about
23 what all he saw, and I can draw my own conclusions.

24 MR. BATTLE: Okay. Thank you, Your
25 Honor.



1 BY MR. BATTLE:

2 Q. Agent Suggs, when did you first receive
3 information that Mr. White was selling drugs?

4 A. In or around July of 2013, I received
5 information from a confidential source that advised
6 that Mr. White was distributing cocaine base in or
7 around the Conway section of Horry County. After
8 meeting with the source and receiving information,
9 before we could act on it, Mr. White was arrested
10 by Conway City Police Department. I believe it was
11 possession with intent to distribute cocaine base.
12 He was --

13 THE COURT: Let me ask you -- now, I
14 hate to stop you, but I don't know what cocaine
15 base is.

16 THE WITNESS: Cocaine base is --

17 THE COURT: Would you explain that to
18 me?

19 THE WITNESS: Yes, ma'am. Cocaine base
20 is a term that is more of an identifying term for
21 crack cocaine. It's just a drug that -- they take
22 cocaine and they'll cultivate it and cook it into
23 crack, and it will make a more pure form that
24 they'll smoke. So cocaine base is just another
25 word for crack essentially.



1 THE COURT: Does it have anything to do
2 with just plain cocaine?

3 THE WITNESS: Cocaine is used to make
4 crack. It's mixed with baking soda and it's cooked
5 and made into crack to make a stronger form.

6 THE COURT: Why would anyone mess up
7 cocaine to make cocaine crack -- I mean crack?

8 THE WITNESS: Just more money. It's
9 more addictive. Crack cocaine is more addictive
10 than regular powder cocaine in its properties, so
11 there's more -- you can sell it for more, and you
12 have repeat customers because the addiction level
13 is so high with it.

14 THE COURT: Okay. Thank you.

15 BY MR. BATTLE:

16 Q. So you got information that Mr. White
17 was selling drugs in the Conway area. And tell us
18 what happened with that.

19 A. After meeting with the source, we were
20 preparing to initiate an investigation into
21 Mr. White. However, before we could really get
22 that jump-started, Mr. White was arrested by Conway
23 Police Department for possession with intent to
24 distribute cocaine. And, again, I believe it was
25 crack cocaine then. So he was arrested in regards



1 to that charge.

2 I received information in or around
3 August 13th or August of 2013 that Mr. White,
4 during the course of his drug duties as far as
5 distributing, buying and selling dope, things of
6 that nature, that he had secured a storage unit at
7 -- I'm probably going to pronounce that wrong --
8 Absco Storage Units there on Highway 9. That's
9 going to be, I believe, the Longs section of Horry
10 County at the intersection of 9 and 57. He said
11 that he had a storage unit there in regards that he
12 would take firearms as well as other items, some
13 stolen, in exchange for illicit drugs.

14 We executed a search warrant there.
15 After deploying a drug detection K-9, there was an
16 investigation there in which we recovered 22
17 firearms, five of which were stolen.

18 Later on, trying to pursue -- because I
19 was notified by the source that Mr. White's
20 activities had continued even though he was
21 incarcerated, that he had took in Mr. Brantley --
22 Shelton Manquell Brantley I believe was his full
23 name -- had stepped up and was running Mr. White's
24 business while he was incarcerated.

25 We were able to do a controlled drug



1 purchase on Mr. Brantley in which we got him audio
2 and video recorded and secured a warrant for him.
3 We located him in the Conway section of Horry
4 County and took him into custody of which he was
5 operating a vehicle that was utilized by Mr. White
6 during his drug transactions as well as had
7 Mr. White's phone on his person.

8 Those phones, we secured a search
9 warrant for all the phones that he had in his
10 possession, one of which being Mr. White's which
11 had some videos of Mr. White in an area --
12 actually, it was in the bank where the safe deposit
13 box is -- recording large sums of currency.

14 Q. Let me show you some documents, Agent
15 Suggs, and ask you if you recognize those.

16 THE COURT: Agent Suggs, while you're
17 doing that...

18 THE WITNESS: Yes, ma'am.

19 THE COURT: There should be some fresh
20 water there for you if you need it, and some cups.

21 THE WITNESS: Thank you.

22 These appear to be the search warrants
23 that I secured in regards to the phones that
24 Mr. Brantley had in his possession at the time of
25 his arrest.

1 BY MR. BATTLE:

2 Q. Okay. And are those search warrants a
3 true and accurate copy of the original search
4 warrants?

5 A. Yes, sir, to the best of my knowledge.

6 Q. Have they been altered in any way?

7 A. Not that I can tell.

8 MR. BATTLE: Your Honor, at this time I
9 would like to put the search warrants into evidence
10 of the cell phones.

11 MR. WILSON: Judge, over previous
12 objections, Your Honor.

13 THE COURT: Do you want to go ahead and
14 state your full objection on the record now? And
15 then you won't have to make it anymore.

16 MR. WILSON: Your Honor, we're going to
17 -- just a clean slate objection to any documents,
18 including this witness testifying, Your Honor, any
19 evidence being put up by the State.

20 THE COURT: Okay. And that's because
21 of the previous request for production and the
22 interrogatories that were sent and not answered?

23 MR. WILSON: That's correct, Your
24 Honor.

25 THE COURT: Thank you very much.



1 MR. WILSON: Thank you, Judge.

2 THE COURT: And Mr. Wilson, you will
3 not have to object anymore. That will be a
4 continuing objection throughout the matter.

5 MR. WILSON: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 That's Plaintiff's 1 or A?

8 THE REPORTER: One.

9 THE COURT: One? Thank you.

10 (PLF. EXH. 1, Search Warrants RE
11 Phones, was marked and admitted into evidence.)

12 THE COURT: Mr. Wilson, do you need to
13 see it? You've seen this?

14 MR. WILSON: Yes, Your Honor. He gave
15 me a copy of it just now.

16 THE COURT: Yes, sir.

17 BY MR. BATTLE:

18 Q. Agent Suggs, let me ask you -- so you
19 reviewed the data that you pulled off of
20 Mr. White's phone?

21 A. Yes, sir.

22 Q. Do you recognize those photographs I
23 just handed you?

24 A. Yes, sir. That was some of the
25 photographs that was located on the device that was



1 identified by Mr. Brantley as Joseph White's.
2 These are photographs that he had taken of himself
3 on his phone as well as holding quantities, large
4 quantities, of US currency, in small denominations
5 consistent with street-level drug distribution.
6 Some here in hundreds.

7 Q. And do those photos -- are they a true
8 and accurate copy of the photos you downloaded from
9 his phone?

10 A. Yes, sir.

11 Q. Have they been altered in any way?

12 A. No, sir.

13 MR. BATTLE: Your Honor, at this time,
14 I would like to put in the photos from Mr. White's
15 phone.

16 MR. WILSON: Your Honor, this is a
17 different objection, Judge. I don't see the
18 relevance. Gibson and Gordon, which are cases that
19 we've talked about a number of times in these
20 cases, talk about courts making inferences from
21 things that are unrelated to the actual thing being
22 seized. These pictures show him with money. They
23 show him with clothes on. They show him posing.
24 But I don't understand the relevance at all to this
25 case.



1 THE COURT: Mr. Battle?

2 MR. BATTLE: Your Honor, the pictures
3 of Mr. White are to show that it was Mr. White's
4 phone even though a friend of Mr. White had the
5 phone when the police officer seized it. The
6 pictures of the money is connecting the money to
7 Mr. White. And then later in this testimony, we're
8 going to present evidence of the drug dealing. So
9 if my goal is to seize the money, I have to have
10 the drug dealing and the money and put them
11 together.

12 MR. WILSON: Objection.

13 THE COURT: Objection? Yes, sir?

14 MR. WILSON: I'm sorry. I'm confused
15 because, again, I'm just making sure that this is
16 what they're saying -- I think that what he's
17 suggesting is they're going to show that the money
18 in this photo is the money that they found in the
19 safe deposit box?

20 THE COURT: I don't know that they're
21 going to show that that particular money, but
22 they're going to show that some sum of money is
23 connected to a drug deal.

24 MR. WILSON: In these photos, Judge, it
25 only shows him with clothes on and taking a



1 picture. I'm not sure how we jump from that to
2 this is his cell phone. I'm not sure how the
3 relevance -- I don't see the relevance in that.

4 THE COURT: Well, I'm glad they're not
5 showing him nude, but I don't know why -- why are
6 you talking about the clothes on, Mr. Wilson?

7 MR. WILSON: Well, I'm saying that he's
8 taking selfies of himself, so I'm not sure how
9 that's relevant to seizing the drugs and the money
10 that they were seizing.

11 THE COURT: As opposed to a Mr. Weiner?

12 MR. WILSON: Oh, no, no, as opposed to
13 anything. I'm sorry. I'm just saying anything.
14 Any pictures of him doing anything. I mean, just
15 as it is useless to enter pictures of him standing
16 like this. I don't understand why they're -- what
17 the connection is of putting all the photographs in
18 of him. All they've got to do is if they want to
19 prove that it's his cell phone is bring out the
20 cell phone records. And obviously if they have
21 them, they can prove it that way. But I'm not sure
22 why pictures of him, multiple pictures of him, I
23 might add, which are excessive, are being put into
24 the record. I don't understand that. I don't see
25 the relevance.

1 THE COURT: Are there just three? How
2 many photos are there? Three?

3 MR. WILSON: There are one, two, three,
4 four, five. And I would submit to the Court I
5 think that what they're trying to show is that he's
6 got on hats and, I guess, thug clothes, but that is
7 not relative to what's going on here.

8 THE COURT: I can't see that very well,
9 but that doesn't look like thug clothes there.
10 It's a guy with --

11 MR. WILSON: Well, he's got tattoos on
12 his arms, Judge, is what I'm saying, you know. And
13 he's got -- in this one, he's posing again. I
14 don't know the relevance of that. And then he's
15 posing again in this in front of, I guess, a Buick.

16 THE COURT: Mr. Wilson, too many
17 athletes today have tattoos. I wouldn't consider
18 that thug.

19 MR. WILSON: Judge, but they're also
20 offering the money, pictures of the money, and they
21 haven't even confirmed that the money in the
22 picture was real. That's also a concern of mine.

23 THE COURT: Yes, sir.

24 MR. WILSON: They're offering this to
25 show that there's a connection between my client



1 having money and then the money in this picture.
2 They're not even -- they can't even confirm that
3 the money in this picture is real.

4 THE COURT: Yes, sir. That will be
5 good on cross-examination. I'm going to allow it.

6 MR. WILSON: Thank you, Your Honor.

7 THE COURT: Your objection is noted.

8 MR. WILSON: Thank you, Judge.

9 BY MR. BATTLE:

10 Q. Okay. Agent Suggs, did you pull any
11 video off of Mr. White's phone?

12 A. Yes, sir. Whenever we have -- we have
13 a device that we utilize to extract the contents of
14 cell phones for evidentiary purposes after search
15 warrants are obtained. So once we got the pictures
16 and information off the phone, we pulled off a
17 couple of videos of what is believed to be
18 Mr. White counting money in the room wherever they
19 take your safe deposit box at the bank -- wherever
20 they pull it out for you to go into it and stuff --
21 where he's recording video of large sums of
22 currency laid out on the table and making comments
23 suggesting that.

24 Q. Agent Suggs, I can play you some of the
25 videos for you to authenticate.



1 THE REPORTER: Do I need to mark the
2 photographs?

3 THE COURT: Agent Suggs, could you hand
4 the court reporter those photographs?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you.

7 (PLF. EXH. 2, Photographs, was marked
8 and admitted into evidence.)

9 THE WITNESS: James, I didn't get to
10 point out that --

11 MR. BATTLE: You can't talk to me while
12 you're testifying.

13 THE WITNESS: Oh, okay. I'm sorry.

14 MR. WILSON: He's about to enter into
15 evidence a video which obviously we have to object
16 to on two bases, the previous objection that I made
17 to the Court regarding this not being produced --

18 THE COURT: Yes, sir.

19 MR. WILSON: -- in a timely fashion.
20 But my second objection is that no one has
21 confirmed or -- I presume no one -- I haven't seen
22 any record of this -- has confirmed that it's my
23 client in this particular video or the insinuation
24 is that they're making, if I heard the agent
25 correctly, they're trying to insinuate that he's



1 making statements in this particular video. I have
2 not heard the video. I don't know what he says.
3 But, again, I would have serious concerns about
4 this evidence coming in to infer that he is a
5 big-time drug dealer or that this money was somehow
6 related or traceable to a drug transaction with
7 these CIs. I just don't understand how they get
8 from him being at the bank and then this being
9 relevant to the money. The question is whether or
10 not it's traceable.

11 THE COURT: Mr. Wilson, come around. I
12 guess you can see some of the still photos. I'm
13 not sure what it's -- I don't see your client in
14 any of the --

15 MR. WILSON: I think he's going to play
16 a video, Judge.

17 MR. BATTLE: Your Honor, I've got six
18 videos, and these were all pulled off of
19 Mr. White's cell phone.

20 BY MR. BATTLE:

21 Q. Is that right?

22 A. Yes, sir. The pictures, the videos as
23 well as the text communications and stuff, that's
24 all dumped through a Cellebrite system, so, you
25 know, the integrity of the information removed from



1 the phone can be verified as well as statements
2 from Mr. Brantley that the phone was his.

3 THE COURT: So these videos are all
4 taken off of Mr. White's phone?

5 THE WITNESS: Off Mr. White's phone
6 that Mr. Brantley was in possession of whenever he
7 was incarcerated.

8 THE COURT: And you verified that these
9 were taken off of Mr. White's phone?

10 THE WITNESS: Yes, ma'am. The phone --
11 at the time that we arrested Mr. Brantley on -- I
12 met with him on August 29, 2013 at J. Reuben Long,
13 which he was given Miranda. Mr. Brantley, after
14 that, volunteered information that while Mr. White
15 was incarcerated that he was placed into the
16 position by Mr. White to run his business while he
17 was in jail. At that time, he made statements that
18 the phone he was holding as well as the white Buick
19 that he was operating, one of which --

20 MR. WILSON: Objection, Your Honor.
21 This is all third-party hearsay, Judge. And,
22 again, to get this in, they would need Mr. Brantley
23 to come in. They're trying to lay the foundation
24 to put this in by using this witness' testimony.
25 He had no firsthand knowledge of this information.



1 They got it through a third party that -- they're
2 saying the phone belonged to him. They haven't
3 even laid the foundation that it's his phone.
4 They're now trying to move from this agent to the
5 third party, Brantley, and then say, okay, well,
6 yeah, this is him. They're trying to identify him
7 in court with the cell phone and then use the
8 testimony against him without that third party
9 being here, Judge. I'd ask the Court to absolutely
10 exclude that evidence based on that issue. It's
11 rank hearsay, Judge.

12 THE COURT: I think we're well past
13 that based on the photographs that were taken off
14 the phone. I think we've already -- aren't these
15 the photographs that were taken off the phone that
16 are already in evidence?

17 MR. BATTLE: Yes, Your Honor, and
18 they're selfies of Mr. White which shows that is
19 Mr. White's phone, that he's pulling these videos
20 off of Mr. White's phone.

21 THE COURT: I'm going to overrule that.
22 I think we're well past that objection, Mr. Wilson.

23 MR. BATTLE: Okay. Your Honor, I want
24 to put in all six of these videos into evidence. I
25 can have Agent Suggs authenticate that each of

1 these videos came off the phone, or I could play
2 snippets of each video. There's only one that I
3 want to publish for the hearing today though.

4 THE COURT: Okay.

5 MR. BATTLE: How do you want me to do
6 it?

7 THE COURT: Let's play the one that
8 you're interested in playing today, and then we'll
9 get to the others. Oh, no, now no signal.

10 BY MR. BATTLE:

11 Q. Agent Suggs, tell me if you recognize
12 this video.

13 THE COURT: Mr. Wilson, do you need to
14 come around?

15 THE WITNESS: That's the room at the
16 bank where they take the safe deposit boxes.

17 BY MR. BATTLE:

18 Q. So you've been in the safe deposit room
19 at the bank?

20 A. I have.

21 Q. And do you recognize from this video
22 that that's in that safe deposit room?

23 A. Yes, sir.

24 Q. And you recognize this video is a video
25 that you pulled off of Mr. White's phone?



1 A. It is.

2 Q. Does this video appear to have been
3 altered in any way?

4 A. Not that I can tell.

5 Q. Okay. Is it a true and accurate
6 representation of that video?

7 A. As best I can tell.

8 Q. Okay.

9 MR. WILSON: Your Honor?

10 THE COURT: Yes, sir.

11 MR. WILSON: I have to object, Judge.

12 He can't authenticate it because he wasn't the
13 party who had originally the cell phone. He can't.
14 He's not Brantley. He's not the person. He's not
15 the guy who should be able to testify that, yes, I
16 got this cell phone. I saw this actually on here.
17 They're missing a step in the foundation, Judge,
18 and I would ask the Court to exclude this evidence.
19 I would ask the Court to exclude this evidence
20 because, again, he can't testify about what another
21 party gave him and then they took the evidence off
22 that phone. He didn't get it from Mr. White; he
23 got it from Mr. Brantley. That's their CI who they
24 should have produced today. It's rank hearsay,
25 Judge, to let it in and to use it against this

1 defendant when, again, there's no confirmation of
2 whose cell phone it is. They haven't laid that
3 foundation.

4 THE COURT: I'm going to overrule it.
5 Go ahead.

6 MR. BATTLE: Thank you, Judge.

7 MR. WILSON: Thank you, Judge.

8 MR. BATTLE: Go ahead.

9 (The video was played.)

10 MR. BATTLE: Judge, I have five other
11 videos that are similar to that. I can play parts
12 of those videos, or if Mr. Wilson will stipulate
13 that they all came off of the same phone.

14 THE COURT: Were they all taken at the
15 bank?

16 MR. BATTLE: I have four at the bank,
17 one in a car and one in a bedroom.

18 MR. WILSON: I will not stipulate. And
19 on top of that, too, Judge, you don't even see the
20 person. Even in drug cases --

21 THE COURT: Yeah, they did show -- I
22 think you were sitting over there. They did -- Mr.
23 White did show his face for a brief second.

24 MR. WILSON: Judge, again, they're
25 still missing a step. They're laying a foundation

1 for the Court to infer from this -- and, again,
2 this is addressed in Gibson and Gordon.
3 Information is coming in regarding this defendant
4 that is completely, as I see, unrelated. He's
5 counting some money. That's what he's doing.

6 THE COURT: That's exactly right.
7 That's all I know at this point. He's counting
8 some money apparently at a bank. Agent Suggs is
9 saying in the bank's room there where all the safe
10 deposit boxes are. I forget what room they call it
11 where the banker allows you to be in there alone to
12 look at your safe deposit box contents.

13 MR. WILSON: And yet this gentleman
14 doesn't work for the bank.

15 THE COURT: No, sir, he does not.

16 MR. WILSON: He's not from the bank.

17 THE COURT: No, sir, he's not.

18 MR. WILSON: He's not an expert, I
19 think, in characteristics of a bank. I mean, he's
20 not an expert in anything having to do with what's
21 going on there. He's then putting this client in a
22 room from a cell phone he got from a third party,
23 Brantley. And then it's introduced at trial for
24 the truth of the matter asserted.

25 THE COURT: Well, Mr. White is on the



1 video just for, like, a brief one to three seconds.

2 MR. WILSON: After he gets it in,
3 though, Judge. If it doesn't come in, then
4 obviously it's not to be taken into consideration,
5 but he's already got it in. He's already showed
6 the Court. So you can see his face, yes. But,
7 again, the question is how they laid the foundation
8 or whether it's rank hearsay. And anytime you've
9 got to jump from one person to the other to lay the
10 foundation, it becomes hearsay. That's my issue
11 with this. And I understand. I'm not trying to
12 belabor the Court.

13 THE COURT: I understand. Thank you
14 very much.

15 MR. WILSON: Thank you, Your Honor.

16 MR. BATTLE: Okay. Your Honor, at this
17 time I'd like to put a copy of the six videos into
18 evidence.

19 THE COURT: Okay. And the only one
20 we've seen is -- is that the middle one?

21 MR. BATTLE: Yes, Your Honor. This
22 would be -- so on the CD, it's marked as CAM00014.

23 THE COURT: All right.

24 MR. BATTLE: And I can play the five
25 others if the Court would like to do that, or I can

1 play the beginnings of them and just let Agent
2 Suggs authenticate it. Or I could just -- why
3 don't I just play the first little bit of each
4 video.

5 THE COURT: Is the first one in a
6 different location? Is the money taken out of the
7 bank?

8 MR. BATTLE: I don't know, Your Honor.
9 I just know that these are videos that were taken
10 off the cell phone and whatever happens in the
11 video. I don't know what happens to the money.

12 THE COURT: Okay.

13 MR. BATTLE: So should I play the first
14 little bit of each one?

15 THE COURT: That's fine. Well, what's
16 occurring in the rest of them?

17 MR. BATTLE: Just counting money and
18 talking.

19 THE COURT: Well, just if it is -- so
20 the others would be introduced to show that it's
21 Mr. White's phone?

22 MR. BATTLE: Right, right. And his
23 contact with large sums of cash. Or I could submit
24 an exhibit with just the video I published today.

25 THE COURT: That's fine.



1 MR. BATTLE: I can do that?

2 THE COURT: That's fine.

3 MR. BATTLE: Okay. I don't have an
4 exhibit --

5 THE COURT: Just with that on it?

6 MR. BATTLE: This has the six on it, so
7 I can submit that later?

8 THE COURT: Let's just mark that one,
9 and I will just review that one.

10 MR. BATTLE: Okay. That's the CAM0014
11 [sic].

12 THE COURT: Okay.

13 MR. BATTLE: Thank you, Your Honor.

14 THE COURT: That will be Plaintiff's
15 Exhibit...

16 THE REPORTER: Number 3..

17 THE COURT: So admitted. That's over
18 the objection -- all these exhibits will be over
19 objection.

20 MR. WILSON: Yes, Your Honor. Some may
21 vary. That's the only reason I stood up, Judge.
22 And I apologize.

23 THE COURT: That's okay.

24 (PLF. EXH. 3, CD with Cell Phone
25 Videos, was marked and admitted into evidence.)



1 BY MR. BATTLE:

2 Q. Agent White, starting in January 2015,
3 tell me about your investigation of Mr. Suggs, tell
4 me about your investigation of Mr. White.

5 A. In January of 2015, Agent Dennis with
6 our unit again was approached by a confidential
7 source that said Mr. White was again distributing
8 illegal narcotics or drugs in and around --

9 MR. WILSON: Objection, Your Honor.
10 Again, it's hearsay. He's put out hearsay for the
11 record, Judge. He's saying what a CI who is not
12 here is saying to them. That's inadmissible.

13 BY MR. BATTLE:

14 Q. Okay. Let's go to the controlled buys.
15 Did you conduct any controlled buys?

16 THE COURT: That sustained.

17 MR. WILSON: Thank you, Judge.

18 MR. BATTLE: Thank you.

19 THE WITNESS: Agent Dennis conducted
20 controlled purchases from Mr. White on January 13,
21 2015, January 19, 2015, and February 9, 2015, all
22 for cocaine base in and around the Conway section
23 of Horry County.

24 BY MR. BATTLE:

25 Q. And what is a controlled buy?



1 A. A controlled buy is essentially a
2 purchase of some illicit or unlawful drug within
3 the jurisdiction that the officer operates by
4 utilizing either an undercover, a confidential
5 source, which is operating under the direction and
6 control of an agent with the 15th Circuit Drug
7 Enforcement Unit in which we will search the
8 confidential informant or source whenever they
9 arrived to verify there is no contraband or no
10 weapons or anything present that's not supposed to
11 be present so, again, we can testify to the
12 integrity of what they come back to us with. We
13 place some type of audio and video recording device
14 on that source. We'll send them to meet with the
15 defendant in which agents will be around to monitor
16 it, to observe it. Give them a quantity of
17 official police funds. Send them to conduct the
18 transaction and then come back to an original
19 preset meeting location in which, again, we'll
20 collect the substance that was purchased and again
21 conduct another search to again testify to the
22 integrity of the evidence and everything there and
23 take those drugs.

24 Q. Okay. So did you conduct three
25 controlled buys on Mr. White?



1 A. Yes.

2 Q. Did y'all do a search warrant on his
3 home?

4 A. Yes, sir. On February 18, 2015, a
5 search warrant was executed at his residence in
6 which 209 grams of cocaine, 39 grams of crack,
7 several tablets -- I'm not sure exactly what they
8 were right now -- as well as \$7695 and two handguns
9 was found at his residence. Also, the drugs were
10 field-tested and later sent to the lab in which
11 they yielded a positive result for their respective
12 drug.

13 Q. Okay, 209 grams of cocaine, is that a
14 lot of cocaine?

15 A. Yes.

16 Q. Okay, 39 grams of crack, is that a lot
17 of crack?

18 A. Yes.

19 Q. What's the threshold for trafficking
20 weight in South Carolina to be charged with
21 trafficking?

22 A. Ten grams.

23 Q. Ten grams? And this is way over that
24 amount?

25 A. Yes, sir. It far exceeds it.



1 THE COURT: Tell me again how much you
2 found.

3 THE WITNESS: It was 209 grams of
4 powder cocaine and then 39 grams of crack cocaine,
5 which is cocaine that had already been developed
6 and cultivated into crack.

7 THE COURT: Okay.

8 BY MR. BATTLE:

9 Q. Tell me about the rest of your
10 investigation of Mr. White.

11 A. Once that case was done, the agent, of
12 course, was working on his paperwork. I was
13 contacted by Deputy Commander Bishop which said
14 that an anonymous source had called our unit on
15 April 24, 2015, that said that there was a safe
16 deposit box at Wells Fargo Bank located in the
17 Conway section of Horry County which contained a
18 large sum of currency that was believed to be
19 illicit drug proceeds. The source further stated
20 that Mr. White had no job or anything like that to
21 substantiate such funds and that they knew it was
22 drug money. I'm sorry. I believe my date was a
23 little off on that. We actually -- no. It was the
24 24th that we received the information.

25 We obtained a search warrant or secured



1 a search warrant for the safe -- for the records
2 regarding Mr. White for Wells Fargo Bank and
3 presented it to the Honorable Judge Mayers in which
4 he found such cause to approve it and sign it.

5 From there, we went --

6 Q. Let me stop you, Agent Suggs. I'm
7 sorry to interrupt.

8 A. Sure.

9 Q. Let me go back. The search of
10 Mr. White's home -- let me ask you if you recognize
11 that document.

12 A. This is the search warrant for the
13 residence and property located on Turtle Street in
14 the Conway section of Horry County. That was
15 secured by Agent Dennis at Mr. White's home.

16 Q. Okay. And is that a true and accurate
17 copy of that search warrant?

18 A. To the best of my knowledge.

19 Q. Has it been changed in any way or
20 altered?

21 A. Not that I can tell.

22 Q. And is this the search -- this is the
23 search warrant for the home where the 209 grams of
24 cocaine and 39 grams of crack cocaine were found?

25 A. Yes, sir.



1 MR. BATTLE: Your Honor, at this time I
2 would like to put this search warrant into evidence
3 as Plaintiff's 4.

4 THE COURT: Would it be 4?

5 MR. WILSON: Your Honor, the objection
6 we have with this is this agent is not testifying
7 that he actually went and got this particular
8 search warrant, is my understanding.

9 THE COURT: Is that Agent Bishop's
10 search warrant?

11 THE WITNESS: That's Agent Chris Dennis
12 that's with our unit. He's since medically
13 retired. He's no longer active as an agent.

14 THE COURT: Is that one in your file?

15 THE WITNESS: Yes, ma'am. That's a
16 matter of our records, and we have a copy of it at
17 our unit. I was also his training officer whenever
18 he got hired, and I accompanied him on a lot of the
19 operations.

20 MR. WILSON: He's trying to lay the
21 foundation to get it in, and he wasn't there. He
22 can't authenticate whether or not it was altered or
23 not, Judge. He can't even testify to that. He
24 doesn't know. He never went to actually get the
25 original warrant itself, but he's trying now to



1 clean it up because he can say on the record that
2 okay, well, it's never been altered. It's an
3 important issue. There's no way to tell whether or
4 not it's been altered or not unless you were the
5 original officer or detective who actually went and
6 got the original search warrant from the judge.

7 THE COURT: You're talking about the
8 affidavit that was submitted to the judge for the
9 search warrant.

10 MR. WILSON: That's right, Judge. Get
11 the grounds for the actual search warrant itself
12 which is the issue.

13 MR. BATTLE: Your Honor, Agent Suggs is
14 the lead investigator on this case, and he's been
15 involved with it from day one. He may not have
16 been the specific officer that signed the affidavit
17 for the search warrant, but he was involved in this
18 case from the start and was dealing with these
19 documents on a regular basis.

20 THE COURT: I'm going to allow it
21 because it's part of his records. It's part of his
22 records, basically part of the business records, so
23 I'm going to allow it in.

24 MR. WILSON: Judge, one other issue.
25 It's not even signed.



1 THE COURT: The affidavit is not
2 signed?

3 MR. WILSON: No.

4 THE COURT: Let me see it.

5 MR. WILSON: May I approach, Judge?

6 THE COURT: Yes, sir. So the affidavit
7 is not signed?

8 MR. WILSON: The affiant never signed
9 it, Your Honor.

10 THE COURT: Well, that might be a
11 problem. Someone notarized it.

12 MR. WILSON: So the notary messed up.

13 THE COURT: It looks like -- is that
14 Cliff Welch that signed it, that notarized it? No.

15 What do you say about that, Mr. Battle?

16 MR. BATTLE: Your Honor, it may be just
17 the copy I got. I know that the search warrant is
18 signed by a judge, and the return is signed by a
19 judge and the agent. I guess --

20 THE COURT: Well, search --

21 MR. BATTLE: I'm looking for
22 documentation of the search.

23 THE COURT: Search warrants, the
24 affiant can stand before the judge and fill in the
25 blanks for a search warrant, but we don't have the



1 affiant here to testify that that's in fact what he
2 did. Of course, we're not here to say whether or
3 not the search warrant is valid or not.

4 MR. WILSON: Yes, Your Honor.

5 THE COURT: What is the --

6 MR. WILSON: Judge, it is germane.

7 It's extremely germane because that's why they're
8 putting it in because, again, they've got to have
9 probable cause in the statute. And in Gibson and
10 Gordon, which are the controlling cases on seizure
11 cases, they got to prove first probable cause for
12 the searches to seize all of this stuff. If they
13 don't have probable cause, there's no burden shift
14 to the actual defendant. That's why they're
15 putting it in.

16 THE COURT: Well, apparently Judge --
17 is it Judge Mayers that signed the search warrant?
18 Who signed the search warrant?

19 BY MR. BATTLE:

20 Q. Do you recognize the signature from the
21 judge?

22 MR. WILSON: I'm sorry. What was the
23 question?

24 THE COURT: Was it Judge Mayers who
25 signed the search warrant?



1 MR. WILSON: Your Honor, I'm not sure,
2 but I thought...

3 MR. BATTLE: I asked if he recognized
4 the judge who signed the search warrant.

5 MR. WILSON: He wasn't present when the
6 search warrant was signed, Judge.

7 THE COURT: Is that Cliff -- was this
8 in the city of Myrtle Beach? It wasn't, was it?

9 THE WITNESS: No, ma'am. It was Judge
10 Arakas right here.

11 THE COURT: Judge Arakas. Okay.

12 THE WITNESS: I'm not saying I was
13 present. I'm used to their signatures.

14 THE COURT: Where is Judge Arakas?

15 THE WITNESS: That's Judge Arakas.

16 THE COURT: And on the return, is
17 this -- what's the officer's name?

18 THE WITNESS: Dennis.

19 THE COURT: Is this officer Dennis'
20 name on the February 19, 2015, on the last page?

21 MR. WILSON: I think that's Casey
22 Jones, Your Honor, if I'm not mistaken.

23 THE WITNESS: I can't read it. I don't
24 recognize that signature. I'm sorry, Your Honor.
25 I don't recognize that signature right off.



1 THE COURT: Okay.

2 THE WITNESS: It's not very legible.

3 THE COURT: Are any of these items the
4 items that are going to be -- that you're trying to
5 seize today, Mr. Battle?

6 MR. BATTLE: No, your Honor.

7 THE COURT: Is this necessary for your
8 case today?

9 MR. BATTLE: It shows -- it connects
10 Mr. White to drug dealing, but the items aren't
11 part of the seizure action. So I would describe it
12 as compelling evidence that Mr. White is a drug
13 dealer.

14 MR. WILSON: Objection, Judge, and move
15 to strike that. Counsel can't testify for this
16 hearing. He knows that.

17 THE COURT: He's not testifying. I
18 just asked him if it were necessary for this
19 particular case. I'm concerned about letting this
20 in today without Agent Dennis being here to testify
21 what he told Judge Arakas.

22 MR. BATTLE: Well, I guess our argument
23 would be if Judge Arakas signed it, then he must
24 have been convinced that there was probable cause.

25 THE COURT: Well, on its face, we take



1 it to be probable cause.

2 MR. WILSON: Judge, my concern is this.
3 The affiant is not here. My other concern
4 obviously was the other issue I had earlier
5 regarding this witness testifying regarding this
6 affidavit. But the affidavit is not even signed,
7 we have no clue what he told Judge Arakas. He
8 didn't sign the oath. He didn't sign the
9 affidavit. This is regarding a search warrant
10 which, again, led to them bringing the case and
11 seizing the items. So it is germane. It is a
12 germane issue of this search because, again, it
13 prompted them to do other things that they did
14 afterwards. And, again, this search warrant, if
15 they got it from Judge Arakas or Judge whoever
16 signed it, Judge Arakas.

17 THE COURT: Judge Arakas.

18 MR. WILSON: Right. Judge Arakas, then
19 the affiant has to be here to say, look, I said
20 this to Judge Arakas or he has to sign the
21 affidavit prompting obviously the probable cause
22 argument. But he's not even here to be deposed.

23 THE COURT: Or to testify.

24 MR. WILSON: Or to testify, Judge. I'm
25 sorry. Testify. My apologies.



1 THE COURT: Okay. I'm going to sustain
2 the objection. It does give me pause that it is
3 not signed and that Agent Dennis is not here to
4 fill in the blanks.

5 MR. WILSON: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. BATTLE: Okay.

8 THE COURT: Otherwise, if it had been
9 signed, I would have let it in under the business
10 records act.

11 MR. BATTLE: Okay.

12 THE COURT: But I didn't know it wasn't
13 signed until Mr. Wilson brought it up.

14 MR. BATTLE: Sure.

15 BY MR. BATTLE:

16 Q. Agent Suggs, so the search of
17 Mr. White's home was conducted. What did you do
18 next?

19 A. As that agent, again -- as the other
20 agent that handled the case, Agent Dennis handled
21 that portion. We received notification again by an
22 anonymous source that there was a safe deposit box
23 in Mr. White's name, that he didn't have any lawful
24 means to have such income and he believed it was
25 drug proceeds. So that, with my prior knowledge of

1 Mr. White, and his believed illicit activities, I
2 secured a search warrant for the records involving
3 any accounts held at Wells Fargo to include bank
4 accounts, safe deposit box accounts, things of that
5 nature, from that bank in which they responded and
6 identified a safe deposit box number 317 that was
7 registered solely to Mr. White.

8 With that information, and what we had,
9 we secured a search warrant for that box, safe
10 deposit box, and again presented it, which it was
11 approved, and we presented it to Wells Fargo. They
12 sent it to their main headquarters because they
13 have certain criteria that must be met before they
14 would approve. And which they contacted me -- I
15 think it was a day or two later -- that it met the
16 criteria and that they gave me a date that a
17 representative would be there to open the box.

18 Q. Agent Suggs, let me show you two
19 documents, and ask if you recognize those documents?

20 A. One of them is the search warrant for
21 the records regarding Mr. White's -- any accounts
22 held by him at the bank, and the other is a search
23 warrant for the box itself, number 317, at Wells
24 Fargo Bank on Third Avenue in Conway.

25 Q. Okay. And are those search warrants



1 true and accurate copies?

2 A. They are.

3 Q. Have they been altered in any way?

4 A. From what I'm looking at, not to my
5 knowledge. They appear to be the same as when I
6 signed them. They were signed by Judge Mayers.

7 Q. Are you the executing agent on both of
8 these search warrants?

9 A. Yes, sir. I'm the affiant as well as
10 the agent executing.

11 MR. BATTLE: Your Honor, at this time
12 I'd like to put the two search warrants into
13 evidence.

14 MR. WILSON: Judge, we are obviously
15 going to have to object on the record. Obviously,
16 one of the things that led to it -- excuse me. I
17 apologize. One of the things that led to this
18 investigation was the anonymous person. And so
19 what they did was they used the search from the
20 house to then start an investigation on Mr. White.
21 Well, from that point in time, they actually then
22 go to, I guess, an anonymous source who was never
23 revealed to anyone -- not in the records, not in
24 the search warrant to anybody -- and then say okay,
25 well, we're going to get a search warrant based on



1 the anonymous person's statement and verify that
2 there's a bank. But never do they ever say that
3 there is some tie to create probable cause in this
4 matter. And obviously at the end of this, we're
5 going to object to it. But my concern about it
6 coming in at this point in time is that once the
7 trees start falling from the fruit of the poisonous
8 tree, again, these searches become -- unless they
9 have some good faith belief that this money is
10 connected to drug activity, they start to fall like
11 dominoes. And again, I think that's happening in
12 this case. Without the actual first search, how do
13 you then promulgate another search of a safe
14 deposit box which cash was found in and other
15 things. That's my concern, Judge.

16 THE COURT: Mr. Battle?

17 MR. BATTLE: I think Mr. Wilson is
18 misinterpreting. The search of Mr. White's home
19 was not bad. You just weren't allowing the search
20 warrant in because it wasn't signed by the affiant
21 or that affiant isn't present in the court. But
22 that testimony from Agent Suggs about what was
23 found in that home is in evidence. And that is the
24 basis for Mr. White's drug dealing.

25 MR. WILSON: Judge, if the affiant --



1 if the actual affiant isn't here to support the
2 search warrant, the search warrant -- all
3 definitions are bad either way. As long as, if he
4 was here, he could testify to X, Y, and Z. Again,
5 the search warrant is based on the affidavit to the
6 actual magistrate. If he's not here, the search
7 warrant is no good. Everything else becomes fruit
8 of the poisonous tree. They can't bring it in and
9 use it against him even in a criminal trial if the
10 search warrant itself is bad. So if the search
11 warrant is bad, it obviously follows that
12 everything that flows from that is going to be
13 fruit of the poisonous tree. The issue they have
14 is they found things in the house, drugs, which
15 they have to tie to the money. Right now, there
16 are no drugs.

17 THE COURT: Well, you know this isn't a
18 criminal trial.

19 MR. WILSON: It is not. It's a civil
20 case, though, where the Court has to consider the
21 search warrant itself. Again, the statute requires
22 they get probable cause first. Your Honor has
23 thrown out the actual search warrant.

24 THE COURT: No. I just said it wasn't
25 coming in. I didn't say it's not coming in because



1 there was no probable cause.

2 MR. WILSON: Then I apologize. If the
3 Court didn't allow it in, then everything that
4 flowed from that search is out.

5 THE COURT: No. This isn't a criminal
6 trial, and I didn't say -- I have not held there
7 was no probable cause.

8 MR. WILSON: Okay. All right. Thank
9 you, Judge.

10 THE COURT: Thank you, sir.

11 BY MR. BATTLE:

12 Q. Agent Suggs, did you have something to
13 add on that matter?

14 A. I did, sir. If you review the search
15 warrant that I actually typed in regards to the
16 information regarding the safe deposit box at the
17 bank records, it was a culmination of information
18 that we had gleaned since we began investigating
19 Mr. White from inception back around July of 2013.
20 It was the information given by a confidential
21 source. It was the controlled drug buys. It was
22 the debrief that was given to me in regards to his
23 illicit activity. It was a culmination of that.

24 MR. WILSON: Objection, Your Honor.
25 Again, there bringing in third-party information



1 from anonymous sources and third-party sources
2 which are not a party to this action. Not a party,
3 not listed, not even called today to testify about
4 the information they're trying to use to get this
5 information in. This agent can't testify about
6 what a third party said. He can't even put it in
7 the record. All he can say is what he did because,
8 again, what he's doing is trying to get in
9 third-party testimony by putting in hearsay
10 evidence.

11 THE COURT: Okay. So your objection is
12 hearsay.

13 MR. WILSON: Yes, Your Honor.
14 BY MR. BATTLE:

15 Q. So the basis for your search warrant ==

16 THE COURT: So sustained.

17 MR. WILSON: Thank you, Your Honor.

18 BY MR. BATTLE:

19 Q. -- was your investigation as to
20 Mr. White's drug dealing activity?

21 A. Yes, sir, that along with three prior
22 controlled drug buys.

23 Q. Okay. And his arrest in 2013?

24 A. Uh-huh (affirmative).

25 Q. Okay. So that's -- the search warrant,



1 the first one, gave you the number for the safe
2 deposit box?

3 A. One of them. I don't know which one is
4 stacked on which, but one of them was for the
5 actual bank records regarding Mr. White, any
6 accounts held, as well as the safe deposit box.
7 This one here. Any information regarding him as
8 well as a female that was known to associate with
9 him. This search warrant is for that information
10 to.

11 Q: Okay.

12 THE COURT: And that's exhibit what for
13 the record, sir?

14 THE REPORTER: It has not been marked.

15 THE COURT: It's not been marked yet?

16 Okay. Thank you. I'm sorry.

17 MR. BATTLE: Has it been admitted into
18 evidence, Your Honor?

19 THE COURT: Oh, that's the one that we
20 did not admit?

21 MR. BATTLE: No. The one on the home
22 was the one we did not admit. This would be for
23 the bank and the safe deposit box.

24 THE COURT: Okay. That has not been
25 admitted yet. You have not tried to admit it yet,



1 is that correct?

2 MR. BATTLE: I would like to admit it
3 Your Honor.

4 THE COURT: I'm sorry. That's my
5 fault. I thought it had been admitted.

6 MR. BATTLE: Right.

7 THE WITNESS: This is for the
8 information regarding the accounts held by
9 Mr. White, and this one is for the actual box
10 itself.

11 MR. BATTLE: And, Your Honor, I believe
12 he already authenticated the document. I'd like to
13 move to put that into evidence.

14 MR. WILSON: Judge, over previous
15 objections obviously from the beginning. But, Your
16 Honor, again, they can't lay the foundation for
17 this by citing anonymous sources and third parties.
18 It is not proper to lay foundations like that for
19 search warrants. He can't come in with an agent
20 and say look, so and so told me but not say who so
21 and so is. It is rank hearsay. It is rank because
22 honestly they're not even telling us who it is.
23 They're saying we heard from somebody that this is
24 what it was, so that's the foundation we give. I
25 would ask the Court not to allow this in because,



1 again, it doesn't sound like they have any
2 foundation to lay for probable cause. They just
3 want to get the document in so they can argue later
4 on. But, again, the document has to be based on
5 probable cause. I'm not asking the Court for a
6 ruling, but I am asking the Court -- on probable
7 cause -- but I am asking the Court to not allow
8 this document in because, again, no one, no
9 anonymous source or third party has said -- or
10 unless they can show me in an affidavit -- and I
11 haven't seen one attached to this document that's
12 been produced -- saying, yes, I said this to so and
13 so because, again, in their complaint, they say
14 that one of the watch commanders said he had an
15 account there. That's in their complaint which
16 obviously I can ask about later on. But again,
17 that's in the complaint. That's one of the facts
18 they allege, and now it's an anonymous source.

19 THE COURT: Mr. Battle?

20 MR. BATTLE: Your Honor, I'm trying to
21 authenticate a search warrant that my agent
22 executed. It is based off of a lot of evidence
23 against Mr. White. Some of it is information from
24 confidential sources. It's not hearsay to say that
25 was the basis for my search warrant; it's hearsay

1 to say, you know, Mr. White is a drug dealer
2 because this person told me he's a drug dealer.
3 I'm having, my purpose is to show how Agent Suggs
4 got into that safe deposit box, and that search
5 warrant gave him legal authority to do that.

6 THE COURT: Well, let me see the -- may
7 I see the affidavit, please, the affidavit for the
8 search warrant? Are there two here?

9 THE WITNESS: Yes, ma'am.

10 MR. BATTLE: Yes, Your Honor.

11 THE COURT: Search warrant for the safe
12 deposit box.

13 THE WITNESS: One is for the records,
14 and one is for the box itself.

15 THE COURT: Well, I can almost guess
16 who the confidential source is, but -- and I've
17 just been sitting here for a little while. I mean,
18 we already have a tape, don't we? Maybe not.

19 Have you seen the search warrants, Mr.
20 Wilson?

21 MR. WILSON: Yes, Your Honor, I
22 reviewed them briefly, Judge, over here. But my
23 main concern is that the search warrant is based on
24 an anonymous source who is not here, and my other
25 concern as well is in the actual complaint in the



1 allegations, they specifically say they name out
2 the watch commander as being the person who said
3 that which is contrary to this witness statement
4 regarding these search warrants for the safe
5 deposit box, which is obviously a big issue.

6 THE COURT: Well, what it says was
7 Agent Suggs received information relayed from
8 Deputy Commander Bishop which advised that
9 Mr. White was in possession of a safe deposit box
10 at Wells Fargo Bank.

11 MR. WILSON: There is no mention of an
12 anonymous source or who that source is which is
13 what the affidavit says. The affiant is not the
14 actual confidential source. The affiant is an
15 agent. How do you go from --

16 THE COURT: Well, they're not going to
17 tell you who the confidential source is.

18 MR. WILSON: They have to in civil
19 cases. They have to. They don't have a choice.
20 If they're trying to lay the foundation to get the
21 actual search warrant in, they've got to let us
22 know what -- they've got to lay the foundation for
23 these search warrants. They can't just -- just
24 because a judge signed it doesn't make it
25 necessarily true or accurate. They have to lay the



1 foundation for what they did and how they did it
2 because, again, that goes to probable cause,
3 whether or not there is probable cause, whether or
4 not the actual informant themselves have any sort
5 of veracity. Whether or not they can be deposed or
6 testify under oath and be crossed by me which
7 nobody wants.

8 THE COURT: Yeah, but Judge -- was that
9 Judge Mayers?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Judge Mayers found that
12 there was probable cause based on that affidavit.

13 MR. WILSON: Judge, there are tons of
14 judges who find every day --

15 THE COURT: But I don't go behind Judge
16 Mayers at this point and find probable cause or
17 not. That's not what I do here in this case.

18 MR. WILSON: But Judge, it's an issue
19 for later on. It is. It's an issue for the Court
20 because the statute requires they prove probable
21 cause before they can get these search warrants.

22 THE COURT: But I find that Judge
23 Mayers properly found probable cause. I mean, I
24 don't --

25 MR. WILSON: Can you not hear my



1 argument, Judge, without even --

2 THE COURT: Certainly, I'll hear your
3 arguments.

4 MR. WILSON: I mean, without even -- I
5 mean, my concern is that, again, this agent has
6 told the actual detached magistrate who -- excuse
7 me. There's some other things going on here, but
8 I'll flesh that out later. He has now told him,
9 look, we've got an anonymous source who says that
10 he might have a safe deposit box. And then he
11 says, also, we found this 209 grams of cocaine.

12 THE COURT: Well, he didn't say -- I
13 thought he said confidential source, did he not?

14 MR. WILSON: He said anonymous.

15 THE COURT: He said anonymous? Okay.

16 MR. WILSON: He said anonymous. So it
17 doesn't even say -- I don't even know if they're a
18 CI. I don't know who that person is. So to test
19 the veracity for the actual purpose of a search
20 warrant becomes an issue for us as the Defense
21 obviously. We can't do that because they're
22 saying, look, he said it, so it must be true
23 because Judge Mayers signed it. That is not how
24 that works. I mean, again, probable cause can be
25 tested at any point in time during obviously the



1 process, even in civil court. But my concern here
2 is that this officer has already said on the record
3 several times that they heard from so and so, but
4 we don't know who so and so is. I don't know how
5 you get from that to having a probable cause search
6 warrant or having a search warrant that's good or
7 valid to search the actual safe deposit box. I
8 still don't hear a foundation where it's been laid
9 with anyone saying that, look, I did this, I saw
10 this, I know what this person said or get the
11 anonymous source on the stand and allow them to
12 testify about it and then have their veracity --
13 because, again, he has a right to cross-examine
14 them, even in civil cases. He has a right to do
15 whatever he wants if they're saying that that is
16 part of the probable cause that they got the actual
17 warrant on. And that's not given here. That's not
18 even produced. So it's hidden in darkness in the
19 court where obviously we're trying to find truth or
20 light, and that's not being given here at all
21 period. And that's rank hearsay. But not only
22 that, it's a miscarriage of justice to allow them
23 to do that.

24 THE COURT: Okay. I'm going to
25 overrule your objection.



1 MR. WILSON: Yes, Your Honor.

2 MR. BATTLE: Thank you, Your Honor.

3 (PLF. EXH. 4, Search Warrants for Bank,
4 was marked for identification.)

5 BY MR. BATTLE:

6 Q. So you got the search warrants and the
7 safe deposit box that was in Mr. White's name?

8 A. Yes, sir.

9 Q. What happened after that?

10 A. I was advised by a representative from
11 the bank on a date that a representative would
12 actually be down to execute the search warrant, in
13 which they said it would be on April 28, 2015 at
14 approximately 1200 hrs, to meet them there and they
15 would have a representative there.

16 We were there on time. I brought
17 another agent with me, Agent Chad Guess, in which
18 myself, him, Ms. Taylor and Ms. Jenkins and another
19 representative from the bank executed the search --

20 THE COURT: Let me just stop you there.
21 1200 hours, for the rest of us here in the
22 courtroom, is what time?

23 THE WITNESS: I apologize, ma'am. Just
24 12 o'clock noon time.

25 THE COURT: No. You don't have to



1 apologize. I know that most of the people in the
2 military and those in the police department use
3 that military time. But it's 12 o'clock?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: All right. Thank you.

6 BY MR. BATTLE:

7 Q: Was that safe deposit box registered to
8 anyone else?

9 A: It was just in Mr. White's name.

10 Q: I'm sorry. Agent Suggs, you were
11 saying?

12 A: Anyway, they were there on time. They
13 removed the box, and then the representative had to
14 drill the lock, I guess, to open the box. That's
15 when we located approximately 15 items in the box.
16 Do you want me to go through the item list of what
17 was in there?

18 Q: Well, let me hand you some photographs.
19 That might help. Let me ask you if you recognize
20 those photographs?

21 A: Yes, sir, that's the pictures I took
22 whenever we were executing the search warrant.

23 Q: Okay. And what's depicted in those
24 photos?

25 A: The first one here is of the box after



1 they opened it. It has -- I think that's a silver
2 note \$1 bill, some rubber bands, a set of keys, a
3 couple of jewelry cases. And then the next page is
4 the ledger where people -- where Mr. White would
5 sign in. I guess, they document every time
6 somebody goes into the box. They date it and time
7 and sign it. One of the attendants has to initial
8 it as well. The second page is, again, another
9 picture of the ledger. The next page is a picture
10 of the jewelry that was in the box. Some rings.
11 Looks like a rope necklace, a charm, earrings. And
12 then the \$21,000 in currency.

13 Q. Explain to me -- well, let me ask you
14 this. Are those photos a true and accurate copy of
15 the photos you took?

16 A. Yes, sir.

17 Q. Have they been altered in any way?

18 A. Not that I can tell.

19 MR. BATTLE: Your Honor, at this point
20 in time, I'd like to put in, I think, Plaintiff's 5
21 into evidence.

22 MR. WILSON: Just subject to my
23 objection.

24 THE COURT: I'm sorry. What did you
25 say, Mr. Wilson?

1 MR. WILSON: I'm sorry, Judge. Just
2 subject to my previous objection.

3 THE COURT: Okay. Thank you.

4 BY MR. BATTLE:

5 Q. Agent Suggs, how does the ledger work?

6 A. To my knowledge, again, that's a
7 procedure that's set up by the Wells Fargo Bank
8 that I'm not too familiar with. But the way it was
9 explained to me -- again, this is just that anytime
10 Mr. White would come to the box, they would put the
11 date, the time, sign it.

12 MR. WILSON: Objection, Your Honor.

13 THE WITNESS: And the attendant would
14 put their initial.

15 THE COURT: Wait just a moment.

16 THE WITNESS: I'm sorry.

17 THE COURT: I've got to --

18 MR. WILSON: It's hearsay, Judge.

19 Hearsay.

20 THE COURT: Do you know how it works?

21 THE WITNESS: Yes. I'm sorry. I

22 apologize. Yes, ma'am.

23 THE COURT: Do you know how it works,
24 or is it --

25 THE WITNESS: Just what was told to me



1 and what I see on the ledger itself. It has a
2 place for a date, a time, who went into the box and
3 the attendant's name. And the way it was explained
4 is that every time somebody goes in it, that has to
5 be filled out.

6 THE COURT: Do you have a safe deposit
7 box yourself?

8 THE WITNESS: I do not.

9 THE COURT: Okay. I understand.

10 Thank you, Mr. Wilson.

11 MR. WILSON: Yes, Your Honor.

12 BY MR. BATTLE:

13 Q. And who appears to be signing in to
14 this safe deposit box?

15 A. Mr. White.

16 MR. WILSON: Objection, Judge. It is
17 completely speculative. This agent wasn't there.

18 THE COURT: I understand. That's
19 sustained.

20 But Mr. Battle, you can carry him
21 through and kind of set a foundation, I think. You
22 said: Who appears to be going in?

23 BY MR. BATTLE:

24 Q. So you took photos of the signature
25 card for going into the safe deposit box?



1 A. Yes, sir.

2 Q. Okay. On that photograph, there's a
3 signature for people to sign in to view the safe
4 deposit box?

5 A. Yes, sir.

6 Q. And you put the date and then you put
7 the time and the signature, and then the attendant
8 for the bank puts his initial there, is that right?

9 A. Yes, sir.

10 MR. WILSON: Objection.

11 BY MR. BATTLE:

12 Q. When the signature line --

13 MR. WILSON: Objection, Judge.

14 Objection, Your Honor. They can't testify about
15 what somebody else did or didn't do. They don't
16 know. They haven't documented it. They don't have
17 the person here from the bank saying I did that or
18 that's what I did. They can't qualify the document
19 by saying, yes, that's what they do. It's not
20 appropriate foundation, Judge.

21 THE COURT: There are dates and
22 signatures there, correct?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: There you go.

25 MR. BATTLE: Okay.



1 BY MR. BATTLE:

2 Q. Is someone on the signature line
3 writing the name Marvin white?

4 A. Somebody appears to be.

5 Q. Okay.

6 MR. BATTLE: Thank you, Your Honor.

7 BY MR. BATTLE:

8 Q. Thank you, Agent Suggs. So there was
9 jewelry found in the box, and then what else was
10 found in the safe deposit box?

11 A. Jewelry, a quantity of US currency.
12 There was a title for a 2006 Cadillac, a title for
13 an '81 Ford vehicle, a set of keys for a scooter, a
14 handwritten bill of sale for a scooter, a silver
15 dollar certificate and a silver colored ring, a
16 gold colored necklace charm, one gold colored rope
17 bracelet, a gold colored ring with clear stone, a
18 pair of silver earrings with clear stones, a gold
19 colored man's ring with clear stones, a gold
20 colored rope necklace, a gold colored cross and one
21 gold ring.

22 Q. The video that you pulled from
23 Mr. White's cell phone, he's counting money in that
24 safe deposit box room?

25 A. Yes, sir.



1 Q. Okay.

2 MR. WILSON: Objection, Judge, on the
3 last answer. And, again, he doesn't know what he's
4 doing in the room. He's saying -- he's testifying
5 about what this defendant is doing. If they ask
6 him -- if the defendant gets on the stand, they can
7 ask him. They don't know what he's doing in the
8 room. They have no clue. He is depicting for the
9 Court what my client is doing in the room. They're
10 saying, oh, he's counting money, isn't he. That's
11 what a third party is doing.

12 THE COURT: Well, that's --

13 MR. BATTLE: Your Honor, that's all the
14 questions I have of this witness.

15 THE COURT: Okay. Mr. Wilson? Does
16 anyone need a break?

17 Ms. Court Reporter, do you need a
18 break? You always let me know if you need a break.

19 Let's take about a ten-minute break.
20 That will give everyone enough time to run to the
21 restroom.

22 MR. WILSON: Yes, Your Honor.

23 THE COURT: Let's be back about ten
24 till four. Is that correct?

25 MR. BATTLE: I think so, Your Honor.



1 MR. WILSON: Yes, Your Honor.

2 THE COURT: Agent Suggs, you may take a
3 break too.

4 THE WITNESS: Thank you, ma'am.

5 THE COURT: You're through with Mr.
6 Battle for now, but he has the right to bring you
7 back to the witness stand, so just don't talk to
8 Mr. Battle or Mr. Wilson.

9 THE WITNESS: I'll just hang here.

10 THE COURT: No. You may run to the
11 restroom as well. You need to --

12 THE WITNESS: I'm all right. Thank
13 you.

14 THE COURT: Okay.

15 (A recess transpired.)

16 THE COURT: When you're ready, Mr.
17 Wilson.

18 MR. WILSON: Your Honor, if it please
19 the Court, Judge.

20 THE COURT: Certainly.

21 MR. WILSON: Thank you Your Honor.

22 CROSS-EXAMINATION

23 BY MR. WILSON:

24 Q. Good morning, Agent. How are you
25 doing? Or good afternoon.



1 A. Good, Mr. Wilson. How about you?

2 Q. Pretty good. Good to see you. Just a
3 few questions that I have at this time.

4 A. Yes, sir.

5 Q. Now, when you guys went into to do the
6 actual, I guess, arrest or search warrant on the
7 house -- when you went to do the actual, I guess,
8 raid it or whatever, how did y'all do that? Was
9 there a raid, or how did that work?

10 A. The case agent was in charge of that,
11 but I believe they did -- they, of course, did a
12 dynamic entry on the residence. They drew up an
13 operational plan. Once it's approved, they would
14 have a team that would be used for dynamic entry,
15 and they'd have a team for the perimeter. And they
16 would take him into custody there.

17 Q. All right. Now, how did y'all get the
18 address for this particular residence?

19 A. I believe one of the -- I think it may
20 have been the last. February 9, 2015 one of the
21 controlled drug purchases actually occurred at the
22 residence.

23 Q. So y'all went and got the search
24 warrant, and y'all did the dynamic entry or they
25 would have done the dynamic entry, is that right?



1 A. Yes, sir.

2 Q. And then during that time, who was
3 home?

4 A. At the residence?

5 Q. Who was at the residence, yes?

6 A. I don't have that information.

7 Q. Do you know if this defendant was at
8 that residence on this particular day?

9 A. I do not know.

10 Q. Do you know if he was arrested at that
11 residence on that particular day?

12 A. I can't say that with certainty. I
13 believe he was arrested close to the residence, but
14 I don't think he was at the home at the time. I
15 can't remember.

16 Q. You say he was arrested close to the
17 residence?

18 A. I may be in -- I don't want to give
19 inaccurate information. I can't recall where he
20 was arrested. Again, Agent Dennis handled that
21 side, and I don't want to give false information.

22 Q. Fair enough. Fair enough. What was
23 discovered at the residence?

24 A. The 209 grams of cocaine, 39 grams of
25 crack, pills. I believe the money -- I believe



1 some of it was actually in a black Cadillac, I
2 think. And then there was two guns located.

3 Q. Now, there was stuff found in the car,
4 the black Cadillac?

5 A. Yes, sir.

6 Q. Right? And there was stuff found in
7 the house?

8 A. Yes, sir.

9 Q. Are either one of those items titled in
10 this gentleman's name, Mr. Marvin White's name?

11 A. The house or the vehicle?

12 Q. The house or the car.

13 A. I believe the vehicle was registered in
14 maybe a female's name. I can't say that with
15 certainty. I don't have the title. It's been a
16 long time.

17 Q. All right.

18 A. So I don't want to give that
19 information. I'm not sure. I believe the
20 residence was in somebody else's name. He just
21 used it.

22 Q. And you weren't there that day, so you
23 don't know if he was there that day, correct?

24 A. I do not.

25 Q. Now, the stuff that was found in the



1 house, did y'all ever test that stuff?

2 A. Yes, sir that stuff would have been
3 field -- I'm sorry. The items would have been
4 field-tested, and then they would be sent off to
5 the lab. And which I believe they were actually
6 tested at SLED's laboratory.

7 Q. Do you have the report today from SLED?

8 A. I do not have that with me, no.

9 Q. Do you have the proof that the drugs
10 were tested?

11 A. I know they were field-tested because I
12 was present whenever they were field-tested.
13 However, the actual report from SLED, I don't have
14 that.

15 Q. So you were tested -- you were there
16 when it was tested?

17 A. Yes, sir. I had a prior engagement at
18 the time they were executing that. So whenever the
19 evidence was brought back to the DEU's office, I
20 was there at that time, so I was happy to help them
21 field-test some of them.

22 Q. Who would have brought that back, if
23 you don't mind me asking?

24 A. It should have been the case agent.

25 Q. Okay. Who was that? Dennis?



1 A. It should have been Agent Dennis.

2 Q. So he would have brought that back to
3 you from the location?

4 A. Yes, sir.

5 Q. Do you know if he disclosed to you --
6 did he tell you, you know, look, we arrested Marvin
7 White at that residence?

8 A. I don't recall. We handle so many
9 cases a year and so much more, I can't -- that far
10 back, I can't recall what he may have said.

11 Q. Well, let me just ask you this. I
12 mean, you've been doing this for how long?

13 A. Four years.

14 Q. Do y'all produce any sort of report
15 from the actual arrest itself?

16 A. We do an investigatory report similar
17 to this that I done for the actual civil side of
18 this which shows the date and time, you know, what
19 occurred on the investigation, whether it be
20 controlled drug buys, the arrest, the search
21 warrant, things like that, listing out what
22 happened, when, who done it and all that.

23 Q. Fair enough. So during this -- in this
24 report that you have, investigatory report, does it
25 say that Marvin white was at that location or



1 arrested at that location on that particular day
2 when you found these drugs?

3 A. I don't have that report with me. I
4 just have mine.

5 Q. Well, you're here today testifying
6 about the drugs that were found in the house,
7 right? And you're telling the Court or me, I
8 guess, that you don't have the report related to
9 what drugs were found and who was arrested?

10 A. I know he was arrested, but all I know
11 is what was actually seized at the house and
12 information that was passed on to me.

13 Q. All right. Earlier counsel showed you
14 a video.

15 A. Yes, sir.

16 Q. And you went through and you identified
17 Marvin White as being the person in each video,
18 even though they published one -- Marvin White was
19 in the video, and you said he was counting money?

20 A. Yes, sir.

21 Q. Let me ask you this. That money that
22 was in that video, did y'all tie that to any drugs
23 at all? Did you trace it to any drug transaction
24 is what I'm asking?

25 A. Oh, you mean -- no, we did not match



1 any serial numbers with prior controlled drug
2 purchase money.

3 Q. Did you send the drug dogs into that
4 safe deposit box room when y'all were in there, and
5 did it hit?

6 A. No, sir.

7 Q. Okay. So there's no doubt in your mind
8 that this money wasn't in close proximity to any
9 drugs?

10 A. No, sir.

11 Q. All right. Now, I want to ask you
12 about traceability. I want to ask you whether or
13 not in your investigation you were able to trace
14 that money to the money that the State has entered
15 into evidence.

16 MR. WILSON: May I approach, Your
17 Honor?

18 THE COURT: Certainly.

19 BY MR. WILSON:

20 Q. There are three pictures here that
21 depict cash. Do you see those pictures?

22 A. Yes, sir.

23 Q. Let me first ask you this. Do you see
24 any individuals in that picture in those that have
25 cash in it?



1 A. I just see Mr. White's hand.

2 Q. How do you know that's Mr. White's
3 hand?

4 A. The unique tattoos to his left hand
5 right here below his watch.

6 Q. So at the time when you took this
7 picture, you knew that he had a tattoo on his hand?

8 A. No. This picture was taken off of his
9 phone.

10 Q. Okay.

11 A. The tattoos that are on his hand and
12 stuff subsequently are also listed at J. Reuben
13 Long, and they document the tattoos that he has on
14 his body and on his person every time they're
15 booked in.

16 Q. Very good. The phone that you say you
17 got from another person, right?

18 A. Yes, sir.

19 Q. From Brantley?

20 A. Yes, sir.

21 Q. And so in that picture, you're telling
22 me that you can actually match that money from a
23 drug transaction?

24 A. No, sir.

25 Q. So none of that money in there -- well



1 let me ask you this.

2 A. Yes, sir.

3 Q. Were you there? Let's say if it was
4 Mr. White. Were you there when he was holding it
5 in his hand?

6 A. No, sir.

7 Q. Did you see him spend that currency
8 anywhere?

9 A. No, sir.

10 Q. So do you know if it's real?

11 A. No, sir, not by just the picture.

12 Q. Have you ever heard of prop money?

13 THE COURT: I'm sorry. What money?

14 MR. WILSON: Prop money.

15 THE COURT: Prop money?

16 MR. WILSON: Sorry, Your Honor. I

17 apologize.

18 THE COURT: That's okay.

19 MR. WILSON: I am about to trip over
20 here on my own two feet. I apologize to the Court.

21 BY MR. WILSON:

22 Q. Prop money. Do you know what prop
23 money is?

24 A. You're talking about flash money?

25 Q. That's right.



1 A. Like we use?

2 Q. Yes.

3 A. Yes, I know what flash money is.

4 Q. Okay. Explain to the Court what prop
5 money is, if you don't mind.

6 A. Well, what we classify as flash money
7 is if we have a transaction that is going to go for
8 a large quantity of illicit substances or drugs, we
9 don't want to walk with certain amounts of money,
10 you know, depending on the case. So what we'll do
11 is we'll have the bank, we'll send our commander
12 over to the bank and withdraw X amount of dollars
13 whether it be 10, 15 or \$20,000 or whatever it may
14 be or we may need flash money. And then when we go
15 to meet a target, we'll flash the money, let them
16 look at the money, say, you see it, and then remove
17 the money out of the equation. So whenever we do a
18 buy/bust situation -- which means once they show
19 product, then we take them down -- we don't have to
20 worry about that money leaving.

21 Q. All right. Do you know -- and I know
22 you've been involved in this for a while. But do
23 you know about fake money?

24 A. Uh-huh (affirmative).

25 Q. People actually fronting or flossing.



1 You've heard the term before, I'm sure?

2 A. Yes, sir.

3 Q. You know about that?

4 A. Uh-huh (affirmative).

5 Q. Okay. So my question, do you know for
6 certain if this money in this picture is real?

7 A. No, sir, I cannot say 100 percent sure.

8 Q. Now, let's get to the video. The video
9 had a person identified by you as Marvin White,
10 correct?

11 A. Yes, sir. It showed his face.

12 Q. At the bank counting money?

13 A. Yes, sir.

14 Q. So we've got the location, we've got
15 the person. Do you know where he got that money
16 from?

17 A. No, sir. Just his statements on the
18 video.

19 Q. All right. And what were his
20 statements on the video? What did he say? I mean,
21 what did you hear him say? Publish it for the
22 Court.

23 A. Without playing it all the way through,
24 I don't want to be inaccurate.

25 Q. That's okay.



1 A. But it was something to the effect that
2 it was one day -- one week's work or something like
3 that. Something to that effect.

4 Q. Very good. Now, in that video when
5 he's rolling through the money, right -- you see
6 hands rolling through the money, correct?

7 A. Yes, sir.

8 Q. Where he's flipping it, right?

9 A. Yes, sir.

10 Q. Now, can you tell the Court with any
11 certainty that that money is real?

12 A. No, sir, not by a video without seeing
13 it in person.

14 Q. All right. Fair enough. Let me ask
15 you this. At any point in time in the video does
16 he say, I went out. I sold a key or 209 grams of
17 cocaine and got this money?

18 A. No, sir.

19 Q. All right. Now, there were charges
20 against Mr. White in the state of South Carolina
21 brought by the State, correct?

22 A. Yes, sir.

23 Q. And that was in 2013 and 2015, is that
24 right?

25 A. Yes, sir. Conway City arrested him in

1 2013, but I believe they were dismissed on the
2 federal side maybe in regards to a plea deal or
3 something to that effect. I'm not sure.

4 Q. But those charges were dismissed. They
5 weren't sustained in 2013? They were nolle
6 prossed.

7 A. Okay.

8 Q. Is that correct?

9 A. Without having the disposition, I can't
10 say. If you say so, I believe you.

11 Q. Let me ask you this. Are you aware of
12 indictment 2013-GS-26-03542?

13 A. Not right offhand. I'm assuming it's
14 the indictment for Mr. White...

15 Q. All right.

16 A. ... for his 2013 arrest.

17 Q. But, again, if I told you that those
18 charges were dismissed, I mean, that would make
19 sense?

20 A. Yes, sir, I believe you.

21 Q. All right. Then in 2015, the State
22 also dismissed those charges, correct?

23 A. Yes, sir.

24 Q. So he was never tried in state court
25 for drugs that were found at that house, right,



1 drugs in the car, and he was never prosecuted for
2 any other crime that I'm aware of by the State in
3 the last several years?

4 A. No, sir. Usually whenever the federal
5 government will pick up the charges, of which you
6 are aware, that once the federal government indicts
7 on a charge, then the State will dismiss theirs.

8 Q. Let me ask you this. You brought that
9 up, so let's talk about it. Why did the State
10 dismissed the charges when they could have tried
11 him still, right? There's concurrent jurisdiction,
12 so why did they dismiss the charges?

13 A. That's above my pay grade. That
14 something to do with the Solicitor's office and
15 attorneys.

16 Q. Fair enough.

17 MR. WILSON: The Court's indulgence,
18 Your Honor.

19 THE COURT: Yes, sir.

20 BY MR. WILSON:

21 Q. This is the...

22 MR. WILSON: May I approach Your Honor.

23 THE COURT: Certainly.

24 BY MR. WILSON:

25 Q. This is the record of entries that was



1 put in by the State, and you see that the record of
2 entries goes back to how many years?

3 A. The latest that I'm seeing on this is
4 April of 2013.

5 Q. Okay. And y'all would have seized this
6 money when?

7 A. The money, when we took -- I believe it
8 was seized April 2015, the latest on the entry
9 being January of 2015.

10 Q. So if he's going, let's say it's Mr.
11 White going in there in -- I don't know. How many
12 times did he go in there? How many times did he go
13 into that safe deposit box?

14 A. Quite frequently. At least once every
15 couple of weeks maybe. Sometimes closer; sometimes
16 farther out.

17 Q. Very good. So he would go in there
18 once every couple of weeks and either take money
19 out or put money in, correct?

20 A. I'm assuming, I wouldn't be present
21 when he went in there.

22 Q. He was doing something in there. He
23 was looking at it or videotaping himself or
24 whatever he was doing, right?

25 A. Yes, sir.



1 Q. So he would go in the bank allegedly
2 and then go in there and look at the money or take
3 the money out or put the money in or just videotape
4 himself. Do you have any idea any of those times
5 that he actually went to that bank that he sold
6 drugs and then took the money from the drug sale to
7 the bank?

8 A. I can't prove that, no, sir.

9 MR. WILSON: No further questions,
10 Judge.

11 THE COURT: What was that last question
12 again?

13 MR. WILSON: Whether or not he actually
14 could prove that there was any transaction or drug
15 sale that what he would have engaged in and then
16 took the money to the bank.

17 THE COURT: And he said no?

18 MR. WILSON: He said no, your Honor.

19 THE COURT: Thank you.

20 MR. WILSON: Thank you, your Honor.

21 THE COURT: Anything on redirect, Mr.
22 Battle?

23 REDIRECT EXAMINATION

24 BY MR. BATTLE:

25 Q. Agent Suggs, I think that Mr. Wilson



1 was asking you can you trace the money that was in
2 the safe deposit box to a drug transaction?

3 A. On some instances you can. We have a
4 policy of where whenever money is seized, depending
5 on the quantity, we record the serial numbers
6 before every drug transaction. And then if we
7 seize money regarding that case, we go to the bank
8 and they cut the bank bag open and they try and
9 match the serial numbers that we have with any of
10 the funds that we may have collected for evidence.
11 In regards to this, that wasn't done, or at least I
12 know there was no matches that we could find.

13 Q. The money or the amount of drugs that
14 was found in Mr. White's home, the 209 grams of
15 cocaine and the 39 grams of crack, the street
16 value, would that be able to generate \$21,000?

17 A. It depends on how it's sold. Crack has
18 a higher yield money-wise than what powder cocaine
19 does. However, powder cocaine, usually depending
20 on how bad it's been stepped on -- excuse me -- how
21 many times it's been cut which means they take X
22 amount of coke and add some cutting agent to it, so
23 -- and mix it, so they increase the quantity of
24 drugs they have; however, they lower the potency
25 slightly. So essentially they make more money that

1 way. But if you cut it too much, it won't cook
2 into crack. So it depends on how much it was
3 stepped on, but on the low side, say he's selling
4 the the powder coke for \$50 a gram, so 50 times
5 209; .1 to .2 of crack is going for \$20 a piece,
6 and he had 39 grams, so you get -- money-wise,
7 without getting a calculator out and doing all the
8 math, it gets over there pretty good.

9 Q. So the 109 grams [sic] of cocaine, that
10 alone, \$50 a gram, that's going to be \$100,000?

11 A. \$50 times 209 grams, that's \$10,450
12 just for the powder coke if it hasn't been cut. So
13 that's 10,450.

14 Q. Okay.

15 A. And if you've got 39 grams of crack
16 divided by .2 -- it's getting off. It's somewhere
17 around \$15 to \$18,000 if you add it all up
18 together.

19 Q. So around \$25,000 worth of drugs in
20 that one search of the home?

21 A. Yes, sir, essentially.

22 Q. Okay. You testified earlier that Mr.
23 White in the video said, this is just one weeks
24 worth, when he was counting his money?

25 A. It was something to that effect. It



1 was kind of muffled, but it sounded like it was,
2 this is one weeks' worth or one weeks' work,
3 something to that effect.

4 Q. In your investigation of Mr. White,
5 have you found any evidence that Mr. White has a
6 legitimate job?

7 A. No, I have not.

8 Q. Thank you.

9 THE COURT: Thank you, Mr. Battle.
10 Anything on recross, Mr. Wilson?

11 MR. WILSON: Yes, Your Honor, briefly.

12 RECROSS-EXAMINATION

13 BY MR. WILSON:

14 Q. Did you ever talk to Mr. White about
15 where he worked?

16 A. No, sir, I have not.

17 Q. So you never really investigated that,
18 did you?

19 A. Well, we -- I guess it would be
20 hearsay. I spoke with people that were close to
21 Mr. White, and then we checked with the Employment
22 Commission which maintains -- in which didn't show
23 him.

24 Q. I understand, but let me -- did you
25 ever ask Mr. White what he did? If he cut yards or



1 if he did any other work that he would be making
2 money on?

3 A. I did not.

4 Q. Did you ever ask Mr. White if he was
5 getting money from his grandmother?

6 A. I did not.

7 Q. All right. Counsel also asked you one
8 thing that I'm concerned about. Now, you said that
9 the drugs that were found in the house would equate
10 to \$25,000, correct?

11 A. That's just a ballpark. I can't give a
12 definite figure because that depends on, again, how
13 many times it's been cut. So how much the quantity
14 has been increased, whether he's taking that amount
15 of drugs and cooking it into crack, how much yield
16 he's getting on top of that. You know, most \$20
17 rocks are going to weigh .1 or .2. So it depends
18 on how much he cooks out of it, how much he cuts it
19 and how much he sells. That's just a ballpark
20 figure. That could be give or take depending on
21 the market how much you're paying for an ounce.

22 Q. Fair enough. But this is the same
23 drugs that were found in the house, right? In the
24 car. That's what we're talking about?

25 A. The same logic goes with the drugs that



1 were found in the house is what I'm saying now.

2 Q. All right. Well, is it safe to say
3 that if those drugs didn't belong to and never been
4 adjudicated -- he was never adjudicated guilty,
5 they dismissed the charge -- those drugs didn't
6 belong to him, so how can he cook it up and make
7 money off of it? Is that possible?

8 A. Unless he was selling somebody else's
9 dope on the prior three drug transactions.

10 Q. Well, we're talking about this incident
11 though. We're talking about the drugs that were
12 seized from the house, the drugs that were seized
13 by DEU. Did y'all ever connect him to those
14 particular drugs? Not drugs done by a CI buy, the
15 drugs that were in that house.

16 A. I would have to revert back to Agent
17 Dennis' case file. Again, me preferably I do
18 things differently. I send the packaging off to
19 SLED or either to Myrtle Beach to where I have my
20 bags printed, or I do touch DNA on it. Whether he
21 done that or not, I don't know. I haven't reviewed
22 his case file that in-depth, so I can't give you a
23 definitive answer one way or the other on that.

24 Q. Thank you very much.

25 MR. WILSON: Thank you, Your Honor.



1 THE COURT: Thank you.

2 MR. BATTLE: That's all I have, Your
3 Honor.

4 THE COURT: All right.

5 Agent Suggs, you may finally step down,
6 sir.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: Just make sure you leave
9 all the exhibits with the yellow stickies up there.
10 I think most of them are over here. You may have
11 one or two over there.

12 THE WITNESS: I don't see any of them
13 with the sticky notes, but I'll leave them up here.

14 THE COURT: Okay. Great. Thank you.
15 Mr. Battle, do you have any other
16 witnesses?

17 MR. BATTLE: No, Your Honor.

18 THE COURT: All right. Thank you.
19 Mr. Wilson?

20 MR. WILSON: Your Honor, if it please
21 the Court.

22 THE COURT: Yes, sir.

23 MR. WILSON: I don't know if the State
24 wants to go -- they're the plaintiff -- but I can
25 go, Judge, if you want me to sum up our arguments.



1 We have -- we are not putting up any witnesses,
2 Judge.

3 THE COURT: Okay.

4 MR. WILSON: Judge, he actually wants
5 to testify.

6 THE COURT: Okay.

7 (Off the record conference.)

8 THE COURT: Did he change his mind, Mr.
9 Wilson?

10 MR. WILSON: Judge, he changed his mind
11 again.

12 THE COURT: Okay.

13 MR. WILSON: Your Honor, I'm going to
14 pass up these cases for Your Honor. If I may
15 approach, Judge.

16 THE COURT: Yes, sir.

17 MR. WILSON: Your Honor, what I'm
18 passing you are the controlling cases in seizure
19 cases which talk about seizure, talk about taking
20 money and cars and houses from defendants where
21 they believe, or the State believes, there's been
22 some connection. I'll just try to sum up the cases
23 briefly.

24 The Court looks at this in a two-way
25 street. Either the drugs have to be found in

1 proximity, or the drugs have to be traceable to a
2 transactional or traceable. And the Court has
3 rejected. If I may point to -- indulgence, Your
4 Honor. The Court has rejected -- the Supreme Court
5 of South Carolina has rejected the finding in US
6 versus Thomas. In US versus Thomas, a Supreme
7 Court case which gave, if you will, a blueprint for
8 trying to determine how you find out whether or not
9 someone has the right to seize property from a
10 defendant. The case in US versus Thomas says that
11 you apply a totality of the circumstances view, but
12 the law in South Carolina in the statute Congress
13 wrote, they wrote the word traceable. It has to be
14 traceable. And they said as well in this case
15 which is in Gordon, Judge, that, again, the Court
16 does want to relieve the State of its
17 responsibilities to actually -- or the burden of
18 actually having to prove traceability in a
19 particular case. So, again, the transaction --
20 it's not about the totality of the circumstances,
21 it's about whether or not you can trace it to a
22 transaction or trace it to some drug transaction.
23 And, again, on page -- and I want to read exactly
24 what it says, Judge, into the record. It says:
25 The State has the initial burden of demonstrating



1 probable cause for the belief that a substantial
2 connection exists between the property to be
3 forfeited and the criminal activity defined by
4 statute. Then it goes on to say that: The State
5 urges this Court to adopt rationale of the Fourth
6 Circuit employed in US versus Thomas. In this
7 case, they were trying to get them to adopt the
8 totality of circumstances. But the court then
9 said: We reject that. We decline to use the
10 rationale in Thomas because we believe the standard
11 in Thomas would lessen the burden on the State, and
12 it is in direct contravention to the word traceable
13 in the language of the statute. So, again, they
14 have to prove that that money they got from the
15 safe is either found in close proximity. And the
16 court went so far in actually Gibson to say that
17 the court can't infer from anything that is not
18 related to the actual seizure of the money.

19 So, again, when you look at this case,
20 the drugs found at the house, they can't even
21 connect to Mr. White. But when they go get the
22 search warrant, which is our issue for the actual
23 safe deposit box, they use two things. They use
24 the anonymous person, and then they say: Well,
25 we've also got the drugs in the house, and we



1 believe that he is involved in drug activity. You
2 know, we've got this confidential informant, so
3 we're going to go ahead and get a probable cause
4 search warrant from when they say in the actual --
5 and they do say that it was related -- excuse me --
6 that it was related to them by Commander Bishop.
7 But they say then that this anonymous source told
8 them that this safe deposit box is there. They
9 then go and get the safe deposit box, take all the
10 money out and then bring this action. There is no
11 connection between -- there's no provable
12 connection, anyway, between Mr. White and the
13 actual drugs in the house where they arrested him
14 for it which is why, again, the charges went to the
15 feds.

16 Now, there is no connection whatsoever,
17 and the court uses the language -- if I could read
18 here. This is from Gibson, Judge. The Thomas
19 rationale finding that a totality of the
20 circumstances analysis lessens the burden on the
21 State to prove the nexus, that there has to be some
22 connection between that money, the defendant and
23 the drugs. And if they can't trace it or it's not
24 found in proximity, then they can't get it. It
25 changes the fact pattern in this case.



1 If, let's say, they then brought into
2 evidence that one of the serial numbers on the
3 bills was from a buy or they found evidence that
4 this defendant actually had drugs inside a safe
5 deposit box, they could then seize the drugs, they
6 could then seize the money. But they can't seize
7 it when they can't connect it to something that's
8 so far removed. One of the issues that the case
9 had -- and we knew this before -- was the search
10 warrant of the house. He was never even at the
11 house that day. Wasn't at the house. Wasn't
12 around. Wasn't even arrested until later. They
13 then go and get a search warrant for his safe
14 deposit box based on all this stuff. The warrant
15 itself, the search warrant -- and I know the Court
16 talked about this earlier. But the search warrant
17 had no signature on the actual affidavit which is
18 an issue for the affidavit. But on its face, if
19 they go there to get drugs, they go in there to
20 search the house for the drugs or the guns or
21 whatever they're looking for and they don't find
22 Mr. White in constructive possession or possession
23 of the drugs, how in the world are they going to
24 say that the drugs are his which was the issue in
25 the state court. That was the issue. Federal



1 court is different. In this situation, there is no
2 connection. And the court has been very clear
3 about creating the connection, not allowing the
4 State to bring in other evidence. What the court
5 said is this: What a court may not do -- and this
6 is Gibson, Judge. What a court may -- excuse me,
7 I lost my place. What a court may not do and what
8 the State urges courts to do in Gordon is draw
9 inferences based on evidence that is unrelated to
10 the property being seized. Again, bringing in the
11 collateral stuff regarding pictures of him hanging
12 out in clothes. You know, bringing in pictures of
13 him with money that's not related to the drug
14 transaction. Bringing in the fact that they went
15 to a house, raided it and found this stuff, but
16 never connected him to it. All these things are
17 disconnected from this particular defendant. And
18 the inferences that the State wants you to do, the
19 same thing the court wanted to do in Gordon -- or
20 excuse me -- Gibson was to infer from all these
21 things. But the court says no, no, no. We're
22 going to provide more protection than the federal
23 government does. And that's legal. That's
24 constitutional. And the State said no. The
25 Congress put in traceability or proximity. Either



1 you've got to have it traceable or you've got to
2 have it in proximity. I don't think the State can
3 show either one. Obviously, the drugs weren't in
4 proximity to the drugs [sic], so I think you can
5 nix that right out of the mix. The question then
6 is it traceable. And the officer testified on the
7 stand he didn't find it or couldn't trace it to
8 anything.

9 And that would be my argument, Judge.

10 THE COURT: All right. Thank you.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: Mr. Battle?

13 MR. BATTLE: Just briefly Your Honor.

14 I think that Mr. Wilson holds the State to a
15 standard that does not match the court's opinion in
16 Gowdy versus Gibson. They did rule that the
17 seizure was lawful. Their argument was that if
18 there's compelling evidence that the money was
19 obtained through drug dealing, then the money
20 should be seized. Traceability is in the statute,
21 but it also says our burden is only probable cause.
22 It's kind of a weighing for the court to decide in
23 their discretion.

24 For us to know the serial number for
25 every dollar that passes through Mr. White's hand



1 is not a part of the any law enforcement agency
2 could ever meet. There would never be another
3 seizure if we had to match up the serial numbers
4 for dollars that we are seizing.

5 The compelling evidence in this case,
6 Your Honor -- and I'll just kind of briefly go
7 through it. July of 2013, Conway PD arrests Mr.
8 White. Believes that he is selling drugs in
9 exchange for guns. They arrest him for possession
10 with intent to distribute cocaine. They do a
11 search warrant at his home. They find 22 guns,
12 five of which were stolen. They also find the cell
13 phone which we entered into evidence.

14 DEU conducted three controlled buys
15 with Mr. White. He is making money off of the
16 purchase of drugs. The February 9, 2015 controlled
17 buy was done out of the home where they found the
18 209 grams of cocaine and the 39 grams of crack
19 cocaine. So he's living in that home and selling
20 drugs to law enforcement informants out of that
21 home.

22 They go into the home. We've talked ad
23 nauseam about the drugs they found in the home. We
24 received information about a Wells Fargo safe
25 deposit box. There are videos of Mr. White



1 counting money saying 'this is one weeks' worth in
2 that safe deposit box room. He says in the video I
3 published: This is \$20,000. We get a search
4 warrant, go in there, and there's \$20,000 and
5 jewelry in there.

6 And, Your Honor, that is that nexus.
7 That is that compelling evidence.

8 There hasn't been any evidence to show
9 that Mr. White had any legitimate source of income.
10 There is evidence that he sold drugs but no
11 alternative to justify or explain where that
12 20,000 -- \$21,000 came from.

13 So that would be the State's case, Your
14 Honor.

15 MR. WILSON: Judge?

16 THE COURT: Yes, sir.

17 MR. WILSON: The law is right here,
18 Your Honor. It says --

19 THE COURT: And what are you reading
20 from?

21 A. This is in Gibson, I believe. In
22 Gordon. I apologize, Your Honor. The State has
23 the initial burden of demonstrating probable cause
24 for the belief that a substantial connection exists
25 between the property to be forfeited and the



1 criminal activity. And then it talks about
2 traceability. What the court says is that they've
3 got to prove probable cause if they're going to get
4 past the actual search warrant. That's the first
5 issue.

6 And then the next issue is whether or
7 not they can then show that traceability. They
8 have to prove it. They can't, you know, say, well,
9 you got arrested in 2010 and he was a drug dealer.
10 All these things that they are putting on the
11 record have never been adjudicated in state court.
12 So they're offering it for the truth of the matter
13 asserted, but, again, they have no evidence of it,
14 that he's connected to the drugs, that he -- and
15 they could have easily brought in the actual video
16 if they're saying he's on video selling crack
17 cocaine. If he's on video selling it, they could
18 have produced that to the Court. I do drug cases
19 all the time in criminal court. They could have
20 done that. They didn't do that. They're saying he
21 sold to a CI. They can't come in here and then
22 asked the Court to then infer, which is what Gordon
23 is trying to protect against. These types of
24 inferences -- which obviously are going to anger
25 the Court or inflame the Court because, again, the



1 purpose of them is to actually show that, oh, well,
2 let's bring all this stuff in. He's got cash in
3 his hand on Facebook. He's got a cell phone where
4 he's taking selfies. You know, he's a drug dealer.
5 All right? But, again, the facts, what came across
6 the stand is what the Court can consider. The
7 officer testified that there was no traceability
8 from that money to this defendant through drugs.
9 They've got to get past that first. They have to.
10 Once they get past it, then it shifts. But, again,
11 they haven't gotten past that yet. They're still
12 saying, look, we went to the house. We got the
13 drugs. Our guy was arrested some time ago. You
14 know, and now -- also they got some guns. That is
15 not the issue here. The State is not trying to
16 seize guns. They're not trying to seize anything
17 having to do with weapons. They're trying to take
18 money out of the safe deposit box which they say is
19 traceable. And I asked the officer on the stand,
20 Judge, tell me what transaction you can trace this
21 to. They can't get around the traceability. You
22 know, and the totality of the circumstances
23 argument, again, is debunked, was killed, by the
24 court in Gordon and Gibson. It is the law of the
25 land.



1 I would ask the Court -- our issue is
2 we don't believe that they've crossed that
3 threshold at all. And I think that from some of
4 the evidence that they've garnered here today and
5 submitted to the Court, they are not just reaching
6 but going beyond the realm of obviously what they
7 have to do to try to get to this level of probable
8 cause which they can't reach. The search warrant,
9 they didn't even go in for the drugs. And I would
10 submit to the Court that those drugs are not even
11 admissible in this matter if the search warrant is
12 not in because, again, it becomes fruit of the
13 poisonous tree. But, again, even if the Court
14 takes the attitude that the drugs were found in a
15 legal way, again, they're not connected to Mr.
16 White.

17 Now, if they brought in the video and
18 they say, well, hey, here he is selling crack, and
19 then they saw him go back to the bank and deposit
20 money on that particular day at that particular
21 time, they had the evidence. And they could have
22 easily said, hey, look, we've got you. On March
23 13, 2014 is when we did the buy, and then we saw
24 him go back to the bank or we have the entry log
25 where he went back to the bank. But that is not

1 what happened. I asked him? Did you investigate
2 what else he did for a living? They never asked
3 him. They never asked him. They asked some people
4 that he knew, and I don't know who they are. And
5 then on top of that too, you're having a lot of
6 conjecture about anonymous sources, confidential
7 informants, none of whom are here to be, you know,
8 cross-examined by the Defense.

9 I would ask the Court in light of this
10 case and the amount of money that is being taken or
11 seized -- this is not \$500 or \$1000. I would
12 suggest to you this is money that he saved based on
13 the records over a period of time. You know,
14 whether he wants to go floss or showboat on the
15 video camera is not the issue. That's not evidence
16 of him being connected to a drug transaction. I
17 would just ask the Court -- I would ask the Court
18 to allow that money to go back to the defendant
19 where it's purposeful as well as I think that in
20 this case it is the right thing to do, Judge.
21 That's what I'm asking.

22 THE COURT: Let me ask you something.
23 Is there a difference in the law between Gordon and
24 Gibson?

25 MR. WILSON: Yes, Your Honor. They are



1 two cases talking about two different things, two
2 issues.

3 THE COURT: Well, is there a difference
4 in the law?

5 MR. WILSON: Yes, Your Honor.

6 THE COURT: And what is that
7 difference?

8 MR. WILSON: Well, one case, Gordon, I
9 believe, talks about the actual drug being
10 traceable. They talking about traceability. When
11 you look at the statute, the statute says, look,
12 there are two things that you can do to stop a --
13 or find a person and then seize that person of
14 drugs or money or whatever they have. One of the
15 things that you can do is you can find it in
16 proximity. If this defendant, let's say, was at
17 the house that day sitting next to a fifth of a key
18 of cocaine, then they can find him in constructive
19 possession and say that, look, those drugs -- and
20 then if he had \$10,000 in his pocket, they could
21 then seize the money at a hearing and have no
22 problem probably doing it. But that's what the
23 distinction is between Gibbs and Gordon -- excuse
24 me -- Gibson and Gordon.

25 The other case, Gordon, talks about



1 whether it's traceable, whether or not you can
2 prove that it came from drug money.

3 THE COURT: I don't mean is there a
4 difference in the cases. Did the law change?

5 MR. WILSON: No, Your Honor. No.
6 There's no totality of circumstances. Even Gibson
7 points out that there is no totality of
8 circumstances in the law. It is all regarding one
9 thing. It's whether or not you can trace it to the
10 transaction or whether or not it's in proximity to
11 the drugs. You can't do anything else. There is
12 no totality of the circumstances found in these
13 cases. They rejected US versus Thomas completely
14 and gave more protection regarding the traceability
15 issue, Judge.

16 If you can, give me one second, Your
17 Honor. I want to find something. I apologize.

18 As a matter of fact, the same language
19 is found in both cases, in Gibson and in Gordon.
20 In Gibson, the rationale from the court when the
21 Fourth Circuit employed US versus Thomas, and,
22 again, the court refused to look at that and tell
23 you they're not going to actually apply that
24 standard again. So in both cases, again -- and I
25 think in one case, they were dealing actually with

1 a safe. That was the issue, I believe, in Gibson.
2 There was a safe up in the attic, and the court was
3 talking about whether or not if it's found in
4 proximity to drugs, you know, how close it has to
5 be and how -- but again, you don't have that issue
6 in this case. The only issue they have because
7 they didn't raise an issue about proximity; they
8 only raised the issue about whether it's traceable
9 which is why I asked the questions, Your Honor,
10 about whether or not they had a drug dog go hit on
11 the actual safe deposit box because that would be
12 something they could say, well, there might be
13 drugs in there. That never happened in this case,
14 so proximity doesn't become an issue. The question
15 then is, well, is it traceable because you just
16 can't go around seizing money from everybody
17 everywhere. So again, they've got to be able to
18 prove it is traceable to a drug transaction or some
19 activity that they can say it's related to him. In
20 this case, the subject of the matter is, again, the
21 drugs in the house. That's the issue because they
22 used that to go get the actual warrant for the
23 actual search of the safe deposit box.

24 THE COURT: There were substantial
25 amounts of drugs, enough that the law presumes that



1 there was trafficking, so if there had been, the
2 law would presume that Mr. White is making money
3 off his trafficking.

4 MR. WILSON: Well, I mean, Judge, law
5 enforcement presumed it.

6 THE COURT: Certainly.

7 MR. WILSON: But just because law
8 enforcement presumed it doesn't make it true.

9 THE COURT: Well, the law presumes that
10 trafficking results in money.

11 MR. WILSON: If there's a connection,
12 if there is a nexus between him and the drugs.
13 They have to create a connection. They couldn't --
14 I asked him --

15 THE COURT: No. The law presumes --
16 the law here -- if, in fact, the drugs were Mr.
17 White's, then the law presumes that Mr. White would
18 make money off his trafficking.

19 MR. WILSON: If they made the
20 connection, Judge.

21 THE COURT: Right.

22 MR. WILSON: But even in this Court,
23 there has to be a nexus between that. I asked him
24 on the stand: Did you confirm whose house it was?
25 They didn't know. I asked him on the stand, you

1 know: Did you see him at the house that day? They
2 didn't know. They have to offer evidence. The
3 Court can't presume that they're on the right
4 track. That's not enough. They've got to get past
5 that threshold and then show that it is traceable
6 which is one of the reasons the officer brought up
7 the issue. And he's right. One of the reasons
8 they do flash money, Judge, is so they when they go
9 and do these buys -- or let's say they are trying
10 to have a CI go out and do a buy, which they did in
11 this case, then they can track the serial numbers
12 to that transaction because it's required when you
13 try to seize the money. And they're going to go
14 back and try to get the money and any other money
15 that they have.

16 THE COURT: But there were three --
17 some controlled buys at the house where Mr. White
18 lived.

19 MR. WILSON: Testified by, again, the
20 agent. The CI was not on the stand here. There
21 was no one who came and said, yes, I bought drugs
22 from Mr. White. Nobody said that. All of this was
23 from the agent who I don't even know if he was
24 there when this guy was wired up and taped up.

25 THE COURT: But testimony that I



1 allowed into evidence.

2 MR. WILSON: That's right. Yes,
3 testimony that was allowed. But, again, this is
4 what happens in a trial. I mean, obviously if he's
5 testifying about what a third party did and a CI
6 that we don't even know about, I mean, I would
7 think that is fairly weak. But, again, I would go
8 back to the issue regarding the search warrant.
9 Anytime that you have a search warrant -- and I've
10 tried civil cases before -- you have a search
11 warrant that goes bad for whatever reason, if it's
12 not signed, if the Court believes that, you know,
13 someone falsified evidence, whatever the reason is,
14 everything that flows from that search warrant
15 going bad makes it a problem with the actual
16 evidence that was garnered. And I know obviously
17 this is not criminal court. But, again, if I'm
18 trying a case and the judge says, look, I'm not
19 allowing the search warrant, none of that stuff
20 comes in. The same thing applies in civil court.
21 If he has an issue with the search warrant, that's
22 not our problem. That is a problem for the State
23 and the plaintiff. His issue is he's got to get
24 this stuff in because it flows together. Again,
25 the fruit of the poisonous tree always flows

1 together. So he's now trying to come in and say,
2 look, we're going to circumvent that. We've got a
3 search warrant for the safe deposit box but nothing
4 else. That's what it is tantamount to, Judge, and
5 I'm just saying that I think that when you look at
6 this case in totality, even if there is an issue --
7 but when you look at it from traceability, when you
8 go one step beyond which is what the Constitution
9 allows more protection for the defendants, there is
10 no doubt that there's an issue with this taking.
11 There is no traceability. You know, I think
12 honestly if you apply the totality of the
13 circumstances, I think it's a weak case, but I
14 think when you go to that one extra step which, you
15 know, Gordon and Gibson both talk about, there is
16 no traceability here at all. None. I tried to
17 ask -- and Lord knows I was asking questions I
18 didn't know the answer to, so you never know what
19 you're going to get. There was no traceability.

20 THE COURT: Even with the three
21 controlled buys by the DEU agents?

22 MR. WILSON: Judge, even with that,
23 they didn't bring in anything. Let's say for
24 argument --

25 THE COURT: I understand they didn't



1 put the agent on the stand.

2 MR. WILSON: But Judge, not even that.
3 Even if -- let's say right now that we would
4 concede that he did three buys. And we don't have
5 the video. Let's say I conceded it. The
6 forfeiture they're talking about is related to the
7 drugs at the house. They're saying this guy was
8 selling drugs. They've got to bring in proof of
9 that. Now, if they want --

10 THE COURT: They did bring in proof.
11 They did bring in proof.

12 MR. WILSON: They brought in some
13 evidence.

14 THE COURT: Sure.

15 MR. WILSON: But the question is
16 whether or not that evidence is equal to the weight
17 that the law requires for traceability.

18 THE COURT: They brought in enough
19 evidence for probable cause for a search warrant.
20 I mean, maybe not enough to convict, but we don't
21 have to have that for this court.

22 MR. WILSON: But the Court has already
23 ruled that the search warrant was no good. The
24 Court ruled that even if you say --

25 THE COURT: I didn't rule that.



1 MR. WILSON: The Court didn't allow it
2 in.

3 THE COURT: But I didn't rule it wasn't
4 any good.

5 MR. WILSON: But you can't have --
6 Judge, you can't have a search warrant go into a
7 case and the Court says, look, it's not signed.
8 I'm not going to allow this in. If they don't have
9 a search warrant, they can't put in the rest of the
10 stuff. It doesn't get in. It can't come in and
11 say, look, you know, we're going to circumvent the
12 search warrant.

13 THE COURT: But don't be presuming
14 anything from my not letting it into evidence.

15 MR. WILSON: No, Judge.

16 THE COURT: I didn't rule that it was
17 not a valid search warrant.

18 MR. WILSON: No, Judge.

19 THE COURT: I didn't rule that at all.

20 MR. WILSON: Judge, I'm not presuming.
21 But again, one of the issues in this case obviously
22 is whether or not the search warrant was signed.
23 The Court took issue with that and I think
24 rightfully so.

25 THE COURT: But keep in mind if, in

1 fact, the affiant, the agent who provided that
2 affidavit to the judge who issued that search
3 warrant, if that affiant was standing before the
4 judge who signed that search warrant -- that agent
5 was right there and filled in the blanks -- that's
6 a valid search warrant.

7 MR. WILSON: Well, I mean, Judge, I
8 think we could change those facts. And if he was
9 here, he could tell us that, but he wasn't here.

10 THE COURT: That's true.

11 MR. WILSON: That evidence wasn't
12 presented to the Court. And I think that, again,
13 the Court has to be careful trying to fill in the
14 blanks for the State. You know, I am concerned
15 about obviously the lack of evidence of a traceable
16 case. I am also concerned obviously if the Court
17 is trying to fill in the gaps or fill in what's
18 missing, I think that's a dangerous area to go
19 into.

20 THE COURT: I'm not trying to fill it
21 in now. That's why I didn't let it into evidence.
22 But my point is I did not rule it was not a valid
23 search warrant.

24 MR. WILSON: I understand the Court's
25 position. I do understand the Court's concern also

1 about going back behind a magistrate, but this
2 happens all the time where courts go back and say,
3 look, there's no probable cause here. That happens
4 almost all the time. I've had it to happen in at
5 least three or four courts myself where I've
6 challenged the probable cause. Magistrates are not
7 infallible.

8 THE COURT: I understand. I'm
9 understanding. I understand.

10 MR. WILSON: But, again, getting beyond
11 that, even if the Court had let it in --

12 THE COURT: But you made a blanket
13 statement that I held that it was not a valid
14 search warrant. I did not hold that.

15 MR. WILSON: I apologize, Judge. Based
16 upon my understanding of the law -- and I apologize
17 if I -- but, again, if the Court does not allow
18 that search warrant in, again, that search is
19 deemed to be either bad or not good or not
20 admissible, and everything that flows from it is an
21 issue.

22 MR. BATTLE: It's my understanding that
23 it was authenticity was the issue with it coming
24 into evidence.

25 THE COURT: That's right. That's



1 correct.

2 MR. WILSON: It's like asking, you
3 know, is this an apple or is this an apple. It
4 doesn't matter. If the actual search warrant
5 itself is deemed to be, for whatever reason,
6 invalid, whether it's falsified, whether it is
7 based on bad statements from the -- it doesn't
8 matter.

9 THE COURT: But that's a big if. I
10 didn't rule that.

11 MR. WILSON: If it's not allowed in,
12 Judge, though they can't use -- it's not
13 admissible. If it's not admissible, they can't get
14 around the issue of the actual probable cause
15 problem with the search warrant. But beyond that,
16 even if it was admitted, this case doesn't show
17 traceability. Again, them going in to search a
18 house, they didn't have a warrant for his arrest.
19 They go in to go search his house -- that's what
20 were talking about -- and seize drugs from the
21 house.

22 THE COURT: Are you saying that the
23 only way they can show traceability is through a
24 search warrant?

25 MR. WILSON: No, no, that's not what



1 I'm saying, Your Honor.

2 THE COURT: Okay.

3 MR. WILSON: What I'm saying is that --
4 that's what I was going to say. The agent fleshed
5 it out well. One of the things they do is they try
6 to create traceability by doing the controlled
7 buys. Okay? The issue is that there was a reason
8 why they didn't put that evidence before Your
9 Honor. There's a reason why they could actually
10 prosecute him in state court. If they didn't put
11 that before Your Honor, and they had three
12 controlled buys, I would ask the Court if you fill
13 in the gaps for the State, fill in our gaps because
14 there's a question about whether or not he was even
15 identified on those tapes. That was the issue.
16 That's one of the things we fleshed out in the
17 criminal case. That's one of the reasons the feds
18 came in and said, look, we're going to take this
19 case because they don't need identification. They
20 only need drugs. But in this case, they've got to
21 have that. They can't get around that. They can't
22 get around the search warrant. They cannot get
23 around actually having the traceability. And
24 again --

25 THE COURT: Well, we saw him on the



1 tape.

2 MR. WILSON: You saw him on the tape
3 counting money.

4 THE COURT: Well, we saw his face.

5 MR. WILSON: No, we're not talking
6 about that, Your Honor. Were talking about the
7 actual CI buys.

8 THE COURT: Oh, okay. I've got you. I
9 didn't see those tapes. I didn't see those tapes.

10 MR. WILSON: And that's exactly my
11 point. But again, the other tapes don't show CI
12 buys. They simply show, you know, him counting the
13 money, I would assume.

14 THE COURT: Yes, sir.

15 MR. WILSON: But the only thing
16 published for the Court was him counting money.

17 THE COURT: Yes, sir.

18 MR. WILSON: I can count money right
19 now, and that in itself is not illegal.

20 THE COURT: No. You're exactly right.

21 MR. WILSON: And that's why the
22 totality of the circumstances, the court rejected
23 it because it said Congress intended for
24 traceability to be the issue. So, again, the court
25 wants it to go one step further and say, look, it's



1 not enough to show somebody counting money.

2 THE COURT: But, you know, everybody in
3 here can agree that most people don't keep cash in
4 a safe deposit box because you're not supposed to
5 keep cash in a safe deposit box.

6 MR. WILSON: But Judge --

7 THE COURT: And you wouldn't keep it in
8 a safe deposit box, and Mr. Battle wouldn't keep it
9 in a safe deposit box, and I wouldn't keep it in a
10 safe deposit box.

11 MR. WILSON: That's a conversation for
12 the IRS. If they want to call him about it, that's
13 a conversation for the IRS.

14 THE COURT: Well, that's true, but --
15 so first of all, you've got that issue. Then
16 you've got the amount of money, the \$21,000 in --

17 MR. WILSON: In cash.

18 THE COURT: -- in cash. You know, it's
19 not \$100 in cash.

20 MR. WILSON: That's right.

21 THE COURT: You've got a substantial
22 amount of cash there.

23 MR. WILSON: Absolutely.

24 THE COURT: And then you've got this
25 tape there.

1 MR. WILSON: Showing him counting
2 money. All those things, none of them are illegal.

3 THE COURT: No. You're exactly right.
4 And it's apparently a selfie of himself counting
5 money. That's a little strange. That is a little
6 strange.

7 MR. WILSON: A selfie where no one can
8 connect that money to the money in the safe deposit
9 box, and no one can say whether or not that money
10 is real. I asked the agent. They had one witness.
11 This is their case.

12 THE COURT: But that's even stranger.
13 You don't keep Monopoly money in a safe deposit
14 box.

15 MR. WILSON: Rappers and drug dealers
16 use prop money all the time, I would suggest to the
17 Court. That's what I was asking.

18 THE COURT: Are you saying your own
19 client is a wrap dealer and a whatever -- what was
20 the other thing you called it?

21 MR. WILSON: I said a rapper.

22 THE COURT: A rapper? I mean, why
23 would a rapper keep --

24 MR. WILSON: Judge, I had a client
25 once -- and I'm not trying to belabor this point.

1 But I had a client once that held \$100,000 of fake
2 money. And to prove to the federal judge that he
3 did it -- the reason he did it was because he was
4 trying to front for people. What I'm suggesting to
5 the Court is not that he's a rapper or anything
6 like that. What I'm saying is that, again, if I
7 have that kind of money in my safe deposit box and
8 they go and seize it and say, Ralph, I found drugs
9 at your grandmother's house. We think that you
10 were selling drugs out of there. And then they
11 produce the three buys to the Court, that's
12 different.

13 What happened here is they found drugs
14 at my grandmother's house. They then go to my bank
15 and then seize my bank account or my safe deposit
16 box and can't connect me to the drugs at the house.
17 That is an issue. There were other people there as
18 well. But, again, they have to have traceability.

19 THE COURT: I understand. I know the
20 statute requires it, and I know case law requires
21 it. I understand that.

22 MR. WILSON: My concern, Judge, is
23 that, again, circumventing the law just saying
24 okay, well, look, we believe that Dennis did the
25 right thing in front of a judge.



1 THE COURT: I know that.

2 MR. WILSON: I know Dennis. This agent
3 is a good agent. I know him.

4 THE COURT: Yes, sir.

5 MR. WILSON: You know --

6 THE COURT: I think he is too, and I
7 just met him.

8 MR. WILSON: Yes, he's a good guy.

9 THE COURT: So now it's my job to
10 determine based on what's been presented today and
11 what you've disputed today whether, in fact,
12 traceability has been proven.

13 MR. WILSON: Yes, Your Honor.

14 THE COURT: And I know we're all tired
15 today, and so I'd like to give Mr. White a few
16 moments to speak with his grandmother before he has
17 to go. So I'm going to take this under advisement.
18 I've got the evidence here. If the agents would be
19 with him and give him five minutes or so to speak
20 with his grandmother before he has to go back. So
21 we are adjourned.

22 MR. BATTLE: Your Honor, did you have a
23 copy of Gibson already?

24 THE COURT: Yes, sir. I have Gibson,
25 Trey Gowdy versus Gibson, and Tom Pope versus

1 Gordon.

2 MR. BATTLE: Okay. I also brought a
3 copy of the statute.

4 THE COURT: I have a copy of the
5 statute. Is there anything else y'all would like
6 to give me?

7 MR. BATTLE: No, your Honor. I'm good.

8 THE COURT: Okay. Very good. So we
9 are adjourned.

10 MR. WILSON: Thank you, Your Honor, for
11 indulging me. I appreciate it.

12 THE COURT: Thank you very much. And I
13 know that it was tough on you not wanting to be
14 here today.

15 Mr. White, I think that you'll agree
16 that Mr. Wilson did a good job.

17 MR. WHITE: Yes, ma'am. Thank you,
18 ma'am.

19 MR. WILSON: Thank you, Your Honor.

20 (The hearing was concluded at 4:55
21 p.m.)

22

23

24

25

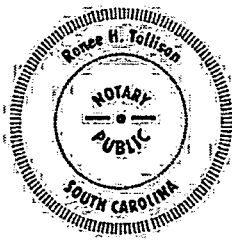


CERTIFICATE OF REPORTER

I, Renee H. Tollison, Court Reporter
and Notary Public for the State of South Carolina
at Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete
record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal this 6th day of December,
2016 at Conway, Horry County, South Carolina.



Renee Tollison

Renee H. Tollison, CVR
Court Reporter
My Commission expires
May 23, 2022

I N D E X

	Page	Line
RANDALL DEREK SUGGS,	63	10
DIRECT EXAMINATION	63	12
BY MR. BATTLE		
CROSS-EXAMINATION	129	22
BY MR. WILSON		
REDIRECT EXAMINATION	145	23
BY MR. BATTLE		
RECROSS-EXAMINATION	148	12
BY MR. WILSON		
CERTIFICATE OF REPORTER	184	1



E X H I B I T S

	Page	Line
PLF. EXH. 1, Search Warrants	77	10
RE Phones		
PLF. EXH. 2, Photographs	83	7
*PLF. EXH. 3, CD with Cell	93	24
Phone Videos		
PLF. EXH. 4, Search Warrants	121	3
for Bank		
PLF. EXH. 5, Photographs	123	20

*Plaintiff's Exhibit #3 was admitted into evidence.



Exhibits	\$6000	2007	61:24	A.
PLF:EXH.001	10:20	33:16:34:8	317	ability
77:10 186:4	\$7695	2010	107:6,23	31:2
PLF:EXH.002	96:8	161:9	33	Absco
83:7 186:6	\$8000	2013	28:10	74:8
PLF:EXH.004	12:8	72:4 74:3 85:12	35	absolutely
121:3 186:9	\$9000	111:19 112:23	37:12	41:6,8 44:9 55:6
PLF:EXH.005	12:8	141:23 142:1,5,16	37	86:9 179:23
186:11	1	144:4 159:7	28:11,12 39:11	accommodate
		2013-GS-26-03542	54:7,10,12	61:3
		142:12	39	accompanied
\$	18:7 77:7,10 147:5	2014	96:6,16 97:4 98:24	99:18
\$1	149:17	163:23	131:24 146:15	account
123:2	10	2015	147:6,15 159:18	115:15 181:15
\$10,000	139:13	12:24 34:25 35:1	3rd	accounts
165:20	10,450	36:13 94:2,5,21	25:2 36:13	107:3,4,21 113:6
\$10,450	147:13	96:4 97:15 103:20	4	114:8
147:11	100	121:13 130:20	4	accurate
\$100	140:7	141:23 142:21	99:3,4 121:3	76:3 78:8 88:5
179:19	109	144:8,9 159:16	4:55	98:16 108:1
\$100,000	147:9	2015-CP-26-3707	183:20	117:25 123:14
147:10 181:1	12	3:8	5	184:6
\$1000	12:22 121:24	2016		acknowledged
164:11	122:3	3:13 12:22 184:13		28:3
\$15	1200	2022		act
147:17	121:14,21	184:25		72:9 106:10
\$15,000	13	209	5	action
9:1	94:20 163:23	96:6,13 97:3 98:23	123:20	5:6,7 13:1 27:19
\$18,000	13th	119:11 131:24	50	29:8,9 37:21,24
12:1 147:17	74:3	141:16 146:14	147:4	59:25 104:11
\$20	15	147:5,11 159:18	57	112:2 155:10
147:5 149:16	122:15 139:13	22	74:10	actions
\$20,000	15th	74:16 159:11	6	27:18,22
139:13 160:3,4	3:3,4 63:23 95:6	23		active
\$2000	18	184:25	60	99:13
11:25	96:4	24	65:6	activities
\$21,000	19	21:23 97:15	6th	64:22 74:20 107:1
11:14 22:15 20	94:21 103:20	24th	20:1 184:12	activity
26:5 123:12	1997	197:24	8	65:17 109:10
146:16 160:12	33:25 34:9,10,11	2747		111:23 112:20
179:16	19th	33:25		154:3 155:1 161:1
\$25	12:24	27th		167:19
9:1		3:21	81	actual
\$25,000	2	28	127:13	26:1,2 32:12 33:13
147:19 149:10		29	85	45:5,12 50:4,23
\$5,000	83:7 147:5,16	85:12	64:25 65:2	78:21 100:11
15:21	149:17	3	9	102:14 109:12
\$50	20,000	3		110:1 62:3 113:5
147:4,10,11	160:12	33:25 35:1 93:16,	74:8,10 94:21	114:9 116:25
\$500	2006	24	130:20 159:16	117:14,21 118:4
164:11	127:12	30	9th	119:6,19 120:7,16
		35:17 37:12 56:7	3:12	130:6,7 133:13
				134:15,17 154:18,
				22 155:4,13



156:17;161:4,15 165:9;167:11,22, 23;170:15;176:4, 14;178:7	109:20;21:25 110:1;117:13,14 174:1,3	agreed 4:3	answers 47:4	area 67:8,15;68:6,12, 14,24;70:4,7,9,12 71:1,20;73:17 75:11;174:18
ad 159:22	affidavit 100:8;16;101:1,6 105:6,9,21;110:5 115:10;116:7 117:13;118:12 156:17,18;174:2	ahead 31:14;50:10;52:3 55:11,13;58:8 60:24;61:13;76:13 89:5,8;155:3	anymore 21:4;76:15;77:3	arena 10:5
add 80:23;111:13 146:22;147:17	affirmative 112:24;139:24 140:4	aid 168:21	anytime 91:8;124:9;170:9	argue 115:3
addiction 73:12	affirmed 62:20	allegations 117:1	apologies 29:23,24;31:13 105:25	argument 34:17;44:11,12,13 51:16;18;53:1;56:9 104:22;105:22 119:1;158:9,17 162:23;171:24
addictive 73:9	affixed 184:12	allege 115:18	apologize 30:1;93:22;108:17 111:2;121:23 122:1;124:22 138:17,20;160:22 166:17;175:15,16	arguments 119:3;151:25
additional 39:22	afraid 16:13	allegedly 145:1	apparently 13:10;18:10;56:5 90:8;102:16;180:4	arms 71:20;81:12
address 3:16;130:18	afternoon 34:23;129:25	allowed 170:1,3;176:11	Appeals 33:22	arrest 75:25;112:23 130:6;134:15,20 142:16;159:9 176:18
addressed 90:2	agency 159:1	allowing 109:19;157:3 170:19	appearance 6:15	arrested 72:9;73:22,25 85:11;131:10,13 16,20;134:6;135:1, 9,10;141:25 155:13;156:12 161:9;162:13
adjourned 182:21;183:9	agent 62:14,16;23;63:14, 19;65:15;67:9,13, 16;69:18;70:21 71:19;72:2;75:14, 16;77:18;82:10,24 83:3,24;86:4,25 87:11;90:8;92:1 94:2,5;19;95:6 97:11;98:6,15 99:6,9,11,13 100:13;101:19 104:20;106:3,16, 19,20;107:18 108:7,10;109:22 111:12;112:5 114:19;115:21 116:3;117:7,15 119:5;121:17 122:10;124:5 125:17;127:8 129:2,24;130:10 131:20;133:24 134:1;145:25 146:22;150:16 151:5;169:20,23 172:1;174:1,4 177:4;180:10 182:2,3	altered 76:6;78:11;88:3 98:20;99:22;100:2 4;108:3;123:17	appears 20:3;125:13,22 127:4	arrests 159:7
adjudicated 150:4;161:11	adopt 154:5,7	alternative 160:11	Appellant 33:24	arrived 95:9
admissible 163:11;175:20 176:13	adverse 44:5,8,9;56:22	ambush 42:22	apple 176:3	asserted 90:24;161:13
admit 54:20;113:20,22, 25;114:2	adversely 52:1	amount 10:15;96:24 139:12;146:13,22 149:14;164:10 179:16,22	applies 170:20	assigned 63:20,22,24
admitted 26:12;77:11;83:8 93:17,25;113:17, 25;114:5;176:16	advised 72:5;117:8;121:10	amounts 139:9;167:25	apply 54:15,16;153:11 166:23;171:12	assist 27:17,21;33:4 50:13
adopt 154:5,7	advisement 182:17	ample 12:22	approach 4:12;11:3;25:19 101:5;136:16 143:22;152:15	assistant 14:12
advocate 49:22;50:18	adversely 52:1	analysis 155:20	approached 94:6	associate 113:8
advocating 48:7	advised 72:5;117:8;121:10	analyzed 66:17,69;12	approve 98:4;107:14	assume 26:16;51:4;53:15 178:13
affect 55:18,20	advisement 182:17	and/or 64:4	approved 107:11;130:13	assumed 18:23
affected 52:1;53:3;54:15	advocate 49:22;50:18	anger 161:24	approved 107:11;130:13	assuming 52:5,6,7;142:13 144:20
affiant 101:8,24;102:1 105:3,19;108:9	advocating 48:7	anonymous 97:14;106:22 108:18,22;109:1 112:1;114:17 115:9,18;116:24 117:12;119:9,14, 15,16;120:11 154:24;155:7 164:6	approximately 64:8;121:14 122:15	assure
	affect 55:18,20	agents 95:15;171:21 182:18	April 97:15;121:13 144:4,8	
	affected 52:1;53:3;54:15	agree 33:11;179:3 183:15	Arakas 103:10;11;14;15 104:21,23;105:7, 15,16;17;18,20	
	affiant 101:8,24;102:1 105:3,19;108:9			



20:2	143:2,6	banker	Battle's	black-letter
athletes		90:11	5:13;25:1 53:18	54:3
81:17	B	base	Beach	blanket
attach		72:6;11,15;16;19,24;94:22	103:8;150:19	175:12
46:22 47:5	back	based	bedroom	blanks
attached	3:21 4:17 11:25	4:6 13:3 55:10	89:17	101:25 106:4
46:25 47:15	12:1;22;15;19;16:8	86:10;13;108:25	beg	174:5;14
115:11	25:1;35:2;44:8;16	110:5;115:4,22	40:4	blueprint
attendant	50:4;52:25;56:9	116:23 118:12	began	153:7
124:13 126:7	64:12;95:12;18	156:14 157:9	111:18	body
attendant's	98:9 111:19	164:12 175:15	beginning	137:14
125:3	128:23 129:7	176:7;182:10	114:15	bond
attendants	133:19;22 134:2	bases	beginnings	10:17;18;19;20
123:7	10:144:2 150:16	83:16	92:1	13:24
attended	163:19;24;25	basically	behalf	booked
64:13	164:18 169:14	9:6 100:22	3:4	137:15
attention	170:8 175:1,2	basis	belabor	Booker
3:21	182:20	100:19 109:24	91:12 180:25	17:6
attic	background	112:15 115:25	belief	bought
1167:2	9:6	Battle	109:9;154:1	169:21
attitude	bad	3:21 5:1;13;16;25	160:24	box
163:14	32:18 51:5 52:6	62:4;11;17 12:17	believed	31:6;32:13;42:18
attorney	13:14;18 109:19	19:13;25;14:1	82:17 97:18	75:13 79:19 82:19
5:17;23 6:1,11	146:20 170:11,15	25:11;16;23;28:3	106:24;107:1	90:12 97:16
8:19;10;12;23 11:6	175:19 176:7	34:19;21 35:2;36:3	believes	106:22 107:4,6,9
16:13 22:23;24;12	bag	39:20;40:7,9 45:8	152:21;159:8	10:17;23;109:14
attorney's	146:8	10:16;21;22;47:25	170:12	11:16 113:2,6,23
15:25 32:22	baggies	56:2,5 58:1 61:16	belong	114:9 116:4;12;14
attorneys	71:10	62:11;12;14 63:13	150:3;6	117:5,9 119:10
17:6 18:12 59:14	bags	65:14;67;10;21	belonged	120:7;121:7 122:7
143:15	71:9 150:20	70:10;17;24 71:3	86:2	13:14;15;25 123:6
audio	baking	89:24 72:1 73:15	belongs	10:124:10 125:2,7
25:13 36:9 42:13	73:4	76:1,8 77:17 78:13	55:1	14:25 126:4 127:9
75:1 95:13	ball	79:1;2;82:9;83:11	Benjamin	10:24 136:4
August	49:18	84:17;20;86:17;23	3:11	144:13 146:2
25:2;34;25;35:1	ballpark	87:5;10;17 89:6,8	Bible	154:23 155:8,9
36:13 74:3 85:12	149:11;19	10:16;91;16;21;24	62:19	156:5;14;159:25
authenticate	bands	92:8;13;17;22	big	160:2 162:18
82:25 86:25 88:12	123:2	93:1,3;6;10;13	117:5 176:9	167:11 23 171:3
92:2 99:22 115:21	bank	94:1,13;18;24 97:8	big-time	179:4;5;8,9,10
authenticated	26:15;32;12 75:12	99:1 100:13	84:5	180:9,14 181:7;16
114:12	82:19 84:8;87:16	101:15;16;21	bill	boxes
authenticity	19:89;15;16 90:8	102:19;103:3	123:2 127:14	87:16 90:10
175:23	14:16;19;92:7	104:5;6;9;22	bills	bracelet
authority	97:16 98:2;107:3	106:7;11;14;15	156:3	127:17
116:5	5:22;24;109:2	108:11;109:16;17	Bishop	Brantley
automatically	111:17 113:5;23	111:11;112:14;18	97:13 117:8 155:6	74:21;22;75:1;24
45:3	117:10 121:3,11	113:17;21;114:2,6	Bishop's	78:1;85:2,6;11,13
Avenue	19:124:7;126:8;17	11:115;19;20	99:9	22:86:5;88:14;23
107:24	139:11;12 140:12	116:10 121:2,5	bill	90:23 137:19
awarded	145:1;5;7;16	122:6;123:19	9:6 41:7 92:3;14	break
28:14	146:7;8;163:19;24	124:4;125:12;20	black	128:16;18;19
aware	25:181:14,15	23 126:11;25	132:1,4	129:3
4:18 11:15 142:11	bank's	127:1,6,7 128:13		briefly
	90:9	25:129:6;8 145:22		4:14 116:22
		24 148:9;151:2;15		148:11;152:23
		17 158:12;13		158:13;159:6
		175:22 179:8		
		182:22;183:2,7		



bring 29:8 41:20:24 44:15 80:19 110:8 129:6 155:10 157:4 162:2 171:23 172:8,10, 11	172:4 177:7,12 178:7,12 181:11 C Cadillac 127:12 132:1,4 calculator 147:7 call 14:10 15:9 16:21 17:1,11 19:21,3 37:13 39:4 8 62:14 90:10 179:12 called 7:12 9:7,15 30:7 34:24 69:22 97:14 112:3 180:20 calling 15:8 21:21 CAM00014 91:22 CAM0014 93:10 camera 25:11 164:15 caption 34:14 car 19:5 32:11 50:8 67:12 68:18 89:17 132:3,12 143:1 149:24 card 125:25 cardinal 44:6 care 13:6 51:7 careful 174:13 carefully 50:19 Carolina 33:23 96:20 141:20 153:5,12 184:4,13 carry 125:20 cars 152:20 case 3:2,7 4:3,22 6:15, 17,19 7:3 8:5,6,7, 12,17 9:9,11,20,	24:25 10:3,9,13, 14,25 11:3,4,7,24, 25 12:6,9,20 14:19 15:15,19 16:8,21, 24 17:3,21,22 18:6,15,18 19:10 20:16 22:22 24:12, 13,15,25 27:1,16, 18,22 29:1,12 30:19 31:3 32:8, 18,24 33:5,16,23 34:8,11 14 35:21 36:18,20 38:2,9, 10,18 41:3,4,15,25 43:15,24 44:3,23, 25 45:8 50:5,6,15 51:22 52:22 53:22 55:18,20 56:14,15, 16 57:4,9 60:25 61:5 14:15,22 66:11 67:22 69:1 70:19 78:25 97:11 100:14,18 104:8, 19 105:10 106:20 109:12 110:20 118:17 130:10 133:24 139:10 146:7 150:17,22 153:7,10,14,19 154:7,19 155:25 156:8 159:5 160:13 164:10,20 165:8,25 166:25 167:6,13,20 169:11 170:18 171:6,13 173:7,21 174:16 176:16 177:17,19,20 180:11 181:20 cases 7:23 25:22 6:27,19 29:13,16,22,23 30:2 31:7 33:15 35:22 25 39:19 43:3,12,17 44:24 46:5 51:24 52:9,16 54:3 57:1 59:18 65:2 69:6 78:18,20 89:20 102:10,11 117:19 120:14 123:3 134:9 152:14,18,19,22 161:18 165:1 166:4,13,19,24 170:10 Casey 103:21 cash 92:23 109:14 136:21,25 162:2 179:3,5,17,18,19,	22 CD 25:12 91:22 93:24 cell 76:10 80:2,19,20 82:14 84:19 86:7 88:13,16 89:2 90:22 92:10 93:24 127:23 159:12 162:3 Cellebrite 84:24 certainty 131:12 132:15 141:11 certificate 25:2 26:1 34:25 45:12 46:1 60:22 61:18 127:15 184:1 certify 184:5,8 cetera 25:5,6 Chad 121:17 challenged 175:6 chance 30:23 change 13:3 152:8 166:4 174:8 changed 98:19 152:10 characteristics 65:16 66:4 68:9 69:22 90:19 characterized 46:19 charge 8:2,5 23,24 74:1 130:10 143:7 150:5 charged 96:20 charges 7:7,10 8:19,10 12 47:1 141:19 142:4 18:22 143:5,10 12 155:14 charm 123:11 127:16 checked 148:21	cherry 52:19 choice 117:19 choose 43:20 Chris 99:11 CI 88:23 94:11 119:18 150:14 161:21 169:10,20 170:5 178:7,11 circuit 3:4,11 27:13 63:23 95:6 154:6 166:21 circumstances 153:11,20 154:8 155:20 162:22 166:6,8,12 171:13 178:22 circumvent 171:2 173:11 circumvented 8:7 circumventing 181:23 CIS 84:7 citing 114:17 city 72:10 103:8 141:25 civil 11:4 24 20:16 27:5 28:2 30:19 35:21 38:18 43:6,12 44:25 48:23 69:6 110:19 117:18 120:1,14 134:17 170:10,20 classes 64:14,16 classify 139:6 clean 76:17 100:1 clear 8:20 16:3 127:17, 18,19 157:2 clerk 17:19 18:19 client 7:4 9:21 14:14
---	---	--	--	--



31:18 32:8 41:25 44:5 47:10 51:5,9 56:23 81:25 83:23 84:13 90:21 128:9 180:19,24 181:1 client's 48:7 53:3 55:13 Cliff 101:14 103:7 close 131:13,16 136:8 148:20 154:15 167:4 closer 144:15 clothes 78:23 79:25 80:6 81:6,9 157:12 clue 53:16 105:7 128:8 cocaine 64:18 72:6,11,14, 16,19,21,22,24 73:2,3 79:10,24, 25 94:22 96:6,13, 14 97:4,5 98:24 119:11 131:24 141:17 146:15,18, 19 147:9 159:10, 18,19 161:17 165:18 coke 146:22 147:4,12 collateral 157:11 collect 95:20 collected 146:10 colored 127:15 16,17,19, 20 commander 97:13 117:2,8 139:11 155:6 commanders 115:14 comment 59:22 comments 82:22 Commission 148:22 184:24 common 41:16 56:25 65:16	67:13 communicate 17:13 communications 36:9 84:23 compel 27:14 28:13,25 35:18 37:18 39:8, 9,10,15 41:19 43:19 49:25 50:12 51:21 54:22 56:19 59:10 61:20 compelling 49:23 54:17 104:12 158:18 159:5 160:7 complaint 12:24 115:13,15, 17 116:25 complete 184:6 completely 32:14 42:20 90:4 125:17 166:13 concede 172:4 conceded 172:5 concern 4:5 6:13 26:4,13 46:8 54:4,7,9 81:22 105:2,3 109:5,15 116:23, 25 119:5 120:1 174:25 181:22 concerned 104:19 149:8 174:14,16 concerns 84:3 concluded 183:20 conclusions 71:23 concurrent 143:11 conduct 65:17 71:6 94:15 95:17 21:24 conducted 64:24 67:21 94:19 106:17 159:14 conference 152:7	confidential 72:5 94:6 95:4,8 111:20 115:24 116:16 117:14,17 119:13 155:2 164:6 confirm 82:2 168:24 confirmation 89:1 confirmed 81:21 83:21,22 confused 79:14 Congress 153:12 157:25 178:23 conjecture 164:6 connect 150:13 154:21 156:7 180:8 181:16 connected 79:23 109:10 157:16 161:14 163:15 164:16 connecting 79:6 connection 80:17 81:25 152:22 154:2 155:11,12,16,22 157:2,3 160:24 168:11,13,20 connects 104:9 consent 3:9 6:25 9:10 15:4 17:15 18:24 21:23 consented 4:3 consideration 91:4 considered 68:22 consistent 70:3 78:5 Constitution 171:8 constitutional 157:24 constructive 156:22 165:18	contact 14:6,7,25 15:7 16:25 92:23 contacted 9:15 97:13 107:14 contained 97:17 contents 82:13 90:12 contest 33:1 continuance 9:17 18:21 22:25 23:17 continue 13:3 24:18 60:13 continued 60:25 74:20 continuing 4:7,10 62:5 77:4 contraband 95:9 contract 12:5 contrary 117:3 contravention 154:12 control 95:6 controlled 64:23 74:25 94:14, 15 20:25 95:1,25 111:21 112:22 130:21 134:20 136:1 159:14,16 169:17 171:21 177:6,12 controlling 102:10 152:18 conversation 179:11,13 conversations 35:5 convict 172:20 convinced 104:24 Conway 72:7,10 73:17,22 75:3 94:22 97:17 98:14 107:24 141:25 159:7 184:13	cook 72:22 147:1 150:6 cooked 73:4 cooking 149:15 cooks 149:18 copies 125:22 108:1 copy 4:16 25:25 29:13 76:3 77:15 78:8 91:17 98:17 99:16 101:17 123:14 182:23 183:3,4 correct 4:25 5:1,20,24 28:8 29:21,22 38:19 70:24 76:23 114:1 126:22 128:24 132:23 140:10 141:6,21 142:8,22 144:19 149:10 176:1 correctly 83:25 counsel 9:10 12:23 13:4 14:4 17:16 18:10, 24 104:15 135:13 149:7 184:9 count 178:18 counting 82:18 90:5,7 92:17 127:23 128:10 135:19 140:12 147:24 160:1 178:3,12,16 179:1 180:14 county 4:23 5:4,8,9,22 14:7 19:5 63:15 64:13 72:7 74:10 75:4 94:23 97:17 98:14 184:13 couple 6:22 37:10 82:17 123:3 144:15,18 court 3:2,10,11,13,16, 18,19 4:7,13,15,18 5:2,11,19 6:1,7,20, 23 7:8,11,13,17,21 8:1,9,13,15,22 9:2 4:23 10:6,10 11:8,
---	---	--	---	---



17:21 12:3,12,14, 13:2,5,8,15,19,23, 14:3,9,13,17,21, 15:5,17,22,24, 16:7,12,17,17:5,9, 18:2,4,9,19:4,8,13, 17:22,23,20:9,14, 18,21,10,14,22:8, 13,17,21,23:4,9, 11,14,15,19,23, 24:5,8,16,20,22, 25:8,20,21,24,26:8, 27:3,7,12,13,28:6, 12,16,29,13,14,16, 19,20,30,13,16, 31:7,11,14,19, 32:4,14,19,20, 33:12,17,20,22, 34:2,7,10,16,19, 35:1,11,36:6,12,23, 37:1,4,25,38:8,13, 16,20,39:4,11, 40:1,4,6,12,18,24, 41:1,6,12,16,21, 42:2,5,12,23,43:1, 8,44:10,13,25, 45:2,7,15,19,25, 46:3,7,18,47:3,6, 13,14,20,23,48:4, 12,23,24,49:1,6, 10,19,21,50:2,20, 25,51:12,14,23, 52:5,12,15,20, 54:5,10,16,21,23, 55:2,3,7,12,13,23, 56:10,13,57:7,11, 14,17,21,24,58:3, 5,12,13,15,19,23, 59:14,60:9,13,16, 21,61:7,10,13,16, 62:4,8,11,13,16, 20,23,63:1,4,6,9, 65:18,21,66:5,8, 17,19,22,67:5,8, 18,25,68:2,11,16, 21,69:2,6,8,17, 70:3,6,9,16,22, 71:1,7,11,13,18, 72:13,17,73:1,6,14, 75:16,19,76:13,20, 25,77:2,6,9,12,16, 79:1,13,20,80:4,11, 81:1,4,8,16,23, 82:4,7,83:3,4,6,17, 18,84:11,85:3,8, 86:7,9,12,21,87:4, 7,13,88:10,18,19, 89:4,14,21,90:1,6, 15,17,25,91:6,12, 13,19,23,25,92:5, 12,15,19,25,93:2, 5,8,12,14,17,23	94:16,97:1,7,99:4, 9,14,100:7,20, 101:1,4,6,10,13, 20,23,102:5,16,24, 103:7,11,14,16,19, 104:1,3,7,17,25, 105:17,23,106:1,6, 8,12,109:16,21, 110:17,20,24, 111:3,5,10,112:11, 16,113:12,15,19, 24,114:4,25,115:5, 6,7,19,116:6,11,15, 117:6,16,118:8,11, 15,19,22,119:2,12, 15,120:1,19,24, 121:20,25,122:5, 123:24,124:3,15, 17,20,23,125:6,9, 18,126:21,24, 128:9,12,15,17,23, 129:2,5,10,14,16, 19,20,135:7, 136:18,138:13,15, 18,20,139:4, 140:22,141:10, 142:24,143:19,23, 145:11,17,19,21, 148:9,151:1,4,8, 14,18,21,22,152:3, 6,8,12,16,24, 153:2,4,7,15, 154:5,8,16,17, 155:17,156:15,25, 157:1,2,4,5,6,7,19, 21,158:10,12,22, 160:16,19,161:2, 11,18,19,22,25, 162:6,24,163:1,5, 10,13,164:9,17,22, 165:3,6,166:3,20, 22,167:2,24,168:6, 9,15,21,22,169:3, 16,25,170:12,17, 20,171:20,25, 172:10,14,18,21, 22,24,25,173:1,3, 7,13,16,19,23,25, 174:10,12,13,16, 20,175:8,11,12,17, 25,176:9,22,177:2, 10,12,25,178:4,8, 14,16,17,20,22,24, 179:2,7,14,18,21, 24,180:3,12,17,18, 22,181:5,11,19, 182:1,4,6,9,14,24, 183:4,8,12,184:3, 24	158:15,174:24,25 courtesy 40:11 courtroom 121:22 courts 78:20,157:8,175:2, 5 covers 36:10 crack 72:21,23,25,73:4, 5,7,9,25,96:6,16, 17,97:4,6,98:24, 131:25,146:15,17, 147:2,5,15,149:15, 159:18,161:16, 163:18. create 109:3,168:13, 177:6 creating 157:3 credit 28:3 crime 143:2 criminal 20:15,26,22,27:4, 32:5,18,43:6,8, 47:1,64:15,69:6, 110:9,18,111:5, 154:3,161:1,19, 170:17,177:17 criminally 11:13 criteria 107:13,16 cross 22:2,127:20 cross-examination 82:5,129:22 cross-examine 120:13 cross-examined 164:8 crossed 118:6,163:2 Culbertson 3:11,36:3,53:23, 56:1,4,17,69:25, 70:11,14 culmination 111:17,23	cultivate 72:22 cultivated 97:6 cups 75:20 currency 3:6,75:13,78:4, 82:22,97:18, 123:12,127:11, 138:7 custody 75:4,130:16 customers 73:12 cut 146:8,21,147:1,12, 148:25,149:13 cuts 149:18 cutting 146:22 CVR 184:23 D.	dead 19:20 deal 37:14,79:23,142:2 dealer 84:5,104:13,116:1, 2,161:9,162:4, 180:19 dealers 69:23,71:5,180:15 dealing 10:13,68:17,79:8, 10,100:18,104:10, 109:24,112:20, 158:19,166:25 dealt 10:25,67:16 debrief 111:22 debunked 162:23 December 19:25,184:12 decide 158:22 decided 34:9,15,52:1,2 decline 154:9 deemed 175:19,176:5 defects 50:9 defend 38:2,10 defendant 25:4,26:18,29:7, 30:21,32:24,36:20, 37:20,40:22,41:3, 44:22,56:21,58:4,6, 61:1,6,89:1,90:3, 95:15,102:14, 128:5,6,131:7, 153:10,155:22, 156:4,157:17, 162:8,164:18, 165:16 defendant's 25:4,58:16 defendants 152:20,171:9 defense 24:25,40:17, 119:20,164:8
--	--	---	---	---



defined 154:3	113:2,6,23 116:4, 12 117:5,9 119:10 120:7 121:7 122:7 125:6,14,25 126:4 127:10,24 136:4 144:13 146:2 154:23 155:8,9 156:5,14 159:25 160:2 162:18 163:19 167:11,23 171:3 179:4,5,8,9, 10 180:8,13 181:7, 15	disadvantage 31:16	District 5:11	draw 71:23 157:8
definite 149:12		disbelieve 48:1,5	divided 147:16	drew 130:12
definitions 110:3		disclose 53:13	divulge 40:23	drill 122:14
definitive 150:23		disclosed 36:1 134:5	divulged 40:17	driven 19:5
demonstrating 153:25 160:23		disconnected 157:17	DNA 150:20	drug 3:4,10:1 43:10 63:23 64:2,3,11,14 65:2,4,11,16 66:4 67:19,20,68:19,20 69:23 71:5 72:21 74:4,15,25 75:6 78:5 79:8,10,23 84:5,6 89:20 95:2, 6 96:12 97:19,22, 104:10,12 106:25 109:10,24 111:21 112:20,22 116:1,2 130:21 134:20 135:23 136:1,3 137:23 145:6,14 146:2,6 150:9 153:22 155:1 157:13 158:19 161:9,18 162:4 164:16 165:9 166:2 167:10,18 180:15
denied 23:14,16 53:24 65:21 70:1	deputy 63:19 67:9 97:13 117:8	discoverable 53:21	document 4:15 25:21 26:6, 19,20 27:2 31:23 41:18 45:5,8,9,23 46:22 50:7,9 61:19 98:11 114:12 115:3,4,8,11 123:5, 126:18 137:131	drugs 64:10 65:12 67:14, 22 68:17 70:12,14, 16,18 72:3 73:17 74:13 80:9 94:8 95:23 96:9 110:14, 16 133:9 135:2,6, 9,22 136:9 139:8 142:25 143:1 145:6 146:13,24 147:19 149:9,15, 23,25 150:3,5,11, 12,14,15 152:25 153:1 154:20,25 155:13,23 156:4,5, 19,20,23,24 158:3, 4 159:8,16,20,23 160:10 161:14 162:8,13 163:9,10, 14 165:14,19 166:11 167:4,13, 21,25 168:12,16 169:21 172:7,8 176:20 177:20 181:8,10,13,16
Dennis 94:5,19 98:15 99:11 103:18 104:20 106:3,20 131:20 133:25 134:1 181:24 182:2	Derek 62:15,25 63:1,7,10	discovered 131:23	documentation 101:22	
Dennis' 103:19 150:17	describe 104:11	discovery 10:18,21 25:18 26:11 29:20 30:10 34:22 35:3,7,8,14, 16 36:15,24 37:2,7 38:22,23,24 39:1, 24 40:2,14 41:17 42:6,24 44:4 45:24 46:15 47:2,5,14 49:23 54:17,22 58:24 59:1,2,4,6, 12,13,17 61:17	documented 126:16	
denominations 78:4	detection 74:15	discern 158:23	documents 25:14 26:2 28:19 29:4 30:12,18 32:6,9 38:1,10,21 39:21 40:5,8 42:6, 7,9,14 44:17 45:3, 6 46:9,14 25:50 18: 51:19 52:10 53:18, 19 56:15 57:12 60:1,7 75:14 76:17, 100:19 107:19	
deny 13:3 22:24 23:16 71:11	detective 100:5	discussed 36:2	dog 167:10	
department 64:13 72:10 73:23 122:2	determine 153:8 182:10	dismiss 27:8 143:7,12	dogs 136:3	
depending 139:10 146:4,19 149:20	determined 66:16	dismissed 5:15 7:10,20,24 8:11 12:7 32:8, 56:16 142:1,4,18, 22 143:10 150:5	dollar 127:15 158:25	
depends 46:19 146:17 147:2 149:12,17	DEU 150:13 159:14, 171:21	disposition 142:9	dollars 3:6 139:12 159:4	
depict 40:21 136:21	DEU'S 133:19	dispute 47:24	dominoes 109:11	
depicted 122:23	developed 97:5	disputed 182:11	door 53:6	
depicting 128:8	device 77:25 82:13 95:13	disputing 47:23	dope 74:5 150:9	
deploying 74:15	devil's 49:22	distinction 165:23	dots 26:25	
depose 27:6 30:21 43:13	difference 6:7 42:22 50:21 51:13,14,16,17,23 164:23 165:3,7 166:4	distribute 72:11 73:24 159:10	double 8:2,4	
deposed 105:22 118:5	differently 150:18	distributing 72:6 74:5 94:7	doubt 136:7 171:10	
deposit 31:6 32:13 42:18 65:7 75:12 79:19 82:19 87:16,18,22 90:10 12 97:16 106:22 107:4,6,10 109:14 111:16	digital 67:11,13	distribution 64:4 78:5	downloaded 78:8	due 7:24 55:21,22
	direct 63:12 154:12			duly
	direction 95:5			



62:22 63:11 dumped 84:24 duties 74:4 DVD 25:12 dynamic 130:12,14,24,25	enter 70:2,80:15,83:14 entered 136:14,159:13 entertain 4:8 entitled 46:22 entries 143:25,144:2 entry 130:12,14,24,25 144:8,163:24 enumerated 43:16 equal 172:16 equate 149:9 equation 139:17 Equity 4:4 essentially 72:25,95:1,146:25 147:21 events 184:10 evidence 26:17,27:6,8,30:5 50:2,51:6,76:9,19 77:11,79:8,83:8,15 84:4,86:10,16,24 88:18,19,21,91:18 93:25,95:22,99:2 104:12,108:13 109:23,112:10 113:18,114:13 115:22,123:21 133:19,136:15 146:10,148:5 156:2,3,157:4,9 158:18,159:5,13 160:7,8,10,161:13 163:4,21,164:15 169:2,170:1,13,16 172:13,16,19 173:14,174:11,15, 21,175:24,177:8 182:18 evidentiary 82:14 EXAMINATION 63:12,145:23 exceeds 96:25	excess 64:25,65:2 excessive 80:23 exchange 74:13,159:9 exclude 27:3,86:10,88:18, 19 excuse 25:11,26:12,27:7 56:22,108:16 119:6,146:20 155:5,157:6,20 165:23 execute 121:12 executed 65:5,9,74:14,96:5 115:22,121:19 executing 108:7,10,122:22 133:18 EXH 77:10,83:7,93:24 121:3 exhibit 92:24,93:4,15 113:12 exhibits 93:18,151:9 exists 154:2,160:24 experience 69:10 expert 65:15,22,24,66:1, 3,13,15,20,67:2 68:3,8,12,22,24 69:4,13,14,21 70:2,12,17,71:19 90:18,20 expert's 65:24,66:10 expertise 67:5,9,15,70:4 experts 67:2,68:6 expires 184:24 explain 20:25,72:17 123:13,139:4 160:11	explained 124:9,125:3 express 20:25 expressed 17:3,4 extent 10:24 extra 171:14 extract 82:13 extreme 24:14 extremely 102:7 F face 89:23,91:6,104:25 140:11,156:18 178:4 Facebook 162:3 fact 4:9,7:24,25:10 55:10,70:23,102:1 155:25,157:14 166:18,168:16 174:1,182:11 facts 51:1,2,115:17 162:5,174:8 failed 59:2 fair 48:8,131:22 134:23,141:14 143:16,149:22 fairly 170:7 faith 109:9 fake 139:23,181:1 fall 109:10 falling 109:7 false 131:21 falsified 170:13,176:6	familiar 65:10,124:8 family 13:14,15:9,19:18, 21,21:8,9 family's 11:5 Fargo 97:16,98:2,107:3, 11,24,117:10 124:7,159:24 fashion 44:19,83:19 Fast 9:14 father 5:13,19:20,144:16 fault 114:5 favor 55:14 faxed 18:10 feature 70:19 February 94:21,96:4,103:20 130:20,159:16 federal 5:11,7:6,8:8,17,25 10:4,23,16:21 20:21,26:9,40:10 47:1,142:2,143:4,6 156:25,157:22 181:2 federally 8:21 feds 7:24,8:5,6,10:19 32:19,52:11 155:15,177:17 feel 10:16,23,11:2,17:2 19:23,41:23,65:10 feels 46:12 fees 9:21,15:25,16:2 feet 138:20 felt 18:1,32:20,21 female 71:16,113:8
--	---	---	--	---



female's 132:14	flesh 119:8	148:5 149:9,23 150:1 152:25 154:15,20 155:24 156:3 157:15 159:17,23 163:14 166:12,19 167:3 181:8,13	generally 35:14	172:23 173:4 175:19 182:3,8 183:7,8,16
field 67:3,21,24 68:9,18 69:4,11,22 133:3	fleshed 177:4,16	foundation 66:1 85:23 86:3 88:17 89:3,25 91:7,10 99:21 114:16,24 115:2 117:20,22 118:1 120:8 125:21 126:20	generate 146:16	Gordon 78:18 90:2 102:10 153:15 157:8,19 160:22 161:22 162:24 164:23 165:8,23 24,25 166:19 171:15 183:1
field-test 133:21	flipping 141:8	foundations 114:18	gentleman 4:21,23 6:10 53:14 68:20,23 90:13	govern 43:24
field-tested 96:10 133:4,11,12	Florence 4:23 5:3,4 14:7	Fourth 154:5 166:21	gentleman's 132:10	governed 43:7,44:7
fight 11:4	floss 164:14	free 5:24 6:2	germane 31:4 42:18 102:6,7 105:11,12	government 143:5,6 157:23
figure 149:12,20	flossing 139:25	frequently 144:14	Gibbs 4:24 5:2 6:10 165:23	Gowdy 29:14 158:16 182:25
file 5:10,10:21 21:20, 21 29:25 39:15 50:12 51:20 99:14 150:17,22	flowed 111:4	fresh 75:19	Gibson 29:15 78:18 90:2 102:9 154:16 155:18 157:6,20 158:16 160:21 162:24 164:24 165:24 166:6,19 20 167:1 171:15 182:23 24,25	grade 143:13
filed 10:17,18,20 12:24 43:19 59:4	flows 110:12 170:14,24, 25 175:20	friend 79:4	give 13:13 15:19 16:10, 20 17:17 19:2 21:14 28:9 31:3 38:1,9 45:5,6,7 46:13 49:7 51:10 53:7,59:11 60:6 66:15 68:7,15,21 69:20 71:22 95:16 106:2 114:24 128:20 131:18,21 132:18 149:11,20 150:22 166:16 182:15,19 183:6	gram 147:4,10
files 52:20	forced 10:4	front 49:4 53:23 54:11 55:25 62:18 81:15 181:4,25	giving 59:12	grams 96:6,13,16 22:23 97:3,4 98:23,24 119:11 131:24 141:16 146:14,15 147:6,9,11,15 159:18
filling 59:9	Ford 127:13	fronting 139:25	glad 80:4	grandmother 21:11,13,15 149:5 182:16,20
fill 101:24 106:4 174:13,17,20 177:12,13	foreclosure 4:22 5:6,7	fruit 109:7 110:7,13 163:12 170:25	gleaned 111:18	grandmother's 181:9,14
filled 125:5 174:5	foregoing 184:5	full 62:24 74:22 76:14	goal 79:9	grant 15:13 23:19
finally 151:5	forfeited 154:3 160:25	funds 95:17 97:21 146:10	gold 127:16,17,18,19, 20,21	granted 18:23
find 25:15 35:10 46:25 69:11 118:14,16, 22 120:19 146:12 153:8 156:21 158:7 159:11,12 165:13,15,18 166:17	forfeiture 12:25 15:13 16:23 20:23,21 6:7 22:7 172:6	G	good 10:22 22:23,24 23:1 24:21 53:3 71:16 18:82:5 109:9 110:7 120:6 129:24 25 130:1,2 137:16 141:4 144:17 147:8	grants 55:12
finding 153:5 155:19	forget 33:7 90:10		goal 79:9	great 7:13 26:14 151:14
fine 9:9 17:18,20 18:14 92:15,25 93:2	forgot 33:6 38:7	gaps 174:17 177:13	gold 127:16,17,18,19, 20,21	grounds 15:18 100:11
firearms 74:12,17	form 21:23 72:23 73:5	garnered 163:4 170:16	good 10:22 22:23,24 23:1 24:21 53:3 71:16 18:82:5 109:9 110:7 120:6 129:24 25 130:1,2 137:16 141:4 144:17 147:8	guarantee 56:4,13
Firm 13:25	formal 30:6	gave 77:14 88:21 107:16 113:1 116:5 153:7 166:14		guard 50:19
firsthand 85:25	forms 15:4	general 5:17,23 6:1,11		guess 11:17 17:25 20:25 39:22 46:18 81:6 15:84 12 101:19 104:22 108:22
flash 138:24 139:3,6,14, 15 169:8	forward 9:14 17:22 24:3 28:19 31:2 42:22 59:24 61:14,23			
	found 18:20 31:12 57:25 67:11 68:7,10 69:7,19 79:18 96:9 97:2 98:4,24 109:14,23 110:14 118:11,23 119:11 127:9,10 132:3,6, 25 135:2,6,9 142:25 146:14			



116:15 121:17 122:14 123:5 130:6 135:8 148:19 guilty 11:12 18:150:4 gung 61:2 guns 132:2 156:20 159:9 11 162:14, 16 guy 81:10 88:15 162:13 169:24 172:7 182:8 guys 25:17 130:5	happen 15:15 42:25 56:16 175:4 happened 9:13 36:2 41:15 59:6 73:18 121:9 134:22 164:1 167:13 181:13 happening 109:11 happy 18:14 133:20 hard 7:15 14:6 26:25 65:1 hate 72:14 hats 81:6 he'll 15:14 22:23 67:23 headquarters 107:12 hear 5:6 7:8 12:17 23:12 34:16 20 118:25 119:2 120:8 140:21 heard 18:22 69:23 24 83:24 84:2 114:23 120:3 138:12 140:1 hearing 20:1 4:6 10:24 9 87:3 104:16 165:21 183:20 hearsay 85:21 86:11 88:24 91:8 10:94:10 112:9 12 114:21 115:24 25 120:21 124:18 19 148:20 held 29:7 32:16 107:3 22 111:6 113:6 114:8 175:13 181:1 hereunto 184:11 heroin 64:20 hey 33:6 35:6 163:18, 22	hidden 120:18 high 73:13 higher 146:18 highly 31:18 37:19 38:4 59:24 Highway 74:8 hire 8:16 18 hired 99:18 hit 136:5 167:10 ho 61:2 hold 22:6 175:14 holding 78:3 85:18 138:4 holds 158:14 home 96:3 98:10 15:23 106:17 109:18 23 113:21 131:3 14 146:14 147:20 159:11 17 19 21 22 23 honest 32:14 55:16 honestly 37:22 44:10 49:17 114:22 171:12 Honor 317:23 4:10 12 5:16 25 6:5 25 9:5 15 12:19 20 13:2 23:10 24:1 25 25:19 23 27:15 29:17 18 22 31:13 33:15 19 34:1 9 12 13 18 21 40:3 9 41:2 4 42:4 45:22 46:24 51:2 54:9 57:23 60:12 15:23 61:12 62:7 12 65:14 66:7 21 70:8 10 25 71:12 15 25 76:8 12 16 18 24 77:5 14 78:13 16 79:2 82:6 84:17 85:20 86:17 23 88:9 91:15 16	21 92:8 93:13 20 94:9 99:15 100:13 101:9 16 102:4 103:1 22 24 104:6 106:5 108:11 110:22 111:24 112:13 17 113:18 114:3 11 16 115:20 116:10 21 121:1 2 123:19 124:12 125:11 126:14 127:6 128:13 22 25 129:1 18 21 136:17 138:16 143:18 22 145:18 20 148:11 150:25 151:3 17 20 152:13 14 17 153:4 158:11 13 159:6 160:6 14 18 22 164:25 165:5 166:5 17 167:9 177:1 9 11 178:6 182:13 22 183:7 10 19 Honorable 3:10 98:3 hope 5:14 51:3 Horry 5:8 19:5 63:15 64:13 72:7 74:9 75:3 94:23 97:17 98:14 184:13 hours 21:23 121:21 house 108:20 110:14 130:7 132:7 11 12 133:1 135:6 11 142:25 149:9 23 150:1 12 15 154:20 25 155:13 156:10 11 20 157:15 162:12 165:17 167:21 168:24 169:1 17 172:7 176:18 19 21 181:9 14 16 houses 152:20 hrs 121:14 hundreds 78:6 Hyman 56:18	I idea 40:24 145:4 identification 121:4 177:19 identified 78:1 107:6 135:16 140:9 177:15 identify 66:3 86:6 identifying 64:10 18 65:11 12 67:23 72:20 II 3:3 illegal 67:14 70:12 13 16 18 94:8 178:19 180:2 illicit 74:13 95:2 97:19 107:1 11 23 139:8 imagine 51:3 immediately 15:12 important 100:3 impropriety 6:15 in-depth 150:22 inaccurate 131:19 140:24 inadmissible 94:12 incarcerated 74:21 24 85:7 15 inception 111:19 incident 150:10 inclined 13:5 include 64:14 17 107:3 including 65:7 76:18 income 106:24 160:9
--	--	--	--	---



increase 146:23	injury 50:61	involved 6:9 18:17 100:15 17 139:22 155:1	121:18	128:2 129:19
increased 149:14	inside 156:4	involving 3:7 107:2	jewelry 3:6 11:14 22	145:10 151:25
incumbent 41:9 43:18 44:21	insinuate 83:25	IRS 179:12,13	123:3,10 127:9,11 160:5	152:2,4,10,15
indicative 60:4	insinuation 83:23	issue 3:20 11:9 23:7,9 12 24:23,24 29:11 32:23 35:25 41:21 42:19 44:14 47:11 48:7 49:14,16,20 59:20 61:25 62:2 65:19 68:5 70:14 86:10 91:10 100:3 12,24 105:4,12 110:13 117:5 118:18,19 119:20 154:22 156:18,24 25 161:5,6 162:15 163:1 164:15 166:15 167:1,5,6 7:8,14,21 169:7 170:8,21 23 171:6 10 173:23 175:21 23 176:14 177:7 15 178:24 179:15 181:17	Jimmy 3:2	153:15,24 155:18
indictment 40:10 142:12,14	instances 146:3	issued 174:2	job 7:13 22:24 23:1 24:21 43:24 50:18 51:22 52:23 55:19 20 57:3 97:20 148:6 182:9 183:16	157:6 158:9
indicts 143:6	intend 26:6,7 44:4 53:21 58:10	issues 6:16 9:11 10:2 26:23 50:8 54:9 156:8 165:2 173:21	Jones 103:22	160:15 162:20
individuals 136:24	intended 178:23	item 122:16	Joseph 78:1	164:20 166:15
indulgence 29:18 34:12 143:17 153:3	intent 72:11 73:23 159:10	items 31:17 19 43:2 74:12 104:3,4,10 105:11 122:15 132:9 133:3	Joshua 3:7	168:4,20 169:8
indulging 183:11	interest 41:4,5 50:10 53:3	J jail 13:21 19:15 22:1 85:17	Judge 3:18 4:1,9 6:6,13 19 7:3 16:10 1:9 23:8 18 24:2 10,23 27:2,22 28:15,21 29:13,15,22 30:20 31:9 15 32:7 33:14 34:5 36:3 11,18 37:19 39:7 13 40:13 41:5 42:10 44:9 45:13 46:15 48:3 17,25 49:3 13 51:25 52:8 53:23 54:8 12 55:14 56:1,4,6 11,17,18 58:2,20 59:17,20 60:20 61:3 62:1 10 65:19,21 68:1,4,25 69:25 70:1,11 76:11 77:1 78:17 79:24 81:12,19 82:8 84:16 85:21 86:9 11 88:11,17 25 89:6,7 10,19,24 91:3 93:21 94:11 17 98:3 99:23 100:6,8 10,24 101:5,18,19,24 102:6,16 17,21,24 103:4,6,9 11,14,15 104:14,21,23 105:2,7 15,16,17 18,20 24 108:6,14 109:15,25 111:9 114:14 116:22 117:24 118:8,9,11 13,15,18,22 119:1 23 124:1,18 125:16 126:13,20	170:18 171:4,22
infallible 175:7	interested 9:8 87:8 184:10	James 5:13 44:2 49:4 52:4,8 56:1 83:9	Judy 72:4 111:19 159:7	172:2 173:6,15,18 20 174:2,4,7
infer 84:4 90:1 154:17 157:20 161:22	interrogatories 25:4 57:15 76:22	Jenkins 15:10	judges 3:12 118:14	175:15 176:12
inferences 78:20 157:9,18 161:24	interrupt 98:7	J jail 13:21 19:15 22:1 85:17	judgment 28:24	179:6 180:24
inflammation 161:25	intersection 74:10	J jail 13:21 19:15 22:1 85:17	Judicial 3:3	181:2,22,25
informant 95:8 118:4 155:2	introduced 90:23 92:20	J jail 13:21 19:15 22:1 85:17	July 72:4 111:19 159:7	judges 3:12 118:14
informants 159:20 164:7	invalid 176:6	J jail 13:21 19:15 22:1 85:17	jump 48:10 62:9 80:1 91:9	judgment 28:24
information 27:24 34:6 40:23 46:13 52:18,19 56:23 58:14 72:3 5,8 73:16 74:2 82:16 84:25 85:14 25 90:3 97:24 107:8 111:16,17 20,25 112:4,5 113:7,9 114:8 115:23 117:7 131:6 19,21 132:19 135:12 159:24	investigate 164:1	J jail 13:21 19:15 22:1 85:17	jump-started 73:22	judicial 3:3
informed 6:24 9:20	investigated 148:17	J jail 13:21 19:15 22:1 85:17	jurisdiction 3:13 64:5 95:3 143:11	justice 22:15 42:21 120:22
initial 123:7 124:14 126:8 153:25 160:23	investigating 111:18	J jail 13:21 19:15 22:1 85:17	justify 160:11	judicial 3:3
initiate 73:20	investigation 73:20 74:16 94:3,4 97:10 108:18,20 112:19 134:19 136:13 148:4	J jail 13:21 19:15 22:1 85:17	K K-9 74:15	judicial 3:3
	investigations 64:23	J jail 13:21 19:15 22:1 85:17	key 141:16 165:17	judicial 3:3
	investigator 100:14	J jail 13:21 19:15 22:1 85:17	keys 123:2 127:13	judicial 3:3
	investigatory 134:16,24	J jail 13:21 19:15 22:1 85:17	killed 162:23	judicial 3:3



47:7,14 53:22 97:21 137:7 156:9 164:4 knocking 53:6 knowledge 11:3 76:5 85:25 98:18 106:25 108:5 124:6	lay 85:23 91:9 99:20 114:16 18 115:2 117:20,22,25 laying 89:25 lead 100:14 leave 22:5 151:8,13 leaving 50:2 139:20 led 105:10 108:16,17 ledger 123:4,9 124:5 125:1 left 15:2 53:14 62:18 137:4 legal 10:2 26:23 116:5 157:23 163:15 legible 104:2 legitimate 148:6 160:9 lengths 26:14 lessen 154:11 lessens 155:20 letter 25:2 26:1 33:13 37:16 letters 57:1 letting 104:19 173:14 level 8:8 73:12 163:7 light 4:9 51:5 120:20 164:9 limine 67:1 list 43:11 53:17,25 59:23 122:16 listed 112:3 137:12 listing 134:21	literally 60:3 lived 169:18 living 159:19 164:2 local 64:3 located 75:3 77:25 97:16 98:13 122:15 132:2 location 92:6 95:19 134:3 25 135:1 140:14 lock 122:14 log 163:24 logic 149:25 long 16:19 64:6 85:12 110:3 132:16 134:12 137:13 longer 5:6,19 10:13,24 99:13 Longs 74:9 looked 36:18,19 42:16 Lord 171:17 Lord's 59:13 loss 19:14 31:1 35:7 lost 15:16 157:7 lot 12:4 35:22 42:25 43:1 52:17 59:14 96:14 16 99:18 115:22 164:5 Louis 33:24 love 22:15 low 147:3 lower 146:24	Lo 63:2 M made 8:20 16:2 27:15 30:6 48:17 55:25 56:18 57:24 61:20 73:5 83:16 85:17 168:19 175:12 magistrate 110:6 119:6 175:1 Magistrates 175:6 mail 17:11 mailed 45:13 46:2 47:25 mailing 146:1 61:19 main 70:20 107:12 116:23 maintains 148:22 major 24:23,24 make 6:7 7:4 8:18 15:11 23:24 27:13 33:8 44:17,18 49:22,25 51:22 52:23 55:24 57:18 58:9 62:4 66:25 72:23 73:3 5:7 76:15 117:24 142:18 146:25 150:6 151:8 168:8 18 makes 170:15 making 7:3 27:23 44:11,13 78:20 79:15 82:22 83:24 84:1 149:1 159:15 168:2 malpractice 33:6 man 16:22 44:2 man's 31:5 127:19 mandate 27:17,21 29:2 30:3 36:20 37:1 39:6 12,14 43:14	mandated 65:23 manner 33:4 Manquell 74:22 March 163:22 Marie 33:23 mark 83:1 93:8 marked 77:11 83:7 91:22 93:25 113:14,15 121:4 market 149:21 Marlboro 15:9 Marvin 3:7 26:5 47:1 127:3 132:10 134:6 25 135:17, 18 140:9 Maryland 5:11 massive 29:12 master 4:4 5:5 match 135:25 137:22 146:9 158:15 159:3 matches 146:12 material 53:22 math 147:8 matter 3:14 4:11 5:18 6:4 12 20:15 25:10 26:19,23 27:4,5,8 32:5,15 43:22 50:4 77:4 90:24 99:16 109:4 111:13 161:12 163:11 166:18 167:20 176:4,8 matters 28:2 Mayers 98:3 102:17,24
--	--	--	--	---



108:6,118:9,11,16, 23 119:23	174:18	months 10:15 37:10,13 48:19 52:2	117:25	
means 106:24 139:18 146:21	mistaken 103:22	morning 4:6 6:25 25:16,23 28:4 33:12 60:19 129:24	necklace 123:11 127:16,20	O
medical 50:7	Mitchell 33:16,18,24	mother 19:20	needed 32:21	oath 105:8 118:6
medically 99:12	mix 146:23 158:5	motion 4:8 7:3 4 9:5 10:17,21 12:18 13:3 18:21 22:25 23:14,16,17,19 27:14,16 28:13,23; 25 35:18 39:15 41:19 43:19 49:23; 25 50:12 51:21 53:24 55:12,25 56:19 57:18,25 59:9 60:13 61:20 65:21 66:25 70:1	nexus 155:21 160:6 168:12,23	object 62:3 77:3 83:15 88:11 108:15 109:5
meet 95:14 107:13 121:14 139:15 159:2	mixed 73:4	motions 55:24	night 9:19 17:24 20:4 24:9 29:25 31:12 36:19 39:13	objection 62:5 71:14 76:14, 17 77:4 78:17 79:12,13 82:7 83:16,20 85:20 86:22 93:18,19 94:9 99:5 104:14 106:2 111:24 112:11 120:25 123:23 124:2,12 125:16 126:10,13, 14 128:2
meeting 14:15 72:8 73:19 95:19	moment 124:15	move 37:18 86:4 104:14 114:13	nix 158:5	objections 76:12 114:15
mention 36:7 117:11	moments 182:16	multiple 64:15 80:22	nolle 142:5	obligation 29:5,10 32:2 33:3 39:16 50:12,16 52:21 58:11,13,17, 21 59:7 60:8
mentioned 35:6	money 10:16 11:5 15:25 16:8,11,14,23 21:7 22:11,12 23:3 27:21 53:5 57:5 58:8 61:5 73:8 78:22 79:6,9,10, 17,18,21 22 80:9 81:20,21 82:1,3,18 84:5,9 90:5,8 92:6 11,17 97:22 109:9 110:15 127:23 128:10 131:25 135:19,21 136:2,8, 14 137:22,25 138:12,13,14,15, 22,23,24 139:3,5; 6,9,14,15,16,17, 20,23 140:6,12,15 141:5,6,11,17 144:6,7,18,19 145:2,3,6,16 146:14,7,13,25 147:24 149:2,5 150:7 152:20 154:14,18 155:10, 22 156:6 157:13 158:18,19 159:15 160:1 162:8,18 163:20 164:10,12, 18 165:14,21 166:2 167:16 168:2,10,18 169:8, 13,14 178:3,13,16, 18 179:1,16 180:2, 5,8,9,13,16 181:2, 7	murder 43:9	notarized 101:11,14	obligations 29:5,10 32:2 33:3 39:16 50:12,16 52:21 58:11,13,17, 21 59:7 60:8
message 15:2	messed 101:12	Myrtle 103:8 150:19	notary 101:12 184:4	observations 71:4
met 6:3,8,11 11:1 85:12 107:15 182:7	met 6:3,8,11 11:1 85:12 107:15 182:7	N	note 35:15 123:2	observe 95:16
middle 91:20	Mike 5:13	named 5:10	noted 82:7	obtained 82:15 97:25 158:19
military 122:2,3	mind 133:23 136:7 139:5 152:8,10 173:25	names 31:10	notes 151:13	obvious 41:22
mine 81:22 135:4	minutes 61:24 182:19	narcotics 64:7,9 94:8	noteworthy 46:11	occurred 130:21 134:19
Miranda 85:13	miscarriage 42:21 120:22	narcotics-related 64:14	notice 29:23 36:21 54:14 58:17 60:11	occurring 92:16
misinterpretation 109:18	misinterpreted 109:18	narrow 11:9 67:15 70:18	noticed 35:21,24	October 3:21 4:17 5:21 12:22 14:23 17:4 19:12,25
missed 49:18	missing 88:17 89:25	natural 36:10	notification 106:21	odd 25:15
		nature 36:9 74:6 107:5	notified 74:19	off-the-record 152:7
		nauseam 159:23	November 33:25	offer 126:17 169:2
		necessarily	nude 80:5	offering 181:20,24 161:12
			number 3:7 33:25 78:19 93:16 107:6,23 113:1 158:24	offhand 142:13
			numbers 136:1 146:5,9 156:2 159:3 169:11	



office 3:22,24 4:10 9:7, 16:10:4 12:21 14:11,14 15:3,10 18:12 19:7,21 21:3,22,25:1 32:21,22 35:9 53:18 61:18 63:16, 18 133:19 143:14	originally 4:2 12:24 88:13 ounce 149:21 overrule 86:21 89:4 120:25 owe 12:8	8:25 143:13 paying 21:9 149:21 PD 159:7 pending 184:10 people 19:19 22:11,19 37:9 53:9 122:1 123:4 126:3 139:25 148:20 164:3 179:3 181:4, 17	75:8,9,23 76:10 77:11 82:14 photo 79:18 photograph 126:2 photographs 25:5,7,22,25 78:2 80:17 83:2,4,7 86:13,15 122:18, 20 photos 78:7,8,14 79:24 81:2 84:12 122:24 123:14,15 125:24	planning 31:23 plastic 71:9,10 play 82:24 84:15 87:1,7 89:11 91:24 92:1, 3,13 played 89:9 player 25:12 playing 31:24 49:21 87:8 140:23 plea 142:2 PLF 77:10 83:7 93:24 121:3 pocket 165:20 point 3:23 4:5,8 9:12 13:21 29:23,24 36:13 37:4 49:17 52:25 54:24 83:10 90:7 108:21 109:6 118:16 119:25 123:19 141:15 153:3 174:22 178:11 180:25
officer 61:16 63:24 66:2 79:5 95:3 99:17 100:5,16 103:19 120:2 158:6 162:7, 19 169:6	P p.m. 183:21 packaging 150:18 paid 8:19 10:15 22:16 pair 127:18 paperwork 20:11 97:12 paralegal 45:11 47:24 part 51:21 55:23 100:21,22 104:11 120:16 159:1	percent 140:7 perfectly 17:20 18:13 perimeter 130:15 period 32:1 70:5 120:21 164:13 person 65:22 68:14 69:14 75:7 88:14 89:20 91:9 108:18 116:2 117:2 119:18 120:10 126:17 135:17 137:14 17 140:9,15 141:13 154:24 165:13	PI 50:15 57:1 pick 52:19 143:5 picked 7:24 8:5 10:19 picture 80:1 81:22 82:1,3 123:9 136:24 137:7,8,21 138:11 140:6 pictures 78:22 79:2,6 80:14,15 22 81:20 82:15 84:22 122:21 136:20,21 157:11,12	point 3:23 4:5,8 9:12 13:21 29:23,24 36:13 37:4 49:17 52:25 54:24 83:10 90:7 108:21 109:6 118:16 119:25 123:19 141:15 153:3 174:22 178:11 180:25
officer's 103:17 Officers 69:5 official 95:17 184:12 onus 58:4,5 open 107:17 122:14 146:8 opened 5:9 123:1 operates 95:3 operating 75:5 85:19 95:5 operational 130:13 operations 99:19 opinion 42:20 44:12 71:22 158:15 opportunity 12:23 27:5 28:1 30:21 opposed 80:11,12 option 29:7 55:1 order 3:9 7:1 9:9 17:15, 23 18:9,24 29:20 49:23,24 50:1 54:16,21 55:4,5 original 51:16,18 56:9 76:3 95:18 99:25 100:5, 6	parties 37:22 114:17 parts 89:11 party 54:13,14 86:1,5,8 88:13,21 90:22 112:2,6 115:9 128:11 170:5 184:9 pass 152:14 passed 135:12 passes 158:25 passing 152:18 past 46:6 65:3 86:12,22 161:4 162:9,10,11 169:4 pattern 155:25 pause 106:2 pay	person's 109:1 personal 14:12 50:6 persons 54:15 pertinent 30:24 pharmacologist 68:5 phone 14:1 17:10,12 35:9 65:7 75:7 77:20 78:3,9,15 79:4,5 80:2,19 20 82:11 16 84:19 85:1,2,4, 5,9,10,18 86:2,3,7, 14,15 19,20 87:1, 25 88:13,16,22 89:2,13 90:22 92:10,21 93:24 127:23 137:9,16 159:13 162:3 phones	piece 147:5 pills 131:25 place 36:21 62:18 95:13 125:2 157:7 places 36:20 plain 12:5 73:2 plaintiff 27:9 29:3,9 32:3 36:21 38:17 45:2 58:8,11 60:17 151:24 170:23 plaintiffs 50:15 77:7 93:14 99:3 123:20 plaintiffs 58:10 plan 55:15 130:13	points 166:7 poisonous 109:7 110:8,13 163:13 170:25 police 64:13 72:10 73:23 79:5 95:17 122:2 policy 37:5 146:4 Pope 182:25 portion 106:21 posing 78:23 81:13,15 position 44:5,8,9 48:8 50:19,51 25 55:21 56:22 58:3 85:16 174:25 positive 96:11



<u>possession</u> 72:11 73:23 75:10, 24 85:6 117:9 156:22 159:9 165:19	28:11 43:6 130:2 147:8 <u>previous</u> 76:11,21 83:16 114:14 124:2	83:17 88:24 115:12 120:18 161:18 <u>producing</u> 30:18	<u>protection</u> 157:22 166:14 171:9 <u>provable</u> 155:11	<u>purposes</u> 82:14 <u>pursue</u> 74:18
<u>potency</u> 146:24	<u>printed</u> 150:20	<u>product</u> 139:19	<u>prove</u> 38:9 174:3 16 52:10 80:19,21 102:11 118:20 145:8,14 153:18 154:14 155:21 161:3 8 166:2 167:18 181:2	<u>put</u> 7:5 29:2 40:15,23 48:21 53:8 56:14, 15 58:17 69:21 76:9,19 78:14 79:10 80:23 85:24 86:24 91:17 94:10 99:2 108:12 112:6 114:13 123:20 124:10,14 126:6 144:1,19 145:3 157:25 172:1 173:9 177:8,10
<u>pour</u> 27:7	<u>prior</u> 64:9 106:25 112:21 133:17 136:1 150:9	<u>production</u> 25:3 48:14 76:21	<u>proven</u> 182:12	<u>puts</u> 62:3 126:8
<u>powder</u> 73:10 97:4 146:18, 19 147:4,12	<u>prison</u> 19:14	<u>professional</u> 40:11	<u>provide</u> 66:13 157:22	<u>putting</u> 26:7 31:16 58:10 80:17 90:21 102:8, 15 112:9 152:1 161:10
<u>practice</u> 35:12 37:5 41:16 47:9 56:25	<u>pro</u> 23:25 24:16	<u>promised</u> 37:16	<u>provided</u> 26:10 32:5,10 66:12 174:1	
<u>practicing</u> 35:13 46:20	<u>proactively</u> 64:2	<u>prompted</u> 105:13	<u>proximity</u> 136:8 153:1 154:15 155:24 157:25 158:2,4 165:16 166:10 167:4,7,14	Q
<u>precedent</u> 70:1	<u>probable</u> 43:17 102:9,11,13 104:24 105:1,21 109:3 110:22 111:1,7 115:2,5,6 118:2,3,12,16,20, 23 119:24 120:5, 16 154:1 155:3 158:21 160:23 161:3 163:7 172:19 175:3,6 176:14	<u>prompting</u> 105:21	<u>Public</u> 184:4	<u>qualification</u> 70:15
<u>precluded</u> 30:18	<u>problem</u> 13:10 19:10 44:3 47:6 101:11 165:22 170:15,22 176:15	<u>promulgate</u> 109:13	<u>publish</u> 87:3 140:21	<u>qualifications</u> 69:15
<u>preferably</u> 150:17		<u>promulgating</u> 37:23	<u>published</u> 92:24 135:18 160:3 178:16	<u>qualified</u> 70:7
<u>prejudice</u> 24:14		<u>pronounce</u> 74:7	<u>pull</u> 82:10,20	<u>qualify</u> 65:22 69:3 126:18
<u>prejudicial</u> 31:18 37:20,25 38:3,4 59:24	<u>problems</u> 37:15	<u>proof</u> 38:14,17 133:9 172:8,10,11	<u>pulled</u> 77:19 82:16 84:18 87:25 127:22	<u>qualm</u> 32:23
<u>prepare</u> 9:19 21:20 24:9 66:24	<u>procedural</u> 43:23 55:21	<u>prop</u> 138:12,14,15,22 139:4 180:16	<u>pulling</u> 86:19	<u>quantities</u> 78:3,4
<u>prepared</u> 20:9	<u>procedurally</u> 51:10	<u>proper</u> 23:24 114:18	<u>purchase</u> 75:1 95:2 136:2 159:16	<u>quantity</u> 95:16 127:11 139:8 146:5,23 149:13
<u>preparing</u> 20:4,5 31:24 73:20	<u>procedure</u> 38:11 42:1 124:7	<u>properly</u> 35:23 118:23	<u>purchased</u> 95:20	<u>question</u> 9:22 30:17 40:4 45:14 56:20 84:9 91:7 102:23 140:5 145:11 158:5 167:14 172:15 177:14
<u>present</u> 79:8 95:10,11 103:5,13 109:21 133:12 144:20	<u>proceed</u> 23:25 24:16,17	<u>properties</u> 73:10	<u>purchases</u> 94:20 130:21	<u>questions</u> 128:14 130:3 145:9 167:9 171:17
<u>presented</u> 98:3 107:10,11 174:12 182:10	<u>proceeds</u> 97:19 106:25	<u>property</u> 11:14 36:22 41:7 44:16 47:12 57:5 65:11,17 70:13 71:5 98:13 153:9 154:2 157:10 160:25	<u>pure</u> 72:23	<u>quick</u> 31:10
<u>preset</u> 95:19	<u>process</u> 55:21,22 120:1	<u>propose</u> 26:4	<u>purpose</u> 21:18,22 22:1 40:25 116:3 119:19 162:1	
<u>presume</u> 83:21 168:2 169:3	<u>produce</u> 28:18,19 30:20,22 48:13,15 52:16, 54:2 134:14 181:11	<u>prosecute</u> 57:4 9 177:10	<u>purposeful</u> 164:19	
<u>presumed</u> 168:5,8	<u>produced</u> 26:6,11,21 32:1 36:4 48:10,14	<u>prosecuted</u> 143:1		
<u>presumes</u> 167:25 168:9,15, 17		<u>crossed</u> 142:6		
<u>presuming</u> 173:13,20		<u>protect</u> 161:23		
<u>pretty</u>		<u>protected</u> 43:23		



quickly 32:8	70:20 93:21 170:11,13 176:5 177:7,9 181:3	recross 148:10	4:20 131:15	49:6,8,11,13 58:1 61:17,20,76:21
R	reasonable 54:14	RE CROSS- EXAMINATION 148:12	remind 38:1,6,41:24	requested 48:15,49:14
raid 130:8,9	reasons 41:22,23 169:6,7 177:17	recuse 4:8	reminded 38:7	requesting 26:2
raided 157:15	recall 131:19 134:8,10	red 62:19	reminding 38:8,9	requests 26:11 29:11,20 45:24,47:4,59:2
raise 62:19 167:7	receive 35:13 41:20 64:10 72:2	redirect 145:21,23	remove 139:16	require 57:2,3,20
raised 10:3 167:8	received 4:17,25,15 27:2 31:6 35:10,15 36:15,45:9,46:10 17:47,18,19,48:13 59:21,23 60:2 61:17,66:14 72:4 74:2 97:24,106:21 117:7 159:24	referee 5:3,5	removed 7:5,18,84:25 122:13 156:8	required 169:12
Ralph 46:25 53:5 181:8	receiving 72:8	reference 3:9	Renee 184:3,23	requirement 56:24
Randall 62:25 63:1,10	recess 129:15	referred 4:4	repeat 73:12	requires 28:12,38:11 110:21 118:20 172:17 181:20
rank 63:17,86:11 88:24 91:8 114:21 120:21	recognize 75:15,77,22,87:11, 21,24 98:10 102:20 103:24,25 107:19 122:19	refused 41:18,43:20 166:22	report 65:24,66:6,9,11, 12,13,14,16,19,22 133:7,13 134:14 16:24 135:3,8	residence 96:5,9,98:13 130:12,18,22 131:4,5,8,11,13 17:23 132:20 134:7
rapper 180:21,22,23 181:5	recognized 67:3 103:3	registered 107:7 122:7 132:13	reporter 62:20,77:8,83:1,4 93:16 113:14 128:17 184:1,3,24	residences 65:6
Rappers 180:15	record 3:22 23:13 35:10 46:8 61:3 62:24 76:14 80:24,83:22 94:11 100:1 108:15 112:7 113:13 120:2 143:25 144:1 146:5 153:24 161:11 184:7	regular 73:10 100:19	reports 36:10	residential 65:9
rationale 154:5,10 155:19 166:20	recording 75:13 82:21 95:13	reject 154:9	represent 3:24,4:10,5,21,22 6:3,9,25 10:12 11:6,13,11,20,20, 24,21,2,8,24,25 22:5,26,22	respective 96:11
reach 163:8	recordings 45:6	rejected 153:3,4,5 166:13 178:22	representation 3:25,4:6,8,8,6	respond 29:10,39:16,17 41:9,56:7,57:17 59:8 60:6
reaching 163:5	records 80:20,98:1 99:16 100:21,22 106:10 107:2,21 108:23 111:17 113:5 116:13 164:13	related 32:11,12,42:14 65:4,66:4,67:22 84:6 135:8 154:18 155:5,6 157:13 167:19 172:6 184:9	representative 107:17 121:10,11, 15,19 122:13	responded 25:7,40:14 41:13 107:5
read 29:1 39:11,13 52:22 103:23 153:23 155:17	recorded 75:2	relative 81:7	represented 7:6,9,8,21 12:6 13:9 14:4	Respondent 33:24
reading 160:19	recording 75:13 82:21 95:13	relayed 117:7	representing 5:14,20,10:24,12:9 16:24 17:3,17,18 20:22,21,4,24:17	response 25:9,27:9,47:14
ready 129:16	recordings 45:6	relevance 78:18,24 80:3,25 81:14	represents 13:6	responses 35:7,14,16 36:15 47:4
real 31:10,81:22,82:3 138:10 140:6 141:11 180:10	records 80:20,98:1 99:16 100:21,22 106:10 107:2,21 108:23 111:17 113:5 116:13 164:13	relevant 30:24 80:9,84:9	reputation 20:3	responsibilities 64:1,153:17
realize 18:15,48:19	recovered 74:16	relieve 7:2,9:23 23:14,16 20:21,24 153:16	request 25:3,17,27:24 28:10 30:6,34:22 35:4,8 37:7,38:23 24,40:2,14,45:8,9 47:19,48:13,17	responsibility 42:1,44:22,46:12 13,47:10,51:10 52:24,55:17,59:3
realized 43:25		relieved 10:8,24,11,13,14		responsible 27:23
realm 163:6		relying 31:7		rest 16:23,92:16,97:9
reason 16:19,22:18,26:20 39:8,43:21,48:4,9 12:53,12:59,25		remember		



121:21 173:9 restroom 128:21 129:11 result 96:11 results 168:10 retain 12:23 retained 3:24 retired 99:13 return 101:18 103:16 Reuben 85:12 137:12 revealed 108:23 revert 150:16 review 15:13 93:9 111:14 reviewed 77:19 116:22 150:21 Richardson 3:3 rightfully 173:24 rights 43:23 ring 127:15,17,19,21 rings 123:10 rocks 149:17 rolling 141:5,6 room 82:18 87:15,18,22 90:9,10,22 127:24 128:4,8,9 136:4 160:2 rope 123:11 127:16,20 Rosie 33:23 rubber 123:2 rule 28:10,12,25 36:11	39:7,8,11,13,14 50:11 54:3,5,7,10, 12,24 55:1,13 57:3,18,19 59:7,11 158:16 172:25 173:3,16,19 174:22 176:10 ruled 172:23,24 rules 26:9,10 35:24 39:7 43:7,13 44:6 55:19 ruling 55:10 115:6 run 85:16 128:20 129:10 running 74:23 S Sadek 17:19 safe 31:5 32:13 42:17 65:7 75:12 79:19 82:19 87:16,18,22 90:9,12 97:15 98:1 106:22 107:4,6,9 109:13 111:16 113:1,6,23 116:4, 11 117:4,9 119:10 120:7 121:7 122:7 125:6,14,25 126:3 127:10,24 136:4 144:13 146:2 150:2 154:15,23 155:8,9 156:4,13 159:24 160:2 162:18 167:1,2,11, 23 171:3 179:4,5, 8,9,10 180:8,13 181:7,15 sale 127:14 145:6,15 samples 33:16,18,23 sanction 28:17 sanctions 28:13,20,22 49:24 50:1 saved 164:12 scale 67:12	scales 67:11,13 scheduled 12:20 17:22 18:6, 16,20,22 19:11,24 science 67:4,7 68:6,9,12 69:16 scooter 127:13,14 scoured 36:19 seal 184:12 search 26:24 31:4 32:11, 12 51:2 65:4,7,8,9 74:14 75:8,22 76:2,3,9 77:10 82:14 95:7,21 96:2,5 97:25 98:1, 9,12,17,22,23 99:2,8,10 100:6,9, 11,17 101:17,20, 22,23,25 102:3,17, 18,25 103:4,6 105:9,12,14 106:16 107:2,9,20, 22,25 108:8,12,19, 24,25 109:12,13, 18,19 110:2,5,6, 10,21,23 111:4,14 112:15,25 113:9 114:19 115:21,25 116:4,8,11,19,23 117:4,21,23 118:21 119:19 120:5,6,7 121:3,6, 12,19 122:22 130:6,23 134:20 147:20 154:22 155:4 156:9,13,15, 16,20 159:11 160:3 161:4 163:8, 11 167:23 170:8,9, 10,14,19,21 171:3 172:19,23 173:6,9, 12,17,22 174:2,4, 6,23 175:14,18 176:4,15,17,19,24 177:22 searched 35:8 searches 102:12 109:8 seconds 91:1 secretary	14:12 15:3 21:3 section 72:7 74:9 75:3 94:22 97:17 98:14 secured 74:6 75:2,8,23 97:25 98:15 107:2, 9 seize 36:21 47:12 79:9 102:12 104:5 146:7 153:9 156:5, 6 162:16 165:13, 21 169:13 176:20 181:8,15 seized 78:22 79:5 135:11 144:5,8 146:4 150:12 157:10 158:20 164:11 seizing 80:9,10 105:11 159:4 167:16 seizure 27:18,19,22 35:25 37:24 43:3,16 44:24 59:18,25 102:10 104:11 152:18,19 154:18 158:17 159:3 selfie 180:4,7 selfies 80:8 86:18 162:4 sell 70:13 73:11 selling 67:14 72:3 73:17 74:5 147:3 150:8 159:8,19 161:16, 17 163:18 172:8 181:10 sells 149:19 send 9:9 21:20 30:12,15 33:7 35:3,14,16 37:6,15,17 38:7,23 39:20,25 40:4,7 45:16 46:14 48:18 57:1 59:13,17 95:14,17 136:3 139:11 150:18 sense 8:18 142:19 separate 32:15	September 3:12 serial 136:1 146:5,9 156:2 158:24 159:3 169:11 serve 27:23 60:16 served 24:25 27:11 29:5 41:17 50:17 56:3,5 60:20 service 25:2,3 26:1 34:25 45:12 60:22 set 25:11 70:1 123:2 124:7 125:21 127:13 severe 41:5 Shelton 74:22 Sheriff's 63:16,18 Shhh 71:17 shift 102:13 shifts 162:10 show 9:18 30:4,5,23 40:21 51:5 60:7 75:14 78:22,23 79:3,17,21,22 81:5,25 89:21,23 92:20 107:18 115:10 116:3 139:18 148:22 158:3 160:8 161:7 162:1 169:5 176:16,23 178:11, 12 179:1 showboat 164:14 showed 36:4 91:5 135:13 140:11 showing 80:5 180:1 shown 26:18 shows 30:10 79:25 86:18 104:9 134:18
---	--	--	---	---



shred 60:2	51:12 58:15,19 62:21 63:6,22 64:12 68:2 69:8 76:5 77:6,16,21,24 78:10,12 79:13 81:23 82:4,12 83:18 84:22 87:23 88:10 90:15,17 96:4,25 98:25 101:6 108:9 111:10,14 112:21 113:13 121:8 122:21 123:16 126:1,5,9 127:25 130:4 131:1 132:5, 8 133:2,17 134:4 135:15,20 136:6, 10,22 137:18,20, 24 138:2,6,9,11 140:2,7,11,13,17 141:7,9,12,18,22, 25 142:20,23 143:4,19 144:25 145:8 147:21 148:16 151:6,22 152:16 160:16 178:14,17 182:4, 24	snail 17:11 snippets 87:2 social 68:9 soda 73:4 sold 141:16 145:5 146:17 160:10 161:21 solely 107:7 Solicitor 3:3 Solicitor's 10:3 32:21 143:14 Solicitors 63:23 somebody's 67:12 sort 118:4 134:14 sound 115:1 sounded 148:1 source 72:5,8 73:19 74:19 94:7 95:5,8,14 97:14,19 106:22 108:22 111:21 115:9,18 116:16, 24 117:12,14,17 119:9,13 120:11 155:7 160:9 sources 112:1 114:17 115:24 164:6 South 33:23 96:20 141:20 153:5,12 184:4,13 sowhat 67:8 speak 7:22 14:11,24 182:16,19 speaking 9:21 special 5:3,5 specific 63:21 100:16	specifically 117:1 speculative 125:17 spend 11:1 138:7 spending 15:25 spent 20:3,5 61:23 spoke 5:16 6:17 20:8 148:20 stacked 113:4 stake 41:7 stand 6:23 13:15 53:9 62:14 101:24 120:11 128:6 129:7 158:7 162:6, 19 168:24,25 169:20 172:1 standard 154:10 158:15 166:24 standing 3:15 80:15 174:3 start 100:18 108:20 109:7,10 starting 94:2 state 7:10 8:6,11,21,25 10:1 12:6 20:22 25:1,10 26:9,21 27:17 29:2,9 30:4 32:2 33:1 36:21 37:21,23 38:1,12 39:16 41:9,24 42:21 43:3,14,16 47:11 50:13 52:11, 17 59:24 62:24 64:3 66:12 69:21 76:14,19 136:14 141:20,21 142:21, 24 143:2,7,9 144:1 151:23 152:21 153:16,25 154:4, 11 155:21 156:25 157:4,8,18,24 158:2,14 160:22 161:11 162:15 170:22 174:14 177:10,13 184:4	State's 160:13 stated 97:19 statement 109:1 117:3 175:13 statements 84:1 85:1,17 140:17,20 176:7 statute 102:9 110:21 118:20 153:12 154:4,13 158:20 165:11 181:20 183:3,5 stayed 9:19 step 55:11 88:17 89:25 151:5 171:8,14 178:25 stepped 74:23 146:20 147:3 stickies 151:9 sticky 151:13 stint 10:14 stipulate 89:12,18 stock 25:6 stolen 74:13,17 159:12 stone 127:17 stones 127:18,19 stood 93:21 stop 72:14 98:6 121:20 165:12 storage 74:6,8,11 story 33:11 straightened 61:21 strange 4:19 180:5,6
---------------	--	--	---	--



stranger 180:12	sued 5:3	sworn 62:20,22 63:11	tattoos 81:11,17 137:4,11, 13	That'sot 65:6
strategic 41:22	suggest 26:15 164:12 180:16	system 35:23 84:24	Taylor 121:18	thereof 184:10
strategy 51:21	suggesting 79:17 82:23 181:4	T	team 130:14,15	thing 4:19 17:13 31:6 34:4 49:15 60:3 65:12 67:15 68:13 78:21 149:8 157:19 164:20 166:9 170:20 178:15 180:20 181:25
street 17:6 98:13 146:15 152:25	suggests 27:17	table 82:22	telling 19:9 46:6 114:22 135:7 137:21	things 6:22 26:15,24 28:2 30:25 33:1 36:1 42:18 44:19 48:9 65:23 68:10 74:5 78:21 105:13 107:4 108:16,17 109:15 110:14 119:7 134:21 150:18 154:23 157:16,21 161:10 165:1,12,15 177:5, 16 180:2
street-level 78:5	Suggs 62:15,16,23,25 63:1,10,14 65:15 67:9,13,16 70:21 72:2 75:15,16 77:18 82:10,24 83:3 86:25 87:11 90:8 92:2 94:3 98:6 100:13 106:16 107:18 109:22 111:12 116:3 117:7 122:10 124:5 127:8 129:2 145:25 151:5	tablets 96:7	ten 39:13 96:22,23 128:23	thinking 60:5
stretching 71:7	suing 6:10 37:22	tactic 35:20	ten-minute 128:19	third-party 85:21 111:25 112:1,9
strike 104:15	sum 79:22 97:18 151:25 152:22	takes 16:9 163:14	tenth 57:22	Thomas 153:6,10 154:6,10, 11 155:18 166:13, 21
stronger 73:5	summary 28:24	taking 9:8 58:3 61:2 79:25 80:8 149:14 152:19 162:4 171:10	tenure 64:12	thought 8:20 21:5 28:5,6,9 29:25 30:9,11 39:22,23 46:10,16 103:2 114:5 119:13
study 69:22	sums 28:11 75:13 82:21 92:23	talk 14:2 17:10,12 21:2,15 29:24 30:3 42:24 69:6 71:22 78:20 83:11 129:7 143:9 148:14 152:19 171:15	term 42:23 72:20 140:1	Thousand 3:5
stuff 12:4 19:1,3 25:6 26:17 33:5,7 39:20 41:10 52:15 53:7 82:20 84:23 102:12 132:3,6,25 133:1,2 137:12 156:14 157:11,15 162:2 170:19,24 173:10	support 110:1	talked 14:1 15:1,9,10 18:19 25:15 53:16 78:19 156:16 159:22	test 67:24 68:19 119:18 133:1	threshold 96:19 163:3 169:5
subject 50:4 123:22 124:2 167:20	supposed 18:22 20:20 30:13, 14,16 37:11 66:13 95:10 179:4	talking 10:1 16:1 20:7,8 31:20 42:6,10,11 80:6 92:18 100:7 138:24 149:24 150:10,11 165:1, 10 167:3 172:6 176:20 178:5,6	testable 69:16	thrown 110:23
submit 26:8 65:15 81:4 92:23 93:7 163:10	supplemental 10:18 46:15	talks 54:8 161:1 165:9, 25	tested 69:12 70:5 119:25 133:6,10,15,16	thug 81:6,9,18
submitted 100:8 163:5	supplemented 30:9	tantamount 171:4	testified 63:11 147:22 158:6 162:7 169:19	Thurman 7:1,6 9:7
subsequently 137:12	supplementing 46:16	tape 116:18 178:1,2 179:25	testify 40:16 67:19 68:15, 21 69:18 88:15,20 95:11,21 99:23 102:1 104:15,20 105:23,24,25 110:4 112:3,5 118:6 120:12 126:14 152:5	tie 109:3 110:15 135:22
substance 95:20	Supreme 153:4,6	taped 169:24	testimony 27:3 66:15 67:10 68:7 69:20 70:20 71:21 79:7 85:24 86:8 109:22 112:9 169:25 170:3	tied 19:15
substances 139:8	sustain 71:13 106:1	tapes 177:15 178:9,11	tests 67:21	
substantial 154:1 160:24 167:24 179:21	sustained 94:16 112:16 125:19 142:5	target 139:15	text 84:23	
substantiate 97:21	switched 65:1	tattoo 137:7		
substantive 55:22				
substituting 9:10 17:16 18:9,24				
sue 57:5				



till 128:24 time 3:23 4:2,5,9 9:12 11:1 13:22 14:10, 16,19,22 15:12 18:1,3,7 19:1,11, 24 20:5,20 21:15 26:25 41:10 46:5 49:17 52:16 57:22 59:15,17,18 62:3,9 65:14 69:6,24 75:24 76:8 78:13 85:11,17 91:17 99:1 108:11,21 109:6 119:25 121:16,22,24 122:3,12 123:5,6, 20 124:11 125:2,4 126:7 128:20 130:3 131:2,14 132:16 133:18,20 134:18 137:6,14 141:15 161:19 162:13 163:21 164:13 175:2,4 180:16 timely 44:19 83:19 times 14:20 21:3 39:13 56:25 78:19 120:3 144:12 145:4 146:21 147:4,11 149:13 tired 62:13 182:14 title 127:12 132:15 titled 132:9 today 5:17 9:22 11:9 18:7,16,20 21:16 22:24 23:24 24:17, 21 41:21 45:13 81:17 87:3,8 88:24 92:24 104:5,8,20 112:3 133:7 135:5 163:4 182:10,11, 15 183:14 today's 20:5,10 told 3:22 13:13 16:5,6 19:3 50:21 61:4 104:21 105:7 114:20 116:2 119:6,8 124:25	142:17 155:7 Tollison 184:3,23 Tom 182:25 tomorrow 17:22 ton 10:2 tons 118:13 top 89:19 149:16 164:5 totality 153:11,20 154:8 155:19 162:22 166:6,7,12 171:6, 12 178:22 totally 14:18 30:17 61:10 touch 150:20 tough 183:13 town 17:24 trace 135:23 136:13 146:1 153:21,22 155:23 158:7 162:20 166:9 traceability 136:12 153:18 157:25 158:20 161:2,7 162:7,21 165:10 166:14 171:7,11,16,19 172:17 176:17,23 177:6,23 178:24 181:18 182:12 traceable 84:6,10 153:1,2, 13,14 154:12 158:1,6 162:19 165:10 166:1 167:8,15,18 169:5 174:15 track 65:1 169:4,11 trade 64:11 65:11,16 71:6 trafficking 64:4 96:19,21 168:1,3,10,18	training 64:10 99:17 transaction 84:6 95:18 135:23 137:23 139:7 145:14 146:2,6 153:19,22 157:14 162:20 164:16 166:10 167:18 169:12 transactional 153:2 transactions 75:6 150:9 transcript 184:6 transfer 15:11 transpired 129:15 transport 17:23 tree 109:8 110:8,13 163:13 170:25 trees 109:7 Trey 182:25 trial 11:4 14:24 24:24 26:13 27:25 28:19, 23 30:18,25 31:17 36:2,5 39:18 42:22 43:5,6,9,10,11 44:5,16,20 47:2 48:19 52:8 53:10, 11,12,21 56:12 60:3 62:2 65:20 69:24 90:23 110:9, 18 111:6 170:4 trick 8:24 12:15 tricked 12:10 trip 138:19 true 76:3 78:7 88:5 98:16 108:1 117:25 119:22 123:14 168:8 174:10 179:14 184:6 truth 90:24 120:19	161:12 turn 41:18 43:18 44:3, 17 51:20 52:21 58:14,22 60:5,8 65:23 turned 29:4 31:22 42:19 43:4 44:1 58:18 turning 31:17 42:24 Turtle 98:13 Twenty-one 3:5 two-way 17:6 152:24 tying 26:25 type 65:12 67:14 95:13 typed 111:15 types 161:23 U udge 56:13 Uh-huh 112:24 139:24 140:4 undercover 95:4 underlying 32:4 understand 8:1,9,10,13 9:2 11:8 12:12 14:4 19:22,23 21:10 38:13,16 42:12 45:18 47:8 48:3,6 56:8 57:21 61:7 70:22 78:24 80:16, 24 84:7 91:11,13 125:9,18 148:24 171:25 174:24,25 175:8,9 181:19,21 understanding 17:14 99:8 175:9, 16,22 understands 7:20 understood	18:21 UNIDENTIFIED 71:16 unique 137:4 unit 3:5 63:21,23,25 74:6,11 94:6 95:7 97:14 99:12,17 Units 74:8 unlawful 95:2 unrelated 78:21 90:4 157:9 urges 154:5 157:8 useless 80:15 utilize 82:13 utilized 75:5 utilizing 95:4 V valid 102:3 120:7 173:17 174:6,22 175:13 vary 93:21 vehicle 75:5 127:13 132:11,13 veracity 118:5 119:19 120:12 verified 85:1,8 verify 95:9 109:1 versus 3:5 33:16,18 67:19 68:19 153:6,10 154:6 158:16 166:13,21 182:25 video 25:12 26:14,20 31:24,25 36:4,7,9 40:15,21 44:18 75:2 82:11,21 83:15,23 84:1,2,16
---	---	---	---	--



87:2,12,21,24 88:2,6 89:9 91:1 92:4,11,24 95:13 127:22 135:14,17, 19,22 140:8,18,20 141:4,12,15 147:23 160:2 161:15,16,17 163:17 164:15 172:5 videos 25:5 42:11 75:11 82:17,25 84:18,22 85:3 86:19,24 87:1 89:11,12 91:17 92:9 93:25 159:25 videotape 30:23 51:4 145:3 view 32:9 126:3 153:11 Vincent 33:24 violation 59:10 volunteered 85:14 W	112:15,25 113:9 115:21,25 116:5,8, 11,23 117:21 119:20 120:6,17 121:12 122:22 130:6,24 134:21 154:22 155:4 156:10,13,14,15, 16 159:11 160:4 161:4 163:8,11 167:22 170:8,9,11, 14,19,21 171:3 172:19,23 173:6,9, 12,17,22 174:3,4, 6,23 175:14,18 176:4,15,18,24 177:22 warrants 32:11 65:5,7,8,9 75:22 76:2,4,9 77:10 82:15 101:23 107:25 108:8,12 114:19 116:19 117:4,23 118:21 121:3,6 watch 115:14 117:2 137:5 water 75:20 ways 58:21 weak 170:7 171:13 weapons 95:10 162:17 week 15:14 week's 141:2 weeks 10:20 15:4 21:19 144:15,18 147:23 weeks' 148:2 160:1 weigh 67:12 149:17 weighing 158:22 weight 69:20 96:20 172:16 Weiner 80:11 weird 26:3	Welch 101:14 Wells 97:16 98:2 107:3, 11,23 117:10 124:7 159:24 whatsoever 33:4 44:23 66:14 155:16 white 3:7 6:19,22,24 7:18,19,22,23 8:4, 11,14,16,23 9:3 10:10,11 11:8,15, 20,23 12:4,13,22 13:6,7,12,17,20,24 14:5,10,15,18,22 15:6,18,23 16:2,9, 15,18 17:8,24,25 18:3,8,25 19:6,12, 16,18 20:7,11,16, 19 21:11,17 22:8, 10,14,18 23:2,21, 25 24:4,6,11,19 26:5,22 27:1 29:8 44:20 72:3,6,9 73:16,21,22 74:3 75:5,11 79:3,4,7 82:18 85:14,16,18 86:18 88:22 89:23 90:25 94:2,4,7,20 95:25 97:10,20 98:2 104:10,12 107:1,7 108:20 111:19 113:5 114:9 115:23 116:1 117:9 123:4 124:10 125:15 127:3 134:7,25 135:17,18 138:4 140:9 141:20 142:14 144:11 147:23 148:4,5,14, 21,25 149:4 154:21 155:12 156:22 159:8,15, 25 160:9 163:16 168:2,17 169:17, 22 182:15 183:15, 17 White's 40:10 47:1 74:19, 23 75:7,10 77:20 78:1,14 79:3 82:11 84:19 85:4,5,9 86:19,20 87:25 92:21 98:10,15 106:17,23 107:21 109:18,24 112:20 121:7 122:9	127:23 132:10 137:1,2 146:14 158:25 168:17 whomever 13:9 Wilson 3:15,17,20 4:14, 15,16 6:5,8,13,21 7:9,12,15,18,19 9:4,5 10:7,14 13:13 14:8,13 15:7,9 17:16 18:5 19:2,19 20:2 22:22 23:1,7,10,11,13,18 24:1,8,10,20,22,23 25:9,21,22,25 27:15 28:8,15,21 29:17,21 30:14,19 31:9,12,15,21 32:7 33:19,22 34:4,8, 12,17,18 35:5,19 36:8,17,25 37:3,19 38:4,11,15,19 39:1,6,12 40:3,13, 20 41:2,8,14 42:4, 9,13 43:2 44:14 45:1,4,10,18 46:2, 4,24 47:8,17,21 48:3,6,16,25 49:3, 8,12,20 50:3,23 51:1,13,15,25 52:7 54:7,12,19,25 55:5,9 56:8,11,20 57:10,13,16,19,23 58:2,7,14,16,20,25 59:15 60:12,15,18, 23 61:8,9,11,12,25 62:1,7,10 65:18,19 66:7,10,18,21,24 67:6 68:1,4,25 69:5,9 70:8 71:12, 15,17 76:11,16,23 77:1,2,5,12,14 78:16 79:12,14,24 80:6,7,12 81:3,11, 16,19,24 82:6,8 83:14,19 84:11,15 85:20 86:22 87:13 88:9,11 89:7,12, 18,24 90:13,16,18 91:2,15 93:20 94:9,17 99:5,20 100:10,24 101:3,5, 8,12 102:4,6,22 103:1,5,21 104:14 105:2,18,24 106:5, 13 108:14 109:17, 25 110:19 111:2,8, 24 112:13,17 114:14 116:20,21 117:11,18 118:13, 18,25 119:4,14,16 121:1 123:22,25 124:1,12,18 125:10,11,16 126:10,13 128:2, 15,22 129:1,8,17, 18,21,23 130:1 136:16,19 138:14, 16,19,21 143:17, 20,22,24 145:9,13, 18,20,25 148:10, 11,13 150:25 151:19,20,23 152:4,9,10,13,17 158:11,14 160:15, 17 164:25 165:5,8 166:5 168:4,7,11, 19,22 169:19 170:2 171:22 172:2,12,15,22 173:1,5,15,18,20 174:7,11,24 175:10,15 176:2, 11,25 177:3 178:2, 5,10,15,18,21 179:6,11,17,20,23 180:1,7,15,21,24 181:22 182:2,5,8, 13 183:10,16,19 Wilson's 12:21 19:7 34:22 35:8 61:17 71:14 win 11:24 15:15,19 16:7 wind 15:24 wired 169:24 withdraw 139:12 withdrew 18:23 witness' 85:24 witnesses 25:5,14 27:3,6 30:20,22 40:15 42:10 56:15 151:16 152:1 wonderful 20:3 word 4:6 72:25 153:13 154:12 words 8:24 12:5
---	--	---	---



work 10:16 16:22 43:12 52:9 90:14 124:5 130:9 141:2 148:2 149:1 worked 7:15 35:23 64:6 148:15 working 30:1 64:9 97:12 works 27:13 119:24 124:20,23 world 44:1 156:23 worry 139:20 worth 147:19,24 148:2 160:1 wrap 180:19 writing 127:3 written 39:9 43:15 50:11 55:19 wrong 74:7 wrote 13:25 153:13	yield 146:18 149:15 yielded 96:11 York 19:19 21:12	
Y		
y'all 96:2 130:8,17,23, 24 133:1 134:14 135:22 136:4 144:5 150:13 183:5 yards 148:25 year 20:12 27:10 34:7 134:9 years 64:8 65:3 134:13 143:3 144:2 yellow 151:9 yesterday 9:14 17:15 18:11, 13 30:10 36:14 46:9,10 53:19,20 60:11,14		



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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Master in Equity

The Honorable Cynthia Graham Howe

Case No. 2017-002365

Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of
the 15th Circuit Drug Enforcement Unit,

Respondent,

v.

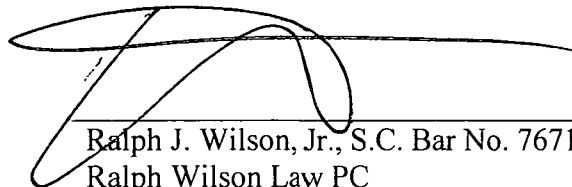
Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various
Jewelry, Defendant Property, and Marvin White,

Appellant.

Certificate of Counsel

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The undersigned hereby certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Master in Equity

The Honorable Cynthia Graham Howe, Master in Equity

Case No. 2017-002365

Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of the 15th
Circuit Drug Enforcement Unit,

Respondent,

v.

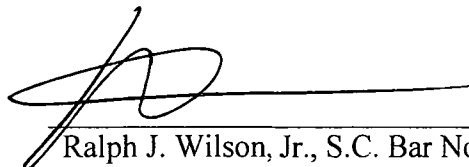
Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various Jewelry,
Defendant Property, and Marvin Joshua White,

Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on the Respondent by hand
delivery to his attorney of record, James Richard Battle, II, Esquire of Battle Law Firm,
LLC, at 1200 Main Street, in Conway, SC 29526.

July 20, 2018



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