

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

William H. Seals, Circuit Court Judge

Appellate Case No. 2016-001954
Trial Court Case No. 2016-GS-21-00415

RECEIVED

FEB 28 2018

SC Court of Appeals

The State of South Carolina.....Respondent,

v.

MYRON A. CANNON,

.....Appellant.

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF FLORENCE) COURT OF GENERAL SESSIONS
3) No. 2016 GS 21 0415

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 MYRON A. CANNON)
9 Defendant)

10 Florence, South Carolina
11 September 6-7, 2016
12

13 B E F O R E :

14 HONORABLE WILLIAM H. SEALS, Presiding Judge, and
15 a Jury

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

17 For the State: JOHN C. JEPERTINGER, Esq.
18 Deputy Solicitor

19 For the Defendant: GRANT B. SMALDON, Esq.

20 Reporter Present: KEESHIA T. REED
21

22

23 HARRIET P. BENNETT
24 Reporter, S.C. Court Administration
25 46 Regency Oaks Drive
Summerville, S.C. 29485

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1 (The within matter came before the Court for hearing
2 on September 6, 2016)

3 THE COURT: All right, Solicitor.

4 SOLICITOR: Your Honor, the State has one matter, if
5 we can approach.

6 (Conference at the bench between counsel and the Court
7 off the record)

8 THE COURT: All right, Solicitor. If you would call
9 your next case.

10 SOLICITOR: Yes, sir. The State would call The State
11 against Myron A. Cannon, 2016 415, Judge.

12 THE COURT: All right, thank you.

13 Members of the jury, we are getting ready to pick
14 another jury, and in that regard I need you to remember
15 that you are under oath.

16 I'm going to ask you a series of questions and if any
17 of these questions apply to you I need for you to stand to
18 respond.

19 If you would like to respond up here instead of out
20 there, that is perfectly fine with me, but I need you to
21 respond to any question that is applicable.

22 In this case, the State of South Carolina alleges
23 that a Myron Cannon did in Florence County on or about
24 September 12th of 2015 knowingly sell, deliver, purchase
25 or bring into this State, or give aid in doing so, a

1 quantity of cocaine base amount of more than twenty grams
2 but less than one hundred grams.

3 Therefore, Mr. Cannon is charged with trafficking in
4 cocaine base.

5 Mr. Cannon is also charged in that regard with posses-
6 sion with intent to distribute cocaine, failure to stop for
7 a blue light and resisting arrest.

8 In this regard, has any member of the jury panel heard
9 anything about this case? Do you know anything about this
10 case? Have you read anything about this case? If you do
11 know anything at all about this case, I need for you to
12 please stand.

13 (No response)

14 All right. No one stood.

15 The Defendant, if you would please stand, Mr. Myron
16 A. Cannon, and turn and face the jury panel, please.

17 All right, you may be seated.

18 Is any member of the jury panel related by blood or
19 marriage or has a close personal or social relationship
20 with Mr. Myron Cannon? If so, please stand.

21 (No response)

22 No one stood.

23 And, Solicitor, Mr. Jepertinger, if you would stand
24 and introduce yourself and any members of your staff.

25 SOLICITOR: Good morning, everyone. My name is John

1 Jepertinger, and I'm Deputy Solicitor here in Florence
2 County.

3 Seated with me at the table is Assistant Solicitor
4 Clemmons, and I have several members of law enforcement
5 here.

6 THE COURT: If you don't mind naming the Solicitors
7 who are in your office.

8 SOLICITOR: Okay, sir. Anne Clemmons, myself, David
9 Richardson, Steven Hill, Susan Magill, Lauren Hall, and
10 John Holmes, Ricky Haber, Patty Parker, Brian White. We
11 have in Florence Todd Tucker and April (inaudible). Also
12 Kevin Holst who does DUI trials.

13 THE COURT: Thank you. Is any member of the jury
14 panel related by blood or marriage or has a close personal
15 or social relationship with Mr. Jepertinger or any members
16 in his office? If so, please stand.

17 (Juror standing)

18 THE COURT: All right, let's start on my left. If
19 you would give me your name and your number?

20 JUROR: Number 62, (name inaudible)

21 THE COURT: And who do you know?

22 JUROR: Kevin Holst.

23 THE COURT: Taking that into account, if you were se-
24 lected to serve on the jury in this case could you be fair
25 and impartial not only to the State but to the Defense as

1 well?

2 JUROR: It's hard to say?

3 THE COURT: I'm sorry. I didn't hear you.

4 JUROR: It's hard to say.

5 THE COURT: It's hard to say? All right. You don't
6 think you could view the evidence and listen to the whole
7 case and make a decision based on what you think is right
8 and based on the law as I give it to you, setting aside
9 that relationship? You think you can do that?

10 JUROR: Yes.

11 THE COURT: All right, thank you.

12 (Another juror standing)

13 THE COURT: The lady in the front. Your name and
14 your number.

15 JUROR: Deborah Roseman Tyler, 153. I know Mr.
16 Jepertinger.

17 THE COURT: Can you tell me some stories a little bit
18 later?

19 JUROR: I'm sure I can.

20 THE COURT: Taking that into account if you were se-
21 lected to serve on the jury in this case, could you be fair
22 and impartial not only to the State but to the Defense as
23 well?

24 JUROR: Absolutely.

25 THE COURT: Thank you. Appreciate your standing.

1 (Another juror standing)

2 THE COURT: Your name and your number?

3 JUROR: (Name inaudible) Juror 144. My husband
4 works for the Solicitor's Office.

5 THE COURT: Your husband works for the Solicitor's
6 Office?

7 JUROR: Yes, sir.

8 THE COURT: I'm going to excuse you for purposes of
9 this trial only.

10 Thank you for standing.

11 All right, Mr. Smaldon, I'll ask you to stand and
12 introduce yourself and any members of your firm.

13 MR. SMALDON: My name is Grant Smaldon, and I'm an at-
14 torney. I represent Mr. Cannon. I am in solo practice so
15 I have no members of my firm.

16 THE COURT: Thank you. Is any member of the jury
17 panel related by blood or marriage or has a close personal
18 or social relationship with Mr. Smaldon, or has been re-
19 presented by him at any point in time? If so, please stand
20 at this time.

21 (No response)

22 No one stood.

23 The witnesses on behalf of the State of South Carolina
24 will be Corporal Jason Bazen with the Florence County Sher-
25 iff's Office, Lieutenant Mitch Hansen, Florence County

1 Sheriff's Office, Deputy T. J. Christmas, Florence County
2 Sheriff's Office, Sergeant Tony Drummond formerly with the
3 Florence County Sheriff's Office, Deputy Brooks Urghart
4 with the Florence County Sheriff's Office, and Sergeant
5 William J. Nida with the Florence Police Department.

6 In this regard, is any member of the jury panel re-
7 lated by blood or marriage or has a close personal or so-
8 cial relationship with any of these deputies or any of
9 these witnesses on behalf of the State of South Carolina?
10 If so, please stand.

11 (No response)

12 No one standing.

13 Is any member of the jury panel related by blood or
14 marriage to any law enforcement officer? If so, please
15 stand.

16 (Juror standing)

17 THE COURT: All right, your name and number?

18 JUROR: I'm Ann Stone. I'm Number 143.

19 THE COURT: Okay.

20 JUROR: My brother is a state trooper and I have ano-
21 ther brother with the Montgomery County, (inaudible).

22 THE COURT: Taking that into account, if you were se-
23 lected to serve on the jury in this case, could you be
24 fair and impartial not only to the State but to the Defense
25 as well?

1 JUROR: I would try to.

2 THE COURT: Is that a yes or no?

3 JUROR: Yes, sir.

4 THE COURT: All right, would you be fair and impartial
5 to both sides?

6 Is that a yes or no?

7 JUROR: Yes.

8 THE COURT: Thank you very much. Appreciate your stand-
9 ing.

10 (Another juror standing)

11 THE COURT: All right, gentleman. Your name and num-
12 ber?

13 JUROR: Number 133, Lance Clifton.

14 My brother in law is with a sheriff's department in
15 another county.

16 THE COURT: All right. Taking that into account,
17 if you were selected to serve on the jury in this case, can
18 you be fair and impartial not only to the State but the
19 Defense as well?

20 JUROR: I cannot say that, sir.

21 THE COURT: Why would that be?

22 JUROR: I have several reasons.

23 THE COURT: Then I'll excuse you for purposes of this
24 trial only.

25 (Another juror standing)

1 THE COURT: All right, your name and your number,
2 please, sir.

3 JUROR: Number 47, Brandon Floyd.

4 THE COURT: How does that question apply to you?

5 JUROR: My wife's father is a lieutenant.

6 THE COURT: A lieutenant where?

7 JUROR: In Lake City.

8 THE COURT: All right, taking that into account, if
9 you were selected to serve on the jury in this case, could
10 you be fair and impartial not only to the State but to the
11 Defense as well?

12 JUROR: Yes.

13 THE COURT: Would you be fair and impartial to both
14 sides?

15 JUROR: Yes.

16 THE COURT: All right, sir. Thank you very much. I
17 appreciate your standing.

18 Is any member of the jury panel aware of any bias or
19 prejudice for or against the State of South Carolina? If
20 so, please stand.

21 (No response)

22 No one stood.

23 Is there any member of the jury panel who is a mem-
24 ber of or contributor to any group which has as its primary
25 concern the promotion of law enforcement or victim's rights?

1 These groups would include but certainly not be lim-
2 ited to MADD, SADD, or CAVE, Citizens Against Violent
3 Crime. If so, please stand.

4 (No response)

5 No one stood.

6 Is there any member of the jury panel who knows of
7 any reason whatsoever why they could not give the parties
8 in this case a fair and impartial trial? If so, please
9 stand.

10 (No response)

11 No one standing:

12 Has any member of the jury panel or any member of your
13 family ever been prosecuted by this Solicitor or any mem-
14 ber of the Solicitor's Office, regardless of whether the
15 case was dismissed or not? If so, please stand.

16 (No response)

17 No one stood.

18 Anything further from the State?

19 SOLICITOR: No, sir, Your Honor.

20 THE COURT: Anything further from the Defense?

21 MR. SMALDON: No, sir.

22 THE COURT: Except for those I have excused, I find
23 the jury panel qualified for this case.

24 Ms. Clerk, if you'll give us twelve and one.

25 (Whereupon, a jury was selected or struck as follows:

1 Christopher Goodman, Juror 166, excused by the State;
2 Nolan Davis, Juror 36, seated;
3 David Brown, Juror 10, seated;
4 Cornelia A. Miles, Juror 104, excused by Defense;
5 Leroy D. Harrison, Juror 67, excused by the State;
6 Casey Watford, Juror 157, excused by Defense;
7 Brandon Floyd, Juror 47, excused by Defense;
8 Deborah Tyler, Juror 153, excused by Defense;
9 Sylvester Davis, Juror 37, seated;
10 Toshia Gandy, Juror 57, seated;
11 Abubakr Malik, Juror 92, seated;
12 Bradley Taylor, Juror 148, seated;
13 Linda Brent, Juror 9, seated;
14 Martha J. Navy, Juror 116, seated;
15 Christopher Johnson, Juror 79, excused by the State;
16 Jonathan Nichols, Juror 117, seated;
17 Jannese Shavers, Juror 131, seated;
18 Shobhana Chokski, Juror 22, excused by the State;
19 Linda Epps, Juror 42, seated;
20 Darla Hansford, Juror 63, excused by the Court;
21 Julia Boykin, Juror 8, excused by the Defense;
22 Quinton German, Juror 53, excused by the State;
23 Sylvia McFadden, Juror 102, seated.)
24 (Alternate Juror selected as follows:
25 Jeremy Hanna, Juror 61, excused by the Defense;

**Florence County Courthouse
RANDOM STRIKE SHEET**

000016

JUDGE NAME : Seals, William H.

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2016GS210415

DESCRIPTION : St Vs Myron Cannon

Trial

COURTROOM 11TH

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Goodman, Christopher J	166	B	M	(V)	()	()	
2 Davis, Nolan A	36	W	M	()	()	()	
3 Brown, David T	10	W	M	()	()	()	
4 Miles, Cornelia A	104	W	F	()	(V)	()	
5 Harrison, Leroy D	67	B	M	(V)	()	()	
6 Watford, Casey M	157	W	F	()	(V)	()	
7 Floyd, Brandon F	47	W	M	()	(V)	()	
8 Tyler, Deborah R	153	W	F	()	(V)	()	
9 Davis, Sylvester L	37	B	M	()	()	()	
10 Gandy, Toshia S	57	B	F	()	()	()	
11 Malik, Abubakr T	92	A	M	()	()	()	
12 Taylor, Bradley J	148	W	M	()	()	()	
13 Brent, Linda M <i>foreperson</i>	9	W	F	()	()	()	
14 Navey, Martha J	116	W	M	()	()	()	
15 Johnson, Christopher J	79	W	M	(V)	()	()	
16 Nichols, Jonathan R	117	W	M	()	()	()	
17 Shavers, Jannese P	131	B	F	()	()	()	
18 Chokshi, Shobhana S	22	A	F	(V)	()	()	
19 Epps, Linda S	42	B	F	()	()	()	
20 Hansford, Darla A	63	W	F	()	()	(V)	
21 Boykin, Julia M	8	W	F	()	(V)	()	
22 German, Quinton D	53	B	M	(V)	()	()	
23 Mcfadden, Sylvia E	102	B	F	()	()	()	
1 Hanna, Jeremy W	61	W	M	()	(V)	()	

Florence County Courthouse
RANDOM STRIKE SHEET

000017

JUDGE NAME : Seals, William H.

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2016GS210415

DESCRIPTION : St Vs Myron Cannon

Trial

COURTROOM 11TH

NAME	JUROR NBR	RACE	SEX	ST/PLTF	DEF	CRT	REMARKS
25 Tedder, Stephanie	151	B	F	()	()	()	_____
26 Ham, Mellanie L	60	B	F	()	()	()	_____
27 Morrison, Terressa S	111	W	F	()	()	()	_____
28 Gainey, Richard E	51	W	M	()	()	()	_____
29 Flowers, Steven W	46	W	M	()	()	()	_____
30 Hennegan, Fabian C	72	B	M	()	()	()	_____
31 Stone, Anne C	143	W	F	()	()	()	_____
32 Bair, Emily C	4	W	F	()	()	()	_____
33 Gilkerson, Patrick J	55	W	M	()	()	()	_____

Total Number of Jurors:

33

END OF REPORT

1 Stephanie Tedder, Juror 151, seated as alternate.)

2 THE COURT: Any objections to the jury or the process
3 by which they were drawn by the State?

4 SOLICITOR: No, sir.

5 THE COURT: By the Defendant?

6 MR. SMALDON: No, sir. No objections.

7 THE COURT: The remainder of the jury panel is excused
8 for the day. If you would call back in after six this
9 evening, there will be instructions for you, but you may
10 go at this time.

11 (Jurors not selected for the within trial were excused
12 by the Court)

13 THE COURT: All right, members of the jury, I am
14 going to excuse you for lunch. I need you to be back at
15 two o'clock, but I do want to tell you one thing.

16 During the lunch hour do not discuss the case with
17 anybody. Do not research the case or go on the internet in
18 any form or fashion. Don't look up anybody's name. Just
19 put it out of your minds.

20 Don't talk about it and be back at two o'clock. We'll
21 start it at that time.

22 You are excused at this time. Have a good lunch.

23 (Chosen jurors excused for the lunch period)

24 THE COURT: Everybody else remain seated.

25 Do you all want to do pre-trial now?

1 SOLICITOR: Briefly, Judge, I think Mr. Smaldon had a
2 issue regarding sequestration, and the State would agree.
3 We'd just keep Officer Drummond here as case officer and
4 everybody else would just go back to the conference room
5 until they are called.

6 THE COURT: Is the Defense okay with that?

7 MR. SMALDON: The Defense is okay with that, Your
8 Honor.

9 THE COURT: Any other pre-trial matters?

10 MR. SMALDON: There's a motion to suppress evidence
11 certainly that was seized as a result of the traffic stop.

12 THE COURT: On what grounds?

13 MR. SMALDON: Essentially, Your Honor, to determine
14 the manner in which it was seized.

15 SOLICITOR: We would call witnesses as to that.

16 MR. SMALDON: From the reports it is a little unclear
17 about where it was found, how it was found, if the door
18 was opened; if the door wasn't open at what point every-
19 thing was seized.

20 I am honestly not prepared to make the motion without
21 witnesses being sworn.

22 THE COURT: Okay.

23 SOLICITOR: As far as schedule, I don't think this
24 will take too long.

25 THE COURT: All right, let's go ahead and call your

B. URQHART IN CAMERA

1 first witness.

2 SOLICITOR: Brooks Urqhart.

3 BROOKS URQHART, being duly
4 sworn, testified as follows, out of the jury's presence:

5 CLERK: Please be seated and state your full name for
6 the record.

7 WITNESS: Brooks Alexander Urqhart.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. On September 12th, 2015, were you called out to a lo-
11 cation here at the intersection of Camp Road and Fort Farm
12 Road here in Florence County?

13 A. I did respond as an assisting officer. Yes, I did.

14 Q. When you got to the scene, what did you see?

15 A. When I arrived on scene, I was the first one to my
16 knowledge to the vehicle which was abandoned with the
17 driver's door open.

18 Q. How about the passenger seats? Were any other doors
19 open?

20 A. No, sir.

21 Q. Just the driver's side door was open?

22 A. That's correct.

23 Q. Okay, and did you see anything that peaked your in-
24 terest right off the bat?

25 A. From outside the car in plain view there was a bag of

B. URQHART IN CAMERA

1 drugs on the driver's seat, I believe, and another under
2 -- on the floor, and I believe it was near one of the
3 pedals, a brake pedal or . . .

4 Q. You didn't have to open any door or anything of that
5 nature?

6 A. No.

7 Q. All right, and did Deputy Bazen come on the scene
8 later?

9 A. Yes.

10 Q. And did you point that out to him?

11 A. That's correct.

12 Q. Okay, and did you see Bazen do anything with the sub-
13 stances?

14 A. I don't recall. I'm not sure what exactly he did at
15 that point.

16 Once he arrived, it turned it all over -- I turned it
17 over to him. I didn't put my hands on anything. I didn't
18 go into the car. All I did was strictly observation and
19 hold that scene until other people arrived.

20 Q. Okay, and are you aware of what Officer Drummond was
21 doing at that point?

22 A. I believe at that point he was still out in the field
23 trying to apprehend the Defendant.

24 Q. Okay, and did he apprehend the Defendant?

25 A. Yes.

B. URQHART IN CAMERA

1 Q. Okay. Thank you so much. That's all the questions
2 I have for you.

3 THE COURT: All right. Anything on Cross from the
4 Defense?

5 MR. SMALDON: Nothing at this time, Your Honor.

6 THE COURT: You may step down. Thank you.

7 (Witness excused from stand)

8 SOLICITOR: Call Jason Bazen to the stand.

9 JASON BAZEN, being duly sworn,
10 testified as follows, out of the presence of the jury:

11 CLERK: Please be seated and state your full name.

12 WITNESS: Jason Scott Bazen.

13 DIRECT EXAMINATION

14 BY SOLICITOR:

15 Q. Corporal Bazen?

16 A. Yes, sir.

17 Q. Corporal Bazen, did you have occasion to be out at
18 the intersection of Camp Road and Fort Farm Road on Sep-
19 tember 12th of 2015?

20 A. I did.

21 Q. Okay, and when you arrived at the scene, what did you
22 observe?

23 A. I observed Corporal Urqhart standing beside a white
24 Dodge Charger abandoned in a bean field.

25 The driver's side door was open.

J. BAZEN IN CAMERA

1 Q. And did you observe what was -- what was your obser-
2 vation I should ask, when you walked up to the vehicle?

3 A. When I walked up to the vehicle from -- standing on
4 the driver's side with the driver's side door open, you
5 could see a clear plastic bag with a white powder substance
6 or either a white substance.

7 Q. Where was that substance located?

8 A. It was sitting right on the edge of the driver's seat,
9 and another clear plastic bag with a white substance on
10 the floorboard near the brake pedal.

11 Q. Okay, and did you retrieve those items?

12 A. I did.

13 Q. And did you eventually turn them into evidence?

14 A. They were.

15 Q. All right, thank you. That's all the questions that
16 I have.

17 THE COURT: All right. From the Defense?

18 MR. SMALDON: Nothing at this time, Your Honor.

19 THE COURT: You may step down.

20 (Witness excused from stand)

21 SOLICITOR: We would call Mr. Tony Drummond to the
22 stand.

23 TONY DRUMMOND, being duly
24 sworn, testified as follows out of the presence of the
25 jury:

T. DRUMMOND IN CAMERA

1 CLERK: Please be seated and state your full name for
2 the record.

3 WITNESS: My name is Wayne Anthony Drummond.

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Okay, Mr. Drummond, back on September 12 of 2015, did
7 you find yourself near the intersection of Camp Road and
8 Fort Farm Road?'

9 A. Yes, sir, I did.

10 Q. And were you in pursuit of a vehicle?

11 A. Yes, sir.

12 Q. What color was that vehicle?

13 A. White Dodge Charger.

14 Q. Okay, and did you see anybody leave that vehicle?

15 A. No, sir. Just the driver.

16 Q. That's what I'm asking you. Did you see the driver
17 get out of the vehicle?

18 A. Absolutely.

19 Q. That's what I was asking.

20 A. Yes, sir.

21 Q. And did you have an opportunity to look into that ve-
22 hicle to see if anyone else was in that vehicle?

23 A. Yes, sir. Once the driver bailed and started running,
24 I ran to the vehicle, and before I passed it I made sure
25 nobody else was in the vehicle to keep from getting ambushed,

T. DRUMMOND IN CAMERA

1 and then I proceeded after the driver on foot.

2 Q. Okay, and did you eventually catch up to the driver?

3 A. Yes, sir, I did.

4 Q. Okay, and is that driver sitting here in the Courtroom
5 today?

6 A. Yes, sir, he is.

7 Q. And who would that be?

8 A. The gentleman seated there in the white shirt.

9 Q. Next to Mr. Smaldon?

10 A. Correct.

11 SOLICITOR: Let the record reflect that he has identi-
12 fied the Defendant in this case.

13 THE COURT: Yes, sir.

14 BY SOLICITOR:

15 Q. Thank you. That's all the questions I have for you.

16 A. Yes, sir.

17 THE COURT: Defense?

18 CROSS EXAMINATION

19 BY MR. SMALDON:

20 Q. Is it Corporal Drummond or Mr. Drummond?

21 A. It's Mr. Drummond now.

22 Q. Mr. Drummond, you were employed with the Florence
23 County Sheriff's Office?

24 A. That's correct.

25 Q. But you are not employed there any more?

T. DRUMMOND IN CAMERA

1 A. No, sir.

2 Q. Okay, you made the initial stop in this case?

3 A. Yes, sir.

4 Q. And the vehicle stopped was a white Dodge Charger?

5 A. Correct.

6 Q. And you stopped that vehicle for speeding?

7 A. Correct.

8 Q. All right.

9 A. My initial reason was for speeding, yes.

10 Q. So you blue-lighted him for speeding?

11 A. Correct.

12 Q. And then he fled -- your allegation is that he fled
13 the scene?

14 A. He sped up instead of slowing down.

15 Q. And he failed to stop for a blue light?

16 A. Yes, sir.

17 Q. Failed to stop for a blue light, and this chase lasted
18 about how long?

19 A. I can't recall exactly the amount of minutes but we
20 went quite a few miles.

21 Q. Okay, and during that time you ran the tag?

22 A. I believe I ran the tag once. I believe I was on Canor
23 Road.

24 Q. Okay.

25 A. I was close enough to observe the tag.

T. DRUMMOND IN CAMERA

1 Q. And during that time you determined that it was not
2 -- the vehicle did not actually belong to Mr. Cannon?

3 A. It was a rental vehicle.

4 Q. It was a rental vehicle, and did you determine who it
5 was rented out to?

6 A. . .

7 Q. Did you determine who was the ultimate rentor?

8 A. No, sir.

9 Q. Okay, and you arrived at the vehicle once Mr. Cannon
10 allegedly left?

11 A. I was directly behind him, yes, sir.

12 Q. Directly behind him, so you were the first on scene?

13 A. Yes.

14 Q. And you were the cause of the stop?

15 A. Correct.

16 Q. And you stopped the vehicle by ramming your patrol
17 car into that vehicle?

18 A. After he almost collided with two other vehicles, one
19 almost head-on where they almost went off the road and into
20 a ditch, yes, sir.

21 Q. All right, and so you touched his vehicle in the back?
22 You touched his vehicle?

23 A. Yes.

24 Q. And did he stop as a result of the accident or did he
25 stop as a result of some kind of physical force against the

T. DRUMMOND IN CAMERA

1 vehicle?

2 A. He stopped after he went across a ditch into a bean
3 field.

4 Q. Okay, so he crashed the car?

5 A. Yes, sir.

6 Q. And there was significant damage to the car?

7 A. In the -- I guess in the under part of the body. I
8 guess.

9 Q. All right.

10 A. And the back.

11 Q. Okay, and did you witness the alleged drugs in the
12 vehicle?

13 A. After it was pointed out to me when I came back to the
14 vehicle. I was approached by Corporal Urqhart that there
15 was narcotics in the vehicle.

16 Q. All right, and so he left the car after the accident?

17 A. Correct.

18 Q. He ran and shut the door?

19 A. No, sir.

20 Q. All right, and you were the arresting officer in this
21 case?

22 A. Correct.

23 Q. All right.

24 MR. SMALDON: No further questions, Your Honor.

25 THE COURT: All right.

1 SOLICITOR: That's all I have in terms of Mr. Smaldon's
2 motion.

3 THE COURT: Thank you, Mr. Drummond. You may step
4 down.

5 (Witness excused from stand)

6 WITNESS: Thank you, Your Honor.

7 THE COURT: Anything before we take up your motion?

8 MR. SMALDON: No, sir, Your Honor.

9 THE COURT: All right, I'm going to deny the motion.

10 Any other pre-trial matters that we need to take
11 up at this time?

12 SOLICITOR: Your Honor, I have informed Mr. Cannon I
13 am putting up Officer Nida as an expert in terms of value
14 of the cocaine and crack in this community.

15 That motion is based on State versus Jamison, which I
16 have a copy of for the Court.

17 THE COURT: All right. Any problems with that from
18 the Defense?

19 MR. SMALDON: I have not seen the particular case. I
20 was not informed of this so-called expert witness until an
21 hour or two ago.

22 So, Your Honor, I would ask for about a minute and a
23 half to read the case. I would normally object to rele-
24 vance, which relevance would be addressed in this case.

25 (Brief pause)

1 MR. SMALDON: Your Honor, I would object to relevance
2 of this particular witness. It is not an element of the
3 crime. There is no element as to dollar value in anything
4 he is charged with.

5 SOLICITOR: I would tend to think, Judge, that as the
6 case will rest with the jurors who are not knowing what
7 thirty-six grams or whatever it is charged here -- how much
8 that they would have, you know, and he is charged with the
9 trafficking, Judge.

10 I know that trafficking is based on the weight based
11 on the law. However, they need to know, I think in my mind,
12 what we're dealing with here.

13 Thirty-six Hundred Dollars, a scale in the car and so
14 on and so forth. It is more than perhaps the use of drugs
15 by a person who has it in their possession.

16 MR. SMALDON: Again, I haven't heard anything about
17 the elements so I don't know, but I still continue my ob-
18 jection under relevance in this case.

19 Once they hear my defense we might re-visit it, but
20 at this point the dollar value is more prejudicial, and
21 there is no probative value at all. More prejudicial than
22 probative.

23 THE COURT: All right. Let me think about it over our
24 lunch and we'll go from there.

25 At this point we will break for lunch.

1 Any further pre-trial matters at this time from the
2 State?

3 SOLICITOR: I think that does it for me.

4 THE COURT: All right. Anything from the Defense?

5 MR. SMALDON: That's it for me as well, Judge.

6 THE COURT: All right, I'll see you back at two then.

7 (Whereupon the matter stood in recess for the lunch
8 period, after which it resumed)

9 THE COURT: Ladies and gentlemen, good afternoon, and
10 be seated.

11 I have had a chance to review the case that the Soli-
12 citor passed up, the Jamison case, and my instincts tell
13 me that it is going to be applicable to the case because
14 we have a rental car, and I suspect some of your questions
15 will pertain to maybe somebody else left the drugs in the
16 car, other than the Defendant.

17 If your guy testifies he may say that as well, and in
18 that case it is something we will take up as to whether or
19 not the case is dead on point.

20 That may not be your defense in any form or fashion
21 anyway. It is probably all in the documents anyway.

22 All right, go ahead and bring in our jury.

23 (Whereupon, the selected jurors were brought into the
24 Courtroom)

25 THE COURT: All right, Ms. Brent, that's you?

1 JUROR: Yes.

2 THE COURT: I'm going to have you switch chairs with
3 this man right here. I'm going to make you the Forelady
4 of the jury.

5 I'm going to ask the Clerk of Court to swear in the
6 jury if she would.

7 (Whereupon, the jury was sworn for the trial of the
8 within case by the Clerk of Court)

9 THE COURT: Ladies and gentlemen of the jury, we are
10 getting ready to start the trial, but before we do I just
11 want to go over a few things with you before we begin.

12 First thing I want to tell you is that the State of
13 South Carolina has the burden of proof. They have to prove
14 the Defendant guilty beyond a reasonable doubt.

15 Secondly, you may want to know what is your role and
16 then what is my role as a Judge.

17 You are the judge of the facts. I am the judge of the
18 law. In that regard, that means that the twelve of you
19 determine what the facts of this case are, and you do that
20 simply by looking at the evidence.

21 Evidence is made up of two things. It's made up of
22 the witnesses who come over here and sworn in. They take
23 that witness stand and they testify.

24 And it's made up of any exhibits admitted into the
25 record as evidence.

1 That is how you determine what the facts of the case
2 are, and in turn I am the judge of the law. I'm here to
3 give the parties a fair trial, and I'm here to read you the
4 law in great detail at the end of this case.

5 Now, I want you to understand that you have to accept
6 the law as I give it to you. Then only when I tell you to
7 begin your deliberations will you take your findings of
8 fact, the law as I give it to you, put the two together,
9 and make a decision therefrom.

10 Furthermore, at no point in this trial if we take a
11 break and you have to go back into the jury room or if you
12 go home tonight and we are not through with the case -- at
13 no point in time are you to discuss this case at all.

14 I don't want you to begin your deliberations prema-
15 turely. It is very, very important that you hear every-
16 thing the State has to say and if the Defendant elects to
17 say anything everything the Defendant has to say, and you
18 have to hear from me in regard to the law.

19 I will know when that point in time is for you to be-
20 gin your deliberations, and at that time I will tell you
21 to begin your deliberations.

22 In the meantime you can talk about the weather, sports,
23 or whatever you want to talk about yourselves but not this
24 case until I tell you to do, and that will be at the very,
25 very end of this case.

1 Furthermore, at any point in time that somebody is un-
2 comfortable or you don't feel good, or you need a break or
3 need to use the restroom or need a coke or whatever, if
4 you'll kind of waive your finger to me I will try to take
5 a natural breaking point to make sure you are taken care
6 of.

7 In the meantime, I want you just to sit back. I want
8 you to relax, and I'm going to call on the State for your
9 opening statement.

10 SOLICITOR: Thank you, Your Honor. Counsel. Good
11 afternoon, ladies and gentlemen of the jury.

12 Once again, my name is John Jepertinger, and I just
13 want to thank you because you have come here willing to
14 serve as a juror. I want you to know from the get-go that
15 I appreciate your being here, and I'm sure Mr. Smaldon joins
16 me in that.

17 (Portion inaudible on cassette)

18 The same thing happened to me when I was in junior
19 high school. Not that I'm a scholar but they introduced
20 me to the works of William Shakespeare, and I remember sit-
21 ting there in junior high school thinking, you have got to
22 be kidding me.

23 I didn't look at the teacher and say, you have got to
24 be kidding me, but, you know, as the years passed I began
25 reading more and more, and I got his complete works, and I

1 grew with it. Anyway, I know you're saying, well, what
2 does that have to do with this case?

3 I think in some ways it is pertinent to what we're
4 going to do here today. We will analyze what appears to be
5 a tragedy that happened, and there is a contravening issue
6 in what we first see.

7 There is a saying there that says conscience makes co-
8 wards of us all. Everybody knows what a conscience is.
9 It is that little warning that you have inside of you say-
10 ing that what you're doing is wrong. You go to do an act
11 and that little warning says uh uh.

12 You look down at your speedometer and you know what
13 the speed limit is and you say, oh, boy. I'm over the
14 speed limit.

15 And the time that you have a serious problem is when
16 you look at the second part of it and there is a fear we all
17 have in our lives, something that scares us and turns us
18 into cowards.

19 One thing I know about fear from my lifetime is that
20 everybody is fearful of something. Fear causes certain re-
21 actions.

22 For certain people and I know in my own life that some
23 things can make you just freeze up. I can be walking down
24 the street with my wife and I hear a sound like (Solicitor
25 making roaring noise), and I just stop and freeze. I don't

1 know if something is coming after me or what.

2 Sometimes fear can demonstrate itself like that and
3 causes people to run from a scene. It happens.

4 (Portion inaudible)

5 On September 12th of 2015 conscience did that to Myron
6 Cannon. Sometime after midnight Myron was speeding on the
7 Pamplico Highway in Florence County when Sergeant Drummond,
8 who was with the Sheriff's Department at the time, was in
9 a vehicle and saw him, turned around on him, hit the blue
10 lights, and tried to stop him.

11 What was Myron Cannon's reaction? Did he pull over?
12 Did he freeze? He ran. How did he run? He speeded up and
13 accelerated. There is a little road (inaudible) on Pamplico
14 Highway. He turned down there and he didn't stop at the
15 stop sign there on Millwood. He went around that and drove
16 on.

17 He didn't stop at the intersection of Purvis Street,
18 turned right and he headed back at a high rate of speed,
19 sometimes driving across the center of Purvis. He turned
20 left on Pamplico Highway, headed downtown. He goes flying
21 down Pamplico Highway with oncoming traffic trying to get
22 out of the way.

23 Then his vehicle fishtailed. You will hear all about
24 that chase, blue lights going. He drives all the way on
25 down the road to where the Baptist Church is there on the

1 left, and he turns right on Kayhill Road and flies down
2 that road. As he is driving down the road, other people
3 have to evade him and the vehicle Cannon is driving. So
4 the officer does the only thing he can do in that situation.
5 He hits the back of Mr. Cannon's vehicle as they are ap-
6 proaching the intersection of Pamplico Road and Fort Farm
7 Road.

8 What happened then? Mr. Cannon drives his rental ve-
9 hicle, a white Dodge truck, that he didn't stop for the blue
10 light -- he drives onto a field, gets out of his vehicle
11 and runs.

12 Officer Drummond runs past Mr. Cannon's vehicle to
13 make sure there is nobody else in that vehicle and starts a
14 foot pursuit. He yells at Mr. Cannon all the way, stop,
15 stop, you're under arrest. He didn't stop.

16 He finally gets ahold of him and they struggle. They
17 struggle until the officer can subdue him. He stops Mr.
18 Cannon and he has not only not stopped for the blue light
19 but he resisted arrest.

20 But it doesn't end there. Other officers appear on
21 the scene and they find the vehicles near a bean field out
22 in the country.

23 One of the officers walks up to the white Dodge Charger
24 and the door is open, and there right under the seat where
25 Myron Cannon had been sitting was a quantity of cocaine and

1 crack cocaine.

2 There in plain view, right on the floorboard near the
3 brake pedal under the seat where Myron Cannon had been --
4 a quantity of cocaine and crack cocaine.

5 He saw that and alerted other officers who retrieved
6 it and tested it, and this drug analysis was made. The
7 quantities you will hear, thirty-eight point nineteen grams
8 of crack cocaine and six point nine two grams of powder co-
9 caine.

10 The Judge will instruct you at the end of this trial
11 with the law that pertains to this case. Myron Cannon is
12 charged with trafficking in crack thirty-eight to one hun-
13 dred grams and possession of powder cocaine with intent to
14 distribute.

15 His Honor will explain to you the elements that per-
16 tain to those charges.

17 There is another inference that you will be able to
18 draw because in that vehicle not only did they find the nar-
19 cotics, but they found digital scales as well, three tele-
20 phones and a thumb drive.

21 You will be able to consider what the finding of those
22 things means in this case.

23 Now, ladies and gentlemen, in each and every criminal
24 case the State has to prove someone is guilty beyond a rea-
25 sonable doubt.

1 It should be that way. You will hear these terms used
2 all over the United States, that a person is innocent until
3 proven guilty. That is a good policy to have, but when
4 the State brings forth evidence that leaves you firmly con-
5 vinced that person is guilty then you also have the obliga-
6 tion to find the person guilty if you should so find.

7 In this case, ladies and gentlemen, there was no other
8 individual in that vehicle. In this case, ladies and gen-
9 tlemen, the drugs were in his possession.

10 In this case, ladies and gentlemen, he ran from the
11 police.

12 In this case, ladies and gentlemen, I ask that you
13 find the Defendant, Myron Cannon, guilty as charged in the
14 case.

15 I appreciate your attention and your service in this
16 case.

17 Thank you.

18
19
20
21
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25

1 THE COURT: Mr. Smaldon.

2 MR. SMALDON: On September 12, 2015, Myron was driving
3 a car and Myron was speeding in that car and Myron was
4 driving drunk in that car.

5 And Myron was driving drunk in that car that wasn't
6 his. Myron was driving down the road in Florence and blue
7 lights appeared in his rear view window. Eventually, and
8 we're not sure when, he sees the blue lights, and what did
9 he do?

10 What does drunken Myron do, what does drunken Myron,
11 driving somebody else's car do, what does drunken Myron do
12 driving somebody else's car with blue lights following him
13 do? Does he hit the brakes or hit the gas? What does he do?

14 I'm not saying this to embarrass him. He doesn't
15 want to get a DUI and so he tries to outrun a cop. Has
16 a lot of friends in college, a lot of friends out in the
17 country, friends that go to South Carolina State, so he
18 does that, but trying to outrun a cop is always a bad idea.
19 They always have a faster car than you do.

20 Myron eventually loses that car chase. He crashes the
21 vehicle, somebody else's car, and then Myron tries to run.
22 He tries to run from the officer that was trying to stop
23 him.

24 So he ran from the car and abandons the car, but what
25 do they find in that car? What do they find in the car?

1 Somebody else's drugs. They find somebody else's drugs in
2 somebody else's car. Just like they find somebody else's
3 seats, somebody else's steering wheel, they find somebody
4 else's drugs in somebody else's car.

5 Throughout the course of this trial, you'll hear evi-
6 dence, evidence that will come from this chair. You will
7 hear from this chair all about a high speed chase. You'll
8 hear all about him running from the car.

9 But what you won't hear, I submit, is anything link-
10 ing somebody else's drugs in somebody else's car to Myron,
11 because Myron isn't the real owner of the drugs. Myron had
12 no idea that the drugs were there.

13 He was driving drunk in somebody else's car but he
14 didn't know the drugs were there.

15 Now, the State has the burden, the tough burden, to
16 prove to you that Myron possessed those drugs. Not that
17 he was just around them, but that he had dominion and con-
18 trol over those drugs. They have to prove that to you be-
19 yond a reasonable doubt. Have to have proof which will
20 convince you beyond a reasonable doubt that he had dominion
21 and control of those drugs.

22 After the evidence has been presented, I'm going to
23 ask you to find Myron not guilty because there is nothing
24 linking him to the drugs other than him being in somebody
25 else's car.

T. DRUMMOND.ON DIRECT

1 was being done was properly done; answer calls.

2 Q. Okay. Did you have occasions where you were out at
3 night yourself on patrol, driving in Florence County?

4 A. Yes, sir.

5 Q. All right. Now, on September 12th of 2015, can you
6 tell the ladies and gentlemen of the jury where you were
7 at?

8 A. I was -- as a supervisor I would go anywhere in Flor-
9 ence County that I wanted to go. About twenty-three min-
10 utes after midnight I was on Pamplico Highway traveling
11 toward Pamplico, if you're familiar with Florence County,
12 coming out of Florence.

13 Q. Okay, let's do this. I have some area photos, and I
14 have shown this to the defense attorney already.

15 Is this a fair and accurate portrayal of -- on State's
16 Exhibit 3, of the Pamplico Highway area?

17 A. Yes, sir.

18 Q. All right, and would it help you tell your story to
19 the jury?

20 A. A little bit, if they are not familiar with Florence
21 out that way.

22 Q. Okay.

23 SOLICITOR: Your Honor, at this time I would move
24 State's Exhibit 3 in evidence.

25 THE COURT: Any objection?

T. DUMMOND ON DIRECT

1 MR. SMALDON: No objection.

2 THE COURT: All right. State's Exhibit 3 into evi-
3 dence without objection.

4 (Aerial photograph admitted without objection as State's
5 Exhibit 3)

6 BY SOLICITOR:

7 Q. Okay, Mr. Drummond, I'm going to have you come down,
8 if that's okay with the Judge, and I'd ask you to stand
9 right here.

10 All right. Can everyone see? All right.

11 Can you tell us in looking at it where you were and
12 where the Defendant's vehicle may have been?

13 A. I was traveling out of Florence, going toward Pamplico.
14 As I came into this -- where this road goes into -- from
15 two lane to four lane coming into Florence, he was coming
16 in what I call the four lane.

17 As he entered into the four lane right here at Dudley
18 Drive that's when I estimated his speed and activated my
19 radar to confirm my estimation at ninety miles an hour.

20 That's when I turned around and activated my blue
21 lights in an attempt to stop him.

22 Q. Okay, and where -- can you tell us which way he went?

23 A. Traveling in this direction.

24 Q. Okay.

25 A. And I had been traveling in this direction.

T. DRUMMOND ON DIRECT

1 Q. Okay, and when you turned around where did he go?

2 A. As I turned around, he traveled back through House
3 Range Crossing Road and Pamplico Highway area there at a
4 high rate of speed.

5 Q. Did he stop for the red light? Was the light red?

6 A. I can't recall.

7 Q. Okay, that's fine. Go ahead.

8 A. He continued down and around the curve, all the way
9 up to here, and that's where the Stone Market is.

10 Q. Or used to be?

11 A. Used to be. Right.

12 Q. Okay.

13 A. He took a right there and went down a block to the
14 stop sign, blew the stop sign, made a right, and on down
15 and blew a stop sign again, and came back out Pamplico
16 Highway.

17 Q. What did he do when he got back on Pamplico Highway?

18 A. He made a left going back toward Pamplico, and he pro-
19 ceeded at a high rate of speed, and then that's where he
20 came around, right in this curve here, and that's when he
21 went down through the median.

22 Then he finally gained control and pursuit continued
23 down the Pamplico Highway.

24 Q. Now, I know this was after midnight, but was there
25 traffic out there on the highway?

T. DRUMMOND ON DIRECT

1 A. I know we passed several cars.

2 Q. Okay, and did any of them have to get out of the way
3 other than . . .

4 A. One of them.

5 Q. Go ahead.

6 A. Once we got down to this -- it's not on here, but it
7 goes down and then it goes into a sharp curve to the left,
8 and he took the inside curve because he was traveling at
9 such a high rate of speed, and a car was coming and they
10 ran off the right side of the road down into the grass try-
11 ing to keep from getting hit, you know.

12 Q. Okay. How about you? What were you trying to do when
13 you saw all of this erratic driving?

14 A. Trying to get into the oncoming lane with the blue
15 lights going so he could see me and slow down, to try to
16 keep them from having a head-on collision. That was be-
17 cause he was driving so reckless.

18 Q. Then what happened?

19 A. Once no cars were coming I tried to pull up beside
20 him, and that was several times and he would slam on brakes,
21 slam on brakes, trying to get me to go on, and from what I
22 seen in my career he was trying to get me in the rear and
23 force my air bags to come out.

24 Q. So what happened then?

25 A. He went down and made a right turn onto Kayhill Road

T. DRUMMOND ON DIRECT

1 and . . .

2 Q. Now, Kayhill Road -- is that where the Baptist Church
3 is on the left?

4 A. On the left, yes, sir.

5 Q. Okay. Go ahead.

6 A. I went to the right also and there is a dirt road out
7 there to the left. He took Kayhill Road to that road.

8 Q. To the right?

9 A. TO the right.

10 Q. Okay, go ahead.

11 A. Okay, he continued down that road, again at high rates
12 of speed. Once he got to the end he had already -- he al-
13 ready almost hit a vehicle here, and almost caused another
14 head-on collision.

15 Then I felt like it was time to terminate the chase,
16 and so I went ahead and struck him when he came up to the
17 stop sign -- I struck him in the rear and he proceeded
18 across the road into the ditch.

19 Q. He went into a ditch?

20 A. Yes, sir, a little small ditch which he went across
21 that and into the bean field. That's where he jumped out
22 and ran.

23 Q. Okay. Now, let me ask you this. All of this to the
24 bean field, Kayhill Road and all of this highway, what
25 County is that in?

T. DRUMMOND ON DIRECT

1 A. It's in Florence County, sir.

2 Q. Florence County?

3 A. Yes.

4 Q. All right, and when he went off the road and in the
5 ditch and finally stopped, his car came to rest in the ditch.
6 Is that correct?

7 A. No, sir, it came to rest in a bean field.

8 Q. Okay, and once it came to rest in the bean field,
9 what happened?

10 A. The driver's door came open and that's when he had
11 jumped out and I was in the process of stopping my vehicle.
12 I got out and gave chase.

13 Once I got up to his vehicle, I took a quick peek in-
14 side the vehicle to make sure nobody was in there and so
15 I didn't get ambushed or shot in the back I ran by, and
16 nobody else was in the vehicle, and so I pursued after Mr.
17 Cannon.

18 Q. Did you ever lose sight of him?

19 A. No, sir.

20 Q. All right. When you took your peek into that vehicle,
21 were you looking for anything, any object, any drugs, any
22 cell phones or anything of that nature?
23 What was your purpose for peeking in the vehicle?

24 A. To make sure no other person was sitting in the ve-
25 hicle that could ambush me from behind as I went past the

T. DRUMMOND ON DIRECT

1 vehicle.

2 Q. Okay, so you continued on with the chase?

3 A. Absolutely.

4 Q. Then what happened?

5 A. I continued to give chase. He jumped into a ditch and
6 crossed to the other side and that's when I was within my
7 range to tase him, and I tased him.

8 Q. Prior to tasing him, did you yell, stop, you're under
9 arrest or anything?

10 A. All the way across the bean field.

11 Q. You were yelling?

12 A. Absolutely. Yes, sir.

13 Q. All right, and what finally happened?

14 A. When I tased him, he went down and stayed in the ditch.
15 Once you shoot them with the taser it cycles for five sec-
16 onds. Once it stops, it releases, and every time it would
17 release he would try to push up and try to get the prongs
18 out of him, to be able to run again.

19 Every time he would try to get up, I told him to stay
20 down, stay down, stay down, stay down, and every time he
21 would try to get up I would hit him again, until I had no
22 more to use there.

23 Q. Did you eventually ask him about whether he needed any
24 medical treatment, after having that . . .

25 A. We called EMS out there to see if he needed medical

T. DRUMMOND ON CROSS

1 A. He's the law and he was responsible for the vehicle
2 and anyone, any person, in the vehicle.

3 Q. Okay, so you make the law now?

4 A. No, sir.

5 Q. Okay, so you don't make the law?

6 A. No, sir. All I did was enforce it.

7 Q. But that's your position?

8 A. Okay.

9 Q. You were doing your job?

10 A. Correct.

11 Q. So as far as you're concerned, as soon as you saw any
12 drugs in that vehicle it was his. Right?

13 A. Correct.

14 Q. You didn't really do anything else to determine whose
15 it could have been. Right?

16 A. Correct.

17 Q. Because in your mind, because he ran from you, because
18 you saw drugs in the car, this rental car, he was already
19 guilty. Right?

20 A. . .

21 Q. Is that what you said?

22 A. No. I didn't say that.

23 Q. But that's what you thought at the scene? You said,
24 they're in his car so they must be his. Right?

25 A. Because they were in the driver's seat and he was

T. DRUMMOND ON CROSS

1 driving.

2 Q. Correct. After the fact. Correct?

3 A. Correct.

4 Q. Okay, so you didn't test or -- you didn't do any test
5 or fingerprints on the drugs?

6 A. No, sir.

7 Q. Okay. You didn't do any test for any kind of oil
8 or skin cells? That wasn't performed?

9 A. Not to my knowledge.

10 Q. All right, because they were in the car with him, in
11 your mind it was his?

12 A. Repeat your question.

13 Q. Because they were in the car. Right?

14 A. Well, I mean, he was the only one in the vehicle.

15 Q. Right. Not his vehicle though. Right?

16 A. Right.

17 Q. So you performed -- when you were with the Florence
18 County Sheriff's Office, you did traffic stops?

19 A. Uh hm.

20 Q. Okay. Did you arrest people for narcotics?

21 A. I have, yes.

22 Q. Thank you, sir. You have?

23 A. Uh hm.

24 Q. And have there been cases where other peoples' nar-
25 cotics were left in your patrol car?

T. DRUMMOND ON CROSS

1 A. If they were stuck in the seat. That's the reason we
2 check our back seats before -- you know, when we get them
3 down to F and L we pull our seat out and make sure no nar-
4 cotics have been stuck back there. We do it before our
5 duty and any time after we transport somebody and before
6 we transport somebody.

7 Q. Okay, and that happens occasionally. Right?

8 A. Them stuffing it in the seat?

9 Q. Correct.

10 A. Absolutely.

11 Q. All right, do you arrest yourself?

12 A. Not when they stuck it back there and I check when we
13 get down to F and L and pull it out and then I charge them.

14 Q. After they are gone from the vehicle. Right?

15 A. No, sir. When they get out of the car.

16 Q. Right.

17 A. We stand them outside of the car.

18 Q. Right.

19 A. And we check our back seat.

20 Q. Right.

21 A. And it's not like it's bolted down. It just flips
22 up.

23 Q. They're not in the vehicle at that point?

24 A. Standing outside the car.

25 Q. So they are not in the vehicle?

T. DRUMMOND ON CROSS

1 A. They're standing outside the car. They were in the
2 vehicle.

3 Q. So they are not in the vehicle when you search it?

4 A. No. I can't lift the back seat with them sitting on
5 it.

6 Q. Exactly. When other peoples' drugs are found in your
7 car, you don't arrest yourself, do you?

8 A. I don't understand the question that you're trying to
9 ask me.

10 Q. I'm suggesting you didn't arrest yourself for other
11 peoples' drugs being found in your car. Right?

12 A. When they were transported and put in my back seat,
13 the vehicle was checked.

14 Q. Okay.

15 A. When I get them down to Effingham which is our facility,
16 we step them out of the car and remove the back seat to
17 see if they had put any drugs in there. If they weren't
18 there when I checked it the first time and they were there
19 when I checked it the second time, and he's the only one
20 that's been in the back seat, that's who we charge.

21 Q. Right.

22 A. Absolutely.

23 Q. This is a police car. Correct?

24 A. Correct.

25 Q. And you don't expect normal people to do that to their

T. DRUMMOND ON CROSS

1 car every day, do you?

2 A. No, sir.

3 Q. That's why you -- well, you normally wouldn't do that
4 if you had a rental car. Right?

5 A. If I got a rental car?

6 Q. Correct.

7 A. Sometimes I have. Sometimes I haven't. It just
8 depends.

9 Q. Because you don't know what happens with a rental car?

10 A. Not with other drivers. Right.

11 Q. Right, and you don't know who has been in that car
12 before you?

13 A. No, sir.

14 Q. So do you worry other peoples' drugs might be in the
15 rental car?

16 A. I have taken a lot of drugs out of rental cars.

17 Q. Okay. It makes sense, because drugs can sometimes be
18 in a rental car?

19 A. Uh hm.

20 Q. All right.

21 MR. SMALDON: Beg the Court's indulgence.

22 THE COURT: yes, sir.

23 (Brief pause)

24 MR. SMALDON: No further questions.

25 THE COURT: All right. Redirect.

T. DRUMMOND ON REDIRECT

1 REDIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Enterprise didn't complain about leaving thirty-eight
4 grams of crack in the car; did they?

5 A. No.

6 Q. You never got any information as far as the rental
7 car; did you?

8 A. No, sir. Usually whenever they -- whenever you turn
9 a car back in they clean it. So most of the time it's
10 cleaned when they get it.

11 MR. SMALDON: I object to that. No personal knowledge.

12 Q. Sir, have you ever rented a car from Enterprise?

13 A. Yes.

14 Q. In any car you've ever rented from Enterprise, did you
15 ever find thirty-eight grams of crack cocaine in it?

16 A. No.

17 Q. Thank you.

18 THE COURT: Any recross?

19 MR. SMALDON: No Recross.

20 THE COURT: All right, you may step down. Thank you.

21 (Witness excused from stand) (Excused without objection)

22 THE COURT: Call your next witness.

23 SOLICITOR: Deputy Urqhart.

24 THE COURT: Have a seat.

25 BROOKS URQHART, being

B. URQHART ON DIRECT

1 duly sworn, testified as follows:

2 CLERK: Please state your name for the record.

3 WITNESS: Brooks Alexander Urqhart.

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Corporal Urqhart, where do you work?

7 A. Florence County Sheriff's Office.

8 Q. How long have you worked there?

9 A. Probably close to two years now. I've done two stints
10 with the Sheriff's Office. I've got about nine years of
11 law enforcement experience.

12 Q. Okay. Were you working for the Sheriff's Department
13 back on September 12th, 2015?

14 A. I was.

15 Q. Okay, after midnight did you have an occasion to be
16 summoned out to some place?

17 A. Yes, I responded to the incident in progress as an
18 assisting officer.

19 Q. All right, and where was the incident in progress, if
20 you recall?

21 A. I believe it was near the intersection of Kayhill Road
22 and Port Farm Road.

23 Q. Okay, and when you got out to the scene, what happened?
24 What did you do there?

25 A. As best I can recall I was the first person to the

B. URQHART ON DIRECT

1 abandoned vehicle. The door was left open.

2 Q. Which door was left open?

3 A. The driver's door.

4 Q. How about the -- were any of the other passenger doors
5 open?

6 A. No, sir.

7 Q. Are you sure about that?

8 A. Yes.

9 Q. All right. Okay, when you got out there, what kind
10 of vehicle was it?

11 A. I believe it was a Dodge Charger.

12 Q. Do you recall the color?

13 A. White.

14 Q. All right, and what did you observe?

15 A. Like I said, the driver's door was open. I walked up
16 to the car -- just walked over to the car just to make sure
17 there were no other people in the car, and from outside the
18 vehicle in plain view you could see two bags of drugs, one
19 being on the driver's seat and one being in the floorboard
20 of the driver's seat.

21 Q. Okay. What did you do with those drugs once you ob-
22 served them?

23 A. I did nothing with them, other than staying at that
24 vehicle and waiting for other officers to arrive.

25 Q. All right, and did you assist in the arrest of Mr.

B, URQHART ON DIRECT

1 Cannon?

2 A. No, I stayed with the vehicle until they could be
3 turned over.

4 Q. Was that your only involvement in this case?

5 A. After they were turned over, I think a group of us re-
6 walked the field to make sure if we could find anything
7 else that may have been disposed of in the field -- to make
8 sure there was no gun or something like that that could
9 harm the public.

10 Q. Did you find anything else?

11 A. Not that I recall.

12 Q. Did you see anything in the vehicle other than those
13 bags? The bags of drugs?

14 A. I seem to recall a set of digital scales maybe but
15 after I saw the two bags of drugs that was my main focus,
16 to stay on the scene until other people arrived.

17 Q. Who arrived to retrieve those drugs?

18 A. Corporal Bazen did the recovery on the drugs.

19 Q. All right, and whatever objects were in the vehicle?

20 A. Correct.

21 Q. All right, thank you. Those are all the questions I
22 have. Please answer any questions Mr. Smaldon may have
23 for you.

24 A. Yes, sir.

25 THE COURT: Cross examine.

B. URQHART ON CROSS

1 CROSS EXAMINATION

2 BY MR. SMALDON:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. I only have a few questions for you. To be clear,
6 you just saw drugs in that car. Right?

7 A. Correct.

8 Q. So you never saw Mr. Cannon in possession of those
9 drugs?

10 A. No, that's correct.

11 Q. Mr. Cannon was gone?

12 A. He had already fled the scene by that point.

13 Q. And when he fled the scene and you re-traced the
14 scene, you didn't find anything
15 that he had left?

16 A. That's correct.

17 Q. So all you know is that there were allegedly or were
18 some drugs in a car. Right?

19 A. Correct.

20 Q. And then later you learned who was driving?

21 A. That's correct.

22 Q. And that was after the car accident?

23 A. Correct. Some sort of collision.

24 Q. Maybe accident is the right word. After the collis-
25 ion, being an intentional collision. Correct?

B. URQHART ON CROSS

1 A. . .

2 Q. The car was pretty banged up?

3 A. From what I recall.

4 Q. Okay, and there is no video taken of -- you arrived
5 in a patrol car?

6 A. I did.

7 Q. Was it equipped with video?

8 A. It is.

9 Q. And there was no video from your car?

10 A. No. I was responding only as an assisting. I wasn't
11 actually involved in the chase.

12 Q. All right. You just secured the car?

13 A. That's correct.

14 Q. All right, and you did not -- I just want to be as
15 clear as I can so I'm asking the right person the right
16 questions.

17 You did not turn the drugs into evidence, did you?

18 A. No.

19 Q. So you are just a witness?

20 A. Correct.

21 Q. Okay. We're done then..

22 Thank you.

23 THE COURT: Redirect?

24 SOLICITOR: No, sir.

25 THE COURT: All right, you may step down.

1 WITNESS: Thank you.

2 (Witness excused without objection)

3 THE COURT: Call your next witness.

4 SOLICITOR: We'd call Corporal Jason Bazen.

5 JASON BAZEN, being duly
6 sworn, testified as follows:

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

9 WITNESS: Jason Scott Bazen.

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 Q. Okay, Corporal Bazen, for whom do you work?

13 A. Florence County Sheriff's Office.

14 Q. How long have you worked for the Florence County
15 Sheriff's Office?

16 A. Nine years and four months.

17 Q. And what are your responsibilities with the Sheriff's
18 Office?

19 A. I work on the PACE Team and Special Operations.

20 Q. What does Special Operations mean?

21 A. It's an interstate team, inter-county community team,
22 and I'm also one of the dog handlers.

23 Q. Okay. Have you been involved with any drug inter-
24 dictions at all?

25 A. Yes, sir.

J. BAZEN ON DIRECT

1 Q. That you all do?

2 A. Yes, sir.

3 Q. Were you doing the same type of work back in September
4 of 2015?

5 A. Yes, sir.

6 Q. All right, and did you have occasion to be called out
7 to the general vicinity of Kayhill and Port Farm Road?

8 A. I did. I responded in reference to a pursuit that
9 Sergeant Drummond was in as an assisting officer.

10 Q. All right, and can you tell us what happened when you
11 got to the scene?

12 A. Upon arriving at the intersection, I saw Corporal
13 Urqhart was standing beside a white Charger in a bean field,
14 and Sergeant Drummond was asking over the radio for some
15 assistance because he had come upon the suspect who was
16 driving the vehicle just on the other side of the bean
17 field.

18 Q. All right, and what did you do then?

19 A. Went over to where Sergeant Drummond was and assisted
20 him with apprehending the Defendant, and then we brought
21 him back across the bean field to the vehicles where
22 Corporal Urqhart was waiting by the vehicles, and he then
23 pointed out the drugs in the vehicle in plain view.

24 Q. Okay. What did you do then in regards to those nar-
25 cotics in plain view?

J. BAZEN ON DIRECT

1 A. I secured them and placed them in evidence bags.

2 Q. All right, let me stop you there.

3 I'm going to show you State's Exhibit 1 for identifi-
4 cation, and I am showing them to the Defendant as well.

5 A. . .

6 (Brief pause)

7 BY SOLICITOR:

8 Q. All right, can you tell us everything -- excuse me one
9 second.

10 (Brief pause)

11 Q. All right, if you would look at State's Exhibit 1 and
12 tell me if you can identify the two pieces of paper and a
13 plastic bag?

14 A. Yes.

15 Q. You can identify those objects?

16 A. I can.

17 Q. Okay, can you tell us . . .

18 A. That's the rocks and that is from today, the chain of
19 custody from today.

20 Q. All right. I'm going to keep this out because this
21 would be referred to as an extended chain of custody in Case
22 Number 2015-09-0300, description bestpack, with a number
23 there, and going to evidence and evidence to Court. I'll
24 just remove that.

25 A. . .

J. BAZEN ON DIRECT

1 SOLICITOR: Your Honor, I would move to admit that.

2 MR. SMALDON: He hasn't said what it is.

3 BY SOLICITOR:

4 Q. All right.

5 A. This is a property sheet evidence log form that I
6 filled out that night and logged this into evidence.

7 Q. Okay, and can you tell us what you see in there and
8 how you know this is the stuff you logged in on that parti-
9 cular night?

10 A. It is my handwriting on the seal.

11 Q. All right, and . .

12 A. I sealed the best pack. This clear plastic bag con-
13 taining what one powder substance that at the time I believed
14 to be cocaine, which was a very fine powder.

15 And a large quantity of off-white rock-like substances
16 just like it was under the driver's seat.

17 Q. And when you find these objects are they loose or in
18 the plastic bags or whatever it is in?

19 A. There was a clear plastic bag laying on the driver's
20 seat that contained the crack cocaine.

21 Q. The rock?

22 A. The rock-like substance.

23 Q. Okay.

24 A. Yes, sir. The powder -- white powder substance which
25 was fine powder was in a clear plastic bag on the floorboard

J. BAZEN ON DIRECT

1 of the vehicle and another one on the floorboard.

2 Q. All right. Now, when you grabbed that stuff and I'd
3 guess it was in plastic bags, what do you do with the plas-
4 tic that you grab the things in? Do you . .

5 A. That's logged in evidence also.

6 Q. Okay, and I'll get you to talk about the best pack.
7 What is that?

8 A. It is how we monitor the evidence, and we can verify
9 it is sealed. When I seal it, it can only be opened by a
10 chemist. Basically what it is, it's a clear bag that we
11 put the drugs in. Then it is sealed and has a tamper seal
12 on it.

13 Then it is placed in an envelope which is then placed
14 into a large mailbox, the old style post office metal mail-
15 box.

16 Q. All right.

17 A. It is locked and the only person who has a key to it
18 is the evidence technician.

19 Q. All right, and the evidence technician in this case
20 would be Officer Christmas?

21 A. Yes.

22 Q. All right, and were there other items seized by you on
23 that evening?

24 A. There was.

25 Q. I want you to look at State's Exhibit 2, and if you

J. BAZEN ON DIRECT

1 would tell us if there are several items that you seized
2 from the car?

3 A. Yes, and for the record I am sticking in that piece of
4 paper from State's Exhibit 1.

5 Q. Can you identify these objects, sir?

6 A. I can. It's a black and silver scale, a AT and T flip
7 phone, a Verizon LG cell phone, two thumbdrives, and a
8 Samsung cell phone.

9 Q. Okay, and where did you find these items?

10 A. Inside the vehicle. Exactly where they were inside
11 the vehicle I cannot recollect. I think this phone was
12 laying on the driver's seat also but I'm not absolutely
13 certain of that.

14 Q. That's fine. That's fine. But they were found inside
15 the vehicle?

16 A. Yes, sir.

17 Q. All right. Now, I want to ask you, did you order any
18 testing, whether DNA, fingerprint analysis, on the one, two,
19 three, four, five, six non-fungible items?

20 A. I did not.

21 Q. All right. Now, based on your experience with work-
22 ing drug interdiction, Pro Active Community Enforcement
23 Team, what are digital scales used for in the drug business?

24 A. To weigh drugs.

25 Q. All right. Did you find -- just for the jury's

J. BAZEN ON DIRECT

1 edification, how do people ingest or take crack cocaine?
2 What is the method for getting crack in your body to get
3 you high?

4 A. Smoke it.

5 Q. Did you find any crack pipe?

6 A. No, I did not.

7 Q. Was there any crack pipe found back of the vehicle?

8 A. No.

9 Q. Any crack pipe found in the cab of the vehicle?

10 A. No, sir.

11 Q. Did you find any gloves in the car?

12 A. No, sir.

13 Q. All right. You said you were involved in the arrest
14 of this Defendant. Did you see anything that looked like
15 a crack pipe inside of his pockets?

16 A. No, sir.

17 Q. All right.

18 SOLICITOR: At this time, Your Honor, being that these
19 are non-fungible items, I would move State's Exhibit 2 in
20 evidence.

21 THE COURT: Any objections?

22 MR. SMALDON: If I could clarify one thing.

23 (Colloquy between counsel and the Court)

24 MR. SMALDON: No objection.

25 THE COURT: State's Exhibit 2 is in evidence without

J. BAZEN ON DIRECT

1 objection.

2 (Scales, two thumbdrives, flip phone, Verizon phone,
3 Samsung cell phone all admitted in evidence without objec-
4 tion as State's Exhibit 2).

5 BY SOLICITOR:

6 Q. Other than that, did you do anything else in this case,
7 sir, other than seizing items and writing a report?

8 A. Other than the supplemental report and obtaining the
9 arrest warrants for the possession with intent to distri-
10 bute cocaine and trafficking crack cocaine.

11 Q. That was it?

12 A. That was it.

13 Q. All right. Please answer any questions Defense would
14 have for you.

15 CROSS EXAMINATION

16 BY MR. SMALDON:

17 Q. To be clear, you got those items from the vehicle?

18 A. I did.

19 Q. You're the one who took them out of the vehicle?

20 A. Yes, sir.

21 Q. All right, and when you were arresting or in the pro-
22 cess of arresting Mr. Cannon, did you help to apprehend
23 him?

24 A. I was there when he was apprehended, yes.

25 Q. Okay, and during that process you testified earlier that

J. BAZEN ON CROSS

1 no crack pipe was found on him?

2 A. Not that I saw.

3 Q. Right, and no crack was found on him?

4 A. No, sir.

5 Q. No cocaine was found on him?

6 A. No, sir.

7 Q. No scales were found on him?

8 A. No, sir. It's quite common when someone runs that
9 they separate themselves from the drugs as they leave the
10 vehicle.

11 Q. That's your opinion. Right?

12 A. . .

13 Q. You saw him run?

14 A. I did not.

15 Q. So you didn't see him run but you're telling me how he
16 ran?

17 A. I just said it was quite common when people run they
18 leave their -- they separate themselves from the drugs.

19 Q. It's also common to pitch it out of the vehicle.
20 Right? So you don't get caught?

21 A. Could be.

22 Q. Okay, so nothing was found on Mr. Cannon and you never
23 saw Mr. Cannon in possession of any drugs. Right?

24 A. No, sir.

25 Q. All right, so you have to make your case. You're a

J. BAZEN ON CROSS

1 detective or you're with the law enforcement? You have to
2 make your case?

3 A. . .

4 Q. Right? Your job is to help to prove Mr. Cannon guilty
5 beyond a reasonable doubt?

6 That's what you do when you work for the State and
7 that is okay.

8 A. I work in law enforcement.

9 Q. You work for the government?

10 A. Local government, that's correct.

11 Q. When you got the cocaine there were no tests done for
12 fingerprints?

13 A. No, sir.

14 Q. When you got the cocaine there was no test for touch
15 DNA?

16 A. No, sir.

17 Q. When you got the crack, there was no test for finger-
18 prints?

19 A. No, sir.

20 Q. When you got the cocaine -- I'm sorry. When you got
21 the crack there was no test done for touch DNA?

22 A. No, sir.

23 Q. You could have asked for those tests?

24 A. I could have.

25 Q. Okay, and you didn't?

J. BAZEN ON CROSS

1 A. No, sir.

2 Q. All right, because you know . . .

3 A. Well, actually, sir, cocaine and crack cocaine you can
4 hardly get fingerprints off of them.

5 Q. I'm sorry, the bags.

6 A. Okay, no, sir.

7 Q. Right. You never ordered tests on the bag, either bag?

8 A. No, it is not common practice.

9 Q. All right, and you didn't do it?

10 A. No, sir.

11 Q. Okay, all right, and you were in a patrol car that
12 night?

13 A. I was.

14 Q. All right, and your patrol car is equipped with video?

15 A. Mine is. Yes, sir.

16 Q. Okay, and no video was taken that night?

17 A. I was not part of the pursuit.

18 Q. Right, but you got there?

19 A. Yes, sir.

20 Q. And no video was taken?

21 A. No, sir.

22 Q. Okay.

23 MR. SMALDON: Beg the Court's indulgence.

24 (Brief pause)

25 MS. SMALDON: That's all I have for this witness.

J. BAZEN ON REDIRECT

1 THE COURT: Redirect?

2 SOLICITOR: Yes, sir.

3 REDIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Did I ask you in any way, shape or form to help to
6 get a conviction against this guy?

7 A. No, sir.

8 Q. All right. Thank you so much.

9 THE COURT: All right, you can step down.

10 (Witness excused from stand)

11 THE COURT: You may call your next witness.

12 SOLICITOR: We would call Jeff Christmas.

13 T. J. CHRISTMAS, being duly

14 sworn, testified as follows:

15 CLERK: Please be seated and state your name for the
16 record.

17 WITNESS: Terry Christmas.

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. Deputy Christmas, what are your responsibilities with
21 the Sheriff's Department?

22 A. Evidence tech.

23 Q. How long have you been doing that?

24 A. About a year and a half.

25 Q. Okay, and were you so employed back on September 12th

T. CHRISTMAS ON DIRECT

1 of 2015?

2 A. Yes, sir.

3 Q. Can you tell the ladies and gentlemen what an evidence
4 tech does?

5 A. An evidence tech is in charge of being the custodian
6 of all evidence that is logged in from cases. When the
7 road deputies log in evidence I take it out of the locker
8 and put it into our system and it is put under lock and
9 key. All our evidence is in lock and key and in a secure
10 area.

11 Then another duty once it's logged into our system is
12 to search out where it needs to go. If it needs to go to
13 SLED or needs to go to our drug lab -- I'm the one who does
14 all of that.

15 Q. All right. I'm going to show you what's marked as
16 State's Exhibit 1 for identification. Can you identify
17 these objects?

18 A. The best kit from Case Number 2015 09 300.

19 Q. Okay, and who do you receive this from? The deputy,
20 I guess.

21 The deputy who puts it in the locker and that would
22 have been Deputy Bazen?

23 A. Corporal Bazen.

24 Q. Is that the gentlemen who just walked out of the
25 Courtroom?

T. CHRISTMAS ON DIRECT

1 A. Yes, sir.

2 Q. All right, and what did you do with the drugs in this
3 case?

4 A. This particular best kit would have been logged in,
5 the best pack. I log it in first and then I send it to
6 the lab for testing.

7 Q. And in this case who did the testing?

8 A. Lieutenant Hansen with the Florence County Sheriff's
9 Office.

10 Q. All right. Did anybody other than you yourself and
11 Detective Hansen, once it was logged into your secure
12 locker, have access to those drugs?

13 A. No, sir.

14 Q. Did you open that package in any way, shape or form
15 prior to Detective Hansen testing the
16 substance?

17 A. No, sir. It remained sealed.

18 Q. All right. Thank you so much. Please answer any
19 questions the Defense may have for you.

20 A. Yes, sir.

21 MR. SMALDON: No questions.

22 THE COURT: You may step down. Any objection to ex-
23 cusing him?

24 (Negative responses from counsel)

25 (Witness excused)

M. HANSEN ON DIRECT

1 SOLICITOR: We would call Detective Hansenm to the
2 stand.

3 MITCH HANSEN, being duly
4 sworn, testified as follows:

5 CLERK: Please be seated and state your name for the
6 record.

7 WITNESS: Mitchell Hansen.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Okay. Detective Hansen, what are your responsibilities
11 over at the Sheriff's Department?

12 A. I'm the forensic drug chemist for the Sheriff's Office.
13 My responsibilities are -- we take in the drugs, we test
14 them, weigh them, package them back up, and turn them back
15 into evidence.

16 Q. All right, and what special training do you have in
17 the field of forensics drug analysis?

18 A. I have an Associates in science, Associates in arts, a
19 Bachelors in chemistry. I have been trained at SLED for
20 forensic drug analysis and basic law enforcement.

21 Q. How many analyses, plural, do you figure you have
22 done in your tenure with the Florence County Sheriff's Of-
23 fice?

24 A. With the Sheriff's Office in analyses I have done prob-
25 ably six or seven thousand in total in my last ten years.

M. HANSEN ON DIRECT

- 1 In private close to seventeen or eighteen thousand.
- 2 Q. Is that in the totality of your career?
- 3 A. Yes.
- 4 Q. Did you work someplace else prior to working with the
- 5 Florence County Sheriff's Office?
- 6 A. Yes, for the Sumter County Sheriff's Office.
- 7 Q. Were you also a forensic drug analyst there?
- 8 A. Yes.
- 9 Q. And have you ever testified in Court before?
- 10 A. Yes.
- 11 Q. And were you qualified as an expert in the field of
- 12 forensic drug analysis?
- 13 A. Yes, I was.
- 14 Q. All right. Approximately how many times have you
- 15 testified before a Court?
- 16 A. Approximately about forty-three times.
- 17 SOLICITOR: At this time, Your Honor, I would move to
- 18 have Lieutenant Hansen qualified as an expert in the field
- 19 of forensic drug analysis.
- 20 THE COURT: Any objection?
- 21 MR. SMALDON: No objection.
- 22 THE COURT: All right, the motion is granted.
- 23 BY SOLICITOR:
- 24 Q. Okay. Now, prior to us looking at what is State's
- 25 Exhibit Number 1, I'm going to ask you just simply -- can

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1 you tell the ladies and gentlemen of the jury as easily and
2 softly as you can the difference between cocaine and crack
3 cocaine?

4 A. The difference between cocaine and crack cocaine --
5 cocaine is in an especially soft form. Crack cocaine is in
6 a base form. The difference in the two is that the base
7 form has higher properties as far as being able to be lit
8 on fire and smoked. The difference between the soft form
9 and the base form is more with the properties of the chemi-
10 cal compound itself.

11 That's pretty much it.

12 Q. Well, let me ask you this. Do you make crack from co-
13 caine?

14 A. Yes.

15 Q. All right, so if you found powder cocaine, there is a
16 possibility that it could become crack cocaine. Correct?

17 A. Yes, it could be converted into base form.

18 Q. And how would it be converted into base form?

19 A. By using -- the most common thing is to use baking
20 soda mixed with water and with heat, and that will force a
21 conversion from soft form to a base form.

22 Q. All right. In terms of your analysis, how do you de-
23 termine that it is a narcotic drug as opposed to foot pow-
24 der or something of that nature?

25 A. We do two different tests, a chemical test and an --

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1 instrumental test. The instrumental test involves our mass
2 spec. A chemical test is a spot test which determines the
3 substance, and then we go forward to the instrument test.

4 Q. Now, I want to show you State's Exhibit 1. Tell the
5 ladies and gentlemen of the jury -- just a minute -- what
6 this stuff is and the test you did, and then we'll talk
7 about the results here in a minute.

8 A. This is what has been repackaged after testing. The
9 outside bag here is the best kit bag. It's a tamper-evident
10 bag, and you cannot tamper with it without it being noticed.
11 You can't stretch it or open it. If you try to open this
12 bag, you will see that someone has tried to tamper with it.

13 The other items inside here are the items that were
14 in this and actually were tested.

15 Q. All right, and you subjected them to the chemical
16 test that you . . .

17 A. Yes, they were chemically tested and instrument-
18 ally tested.

19 Q. Now, as to the powdery stuff that we see in the best
20 package, what was your analysis in regards to that?

21 A. The powdery substance was positive for cocaine or co-
22 caine solvent.

23 Q. Okay, and did you weigh the stuff before you tested
24 it?

25 A. Yes, I did.

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1 Q. Okay, and what was the weight of the substance that
2 you tested, the powder?

3 A. The powder substance weighed six point nine two grams.

4 Q. Okay, six point -- let me just write this down. You
5 said six point nine two grams. All right.

6 And that was for the powder. Correct?

7 A. Correct.

8 Q. How about the other substance that you subjected to a
9 chemical analysis?

10 A. The other substance was a rock substance, and it
11 also tested positive for cocaine base.

12 Q. Now, a cocaine base, what is another common name for that?

13 A. Crack.

14 Q. Crack, and what did that crack weigh?

15 A. Thirty-eight point one nine grams.

16 Q. All right, and did you prepare reports in this regard,
17 sir?

18 A. Yes, I did.

19 Q. I'll get this marked as well.

20 (Brief pause)

21 Showing you State's Exhibit 4 which I've shown to the
22 defense attorney, is that the report that you prepared in
23 this matter?

24 A. Yes, it is.

25 Q. Let's look at all the pages, sir. It's a four page

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1 document, is it not?

2 A. Yes, it is.

3 Q. All right.

4 SOLICITOR: At this time I would move to have State's
5 Exhibit 1 and State's Exhibit 4 introduced into evidence.

6 THE COURT: Any objection?

7 SOLICITOR: As to, I believe, 1, subject to my earlier
8 motion in the case.

9 THE COURT: So that State's 1 and 4 are admitted in
10 evidence, Number 1 over objection.

11 (Cocaine and crack cocaine admitted over an objection
12 as State's Exhibit 1 in evidence. State's Exhibit 4, SLED
13 reports, admitted without objection.)

14 BY SOLICITOR:

15 Q. Please answer any questions the Defense may have for
16 you.

17 A. Yes, sir.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION

20 BY MR. SMALDON:

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. So it has been established that there were thirty-eight
24 grams of crack. Correct?

25 A. Thirty-eight point one nine grams.

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1 Q. Right, and almost seven grams of cocaine powder?

2 A. Six point nine two grams.

3 Q. Right, and those are the only tests you did?

4 A. I did the chemical test and the mass spec, gas chromat-
5 igraph mass spectrometer.

6 Q. Right, and the only tests you did were just to con-
7 firm that what they think it is is what it is. Right?

8 A. Right.

9 Q. You didn't do any test that would link that back to
10 Myron. Right?

11 A. I'm not sure what you're asking.

12 Q. The tests you did were to determine what the substances
13 were?

14 A. Correct.

15 Q. Not where they came from. Right? Not who they came
16 from?

17 A. Right.

18 Q. I just wanted to be clear. That's not your job, is
19 it?

20 A. No, it's not.

21 Q. You didn't do any other tests?

22 A. No.

23 Q. Okay, that's all I have. Thank you, sir.

24 THE COURT: Redirect?

25 SOLICITOR: No, sir. We'd ask that Mr. Hansen be

1 excused.

2 THE COURT: Any objection.

3 THE COURT: You are excused, sir. Thank you.

4 (Witness excused without objection)

5 SOLICITOR: We would call Sergeant Joe Nida.

6 THE COURT: Counsel approach, please.

7 (Conference at the bench between counsel and the
8 Court off the record)

9 THE COURT: Members of the jury, let's take about a
10 ten or fifteen minute break, and then we'll come back and
11 finish up with the State's last witness.

12 Do not discuss the case.

13 (Jury excused from Courtroom)

14 THE COURT: We'll take a break.

15 (Whereupon, the Court took a brief recess, after
16 which the case was continued)

17 THE COURT: Everybody have a seat. Go ahead and bring
18 out the jury.

19 (Jury returned to the Courtroom)

20 THE COURT: Call your next witness.

21 SOLICITOR: Your Honor, the State would call Sergeant
22 Joe Nida.

23 WILLIAM JOE NIDA, being
24 duly sworn, testified as follows:

25 CLERK: Please be seated and state your name for the

J. NIDA ON DIRECT

1 record.

2 WITNESS: William Joseph Nida.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Okay, sir. For whom do you work?

6 A. Florence Police Department.

7 Q. First of all, let me ask you, do you have any connec-
8 tion with this case whatsoever?

9 A. No, sir, I do not.

10 Q. You weren't involved in the arrest or anything like
11 it?

12 A. No, sir.

13 Q. All right. Let me ask you, what do you do for the City
14 Police Department?

15 A. For the past twelve years I've been in the Special In-
16 vestigations Unit or what is more commonly referred to as
17 the Narcotics Unit.

18 Q. Okay. What are your responsibilities in that Narcotics
19 Unit?

20 A. We handle all the drug cases, conduct controlled pur-
21 chases. Anything that pertains to drugs including prescrip-
22 tion fraud stuff, and prostitution stuff, gangs and any-
23 thing that is -- organized crime or what's called vice.

24 Q. Let me ask you this. In terms of narcotics prosecu-
25 tions, how many -- I know you'd be just guessing but how

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1 many have you made?

2 A. We average drug cases -- it ends up being close to I'd
3 say forty a month. So in a year four . .

4 Q. Four hundred eighty?

5 A. Four hundred eighty a year, give or take.

6 Q. Times twelve years. Correct?

7 A. My part, yes, sir, in our unit.

8 Q. Now, you said you have been involved in controlled
9 purchases in terms of drugs. Can you tell the ladies and
10 gentlemen of the jury what that is all about?

11 A. Utiliizing what we call a confidential informant or a
12 C I, we would with the individual consenting have him make
13 a buy from Mr. or Mrs. Smith.

14 We would give him monitoring equipment, give him money,
15 and they would go to these individuals and purchase what-
16 ever amount someone normally would buy from them.

17 Q. Okay, and as a result of making controlled purchases
18 and working during your twelve years in narcotics, have you
19 become familiar with the value of street narcotics here in
20 Florence County?

21 A. Yes, sir.

22 Q. All right.

23 SOLICITOR: At this time, Your Honor, I would like to
24 have Sergeant Joe Nida qualified as an expert in the field
25 of retail value of cocaine and crack cocaine in the general

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1 area.

2 THE COURT: Any objections?

3 MR. SMALDON: I do object to relevance, and also on
4 Rule 403.

5 THE COURT: All right, I'm going to overrule it and
6 find the information needed is beyond that of an ordinary
7 jury.

8 He does have the requisite knowledge and skill. His
9 testimony is reliable.

10 I grant your motion.

11 BY SOLICITOR:

12 Q. All right. Now, I'm going to ask you what does one
13 gram of crack cocaine equal here in terms of value, the
14 street value?

15 A. One gram of crack is going to be a Hundred Dollars
16 per gram.

17 Q. So it's One Hundred Dollars per gram?

18 A. Yes, sir.

19 Q. So if I am a confidential informant and I tell a dealer
20 that I want one gram of crack cocaine, I would have to hand
21 over One Hundred Bucks?

22 A. One Hundred Dollars, yes.

23 Q. All right. How about for the powder? Is there any
24 distinction in terms of powder?

25 A. It's still the same. Typically when you purchase a

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1 Twenty Dollar rock, it's zero point two grams that would
2 be Twenty Dollars, whether it is in crack or powder form.

3 Q. So that would be -- one gram would equal -- for pow-
4 der one gram would also equal One Hundred Dollars?

5 A. That is correct.

6 Q. Okay.

7 A. One gram is a Hundred Dollars for both the powder and
8 the crack.

9 Q. So I guess if you add up the figures of thirty-eight
10 point nineteen and six point nine two -- it would be forty-
11 five point eleven?

12 A. Forty-five point eleven.

13 Q. So forty-five point eleven -- we'd have to multiply
14 that by One Hundred. Correct?

15 A. One Hundred, yes, sir.

16 Q. And the figure we'd wind up with would be . .

17 A. Four Thousand Five Hundred . .

18 Q. Four Thousand Five Hundred and Eleven Dollars?

19 A. Correct. That would be street value for the total of
20 crack and cocaine.

21 Q. So in this case, and I show you State's Exhibit 1,
22 and State's Exhibit 4 -- I'll let you look at State's Ex-
23 hibit 4 -- Forty-five point eleven grams. The total would
24 be Four Thousand Five Hundred Eleven Dollars on the streets
25 of Florence?

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1 A. Yes, sir. That would be at a Hundred Dollars per gram.

2 Q. All right. Thank you so much. Please answer any ques-
3 tions that the Defense Attorney may have.

4 THE COURT: Mr. Smaldon.

5 CROSS EXAMINATION

6 BY MR. SMALDON:

7 Q. Good afternoon.

8 A. Yes, sir.

9 Q. Is it Sergeant Nida?

10 A. Yes, sir.

11 Q. Nida?

12 A. Yes, sir.

13 Q. Are you married, Sergeant Nida?

14 A. Yes, sir.

15 Q. Have you got any children?

16 A. One.

17 Q. One child?

18 A. One.

19 Q. So this is a weird question but just go with me. I
20 am guessing you all use toilet paper. Right?

21 A. Yes, sir.

22 Q. In your house you use toilet paper, right?

23 A. Yes, sir.

24 Q. And you've got three people in the house?

25 A. Yes.

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1 Q. If you go to the convenience store and buy toilet
2 paper, do you buy it per roll of toilet paper?

3 A. Well, my wife usually does all the shopping. I be-
4 lieve they come in multi-packs.

5 Q. Multi-packs. Why does she get multi-packs?

6 A. Uh, I don't know if they sell it individually. I don't
7 know.

8 Q. It's probably cheaper that way, isn't it?

9 A. It's cheaper, yes.

10 Q. Right. So you're saying those drugs, whoever they be-
11 longed to, that person probably didn't spend a Hundred Dol-
12 lars per gram for those drugs?

13 A. Oh, absolutely not. Most of the time when they are
14 purchased there may be a large quantity, a large quantity
15 of crack or cocaine. They are purchasing it at a lower
16 amount than street value to break it down and sell to make
17 that profit, and their yield is a lot higher obviously
18 than what they purchase it for.

19 Q. Right. Same reason you buy toilet paper in bulk?

20 A. I guess so.

21 Q. You would make more by selling it in small quantities.
22 Right?

23 A. I guess if you had a business license to do so, yes,
24 sir.

25 Q. Right, right, and if you were a drug dealer you would

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1 buy in bulk and sell it in small quantities?

2 A. Absolutely, to make a bigger profit.

3 Q. So whoever bought those drugs, whoever had those drugs,
4 or not, they didn't spend Forty-five Hundred Eleven?

5 A. Probably.

6 Q. And in your opinion . . .

7 A. No, sir, they would not spend that amount.

8 Q. That wouldn't be a profitable venture?

9 A. No, it would not be.

10 Q. That's all I have for you.

11 SOLICITOR: One more question.

12 REDIRECT EXAMINATION

13 BY SOLICITOR:

14 Q. That's what they could sell it for. Correct?

15 A. That is the street value, regardless of what they
16 purchased it for. The street value is a Hundred Dollars a
17 gram when broken down and would have a value on the street
18 of Four Thousand Five Hundred Dollars for the gross product
19 there of cocaine and crack.

20 Q. Okay. Thank you so much. I appreciate it.

21 THE COURT: Any Recross?

22 MR. SMALDON: No Recross

23 THE COURT: You have a good day.

24 (Witness excused from stand)

25 THE COURT: Call your next witness.

1 SOLICITOR: That would be the State's case, Your
2 Honor.

3 THE COURT: All right, members of the jury, if you
4 would, step into the jury room.

5 We have to take up some motions and we'll be back
6 with you in just a moment.

7 (Jury excused from Courtroom)

8 THE COURT: All right, any motions from the Defense?

9 MR. SMALDON: Yes, Your Honor. At this time I would
10 make a motion for a directed verdict as to all charges.
11 Alternately, and more specifically, on the trafficking
12 charge and possession with intent to distribute charge.

13 Your Honor, I make those motions because there is no
14 evidence from the State that was presented -- they have
15 presented no evidence that Mr. Cannon had dominion and con-
16 trol --- dominion or control over those drugs.

17 The only evidence that has been presented by them was
18 that he was merely present at the scene with some drugs.

19 THE COURT: He was in the car and he got out of the
20 car and ran, and the drugs were in the car. No one else
21 was in the car.

22 MR. SMALDON: Your Honor, . . .

23 THE COURT: I understand your motion but I'm going to
24 deny it.

25 Anything else?

1 MR. SMALDON: No, sir.

2 THE COURT: Do you want to go over Mr. Cannon's rights
3 now, or does he want . . .

4 MR. SMALDON: We can go forward with that. I think
5 we know where we are with that.

6 THE COURT: All right, Mr. Cannon. Is that right?

7 DEFENDANT: Yes, sir.

8 THE COURT: If you would, stand up one moment.

9 Swear him in, if you would.

10 (Whereupon, the Defendant was sworn by the Clerk for
11 purposes of his colloquy with the Court)

12 THE COURT: Mr. Cannon, I want to go over your right
13 to remain silent, but I want to tell you before I go over
14 those rights that you can come over here and take the stand
15 and you can testify in this case.

16 However, I want you to know that if you do testify
17 you may be cross examined on any and all relevant issues in
18 connection with your case.

19 Furthermore, if you have a criminal record that in-
20 volves crimes of dishonesty or false statements, or crimes
21 that carry a punishment of more than one year, or if the
22 Court determines the probative value of admitting your re-
23 cord outweighs its prejudicial effect, then your criminal
24 record may be introduced to attack your credibility.

25 Do you understand the risk with testifying?

1 DEFENDANT: Yes, sir.

2 THE COURT: However, I want you to understand that
3 you have a right to remain silent. You don't have to tes-
4 tify. Nobody can make you testify.

5 And if you choose to exercise that right, I want you
6 to understand that I will tell that jury they cannot use
7 that against you in any way. I would tell the jury that
8 the fact that you did not testify is absolutely no prejudice
9 against you.

10 I would even tell them they cannot talk about that fact
11 in the jury room.

12 Do you understand your right to remain silent?

13 DEFENDANT: Yes, sir, I do.

14 THE COURT: Have you talked with your lawyer about
15 whether you wish to testify or not?

16 DEFENDANT: Yes, sir.

17 THE COURT: And what is your decision?

18 DEFENDANT: I wish not.

19 THE COURT: All right, thank you very much. You may
20 be seated.

21 For the record, I make a finding that he made that
22 decision freely and intelligently, and with the advice of
23 competent counsel.

24 We'll bring back the jury in the morning and go from
25 there.

1 Go ahead and bring them in and I'll dismiss them.
2 They don't even have to sit down. Just stand them there
3 in the front of the Courtroom.

4 (Jury returned to the Courtroom)

5 THE COURT: Thank you, members of the jury. We're
6 going to let you go for the day. We're going to come back
7 at nine thirty in the morning, at which time we will finish
8 the case in the morning.

9 However, I did want to tell you when you leave the
10 Courtroom to not discuss the case with anybody, even among
11 your family. Do not get on the computer and research any-
12 body in this case or anything you have seen or heard.

13 Everything you need will be given to you right here
14 in this Courtroom.

15 So you just go home and relax, rest, and come back to
16 finish it up tomorrow.

17 Thank you. You're excused.

18 (Jury excused from Courtroom)

19 THE COURT: I'll see you all in the morning. Thank you.

20 SOLICITOR: Thank you, Judge.

21 MR. SMALDON: Thank you.

22 (Whereupon, the Court stood in recess until September
23 7, 2016)

24 THE COURT: Good morning.

25 Before you address the jury this morning, a juror has

1 come up to speak to the Clerk of Court.

2 The Solicitor and Defense Attorney have had a chance
3 to look at my charge and the verdict from.

4 Are there any objections to the charge or the verdict
5 form?

6 From the State?

7 SOLICITOR: None from the State, Your Honor,

8 THE COURT: From the Defendant?

9 MR. SMALDON: None from the Defense.

10 THE COURT: I just noticed the Defendant is not pre-
11 sent. We'll wait for him to get here, but I wanted to get
12 that out of the way.

13 For the record, I will let you make your motions be-
14 fore you rest, if that's okay. We'll wait for your client
15 to arrive.

16 (Brief pause)

17 CLERK: Your Honor, it was Juror 131, Jannese Shavers.

18 THE COURT: Okay.

19 CLERK: When I spoke with Ms. Shavers, she said she
20 got a phone call this morning, and the phone call was from
21 someone she had worked with who said she was the Defendant's
22 girlfriend -- she had worked with the girlfriend's aunt,
23 I believe, if I've got this correctly.

24 The Defendant's girlfriend had called and said the
25 Defendant was her boyfriend, and Ms. Shavers stopped her

1 right there and said that she couldn't talk to her about it
2 but the girlfriend said that she just needed to talk to
3 her.

4 I believe just a few words were exchanged but nothing
5 else was said after she stopped her.

6 She wanted to bring it to my attention, and I told
7 her she did the right thing. I had her sent back into the
8 jury room and told her to please not say anything to the
9 other jurors but she was concerned.

10 Ms. Shavers was concerned, and I told her it was okay
11 and that is why we have alternates. So what do you want to
12 do?

13 SOLICITOR: To hear from her and then the Court de-
14 cide obviously.

15 She is an honest woman and she did what you told her to
16 do in my opinion.

17 THE COURT: That could rise to the level of jury tamp-
18 ering. What would the Defense like me to do?

19 MR. SMALDON: I just -- as far as an investigation or
20 anything like that I don't really have any part in that,
21 but as far as asking her questions I would agree.

22 We could bring her out and hear from her.

23 THE COURT: Okay, the motion is to bring her out
24 is granted.

25 Please bring her out.

1 (Whereupon, Juror Number 131, Jannese Shavers, was
2 brought into the Courtroom)

3 THE COURT: For the record, if you would give me your
4 name.

5 JUROR: My name is Jannese Shavers.

6 THE COURT: All right, Ms. Shavers. If you would,
7 tell me what happened.

8 JUROR: I receive a telephone call and it was unre-
9 stricted when I answered it, and then she told me that she
10 was the girlfriend of the Defendant, and I told her you
11 tell me not to discuss this.

12 THE COURT: Did she say anything else?

13 JUROR: Um, no, sir.

14 THE COURT: And did you say anything else?

15 JUROR: Well, I told her I cannot discuss this and
16 please don't jeopardize me.

17 THE COURT: And have you said anything to the other
18 jurors?

19 JUROR: No, sir.

20 THE COURT: Thank you. Anything you would like me
21 to ask her, from the State?

22 SOLICITOR: I would just question how she recognized
23 the voice of the Defendant's girlfriend.

24 JUROR: Well, what she did, she called me and she said,
25 Miss Jan, and I said, who is this, and then when she said

1 who she was -- her aunt used to be my supervisor when I
2 worked for County D.S.S., and that is how I knew her.

3 THE COURT: Do you still work there?

4 JUROR: No, sir, I'm retired.

5 THE COURT: All right, and is there anything you'd
6 like to ask?

7 MR. SMALDON: Your Honor, I would ask the Court to in-
8 quire how this would affect her and if she could continue
9 to be fair and impartial to my client.

10 THE COURT: All right, Ms. Shavers, taking that into
11 account, would you have a problem continuing to serve on
12 this jury?

13 JUROR: No.

14 THE COURT: Do you feel any pressure at all from . .

15 JUROR: No, I don't feel any pressure. I try to be
16 a fair person.

17 THE COURT: All right, and sitting on this jury could
18 you continue to listen to the rest of the case?

19 JUROR: Yes, sir.

20 THE COURT: And be fair and impartial to the Defendant
21 and the State as well?

22 JUROR: Yes, sir.

23 THE COURT: Okay, and make a decision based on the law
24 as I give it to you and the evidence you have seen in this
25 Courtroom?

1 JUROR: Yes, sir.

2 THE COURT: And totally disregard that call?

3 JUROR: Yes, sir.

4 THE COURT: All right. Anything else from the State?

5 SOLICITOR: No, sir.

6 THE COURT: Anything else from the Defense?

7 MR. SMALDON: If I may speak to my client for just a
8 minute?

9 THE COURT: Go ahead.

10 (Brief pause)

11 THE COURT: Thank you, Ms. Shavers.

12 JUROR: Okay.

13 MR. SMALDON: Nothing further from the Defense.

14 I don't have any more questions for her.

15 THE COURT: Thank you. You may go back in there and
16 we will be with you all in just a moment.

17 (Juror returning to jury room)

18 THE COURT: Do you have any problem with that juror
19 continuing? I don't have a problem with her.

20 SOLICITOR: I can't decide, Your Honor, though my in-
21 clination is that if she's that honest, coming forward, and
22 she said she's not going to discuss it, I would kind of
23 trust her. I don't believe I do have a problem exactly
24 with her.

25 THE COURT: Mr. Smaldon?

1 MR. SMALDON: I would leave it up to the Court, Judge.

2 THE COURT: All right, I'm going to let her sit on the
3 jury. I think she did the right thing. She seems very in-
4 telligent as far as the Court is concerned.

5 I think she will do the right thing.

6 Anything before we bring in the jury?

7 MR. SMALDON: Let the record reflect the jury is not
8 present although we would rest, and I will rest immediately
9 following these motions.

10 I would like the record to reflect that I made it con-
11 temporaneously after I rest technically.

12 At this time I renew all of my motions, all of my ob-
13 jections including my motion for directed verdict under the
14 aforestated grounds. I don't believe I need to re-argue
15 them but it would be with the same arguments.

16 THE COURT: I would deny those motions.

17 Are you all ready to go with your closing statements?

18 SOLICITOR: The State is ready, Your Honor.

19 THE COURT: All right, bring out the jury.

20 (Jury returned to the Courtroom)

21 THE COURT: The State is recognized for your closing
22 statement.

23 MR. SMALDON: I would rest on the record, Judge.

24 THE COURT: Yes, sir. The Defense has rested, and now
25 the State may make its closing statement.

1 SOLICITOR: May it please the Court, Your Honor?

2 Madam Forelady and ladies and gentlemen of the jury.

3 I know this has been a shorter trial but I appreciate
4 your attention in this matter.

5 Now, the Judge is going to instruct you and tell you
6 the law in a little bit, and at this point an old saying
7 comes to mind. It goes like this: If common sense makes
8 good sense you need no other sense because if you try to
9 find it you wind up with nonsense.

10 What makes good old-fashioned common sense in this
11 case? We'll get to that, but let's go over the nonsense
12 first.

13 The nonsense would be that Enterprise Rental gave him
14 a car with cocaine and crack and digital scales and tele-
15 phones and phone drives.

16 That doesn't make any sense whatsoever, you know. The
17 whole situation -- would you like the optional insurance;
18 would you like the Wi-fi in the car; would you like the
19 optional crack and cocaine?

20 That just doesn't make any sense at all. The other
21 deal would be this. Well, they just didn't clean up the
22 car so the previous renter left what has street value of
23 Forty-five Hundred Dollars in that car.

24 Folks, we're not talking about a ten or twenty that
25 falls out of a pocket. Forty-five Hundred Dollars -- I

1 don't know where you guys are from but Forty-five Hundred
2 Dollars is a lot of money to me, and I just don't believe
3 that anyone else would leave Forty-five Hundred Dollars
4 in the car.

5 You can say, well, this is crack and cocaine, but what
6 it really is in State's Exhibit 1 is money. This represents
7 money.

8 The bottom line is that why people traffick drugs is
9 for filthy lucre, for profit, and I just don't believe that
10 someone would leave it in this vehicle.

11 I don't believe that they would say, oh, my gosh, I
12 wonder what these digital scales is doing in there. That
13 makes no sense. It's nonsense.

14 So what are you left with? You are left with Myron
15 Cannon being in possession of thirty-eight point nineteen
16 grams of crack cocaine and six point nine two grams of pow-
17 der cocaine.

18 Mr. Smaldon would have you believe that the accident
19 caused these drugs to just reappear or just appear.

20 Well, he could argue the cocaine was under the front
21 seat and the accident caused the drugs to run to the brake
22 pedal, but how about the stuff that was just sitting there
23 because remember what happened.

24 Remember what happened when Drummond hit his car. He
25 got out of the car and where did they find the crack? In the seat.

1 Maybe it was on the seat but it is just absolutely
2 disingenous to say that the drugs were just there.

3 Mr. Smaldon during cross examination said, well, you
4 know, the Highway Patrol arrested him for DUI and that's why
5 he was running.

6 Well, he's driving a hundred miles an hour flying down
7 Pamplico Highway and his car fish-tails. He maintains con-
8 trol over the vehicle. He is in perfect control of his
9 vehicle at that time. He wants to get away. Because of a
10 DUI? Sure, his insurance rates go up if he's caught for
11 DUI, but that is within your judgment today on September
12 7th in dealing with this case.

13 That is the only plausible, plausible explanation in
14 this case. That is the only situation that makes any
15 sense.

16 Now, it is the law that we have to bring evidence to
17 you to prove his guilt beyond a reasonable doubt. What we
18 don't have to show you is proof beyond every sort of doubt.

19 I hear this all the time from all over this country,
20 that there has to be proof beyond a shadow of a doubt, but
21 that is not required. You know, people can have a doubt
22 about anything.

23 I went to church with this woman who was convinced that
24 we never landed on the moon. She went to her grave saying
25 we never landed on the moon. A human being never walked

1 on the moon.

2 All right, and people are convinced in all these con-
3 spiracy theories that go on of something and your imagina-
4 tion -- you hear that Lee Harvey Oswald and (inaudible) were
5 on the grassy knoll trying to shoot President Kennedy. You
6 know that people have crazy ideas, but it is not beyond a
7 shadow of a doubt. It is beyond a reasonable doubt, and
8 that is if you are firmly convinced that this Defendant did
9 this, you must find him guilty.

10 If there is a real possibility that he didn't do it,
11 of course, your verdict would be not guilty, but, folks,
12 the only plausible, plausible situation we find here is
13 that he was in possession and control of these drugs.

14 He wasn't just merely present where drugs were, he was
15 in possession and control of that vehicle and he was alone.

16 The drugs were on the seat and on the floorboard in
17 plain view. He knew they were there and he ran from the
18 cops because he knew they were there. That is the only
19 plausible thing.

20 Now, obviously he is charged with the drugs, and I am
21 going to ask you to find him guilty on the trafficking of
22 both crack and possession with intent to distribute pow-
23 der cocaine.

24 Now, in terms of the crack, if he had more than ten
25 grams of crack, that is trafficking, because trafficking is

1 is based on weight. If he is in possession and control of
2 over ten grams of crack, and thirty-eight grams is more than
3 ten, he's guilty of trafficking.

4 There is a permissive inference that you can gather
5 that if he has more than one gram of powder cocaine he has
6 an intent to distribute that cocaine. There is a permis-
7 sive inference.

8 And obviously there was seven times the inferential
9 amount. But it's not only that, but what else can you draw
10 an inference that he had an idea of selling this stuff?
11 The digital scales.

12 You remember when I asked Bazen what the scale was
13 used for that he said it was used to weigh drugs to sell.
14 That is the inference right there.

15 When I was a kid there was a time my mother forced me
16 to eat carrots. We used to go to old-time grocery stores.
17 This was before A and P and all of those, and I know I
18 don't look that old but I am.

19 We went to the grocery store and back then was before
20 they pre-packaged meat, and you would look through the big
21 closed container at the meat, and they would say, Mrs.
22 Jepertinger, how much would you like of chopped meat; I'd
23 like two pounds of hamburger, and then they would fill up
24 this cardboard box and before they put the final packaging
25 on it and we paid for it, what did they do? They placed it

1 on a scale.

2 We didn't bring the scale with us. The buyer didn't
3 bring the scale. The seller has the scale. That's an in-
4 ference that you can use, and like Mr. Smaldon said, you
5 have to consider the evidence, look at the evidence, what
6 you've heard.

7 And these objects -- this evidence is what you consider
8 and not some mere speculation or some fanciful deal like the
9 Enterprise situation, but this is what you consider.

10 And when you look at that, there is an inference that
11 he had an intent to distribute that cocaine.

12 We learned from Lieutenant Hansen that it can be con-
13 verted to crack.

14 Some of you might be thinking, well, he might have
15 been, maybe just because Mr. Smaldon questioned that one wit-
16 ness about buying toilet paper in bulk or people buy cig-
17 arettes in bulk, so how do you know he wasn't just doing
18 that?

19 Are you telling me it was for his own use, this much
20 drugs? He could smoke it up? It just doesn't go there.
21 However, His Honor is going to inform you that there is a
22 lesser included offense of possession with intent to dis-
23 tribute which is possession of cocaine, and, like I said, it
24 is a permissive inference that you can make.

25 Whatever you decide is your business, not mine. You

1 are charged with that duty.

2 Then I need to address as well that he failed to stop
3 for a blue light, and I think that is just uncontravertible.
4 In Mr. Smaldon's opening statement I don't think he had
5 much to say about that. He ran from the cop; no question
6 about that.

7 No question that the blue lights were on and no ques-
8 tion that he didn't stop; that he kept on going at a high
9 rate of speed; you heard that, and he's charged with that.

10 He is also charged with resisting arrest. Now, a lot
11 of you folks might say, well, I don't like to say he re-
12 sisted arrest; I don't like that he was tased. Well, I
13 can't put myself in Sergeant Drummond's shoes.

14 But it was after midnight and the guy had been speed-
15 ing and running from the cops. The cop is chasing him and
16 he's not stopping. He's all over the road.

17 He chases him eventually into a bean field where he gets
18 out of his vehicle and runs, tries to get away. Then he
19 chases him and tells him to stop but he didn't stop.

20 He didn't pull his service revolver. He used a taser,
21 and maybe you don't like that and I don't blame you if you
22 don't, but the question is whether he was resisting arrest.
23 Don't think about the tasing so much that you lose sight of
24 the fact that he told him to stop, stop, and he did not
25 stop.

1 He did not stop, and we know Sergeant Drummond no
2 longer works for the Sheriff's Office, but the question is
3 whether Myron Cannon resisted arrest, and he did that.

4 When a cop is chasing someone and says, stop, stop,
5 what else is a cop supposed to do when the person doesn't
6 stop? What else is he supposed to do?

7 Folks, this verdict is your verdict. This decision
8 is yours to make, but I'm telling you folks that this guy
9 is guilty, unfortunately.

10 You know, I wish Myron Cannon was here to be pre-
11 sented an award for being a great guy. I wish we could do
12 that, and I would be the first one to extend my hand to
13 him, but the fact is that Myron Cannon decided to cut corn-
14 ers in life, and whether it was that night or whether it
15 was just that night or whether it was pure greed, whether
16 it -- whatever it was, he did wrong.

17 I'm sorry for him, but he did wrong, and you've taken
18 an oath to do right, to speak the truth, and I ask you to
19 find Mr. Cannon guilty of trafficking in crack, possession
20 with intent to distribute powder cocaine, as His Honor will
21 explain to you, and resisting arrest.

22 Thank you..

23 THE COURT: All right, the Defense is recognized.

24 MR. SMALDON: May it please the Court?

25 THE COURT: Yes, sir.

1 MR. SMALDON: Counsel, and ladies and gentlemen of the
2 jury.

3 There is a poster I've seen, an advertising poster,
4 and it shows a freshly paved highway. You can tell because
5 the asphalt is so dark and black, and it has kind of fresh
6 paint on it, and it focuses in on the highway, and there
7 is a freshly painted yellow line on the left side of the
8 road. In the middle of that yellow line there is a dead
9 possum, and that yellow line goes right over the possum
10 and keeps on going.

11 At the bottom of that poster it says, not my job, as-
12 suming the painter didn't want to move the possum and he
13 said it is not my job.

14 I know what we've heard from the State this week, on
15 yesterday -- not my job. That's kind of what we heard
16 from Deputy Drummond, not my job.

17 Former Deputy Drummond. He doesn't work there any
18 more.

19 That's what we heard from Deputy Urghart, not my job.

20 Drugs were found in a car that didn't belong to Myron
21 Cannon. It was rented from Enterprise Rental. Who rented
22 it out? Not my job, not my job, is what they've said.

23 Well, drugs were found. Were simple fingerprint tests
24 done on the bag of cocaine, on the bag of crack? What did
25 they say? Well, that's not my job.

1 The digital scales were found -- same thing. Cell
2 phones were found. If you leave a cell phone in a bar, in
3 this Courthouse, in church, what do they do when it's found?
4 They try to figure out who it belongs to. Right? A man
5 would want his cell phone back.

6 Did they talk about whose cell phones they were? Good
7 God, man, they didn't even try to figure out who the cell
8 phones belonged to, because it's not their job.

9 What did Deputy Drummond say, or former Deputy Drummond?
10 As far as I'm concerned if the drugs were in a vehicle you
11 are driving they are your drugs, but then later on he said,
12 well, drugs are left in rental cars, or he said drugs are
13 left in patrol cars.

14 Wonder why he doesn't work there any more? Literally
15 it isn't his job any more. Literally it is not his job any
16 more.

17 My man ran from the cops because he was drunk and driv-
18 ing a car. I wonder if his drunk driving trial, if he had
19 one--as counsel earlier said, he had control of the drugs.
20 He didn't even know how drunk he was when he was driving a
21 car. There wasn't any breath test on him.

22 What do you think those cops did when they found the
23 drugs? They smiled. We've got him. He's run from us and
24 we've got him. They're elated, I'm sure. So do you think
25 that they gave him due process?

1 Do you think that they said when they found the drugs,
2 well, we might have him; let's figure out --let's really try
3 to get him. Let's figure out -- they did nothing in the
4 case to show that they are his. The only test done was to
5 determine what kind of drugs these were.

6 So we'll just let a jury decide. They don't want to
7 do their work. I hate to be so dramatic, but they don't
8 want to do their work.

9 They don't want to test the scales, they don't want to
10 test the drugs, they don't want to test the cell phones. They
11 don't even want to test who the car was rented out to --
12 don't want to figure out who Myron was drinking with earl-
13 ier that night.

14 He was drunk. Was he drinking by himself? I don't drink
15 by myself. Who else was in the car earlier that night? Did
16 they try to figure out whose company he was keeping that
17 night or who was in the car earlier in the day? They didn't
18 bother. Did not bother.

19 This is awful, it's sad, and I guess it saved them a
20 little bit of time, and they wanted to try this trafficking
21 case in^aday, I guess. If Mr. Drummond had had drugs found
22 in his patrol car before and they are accusing him of having
23 the drugs and trafficking in drugs, he would want those
24 tests to be done.

25 He would want them to figure out who they belonged to.

1 I think everyone on that side would, but they didn't think
2 he deserved that.

3 Remember that it wasn't their job. They came to the
4 possum in the highway and they painted over the possum.
5 They needed to prove to you beyond a reasonable doubt, all
6 reasonable doubt. Not one of them, not seventeen of them,
7 but all reasonable doubt. That is their job.

8 So what did they prove? I guess they have maybe proven
9 that Myron was in the car. They could probably prove that
10 he was -- maybe prove that he ran from the police. I won-
11 der though where is the video. We've got at least three
12 deputies and I think a highway patrol person was there that
13 didn't testify. Maybe two, maybe three deputies -- they
14 said there were a lot there. I don't think they knew how
15 many were there.

16 All of those cars there without any video? That is
17 their job. No video. Nothing. No body cams. They have
18 treated this like it was a speeding ticket.

19 So what are they trying to do? They've trying to
20 leave out, trying not to do their jobs because they don't
21 want any questions. They want you to answer their questions
22 for them, but that is not your purpose. That's not.

23 There is no video, nothing. Well, we have these photos,
24 right? No, there is no photo, no pictures. I've got an
25 I-phone and I-pad and a laptop seven feet away from me

1 right now, and all have cameras.

2 They could have shown you where the drugs were found
3 and take pictures of where they were supposedly found. Not.
4 You've got none of that. No pictures, no video.

5 They didn't do anything. Nothing. That's their job.
6 Their job is to prove to you beyond a reasonable doubt that
7 Myron Cannon is guilty.

8 The Judge is going to tell you that the law says that
9 mere presence around drugs isn't enough. He will read you
10 the law that mere presence where drugs are around is not
11 enough.

12 The State must prove to you beyond a reasonable doubt
13 that Myron had dominion and control over the drugs -- do-
14 minion and control over the drugs.

15 The drugs weren't found on him. He didn't toss the
16 drugs out of the car. They say he ran from the cops. Why
17 didn't he get rid of them? He didn't know they were there.
18 They weren't his. They weren't his.

19 I don't know where they were. Nobody knows where they
20 were originally.

21 I want to clear up any confusion because I'm not say-
22 ing that Myron is a user of drugs. He is not. He didn't
23 know the drugs were there. Nothing they have done proves
24 that he did. Nothing.

25 So their job, their duty, is to prove that to you

1 beyond a reasonable doubt. What is a reasonable doubt?
2 The Judge will define that for you.

3 I'm not going to give a percentage or anything like it,
4 but I will give an example of it. All right, an example.
5 Let's say that you have a box, a big box, and you put a
6 mouse in the box and then you put a cat in the box and you
7 close the lid to the box.

8 You leave it overnight and you come back that next
9 morning and you open up the lid and look in the box and the
10 cat's in there. He's asleep. He's purring and happy. No
11 mouse. The mouse is gone.

12 Well, I would say that that would prove to you or I
13 could prove to you beyond a reasonable doubt that that cat
14 ate that mouse. Right? That's common sense. The cat ate
15 that mouse.

16 All right. Take that same box and put a mouse in the
17 box and you put a cat in the box, and do the same thing,
18 close the lid. Come back in the morning and look in the
19 box -- same thing.

20 The cat's in the box and the mouse is not in the box
21 as you look around but then you look in the corner and you
22 see a mouse-size hole. A mouse-size hole in the box, and
23 that mouse-size hole is called reasonable doubt.

24 Do we have a mouse-size hole in this case? We have a
25 hole so big and deep that we could drive through it.

1 We have nothing that ties the drugs to Myron. Nothing.
2 He said, she said, all this stuff. We have a car that wasn't
3 his. Don't know who it belonged to or how long it was
4 rented out. We don't know who rented it. We don't know
5 who was in there earlier that day.

6 We found drugs strewn about in a car after a car acci-
7 dent. Who knows where they came from? Nothing that ties
8 Myron to the drugs.

9 That's why when you consider the evidence you must find
10 him not guilty because the State said it's not my job. Law
11 enforcement said it's not my job.

12 Ladies and gentlemen, when they said it's not my job,
13 it's your job, find Myron not guilty because he is not
14 guilty.

15 Ladies and gentlemen, pay attention to the Judge's in-
16 structions on the law and then you put two and two together
17 and you will know the truth. You know they failed to meet
18 their high burden.

19 Thank you.

20 THE COURT: Members of the jury, it is now my duty to
21 instruct you on the law applicable to this case, and in that
22 regard it is your duty as jurors to accept and apply the
23 law as I now state it to you.

24 Furthermore, it is your exclusive duty to decide all
25 of the issues of fact in this case and to determine the

1 effect, the value, weight and truth of the evidence pre-
2 sented.

3 Both the State and the Defendant have the right to
4 expect that you will carefully consider and evaluate the
5 evidence, and apply the law of this case to it so that in
6 the end both the State and the Defendant will have received
7 a fair and impartial trial.

8 I want you to understand that when I use the word De-
9 fendant I am referring to Myron Cannon. In this case, the
10 State of South Carolina charges the Defendant, with the of-
11 fenses known as trafficking in cocaine base, possession with
12 intent to distribute cocaine, failure to stop for a blue
13 light, and resisting arrest.

14 To these charges, the Defendant has entered a plea of
15 not guilty. These pleas of not guilty place the burden of
16 proof on the State to prove the guilt of the Defendant to
17 you beyond a reasonable doubt.

18 It is vital to understand that the Defendant is pre-
19 sumed under the law to be innocent of the charges. It is
20 a fundamental rule of our law that a Defendant, regardless
21 of the seriousness of the charges against him, is always
22 presumed innocent of the crimes for which he is charged,
23 unless and until his guilt has been proven by evidence
24 that satisfies you beyond a reasonable doubt.

25 The presumption of innocence is not a mere legal theory

1 or legal phrase. The presumption of innocence is very im-
2 portant. You need to understand that this presumption of
3 innocence accompanies the Defendant from the time of his
4 arrest and appearance in this Court and it continues with
5 the Defendant even after you retire to the jury room to de-
6 liberate.

7 In other words, a Defendant receives the benefit of a
8 presumption of innocence until the very end of this trial
9 when you the jury will deliberate upon the evidence and de-
10 cide whether the State has proved his guilt on each and
11 every charge beyond a reasonable doubt.

12 During this trial you and I have had separate duties
13 to perform. As the Trial Judge, it is my responsibility
14 to preside over this trial. Therefore, I have a duty to
15 rule upon the admissibility of the evidence offered during
16 the trial.

17 In that regard, you are to consider only the evidence
18 before you. Thus, you are to consider only the testimony
19 which has been presented from this witness stand, together
20 with any exhibits that may have been admitted into the re-
21 cord of the case.

22 Furthermore, I have the additional duty to charge you
23 on the law applicable to this case, and in that regard it
24 is your duty to accept and apply the law as I now state it
25 to you.

1 If you have any pre-conceived ideas as to what the law
2 is or what the law ought to be and it does not agree with
3 what I tell you the law is then you are obligated under your
4 oath to abandon these pre-conceptions and accept the law as
5 I now state it to you.

6 In this trial, you are the sole and exclusive judge
7 of the facts, and I am the judge of the law. Do not infer
8 that I have any opinion about the facts in this case from
9 anything I have said or done during the course of this trial.
10 In this regard, the law simply does not permit me to have
11 an opinion about the facts, and as jurors it is your duty
12 alone to determine the effect, value, weight and truth of
13 the evidence offered during the course of this trial.

14 Furthermore, it is your job as jurors to determine
15 the credibility and believability of the witnesses who have
16 testified in this case.

17 You must evaluate the evidence and determine which evi-
18 dence convinces you of its truth. In determining the be-
19 lievability of the witnesses who have testified in this
20 trial you may believe one witness over many, or many over
21 one.

22 You may believe a part of the testimony of a witness
23 and reject the remaining part. You may believe the testi-
24 mony of a witness in its entirety or reject it in full.

25 You may consider whether the witness has an interest in

1 the result of the trial, whether the witness is prejudiced
2 toward either party, the opportunity for the witness to
3 have seen the matters and things about which the witness
4 may testify, and the way the witness acts on the witness
5 stand.

6 Evidence may be direct or circumstantial. Direct evi-
7 dence is testimony by a witness about what the witness per-
8 sonally saw or heard or did.

9 Circumstantial evidence is indirect evidence. That is,
10 it is proof of one or more facts from which one can find
11 another fact.

12 You are to consider both direct and circumstantial
13 evidence equally.

14 Proof beyond a reasonable doubt is proof that leaves
15 you firmly convinced of the Defendant's guilt. There are
16 few things in this world that we know with absolute cer-
17 tainty, so even in criminal cases the law does not require
18 proof that overcomes every possible doubt.

19 However, if based upon your consideration of the evi-
20 dence you are firmly convinced that the Defendant is guilty
21 of the crimes charged, you must find him guilty.

22 If, on the other hand, you think there is a real possibil-
23 ity that he is not guilty, you must give him the benefit
24 of the doubt and find him not guilty.

25 Please understand that a reasonable doubt may arise

1 from the evidence which has been presented in the case or
2 from the lack of evidence that has been presented in the
3 case.

4 It is your responsibility to determine whether or not
5 reasonable doubt exists as to the guilt of this Defendant
6 on each and every charge.

7 I charge you that a Defendant is entitled to every rea-
8 sonable doubt arising in the whole case. If, upon any is-
9 sues of fact essential to conviction and a verdict of guilt
10 you have a reasonable doubt as to how that issue should be
11 resolved, it would be your duty to resolve that reasonable
12 doubt in favor of the Defendant.

13 It is important to understand that a Defendant is not
14 required to prove his innocence. Instead, the State is re-
15 quired by law to prove every essential element of the charges
16 against the Defendant by evidence which satisfies you of
17 his guilt beyond a reasonable doubt.

18 Only then can you convict the Defendant and find him
19 guilty.

20 I further instruct you that the fact that the Defen-
21 dant in this trial did not testify on his behalf is not a
22 factor to be considered by you in any way in your delibera-
23 tions and in your consideration on the question of guilt or
24 innocence.

25 In this regard, the Defendant has a constitutional

1 right to remain silent, and the exercise of this right must
2 not be considered by you in your deliberations.

3 The fact that the Defendant did not testify should not
4 even be discussed in the jury room.

5 The burden of proof, as I've stated to you, is on the
6 State. The Defendant has no obligation to prove his inno-
7 cence. The burden of proof remains with the State to prove
8 the Defendant's guilt beyond a reasonable doubt, and the
9 fact that a Defendant did not testify is not a factor to
10 be considered by you in deciding the guilt or the innocence
11 of the Defendant.

12 The Defendant is charged with trafficking cocaine base.
13 The State must prove beyond a reasonable doubt that the
14 Defendant knowingly sold, manufactured, cultivated, deliv-
15 ered, purchased, brought into this State, provided financial
16 assistance or otherwise aided, abetted, attempted or con-
17 spired to sell, manufacture, cultivate, deliver, purchase
18 or was knowingly in actual or constructive possession of
19 cocaine base.

20 The State must also prove beyond a reasonable doubt
21 that the amount of cocaine or any mixture containing cocaine
22 was twenty-eight grams or more but less than one hundred
23 grams.

24 Also, the State must prove beyond a reasonable doubt
25 that the Defendant possessed cocaine with the intent to

1 distribute it. To prove possession, the State must prove
2 beyond a reasonable doubt that the Defendant had both the
3 power and the intent to control the disposition or use of
4 the cocaine.

5 Possession may be either actual or constructive. Act-
6 ual possession means that the Defendant had dominion and
7 control or the right to exercise dominion or control over
8 either the cocaine itself or the property on which the co-
9 caine was found.

10 Mere presence at the scene where the drugs were found
11 is not enough to prove possession. The Defendant's know-
12 ledge and possession may be inferred when a substance is
13 found on the property under the Defendant's control.

14 However, this inference is simply an evidentiary fact
15 to be taken into consideration by you along with the other
16 evidence in the case and be given the weight you decide it
17 should have.

18 Two or more persons may have joint possession of a
19 drug. The State must also prove beyond a reasonable doubt
20 that the Defendant intended to distribute the cocaine.

21 Distribute means to deliver other than by administer-
22 ing or dispensing a drug.

23 Intent may be shown by acts and conduct of the Defen-
24 dant and other circumstances from which you may naturally
25 and reasonably infer intent.

1 In determining whether the Defendant had the intent
2 to distribute the cocaine, you may consider the circumstan-
3 ces surrounding the Defendant's alleged possession. You
4 may consider the amount of the substance alleged to have
5 been possessed, the manner in which it was allegedly pos-
6 sessed, the place where it was allegedly possessed, and other
7 factors which you consider to be important.

8 You must find that a Defendant did not intend to have
9 the cocaine solely for his own use. Possession of more
10 than one gram of cocaine creates an inference that the De-
11 fendant possessed the cocaine with intent to distribute it.

12 This inference does not relieve the State from proving
13 beyond a reasonable doubt that the Defendant had the in-
14 tent to distribute.

15 It is simply an evidentiary fact to be taken into con-
16 sideration by you along with the other evidence in the case
17 and be given the weight you decide it should have.

18 If you find the Defendant did not possess with intent
19 to distribute cocaine, you may find the Defendant guilty of
20 possession of cocaine.

21 To prove possession the State must prove beyond a rea-
22 sonable doubt the Defendant had both the power and the in-
23 tent to control the disposition or use of the cocaine.

24 Possession may be actual or constructive. Actual
25 possession means that the cocaine was in the actual physical

1 ~~of the~~ custody Defendant. Constructive possession means that the
2 Defendant had dominion and control or the right to exercise
3 dominion and control over either the cocaine itself or the
4 property on which the cocaine was found.

5 Mere presence at the scene where the drugs were found
6 is not enough to prove possession. The Defendant's know-
7 ledge and possession may be inferred when a substance is
8 found on property under the Defendant's control.

9 However, this inference is simply an evidentiary fact
10 to be taken into consideration by you along with the other
11 evidence in the case and to be given the weight you decide
12 it should have.

13 Two or more persons may have joint possession of a drug.

14 Also, the Defendant is charged with failure to stop
15 for a blue light. In order to prove this crime, the State
16 must prove beyond a reasonable doubt that the Defendant was
17 driving a motor vehicle; that the Defendant was driving the
18 motor vehicle on a road, street or highway in this State;
19 that the Defendant was signaled to stop by law enforcement
20 vehicle by means of a siren or flashing lights, and that
21 the Defendant did not stop.

22 In determining whether or not there are mitigating cir-
23 cumstances which would justify a Defendant's failure to
24 stop for a blue light, you may consider actual road condi-
25 tions.

1 Also, other conditions such as lighting and weather,
2 driver and/or passenger safety, and any other circumstances
3 you believe to be reasonably -- that would reasonably miti-
4 gate the offense.

5 An official signal requiring a motorist to stop may be
6 a siren or flashing lights but both are not required.

7 An attempt to increase the speed of a vehicle or in
8 some other manner avoid the pursuing law enforcement vehicle
9 when signaled by a siren or flashing light may be considered
10 evidence of failure to stop for a blue light.

11 However, it is merely an evidentiary fact to be taken
12 into consideration by you along with all other evidence in
13 the case and to be given the weight that you think that it
14 should receive.

15 The State must prove beyond a reasonable doubt the De-
16 fendant resisting a lawful arrest being made by a person a
17 Defendant knew or reasonably should have known was a law
18 enforcement officer.

19 Knowingly means with knowledge, consciously done.

20 Wilfully means done intentionally and not done by ac-
21 cident.

22 Resisting means to oppose, strive against or obstruct.

23 Obstruct means to impede, hinder or interfere with.

24 Even peaceful, non-violent and indirect obstruction of
25 an arrest is considered resisting arrest.

1 If the means used are sufficient to prevent the of-
2 ficer from making an arrest, the Defendant is guilty of
3 resisting arrest.

4 Ladies and gentlemen, I am now drawing to the end of
5 my charge, and I want you to clearly understand that you
6 are not partisans or advocates for the State or for this
7 Defendant.

8 You do not serve as jurors to reward your friends or
9 to punish your enemies. In this regard, you have been se-
10 lected by both the State and this Defendant to be fair and
11 impartial jurors. It is your duty by your joint delibera-
12 tions to determine the truth in this case, giving to this
13 Defendant the benefit of every reasonable doubt on each
14 and every issue.

15 Then to the facts as you determine them to be true you
16 should take and apply the law which has been given to you
17 by this Court and thus arrive at a verdict which speaks the
18 truth in this case.

19 In fact, the word verdict which has a Latin derivative
20 means a true saying. Thus, when you have accomplished these
21 responsibilities you will have satisfied your oath as jurors
22 and you will have discharged your duty to this Court.

23 Now, Ms. Bailiff, would you hand the Forelady this
24 verdict form?

25 Ms. Forelady, I have had handed to you the verdict

1 form. When you arrive at a verdict in this case you will
2 write your verdict on the form for the charges.

3 If the State has failed to prove the guilt of this De-
4 fendant beyond a reasonable doubt, your verdict would be
5 two words, not guilty.

6 However, should the State have proved their case as
7 against the Defendant beyond a reasonable doubt, then your
8 verdict would be one word, guilty.

9 Ms. Forelady, once a decision has been made if you
10 would just check whichever choice is yours on the verdict
11 form on each and every charge.

12 Also, please understand that the verdict that you ren-
13 der in this case must be the verdict of each and every
14 juror. It must be your unanimous verdict. All twelve of
15 your jurors must agree on the verdict which you authorize
16 the Forelady to write for the jury.

17 Ms. Forelady, members of the jury, I want you to fur-
18 ther understand that the order in which the choices of ver-
19 dict appear on the verdict form are not suggestive of any
20 verdict on the part of this Court. The verdict in the case
21 is to be determined by you and not the Court.

22 Furthermore, ladies and gentlemen, please understand
23 that even though I have given the verdict form to the Fore-
24 lady it is not her verdict alone. It is the verdict of all
25 twelve of you, and I emphasize again that it must be

1 unanimous.

2 Now, you will retire to the jury room. However, I'd
3 ask that you do not begin your deliberations until you are
4 told to do so. The law requires that I now consult with
5 the attorneys before you begin your deliberations. After
6 I have done so, the bailiff will bring in the items of evi-
7 dence and instruct you to begin your deliberations at that
8 time.

9 Also, should you have any questions during your delib-
10 erations you must put them in writing and send them to me
11 by way of the Bailiff.

12 The Court Bailiff will be placed immediately outside
13 of the jury room door to provide security and assistance
14 for you during your deliberations.

15 Once you have reached your verdict, please knock on
16 the jury room door and advise the Bailiff to advise the
17 Court that you have reached a verdict, and we will return
18 you to the Courtroom as promptly as possible thereafter.

19 Thank you. You may retire to the jury room but do
20 not begin your deliberations until you are told to do so.

21 (Jury excused from Courtroom)

22 THE COURT: All right. Any objections to the charge
23 from the State?

24 SOLICITOR: No.

25 THE COURT: How about from the Defendant?

1 MR. SMALDON: Not from the Defense.

2 THE COURT: All right. Why don't you all come take a
3 look at the State's 1, 2, 3 and 4.

4 (Brief pause)

5 THE COURT: All right, bring out the alternate, and
6 take these Exhibits in.

7 (Jury instructed to begin deliberations at 10:51 A.M.)

8 (Alternate juror excused by the Court)

9 (Court stood at ease for a brief period)

10 THE COURT: We have questions from the jury. All
11 right, everybody have a seat.

12 We have two questions from the jury. The first ques-
13 tion is intent -- is intent to distribute based on quan-
14 tity or the way it is packaged, and I'm going to answer
15 that there may be a permissive inference of intent to dis-
16 tribute if the cocaine weighs over one gram.

17 They also have another question that says, or any
18 other factors, and I'm going to answer, also the jury may
19 draw a permissive inference of intent to distribute also
20 based on packaging and other factors.

21 Any objection from the State?

22 SOLICITOR: No, sir.

23 THE COURT: Any objections from the Defense?

24 MR. SMALDON: No, sir.

25 THE COURT: All right, go ahead and I'll have the

1 Court Reporter mark that and send it on in.

2 (Court stood at ease until the jury was brought back
3 to the Courtroom at 11:41 A.M.)

4 THE COURT: Ms. Forelady, has the jury reached a ver-
5 dict?

6 FORELADY: We have, sir.

7 THE COURT: If you would be so kind as to hand it to
8 the Bailiff and she will hand it to me.

9 (Brief pause)

10 THE COURT: I find the verdict form is in order. If
11 you would publish the verdict?

12 CLERK: State of South Carolina versus Myron A. Cannon,
13 Indictment 2016 GS 21 00425.

14 As to the charge of trafficking in cocaine base, we,
15 the jury, unanimously find the Defendant, Myron A. Cannon,
16 guilty.

17 As to the charge of possession with intent to distri-
18 bute cocaine, we, the jury, unanimously find the Defendant,
19 Myron A. Cannon, guilty.

20 As to the charge of possession of cocaine, we, the
21 jury, unanimously find the Defendant, Myron A. Cannon . .

22 THE COURT: It was struck through and she initialed
23 it as well.

24 CLERK: Guilty.

25 THE COURT: Not guilty.

1 CLERK: Not guilty.

2 As to the charge of failiure to stop for a blue light,
3 we, the jury, unanimously find the Defendant, Myron A.
4 Cannon, guilty.

5 As to the charge of resisting arrest, we, the jury,
6 unanimously find the Defendant, Myron A. Cannon, guilty.

7 Signed by the Forelady and dated September 7, 2016.

8 Members of the jury, if this is your verdict, please
9 raise your right hands.

10 Thank you.

11 THE COURT: Any request for polling by the Defense?

12 MR. SMALDON: We would request that you poll the
13 jurors.

14 THE COURT: All right, please poll the jury.

15 (Whereupon, individual jurors' names were called and
16 questioned as follows:

17 Members of the jury, as I call your name, please raise
18 your hand. I'm going to ask you two questions and please
19 respond to both questions.

20 Was this your verdict then, and is it still your
21 verdict now?

22 All members of the jury answered in the affirmative.)

23 (Whereupon, the jurors were sent to the jury room).

24 THE COURT: If you would, please step into the jury
25 room for just a moment and let me speak to the lawyers and

1 we'll get back with you.

2 (Jurors to jury room)

3 THE COURT: I just want to make sure you are okay
4 with the verdict form, both the State and the Defense, on
5 number three, as to the charge of possession of cocaine.

6 The forelady checked guilty and then she marked through
7 it and initialed it, which makes sense to me.

8 Do you want to take a look at it and let me know your
9 thoughts?

10 (Brief pause)

11 It looks to me like to me she checked it and then
12 marked through it. They didn't need to answer it, so she
13 struck through it and initialed it.

14 SOLICITOR: It appears fine to the State, Your Honor.

15 THE COURT: How about the Defense?

16 MR. SMALDON: I don't see anything wrong with it for
17 the Defense.

18 THE COURT: Then I will let the jury go and hear your
19 motions.

20 (Jury was brought in and excused by the Court)

21 THE COURT: All right, any motions from the Defense?

22 MR. SMALDON: Your Honor, I move at this time for a
23 new trial for the Defendant.

24 THE COURT: All right. I would deny that motion.

25 Thank you.

1 THE COURT: Ready for sentencing?

2 MR. SMALDON: Yes, sir.

3 SOLICITOR: Mr. Cannon has a prior record, Your Honor.
4 This is what I guess is important, Your Honor, in terms of
5 enhancement.

6 It looks like October 25th, 2004, he had a prior pos-
7 session of cocaine.

8 He also had a prior possession of crack cocaine that
9 he pled to on June 28, 2003.

10 Also, at the same time, Your Honor, he pled to failure
11 to stop for a blue light on that same day which would have
12 been a first offense then.

13 The crimes of trafficking in cocaine base which he has
14 been convicted of has a mandatory minimum of twenty-five to
15 thirty years.

16 The possession with intent to distribute cocaine car-
17 ries from ten to thirty years; the blue light carries five
18 years; resisting arrest carries one year, Your Honor.

19 Normally I don't do this but there is no reason for
20 the State to call for the mandatory minimum of twenty-five
21 years in this matter.

22 THE COURT: So you see no reason to go to twenty-five?

23 SOLICITOR: I know he has a record for it, Judge, but
24 twenty-five years is a long time.

25 He didn't murder anybody, harm anybody or anything of

1 that nature. I would ask -- the State would be satisfied
2 with twenty-five years.

3 THE COURT: All right, let me hear from the Defense.

4 MR. SMALDON: Your Honor, as you know, I want to pre-
5 serve the record on this. I have an objection to the sen-
6 tencing under the Eighth Amendment, cruel and unusual, and
7 I believe that the sentence is unduly cruel based on his
8 prior offenses being years ago.

9 I have seen the federal guidelines. I have seen those
10 of neighboring states. I have seen more than I've wanted
11 to.

12 I would at this time ask for a -- the relief I would
13 ask for I guess is a declaratory judgment, that the statute
14 is unconstitutional.

15 THE COURT: All right. I would deny your motion.

16 In reference to the resisting arrest, the sentence of
17 the Court is one year.

18 In reference to the failure to stop for a blue light,
19 the sentence of the Court is five years.

20 In reference to the PWID cocaine third, the sentence
21 of the Court is twenty-five years.

22 In reference to the trafficking, the sentence of the
23 Court is twenty-five years.

24 I will run all of them concurrent.

25 Thank you.

1 SOLICITOR: Thank you, your Honor. As far as allocution
2 being an issue -- I know you have sentenced him, but no
3 family members or anything else . .

4 MR. SMALDON: Certainly the family has been in and out
5 and his family is here. I have not been informed that they
6 wish to speak.

7 THE COURT: Thank you.

8 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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CERTIFICATE

I, HARRIET P. BENNETT, Court Reporter for South Carolina Court Administration, hereby certify that the foregoing Transcript was prepared from the records of Keeshia Reed to the best of my ability, having been heard in the Court of General Sessions for Florence County, South Carolina, on September 6 and 7, 2016.

FURTHER, I certify that I am neither of kin nor counsel to any party to this action, nor do I have any interest in the same.

~~May 4, 2017~~

July , 2017

