

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Honorable William H. Seals, Circuit Court Judge

ANTHONY TYRONE WILLIAMSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001050

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
STATE,)

v.

ANTHONY TYRONE WILLIAMSON)
DEFENDANT.)

TRANSCRIPT OF RECORD
08-GS-21-317
April 13, 2009
Florence, South Carolina

BEFORE:

THE HONORABLE RALPH KING ANDERSON, JUDGE; AND JURY

APPEARANCES:

PATRICIA S. PARR, ESQ.
Assistant Solicitor

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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EXHIBITS

STATE'S:

No.	Description	I.D./EVD.
1	Miranda card	20/36
2a-2f	Photos	20/36
3	Gun/bullets	20/36
4	Scales	20/36
5	Safe	20/36
6	Lock box w/items	20/36
7	Scanner	20/36
8	Drugs w/Best kit	20/36

COURT'S:

No.	Description	I.D./EVD.
1	Bond	18

1 THE COURT: Ms. Solicitor, are you ready?

2 MS. PARR: Your Honor, the State is ready.

3 THE COURT: Call the case please.

4 MS. PARR: Your Honor, at this time the State would
5 call indictment 08-GS-21-317 against Anthony Williamson,
6 Anthony Williamson. Your Honor, do you want me to tell
7 the charges or would you like to?

8 THE COURT: Yes, tell the charges.

9 MS. PARR: Your Honor, the State is proceeding
10 against the defendant from trafficking in cocaine base, as
11 well as possession of cocaine base within proximity of a
12 school or park.

13 THE COURT: Mr. Bailiff, in the back.

14 THE BAILIFF: Yes, sir.

15 THE COURT: Call the name of Anthony Williamson
16 three times in the hallway please.

17 THE BAILIFF: Yes, sir.

18 (Pause.)

19 THE BAILIFF: Your Honor, I called the name three
20 times in the hallway and got no respond.

21 THE COURT: Ms. Solicitor, we proceed with the case
22 as a trial in absentia subject to the constitutional rules
23 that will be applied at a later time.

24 Jurors in the audience, the trial today as we
25 commence is Anthony Williamson charged with trafficking in

1 cocaine base and possession of cocaine base with intent to
2 distribute in regard to proximity of a school or park. We
3 proceed under constitutional guides and limitations. It
4 is a trial in the absence of the defendant known as a TIA.
5 That acronym, trial in absentia, means that we must apply
6 constitutional rules to the trial. One, one, no kind of
7 inference is to be drawn from the absence of the
8 defendant. His absence is not to be used against him. He
9 may have a valid reason for not being here so that will
10 not be used under any circumstances against the absent
11 defendant. Is there any member of the jury panel who is
12 related by blood or connected by marriage to Anthony
13 Williamson, if so, please stand?

14 (There was no response.)

15 THE COURT: Is there any member of the jury panel
16 who has any direct or indirect connection whatsoever with
17 the defendant Anthony Williamson, if so, please stand?

18 (There was no response.)

19 THE COURT: Witnesses for the State, as I call your
20 name please stand and remain standing until I posit the
21 query to the panel. Please remain standing. William
22 Nida, John Calhoun, Bob Drulis, Kendrick Spears -- where's
23 Kendrick Spears?

24 MS. PARR: He will be right back, Your Honor.

25 THE COURT: All right. Michael Brandt, Shannon

1 Hill.

2 MS. PARR: Your Honor, he's stepped out too a
3 second.

4 THE COURT: Beth Hoover.

5 Is there any member of the jury panel who is related
6 by blood or connected by marriage to any of these
7 witnesses who are standing facing you now? If so, please
8 stand.

9 Your name please.

10 THE POTENTIAL JUROR: Donna Ward.

11 THE COURT: Let me get your number.

12 THE POTENTIAL JUROR: 137.

13 THE COURT: 137. Yes, your connection please.

14 THE POTENTIAL JUROR: I am related to Mr. Drulis'
15 wife.

16 THE COURT: And how close is that connection? Is it
17 first cousin or?

18 THE POTENTIAL JUROR: First cousin.

19 THE COURT: I'm sorry?

20 THE POTENTIAL JUROR: First cousin.

21 THE COURT: First cousin. She will be excused under
22 the line of consanguinity. Just have a seat please.

23 Anyone else? Let me pose this query in regard to
24 the witnesses. Is there any member of the jury panel who
25 has any direct or indirect connection of any nature

1 whatsoever with any of these witnesses, if so, please
2 stand.

3 Your name please.

4 THE POTENTIAL JUROR: Robert Lee, 74.

5 THE COURT: Yes.

6 THE POTENTIAL JUROR: Shannon Hill, if it's the same
7 officer I think I'm a friend of his.

8 THE COURT: Are you able to assure the Court that
9 you can and will give both the State and the Defendant a
10 fair and impartial trial?

11 THE POTENTIAL JUROR: Yes, sir.

12 THE COURT: Will you do that?

13 THE POTENTIAL JUROR: Yes, sir.

14 THE COURT: Thank you. Please be seated. Thank
15 you. Please be seated. Please be seated, folk.

16 MS. PARR: Your Honor, this is Kendrick Spears.

17 THE COURT: Kendrick Spears just walked in. Is
18 there any member of the jury panel who needs to respond in
19 regard to Kendrick Spears?

20 (There was no response.)

21 THE COURT: Thank you. Please be seated. The
22 allegation or averment is contained in the document called
23 an indictment. The indictment is not evidence. It does
24 not prove anything in the case. It's simply the charging
25 paper used to bring the matter for court action. Is there

1 any member of the jury panel who has ever heard this case
2 discussed in any form or fashion? It involves a general
3 allegation that Anthony Williamson did in Florence County
4 on September 13, 2007, commit the offense in regard to
5 trafficking in cocaine base and that he did possess
6 cocaine base with intent to distribute within proximity of
7 a school or park, two separate charges.

8 Anyone on the jury panel who has ever heard this
9 case discussed in any form or fashion, if so, please
10 stand?

11 (There was no response.)

12 THE COURT: Is there any member of the jury panel
13 who cannot give both the State and the Defendant a fair
14 and impartial trial? If not, please stand.

15 (There was no response.)

16 THE COURT: Is there any member of the jury panel
17 who is conscious of or aware of any bias or prejudice for
18 or against the State or the Defendant? If so, please
19 stand.

20 (There was no response.)

21 THE COURT: The pending charges relate to drug
22 offenses under South Carolina law. Is there any member of
23 the jury panel who has any personal feelings or propensity
24 in regard to a charge such as this that would impair your
25 ability to give a fair and impartial trial? If so, please

1 stand.

2 (There was no response.)

3 THE COURT: Any further query for the State?

4 MS. PARR: Yes, Your Honor. We have one additional
5 witness, Mrs. Doris O'Hara from the Clerk of Court's
6 Office.

7 THE COURT: Doris O'Hara, stand please. Is there
8 any member of the jury panel who is related by blood or
9 connected by marriage or has any direct or indirect
10 connection with the chief deputy clerk of court Doris
11 O'Hara, please stand?

12 (There was no response.)

13 THE COURT: Thank you. Any further query,
14 Ms. Solicitor?

15 MS. PARR: No, the State would have none, Your
16 Honor.

17 THE COURT: All right. The peremptory challenges
18 are five and five. We will at the appropriate time get to
19 one alternate in the case.

20 Ms. Clerk, you are recognized. Ms. Clerk, just one
21 second.

22 I may have been delinquent in not covering for you
23 the procedure. I'm not sure that Judge Russo covered this
24 procedure. The circuit court is bifurcated in two
25 divisions, the Court of General Sessions is the criminal

1 court, and the Court of Common Pleas is the civil court.
2 This is the court of General Sessions. We draw the jury
3 here under constitutional mandates that relate to a public
4 selection process. The jury selection process on the
5 civil side is totally different and distinct. Here we
6 require a public selection process which involves your
7 name being called and you coming forward to stand in front
8 of the State first. And we ascertain the position of the
9 State since it's a trial in absentia it will simply be the
10 position of the State. If the State excuses you you
11 return to your seat. If the State accepts you you'll be
12 asked to have a seat in the box to my right, which is the
13 jury box.

14 Now folk, if you get excused, don't go home and lose
15 any sleep over that fact. I mean, obviously the selection
16 process is subject to a choice. You might not have enough
17 hair to suit people in regard to the selection process.
18 Just relax, let the system work.

19 Proceed, Ms. Clerk.

20 Yes.

21 MR. LAWSON: May I approach?

22 (WHEREUPON, counsel approached the Bench
23 for an off-the-record discussion.)

24 THE COURT: All right. My conference here with the
25 chief public defender related to an individual who we

1 wanted to identify to make sure it had no nexus to the
2 case. Thank you.

3 THE DEPUTY CLERK OF COURT: 55, Karen Hamill (white
4 female). If you would, Ma'am, get all your belongings and
5 come right through this gate. Come to the microphone and
6 face the back of the courtroom. Stand right there.

7 What say the State?

8 MS. PARR: Please present Ms. Hamill.

9 THE DEPUTY CLERK OF COURT: Please have a seat in
10 the jury box, ma'am.

11 81, Thomas Marsh (white male). What say the State?

12 MS. PARR: Please present Mr. Marsh.

13 THE DEPUTY CLERK OF COURT: Please have a seat in
14 the jury box please.

15 130, Timothy Timmons (black male). What say the
16 State?

17 MS. PARR: Please present Mr. Timmons.

18 THE DEPUTY CLERK OF COURT: Please have a seat in
19 the jury box.

20 152, Betty Alston (black female). What say the
21 State?

22 MS. PARR: Please present Ms. Alston.

23 THE DEPUTY CLERK OF COURT: You may have a seat in
24 the jury box.

25 15, Elizabeth Brayboy (black female). What say the

1 State?

2 MS. PARR: Please present Ms. Brayboy.

3 THE DEPUTY CLERK OF COURT: Please have a seat.

4 125, Richard Tatum (white male). What say the

5 State?

6 MS. PARR: Please present Mr. Tatum.

7 THE DEPUTY CLERK OF COURT: Please have a seat in

8 the jury box.

9 77, Shannon Lewellen (white female). What say the

10 State?

11 MS. PARR: Please present Ms. Lewellen.

12 THE DEPUTY CLERK OF COURT: Please have a seat in

13 the jury box.

14 166, Patricia Watford (white female). What say the

15 State?

16 MS. PARR: Please present Ms. Watford.

17 THE COURT: Please have a seat in the jury box.

18 12, Jane Boardwine (white female). What say the

19 State?

20 MS. PARR: Please present Ms. Boardwine.

21 THE DEPUTY CLERK OF COURT: Please have a seat in

22 the jury box, ma'am.

23 134, Charles Vant (white male). What say the State?

24 MS. PARR: Please present Mr. Vant.

25 THE DEPUTY CLERK OF COURT: Please have a seat in

1 the jury box.

2 59, Janice Henderson (white female). What say the
3 State?

4 MS. PARR: Please present Mr. Henderson.

5 THE DEPUTY CLERK OF COURT: Please have a seat in
6 the jury box.

7 126, David Taylor (white male). What say the State?

8 MS. PARR: Please present Mr. Taylor.

9 THE COURT: Karen Hamill, come forward and be the
10 foreperson of this jury. Take seat number one. Mr.
11 Taylor, would you move down to that seat. We will have
12 one alternate. One alternate.

13 THE DEPUTY CLERK OF COURT: 11, Candy Blackmon
14 (white female). What say the State?

15 MS. PARR: Please present Ms. Blackmon.

16 THE DEPUTY CLERK OF COURT: Please have a seat in
17 the jury box.

18 THE COURT: Ms. Blackmon, I need for you to use that
19 seat at all times since you'll be the alternate.

20 Ms. Hamill, sit in that seat at all times.

21 The rest of you may sit at any location other than
22 those two designated seats. Now jurors, I must take up
23 matters of law here now. Hopefully it will not be long.
24 It may be that after I take up some matters of law in your
25 case I draw another jury while you're in the back, but

1 just let me make some progress in regard to jurors in
2 cases. And please be patient. Fix them some coffee and
3 whatever. Go to your jury room please.

4 (WHEREUPON, the jury was removed from the courtroom at
5 approximately 12:01 p.m., and the following proceedings
6 commenced in open court.)

7 THE COURT: Ms. Solicitor, are you in the next case
8 also?

9 MS. PARR: No, Your Honor, I am not.

10 THE COURT: If we're going to draw a jury in that
11 case let me do that before I visit these constitutional
12 issues.

13 (Break in proceedings.)

14 THE COURT: Let's go back to the first case. Let me
15 ascertain whether that case can proceed. You lawyers just
16 stand by and I'll come back to you in just a moment.

17 All right, Ms. Solicitor, we proceed now with an
18 analysis of the position of State versus Anthony
19 Williamson. It is done under Article I, Section 14 of the
20 South Carolina Constitution and the Sixth Amendment of the
21 United States Constitution. We then proceed to give
22 efficacy to Rule 16 of the South Carolina Rules of
23 Criminal Procedure. The Court applies State versus Goude,
24 cited omitted; State versus Fairy, cite omitted; Ellis
25 versus State, cite omitted; State versus Bell, cite

SW- D. O'HARA - DIRECT

1 omitted. We then analyze the analysis in regard to the
2 requirements to try a defendant in absentia: One,
3 defendant must have voluntarily waived his right to be
4 present; and two, the judge must find on the record, (a),
5 defendant received notice of the right to be present, and
6 (b), the defendant was warned that a trial would proceed
7 in his absence if he failed to attend. City of Aiken
8 versus Koontz gives edification in regard to a defendant
9 being placed on bond.

10 Ms. Solicitor, call the witnesses.

11 MS. PARR: Your Honor, at this time we would call
12 Ms. Doris Poulos O'Hara to the stand.

13 THE COURT: Left hand on the Bible, raise your right
14 hand please, Ms. Clerk.

15 WHEREUPON,

16 DORIS POULOS O'HARA,
17 having been duly sworn by the Court, testified as
18 follows:

19 THE COURT: Have a seat please and for the record
20 give your full name.

21 THE WITNESS: Doris Poulos O'Hara.

22 THE COURT: Proceed.

23 **DIRECT EXAMINATION**

24 Q Ms. O'Hara, where are you employed?

25 A The Clerk of Court Office.

SW- D. O'HARA - DIRECT

1 Q In Florence County?

2 A Florence County.

3 Q How long have you been with the Florence Clerk of
4 Court's office?

5 A Almost 19 years.

6 Q And what is your position with them?

7 A I'm supervisor for criminal court.

8 Q Now have you been apprized of the case against Anthony
9 Tyrone Williamson on indictment 08-317?

10 A Yes.

11 Q Okay. And was this defendant issued a bond in this
12 matter?

13 A He was.

14 Q And when was that bond issued?

15 A September the 14th, 2007.

16 Q Okay. And who was the issuing judge?

17 A Judge Belinda Timmons.

18 Q Now do you have a copy of the original bond in this
19 matter?

20 A I've got the original.

21 Q Now what was the condition of the defendant's bond?

22 A The defendant was to appear at term of court of General
23 Sessions beginning October 15th, 2007, at 9 a.m. at
24 Florence General Sessions and remain throughout that term
25 of court. If no disposition is made during that term the

SW- D. O'HARA - DIRECT

1 defendant shall appear and remain throughout each
2 succeeding term of court until final disposition is made
3 of its case unless otherwise ordered by the Court.

4 Q And Madam Clerk of Court, was a bench warrant issued
5 for the defendant in this case?

6 A I would have to look. I -- I wasn't asked to -- I'll
7 get my bench warrant book. I'll be glad to look.

8 THE COURT: Let her look. Who has the book?

9 MS. PARR: Your Honor, can Madam Clerk step down to
10 get her book?

11 THE WITNESS: Bench warrant was issued on Anthony
12 Williamson, indictment 2008-317, March the 10th, 2009, by
13 the Honorable Ralph King Anderson, Jr.

14 BY MS. PARR:

15 Q Madam Clerk, you said you have a copy of the original
16 bond; is that correct?

17 A I do.

18 Q Okay. And Madam Clerk, was the defendant given or
19 provided a copy of this bond?

20 A I believe he was.

21 Q Okay. And was he so advised of the conditions of his
22 bond as indicated on by his signature?

23 A He was. He signed it September 14th, 2007.

24 Q Okay.

25 MS. PARR: And Your Honor, the State would move to

SW- D. O'HARA - DIRECT

1 enter into evidence State's Exhibit Number 1.

2 THE COURT: Court's Exhibit Number 1 so as to keep
3 that from going before the jury.

4 MS. PARR: Your Honor, this is a copy of the
5 defendant's bond I will show Madam Clerk.

6 BY MS. PARR:

7 Q Do you recognize that?

8 A I do.

9 Q Okay. And ---

10 A That's a certified copy of Anthony Williamson's bond.

11 THE COURT: Once again, mark it as Court's Exhibit
12 Number 1.

13 (WHEREUPON, Court's Exhibit No. 1 was marked and made a
14 part of the record.)

15 MS. PARR: Nothing further for this witness, Your
16 Honor.

17 THE COURT: Next witness please.

18 MS. PARR: Your Honor, the State has no further
19 witnesses.

20 THE COURT: Order: The issue is whether the
21 defendant can be tried in absentia. The constitutional
22 provisions and relevant precedent have been heretofore
23 referenced by the Court. The Court now specifically
24 applies State versus Castenera, 351 S.C. 635, State versus
25 Caldwell, 300 S.C. 494. The Court concludes and finds on

1 the record that the defendant was given notice to appear
2 for court and has failed do so. Additionally, the Court
3 concludes that the defendant was made aware of the fact
4 that he could be tried in his absence. Concomitantly, the
5 State may proceed with a trial in absentia, and it is so
6 ordered.

7 All right, you ready to proceed if I bring the jury
8 out?

9 MS. PARR: Your Honor, if we could have a minute to
10 mark the exhibits for identification.

11 THE COURT: In the meantime I'm going to bring out
12 the second jury, the second jury, and let me talk to them
13 briefly.

14 (Break in proceedings.)

15 THE COURT: Ms. Solicitor, I am going to let you
16 mark the exhibits, but let me give you one caveat please.
17 Under Castenera and under Caldwell there will be no
18 reference to the defendant's absence during the State's
19 opening or closing. I will take care of that. Let the
20 Court take care of that. And the writing of both those
21 cases gives some degree of circumspection to the argument
22 by the solicitor. You're familiar with that I'm sure.

23 MS. PARR: Yes.

24 THE COURT: Come forward and mark the exhibits.
25 (WHEREUPON, State Exhibits Nos. 1 through 8 were marked

1 for identification only.)

2 MS. PARR: May it please the Court, State ready to
3 proceed?

4 THE COURT: All right. Ms. Bailiff, you have the
5 jury cleaned up in regard to those ---

6 THE BAILIFF: Yes, sir, I have all the cell phones.
7 Yes, I have.

8 THE COURT: Okay, bring them out.

9 (WHEREUPON, the jury was returned to the courtroom at
10 approximately 12:47 p.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: Ms. Clerk, give them the oath of office.

13 THE DEPUTY CLERK OF COURT: Members of the jury, if
14 you will stand and raise your right hand to be sworn.

15 (WHEREUPON, the jury was sworn.)

16 THE COURT: Jurors, turn and face me and give me
17 your attention please. This is a trial in absentia. TIA
18 is an acronym standing for trial in absentia. That can be
19 done under constitutional guidelines. One, the defendant
20 Anthony Williamson is not present. That cannot be used
21 against him under any circumstances, and you cannot -- I
22 repeat again, jurors, you cannot even talk about that in
23 the jury room. That's not for your consideration. That
24 is not to be taken into account under any circumstances.
25 The defendant's absence cannot be used against him in this

1 trial. Please, please abide by that instruction. That's
2 a constitutional instruction under both the constitution
3 of this state and the United States Constitution.

4 As we proceed, your role is to decide the facts of
5 the case. I do not have the right to pass upon the facts.
6 My role is to decide the law. We blend our duties and
7 responsibilities so that you might arrive at a verdict
8 that is just, fair and true; just, fair and true to the
9 State, and just, fair and true to the Defendant in the
10 case.

11 Mr. Bailiff, get that back door please.

12 THE BAILIFF: All right, sir.

13 THE COURT: The word verdict comes from Latin. It's
14 a very important word. There are two words in Latin. The
15 first word in Latin is verus. It means truth. Under old
16 Latin the concept of pure truth was emphasized, verus,
17 truth. The other word in Latin is dicto. It means to
18 speak. The two words are combined in Latin the word is
19 veredicto. When the foreperson stands and says, you've
20 reached a jury verdict, that verdict must speak the truth
21 in this case. You are known as jurors. That word also
22 comes from Latin. It's jurat. It means an oath person, a
23 person who has taken a solemn oath to do what, to do
24 justice in the case. Jurat, an oath person, person who
25 has taken a solemn oath.

1 As we proceed to try this case there are two rules
2 that apply. One, under the constitution the State must
3 prove this defendant guilty beyond a reasonable doubt.
4 That's the burden of proof. Two, the defendant is
5 presumed to be innocent unless and until you, the jury,
6 remove that presumption of innocence by evidence
7 satisfying you of his guilt beyond a reasonable doubt.
8 Thank you for your attention.

9 Ms. Solicitor, you're recognized.

10 MS. PARR: May it please the Court.

11 THE COURT: Yes.

12 MS. PARR: Members of the jury, good afternoon.

13 Today we're here for trial against the defendant. He has
14 been indicted for trafficking in cocaine base, also known
15 as crack cocaine and possession of cocaine base with
16 intent to distribute within proximity of a school or park.
17 We believe the evidence will show in this matter that on
18 September 13th, 2007, officers from the Florence Police
19 Department narcotics unit executed a search warrant at the
20 defendant's residence. We also believe the evidence will
21 show that upon searching the residence they found what is
22 commonly known as crack cocaine. We also believe the
23 evidence will show that the weight of that crack cocaine
24 was in -- in excess of 17-grams. I told you that the
25 defendant is charged with trafficking in crack cocaine,

1 and he is actually specifically charged with trafficking
2 in crack cocaine 10-grams, between 10-grams and 28-grams.
3 He's also charged with possession of cocaine base within
4 proximity of a school or park. We believe the evidence
5 will show that this was within one half mile of Lester
6 Park.

7 Now the evidence you will hear today will come from
8 that witness stand by officers involved in this matter.
9 You will also hear evidence from the chemist who was
10 employed with SLED to analyze the drugs. Lastly, you will
11 also see or have an opportunity to view evidence, which
12 physical evidence, that was obtained from the scene. Now
13 once you've had an opportunity to do that, we would ask
14 that you find the defendant, Anthony Williamson, guilty of
15 trafficking in crack cocaine or cocaine base as well as
16 possession of cocaine base with intent to distribute
17 within one half mile of or within proximity of a school or
18 park. Thank you.

19 THE COURT: Call your first witness please.

20 MS. PARR: Your Honor, at this time we would call
21 Joe Nida to the stand.

22 THE CLERK OF COURT: If you would, sir, place your
23 left hand on the Bible, raise your right hand.

24 WHEREUPON,

25 **WILLIAM JOSEPH NIDA,**

SW - W. NIDA - DIRECT

1 having been duly sworn by the Deputy Clerk of Court,
2 testified as follows:

3 THE DEPUTY CLERK OF COURT: Please be seated. State
4 your full name for the record.

5 THE WITNESS: William Joseph Nida.

6 **DIRECT EXAMINATION**

7 BY MS. PARR:

8 Q Officer Nida, where are you employed?

9 A Florence Police Department.

10 Q And what do you do for the Florence Police Department?

11 A I'm currently with the special investigative unit, our
12 narcotics unit.

13 Q And how long have you been with the Florence Police
14 Department?

15 A A little over seven years.

16 Q And how long have you been in the special
17 investigations?

18 A A little over four years.

19 Q And what are your duties in that unit?

20 A Mostly we work narcotics and anything that fall under
21 organized crimes, gambling, prostitution, alcohol stings,
22 and such things like that.

23 Q Now have you had any special training for your job?

24 A Yes, ma'am.

25 Q And would you please tell the Court what special

SW - W. NIDA - DIRECT

1 training you have with your job?

2 A I've been to DEA basic.

3 Q Would you please tell us what DEA stands for?

4 A Drug Enforcement Administration. That is correct;
5 isn't it? Yeah, DEA.

6 THE COURT: Sometimes those acronyms get you; don't
7 they?

8 THE WITNESS: Yes, sir. I went through DEA basic
9 which was a two weeks course.

10 BY MS. PARR:

11 Q And have you gone to the criminal law enforcement?

12 A Yes, ma'am, I did, in 2001.

13 Q Okay. And are you a certified law enforcement officer?

14 A Yes, ma'am.

15 Q Now are you familiar with the so-called Miranda
16 warnings?

17 A Yes, ma'am.

18 Q Okay. And did you have an occasion to advise suspects
19 of those rights during the course of your work in law
20 enforcement?

21 A That incident date or?

22 Q In general?

23 A In general, yes, ma'am.

24 Q Now in this particular case did you have occasion to do
25 that as well?

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1 A Yes, ma'am.

2 Q Now would you please tell us, when did you become
3 involved in the case that we're involved in today?

4 A I received information on the incident location prior
5 to the date, I believe, of 9/11/2007 when I actually got a
6 search warrant and was executed on 9/13/2007.

7 Q Okay. And are you the lead investigator in this
8 particular case?

9 A Yes, ma'am.

10 Q Now you said you had received information prior to
11 September 11th, 2007.

12 A Yes, ma'am, a confidential reliable informant with the
13 Florence Police Department stated that he or she observed
14 a quantity of cocaine base or crack on the premises.

15 Q All right. And upon getting that information what did
16 you do?

17 A I obtained a search warrant through our city court
18 here, Judge Hewitt, for that location.

19 Q Okay. And did you obtain a valid search warrant in
20 this matter?

21 A Yes, ma'am.

22 Q Okay. And when was that search warrant obtained?

23 A 9/11/2007.

24 Q Now upon getting that search warrant did you have an
25 occasion to execute it?

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1 A Yes, ma'am, we did.

2 Q Okay. And when and where was it executed?

3 A We executed on 9/13/2007 at [REDACTED] in the
4 city of Florence.

5 Q And when you said "we," who assisted you?

6 A Myself, Sergeant Calhoun, now Sergeant Drulis, Agent
7 Spears, I believe Officer Gowdy (ph), Officer Jackson.

8 Q Now would you tell us the events that occurred when you
9 executed that search warrant?

10 A We conducted surveillance on the location. We knew who
11 the primary target was, which was Anthony Williamson. We
12 observed him get in his vehicle, back out of his driveway,
13 and then we stopped him right there in front of the house
14 at the stop sign, pulled front and stopped him.

15 Q Okay. And then -- and after you stopped Mr. Williamson
16 what did you do?

17 A Approached the vehicle, and on the floorboard then when
18 we first made contact was between him and another
19 co-defendant, another gentleman, there was some cocaine
20 base in plain view laying on the floor. We told him we
21 had a search warrant for his residence and detained him
22 and took him back to his house.

23 Q Okay. Now what did you do with the cocaine base that
24 was on the floorboard?

25 A We took possession of it, maintained control of it, and

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1 later on found out, you know, who claimed possession of
2 that and claimed it.

3 Q And who was that?

4 A The -- under Miranda Mr. Williamson stated that he gave
5 the cocaine base to the co-defendant, and then the
6 codefendant under Miranda stated, claimed possession of
7 it, of what was in the car.

8 Q Okay. Now you took the defendant back to the
9 residence; is that correct?

10 THE COURT: Ms. Solicitor, let him explain to the
11 jury about Miranda. They've heard it on television and
12 all like that but explain it for the record.

13 MS. PARR: Your Honor, actually I was going to get
14 to that.

15 THE COURT: Oh, I'm sorry, I jumped you.

16 BY MS. PARR:

17 Q Okay. So you went back to the house; is that correct?

18 A Yes, ma'am.

19 Q Okay. And when you got back to the house what is the
20 first thing you did?

21 A We approached the door. We asked him, first of all,
22 for our safety in making entry, if there's anybody else in
23 the residence and he told us there was three other
24 individuals that were in the house. We knocked, announced
25 police search warrant, didn't hear any response, and using

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1 Mr. Williamson's keys made entry into the resident without
2 force.

3 Q Okay. And how did you get defendant's keys?

4 A They were in the vehicle that he was driving. It was
5 on his -- was on his person.

6 Q All right. So you went into his residence; is that
7 correct?

8 A Yes, ma'am.

9 Q And once you entered who did you find there?

10 A I believe a Gwendolyn Williamson, his girlfriend at the
11 time -- I can't think of her name -- and his mother. All
12 three of them were in separate bedrooms in the residence.

13 Q And then what did you do with the persons in the house?

14 A We brought them all into the living room and explained
15 to them that we had a search warrant for the residence and
16 at that point would read it and explain it to them.

17 Q Okay. And what, if anything, did you do with the
18 defendant at that time?

19 A Same thing. He was explained it, and then at that
20 point read everybody Miranda warnings from a card and just
21 explained them their rights.

22 Q Okay. I'm gonna show you what has been entered in
23 evidence as State's Exhibit Number 1. Do you recognize
24 that? And would you please state the exhibit number and
25 tell us what that is and how you recognize it.

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1 A Exhibit Number 1, and it is a copy of my Miranda
2 warning card I gave to you.

3 Q Okay. And would you please read that for us for the
4 record.

5 A It's subject's rights and Miranda warning. That's to
6 be read to all criminal suspects upon arrest. And it
7 states: "You have the right to remain silent. Anything
8 you say can and will be used against you in a court of
9 law. You have the right to talk to a lawyer and have him
10 present with you while you're being questioned. If you
11 cannot afford to hire a lawyer one will be appointed to
12 represent you before any questioning if you wish. You can
13 decide at any time to exercise these rights and not answer
14 any questions or make any statements. Do you understand
15 these rights I have explained to you?" And I would ask
16 him -- and then I asked him, with these rights in mind do
17 you wish to talk to us now?

18 Q Okay. And what was the defendant's response upon
19 reading those rights to him?

20 A He stated he understood them and that he wanted to talk
21 to us.

22 Q Okay. And now did he, in fact, give you a statement at
23 that time?

24 A Yes, ma'am, he did.

25 Q And what, if anything, did the defendant say?

SW - W. NIDA - DIRECT

1 A Mr. Williamson stated that he had a safe beside his bed
2 on the left-hand side to be exact that he had some cocaine
3 base or crack in, and it was his.

4 Q Okay. And upon getting that information what did you
5 do?

6 A Myself and Sergeant Calhoun, using the keys again that
7 was on his person that was in the vehicle, we got into the
8 house with the key to the safe which was the first one
9 there, the large one, opened it up and there was the
10 cocaine base or crack was in there. Approximately, upon
11 us weighing it, was like 19.4-grams along with cash and
12 some other items.

13 Q Okay. Now when you weighed the cocaine base that you
14 found, was it just the cocaine itself, cocaine base
15 itself?

16 A Just the crack itself, yes.

17 Q Okay. And was it in anything or was it ---

18 A It's in -- he had it already busted up or cut up in
19 little squares to sell in plastic containers.

20 Q Now when you weighed it, did you weigh the plastic
21 wrapping with it as well?

22 A I believe we dumped it on to the scales to get a weight
23 on it. It wasn't in plastic bags or nothing. It was just
24 laying there cut up.

25 Q Now I'm gonna show you what's been marked as State's

SW - W. NIDA - DIRECT

1 Exhibit Number 5. You do recognize this?

2 A Yes, ma'am.

3 Q And what is this?

4 A That's the Honeywell, I believe, is the brand on it.

5 It's a safe that was beside his bed that he told us that

6 the drugs were in and that we found and did keep inside

7 his bed in his bedroom.

8 Q And was that safe actually opened at that time?

9 A It was locked.

10 Q Okay. And while you were there did you open the safe?

11 A Yes, the key that's in it now was on his keys that he

12 had on his person that he had in the vehicle that we used

13 to open that up.

14 Q Okay, all right. Now did you find anything else in the

15 defendant's bedroom?

16 A Yes, we found another small safe or lock box that was

17 with it that it had full of rolling papers and other drug

18 paraphernalia. Also a scanner was in there used to

19 monitor police radios, our communication. Underneath the

20 mattress in his bedroom Sergeant Calhoun located a

21 40-caliber pistol that, again, under Miranda he claimed

22 everything. He stated he had purchased the pistol off the

23 street so he claimed it also.

24 Q All right. I'm gonna show you State's Exhibits ---

25 THE COURT: Ms. Solicitor, I assume that you and law

SW - W. NIDA - DIRECT

1 enforcement generally checked that weapon that is
2 unloaded? No doubt about that?

3 MS. PARR: Yes, Your Honor, this officer and this
4 officer checked it. I didn't check it. They checked it.

5 THE COURT: All right.

6 BY MS. PARR:

7 Q State's Exhibit Number 3, can you identify this?

8 A That's the pistol underneath his mattress. Yes, ma'am.

9 Q Okay. And State's Exhibit Number 4.

10 A Set of digital scales that was in his bedroom also.

11 Q Okay. And State's Exhibit Number 7, do you recognize
12 this?

13 A The lock box with the drug paraphernalia and rolling
14 papers.

15 Q Okay.

16 A The keys are on there too.

17 Q Would you please open it? Okay. And what's contained
18 in this lock box?

19 A Bunch of rolling papers. I believe there was a watch,
20 diamond ring, and a pill -- a medicine bottle.

21 Q Okay. And were any of these things removed or tampered
22 with?

23 A No.

24 Q Okay. And I'm gonna also show you what's been entered
25 as State's Exhibit Number 7.

SW - W. NIDA - DIRECT

1 A Scanner, again, used to pick up on our police channel,
2 police radio for to listen in on our communication.

3 Q Okay. Now I'm gonna show you what has been entered
4 into evidence and marked State's Exhibit Number 2-a
5 through 2-e. Would you please go through -- or 2-f --
6 each one of these and please state the exhibit number
7 including the letter and tell us whether you can identify
8 each one of these items.

9 A All right. First one is a 2-a. It, again, is a
10 photograph after we recovered the items. Here are two
11 safes. We picked them up off the floor where we had them
12 beside the bed, actually placed them on the bed, and took
13 a photograph of them along with some ammunition. Some
14 shotgun shells are there. And it shows the key ring in
15 its entirety with the vehicle keys in there and everything
16 actually in this box here. We opened it up.

17 THE COURT: When you say this box here ---

18 THE WITNESS: That's the lock box.

19 THE COURT: What exhibit number?

20 MS. PARR: What's that exhibit number?

21 THE WITNESS: That is 6. On 2-c, State's Exhibit
22 2-c, it is a desk that was located in his bedroom. Also
23 shows the scanner, State's Exhibit 7, where it was sitting
24 at. And the next one is 2-b. It is a photograph of
25 Mr. Williamson's bedroom door and how he had padlocks on

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1 it, not just your standard household locks. He actually
2 had padlock you have to use a key for that one. Next one
3 is 2-d, and it is a photograph of State's Exhibit Number 5
4 and it shows how the crack, the actual drugs were
5 displayed in there before we took it out and maintained
6 custody of it and his cash and everything. Showed one
7 Tupperware where he's got it cup up into what is commonly
8 referred to as 20-dollar rocks, and then another side has
9 like a slab or cookie where he was cutting it off of. And
10 then again, 2-e is another photograph again that matches
11 2-d of the drugs in there. There's another small
12 Tupperware underneath it that had some smaller rocks there
13 or cocaine base or crack that shows it. And 2-f is a
14 photograph of the contents of State's Exhibit Number 6
15 with all the rolling papers, medicine bottle, and the drug
16 paraphernalia.

17 Q Now you said that -- who took those photographs?

18 A Sergeant Calhoun.

19 Q Okay. And is that an accurate representation of the
20 defendant's bedroom on the date of this incident?

21 A Yes, ma'am.

22 Q And I'm gonna show you what has been marked as State's
23 Exhibit Number 8. Would you please tell us what that is.

24 A State's Exhibit Number 8, the drugs, the cocaine base
25 that was in State's Exhibit Number 5, once we take it to

SW - W. NIDA - DIRECT

1 evidence it's put in a Best pack and sealed and sent to
2 SLED to be analyzed.

3 Q Okay.

4 MS. PARR: Your Honor, the State would move to enter
5 into evidence State's Exhibit 1 through 8.

6 THE COURT: Entered into evidence.

7 (WHEREUPON, State Exhibits Nos. 1 through 8 were admitted
8 into evidence.)

9 BY MS. PARR.:

10 Q Now you said that those items were taken from
11 defendant's bedroom; is that correct?

12 A Yes, ma'am.

13 Q And upon getting those items what do you do after
14 obtaining those?

15 A Once we have everything and were finished with the
16 search, we sat down; and on the search warrant we do have
17 a return that we list everything that we're gonna be
18 seizing, taking from the residence or property. We
19 complete the return and then we do our paperwork on the
20 charges at that point in time.

21 Q Now was the return, in fact, completed that day?

22 A Yes, ma'am.

23 Q And who completed the return?

24 A I made a list of everything that was seized and then
25 Sergeant Drulis was the agent that actually returned it to

SW - W. NIDA - DIRECT

1 Judge Hewitt. That's who I obtained the search warrant
2 from.

3 Q Okay. Now when you obtained the crack what did you do
4 with it, or the cocaine base?

5 A Once we left the residence at that point we take it to
6 the police department in the basement to the evidence
7 room, and that's where the Best pack is completed on it
8 and then all the other stuff will be secured into evidence
9 at that time.

10 Q Okay. Now where was this house located, this residence
11 located?

12 A [REDACTED] and this is in the city of Florence.

13 Q Okay. And where is it located next to?

14 A For the park, Lester Park, really his backyard backed
15 up to the park itself which is in the 500 block of Dixie
16 Street and would run southbound crossing his backyard and
17 his neighbors.

18 Q And was this within one half mile ---

19 A Yes, ma'am.

20 Q ---of this park?

21 A Yes, ma'am.

22 Q Was the defendant arrested on that particular date?

23 A Yes, ma'am.

24 Q Please answer -- well, the State has no further
25 questions for this witness.

1 **THE COURT:** Thank you. You may step down. And
2 jurors, yes, I do know that you need to eat for lunch and
3 so we'll stop here. Can everybody be back at 2:15? Is
4 that too short of time? I'm just -- maybe a little
5 sandwich, 2:15? Need more, speak up. I got another jury
6 drawn in another case. Please be back at 2:15. Come
7 right through here. When you come back come into the
8 courtroom itself and we'll be on the lookout for you.

9 (WHEREUPON, the jury was removed from the
10 courtroom at 1:15 p.m., and the following proceedings
11 commenced in open court.)

12 **THE COURT:** Anything, Ms. Solicitor?

13 **MS. PARR:** No, Your Honor, State does not have
14 anything.

15 **THE COURT:** 2:15.

16 (WHEREUPON, a lunch break was taken.)

17 **THE COURT:** Bring the other jury out.

18 (WHEREUPON, the jury was returned to the courtroom at
19 approximately 2:21 p.m., and the following proceedings
20 commenced in open court.)

21 **THE COURT:** Hope you had a nice lunch everyone,
22 though it was a short lunch.

23 Next witness, Ms. Solicitor.

24 **MS. PARR:** Your Honor, at this time the State would
25 call John Calhoun to the stand.

SW - J. CALHOUN - DIRECT

1 **THE DEPUTY CLERK OF COURT:** If you would, sir, place
2 your left hand on the Bible, raise your right hand.

3 **WHEREUPON,**

4 **JOHN MARK CALHOUN,**
5 having been duly sworn by the Deputy Clerk of Court,
6 testified as follows:

7 **THE DEPUTY CLERK OF COURT:** Please be seated and
8 state your name for the record.

9 **THE WITNESS:** John Mark Calhoun.

10 **D I R E C T E X A M I N A T I O N**

11 **BY MS. PARR:**

12 **Q** Sergeant Calhoun, where are you employed?

13 **A** I'm with the Florence Police Department.

14 **Q** And how long have you been with the Florence Police
15 Department?

16 **A** Almost 21 years.

17 **Q** And what do you do for the Florence Police Department?

18 **A** I'm currently the supervisor of the special
19 investigations unit.

20 **Q** And have you had any special training for your job?

21 **A** Yes, ma'am. We have the basic criminal justice academy
22 all law enforcement has to go through. Plus I attended
23 probably close to a dozen specialized schools in dealing
24 with narcotics and narcotics investigation.

25 **Q** Are you a certified law enforcement officer?

SW - J. CALHOUN - DIRECT

1 A Yes, ma'am.

2 Q Now what are your present duties?

3 A Primarily investigations of narcotics, trafficking or
4 sales along with gang investigations like gun crimes, any
5 specialty type crimes.

6 Q Now were you working on September 13, 2007?

7 A Yes, ma'am.

8 Q Okay. And where were you working on that particular
9 day?

10 A Agent Nida had obtained a search warrant for a
11 residence in Florence located on Sanborn Street. They
12 were in the process of conducting surveillance on that
13 residence.

14 Q Okay. And specifically what did you do on that day in
15 conjunction with the investigation?

16 A We were all riding together in one vehicle, unmarked
17 car, and we were just kind of watching the house. We saw
18 the defendant, or the suspect in the case, we saw him
19 leave the residence so we stopped him. And at the time of
20 the stop we saw some crack on the floorboard of the car so
21 we detained him and the passenger, and I took him back to
22 the house at which time we began a search of the house.

23 Q Okay. And when you did the search did you have a
24 specific role?

25 A Yes, ma'am. I primarily went to the left rear bedroom

SW - J. CALHOUN - DIRECT

1 of the house. As you went down the hallway there's a
2 left rear bedroom which was the bedroom of the defendant,
3 Mr. Anthony Williamson.

4 Q Okay. And did you search the bedroom?

5 A Yes, ma'am. There was a couple of little suit-- well,
6 this is it over here, the little suitcase safe, and
7 another little strong box right by the bed.

8 Q Okay. Now you made reference to this. What's -- would
9 you refer to it as State's exhibit number.

10 A State's Exhibit Number 5. This was located by the bed.
11 The key to it was actually on the key ring of the
12 defendant Mr. Williamson, which had his car key, house
13 key, and everything on it.

14 Q Okay. And you obtained that key; is that correct?

15 A Yes, ma'am.

16 Q And when you got the key from him what did you do?

17 A I opened the safe and inside it I discovered some
18 little small, little small Tupperware containers. One of
19 them had -- we call them cookies or slabs, but large piece
20 of one piece of crack cocaine. Then another one had like
21 several little small, we commonly refer to them as rocks,
22 but it's mainly for like distribution purposes, like a
23 little small piece they will sell for 20 to 40-dollars.

24 Q Okay. Would you open that safe please?

25 A I'll try. It'd be easier if nobody is looking.

SW - J. CALHOUN - DIRECT

1 Q And would you please tell us...

2 A These are the containers that were inside on that date
3 that had the two pieces of crack inside. They were just
4 kind of neatly arranged sitting in the safe.

5 Q Okay. What else was contained in the safe?

6 A Just some papers, some -- I think there's a movie card
7 in here, a Sharpie, just miscellaneous junk. It's got a
8 receipt from Matthews Auto Service with Mr. Anthony
9 Williamson's name on it for some work he had done on the
10 vehicle.

11 Q Okay. And what did you do with the narcotics or drugs
12 that you found in there?

13 A Once we find the drugs they're basically taken to our
14 evidence room here in this building where they're secured
15 until they get transported to SLED or until we meet in
16 court.

17 Q Now, and do you recognize this?

18 A Yes, ma'am. This is a, we call it a Best pack, but
19 it's basically our packaging that we do send stuff to SLED
20 to be tested for drugs.

21 Q And would you refer to this, what exhibit that is on
22 the back?

23 A It is Exhibit Number 8.

24 Q Okay. Was that what the narcotics was placed in?

25 A Yes, ma'am. We place it in these containers and seal

SW - J. CALHOUN - DIRECT

1 them up and then send them to SLED and they're opened by a
2 chemist at that time to be tested.

3 Q Now I'm gonna show you what's been entered into
4 evidence as State's Exhibit A through F. Do you recognize
5 those and tell us how you recognize those?

6 A These are some photographs I took of Mr. Williamson's
7 bedroom, just kind of just generalized photographs showing
8 what the drugs looked like when we recovered them and kind
9 of the way his room was set up.

10 Q Now on that -- on those pictures, what has been entered
11 in evidence as State's Exhibit 2-d, is that an accurate
12 representation?

13 A Yes, ma'am. This is a photograph of how basically has
14 little system was set up that it has, and on the left
15 container you can see small pieces of crack cocaine.

16 Those are kind of set up for sale. They range in various
17 prices. Just kind of looking at them they would be 20 or
18 40-dollar rocks is how we would term them. And then the
19 other Tupperware container you see like one big piece of
20 crack. Generally most drug dealers when they buy like in
21 weight, they will buy one piece and then they would cut it
22 up in small pieces for sale. So that would let us know
23 that he's, you know, middle level size dealer. In other
24 words, he's buying large pieces then breaking it down to
25 sell. And then of course his money was in the safe as

SW - J. CALHOUN - DIRECT

1 well.

2 Q Okay. Now do you recognize State's Exhibit Number 6?

3 A Yes, ma'am. This was like a little strong box that was
4 located right beside the safe. It had just like -- maybe
5 you can see it -- mostly just rolling papers, this stuff
6 used for selling marijuana. Maybe you may sell rolling
7 papers as well. And some jewelry.

8 Q And do you recognize State's Exhibit Number 7?

9 A Yes, ma'am. This is a working scale at the time. I'm
10 not sure if the batteries are dead, but at the time it was
11 sitting on a desk in the bedroom. And when the officers
12 in the other room were transmitting on the radio I could
13 hear them on the scanner so it was working at the time.

14 Q And State's Exhibit Number 4?

15 A State's Exhibit Number 4 is a small digital scale used
16 to weigh drugs, make sure you're purchasing, you know, a
17 half ounce of crack cocaine. You want to be able to make
18 sure that you're purchasing the right amount, that sort of
19 stuff.

20 Q All right. And did you open the scale at the time?

21 A Yes, ma'am. It had a lot of white powder residue all
22 over the scale.

23 Q Okay. And what about State's Exhibit Number 3. Did
24 you...

25 A State's Exhibit Number 3 is a firearm that was found

SW - J. CALHOUN - DIRECT

1 under the mattress in Mr. Williamson's bedroom.

2 Q Now were you the first one to locate these items?

3 A Yes, ma'am.

4 Q And upon finding them what did you do?

5 A Basically we just kind of packaged them for evidence
6 storage. Court generally takes as long as a year, in this
7 case two years, and so we package them and get them ready
8 to be stored in our evidence room, what we think is
9 pertinent. We log in the search warrant and we bring it
10 here to the police department.

11 Q Okay, all right.

12 MS. PARR: Nothing further for this witness, Your
13 Honor.

14 THE COURT: All right, thank you. You may step
15 down.

16 Next witness please.

17 MS. PARR: Your Honor, at this time we would call
18 Kendrick Spears to the stand.

19 THE DEPUTY CLERK OF COURT: If you will, sir, place
20 your left hand on the Bible, raise your right hand.

21 WHEREUPON,

22 **KENDRICK THOMAS SPEARS,**

23 having been duly sworn by the Deputy Clerk of Court,
24 testified as follows:

25 THE DEPUTY CLERK OF COURT: Please be seated and

SW - K. SPEARS - DIRECT

1 state your full name for the record.

2 THE WITNESS: Kendrick Thomas Spears.

3 **DIRECT EXAMINATION**

4 BY MS. PARR:

5 Q Officer Spears, where are you employed?

6 A Florence Police Department.

7 Q And what do you do for the Florence Police department?

8 A Assigned to the special investigations unit.

9 Q And how long have you been with the Florence Police
10 Department?

11 A Be like six years tomorrow.

12 Q And have you had any special training for your job?

13 A Yes, I have.

14 Q And where did you receive your training?

15 A Through the Criminal Justice Academy along with basic
16 DEA narcotics school.

17 Q Now on July -- I'm sorry, September 13th, 2007, were
18 you working that day?

19 A Yes, I was.

20 Q And in what capacity?

21 A West Florence area.

22 Q Okay. And did you have an occasion to become involved
23 in this matter against Anthony Williamson?

24 A Yes.

25 Q And how were you brought into this case?

SW - K. SPEARS - DIRECT

1 A Myself, along with three other guys assigned to special
2 investigations unit had a search warrant for [REDACTED]
3 Street and were conducting surveillance and saw target
4 leaving location where we detained him and brought him
5 back to the location.

6 Q Okay. Now I'm gonna show you what's been entered into
7 evidence as State's Exhibit Number 8. Do you recognize
8 this?

9 A Yes, I do.

10 Q Okay. And how are you able to recognize it?

11 A It was the evidence seized from the search warrant
12 which was the cocaine base, otherwise known as crack,
13 which was taken into evidence here at the Florence Police
14 Department.

15 Q And now did you have an occasion to handle that cocaine
16 base or crack?

17 A Yes, I did.

18 Q Okay. And what did you do upon getting that?

19 A Once I received it I put it in this SLED drug analysis
20 security envelope be sent to SLED to be tested to make
21 sure it was being crack cocaine, cocaine base.

22 Q And is that a heat sealed pouch?

23 A Yes. It's not heat sealed, but it is sealed.

24 Q Okay. And who sealed that pouch on that day?

25 A Myself.

SW - R. DRULIS - DIRECT

1 Q And once you sealed it what did you do with it?

2 A I secured it in a locker here at the Florence Police
3 Station Department for the evidence custodian.

4 MS. PARR: Nothing further for this witness, Your
5 Honor.

6 All right, thank you. You may step down.

7 Next witness please.

8 MS. PARR: Your Honor, Bob Drulis.

9 THE DEPUTY CLERK OF COURT: Place your left hand on
10 the Bible, raise your right hand.

11 WHEREUPON,

12 **ROBERT R. DRULIS,**
13 having been duly sworn by the Deputy Clerk of Court,
14 testified as follows:

15 THE DEPUTY CLERK OF COURT: Please be seated and
16 state your full name for the record.

17 THE WITNESS: My name is Robert R. Drulis.

18 **DIRECT EXAMINATION**

19 BY MS. PARR:

20 Q Officer Drulis, where are you employed?

21 A With the City, Florence Police.

22 Q What do you do for the City?

23 A At this point I am a supervisor for the south region of
24 the city.

25 Q Okay. Now were you employed with them or working on

SW - R. DRULIS - DIRECT

1 the date of September 13th, 2007?

2 A Yes, ma'am. I was employed with the drug unit at that
3 time.

4 Q Did you have an occasion to be involved in this case
5 against Anthony Williamson?

6 A Yes, ma'am, I was.

7 Q Okay. Would you please tell us what your role was in
8 that investigation?

9 A My role in the investigation included, just as the
10 officer said, we work as a tight unit. We all -- we all
11 connect to the same activity in making a traffic stop and
12 searched the residence. And on that day I was one of the
13 scribes who wrote down our notes, and after the -- after
14 the investigation was completed I then returned the search
15 warrant to the issuing judge, Judge Hewitt.

16 Q Did you have an occasion to explain the return to the
17 defendant as well?

18 A Yes, I did. Yes, I did. I explained to him what all
19 we were taking.

20 Q And did you view all the evidence that had been taken?

21 A Yes, ma'am, I did.

22 Q And do you recognize what's been entered into evidence
23 as State's Exhibit 2 through 8?

24 A Yes, ma'am, I do.

25 Q Okay. And how is it that you're able to recognize

SW - M. BRANDT - DIRECT

1 these items?

2 A I assisted in the logging into evidence and the
3 documenting the evidence, and after I saw all the pieces
4 of evidence at both the scene and again at our evidence
5 room.

6 MS. PARR: Okay. Nothing further for this witness,
7 Your Honor.

8 THE COURT: Thank you, sir.

9 Next witness please.

10 MS. PARR: Your Honor, at this time we call Sergeant
11 Brandt.

12 THE DEPUTY CLERK OF COURT: If you would place your
13 left hand on the Bible, raise your right hand.

14 WHEREUPON,

15 **MICHAEL CHRISTOPHER BRANDT,**
16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Please be seated. State
19 your full name for the record.

20 THE WITNESS: My name is Michael Christopher Brandt.
21 I'm a sergeant with the Florence Police Department. I've
22 been employed with the police department for close to 11
23 years now.

24 **DIRECT EXAMINATION**

25 BY MS. PARR:

SW - M. BRANDT - DIRECT

1 Q Sergeant Brandt, what do you do currently?

2 A I'm assigned as the supervisor of the crime scene unit,
3 and one of our duties is to transport evidence to the
4 State Law Enforcement Division forensic laboratory in
5 Columbia.

6 Q And on the -- did you have an occasion to become
7 involved in this case?

8 A Yes, ma'am.

9 Q Okay. How were you involved in this case?

10 A On September 17th of 2007 as part of a bulk transfer of
11 evidence to SLED, I signed out several cases of evidence,
12 including this case. The drug evidence from this case
13 marked Exhibit Number -- State's Exhibit Number 8, as part
14 of a drug bulk evidence transfer to SLED.

15 Q Okay. And when you took that evidence to SLED tell us
16 what procedure did you use?

17 A Okay. When we sign out the evidence one of the things
18 that we have to do is make sure that each seal is sealed
19 properly, or we do not accept custody of it. In this case
20 this SLED evidence bag was sealed properly and so I
21 accepted it in my custody and generated SLED paperwork to
22 assist in the analysis of the evidence. On the 17th I
23 logged it into my crime lab safe, and on the morning of
24 the 18th I grabbed -- I obtained all of the evidence from
25 the safe and transported it to the State Law Enforcement

SW- B. HOOVER - DIRECT

1 Division in Columbia.

2 Q And did you leave it there at that time?

3 A Yes, ma'am. I signed it over to evidence log in
4 custodian for analysis at SLED.

5 Q Now was that package brought back to the city of
6 Florence?

7 A Yes, ma'am. After its analysis it was resealed in this
8 external container and returned by Shannon Hill, one of
9 the investigators assigned to the crime scene unit.

10 MS. PARR: Nothing further for this witness, Your
11 Honor.

12 THE COURT: Thank you. Next witness please.

13 MS. PARR: Your Honor, at this time we call Beth
14 Hoover.

15 THE DEPUTY CLERK OF COURT: If you would, ma'am,
16 place your left hand on the Bible, raise your right hand.

17 WHEREUPON,

18 **BETH ANN HOOVER,**

19 having been duly sworn by the Deputy Clerk of Court,
20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Please be seated. State
22 your full name for the record.

23 THE WITNESS: Beth Ann Hoover.

24 **DIRECT EXAMINATION**

25 BY MS. PARR:

SW- B. HOOVER - DIRECT

1 Q Ms. Hoover, where are you employed?

2 A I'm currently employed in the Alabama department of
3 forensic science.

4 Q And how long have you been with the state of Alabama?

5 A Approximately seven months.

6 Q Now prior to going to the state of Alabama where were
7 you employed?

8 A At SLED. It's the State Law Enforcement Division here
9 in South Carolina.

10 Q In what capacity were you employed at SLED?

11 A I was a forensic chemist.

12 Q And how long were you employed with SLED?

13 A Approximately a year-and-a-half.

14 Q And what were your duties at SLED?

15 A I would accept evidence and analyze them and confirm or
16 look for controlled substances in the evidence that came
17 in.

18 Q Now have you had any special training for your job?

19 A Yes, I have.

20 Q Okay. Would you please tell the Court your training?

21 A I have a bachelors of science in chemistry and in
22 biology from Columbia College. I also have a -- finished
23 (ph) my Masters in criminology criminal justice. I also
24 completed a legals course at the South Carolina Criminal
25 Justice Academy and was certified as a class three law

SW- B. HOOVER - DIRECT

1 enforcement officer. I also completed my training which
2 was approximately five to six months in forensic analysis
3 of illegal substances.

4 Q Now have you had an occasion to chemically analyze
5 substances to determine whether the substance is or
6 contains a narcotic or a narcotic type drug?

7 A Yes, I have.

8 Q Okay. How many times?

9 A Prior to this case I had done 300, 400 cases prior to
10 this one.

11 Q And have you had an occasion to analyze substances to
12 determine whether it contained cocaine base or commonly
13 known as crack?

14 A Yes, I have.

15 Q Okay. And about how many times per month or per week?

16 A I don't -- really it's probably easier to say in
17 percentage wise, but the percentage of cases that we
18 received about 70 percent was cocaine base or cocaine
19 itself.

20 Q Now so at that time were you making a regular -- making
21 analysis as a regular part of your duties?

22 A Yes.

23 Q Now have you had an opportunity or an occasion to
24 qualify as an expert in the court of General Sessions?

25 A Yes, I have. As to date I have been in General

SW- B. HOOVER - DIRECT

1 Sessions twice and federally once. As of this case I had
2 testified one time prior.

3 Q Okay. Was that in federal court?

4 A Yes, it was.

5 Q Okay.

6 MS. PARR: And Your Honor, at this time the State
7 would move to have Ms. Hoover qualified or declared an
8 expert in the field of chemical analysis and as a forensic
9 chemist and specifically as an expert in the analysis of
10 narcotics.

11 THE COURT: She's qualified as a forensic chemist,
12 and she may give opinion testimony as to drugs.

13 BY MS. PARR:

14 Q Now I show you what's been marked, been marked and
15 entered into evidence as State's Exhibit Number 8. And do
16 you recognize that?

17 A Yes, I do.

18 Q Okay. Would you please tell us how you recognize it.

19 A This is a evidence bag that we get at SLED from
20 agencies when they want a substance tested for controlled
21 substances. My initials are on it and the date that I
22 received it is on it, and I do recognize it.

23 Q Okay. And would you please tell us the condition that
24 package was in when you received it?

25 A It was sealed when I received it. If it had not been

SW- B. HOOVER - DIRECT

1 sealed I would not have accepted it.

2 Q Okay. And did you have an occasion to analyze it?

3 A Yes, I had.

4 Q Now based upon your past experience and training do you
5 have an opinion as to what that substance is?

6 A Could I please see my report. I didn't bring it up
7 with me.

8 MS. PARR: Your Honor, may I have permission to
9 approach?

10 THE COURT: Sure.

11 THE WITNESS: Thank you. After my analysis my
12 confirmation was that it is crack cocaine, also known as
13 crack base -- sorry, cocaine base.

14 BY MS. PARR:

15 Q And where did you receive that package and where did
16 you analyze it?

17 A I analyzed it on October 5th of '07.

18 Q And when you finished analyzing you said you put it in
19 that container; is that correct?

20 A Yes. We are provided these heat sealed packets so once
21 all of my analysis has been done, the original packaging
22 that it came in as well as the drugs themselves are put
23 back into this bag and I heat seal it with my initials and
24 the date that I sealed it on the inside of the packaging
25 so no tampering was evident.

SW- B. HOOVER - DIRECT

1 Q And was that packaging still intact as of today from
2 when you received it again?

3 A Yes, I received it and it was intact. I am the one
4 that, you know, actually opened it up once I came to
5 court.

6 Q Now ---

7 MS. PARR: Your Honor, this says -- that one has
8 already been entered into evidence so we move on.

9 BY MS. PARR:

10 Q Now what was the weight of the cocaine base?

11 A The weight was 17.18-grams.

12 Q Okay.

13 THE COURT: One more time, 17.8-grams?

14 THE WITNESS: 17.18, 17.18-grams.

15 THE COURT: Okay, thanks.

16 BY MS. PARR:

17 Q Now what tests were made by you to analyze those drugs?

18 A I do two different type of tests. One is a preliminary
19 test. It's a color test to give us an indication the type
20 of drug it can be. Once I have done that test and it had
21 turned -- sorry, the first chemical that I had there was
22 no color change. The second chemical I added it turns
23 blue. That's an indication that it would be cocaine base.
24 From that point I do an extraction with some chemicals
25 which brings the cocaine, the controlled substance, out

SW- B. HOOVER - DIRECT

1 into a solution. Actually, I'm sorry, I take that back.

2 On this analysis I actually did an infrared spectroscopy
3 which does not require any extraction, any chemicals
4 whatsoever, to identify this drug.

5 Q Okay. Now from the tests that you were able to perform
6 were you able to form an expert opinion as to what the
7 exhibit was or what it contained?

8 A Yes, I did. The confirmatory test, which is the IR or
9 the infrared spectrom-- spectrometry does give identical
10 fingerprints, what we call fingerprints, the spectrum that
11 comes up for the drugs specific for that and cocaine base
12 is the specific name it came up with.

13 Q And please state your opinion as to State's Exhibit
14 Number 8.

15 A My opinion that the evidence that came into my
16 possession is cocaine base, also known as crack.

17 Q And what was the basis of that opinion?

18 A On my analysis and confirmation by instrumentation.

19 MS. PARR: Nothing further for this witness, Your
20 Honor.

21 THE COURT: Thank you. Next witness please.

22 MS. PARR: May I have the Court's indulgence. Your
23 Honor, the State has no further witnesses. We would rest
24 at this time.

25 THE COURT: Thank you.

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(Pause in proceedings.)

THE COURT: Jurors, before I let the State talk to you, Ms. Bailiff, would you turn that thing down right there so I can see the eyeball of the forelady. I can see now and I need to talk to the forelady because she's got to sign these forms. Madam forelady, members of the jury, there are two verdict forms here that I hold in my hand and the charges are separate and distinct. And I must have verdicts in regard to both, and the verdicts must be unanimous. Now the verdict in terms of count one has two possibilities. One is not guilty. If you unanimously find the defendant not guilty of trafficking in cocaine base then sign number one, Madam Forelady, but don't sign until all 12 agree. The second says, guilty of trafficking in cocaine base in the amount of. Now the only way you can find this defendant guilty of trafficking in cocaine base is the amount must be at least 10-grams or more, 10-grams or more. So on behalf of this jury, Madam Forelady, you cannot sign the verdict form unless the jury unanimously finds at least 10-grams or more and you must write out the amount. Write out the amount in words and not figures. And then the other possibility deals with count two, which is the charge of possession of cocaine base with intent to distribute within proximity of a school or park, and here we're talking about a park. Once

1 again, the first is not guilty, the jury unanimously finds
2 the defendant not guilty, sign that. And then number two,
3 is guilty of possession of cocaine base with intent to
4 distribute within proximity to a school or park, that
5 doesn't require any finding in regard to amount. No
6 finding in regard to amount. And once again, sign that
7 Madam Forelady. And once again, visiting the trafficking
8 in cocaine base, I must have an amount and the amount must
9 be 10-grams or more.

10 Ms. Solicitor, you're recognized.

11 MS. PARR: May it please the Court, Your Honor.

12 THE COURT: Yes.

13 MS. PARR: Members of the jury, thank you for the
14 attention that you paid in this particular case. At the
15 beginning of the case I told you this is one of
16 trafficking in cocaine base with 10-grams to between
17 10-grams and 28-grams. I also told you that the defendant
18 has been indicted for possession of cocaine base with
19 intent to distribute within proximity of a school or park.
20 We believe the evidence has shown that on September 13th,
21 2007 the defendant Anthony Williamson had a quantity of
22 crack cocaine or cocaine base that was found pursuant to a
23 valid search warrant that was served at his residence on
24 Sanborn Street. We believe the evidence has shown that
25 that cocaine base was, in fact, located by officers of the

1 Florence Police Department. We also believe the evidence
2 has shown by way of photographs as to how the defendant
3 had organized his business and the manner in which he was
4 operating. We also believe the evidence has shown that
5 the defendant after having Miranda warnings, admitted that
6 he had cocaine base or crack, and in fact, told the
7 officers where it was located. We also believe the
8 evidence has shown that by the instruments that the
9 defendant contained that he was, in fact, operating a
10 business of distributing cocaine base or crack. The
11 defendant had the scales. He had the police scanner. He
12 also had the money, the gun, as well as the drug
13 paraphernalia, rolling papers, and things of that nature.

14 We also believe the evidence has shown by way of
15 Ms. Beth Hoover, who was the forensic chemist in this
16 matter, that the substance that was actually obtained from
17 the defendant was, in fact, cocaine base or better known
18 as crack. We also believe from her testimony when she
19 analyzed it and weighed it it was 17.18-grams.

20 Now we would ask that you view all the evidence that
21 you have heard from the witness stand and those pieces of
22 evidence that you will be able to take back into the jury
23 room with you. And once you've had an opportunity to do
24 that we would ask that you find the defendant guilty of
25 both charges. We also believe the evidence has shown that

1 the defendant's house where he was operating from was
2 within one half mile of Lester Park. We believe the
3 evidence by way of testimony from the witness stand
4 indicated that the park actually backed up to his
5 property. As I said before, once you've had opportunity
6 to review all of the evidence we would ask that you find
7 the defendant guilty of both charges. Thank you.

8 THE COURT: Does anybody need to leave the courtroom
9 now; you may leave now. I do not want you moving around
10 during the charge. Anyone?

11 (There was no response.)

12 THE COURT: Jurors, give me your attention please.
13 The document that I hold in my hand is called an
14 indictment. It's the pending charge in regard to count
15 one and count two. It does not prove anything in this
16 case. Under our law it's simply the charging paper.
17 Count one is trafficking in cocaine base. Once again, the
18 requirement mandate is at least 10-grams or more. And
19 count two is possession of cocaine base with intent to
20 distribute within proximity of a park.

21 To this indictment and to both charges this
22 defendant has pled not guilty. That plea of not guilty
23 places the burden of proof upon the State of South
24 Carolina to prove the defendant guilty beyond a reasonable
25 doubt. The defendant is not present. The defendant is

1 being tried in his absence. You must not use the
2 defendant's absence in any regard against him in this
3 case.

4 The defendant under the constitution is entitled to
5 have the jury decide the case based on the evidence and
6 testimony presented, and the jury is not to consider the
7 absence of the defendant in any form or fashion and no
8 discussion should be had in that regard in the jury room.
9 A person charged with committing a criminal offense is
10 never required to prove himself innocent. The defendant
11 is presumed to be innocent under the constitution unless
12 and until the State has established its guilt beyond a
13 reasonable doubt. It is a vital, important rule of the
14 law that the defendant in a criminal trial, no matter how
15 grave or serious may be the offense with which he is
16 charged, must always be presumed innocent unless and until
17 his guilt has been proven beyond a reasonable doubt. This
18 presumption of innocence is legal proof of innocence.
19 This presumption of innocence remains with the defendant
20 at all times, from the moment of his arrest throughout the
21 trial proceeding and goes into your jury room and remains
22 with the defendant there unless and until you, the jury,
23 reach a verdict of guilty beyond a reasonable doubt.

24 What is a reasonable doubt in the law? A reasonable
25 doubt is the kind of doubt that would cause a reasonable,

1 reasonable person to hesitate to act. Let me give that to
2 you one more time. What is a reasonable doubt in the law?
3 A reasonable doubt is the kind of doubt that would cause a
4 reasonable person to hesitate to act.

5 By the constitution and laws of the state of South
6 Carolina you, the jury, are the sole judges of the facts
7 and evidence in this case. I am not permitted to intimate
8 any opinion or feeling I may have on the facts, nor am I
9 allowed to give to you any inference as to the guilt or
10 innocence of this defendant. I'm not permitted to
11 indicate to you how I feel about the testimony or the
12 evidence presented. I have made some trial rulings, not
13 many, on matters of evidence in your presence. Please do
14 not derive any inference from any of those rulings as to
15 any opinion or feeling that I might have.

16 In determining what the facts are in this case you
17 of necessity must pass upon the credibility of the
18 witnesses who have testified. Credibility in the law
19 means believability. Is the witness believable? Is the
20 witness credible? You're the sole judges of the
21 credibility of the witnesses who took the witness stand.
22 Credibility in the law simply means believability. Can I
23 believe this witness; is this witness credible? The value
24 and weight to be given to the testimony is in your sound
25 discretion. You alone must decide the force and effect in

1 the truth of the testimony. In making a determination as
2 to the credibility of a witness there are many factors
3 that you should consider, such as the appearance or manner
4 of the witness on the witness stand itself, known in the
5 law as the demeanor of the witness. Did the witness have
6 an interest in the outcome of this trial? Was the witness
7 forthright or hesitant? Was the witness' testimony
8 consistent or did it contain discrepancies? What was the
9 ability of the witness to know about the facts concerning
10 which he or she gave testimony? Did the witness have a
11 cause or reason to be biased or prejudiced in favor of the
12 testimony that he or she gave? Was the testimony of the
13 witness corroborated and made stronger by other testimony
14 and evidence, or was it made weaker and impeached by other
15 testimony and evidence in the case?

16 There are two kinds of evidence under our law. They
17 both are equally good in the law. They are direct
18 evidence and circumstantial evidence. On a contested
19 factual issue decide in this case you may have some direct
20 evidence on that point and some circumstantial evidence.
21 Direct evidence, what is it? Direct evidence is the
22 testimony of a person who asserts or claims to have actual
23 knowledge of a fact such as an eyewitness. Circumstantial
24 evidence, what is it? Circumstantial evidence is proof of
25 a chain of facts and circumstances indicating the

1 existence of a fact. The law makes absolutely no
2 distinction between the weight or value to be given to
3 either direct or circumstantial evidence, nor is a greater
4 degree of certainty required of circumstantial evidence
5 than of direct evidence. You should weigh all the
6 evidence in the case. After weighing all the evidence, if
7 you're not convinced of the guilt of the defendant beyond
8 a reasonable doubt, then you must find the defendant not
9 guilty.

10 Under our law we recognize expert witnesses. Lay
11 witnesses are not limited -- I'm sorry, lay witnesses are
12 limited to testifying about facts within their knowledge.
13 Lay witnesses are not allowed to give opinions, but there
14 are certainly witnesses known as expert witnesses who by
15 virtue of training, education, or experience are
16 considered as experts in a particular field. Expert
17 witnesses may give their opinions in that field based upon
18 the facts of a matter, and the conclusions and opinions of
19 expert witnesses constitute evidence to be considered by
20 you in connection with all other testimony and evidence in
21 the case. You may consider the expert's opinion just as
22 you do all other evidence in the case. It is for the jury
23 to give it such weight as you in your experience and
24 discretion may determine. You must weigh such evidence
25 and accept or reject it in the same manner that you treat

1 all other evidence in the case.

2 There has been admitted into evidence in this case a
3 statement alleged to have been made by the defendant.
4 Under the constitution, before you may consider this
5 statement as evidence for any purpose you must determine
6 four questions. One, did the defendant make the
7 statement? Two, was the defendant warned of his
8 constitutional rights? Three, did the defendant knowingly
9 and intelligently waive his constitutional rights? And
10 four, was the statement given freely and voluntarily? The
11 fact that the Court has admitted a statement into evidence
12 should not be considered by you as any evidence whatsoever
13 that the defendant made such statement; or that the
14 constitutional safeguards, which are required, were in
15 fact provided and waived by the defendant, or that the
16 statement was voluntarily given because these issues are
17 for you, the jury, to determine. The State must prove
18 beyond a reasonable doubt each of the four essentials or
19 the four requirements which I've just stated to you before
20 you may consider the statement as evidence for any purpose
21 whatsoever.

22 As to the first requirement, did the defendant make
23 the statement? If you conclude that the defendant did not
24 make the statement you must then completely and totally
25 disregard the statement. If you conclude the defendant

1 did not make the statement you cannot and you must not
2 consider the statement as evidence in any manner
3 whatsoever. If you find the defendant did make the
4 statement, you would then consider the second requirement.
5 The second requirement, was the defendant warned of his
6 constitutional rights. These are referred to in the law
7 as the Miranda warnings. When an individual is taken into
8 custody or otherwise deprived of his freedom of action in
9 any significant way by a police officer, the defendant
10 must be warned of his constitutional rights prior and
11 before any custodial interrogation or custodial
12 questioning. These rights are: One, he has the right to
13 remain silent; two, any statement he does make can and
14 will be used against him in a court of law; three, he has
15 the right to a lawyer. If he cannot afford a lawyer a
16 lawyer will be appointed without any cost. And four, he
17 has the right to consult a lawyer before answering any
18 questions. And finally, the statement must be freely and
19 voluntarily given. The issue of voluntariness is totally
20 for you to decide.

21 The first pending charge, trafficking in crack
22 cocaine, is contained in Section 44-53-375, subsection c
23 of the Code of Laws of South Carolina. And these books to
24 my left are the Code of Laws, all these books. I give you
25 this one section. Quote, a person who is knowingly in

1 actual or constructive possession or who knowingly
2 attempts to become in actual or constructive possession of
3 10-grams or more of cocaine base as defined and otherwise
4 limited in Section 44-53-110 is guilty of a felony which
5 is known as trafficking in cocaine base. 44-53-110 simply
6 says that crack cocaine is cocaine base. They are
7 synonymous. Crack cocaine is cocaine base under our law.

8 There are three elements of the offense of
9 trafficking in crack cocaine that the State must prove
10 beyond a reasonable doubt. One, that the substance
11 involved was, in fact, crack cocaine. Two, that the
12 defendant had possession of that crack cocaine, either
13 actual possession or constructive possession. And three,
14 that there were, in fact, 10-grams or more of crack
15 cocaine involved. Under Section 44-53-110 the cocaine
16 base once again is defined as crack cocaine. The State
17 must prove that the substance involved is, in fact, crack
18 cocaine. The State must prove that the defendant had
19 actual or constructive possession of the crack cocaine.

20 What does possession of crack cocaine mean under the
21 law? The law says cocaine in any form is a controlled
22 substance. Possession means more than simply having a
23 controlled substance in one's possession. There must be
24 knowing possession. The State must prove possession of
25 crack cocaine by the defendant and to further find that

1 the defendant knew he had the crack cocaine in his
2 possession.

3 There is, in fact, an additional charge that we
4 cover in this case and it is possession of controlled
5 substance with intent to distribute within proximity of a
6 park. That is contained in Section 44-53-445. That code
7 section provides, quote, it is a separate criminal offense
8 for a person to unlawfully possess with intent to
9 distribute a controlled substance while in, on, or within
10 one half mile radius of the grounds of a public park.
11 Before you can convict the defendant of this offense the
12 State must prove the following elements beyond a
13 reasonable doubt. One, the defendant did, in fact,
14 unlawfully possess with intent to distribute a controlled
15 substance, and the allegation by the State is that it was
16 crack cocaine. And two, that act or offense was done
17 within one half mile radius of the grounds of a public
18 park.

19 Jurors, the verdict must be totally unanimous, no
20 split or divided verdict is allowed under our
21 constitution. Madam Forelady, I've explained to you
22 heretofore about the mandate that when you sign it must be
23 unanimous verdict, all 12 agreeing. Do not sign until all
24 12 agree on each verdict. The verdicts may be the same or
25 they may be separate and distinct in every aspect. It's

1 totally for you to decide in this case. Is everyone
2 feeling well? Why do I ask you that question. Well, I'm
3 gonna keep you together until you reach a verdict, and the
4 alternate is ready and willing to serve in your place; I
5 can see it on her face. She's certainly willing to serve.
6 And if you anticipate any problem tell me now.

7 (There was no response.)

8 THE COURT: I've been on the Bench for some time
9 now, and in my past history I had one irate spouse call,
10 where is my spouse, she is in the jury room. I don't want
11 to have to explain that so if you got a problem let me
12 know now. If you got a problem tell me now. Anyone?

13 (There was no response.)

14 THE COURT: All right, Ms. Alternate, wait right
15 there. Do not go into the jury room. Don't start talking
16 yet. Why? I'm required to let the lawyer for the State
17 object to anything I've said. It may be that I bring you
18 back out. If I don't bring you back out, as soon as you
19 see these verdicts forms and exhibits start talking.
20 Please go to your jury room, except the alternate.
21 (WHEREUPON, the jury was removed from the courtroom at
22 3:15 p.m., and the following proceedings commenced in open
23 court.)

24 THE COURT: Ms. Alternate, you are free to go but I
25 need for you to call after 6:00, after 6:00 today, and

1 see what status you're in. Please call after six.

2 (Alternate was excused.)

3 THE COURT: All right. Objections from the State?

4 MS. PARR: None, Your Honor.

5 THE COURT: All right. Would you come forward and
6 make sure we get the right exhibits sent in.

7 And Ms. Bailiff, hand that to the forelady.

8 (Court was in recess while the jury began its
9 deliberations at 3:23 p.m.)

10 (WHEREUPON, the jury was returned to the courtroom at
11 approximately 3:29 p.m., and the following proceedings
12 commenced in open court.)

13 THE CLERK OF COURT: Madam Forelady, members of
14 the jury, have you agreed upon a verdict?

15 THE FORELADY: we have.

16 (Verdict form tendered to the Court.)

17 THE COURT: Okay.

18 THE DEPUTY CLERK OF COURT: State of South Carolina
19 versus Anthony Williamson, indictment 2008-GS-21-317,
20 count one, guilty of trafficking in cocaine base in the
21 amount of 17.18-grams, signed Karen Hamill, dated
22 April 13, 2009. Count two, guilty of possession of crack
23 -- of cocaine base with intent to distribute within
24 proximity of a school, signed Karen Hamill, dated
25 April 13th, 2009. Members of the jury, if that is your

1 verdict please raise your right hand.

2 (All jurors indicated by raising their right hand.)

3 THE COURT: Ms. Solicitor, jurors, under the law I'm
4 required to now sign a sealed sentence, and I will
5 actually give a sentence at this time and will place it in
6 an envelope only to be opened by me at a later time or by
7 another circuit judge.

8 And Ms. Solicitor, as I understand it this is
9 trafficking in cocaine base second offense; is that
10 correct?

11 MS. PARR: That is correct, Your Honor.

12 THE COURT: When was his first offense? How many
13 years ago?

14 MS. PARR: Your Honor, the first offense was May
15 2nd, 2001. That one was a possession of cocaine base and
16 also possession of steroids. Would you like the rest of
17 his record?

18 THE COURT: Yeah.

19 MS. PARR: He also had a conviction for forged
20 document, resisting arrest, loafing and loitering for drug
21 purposes, another forgery, obtaining goods under false
22 pretenses, simple assault and battery, criminal domestic
23 violence, and assault and battery of a high and aggravated
24 nature.

25 THE COURT: When was the assault and battery of a

1 high and aggravated nature?

2 MS. PARR: June 26th, 2004.

3 THE COURT: 2004.

4 MS. PARR: That's correct, Your Honor.

5 THE COURT: Let the record show I have issued the
6 sentence in regard to trafficking in cocaine more than 10
7 grams, it being a second offense under our law; and I have
8 issued a sentence in regard to possession with intent to
9 distribute cocaine base within proximity of a park. Under
10 our law the sentences are now being sealed. And for the
11 record, so that everyone understands, under State versus
12 Smith, a state supreme court case, when the sealed
13 sentence is opened the case of State versus Smith provides
14 that the judge who opens the sentence at that time
15 becomes, in fact, the sentencing judge.

16 All right, Ms. Clerk, I'm not sure where you
17 maintain this sealed sentence but put it in a place of
18 safety. I hope I'm alive when he's found. If not,
19 somebody else can do it.

20

21 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, **FRANCES BAKIS-RAY**, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina,
this 10th day of May, 2010.



FRANCES BAKIS-RAY, RPR
My Commission Expires: 9-13-2014

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23

24

25

1 THE COURT: MADAM SOLICITOR, YOU MAY CALL YOUR NEXT
2 CASE.

3 MS. PARR: MAY IT PLEASE THE COURT, YOUR HONOR, THIS
4 IS INDICTMENT 09-334 AGAINST ANTHONY TYRONE WILLIAMSON. HE
5 HAS BEEN INDICTED FOR TRAFFICKING IN COCAINE BASE FOR AN
6 OFFENCE THAT OCCURRED NOVEMBER 14, 2007.

7 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
8 JURY, WE'RE ABOUT TO BEGIN THE TRIAL OF THE STATE OF SOUTH
9 CAROLINA VERSUS ANTHONY WILLIAMSON. THIS IS INDICTMENT
10 2009-GS-21-334.

11 LADIES AND GENTLEMEN OF THE JURY PANEL, EACH OF YOU
12 ALL HAVE BEEN QUALIFIED. NONE OF YOU HAVE EXERCISED AN
13 EXEMPTION. AND THE QUESTIONS I'M GOING TO ASK YOU TODAY --
14 FIRST OF ALL, I WANT TO REMIND YOU THAT YOU ARE STILL UNDER
15 OATH WITH REGARD TO THESE QUESTIONS AND YOUR ANSWERS. WE
16 ASK THAT YOU ANSWER THEM TRUTHFULLY.

17 AND THE QUESTIONS THAT I'M GOING TO ASK YOU HAVE TO DO
18 WITH WHETHER OR NOT YOU CAN BE FAIR AND IMPARTIAL WITH
19 REGARD TO THE FACTS OF THIS CASE. PAY VERY CLOSE ATTENTION
20 TO THE QUESTIONS.

21 I HOLD IN MY HAND THE INDICTMENT THAT ESSENTIALLY
22 ALLEGES THAT ANTHONY TYRONE WILLIAMSON DID ON NOVEMBER 14,
23 2007 TRAFFIC IN COCAINE BASE. AND HAVING BEEN ARMED WITH
24 THIS LIMITED AMOUNT OF INFORMATION, DOES ANYONE KNOW
25 ANYTHING ABOUT THIS CASE? IF SO, PLEASE STAND.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 (NO RESPONSE.)

2 THE COURT: BEFORE WE GO ANY FURTHER, I HAVE THIS
3 INDICTMENT IN MY HAND HERE. THE INDICTMENT HAS ABSOLUTELY
4 NO EVIDENTIARY VALUE TO IT AT ALL. IT IS MERELY THE
5 DOCUMENT THAT ACCUSES ANTHONY TYRONE WILLIAMSON OF
6 COMMITTING THIS CRIMINAL OFFENSE. ANTHONY TYRONE
7 WILLIAMSON, JUST LIKE EVERYBODY ELSE IS PRESUMED TO BE
8 INNOCENT OF AN OFFENSE CHARGED HERE TODAY.

9 IS ANYONE RELATED BY BLOOD OR MARRIAGE TO ANTHONY
10 TYRONE WILLIAMSON? IF SO, PLEASE STAND.

11 (NO RESPONSE.)

12 THE COURT: LET THE RECORD REFLECT THERE IS NO
13 RESPONSE.

14 THE COURT: DOES ANYONE HAVE A CLOSE, SOCIAL,
15 PERSONAL, OR BUSINESS RELATIONSHIP WITH ANTHONY TYRONE
16 WILLIAMSON? IF SO, PLEASE STAND.

17 (NO RESPONSE.)

18 THE COURT: NO RESPONSE. THE POTENTIAL WITNESSES IN
19 THIS CASE ARE WILLIAM NIDA, JOHN CALHOUN, BOB DRULIS,
20 KENDRICK SPEARS, MICHAEL BRANDT, SHANNON HILL, BETH HOOVER,
21 BO MYERS. ALL OF THOSE INDIVIDUALS ARE WITH THE FLORENCE
22 POLICE DEPARTMENT WITH THE EXCEPTION OF BETH HOOVER, WHO IS
23 EMPLOYED WITH SLED.

24 DOES ANYBODY KNOW ANY OF THESE WITNESSES? DO YOU HAVE
25 A CLOSE, SOCIAL, PERSONAL, OR BUSINESS RELATIONSHIP WITH

1 ANY OF THESE WITNESSES OR ARE YOU RELATED TO THEM BY BLOOD
2 OR MARRIAGE? IF SO, PLEASE STAND.

3 (NO RESPONSE.)

4 THE COURT: NO RESPONSE. MS. PARR, I'M GOING TO ASK
5 YOU TO STAND AND IDENTIFY YOURSELF.

6 MS. PARR: MY NAME IS PATRICIA SINGLETON PARR, AND I'M
7 ONE OF THE ATTORNEYS FOR THE TWELFTH JUDICIAL SOLICITOR'S
8 OFFICE.

9 THE COURT: ALL RIGHT. IS ANYONE RELATED BY BLOOD OR
10 MARRIAGE TO MS. PARR? DO YOU HAVE A CLOSE, SOCIAL,
11 PERSONAL, OR BUSINESS RELATIONSHIP WITH MS. PARR? IF SO,
12 PLEASE STAND.

13 (NO RESPONSE.)

14 THE COURT: ALL RIGHT. HAS ANY MEMBER OF THE JURY
15 PANEL FORMED OR EXPRESSED AN OPINION ABOUT ANY ISSUE OR
16 MATTER INVOLVED IN THIS CASE? IF SO, PLEASE STAND.

17 (NO RESPONSE.)

18 THE COURT: LET THE RECORD REFLECT THERE'S NO
19 RESPONSE.

20 IS ANY MEMBER OF THE JURY PANEL AWARE OF ANY BIAS OR
21 PREJUDICE TOWARDS EITHER THE STATE OR THE DEFENDANT? IF
22 SO, PLEASE STAND.

23 ALL RIGHT. YOUR FULL NAME AND NUMBER?

24 JUROR: JAMES LYNCH. I DON'T KNOW THE NUMBER.

25 THE COURT: ALL RIGHT. MR. LYNCH, IF YOU COULD COME

1 FORWARD. YOU MAY COME FORWARD, MS. PARR.

2 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE
3 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE
4 JURY PANEL.)

5 THE COURT: MR. LYNCH IS EXCUSED FOR CAUSE.

6 YES, MA'AM.

7 (A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE
8 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE
9 JURY PANEL.)

10 THE COURT: YOU'RE EXCUSED FOR CAUSE.

11 (THE FOLLOWING TAKES PLACE ON THE RECORD IN THE
12 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE
13 JURY PANEL.)

14 THE COURT: SHERVY MARSH (PHONETIC) 158, IS A JUROR
15 THAT SAYS SHE HATES CRACK DEALERS AND PEOPLE WHO DO CRACK.
16 SHE WILL BE BIASED FOR THE STATE. FOR THAT REASON I HAVE
17 EXCUSED HER.

18 THE FIRST JUROR WAS NOT PUT ON THE RECORD IS JAMES
19 CARLYLE LYNCH. HE INDICATES HE HAS A SON ON CRACK FOR 2
20 YEARS. HE WOULD BE PREJUDICED TOWARD THE STATE. FOR THAT
21 REASON I EXCUSED HIM.

22 (THE FOLLOWING TAKES PLACE IN OPEN COURT.)

23 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
24 WAS A MEMBER OF THE GRAND JURY THAT ISSUED THE INDICTMENT
25 IN THIS CASE? IF SO, PLEASE STAND.

1 (NO RESPONSE.)

2 THE COURT: THE RECORD WILL REFLECT THERE'S NO
3 RESPONSE.

4 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS A FORMER
5 LAW ENFORCEMENT OFFICER OR HAVE A MEMBER IN THEIR FAMILY
6 WHO IS A LAW ENFORCEMENT OFFICER OR FORMER LAW ENFORCEMENT
7 OFFICER? IF SO, PLEASE STAND.

8 IF YOU ALL COULD COME FORWARD ONE AT A TIME.

9 (A BENCH CONFERENCE WAS HELD ON THE RECORD IN THE
10 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE
11 JURY PANEL.)

12 THE COURT: YOUR NAME AND NUMBER?

13 JUROR: MY NAME IS JAVON MACKEL (PHONETIC), I DON'T
14 KNOW MY NUMBER. BUT MY HUSBAND IS A FORMER HIGHWAY
15 PATROLMAN, ABOUT 2 YEARS AGO. AND HE PRESENTLY IS A PART-
16 TIME LAMAR POLICE OFFICER RIGHT NOW.

17 THE COURT: OKAY. IN VIEW OF THE FACT THAT YOUR
18 HUSBAND IS INVOLVED IN LAW ENFORCEMENT, COULD YOU SET THAT
19 ASIDE AND GIVE THE STATE AND THE DEFENDANT A FAIR AND
20 IMPARTIAL TRIAL?

21 JUROR: YES, YOUR HONOR.

22 THE COURT: ALL RIGHT. YOU'RE QUALIFIED TO SERVE.
23 THANK YOU.

24 SHE WILL STAY WITH US.

25 YOUR NAME AND NUMBER?

1 JUROR: MY NAME IS BETTY HUGGINS. I'M SORRY, I DON'T
2 KNOW MY NUMBER.

3 THE COURT: BETTY HUGGINS. YES, MA'AM.

4 JUROR: MY HUSBAND WAS A PILOT FOR SLED FOR 28 YEARS.

5 THE COURT: OKAY. HE'S A PILOT FOR SLED? SOUNDS LIKE
6 A FUN JOB. IN VIEW OF THE FACT THAT YOUR HUSBAND WAS
7 INVOLVED IN LAW ENFORCEMENT, COULD YOU SET THAT
8 RELATIONSHIP ASIDE AND GIVE BOTH THE STATE AND THE
9 DEFENDANT A FAIR AND IMPARTIAL TRIAL?

10 JUROR: I'M CERTAIN I COULD.

11 THE COURT: OKAY. AND DO YOU THINK YOU WOULD GIVE
12 GREATER WEIGHT TO THE TESTIMONY OF A LAW ENFORCEMENT
13 OFFICER AS OPPOSED TO SOMEONE ELSE?

14 JUROR: I DON'T THINK SO.

15 THE COURT: OKAY. IN POLITE CONVERSATION WE ALWAYS
16 QUALIFY WHAT WE SAY, BUT IN THESE MATTERS WE HAVE TO DEAL
17 IN ABSOLUTES. AND WOULD YOU GIVE EQUAL WEIGHT TO THE
18 TESTIMONY OF LAW ENFORCEMENT OFFICERS AND LAY WITNESSES?

19 JUROR: I THINK I WOULD.

20 THE COURT: ALL RIGHT. AND ONCE AGAIN, WE DEAL IN
21 ABSOLUTES. IT REQUIRES A YES OR NO ANSWER. WOULD YOU GIVE
22 EQUAL WEIGHT TO BOTH LAY WITNESSES AND POLICE OFFICERS?

23 JUROR: YES.

24 THE COURT: ALL RIGHT. VERY GOOD. YOU'RE QUALIFIED
25 TO SERVE. THANK YOU.

1 JUROR NO. 76, SHE'S QUALIFIED TO SERVE.

2 YES, MA'AM.

3 YOUR NAME AND NUMBER?

4 JUROR: MY NAME IS TAMMY BENJAMIN. MY NUMBER IS 16.

5 THE COURT: JUROR NO. 16. TAMMY BENJAMIN.

6 JUROR: MY HUSBAND IS CORPORAL BENJAMIN AT THE
7 FLORENCE COUNTY SHERIFF'S OFFICE. AND MY SISTER IS A
8 SERGEANT AT THE FLORENCE COUNTY SHERIFF'S OFFICE.

9 THE COURT: OKAY. AND IN VIEW OF THE FACT THAT YOU
10 ARE RELATED TO PEOPLE THAT ARE INVOLVED IN LAW ENFORCEMENT,
11 THIS DOES NOT INVOLVE THE SHERIFF'S DEPARTMENT. IT
12 INVOLVES THE FLORENCE POLICE DEPARTMENT. ARE ANY OF YOUR
13 RELATIVES -- DO THEY WORK FOR THE FLORENCE POLICE
14 DEPARTMENT?

15 JUROR: NO, SIR.

16 THE COURT: OKAY. AND MY QUESTION TO YOU IS: COULD
17 YOU SET ASIDE THAT RELATIONSHIP WITH THE PEOPLE IN YOUR
18 FAMILY WHO ARE INVOLVED IN LAW ENFORCEMENT AND GIVE BOTH
19 THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

20 JUROR: YES, SIR.

21 THE COURT: DO YOU FEEL AS THOUGH YOU WOULD GIVE
22 GREATER WEIGHT TO TESTIMONY OF A LAW ENFORCEMENT OFFICER AS
23 OPPOSED TO ANY OTHER WITNESS THAT MIGHT TESTIFY?

24 JUROR: NO, SIR.

25 THE COURT: ALL RIGHT. YOU'RE QUALIFIED TO SERVE.

1 THANK YOU.

2 (THE FOLLOWING TAKES PLACE IN OPEN COURT.)

3 THE COURT: SHE'S QUALIFIED TO SERVE.

4 LADIES AND GENTLEMEN OF THE JURY, THIS OFFENSE IS
5 ALLEGED TO HAVE TAKEN PLACE ON NOVEMBER 14, 2007. HAS
6 ANYONE HEARD, SEEN, OR READ ANYTHING ABOUT THIS MATTER? IF
7 SO, PLEASE STAND.

8 (NO RESPONSE.)

9 THE COURT: LET THE RECORD REFLECT THERE IS INDEED NO
10 RESPONSE.

11 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS A MEMBER
12 OF OR CONTRIBUTOR TO ANY GROUP WHICH HAS AS ITS PRIMARY
13 CONCERN THE PROMOTION OF LAW ENFORCEMENT? THERE ARE A
14 NUMBER OF ORGANIZATIONS OUT THERE SUCH AS MADD, MOTHERS
15 AGAINST DRUNK DRIVING, SADD, STUDENTS AGAINST DRUNK
16 DRIVING, CAVE, CITIZENS AGAINST VIOLENT CRIMES. THE
17 SHERIFF'S DEPARTMENTS THROUGHOUT THE STATE QUITE OFTEN HAVE
18 ORGANIZATIONS THAT HELP THEM, AND YOU CAN BELONG TO THAT
19 AND CONTRIBUTE TO LAW ENFORCEMENT.

20 IS THERE ANY MEMBER OF THE JURY PANEL WHO BELONGS TO
21 ANY OF THESE TYPE ORGANIZATIONS? IF SO, PLEASE STAND.

22 YES, MA'AM, IF YOU COULD COME FORWARD.

23 (A BENCH CONFERENCE WAS HELD ON THE RECORD IN THE
24 PRESENCE OF THE JURY PANEL, BUT OUT OF THE HEARING OF THE
25 JURY PANEL.)

1 JUROR: DOROTHY MCCARNEY, 159.

2 THE COURT: JUROR NO. 159.

3 JUROR: I CONTRIBUTE TO MOTHERS AGAINST DRUNK DRIVING.

4 THE COURT: THIS DOESN'T INVOLVE DRIVING UNDER THE
5 INFLUENCE. DO YOU FEEL AS THOUGH YOU COULD SET ASIDE THE
6 FACT THAT YOU ARE INVOLVED IN AN ORGANIZATION THAT SUPPORTS
7 LAW ENFORCEMENT AND GIVE BOTH THE STATE AND THE DEFENDANT A
8 FAIR AND IMPARTIAL TRIAL?

9 JUROR: YES, SIR.

10 THE COURT: YOU'RE QUALIFIED TO SERVE. THANK YOU.
11 YES, SIR.

12 JUROR: WILLIAM ALTMAN.

13 THE COURT: ALL RIGHT. MR. ALTMAN, HOW YOU DOING?

14 JUROR: GOOD.

15 THE COURT: TELL ME WHAT YOUR SITUATION IS?

16 JUROR: I JUST DONATE MONEY TO THEM.

17 THE COURT: TO?

18 JUROR: ABOUT ALL OF THEM, MOTHERS AGAINST DRUNK
19 DRIVING, ANYTHING THAT ---

20 THE COURT: ANY KIND OF LAW ENFORCEMENT?

21 JUROR: YEAH.

22 THE COURT: ALL RIGHT. COULD YOU SET THAT
23 RELATIONSHIP ASIDE AND GIVE BOTH THE STATE AND THE
24 DEFENDANT A FAIR AND IMPARTIAL TRIAL BASED ON THE EVIDENCE
25 THAT'S PRESENTED IN THIS CASE AND THE LAW AS I CHARGE IT TO

1 YOU?

2 JUROR: I CAN.

3 THE COURT: YOU'RE QUALIFIED TO SERVE. THANK YOU.

4 JUROR NO. 151, ALTMAN.

5 THE COURT: YOUR NAME IS MS. HUGGINS?

6 JUROR: YES, IT IS.

7 THE COURT: AND WHAT JUROR NUMBER IS THIS?

8 JUROR: 76.

9 THE COURT: JUROR NO. 76. YES, MA'AM.

10 JUROR: I CONTRIBUTE TO THE SHERIFF'S ASSOCIATION.

11 THE COURT: OKAY. IN VIEW OF THE FACT THAT YOU
12 CONTRIBUTE TO THE SHERIFF'S ORGANIZATION, COULD YOU SET
13 THAT ASIDE AND GIVE BOTH THE STATE AND THE DEFENDANT A FAIR
14 AND IMPARTIAL TRIAL?

15 JUROR: YES, I CAN.

16 THE COURT: YOU'RE QUALIFIED TO SERVE. THANK YOU.

17 (THE FOLLOWING TAKES PLACE IN OPEN COURT.)

18 THE COURT: DOES ANY MEMBER OF THE JURY PANEL KNOW OF
19 ANY REASON WHATSOEVER WHY HE OR SHE COULD NOT SERVE AS A
20 JUROR IN THIS CASE WITH PARTICULAR EMPHASIS BEING PLACED ON
21 YOUR ABILITY TO BE FAIR AND IMPARTIAL TO BOTH THE STATE AND
22 THE DEFENDANT? IF SO, PLEASE STAND.

23 (NO RESPONSE.)

24 THE COURT: NO RESPONSE. ANY ADDITIONAL QUESTIONS
25 FROM THE STATE?

1 MS. PARR: NO, YOUR HONOR. THE STATE DOES NOT HAVE
2 ANY.

3 THE COURT: ALL RIGHT. WE'LL PROCEED FORWARD WITH THE
4 SELECTION PROCESS. THE STRIKES ARE 5.

5 (THE JURY WAS EMPANELED AT 11:02 A.M.)

6 (THE JURY PANEL WAS EXCUSED.)

7 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE'RE
8 ABOUT TO BEGIN THE TRIAL OF THIS CASE, THE STATE OF SOUTH
9 CAROLINA VERSUS ANTHONY WILLIAMSON. THE FIRST ORDER OF
10 BUSINESS IS TO APPOINT A FOREMAN OF THE JURY, AND I'M GOING
11 TO APPOINT MS. EADDY AS FORELADY OF THE JURY. I'M GOING TO
12 ASK IF YOU COULD CHANGE CHAIRS WITH MR. ANDERSON HERE.

13 AND, MR. ALTMAN, YOU'RE THE ALTERNATE IN THIS CASE,
14 AND I'M GOING TO ASK THAT YOU REMAIN IN THAT CHAIR THE
15 ENTIRE TIME.

16 AND, MS. EADDY, I'M GOING TO ASK THAT YOU REMAIN IN
17 THAT CHAIR THE ENTIRE TIME.

18 THE REST OF YOU KIND OF GENERAL ADMISSION. JUST COME
19 IN AND FILE IN AS YOU COME OUT OF THE JURY ROOM.

20 PROBABLY WE'D ASK MS. EADDY AND MR. ALTMAN TO COME OUT
21 LAST, JUST LOGISTICALLY SO PEOPLE WON'T BE CRAWLING OVER
22 YOU.

23 BUT, MS. EADDY, YOU ARE GOING TO BE THE FORELADY OF
24 THIS JURY. AND YOU, LIKE EVERYONE ELSE, AT THE CONCLUSION
25 OF THE TRIAL WILL HAVE ONE VOTE WITH REGARD TO THE

1 DELIBERATIONS. BUT YOU'RE GOING TO HAVE AN ADDITIONAL
2 DUTY, AND THAT IS TO PRESIDE OVER THE DELIBERATION PROCESS.
3 THAT ESSENTIALLY IS TO ENSURE THAT EVERYBODY'S VOICE IS
4 HEARD IN THE DELIBERATION PROCESS.

5 IN ADDITION TO THAT, IF THERE ARE ANY QUESTIONS THAT
6 DEVELOP THROUGHOUT THE TRIAL OF THIS CASE, ANY QUESTIONS OR
7 CONCERNS, I'M GOING TO ASK THAT THE JURORS COMMUNICATE
8 THOSE CONCERNS OR QUESTIONS TO YOU. YOU CAN REDUCE THEM TO
9 WRITING AND GIVE THEM TO THE BAILIFF, AND HE'LL PRESENT
10 THEM TO ME.

11 AND IF IT'S SOMETHING THAT WE CAN HELP YOU WITH, WE
12 CERTAINLY WILL. IF IT'S A QUESTION WITH REGARD TO THE LAW,
13 THE PROCEDURE, WE'LL BE HAPPY TO DO THAT WITH REGARD TO THE
14 DELIBERATION PROCESS. WE'LL DEAL WITH THAT A LITTLE BIT
15 LATER.

16 BUT ONE THING THAT I WANT TO ASK YOU TO DO, MADAM
17 FORELADY, IS TO ENFORCE THE RULE THROUGHOUT THIS TRIAL THAT
18 DURING THIS TRIAL THERE ARE GOING TO BE PERIODS OF TIME
19 WHERE WE HAVE TO TAKE UP MATTERS OF LAW OUTSIDE OF YOUR
20 PRESENCE. WE'RE GOING TO HAVE TO DO THAT HERE MOMENTARILY.
21 AND IT'S ABSOLUTELY INAPPROPRIATE FOR YOU ALL TO DISCUSS
22 ANYTHING ABOUT THIS CASE.

23 YOU ALL DON'T KNOW ANYTHING ABOUT THE CASE OTHER THAN
24 WHAT I'VE TOLD YOU ABOUT WHAT THE ALLEGATIONS ARE AND THE
25 DATE OF THE ALLEGED OFFENSE.

1 BUT YOU CANNOT DISCUSS THIS CASE IN ANY WAY, SHAPE, OR
2 FORM THROUGHOUT THE TRIAL OF THIS CASE. YOU CAN TALK ABOUT
3 THE WEATHER. YOU CAN TALK ABOUT ANYTHING YOU WANT TO TALK
4 ABOUT, BUT YOU CAN'T TALK ABOUT THE FACTS OF THIS CASE
5 DURING THE TRIAL OF THE CASE.

6 I WILL TELL YOU AFTER THE CONCLUSION OF THE TRIAL,
7 AFTER I CHARGE YOU THE LAW, WHEN TO BEGIN DELIBERATIONS.
8 BUT UNTIL THAT TIME, THERE CAN'T BE ANY COMMENT ABOUT THE
9 FACTS, THERE CAN'T BE ANY COMMENT ABOUT THE LAWYERS, THE
10 WITNESSES, ANYTHING ABOUT THIS CASE. AND, MS. EADDY, I'M
11 GOING TO ASK THAT YOU ENFORCE THAT RULE.

12 PRIOR TO DOING THAT, THERE'S A MATTER OF PROCEDURE
13 THAT WE HAVE TO TEND TO. I'M GOING TO ASK THAT YOU RETIRE
14 TO THE JURY ROOM HERE MOMENTARILY, AND DO NOT BEGIN
15 DISCUSSING THE CASE.

16 BUT BEFORE WE DO THAT, MADAM CLERK, I'M GOING TO ASK
17 IF YOU COULD SWEAR THE JURY IN.

18 (THE JURY WAS FIRST DULY SWORN AT 11:06 A.M.)

19 THE COURT: ALL RIGHT. MADAM FORELADY, YOU MAY TAKE
20 THE JURY TO THE JURY ROOM. WE'LL BE WITH YOU MOMENTARILY.
21 DO NOT DISCUSS THE CASE.

22 (THE JURY RETIRES TO THE JURY ROOM AT 11:07 A.M.)

23 (STATE'S EXHIBIT NOS. 1, 2, AND 3 WERE PRE-MARKED FOR
24 IDENTIFICATION.)

25 THE COURT: MS. PARR, I UNDERSTAND THAT THIS MATTER IS

1 PROCEEDING FORWARD AS A TRIAL IN ABSENCE, AND THE DEFENDANT
2 DOES NOT HAVE A LAWYER. I'M GOING TO ASK IF YOU COULD TO
3 PLACE ON THE RECORD THE JUSTIFICATION FOR THAT.

4 MS. PARR: MAY IT PLEASE THE COURT. YOUR HONOR, THE
5 DEFENDANT WAS CHARGED WITH TRAFFICKING IN COCAINE BASE, AND
6 HE APPEARED BEFORE THE HONORABLE CHEVRONE SCOTT, MUNICIPAL
7 COURT, AND WAS GIVEN A BOND IN THIS MATTER. AND AT THAT
8 TIME HE WAS ADVISED WHEN HE WAS SUPPOSED TO APPEAR IN
9 COURT. HE HAS NOT APPEARED.

10 HE WAS ALSO -- AT THAT TIME WAS DENIED THE PUBLIC
11 DEFENDER. AND HE WAS ADVISED THAT HE WOULD NEED TO HIRE AN
12 ATTORNEY. AND, YOUR HONOR, HE HAS NOT DONE SO.

13 THE COURT: OKAY.

14 MS. PARR: AND THE STATE HAS HAD NO CONTACT WITH THE
15 DEFENDANT. AND FOR THE RECORD, YOUR HONOR, THE DEFENDANT
16 HAD A PRIOR CASE IN WHICH HE HAD HIRED COUNSEL BY WAY OF
17 MR. ETHRIDGE FOR A MUCH OLDER CASE. AND HE WAS RELEASED --
18 RELIEVED AS HIS COUNSEL BECAUSE THE DEFENDANT FAILED TO
19 COOPERATE AND GET IN CONTACT WITH HIM. BUT HE NEVER
20 APPEARED ON BEHALF OF THE DEFENDANT ON THIS PARTICULAR
21 CASE.

22 THE COURT: OKAY.

23 MS. PARR: AND YOUR HONOR, FOR THE RECORD, THE STATE
24 IS PREPARED TO TAKE TESTIMONY FROM THE CLERK OF COURT IN
25 REGARDS TO THE BOND.

1 THE COURT: VERY GOOD. YOU MAY CALL YOUR WITNESS.

2 MS. PARR: YOUR HONOR, AT THIS TIME THE STATE WOULD
3 CALL MS. NICOLE BETHEA.

4 NICOLE BETHEA, BEING FIRST
5 DULY SWORN, TESTIFIED AS FOLLOWS:

6 THE COURT: PULL UP REAL CLOSE TO THAT MICROPHONE.
7 SPEAK LOUDLY, CLEARLY, AND SLOWLY.

8 WITNESS: NICOLE BETHEA, WITH THE CLERK'S OFFICE.

9 DIRECT EXAMINATION BY MS. PARR:

10 Q AND, MS. BETHEA, WHAT DO YOU DO FOR THE CLERK'S
11 OFFICE?

12 A I'M A DEPUTY CLERK IN THE CRIMINAL DIVISION.

13 Q OKAY. AND HOW LONG HAVE YOU BEEN WITH THE CLERK'S
14 OFFICE?

15 A FOR 8 YEARS.

16 Q AND WHAT ARE YOUR DUTIES AS BEING EMPLOYED WITH THE
17 CLERK OF COURT'S OFFICE?

18 A I WORK IN CRIMINAL COURT, AND HELP WITH THE FILES, AND
19 STUFF LIKE THAT.

20 Q AND ARE ONE OF YOUR DUTIES TO OVERSEE OR MAINTAIN
21 BOND?

22 A YES, IT IS.

23 Q OKAY. NOW, THE DEFENDANT IN THIS MATTER, ANTHONY
24 WILLIAMSON, WAS ISSUED A BOND; IS THAT CORRECT?

25 A IT IS.

NICOLE BETHEA - DIRECT BY MS. PARR

19

1 Q OKAY. AND WHEN WAS THAT BOND ISSUED?

2 A OCTOBER THE 9TH OF 2008.

3 Q AND WHO ISSUED THAT BOND?

4 A JUDGE SCOTT.

5 Q OKAY. AND IS HE WITH THE FLORENCE MUNICIPAL COURT?

6 A YES, HE IS.

7 Q WOULD YOU PLEASE TELL THE COURT THE CONDITIONS OF THAT
8 BOND AND WHAT THE BOND WAS?

9 A IT SAYS THE DEFENDANT WILL PROVIDE GOOD AND SUFFICIENT
10 SURETY APPROVED BY THE COURT IN THE FORM HEREIN AFTER SET
11 FORTH IN ITS ORDER ACKNOWLEDGING AN INDEBTEDNESS TO THE
12 STATE IN THE AMOUNT OF \$25,000. THE DEFENDANT SHALL APPEAR
13 AT THE TIME OF COURT OF GENERAL SESSIONS BEGINNING ON
14 THURSDAY, DECEMBER 18, 2008 AT 9:00 O'CLOCK A.M. AT ROOM
15 1105 CITY-COUNTY COMPLEX, 180 NORTH IRBY STREET, FLORENCE,
16 SOUTH CAROLINA 29501 AND REMAIN THERE THROUGHOUT THIS TERM
17 OF COURT. IF NO DISPOSITION IS MADE DURING THAT TIME, THE
18 DEFENDANT SHALL APPEAR AND REMAIN THROUGHOUT EACH
19 SUCCEEDING TERM OF COURT UNTIL FINAL DISPOSITION IS MADE OF
20 HIS CASE UNLESS OTHERWISE ORDERED BY THE COURT.

21 Q OKAY. AND HOW DID THE DEFENDANT ACKNOWLEDGE THAT HE
22 WAS ADVISED OF THIS INFORMATION?

23 A THE BACK OF THE BOND HAS AN ACKNOWLEDGEMENT BY
24 DEFENDANT WHICH HE SIGNED AND HIS ADDRESS, TELEPHONE
25 NUMBER, AND SOCIAL SECURITY NUMBER WERE PUT ON THERE.

STATE VS. ANTHONY TYRONE WILLIAMSON

- 1 Q AND ALSO ON THE APPEARANCE AND RECOGNITION, ON THE
2 FIRST PAGE DID HE ALSO INITIAL IT?
- 3 A HE DID.
- 4 Q AND WAS BOND IN FACT POSTED FOR THE DEFENDANT?
- 5 A YES, IT WAS.
- 6 Q OKAY. AND WHO WAS THAT BOND POSTED BY?
- 7 A BLACK CAT BAIL BONDS.
- 8 Q MADAM CLERK, ARE YOU FAMILIAR WITH THIS DOCUMENT?
- 9 A YES, I AM.
- 10 Q OKAY. AND WOULD YOU PLEASE TELL THE COURT WHAT THAT
11 IS?
- 12 A IT'S THE BOND FORM.
- 13 Q OKAY. AND IS IT A CERTIFIED COPY?
- 14 A YES, IT IS.
- 15 MS. PARR: YOUR HONOR, THE STATE WOULD MOVE TO ENTER
16 THIS INTO EVIDENCE AS A COURT'S EXHIBIT.
- 17 THE COURT: THAT'S COURT'S EXHIBIT NO. 1.
- 18 (BAIL FORM, 2 PAGES, MARKED FOR IDENTIFICATION AS
19 COURT'S EXHIBIT NO. 1.)
- 20 Q NOW, MADAM CLERK, TO YOUR KNOWLEDGE HAS THE DEFENDANT
21 APPEARED IN COURT?
- 22 A NOT THAT I'M AWARE OF, NO.
- 23 Q OKAY. AND FOR THE DEFENDANT'S FAILURE TO APPEAR,
24 WOULD YOU PLEASE TELL THE COURT WHAT HAPPENED?
- 25 A THERE WAS A BENCH WARRANT ISSUED.

NICOLE BETHEA - DIRECT BY MS. PARR

21

1 Q AND WHEN WAS THAT BENCH WARRANT ISSUED?

2 A I'VE GOT A BENCH WARRANT BOOK, IT'S LAYING RIGHT
3 THERE.

4 THE COURT: ALL RIGHT. LET'S LET MS. PARR HAND YOU
5 THE BENCH WARRANT BOOK.

6 A I'M SORRY, I FORGOT. ACCORDING TO THE BENCH WARRANT
7 BOOK, IT WAS ISSUED DECEMBER 18TH OF 2008.

8 Q AND WHO WAS THAT BENCH WARRANT ISSUED BY?

9 A BY THE CLERK'S OFFICE.

10 Q ALL RIGHT. AND SINCE THAT TIME HAS THE DEFENDANT BEEN
11 PICKED UP?

12 A NOT ACCORDING TO THIS, HE HAS NOT.

13 MS. PARR: NOTHING FURTHER FOR THIS WITNESS, YOUR
14 HONOR.

15 THE COURT: YOU MAY STEP DOWN. THANK YOU.

16 (THE WITNESS LEAVES THE WITNESS STAND.)

17 MS. PARR: YOUR HONOR, IF THE STATE COULD ADD ONE
18 MATTER?

19 THE COURT: CERTAINLY.

20 MS. PARR: YOUR HONOR, THE STATE HAS MADE EVERY EFFORT
21 IN ORDER TO LOCATE THE DEFENDANT, EVEN USING HIS PRIOR
22 COUNSEL, AND HE HAS NOT BEEN ABLE TO LOCATE THE DEFENDANT.
23 THE BONDSMAN HAS ALSO GONE TO WASHINGTON, D.C. AREA WHERE
24 THE DEFENDANT WAS BELIEVED TO HAVE BEEN, TO NO AVAIL.

25 THE COURT: ALL RIGHT. VERY GOOD. I SAID THAT'S

STATE VS. ANTHONY TYRONE WILLIAMSON

1 COURT'S EVIDENCE 1. IT'S NOT INTO EVIDENCE. IT'S A
2 COURT'S EXHIBIT. I MIS-SPOKE.

3 MS. PARR: AND, YOUR HONOR, I DON'T KNOW WHETHER YOU
4 WANT THE DEPUTY TO CALL THE DEFENDANT'S NAME THREE TIMES IN
5 THE HALL.

6 THE COURT: IF WE COULD, IF WE COULD CALL THE NAME OF
7 ANTHONY WILLIAMSON THREE TIMES IN THE HALLWAY AND REPORT
8 BACK.

9 (PAUSE.)

10 THE COURT: MS. PARR, WHILE WE'RE WAITING. ARE YOU
11 GOING TO PROCEED FORWARD WITH OPENING STATEMENTS?

12 MS. PARR: YES, YOUR HONOR, VERY BRIEFLY.

13 THE COURT: ALL RIGHT. WE'RE GOING TO HEAR BACK FROM
14 THE BAILIFF HERE MOMENTARILY WITH REGARD TO THE CALLING OF
15 ANTHONY WILLIAMSON'S NAME. SHE'S APPARENTLY GOING AND
16 CALLING HIS NAME ON THE TENTH FLOOR AND THE ELEVENTH FLOOR.
17 AND WE'LL STAND AT EASE FOR ABOUT 2 MINUTES.

18 (A RECESS WAS TAKEN.)

19 THE COURT: WE'LL HEAR FROM THE BAILIFF. HAVE YOU
20 BEEN ABLE TO LOCATE THE DEFENDANT, ANTHONY WILLIAMSON?

21 BAILIFF: NO, SIR. I'VE CALLED THREE TIMES ON THE
22 TENTH FLOOR AND ON THE ELEVENTH FLOOR, AND I GOT NO
23 RESPONSE.

24 THE COURT: OKAY. THE MORE -- MS. PARR, OF COURSE,
25 THIS MATTER WAS GIVEN ME THIS MORNING. IT WAS GIVEN TO ME

1 THIS MORNING AND WE'VE PROCEEDED FORWARD WITH THE MATTER.
2 BUT I UNDERSTAND THAT THIS PARTICULAR INDIVIDUAL WAS TRIED
3 IN HIS ABSENCE LAST WEEK; IS THAT CORRECT?

4 MS. PARR: THAT IS CORRECT, YOUR HONOR.

5 THE COURT: AND WHAT WAS HE CONVICTED OF?

6 MS. PARR: TRAFFICKING IN COCAINE BASE SECOND OFFENSE.

7 THE COURT: ALL RIGHT. AND IN VIEW OF THE SERIOUSNESS
8 OF IT, THE MINIMUM MANDATORY NATURE OF IT, I'M GOING TO
9 APPOINT THE PUBLIC DEFENDER TO REPRESENT HIS INTEREST WITH
10 REGARD TO THIS MATTER. AND ANYTHING FROM THE STATE BEFORE
11 WE PROCEED?

12 MS. PARR: YOUR HONOR, THE STATE HAS MARKED FOR
13 IDENTIFICATION THE EVIDENCE THAT WE INTEND TO PRESENT IF
14 DEFENSE WOULD LIKE TO LOOK AT THAT.

15 MR. MEETZE: YOUR HONOR, I WOULD LIKE TO MAKE A
16 MOTION.

17 THE COURT: ALL RIGHT.

18 MR. MEETZE: YOUR HONOR, WITH THE DEFENDANT NOT HAVING
19 SHOWN UP, WE WEREN'T APPOINTED ON THIS CASE PRIOR TO THIS.
20 EVEN THOUGH I WILL SAY THAT I HAVE BEEN APPOINTED TO HIM ON
21 THE OTHER CHARGES WHICH HE NEVER APPEARED FOR ANYTHING ON.
22 HE'S APPARENTLY BEEN GONE SINCE BEFORE THAT DATE. I HAVE A
23 CASE WHERE FAILING TO APPEAR FOR YOUR TRIAL IS A WAIVER, AT
24 LEAST ACCORDING TO MY COLLEAGUE, MR. SMITH, IS A WAIVER OF
25 YOUR RIGHT TO AN ATTORNEY.

1 AND WITH ALL THIS TAKEN PLACE AFTER THE JURY
2 SELECTION, I WOULD ASK TO BE RELIEVED ON THIS CASE.

3 THE COURT: I THINK THAT GIVEN THE NATURE OF THE CASE,
4 I JUST THINK IN THE INTEREST OF FUNDAMENTAL FAIRNESS IT
5 WOULD BE IN THE INTEREST OF JUSTICE TO HAVE SOMEONE SPEAK
6 ON BEHALF OF THE DEFENDANT. AND IN VIEW OF THAT, I'M GOING
7 TO APPOINT YOU AND ASK THAT YOU DO THAT. VERY GOOD.

8 MR. MEETZE: I'LL LOOK AT THE EVIDENCE ---

9 THE COURT: WE'RE GOING TO HAVE PLENTY OF TIME OVER
10 THE LUNCH.

11 MR. MEETZE: OKAY.

12 (THE JURY RETURNS TO THE COURTROOM AT 11:31 A.M.)

13 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF
14 THE JURY, WE'RE ABOUT TO BEGIN THE TRIAL OF THE STATE OF
15 SOUTH CAROLINA VERSUS ANTHONY WILLIAMSON, 2009-GS-21-334.

16 AND I WANT TO TALK WITH YOU A LITTLE BIT ABOUT HOW
17 THIS MATTER IS GOING TO PROCEED. AT THE CONCLUSION OF THE
18 TRIAL, I'LL CHARGE YOU THE LAW. BUT I KIND OF WANT TO GIVE
19 YOU AN INTRODUCTORY SORT OF OVERVIEW OF WHAT'S GOING TO
20 TRANSPIRE HERE TODAY.

21 AS I'D INDICATED TO YOU, I HOLD IN MY HAND HERE THE
22 INDICTMENT WHERE THE DEFENDANT IS BEING ACCUSED OF
23 TRAFFICKING IN COCAINE BASE SEC -- TRAFFICKING COCAINE
24 BASE. AND THIS OFFENSE ALLEGEDLY TOOK PLACE ON NOVEMBER
25 14, 2007. AND THIS INDICTMENT IS MERELY A DOCUMENT. IT'S

1 MERELY A DOCUMENT. IT'S MERELY AN ACCUSATION. IT DOESN'T
2 HAVE ANY EVIDENTIARY VALUE WHATSOEVER.

3 THE DEFENDANT AS WE SIT HERE, ANTHONY WILLIAMSON, IS
4 PRESUMED TO BE JUST AS INNOCENT AS ME OR YOU, THE
5 PROSECUTOR, OR ANY OF THESE LAW ENFORCEMENT OFFICERS.
6 THAT'S A RIGHT THAT BELONGS TO US AS AMERICAN CITIZENS, IS
7 A PRESUMPTION OF INNOCENCE.

8 MR. WILLIAMSON HAS PLED NOT GUILTY TO THIS OFFENSE.
9 AND HE IS PROTECTED WITH THIS PRESUMPTION OF INNOCENCE.
10 IT'S SORT OF LIKE A CLOAK THAT PROTECTS ALL OF US AS
11 AMERICAN CITIZENS.

12 THE DEFENDANT NEED NOT TESTIFY. HE NEED NOT PRESENT
13 ANY EVIDENCE.

14 THE BURDEN OF PROOF IS ON THE STATE. THEY'RE THE ONES
15 THAT BROUGHT THIS CHARGE. WE LIVE IN A FREE AND DEMOCRATIC
16 SOCIETY. WHEN SOMEONE IS ACCUSED OF A CRIME, THE STATE HAS
17 THE BURDEN OF PROOF. IN SOME THIRD-WORLD COUNTRIES, YOU
18 CAN BE ACCUSED OF A CRIME, HAULED BEFORE A TRIBUNAL, AND BE
19 REQUIRED TO PROVE YOUR INNOCENCE. IN THE UNITED STATES OF
20 AMERICA THAT'S NOT THE CASE.

21 QUITE OFTEN IT MIGHT BE IMPOSSIBLE FOR AN INDIVIDUAL
22 TO PROVE THEIR INNOCENCE. THE BURDEN IS COMPLETELY ON THE
23 STATE. THEY NEED TO PROVE THIS OFFENSE OF TRAFFICKING IN
24 COCAINE BASE, EACH AND EVERY ELEMENT BEYOND A REASONABLE
25 DOUBT. THOSE ARE IMPORTANT WORDS. I'M GOING TO CHARGE YOU

1 AT THE END OF THE CASE WHAT BEYOND A REASONABLE DOUBT
2 MEANS.

3 BUT THE STATE HAS THE HIGHEST BURDEN OF PROOF KNOWN TO
4 OUR JUDICIAL SYSTEM, PROOF BEYOND A REASONABLE DOUBT.

5 IMAGINE WITH ME IF YOU WILL THE SCALES OF JUSTICE
6 WHERE THE LADY IS BLINDFOLDED FROM ALL BIAS AND FROM ALL
7 PREJUDICE. MANY OF YOU HAVE BEEN PROBABLY BEEN SUMMONSED
8 TO PARTICIPATE IN A JURY TRIAL IN A CIVIL COURT WHICH
9 ESSENTIALLY DEALS WITH MONEY, A CAR WRECK, A MEDICAL MAL
10 PRACTICE CASE, A CONTRACT DISPUTE WHERE CITIZENS ARE
11 ARGUING ABOUT MONEY. IN THAT CASE THE PLAINTIFF, THE ONE
12 WHO IS BRINGING THE CIVIL LAWSUIT, ALL THEY HAVE TO DO IS
13 TILT THE SCALE JUST A LITTLE BIT IN THEIR FAVOR IN ORDER
14 FOR THEM TO PREVAIL.

15 IN BOTH TRIBUNALS THE SCALES START OFF EVEN. IN A
16 CIVIL CASE IF THE PLAINTIFF TILTS THE SCALE JUST A LITTLE
17 BIT IN THEIR FAVOR, THE PLAINTIFF WINS BECAUSE THAT'S ALL
18 YOU'RE TALKING ABOUT IS MONEY.

19 BUT IN A CRIMINAL SETTING IT'S DIFFERENT THAN THAT.
20 THE STATE HAS TO PROVE EACH AND EVERY ELEMENT OF THE
21 OFFENSE BEYOND A REASONABLE DOUBT. IT'S THE HIGHEST
22 ELEMENT OF PROOF KNOWN TO OUR JUDICIAL SYSTEM. AND I
23 ENVISION THAT AS LOCKING UP THE SCALES.

24 LADIES AND GENTLEMEN OF THE JURY, ANY TIME YOU'RE
25 SUBPOENAED TO PARTICIPATE AS A JUROR, YOU ARE THE SOLE AND

1 EXCLUSIVE JUDGES OF THE FACTS. WHEN A WITNESS TAKES THE
2 WITNESS STAND, YOU NEED TO ASK YOURSELF WHAT OPPORTUNITY
3 THIS INDIVIDUAL HAD TO SEE AND OBSERVE THE THINGS TO WHICH
4 THEY TESTIFIED TO. ASK YOURSELF WHETHER THIS WITNESS HAS
5 INTEREST OR BIAS ABOUT ANYTHING THAT THEY'RE SAYING. ASK
6 YOURSELF WHETHER OR NOT THE TESTIMONY OF THIS WITNESS IS
7 CORROBORATED OR CONTRADICTED BY OTHER EVIDENCE, OTHER
8 TESTIMONY.

9 YOU CAN BELIEVE ONE WITNESS OVER MANY, MANY WITNESSES
10 OVER ONE. YOU CAN BELIEVE ALL OF WHAT ONE WITNESS SAYS,
11 NONE OF WHAT ONE WITNESS SAYS, OR A PART OF IT; THAT'S
12 COMPLETELY WITHIN YOUR DISCRETION IN YOUR COLLECTIVE WISDOM
13 AS A JUROR.

14 OTHER THINGS THAT THE LAW ALLOWS YOU TO TAKE IN TO
15 CONSIDERATION IS THE DemeanOR OF A WITNESS. ANY OF US WHO
16 HAVE TEENAGE CHILDREN SOMETIMES IT'S NOT AS IMPORTANT AS
17 WHAT YOUR TEENAGE CHILD SAYS TO YOU BUT THE WAY THEY SAY
18 IT. AND THE LAW ALLOWS YOU TO TAKE THAT INTO
19 CONSIDERATION. USE YOUR GOOD, COMMON SENSE. LOOK AT WHAT
20 THEY SAY AND THE MANNER IN WHICH THEY SAY IT. EVALUATE
21 THEIR DemeanOR AS THEY TESTIFY.

22 LADIES AND GENTLEMEN OF THE JURY, YOU ARE THE SOLE AND
23 THE EXCLUSIVE JUDGES OF THE FACTS. THE LAW DOES NOT EVEN
24 ALLOW ME TO EVEN COMMENT ON THE FACTS. YOU ARE THE SOLE
25 AND EXCLUSIVE JUDGES OF THE FACTS IN THIS CASE. AND I

1 EMPHASIZE TO YOU THAT IT IS VERY IMPORTANT THAT YOU PAY
2 VERY CLOSE ATTENTION AS THE EVIDENCE COMES OUT IN THIS
3 CASE.

4 AND I'LL ALSO REMIND YOU AND ADMONISH YOU THAT IN THE
5 TRIAL OF ANY CASE, IF THERE'S AN ERROR WITH REGARD TO THE
6 FACTUAL FINDINGS, QUITE OFTEN THOSE CAN NEVER BE CORRECTED.
7 IF I MAKE AN ERROR WITH REGARD TO THE LAW MATTERS THAT I'M
8 IN CHARGE OF, WHAT EVIDENCE YOU GET TO HEAR, WHETHER I
9 CHARGE YOU THE LAW WRONG, THOSE ARE EASILY CORRECTED. BUT
10 IF YOU MAKE AN ERROR WITH REGARD TO THE FACTS, QUITE OFTEN
11 THAT CANNOT BE CORRECTED. SO IT'S VERY IMPORTANT THAT YOU
12 PAY VERY CLOSE ATTENTION AS THE EVIDENCE COMES FORTH IN
13 THIS TRIAL.

14 I WILL TELL YOU HOW THIS TRIAL IS GOING TO PROCEED.
15 THE STATE IS GOING TO HAVE THE OPPORTUNITY TO GIVE AN
16 OPENING STATEMENT. THEY'RE ESSENTIALLY GOING TO LAY OUT
17 THE ALLEGATIONS AND WHAT EVIDENCE THEY INTEND TO PROVE TO
18 ESTABLISH THESE ALLEGATIONS.

19 MR. MEETZE IS GOING TO REPRESENT THE INTEREST OF THE
20 DEFENDANT. AND HE WILL HAVE AN OPPORTUNITY TO MAKE AN
21 OPENING STATEMENT AS WELL.

22 THEN WE'LL BEGIN THE TAKING OF TESTIMONY IN THIS CASE.
23 AND THE STATE GOES FIRST. THEY'RE ALLOWED TO PRESENT
24 WITNESSES, INTRODUCE DOCUMENTS, STIPULATIONS, THINGS OF
25 THAT NATURE, MOST OF WHICH IS GOING TO BE ORAL TESTIMONY

1 THAT COMES FROM THE WITNESS STAND. PAY VERY CLOSE
2 ATTENTION AS THE WITNESSES TESTIFY IN THIS CASE.

3 I'M GOING TO TELL YOU FROM THE VERY OUTSET THAT IN
4 EVERY TRIAL, THERE ARE GOING TO BE OBJECTIONS. AND THOSE
5 ARE MATTERS OF LAW THAT I NEED TO TEND TO. AND I'M GOING
6 TO TELL YOU FROM THE VERY OUTSET A LOT OF THOSE DISCUSSIONS
7 ARE GOING TO TAKE PLACE OUTSIDE OF YOUR EAR SHOT HERE AT
8 THE BENCH. IF IT'S A VERY DETAILED MATTER, SOMETHING THAT
9 TAKES A LOT OF DISCUSSION, WE'LL EXCUSE YOU TO THE JURY
10 ROOM.

11 AND THE REASON WHY WE'RE DOING THAT IS THAT THE LAW
12 DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS. IN
13 RULING ON EVIDENTIARY MATTERS QUITE OFTEN IT REQUIRES THAT
14 I COMMENT ON SOME FACTUAL DISPUTE OR SOME FACTUAL MATTER.
15 AND BECAUSE OF THAT, THE LAW DOESN'T ALLOW ME TO COMMENT ON
16 IT OR SAY ANYTHING ABOUT THE FACTUAL MATTERS, SO THOSE
17 THINGS HAVE TO TAKE PLACE OUTSIDE OF YOUR PRESENCE BECAUSE
18 YOU ARE INDEED THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS.

19 AT THE CONCLUSION OF THE STATE'S CASE THE DEFENDANT IS
20 GOING TO HAVE THE OPPORTUNITY TO PRESENT ANY WITNESSES THEY
21 MIGHT HAVE IF THEY CHOOSE TO DO SO. THE LAW DOESN'T
22 REQUIRE THAT THEY DO THAT.

23 AND AFTER THAT THERE WILL BE CLOSING STATEMENTS.
24 THEY'RE VERY SIMILAR IN FORM TO THE OPENING STATEMENTS.
25 THEY'RE TRULY ARGUMENTATIVE IN NATURE BECAUSE AT THAT

1 JUNCTURE IN THE TRIAL THE LAWYERS WILL BE ABLE TO LOOK BACK
2 AT THE EVIDENCE THAT'S BEEN PRESENTED TO YOU AND POINT OUT
3 THE EVIDENCE THAT SUPPORTS THEIR RELATIVE POSITIONS.

4 DURING THIS CASE, I'M GOING TO ASK YOU, MADAM
5 FORELADY, TO ENSURE THAT NO ONE DISCUSSES THIS CASE IN THE
6 JURY ROOM OR WHILE YOU'RE BACK IN THE JURY ROOM.

7 IN ADDITION TO THAT, I'M GOING TO ADMONISH EACH OF YOU
8 ALL WHEN WE BREAK FOR LUNCH HERE TODAY, I IMAGINE MANY OF
9 YOU ARE GOING TO GO BACK TO YOUR PLACE OF WORK AND THEY'RE
10 GOING TO SAY, HOW'S JURY DUTY GOING? AND THEY'RE GOING TO
11 ASK YOU WHETHER OR NOT YOU'RE PARTICIPATING.

12 I'M GOING TO ORDER, INSTRUCT, AND DEMAND THAT YOU NOT
13 RESPOND IN THAT REGARD, BECAUSE IT MIGHT BE THAT THEY HAVE
14 SOME OPINION ABOUT THIS TYPE LITIGATION. YOU'VE TAKEN A
15 SOLEMN OATH HERE IN THIS COURTROOM, YOU RAISED YOUR HAND
16 AND SWORE TO GOD THAT YOU WILL BASE YOUR DECISION ON THE
17 EVIDENCE THAT COMES FORTH IN THIS TRIAL AND THE LAW AS I
18 CHARGE IT TO YOU. SO DO NOT DISCUSS THIS CASE WITH ANYONE.

19 THIS CASE IS NOT GOING TO BE THAT LENGTHY. ALTHOUGH
20 IT'S AN IMPORTANT CASE, IT'S NOT GOING TO BE THAT LENGTHY.
21 AND AT THE END OF THE CASE I WILL RELEASE YOU TO DISCUSS
22 THE MATTER WITH ANYBODY THAT YOU WOULD LIKE TO DISCUSS IT
23 WITH. BUT UNTIL THAT TIME, IT'S INAPPROPRIATE TO DO THAT.
24 PLEASE DO NOT DO THAT, AND I ORDER THAT YOU NOT DO THAT.

25 GIVEN THE LENGTH OF THE TRIAL AND THE NATURE OF THE

1 TRIAL, I'M GOING TO ORDER AND INSTRUCT THAT YOU NOT TAKE
2 NOTES. PAY VERY CLOSE ATTENTION TO THE EVIDENCE THAT COMES
3 FORTH IN THIS TRIAL.

4 IN ADDITION TO THAT, YOU'RE PROBABLY GOING TO HEAR
5 TESTIMONY ABOUT WHERE THIS ALLEGED OFFENSE MIGHT HAVE TAKEN
6 PLACE. I'M GOING TO ORDER AND INSTRUCT THAT YOU NOT DO ANY
7 INDEPENDENT INVESTIGATION, GOING AND LOOKING AT THE SCENE.

8 THERE'S NOT ANYTHING ON THIS EARTH THAT YOU CAN'T LOOK
9 UP ON THE INTERNET NOWADAYS. I WILL ASK, ORDER, AND
10 INSTRUCT THAT YOU NOT DO ANY INVESTIGATION WITH REGARD TO
11 THE LAW OR WITH REGARD TO ANY MATTER THAT'S TAKEN PLACE IN
12 THIS COURTROOM. DO NOT DO ANY INDEPENDENT INVESTIGATION.
13 YOU NEED TO BASE YOUR DECISION ON WHAT TRANSPIRES HERE IN
14 THIS COURTROOM.

15 AT THIS TIME WE'RE GOING TO PROCEED FORWARD WITH
16 OPENING STATEMENTS. MS. PARR, YOU'RE RECOGNIZED.

17 MS. PARR: MAY IT PLEASE THE COURT. MR. MEETZE.
18 OPENING STATEMENT BY MS. PARR ON BEHALF OF THE STATE:

19 MEMBERS OF THE JURY, TODAY WE'RE HERE FOR A TRIAL
20 AGAINST ANTHONY TYRONE WILLIAMSON. HE HAS BEEN CHARGED AND
21 INDICTED FOR TRAFFICKING IN COCAINE BASE, ALSO KNOWN AS
22 CRACK COCAINE, IN THE AMOUNT BETWEEN 10 GRAMS AND 28 GRAMS.
23 WE BELIEVE THE EVIDENCE WILL SHOW THAT ON NOVEMBER 14, 2007
24 OFFICERS FROM THE FLORENCE POLICE DEPARTMENT, DRUG
25 NARCOTICS UNIT EXECUTED A SEARCH WARRANT AT THE DEFENDANT'S

1 RESIDENCE.

2 WE ALSO BELIEVE THE EVIDENCE WILL SHOW THAT THE
3 OFFICERS OBTAINED WHAT APPEARED TO BE COCAINE BASE, ALSO
4 KNOWN AS CRACK, FROM THAT RESIDENCE ON THAT PARTICULAR DAY
5 FROM THE DEFENDANT.

6 WE ALSO BELIEVE THE EVIDENCE WILL SHOW THAT THE DRUGS
7 OR NARCOTICS WAS TESTED BY A CHEMIST AT SLED, MS. BETH
8 HOOVER.

9 WE ALSO BELIEVE THE EVIDENCE WILL SHOW THAT IT WAS IN
10 FACT CRACK COCAINE IN THE AMOUNT OF 13.94 GRAMS.

11 WE WOULD ASK THAT YOU LISTEN TO ALL THE EVIDENCE THAT
12 YOU HEAR TODAY AND REVIEW THE EVIDENCE THAT WILL BE
13 PRESENTED AS WELL. AND ONCE YOU'VE HAD AN OPPORTUNITY TO
14 DO THAT, WE WOULD ASK THAT YOU FIND THE DEFENDANT GUILTY OF
15 TRAFFICKING IN COCAINE BASE FROM BETWEEN 10 GRAMS AND 28
16 GRAMS.

17 THANK YOU.

18 THE COURT: MR. MEETZE, YOU'RE RECOGNIZED.

19 MR. MEETZE: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
20 COURT.

21 THE COURT: YES.

22 OPENING STATEMENT BY MR. MEETZE ON BEHALF OF THE DEFENDANT:

23 LADIES AND GENTLEMEN, YOU ALL DIDN'T GET A CHANCE TO
24 MEET ME EARLIER, BUT MY NAME IS VIC MEETZE, AND I WORK HERE
25 IN THE PUBLIC DEFENDER'S OFFICE FOR FLORENCE COUNTY, AND I

1 HAVE BEEN APPOINTED TO REPRESENT MR. WILLIAMSON IN THIS
2 CASE.

3 THE JUDGE GAVE YOU A DEFINITION OR EXPLAINED TO YOU
4 WHAT REASONABLE DOUBT IS. AND REASONABLE DOUBT IS A VERY
5 IMPORTANT LEGAL TERM OR PHRASE. IT'S PROBABLY, YOU KNOW,
6 THE HALLMARK OR, YOU KNOW, FOUNDATION OF ANY CRIMINAL CASE.
7 IT'S VERY, VERY IMPORTANT.

8 AND HE EXPLAINED TO YOU THIS IS CIRCUIT COURT. AND
9 THERE'S TWO DIFFERENT KINDS OF CIRCUIT COURT. THERE'S
10 COMMON PLEAS AND THERE'S GENERAL SESSIONS. COMMON PLEAS
11 BEING CIVIL COURT AND GENERAL SESSIONS BEING CRIMINAL
12 COURT, WHICH IS WHERE WE ARE NOW.

13 AND HE EXPLAINED TO YOU THE DIFFERENCES IN THE
14 EVIDENCE THAT HAS TO BE PRODUCED TO CONVINCING ONE JURY
15 VERSUS THE OTHER JURY. A GENERAL SESSIONS OR A CRIMINAL
16 CASE HAS TO BE PROVEN BEYOND ANY REASONABLE DOUBT, AND
17 THAT'S A VERY STRONG BURDEN, A VERY POWERFUL BURDEN, YOU
18 KNOW, AS OPPOSED TO A CIVIL CASE WHERE YOU SIMPLY HAVE TO
19 SHOW THAT IT'S MORE LIKELY THAN NOT, OR, YOU KNOW, BY A
20 PREPONDERANCE OF THE EVIDENCE MORE LIKELY THAN NOT THAT ONE
21 PERSON IS AT FAULT IN ORDER TO RULE, JUST TILT THOSE SCALES
22 EVER SO SLIGHTLY.

23 IN A CRIMINAL CASE, IT'S NOT THAT WAY. THE STATE HAS
24 GOT TO PILE EVIDENCE ON, AND PILE EVIDENCE ON UNTIL YOU'RE
25 FIRMLY CONVINCED BEYOND ANY REASONABLE DOUBT THAT SOMEONE

1 IS GUILTY BEFORE THEY CAN BE CONVICTED.

2 AND THE REASON FOR THAT HEAVIER BURDEN OF PROOF IS
3 BECAUSE -- NOT THAT PEOPLE DON'T NEED AND LIKE AND NOBODY
4 WANTS TO GIVE UP THEIR MONEY. BUT NORMALLY MANY TIMES IN
5 CIVIL CASES THAT'S WHAT'S, YOU KNOW, IN DISPUTE. AND WHEN
6 SOMEBODY FINDS IN ONE PERSON'S FAVOR OR ANOTHER IN CIVIL
7 COURT, MOST OF THE TIME -- NOT ALL, BUT MOST OF THE TIME
8 THAT'S WHAT THEY WOULD BE LOSING IF THEY LOST A CASE. THEY
9 MIGHT LOSE MONEY, WHICH, AGAIN, IS DEAR TO MANY FOLKS. AND
10 THAT'S CERTAINLY UNDERSTANDABLE.

11 BUT IN GENERAL SESSIONS OR IN CRIMINAL COURT, YOU'RE
12 DEALING WITH SOMETHING MUCH MORE VALUABLE AND MUCH MORE
13 IMPORTANT. YOU'RE DEALING WITH PEOPLE'S LIVES. YOU'RE
14 DEALING WITH PEOPLE'S VERY LIBERTY. AND THAT IS LIKE, I
15 SAID, MUCH MORE IMPORTANT, MUCH MORE VALUABLE; AND THAT'S
16 WHY THE BURDEN OF PROOF IN A CRIMINAL CASE IS THAT MUCH
17 HIGHER. IT'S, YOU KNOW, NOT PROOF BEYOND ANY AND ALL
18 DOUBT, BUT IT'S A STANDARD THAT COMES JUST SHY OF THAT.

19 NOW, MR. WILLIAMSON IS PRESUMED INNOCENT. THAT'S
20 ANOTHER ASPECT OF OUR LAW THAT IS UNWAIVERING. UNTIL HE'S
21 FOUND GUILTY BEYOND A REASONABLE DOUBT, HE IS TO BE
22 PRESUMED INNOCENT. AS WE TRY THIS CASE HERE TODAY, HE IS
23 INNOCENT AS I STAND HERE AND SPEAK TO ALL OF YOU. AND THAT
24 WOULD ONLY CHANGE IF YOU WERE ALL CONVINCED BEYOND A
25 REASONABLE DOUBT OTHERWISE.

1 I'M GOING TO ASK THAT YOU LISTEN TO ALL THE EVIDENCE
2 CAREFULLY. AND AT THE CLOSE OF THE CASE I'LL GET AN
3 OPPORTUNITY TO COME BACK UP IN FRONT OF YOU AND SPEAK ONCE
4 AGAIN. AND AT THAT TIME I WOULD BE ASKING THAT YOU COME
5 BACK WITH A VERDICT IN THIS CASE OF NOT GUILTY.

6 THANK YOU.

7 THE COURT: THANK YOU, MR. MEETZE.

8 MADAM FORELADY, AND LADIES AND GENTLEMEN OF THE JURY,
9 AT THIS TIME WE HAVE SOME LEGAL MATTERS TO TEND TO, AND
10 WE'RE GOING TO ASK THAT YOU REPORT BACK AT 2:00 O'CLOCK
11 SHARP. 2:00 O'CLOCK SHARP. DO NOT DISCUSS THE CASE WITH
12 ANYONE. YOU'RE FREE TO LEAVE AT THIS TIME.

13 EVERYONE REMAIN SEATED AS THE FORELADY AND THE MEMBERS
14 OF THE JURY EXIT THE COURTROOM.

15 (THE JURY EXITS THE COURTROOM AT 11:47 A.M.)

16 THE COURT: ANYTHING FROM THE STATE BEFORE WE BREAK
17 FOR LUNCH?

18 MS. PARR: NO, YOUR HONOR.

19 THE COURT: ANYTHING FROM DEFENSE?

20 MR. MEETZE: NOT AT THIS TIME, YOUR HONOR.

21 THE COURT: VERY GOOD. WE'LL STAND AT EASE AT THIS
22 TIME.

23 (COURT IS IN RECESS FOR LUNCH.)

24 THE COURT: MS. PARR, DO YOU ANTICIPATE THE FIRST
25 WITNESS MAKING REFERENCE TO ANY OF THE DEFENDANT'S

1 STATEMENTS?

2 MS. PARR: . YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. LET ME HAVE THE FORELADY OF
4 THE JURY OUT.

5 (THE FORELADY ENTERS THE COURTROOM 2:01 P.M.)

6 THE COURT: MS. EADDY, I WANT TO THANK YOU ALL FOR
7 BEING HERE AND THANK YOU FOR BEING HERE ON TIME. AS IT
8 TURNS OUT OVER THE LUNCH BREAK, THERE'S BEEN A LEGAL MATTER
9 THAT'S DEVELOPED, AND IT'S GOING TO TAKE A LITTLE BIT OF
10 TIME TO GET THAT STRAIGHT. SO JUST BEAR WITH US AND BE
11 PATIENT. WE'RE HERE WORKING. I JUST WANTED TO LET YOU
12 KNOW WHAT WE'RE DOING. THANK YOU, MS. EADDY. DO NOT
13 DISCUSS THE CASE.

14 (THE FORELADY RETURNS TO THE JURY ROOM AT 2:02 P.M.)

15 THE COURT: ALL RIGHT. MR. MEETZE, YOU'RE RECOGNIZED.

16 MR. MEETZE: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
17 COURT.

18 YOUR HONOR, IN REVIEW OF THE DISCOVERY MATERIALS ON
19 THIS CASE, THE INCIDENT REPORT INDICATES THAT AFTER THE
20 OFFICERS ENTERED MR. WILLIAMSON'S HOME WITH A SEARCH
21 WARRANT, THEY HAD -- I BELIEVE THEY HAD AN ARREST WARRANT
22 FROM A PREVIOUS CASE AS WELL AS A SEARCH WARRANT TO SEARCH
23 THE PREMISES. AFTER THEY EXPLAINED TO HIM WHAT THEY WERE
24 DOING THERE AND EXPLAINED THE SEARCH WARRANT TO HIM, THE
25 INCIDENT REPORT INDICATES THAT -- IT'S NOT A QUOTE IN THE

1 INCIDENT REPORT, BUT THAT MR. WILLIAMSON INDICATED TO HIM
2 THAT HE WANTED -- TO THE OFFICERS THAT HE WANTED TO
3 COOPERATE AND THAT HE WOULD SHOW THEM WHERE THE DRUGS ARE
4 HIDDEN AT.

5 AGENT DRULIS FOUND A FLASHLIGHT ON THE BED AND
6 SEARCHED INSIDE THAT FLASHLIGHT AND FOUND SOME CRACK.
7 THERE'S NO INDICATION WHETHER THAT WAS JUST PART OF A
8 SEARCH OR WHETHER MR. WILLIAMSON INDICATED THAT THERE WERE
9 DRUGS IN THAT FLASHLIGHT.

10 AFTER THE DRUGS WERE FOUND IN THAT FLASHLIGHT, THE
11 NEXT STATEMENT THAT WAS MADE WAS THAT THERE WAS SOME MORE
12 CRACK HIDDEN IN A CASSETTE CASE. AND THEN HE ALSO SHOWED
13 THEM WHERE SOME DIGITAL SCALES WERE.

14 WE WOULD MAKE -- FIRST OFF, WE WOULD MAKE A MOTION FOR
15 A JACKSON VERSUS DENNO HEARING WITH REGARDS TO THOSE
16 STATEMENTS AND WHETHER THEY WERE VOLUNTARILY MADE OR
17 WHETHER HE'D BEEN MADE AWARE OF HIS MIRANDA RIGHTS BEFORE
18 GIVING THOSE STATEMENTS.

19 WE'D ALSO ASK IF THERE WERE ANY OTHER STATEMENTS THAT
20 WERE MADE THAT THE STATE INTENDS TO INTRODUCE.

21 THE COURT: ALL RIGHT. MS. PARR, YOU'RE RECOGNIZED.

22 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL
23 OFFICER JOE NIDA TO THE STAND.

24 WILLIAM NIDA, BEING FIRST
25 DULY SWORN, TESTIFIED AS FOLLOWS:

1 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
2 RECORD.

3 THE COURT: MR. NIDA, I'M GOING TO ASK YOU TO PULL UP
4 REAL CLOSE TO THAT MICROPHONE. SPEAK LOUDLY, CLEARLY, AND
5 SLOWLY.

6 WITNESS: WILLIAM JOSEPH NIDA.

7 DIRECT EXAMINATION BY MS. PARR:

8 Q OFFICER NIDA, WHERE ARE YOU EMPLOYED?

9 A FLORENCE POLICE DEPARTMENT.

10 Q WHAT DO YOU DO FOR THE FLORENCE POLICE DEPARTMENT?

11 A I'M ASSIGNED TO A SPECIAL INVESTIGATION UNIT.

12 Q AND HOW LONG HAVE YOU BEEN WITH THE FLORENCE POLICE
13 DEPARTMENT?

14 A 7 YEARS, 4 MONTHS.

15 Q OKAY. AND HOW LONG HAVE YOU BEEN IN THE SPECIAL
16 ENFORCEMENT UNIT?

17 A 4 YEARS.

18 Q NOW, ARE YOU FAMILIAR WITH THE SO-CALLED MIRANDA
19 WARNINGS ON A SUSPECT'S CONSTITUTIONAL RIGHTS?

20 A YES, MA'AM.

21 Q DID YOU HAVE AN OCCASION TO ADVISE A SUBJECT OF THOSE
22 RIGHTS IN THE COURSE OF YOUR WORK IN LAW ENFORCEMENT?

23 A YES, MA'AM.

24 Q AND HOW ARE THE SUSPECTS ADVISED?

25 A I HAVE A CARD I CARRY IN MY WALLET, AND I TAKE IT OUT

OFFICER NIDA - DIRECT BY MS. PARR

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1 AND I READ IT ACTUALLY FROM THE CARD.

2 Q OKAY. NOW, ON NOVEMBER 14, 2007 WERE YOU WORKING?

3 A YES, MA'AM.

4 Q AND IN WHAT CAPACITY WERE YOU WORKING THAT DAY?

5 A I EXECUTED A SEARCH WARRANT AT [REDACTED] IN
6 THE CITY OF FLORENCE.

7 Q OKAY. AND DID YOU HAVE AN OCCASION TO BECOME INVOLVED
8 WITH THE DEFENDANT IN THIS MATTER, ANTHONY TYRONE
9 WILLIAMSON?

10 A YES, MA'AM.

11 Q OKAY. AND HOW IS IT THAT YOU BECAME INVOLVED WITH
12 HIM?

13 A HE WAS IN THE RESIDENCE AND ACTUALLY RESIDES THERE AND
14 IN CHARGE OF THE RESIDENCE AT THE TIME.

15 Q OKAY. NOW, WHAT DATE DID YOU BECOME INVOLVED IN THIS
16 PARTICULAR INVESTIGATION INVOLVING THE DEFENDANT?

17 A I THINK IT WOULD BE THE 9TH ACTUALLY THE SEARCH
18 WARRANT WAS SIGNED. SO I RECEIVED INFORMATION PRIOR TO
19 THAT, WITHIN 72 HOURS OF THAT. AND THEN THERE'S ANOTHER
20 INCIDENT PRIOR TO THAT ALSO. A CONTROLLED PURCHASE WAS
21 CONDUCTED ON THE 8TH. SO A DAY BEFORE THE WARRANT WAS
22 ACTUALLY ISSUED.

23 Q YOU SAY THE WARRANT, ARE YOU REFERRING TO THE SEARCH
24 WARRANT?

25 A THE SEARCH WARRANT, YES, MA'AM.

STATE VS. ANTHONY TYRONE WILLIAMSON

- 1 Q OKAY. AND THAT CONTROLLED BUY WAS FROM WHERE?
- 2 A FOR [REDACTED].
- 3 Q OKAY. IS THAT THE DEFENDANT'S RESIDENCE?
- 4 A YES, MA'AM.
- 5 Q OKAY. NOW, I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED
- 6 FOR IDENTIFICATION AS STATE'S EXHIBIT NO. 1. DO YOU
- 7 RECOGNIZE THIS?
- 8 A YES, MA'AM.
- 9 Q OKAY. AND WHAT IS THAT?
- 10 A THAT'S A COPY OF MY -- THE SUSPECT'S RIGHTS MIRANDA
- 11 RIGHTS CARD.
- 12 Q NOW, YOU SAY ON THAT PARTICULAR DAY YOU SAW THE
- 13 DEFENDANT; IS THAT CORRECT?
- 14 A YES, MA'AM.
- 15 Q AND WHERE DID YOU SEE HIM?
- 16 A WE MADE ENTRY INTO THE HOUSE TO EXECUTE THE SEARCH
- 17 WARRANT, AND HE WAS COMING DOWN THE HALLWAY. HE WAS INSIDE
- 18 THE RESIDENCE.
- 19 Q OKAY. AND DID YOU HAVE AN OCCASION TO TALK WITH HIM
- 20 AT THAT TIME?
- 21 A YES, HE WAS DETAINED AND WE SAT DOWN IN THE LIVING
- 22 ROOM AND I AT THAT TIME WENT OVER THE SEARCH WARRANT AND
- 23 READ HIM HIS RIGHTS.
- 24 Q OKAY. AND WHEN YOU SAY YOU READ HIM HIS RIGHTS, WOULD
- 25 YOU READ FOR THE COURT, WHAT DID YOU SPECIFICALLY TELL HIM?

OFFICER NIDA - DIRECT BY MS. PARR

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1 A I READ IT FROM THE CARD. IT STATES THAT YOU HAVE THE
2 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN AND WILL BE
3 USED AGAINST YOU IN A COURT OF LAW. YOU HAVE A RIGHT TO
4 TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU'RE
5 BEING QUESTIONED.

6 IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE
7 APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU
8 WISH.

9 YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS
10 AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.

11 DO YOU UNDERSTAND EACH OF THESE RIGHTS I'VE EXPLAINED
12 TO YOU? AND I WAIT FOR A RESPONSE. AND THEN ALSO, HAVING
13 THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW? AND,
14 AGAIN, WAIT FOR A RESPONSE.

15 Q OKAY. NOW, AFTER YOU READ THAT TO THE DEFENDANT, MR.
16 WILLIAMSON, WHAT WAS HIS RESPONSE?

17 A STATED THAT HE UNDERSTOOD THEM, SAID HE'D BEEN THROUGH
18 IT BEFORE, AND HE WOULD COOPERATE, WOULD TALK TO US.

19 Q AND WOULD YOU PLEASE DESCRIBE HIS PHYSICAL APPEARANCE?

20 A PHYSICAL APPEARANCE, HE'D BEEN LAYING IN BED, SO HE
21 WAS JUST GETTING UP WHENEVER WE MADE ENTRY. SO, I MEAN,
22 JUST ---

23 Q AND WHAT WAS HIS Demeanor LIKE?

24 A AT THIS POINT WHEN WE FIRST SAT DOWN, HE WAS A LITTLE
25 BIT NERVOUS IN TALKING TO HIM. AND THEN HE BECAME REAL

STATE VS. ANTHONY TYRONE WILLIAMSON

- 1 NERVOUS A LITTLE BIT AFTER THAT.
- 2 Q OKAY. NOW, HAVE YOU EVER DEALT WITH PEOPLE UNDER THE
3 INFLUENCE OF ALCOHOL OR NARCOTICS?
- 4 A YES, MA'AM.
- 5 Q OKAY. FROM YOUR DEALING WITH THE DEFENDANT ON THAT
6 DAY, DID HE APPEAR TO BE INTOXICATED BY ALCOHOL AND DRUGS?
- 7 A NO, MA'AM.
- 8 Q OKAY. DID THE DEFENDANT RESPOND TO YOUR QUESTIONS?
- 9 A YES, HE DID.
- 10 Q DID THE DEFENDANT APPEAR TO UNDERSTAND THEM?
- 11 A HE DID UNDERSTAND THEM, YES, MA'AM.
- 12 Q WAS HIS SPEECH COHERENT?
- 13 A YES, MA'AM.
- 14 Q DID HE RESPOND WHEN YOU ASKED WHETHER OR NOT HE WANTED
15 AN ATTORNEY?
- 16 A AFTER READING HIS RIGHTS, I ASKED HIM IF HE UNDERSTOOD
17 THEM. HE SAID, YES. AND I ASKED IF HE WOULD LIKE TO TALK
18 TO US. AND HE SAID, YES, HE WOULD.
- 19 Q OKAY. NOW, AT ANY POINT DID HE REQUEST AN ATTORNEY?
- 20 A NO, MA'AM, HE DID NOT.
- 21 Q AND DID YOU PROMISE THE DEFENDANT ANYTHING IN RESPONSE
22 TO GIVING A STATEMENT?
- 23 A NO, MA'AM.
- 24 Q DID YOU COERCE THIS DEFENDANT INTO MAKING A STATEMENT?
- 25 A NO, MA'AM.

OFFICER NIDA - DIRECT BY MS. PARR

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1 Q TO THE BEST OF YOUR KNOWLEDGE, WAS THE DEFENDANT'S
2 STATEMENT FREELY AND VOLUNTARILY GIVEN?

3 A YES, IT WAS.

4 Q DID HE MAKE A STATEMENT IN RESPONSE TO YOUR QUESTIONS?

5 A YES, HE DID.

6 Q NOW, WAS THAT STATEMENT WRITTEN OR ORAL?

7 A ORAL.

8 Q OKAY. WAS IT RECORDED?

9 A NO, MA'AM.

10 Q NOW, WHAT IF ANYTHING DID THE DEFENDANT SAY?

11 A WELL, FIRST AGENT DRULIS CAME DOWN THE HALLWAY AND LET
12 HIM KNOW THAT WE HAD FOUND SOME COCAINE BASE OR CRACK. AND
13 HE STATED TO ME THAT THAT'S NOT ALL OF IT, THAT HE HAD SOME
14 MORE HIDDEN IN HIS ROOM IN A CASSETTE CASE. HE WENT IN
15 THERE AND ACTUALLY SHOWED THEM WHERE HE HAD THE REST OF THE
16 COCAINE BASE HIDDEN AT.

17 Q OKAY. AND WAS IT TAKEN AT THAT TIME?

18 A YES, IT WAS.

19 Q DID THE DEFENDANT MAKE ANY FURTHER STATEMENT TO YOUR
20 RECOLLECTION?

21 A I DON'T RECALL AT THIS TIME.

22 MS. PARR: PLEASE ANSWER ANY QUESTIONS DEFENSE MIGHT
23 HAVE FOR YOU.

24 THE COURT: MS. PARR, HE INDICATED THAT HE DIDN'T KNOW
25 OF ANY OTHER STATEMENTS AT THIS TIME. DO YOU INTEND TO

STATE VS. ANTHONY TYRONE WILLIAMSON

1 ELICIT ANY FURTHER STATEMENTS OTHER THAN WHAT HE SAID?

2 MS. PARR: NO, YOUR HONOR.

3 THE COURT: OKAY. MR. MEETZE, YOU'RE RECOGNIZED.

4 MR. MEETZE: THANK YOU, YOUR HONOR.

5 CROSS EXAMINATION BY MR. MEETZE:

6 Q AGENT NIDA, YOU INDICATED YOU READ HIS MIRANDA

7 WARNINGS TO HIM?

8 A YES, SIR.

9 Q MR. WILLIAMSON. AND THAT WAS BEFORE HE MADE ANY OF
10 THOSE STATEMENTS?

11 A YES, SIR.

12 Q AND DID YOU GET HIM TO SIGN ANYTHING INDICATING THAT
13 HE HAD HAD HIS MIRANDA WARNINGS ---

14 A NO, SIR, WE DID NOT SIGN A FORM. WE JUST DID THE ORAL
15 ONE. HE AGREED TO TALK AT THAT POINT.

16 Q DID YOU PREPARE THE INCIDENT REPORT IN THIS CASE?

17 A YES, SIR.

18 Q NOW, THE INCIDENT REPORT DOES NOT INDICATE THAT HE WAS
19 READ HIS MIRANDA WARNINGS; IS THAT CORRECT?

20 A THAT IS CORRECT.

21 Q BUT YOU SAY THAT YOU DID?

22 A YES, SIR.

23 Q AND YOU HAVE A VIVID MEMORY ON THAT OCCASION OF
24 READING HIS MIRANDA WARNINGS TO HIM?

25 A YES, SIR, I DO. STANDARD OPERATING PROCEDURE WHENEVER

OFFICER NIDA - CROSS BY MR. MEETZE

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1 WE GO IN, WE SIT DOWN AFTER THEY'RE DETAINED, READ THEM THE
2 SEARCH WARRANT, AND I'LL GO AHEAD AND READ EVERYBODY THE
3 RIGHTS NO MATTER HOW MANY PEOPLE ARE IN THERE AS WELL, I
4 ALWAYS READ IT TO THEM.

5 Q AND THIS WASN'T THE FIRST TIME THAT YOU'D HAD A
6 DEALING WITH MR. WILLIAMSON?

7 A IT'S NOT THE FIRST TIME, NO, SIR.

8 Q BUT YOU'RE NOT GETTING THIS TIME MIXED UP WITH THE
9 OTHER TIME?

10 A NO.

11 Q OKAY.

12 MR. MEETZE: YOUR HONOR, I DON'T HAVE ANY FURTHER
13 QUESTIONS. I WOULD LIKE TO MAKE A MOTION.

14 THE COURT: ANY REDIRECT?

15 MS. PARR: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. ANY OTHER WITNESSES WITH
17 REGARD TO THE VOLUNTARINESS OF THE STATEMENT?

18 MS. PARR: NO, YOUR HONOR.

19 THE COURT: OR OF THE MIRANDA ISSUES?

20 MS. PARR: NO.

21 THE COURT: OKAY. DO YOU HAVE ANY WITNESSES THAT YOU
22 WOULD LIKE TO CALL WITH REGARD TO THE MATTER BEFORE US, THE
23 JACKSON V. DENNO HEARING, WITH REGARD TO THE MIRANDA
24 WARNINGS OR THE VOLUNTARINESS OF THE STATEMENT?

25 MR. MEETZE: NO, YOUR HONOR.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 THE COURT: ALL RIGHT. I'D BE GLAD TO HEAR -- YOU MAY
2 STEP DOWN.

3 (THE WITNESS LEAVES THE WITNESS STAND.)

4 THE COURT: I'D BE GLAD TO HEAR FROM YOU, MR. MEETZE.

5 MR. MEETZE: YOUR HONOR, FOR THE RECORD, I WOULD MAKE
6 A MOTION THAT THE STATEMENTS THAT ARE ALLEGED TO HAVE BEEN
7 GIVEN BY MR. WILLIAMSON IN THIS CASE BE SUPPRESSED OR FOUND
8 TO BE INADMISSIBLE IN THIS CASE BASED ON THEM NOT BEING
9 MADE VOLUNTARILY AFTER HAVING BEEN FULLY ADVISED OF HIS
10 RIGHTS. I DON'T KNOW THAT THE EVIDENCE HERE IS CLEAR
11 ENOUGH TO DETERMINE WHETHER THAT HAPPENED OR NOT.

12 THE COURT: I THINK -- I'D BE GLAD TO HEAR FROM YOU,
13 MS. PARR.

14 MS. PARR: MAY IT PLEASE THE COURT. YOUR HONOR, WE
15 THINK THE EVIDENCE HAS BEEN SHOWN BY OFFICER NIDA'S
16 TESTIMONY THAT WHEN HE ENTERED THE RESIDENCE AND GOT THE
17 DEFENDANT, HE WENT OVER THE SEARCH WARRANT WITH HIM AS WELL
18 AS READ HIM HIS MIRANDA WARNINGS. HE -- AFTER HE READ
19 THOSE WARNINGS, THE DEFENDANT CLEARLY VOLUNTARILY GAVE A
20 STATEMENT. HE IN FACT SHOWED THE OFFICERS WHERE THE DRUGS
21 WERE.

22 THE COURT: VERY GOOD. I'M GOING TO SPECIFICALLY FIND
23 THAT THE DEFENDANT WAS INDEED IN CUSTODY AT THE TIME AND,
24 THEREFORE, TRIGGERED THE REQUIREMENT THAT MIRANDA WARNINGS
25 BE GIVEN.

1 I SPECIFICALLY FIND THAT GIVEN THE FACTS AND
2 CIRCUMSTANCES OF THIS CASE, I SPECIFICALLY FACTUALLY FIND
3 THAT THE WARNINGS WERE GIVEN TO HIM AND THAT HIS STATEMENT
4 WAS INDEED VOLUNTARY. THERE'S NO INDICATION ON THE RECORD
5 THAT THERE WAS ANY INDICATION THAT HE HAD A SUB-PAR I.Q.,
6 THAT HE HAD ANY -- THERE WAS ANY PRESSURE EXERTED ON HIM.
7 QUESTIONS WERE SPECIFICALLY ASKED ABOUT WHETHER OR NOT HE
8 WAS INTOXICATED. AND I FIND THAT THE FACTS AND
9 CIRCUMSTANCES OF THIS CASE ALLOW THE INTRODUCTION OF THE
10 STATEMENT, THAT I SPECIFICALLY FIND THAT IT WAS VOLUNTARY.
11 AND I'LL ALLOW THE STATEMENT INTO EVIDENCE.

12 ANYTHING FURTHER FROM THE STATE?

13 MS. PARR: NOTHING FURTHER FROM THE STATE.

14 THE COURT: ANYTHING FROM DEFENSE?

15 MR. MEETZE: NO, YOUR HONOR.

16 THE COURT: VERY GOOD. WE'RE READY FOR THE JURY.

17 (THE JURY RETURNS TO THE COURTROOM AT 2:13 P.M.)

18 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF
19 THE JURY, THANK YOU FOR BEING HERE AND BEING HERE ON TIME.
20 WE DID HAVE ONE LEGAL MATTER WE NEEDED TO TEND TO BEFORE WE
21 BROUGHT YOU OUT. THANK YOU FOR BEING PROMPT.

22 MS. PARR, YOU'RE RECOGNIZED.

23 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL
24 OFFICER JOE NIDA TO THE STAND.

25 WILLIAM NIDA, BEING FIRST

1 DULY SWORN, TESTIFIED AS FOLLOWS:

2 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
3 RECORD.

4 THE COURT: OFFICER NIDA, PULL UP REAL CLOSE TO THAT
5 MICROPHONE AND I ASK THAT YOU SPEAK LOUDLY, CLEARLY, AND
6 SLOWLY SO EVERYONE ON THE JURY CAN HEAR WHAT YOU'VE GOT TO
7 SAY. STATE YOUR FULL NAME.

8 WITNESS: WILLIAM JOSEPH NIDA.

9 THE COURT: VERY GOOD. THANK YOU.

10 MS. PARR: YOUR HONOR, I BEG THE COURT'S INDULGENCE.

11 (PAUSE.)

12 DIRECT EXAMINATION BY MS. PARR:

13 Q AGENT NIDA, WHERE ARE YOU EMPLOYED?

14 A THE FLORENCE POLICE DEPARTMENT.

15 Q AND WHAT DO YOU DO AT THE FLORENCE POLICE DEPARTMENT?

16 A I'M A CORPORAL WITH THE SPECIAL INVESTIGATION UNIT.

17 Q OKAY. AND HOW LONG HAVE YOU BEEN WITH THE FLORENCE
18 POLICE DEPARTMENT?

19 A 7 YEARS, 4 MONTHS.

20 Q AND HOW LONG HAVE YOU BEEN IN THE SPECIAL
21 INVESTIGATION?

22 A 4 YEARS.

23 Q NOW, WHAT ARE YOUR DUTIES IN THE SPECIAL
24 INVESTIGATION?

25 A MOSTLY WE HANDLE DRUGS, NARCOTICS. WE ALSO HANDLE

OFFICER NIDA - DIRECT BY MS. PARR

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1 PROSTITUTION, GAMBLING, ALCOHOL SALES, ANYTHING ELSE THAT
2 WOULD FALL UNDER ORGANIZED CRIME.

3 Q NOW, HAVE YOU HAD ANY SPECIAL TRAINING FOR YOUR JOB?

4 A YES, MA'AM.

5 Q AND WOULD YOU PLEASE TELL THE COURT WHAT TYPE OF
6 TRAINING YOU HAVE HAD WITH YOUR JOB?

7 A THE CRIMINAL JUSTICE ACADEMY. AND WITH ALL MY BASIC
8 CERTIFICATIONS, I'VE ALSO BEEN THROUGH D.E.A. BASIC.

9 Q WHAT DOES D.E.A. STAND FOR?

10 A DRUG ENFORCEMENT ADMINISTRATION. AND ALSO BEEN TO
11 NARCOTICS COMMANDER SCHOOL, MARIJUANA ANALYSIS SCHOOL, AND
12 OTHER VARIOUS SCHOOLS ASSOCIATED WITH THAT.

13 Q WITH DRUG ENFORCEMENT?

14 A YES, MA'AM.

15 Q OKAY. NOW, WERE YOU WORKING ON THE DATE OF THIS
16 INCIDENT NOVEMBER 14, 2007?

17 A YES, MA'AM.

18 Q IN WHAT CAPACITY WERE YOU WORKING THAT DAY?

19 A EXECUTED A SEARCH WARRANT AT [REDACTED] IN
20 THE CITY OF FLORENCE.

21 Q OKAY. NOW, DURING THE COURSE OF YOUR EMPLOYMENT, HAVE
22 YOU HAD THE OCCASION -- FIRST OFF, ARE YOU FAMILIAR WITH
23 THE SO-CALLED MIRANDA WARNINGS?

24 A YES, MA'AM.

25 Q NOW, DURING YOUR TENURE IN LAW ENFORCEMENT, HAVE YOU

1 HAD OCCASION TO ADMINISTER THOSE WARNINGS?

2 A YES, MA'AM.

3 Q NOW, IN THIS PARTICULAR CASE, WILL YOU TELL US WHEN
4 YOU BECAME INVOLVED IN THIS MATTER?

5 A BECAME INVOLVED WHEN WE ACTUALLY EXECUTED THE SEARCH
6 WARRANT?

7 Q YES, WHEN DID YOU BECOME INVOLVED IN THIS PARTICULAR
8 CASE INVOLVING ANTHONY TYRONE WILLIAMSON?

9 A A WARRANT WAS SIGNED ON NOVEMBER 9, AND IT WAS
10 EXECUTED ON NOVEMBER 14.

11 Q OKAY. WHEN YOU SAY A WARRANT, WHAT KIND OF WARRANT?

12 A IT WAS A SEARCH WARRANT FOR THAT RESIDENCE OF [REDACTED]

13 [REDACTED].

14 Q OKAY. AND YOU SAY IT WAS EXECUTED?

15 A IT WAS EXECUTED ON THE 14TH, YES, MA'AM.

16 Q AND WHO EXECUTED THAT WARRANT?

17 A IT WOULD BE MYSELF, SERGEANT CALHOUN, SERGEANT DRULIS,
18 AND AGENT SPEARS.

19 Q AND DO YOU RECALL WHAT TIME THAT WAS?

20 A I DON'T HAVE THE INCIDENT REPORT IN FRONT OF ME.

21 Q NOW, PLEASE TELL US HOW THAT WARRANT WAS EXECUTED?

22 A WE WENT TO THE RESIDENCE, KNOCKED ON THE FRONT DOOR.
23 EVEN RANG THE DOORBELL. DIDN'T HEAR ANY RESPONSE. THEN WE
24 MADE ENTRY USING FORCE.

25 Q OKAY. AND THEN WHEN YOU ENTERED THE RESIDENCE, PLEASE

OFFICER NIDA - DIRECT BY MS. PARR

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1 TELL US WHO WAS THERE?

2 A THE DEFENDANT, ANTHONY WILLIAMSON, WAS ACTUALLY COMING
3 OUT OF HIS BEDROOM, DOWN THE HALLWAY, IN THE RESIDENCE.
4 AND ALSO HIS GIRL FRIEND WAS IN THE RESIDENCE ALSO AT THE
5 TIME.

6 Q AND PLEASE TELL US WHAT HAPPENED WHEN YOU SAW HIM?

7 A HE WAS DETAINED AND BROUGHT INTO THE LIVING ROOM, AND
8 WE SAT DOWN AND I ACTUALLY READ HIM THE SEARCH WARRANT AND
9 THEN READ HIM HIS RIGHTS FROM MY MIRANDA CARD.

10 Q OKAY. NOW, I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED
11 FOR IDENTIFICATION AS STATE'S EXHIBIT NO. 1. DO YOU
12 RECOGNIZE THAT?

13 A YES, MA'AM. THAT'S A COPY OF MY MIRANDA CARD I KEEP
14 IN MY WALLET.

15 Q OKAY.

16 A IT'S ENLARGED. IT'S NOT THAT BIG.

17 MS. PARR: YOUR HONOR, THE STATE WOULD MOVE TO ENTER
18 INTO EVIDENCE STATE'S EXHIBIT NO. 1.

19 THE COURT: ANY OBJECTION FROM DEFENSE?

20 MR. MEETZE: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. STATE'S EXHIBIT NO. 1 IS INTO
22 EVIDENCE WITHOUT OBJECTION FROM DEFENSE.

23 (MIRANDA WARNING, 1 PAGE, RECEIVED IN EVIDENCE AS
24 STATE'S EXHIBIT NO. 1.)

25 Q OKAY. AND WOULD YOU PLEASE READ FOR US WHAT YOU TOLD

1 THE DEFENDANT?

2 A IT'S THE SUSPECT'S RIGHTS, THE MIRANDA WARNING. I
3 READ, YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU
4 SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
5 YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT
6 WITH YOU WHILE YOU'RE BEING QUESTIONED.

7 IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE
8 APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU
9 WISH.

10 YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS
11 AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.

12 IT SAYS, DO YOU UNDERSTAND EACH OF THE RIGHTS AS I
13 EXPLAINED TO YOU? HAVING THESE RIGHTS IN MIND, DO YOU WISH
14 TO TALK TO US NOW?

15 Q OKAY. AND WHAT WAS THE DEFENDANT'S RESPONSE?

16 A WHEN I ASKED HIM, DO YOU UNDERSTAND EACH OF THE RIGHTS
17 I EXPLAINED TO YOU, HE STATED YES.

18 AND THEN HAVING THESE RIGHTS IN MIND, DO YOU WISH TO
19 TALK TO US NOW? HE ALSO STATED, YES, HE WANTED TO TALK AND
20 COOPERATE.

21 Q OKAY. AND WHERE WERE YOU WHEN YOU READ HIM HIS
22 RIGHTS?

23 A IN THE LIVING ROOM.

24 Q NOW, WAS ANYONE ELSE PRESENT?

25 A IT WAS US IN THE LIVING ROOM AT THAT TIME, AND THEN

OFFICER NIDA - DIRECT BY MS. PARR

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1 THE REST OF THEM WERE IN THE HALLWAY OR IN THE BACK
2 BEDROOM.

3 Q EXECUTING THE SEARCH WARRANT?

4 A YES, MA'AM.

5 Q NOW, DESCRIBE THE DEFENDANT'S PHYSICAL APPEARANCE?

6 A HE WAS JUST AWAKENED WHEN WE MADE ENTRY, SO HE WAS
7 GETTING OUT OF BED. YOU COULD TELL HE'D BEEN SLEEPING.

8 Q NOW, HAVE YOU EVER DEALT WITH PERSONS IN YOUR LINE OF
9 WORK WHO HAD BEEN UNDER THE INFLUENCE OF ALCOHOL OR
10 NARCOTICS?

11 A YES, MA'AM.

12 Q DID THE DEFENDANT APPEAR TO BE UNDER INFLUENCE OF
13 EITHER ONE OF THOSE?

14 A NO, MA'AM, HE WAS NOT.

15 Q DID THE DEFENDANT RESPOND TO YOUR QUESTIONS WHEN YOU
16 READ THE EXHIBIT TO HIM?

17 A YES, MA'AM.

18 Q DID THE DEFENDANT APPEAR TO UNDERSTAND YOUR QUESTIONS?

19 A YES, HE DID.

20 Q WAS THE DEFENDANT'S SPEECH COHERENT?

21 A YES, IT WAS COHERENT. HE WAS FINE. YES, MA'AM.

22 Q DID THE DEFENDANT AT ANY TIME REQUEST AN ATTORNEY?

23 A NO, MA'AM, HE DID NOT.

24 Q DID THE DEFENDANT INVOKE HIS RIGHT TO REMAIN SILENT?

25 A NO, HE DID NOT.

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- 1 Q DID THE DEFENDANT AGREE TO ANSWER YOUR QUESTIONS?
- 2 A YES, HE DID.
- 3 Q AND DID YOU PROMISE THE DEFENDANT ANYTHING IN RETURN
- 4 FOR MAKING A STATEMENT?
- 5 A NO, MA'AM.
- 6 Q WAS THE DEFENDANT COERCED IN MAKING A STATEMENT?
- 7 A NO, MA'AM.
- 8 Q TO THE BEST OF YOUR KNOWLEDGE, WAS THE DEFENDANT'S
- 9 STATEMENT FREELY AND VOLUNTARILY AND FREELY GIVEN?
- 10 A YES, MA'AM.
- 11 Q AT ANY POINT DID HE REFUSE TO ANSWER ANY FURTHER
- 12 QUESTION?
- 13 A NO, MA'AM, HE DID NOT.
- 14 Q NOW, WAS HIS STATEMENT RECORDED OR WRITTEN?
- 15 A NO, MA'AM.
- 16 Q AND WHAT KIND OF STATEMENT DID HE GIVE?
- 17 A AN ORAL.
- 18 Q NOW, WHAT IF -- WHAT DID THE DEFENDANT SAY IN RESPONSE
- 19 TO YOUR QUESTIONING?
- 20 A WE'D FOUND SOME NARCOTICS. AND ONCE WE LET HIM KNOW
- 21 WE HAD FOUND THEM, HE TOLD US THAT THERE WAS SOME MORE
- 22 HIDDEN IN HIS ROOM. AND HE WAS SHOWING US THAT THEY WERE
- 23 HIDDEN IN A CASSETTE CASE IN HIS BEDROOM, AND WENT IN THERE
- 24 AND SHOWED THE OTHER AGENTS WHERE IT WAS ACTUALLY AT.
- 25 Q OKAY. AND SO AT THAT TIME DID THE DEFENDANT LEAVE

OFFICER NIDA - DIRECT BY MS. PARR

55

1 YOUR PRESENCE TO GO TO ---

2 A YES. IT WAS A SMALL HALLWAY THERE, AND THE OTHER TWO
3 WERE ALREADY IN THE BEDROOM. SO HE WENT IN AND ACTUALLY
4 SHOWED THEM WHERE HE HAD THE OTHER CRACK OR COCAINE BASE
5 WAS HIDDEN AT IN HIS BEDROOM.

6 Q OKAY. NOW, DID THE DEFENDANT SAY ANYTHING ELSE IN
7 REGARDS TO THE COCAINE BASE OR CRACK THAT WAS FOUND?

8 A NO, MA'AM.

9 Q NOW, YOU SAID YOU EXPLAINED THE SEARCH WARRANT TO THE
10 DEFENDANT; IS THAT CORRECT?

11 A YES, MA'AM.

12 Q AND WHO COMPLETED THE RETURN FOR THE SEARCH WARRANT?

13 A AS THE INVENTORY, I DID THE INVENTORY FOR ANY ITEMS
14 THAT WERE SEIZED. THERE WAS TWO BAGS OF CRACK IN THE
15 FLASHLIGHT, THEN THE ONE THAT HE SHOWED US IN THE CASSETTE.
16 SO THERE WAS THREE BAGS THERE. AND THEN THE SAFE AND THE
17 SCALES THAT I PUT ON THE RETURN WERE THE ITEMS THAT WERE
18 SEIZED FROM THE RESIDENCE.

19 Q OKAY. AND WHO ACTUALLY SIGNED THAT RETURN?

20 A SERGEANT CALHOUN ACTUALLY SIGNED IT AND THEN RETURNED
21 IT TO JUDGE HEWITT IN CITY COURT.

22 Q OKAY. AND WAS A COPY OF THAT SEARCH WARRANT LEFT WITH
23 THE DEFENDANT?

24 A YES, IT WAS.

25 Q NOW, IN TERMS OF THE CRACK COCAINE THAT WAS FOUND IN

1 HIS BEDROOM, WHO TOOK POSSESSION OF THAT?

2 A I DID.

3 Q OKAY. NOW, ONCE YOU TOOK POSSESSION, WHAT DID YOU DO
4 WITH IT?

5 A COME BACK TO THE COMPLEX AND DOWN IN THE EVIDENCE ROOM
6 COMPLETED A BEST PACK ON IT TO BE SENT TO SLED FOR
7 ANALYSIS. AND IT WAS SEALED AND PUT IN A LOCKER FOR THE
8 EVIDENCE CUSTODIAN TO MAINTAIN UNTIL IT WAS SENT OFF.

9 Q OKAY. NOW, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
10 AS STATE'S EXHIBIT NO. 2 FIRST. DO YOU RECOGNIZE THAT?

11 A YES, MA'AM, IT'S A SAFE.

12 Q AND HOW ARE YOU ABLE TO RECOGNIZE IT?

13 A IT WAS FROM HIS BEDROOM, WE SEIZED IT ALSO.

14 Q OKAY.

15 MS. PARR: YOUR HONOR, THE STATE WOULD MOVE TO ENTER
16 THAT INTO EVIDENCE AS STATE'S EXHIBIT NO. 2.

17 THE COURT: ANY OBJECTION FROM DEFENSE?

18 MR. MEETZE: OTHER THAN RELEVANCE.

19 THE COURT: I WILL OVERRULE YOUR OBJECTION IN THAT
20 REGARD. I WILL ALLOW THIS INTO EVIDENCE AS STATE'S EXHIBIT
21 NO. 2 OVER OBJECTION FROM DEFENSE.

22 (SAFE RECEIVED IN EVIDENCE AS STATE'S EXHIBIT NO. 2.)

23 Q AND I'LL SHOW YOU STATE'S EXHIBIT NO. 3. DO YOU
24 RECOGNIZE THAT?

25 A YES, MA'AM. INSIDE OF IT IS THE BEST PACK WHICH I

OFFICER NIDA - CROSS BY MR. MEETZE

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1 COMPLETED AND FILLED OUT ON 11/14/07. I PRINTED MY NAME
2 AND SIGNED IT WITH OUR CASE NUMBER AND LOG NUMBER. AND,
3 AGAIN, IT'S SEALED ON TOP WITH THE ITEMS THAT WERE SEIZED,
4 THE COCAINE BASE OR CRACK THAT WAS SEIZED FROM THE
5 RESIDENCE.

6 Q OKAY. AND YOU WERE THE OFFICER THAT ---

7 A YES, I WAS THE ONE THAT ACTUALLY SEALED IT AND
8 COMPLETED THE BEST PACK ON IT AND PUT IT INTO EVIDENCE.

9 (PAUSE.)

10 MS. PARR: BEG THE COURT'S INDULGENCE.

11 (PAUSE.)

12 MS. PARR: PLEASE ANSWER ANY QUESTIONS THAT THE
13 DEFENSE MAY HAVE FOR YOU.

14 THE COURT: MR. MEETZE, CROSS EXAMINATION.

15 MR. MEETZE: THANK YOU.

16 CROSS EXAMINATION BY MR. MEETZE:

17 Q YOU'RE THE CASE AGENT ON THIS CASE?

18 A YES, SIR.

19 Q THAT MEANS, I GUESS, IF THERE'S ANYBODY AS BEING
20 LABELED AS BEING IN CHARGE OF THE CASE, THAT WOULD BE YOU?

21 A I GUESS SO, YES.

22 Q AS PART OF YOUR DUTIES AS BEING THE CASE AGENT, ONE OF
23 THE THINGS THAT YOU DO IS MAKE SURE THAT EVIDENCE IS
24 COLLECTED?

25 A YES, SIR.

STATE VS. ANTHONY TYRONE WILLIAMSON

- 1 Q MAKE SURE THE EVIDENCE IS PRESERVED ---
- 2 A YES.
- 3 Q --- PROPERLY?
- 4 A YES.
- 5 Q AND YOU'VE BEEN TRAINED IN HOW TO DO ALL THAT,
- 6 CORRECT?
- 7 A YES.
- 8 Q AND THERE ARE DIFFERENT KINDS OF EVIDENCE?
- 9 A YES.
- 10 Q WHEN YOU'RE WORKING A CASE, YOU HAVE GOT ACTUAL
- 11 PHYSICAL EVIDENCE LIKE THAT SAFE, CORRECT?
- 12 A YES, SIR.
- 13 Q YOU'VE ALSO GOT STATEMENTS, CORRECT?
- 14 A YES.
- 15 Q STATEMENTS CAN COME IN DIFFERENT FASHIONS AND FORMS,
- 16 CORRECT?
- 17 A YES, SIR.
- 18 Q THERE'S WRITTEN STATEMENTS, CORRECT?
- 19 A YES, SIR.
- 20 Q AND THERE'S ORAL STATEMENTS?
- 21 A YES, SIR.
- 22 Q THERE WAS A STATEMENT GIVEN IN THIS CASE BY MR.
- 23 WILLIAMSON?
- 24 A YES, SIR.
- 25 Q THAT WAS AN ORAL STATEMENT?

OFFICER NIDA — CROSS BY MR. MEETZE

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1 A YES, IT WAS.

2 Q NOT A WRITTEN STATEMENT?

3 A IT WAS NOT WRITTEN, NO, SIR.

4 Q OKAY. NOW, FROM THE EVIDENTIARY STANDPOINT AS FAR AS
5 EVIDENCE GOES, WHAT WOULD BE STRONGER EVIDENCE? A WRITTEN
6 STATEMENT WOULD BE STRONGER EVIDENCE THAN AN ORAL
7 STATEMENT, CORRECT?

8 A A STATEMENT IS A STATEMENT, WRITTEN OR ORAL.

9 Q NORMALLY A WRITTEN STATEMENT IS IN THE INDIVIDUAL'S
10 HANDWRITING?

11 A YES.

12 Q THERE'S CERTAINLY CORROBORATION THAT A STATEMENT WAS
13 GIVEN WHEN IT'S A WRITTEN STATEMENT BY THE DEFENDANT?

14 A YES, SIR.

15 Q THAT STATEMENT IS NORMALLY SIGNED BY THAT PERSON?

16 A YES, SIR.

17 Q THERE'S USUALLY SOMETHING ON THAT WRITTEN STATEMENT
18 THAT SAYS, I GIVE THIS STATEMENT FREELY AND VOLUNTARILY,
19 UNDERSTANDING MY RIGHTS AND ALL THAT?

20 A YES, SIR.

21 Q SO IT'S CERTAINLY DIFFERENT?

22 A IT'S DIFFERENT, YES, SIR.

23 Q OKAY. ALSO PRESERVING EVIDENCE IN THE CASE -- ONE WAY
24 TO PRESERVE EVIDENCE IS TO DO INCIDENT REPORTS?

25 A YES, SIR.

1 Q AND BECAUSE A LOT OF TIMES CASES DON'T COME UP FOR A
2 LONG TIME AFTER ---

3 A THAT'S CORRECT.

4 Q --- THEY'RE CHARGED? AND THAT'S THE CASE IN THIS
5 SITUATION, THIS ALL HAPPENED BACK IN NOVEMBER OF 2007?

6 A YES, SIR.

7 Q AND SO YOU DOCUMENT EVERYTHING YOU DID DURING YOUR
8 INVESTIGATION, CORRECT?

9 A YES.

10 Q AND YOU DO THAT BECAUSE YOU AS WELL AS OTHER FOLKS
11 THAT HELPED IN THE CASE -- IT'S ANOTHER WAY TO PRESERVE
12 EVIDENCE, CORRECT?

13 A CORRECT.

14 Q HELPS YOUR MEMORY, HELPS YOU REMEMBER THINGS?

15 A YES, SIR.

16 Q CORRECT. ALSO, YOU DO THESE INCIDENT REPORTS BECAUSE
17 YOU MAY HAVE THE SUPERVISOR THAT WOULD NEED TO REVIEW YOUR
18 WORK?

19 A THAT'S CORRECT.

20 Q ALSO, THE SOLICITOR'S OFFICE IS GOING TO GET THE CASE,
21 THEY NEED TO BE ABLE TO GET AN ACCURATE, CLEAR PICTURE OF
22 EVERYTHING THAT HAPPENED, CORRECT?

23 A YES, SIR.

24 Q THE MORE DETAILED THE INCIDENT REPORT IS, OBVIOUSLY
25 THE CLEARER PICTURE SOMEBODY WHO READS THAT STATEMENT IS

OFFICER NIDA - CROSS BY MR. MEETZE

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- 1 GOING TO GET?
- 2 A THAT'S CORRECT.
- 3 Q AND IN THIS CASE YOU TESTIFIED A LITTLE BIT AGO THAT
- 4 YOU READ MR. WILLIAMSON HIS MIRANDA WARNINGS?
- 5 A YES, SIR.
- 6 Q YOU DIDN'T INDICATE THAT IN THIS STATEMENT?
- 7 A CORRECT.
- 8 Q THAT'S PRETTY IMPORTANT ASPECT OF YOUR JOB, READING
- 9 PEOPLE MIRANDA RIGHTS BEFORE THEY GIVE STATEMENTS AND
- 10 THINGS LIKE THAT?
- 11 A THAT'S CORRECT, STANDARD OPERATING PROCEDURE, SIT DOWN
- 12 AND READ THE SEARCH WARRANT AND READ THEM THEIR RIGHTS,
- 13 YES, SIR.
- 14 Q BUT THAT WASN'T IMPORTANT ENOUGH FOR YOU TO INCLUDE AS
- 15 PART OF YOUR INCIDENT REPORT?
- 16 A THAT WAS NOT IN THERE, NO, SIR.
- 17 Q NOW, WITH REGARD TO WHEN YOU WENT INTO THE HOUSE, YOU
- 18 KNOCKED ON THE DOOR FIRST?
- 19 A YES, SIR.
- 20 Q YOU AND THE OTHER OFFICERS OR AGENTS. NOBODY CAME TO
- 21 THE DOOR?
- 22 A CORRECT.
- 23 Q YOU ENDED UP GOING IN BY FORCE?
- 24 A YES, SIR.
- 25 Q NOW, WHEN YOU GOT IN THERE THOUGH, MR. WILLIAMSON

- 1 WASN'T HIDING UNDER A BED OR TRYING TO RUN AWAY OR ANYTHING
2 LIKE THAT?
- 3 A NO, SIR, HE WASN'T.
- 4 Q IT APPEARED TO YOU THAT HE HAD JUST WOKEN UP?
- 5 A YES, SIR.
- 6 Q SO HE WASN'T -- THE FACT THAT NOBODY CAME TO THE DOOR
7 SOON ENOUGH WAS NOT AN INDICATION THAT ANYBODY WAS IN THERE
8 HIDING OUT, TRYING TO GET AWAY, OR ANYTHING LIKE THAT?
- 9 A NO, SIR.
- 10 Q THERE WAS ONE OTHER PERSON IN THE HOUSE YOU INDICATED
11 WAS HIS GIRL FRIEND, CORRECT?
- 12 A YES, SIR.
- 13 Q WAS SHE SPOKEN TO AT ALL DURING THE INVESTIGATION?
- 14 A YES.
- 15 Q THE HOUSE THAT THEY WERE IN, DO YOU KNOW WHETHER OR
16 NOT THEY LIVED THERE?
- 17 A THEY DID LIVE THERE AT THE TIME, YES, SIR.
- 18 Q DO YOU KNOW WHETHER THEY OWNED THAT HOUSE OR WHETHER
19 IT WAS LEASED?
- 20 A I HAVE NO IDEA WHETHER THEY WERE RENTING OR THEY
21 ACTUALLY OWNED IT. I DON'T KNOW.
- 22 Q SO YOU DIDN'T LOOK IN TO WHETHER THERE WAS A LEASE
23 AGREEMENT ON THE HOUSE OR ANYTHING ---
- 24 A NO, SIR.
- 25 Q --- LIKE THAT? YOU DIDN'T LOOK IN TO WHETHER OR NOT

OFFICER NIDA - CROSS BY MR. MEETZE

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- 1 WHOSE NAME MAY BE ON A LEASE AGREEMENT?
- 2 A NO, SIR, I DIDN'T SEE WHO THE OWNER OF THE RESIDENCE
3 WAS.
- 4 Q ARE YOU AWARE -- HOW MANY BEDROOMS?
- 5 A THERE WAS THREE BEDROOMS, TWO ON THE LEFT-HAND SIDE,
6 AND ONE STRAIGHT DOWN THE HALLWAY.
- 7 Q ANY INDICATION IN THOSE BEDROOMS OF OTHER FOLKS THAT
8 MAY HAVE LIVED THERE?
- 9 A YES, SIR.
- 10 Q OKAY. SO THERE ARE THREE BEDROOMS?
- 11 A THREE BEDROOMS, YES.
- 12 Q ALL THREE WERE LIVED IN BASED ON YOUR OBSERVATIONS AND
13 EXPERIENCE?
- 14 A YES, SIR.
- 15 Q THOSE INDIVIDUALS WEREN'T THERE AT THE TIME?
- 16 A NO. THE MOTHER STAYS IN THE BACK. I DON'T KNOW WHO
17 WAS ON THE LEFT-HAND SIDE. I'M NOT SURE WHO STAYS THERE.
- 18 Q SO YOU HAVE MR. WILLIAMSON AND HIS GIRL FRIEND IN ONE
19 BEDROOM. WAS IT MR. WILLIAMSON'S MOTHER IN ANOTHER
20 BEDROOM?
- 21 A YES. SHE WAS MENTALLY ILL, I BELIEVE. I GUESS HE WAS
22 -- THEY CARED FOR HER.
- 23 Q AND THEN THERE WAS ANOTHER INDIVIDUAL THAT ALSO LIVED
24 IN THERE. YOU'RE NOT SURE WHO THAT WAS?
- 25 A I'M NOT SURE WHO STAYS IN THERE.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 Q DO YOU KNOW IF IT WAS A MALE OR FEMALE?

2 A I KNOW THEY'VE HAD SEVERAL PEOPLE IN AND OUT OF THERE,
3 BUT I'M NOT SURE WHO STAYED IN THAT ROOM.

4 Q OKAY. BUT SOMEBODY BASED ON WHAT YOU OBSERVED THAT
5 DAY -- SOMEBODY WAS LIVING THERE AT THAT PERIOD OF TIME?

6 A STAYING THERE.

7 Q OR STAYING THERE?

8 A YES, SIR.

9 Q ALL RIGHT. YOU WERE SPEAKING WITH MR. WILLIAMSON IN
10 THE LIVING ROOM, YOU INDICATED?

11 A YES, SIR.

12 Q OTHER AGENTS WERE SEARCHING THE HOUSE?

13 A YES, SIR.

14 Q AND THAT'S WHEN THE FLASHLIGHT WAS FOUND?

15 A YES, SIR.

16 Q SO YOU WEREN'T THERE WHEN THE FLASHLIGHT WAS FOUND?

17 A NO. I WAS IN THE LIVING ROOM WITH HIM.

18 Q AND MR. WILLIAMSON WAS WITH YOU ALSO WHEN THE
19 FLASHLIGHT WAS FOUND?

20 A YES, SIR.

21 MR. MEETZE: OKAY. I DON'T HAVE ANYTHING FURTHER,
22 YOUR HONOR.

23 THE COURT: ANY REDIRECT, MS. PARR?

24 REDIRECT EXAMINATION BY MS. PARR:

25 Q AGENT NIDA, IN THE BEDROOM THAT WAS MADE REFERENCE TO,

OFFICER NIDA - REDIRECT BY MS. PARR.

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1 YOU INDICATED THAT WAS THE DEFENDANT'S BEDROOM. HOW DID
2 YOU KNOW THAT WAS THE DEFENDANT'S BEDROOM?

3 A ALL OF HIS PERSONAL BELONGINGS WERE IN THERE AND HE
4 STATED THAT HE HAD MORE DRUGS HIDDEN IN HIS BEDROOM. SO, I
5 MEAN, HE TOOK US TO THE ACTUAL ROOM WHERE HE WAS AT AND
6 THAT'S WHERE ALL HIS STUFF WAS AT. THAT'S HIS BEDROOM.

7 Q AND SO FROM HIS OWN STATEMENT, THERE WAS HIS ---

8 A HIS OWN STATEMENT, YES, MA'AM.

9 Q NOW, AT THE TIME OF THIS INCIDENT WAS IT JUST THE
10 DEFENDANT AND HIS GIRL FRIEND THERE?

11 A YES, MA'AM.

12 MS. PARR: BEG THE COURT'S INDULGENCE.

13 (PAUSE.)

14 Q NOW, DID YOU OBSERVE -- HOW DOES THE DEFENDANT
15 MAINTAIN HIS ROOM AND DOOR FROM WHAT YOU SAW THAT DAY?

16 A HIS ROOM AND DOOR?

17 Q YES.

18 A THE DOOR ACTUALLY HAS -- IF YOU WERE TO SHOW UP ON THE
19 OUTSIDE, IT HAS AN EXTERNAL PADLOCK THAT WAS ON IT. AND
20 THE ROOM -- MESSY, THE BEST WAY -- YOU WALK IN, YOU HAVE
21 THE BED THERE ON YOUR RIGHT-HAND SIDE. AND THE NIGHT STAND
22 AND STUFF WAS ON THE OTHER WALL. IN FRONT OF IT WAS LIKE
23 THE T.V. AT THE FOOT OF THE BED AGAINST THAT WALL.

24 Q NOW, AT THE TIME THAT YOU WERE GOING -- YOU WENT TO
25 HIS BEDROOM OR THE OTHER OFFICERS, WAS THE PADLOCK LOCKED

- 1 ON HIS ROOM?
- 2 A NO. THEY WERE IN THE ROOM. SO YOU HAVE TO LOCK IT
- 3 FROM THE OUTSIDE. AS YOU LEAVE, YOU COULD SECURE THE ROOM
- 4 WITH THE PADLOCK AT THAT POINT.
- 5 Q NOW, DID YOU OBSERVE THE DOORS TO THE OTHER BEDROOM?
- 6 A YES.
- 7 Q AND WERE THEY LOCKED IN SIMILAR FASHION?
- 8 A NO, JUST STANDARD DOORKNOBS.
- 9 Q SO THAT'S THE ONLY BEDROOM THAT HAD A PADLOCK?
- 10 A YES, MA'AM.
- 11 Q AT ANY TIME DID THE DEFENDANT INDICATE THAT WAS NOT
- 12 HIS BEDROOM?
- 13 A NO. THAT'S HIS BEDROOM.
- 14 MS. PARR: NOTHING FURTHER FROM THIS WITNESS.
- 15 THE COURT: YOU MAY STEP DOWN.
- 16 (THE WITNESS LEAVES THE WITNESS STAND.)
- 17 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.
- 18 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL
- 19 SERGEANT CALHOUN TO THE STAND.
- 20 JOHN CALHOUN, BEING FIRST
- 21 DULY SWORN, TESTIFIED AS FOLLOWS:
- 22 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
- 23 RECORD.
- 24 THE COURT: MR. CALHOUN, PULL UP REAL CLOSE TO THAT
- 25 MICROPHONE, SPEAK LOUDLY, CLEARLY, AND SLOWLY. STATE YOUR

SERGEANT CALHOUN - DIRECT BY MS. PARR

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1 FULL NAME.

2 WITNESS: JOHN MARK CALHOUN.

3 THE COURT: VERY GOOD. MS. PARR, YOU'RE RECOGNIZED.

4 DIRECT EXAMINATION BY MS. PARR:

5 Q WHERE ARE YOU EMPLOYED?

6 A I WORK FOR THE CITY OF FLORENCE POLICE DEPARTMENT.

7 Q AND WHAT DO YOU DO WITH THE FLORENCE POLICE
8 DEPARTMENT?

9 A I'M THE SERGEANT IN CHARGE OF THE SPECIAL
10 INVESTIGATIONS UNIT.

11 Q AND HOW LONG HAVE YOU BEEN WITH THE FLORENCE POLICE
12 DEPARTMENT?

13 A ALMOST 21 YEARS NOW.

14 Q OKAY. AND HOW LONG HAVE YOU BEEN IN SPECIAL
15 INVESTIGATION?

16 A TOTAL DURING MY CAREER, ABOUT 16 OR 17 YEARS.

17 Q HAVE YOU HAD ANY SPECIAL TRAINING FOR YOUR JOB?

18 A YES, MA'AM. WHEN WE'RE HIRED, WE ARE SENT TO THE
19 CRIMINAL -- BASIC CRIMINAL JUSTICE ACADEMY WHICH EVERY
20 OFFICER GOES THROUGH. WE GRADUATED FROM THAT. I'VE
21 ATTENDED PROBABLY A DOZEN OR SO SPECIALIZED TRAINING
22 CLASSES DEALING PRIMARILY IN NARCOTICS AND GANG
23 INVESTIGATIONS.

24 Q AND ARE YOU A CERTIFIED LAW ENFORCEMENT OFFICER?

25 A YES, MA'AM.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 Q AND ARE YOU FAMILIAR WITH THE SO-CALLED MIRANDA
2 WARNINGS?

3 A YES, MA'AM.

4 Q AND IN YOUR COURSE OF EMPLOYMENT AS A LAW ENFORCEMENT
5 OFFICER HAVE YOU HAD OCCASION TO ADMINISTER THOSE RIGHTS?

6 A YES, MA'AM.

7 Q AND WHEN THOSE RIGHTS ARE ADMINISTERED BY YOU, WHAT
8 MANNER DO YOU USE?

9 A WE READ THEM FROM A LITTLE SMALL CARD LIKE ABOUT THE
10 SIZE OF A BUSINESS CARD THAT WE CARRY IN OUR WALLETS.

11 Q NOW, DID YOU HAVE AN OCCASION TO BECOME INVOLVED IN
12 THIS INVESTIGATION INVOLVING ANTHONY WILLIAMSON?

13 A YES, MA'AM.

14 Q AND WHEN DID YOU BECOME INVOLVED?

15 A WE WERE EXECUTING A SEARCH WARRANT THAT AGENT NIDA HAD
16 OBTAINED. AND WE WERE ALL RIDING TOGETHER IN AN UNMARKED
17 CAR WHEN WE SERVED THAT SEARCH WARRANT.

18 Q AND WHO ELSE WAS WITH YOU?

19 A IT WAS MYSELF, AGENT NIDA, SERGEANT DRULIS, AND AGENT
20 SPEARS.

21 Q AND WHEN YOU ARRIVED AT [REDACTED] PLEASE
22 TELL US WHAT HAPPENED?

23 A BASICALLY, WE WENT TO THE FRONT DOOR AND WE KNOCKED A
24 COUPLE TIMES. AND BASICALLY WE YELLED, POLICE SEARCH
25 WARRANT. WE DIDN'T HEAR ANY RESPONSE. WE WERE ALSO

SERGEANT CALHOUN — DIRECT BY MS. PARR

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1 RINGING THE DOORBELL. AT THAT TIME WE FORCED OPEN THE
2 FRONT DOOR AFTER AGAIN HEARING NO RESPONSE AND BEGAN TO
3 ENTER IN THROUGH THE FRONT DOOR, AT WHICH TIME WE SAW THE
4 DEFENDANT, MR. WILLIAMSON, COMING FROM A REAR BEDROOM
5 HEADED DOWN THE HALLWAY LIKE HE WAS COMING TO THE DOOR.

6 Q OKAY.

7 A COMING TOWARDS US.

8 Q AND THEN WHAT DID YOU DO WHEN YOU SAW THE DEFENDANT?

9 A JUST BASICALLY TOLD HIM THAT WE HAD A SEARCH WARRANT
10 FOR THE HOUSE. HE WAS ESCORTED INTO THE LIVING ROOM.

11 AGENT NIDA WAS THE CASE AGENT. AND HE WAS TAKEN TO THE
12 LIVING ROOM WHERE AGENT NIDA SAT DOWN WITH HIM AND -- I

13 CAN'T REMEMBER THE LADY -- HIS LADY FRIEND'S NAME, BUT THEY
14 SAT DOWN AND BEGAN TO READ THE SEARCH WARRANT TO THEM AND
15 EXPLAIN TO HIM WHAT WE WERE DOING AT HIS HOUSE.

16 Q OKAY. AND DID AGENT NIDA ALSO ADMINISTER THE MIRANDA
17 WARNING?

18 A YES, MA'AM. I WAS -- I WAS ALREADY BEGINNING TO
19 SEARCH, BUT I COULD KIND OF HEAR WHAT WAS GOING ON IN THE
20 ROOM. I COULDN'T SAY I HEARD VERBATIM EVERYTHING, BUT I
21 KNEW THAT -- I HEARD ENOUGH TO KNOW THAT HE WAS READING HIM
22 THE MIRANDA RIGHTS.

23 Q AND SO WHO WENT INTO THE BEDROOM WITH YOU?

24 A MYSELF, SERGEANT DRULIS WENT INTO THE DEFENDANT'S
25 BEDROOM TO BEGIN SEARCHING WHILE AGENT NIDA WAS DOING THE

1 PAPERWORK PART, READING THE WARRANTS AND STUFF.

2 Q AND WOULD YOU PLEASE DESCRIBE THE DEFENDANT'S BEDROOM
3 AS YOU ENTER THE DOOR?

4 A HE HAS A -- IT'S KIND OF WEIRD. HE HAS LIKE A PADLOCK
5 YOU WOULD HAVE ON LIKE A STORAGE BARN OR SOMETHING LIKE
6 THAT, WHERE YOU CAN LOCK AND PUT THE PADLOCK ON IT AND LOCK
7 UP YOUR BELONGINGS OR WHATEVER. HE HAS ONE OF THOSE ON THE
8 OUTSIDE OF HIS BEDROOM DOOR.

9 Q NOW, DO YOU OPEN IT BY WAY OF COMBINATION OR A KEY?

10 A A KEY. HE HAS ONE OF THOSE ON THE OUTSIDE OF THE
11 DOOR. IT WASN'T LOCKED OR ANYTHING, BUT I THOUGHT THAT WAS
12 ODD. AND SO WE CONCENTRATED OUR SEARCH ON THAT ROOM.

13 Q AND WHAT IF ANYTHING DID YOU FIND IN THAT ROOM?

14 A WE ENTERED THE ROOM. ON THE BED WAS JUST
15 MISCELLANEOUS STUFF. BUT ONE THING THAT WAS INTERESTING
16 WAS THERE WAS A FLASHLIGHT LAYING IN THERE. AND SO WE
17 PICKED UP THE FLASHLIGHT AND OPENED UP THE CAP, AND IT HAD
18 TWO SMALL BAGS OF CRACK COCAINE IN IT.

19 Q OKAY. AND THEN WHAT DID YOU APPLY FINDING THAT?

20 A AGENT DRULIS THEN TOOK THE FLASHLIGHT INTO THE LIVING
21 ROOM WITH HIM, AND I CONTINUED SEARCHING IN THE BEDROOM.

22 Q OKAY. NOW, WHAT IF ANYTHING ELSE DID YOU FIND IN THE
23 BEDROOM?

24 A THE SAFE AND JUST -- MOST OF THE STUFF IN THE ROOM
25 THAT WE SAW WAS LIKE HIS PERSONAL BELONGINGS, MAIL, YOU

SERGEANT CALHOUN -- DIRECT BY MS. PARR

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1 KNOW, JUST STUFF LIKE THAT THAT WOULD INDICATE TO US THAT
2 THAT'S HIS ROOM. THAT'S THE ROOM WE SAW HIM COMING FROM,
3 AND THAT'S THE ROOM THAT HAD HIS BELONGINGS IN IT.

4 Q AND YOU INDICATED THAT SERGEANT DRULIS WENT INTO THE
5 LIVING ROOM WHERE THE DEFENDANT WAS?

6 A YES, MA'AM.

7 Q OKAY. AND DID YOU GO IN THERE AT THAT TIME?

8 A I CONTINUED SEARCHING.

9 Q AND THEN WHAT HAPPENED?

10 A AGENT DRULIS WENT IN THERE AND ASKED PERMISSION TO USE
11 THE FLASHLIGHT UNDER THE PREMISE THAT HE HAD LEFT HIS IN
12 THE CAR. AND HE SAW THAT HE WAS TRYING TO CUT IT ON AND HE
13 SAID, OH, IT DOESN'T WORK. MAYBE IT NEEDS BATTERIES AND
14 OPENED IT IN FRONT OF HIM. AND WAS JUST KIND OF LIKE, OH,
15 HERE'S THE CRACK. AND HE JUST KIND OF HUNG HIS HEAD.

16 Q AND YOU SAID WHO HUNG HIS HEAD?

17 A THE DEFENDANT, MR. WILLIAMSON.

18 Q OKAY. AND THEN WHAT HAPPENED?

19 A THAT -- AT THAT POINT, THAT'S WHEN HE BEGAN TO TALK
20 WITH AGENT NIDA ABOUT THERE'S MORE DRUGS IN THE ROOM. AND
21 THEN THEY -- THEY -- MR. DRULIS OR AGENT DRULIS BROUGHT MR.
22 WILLIAMSON BACK TO THE BEDROOM.

23 Q OKAY. AND WHEN THE DEFENDANT CAME BACK TO THE
24 BEDROOM, WHAT DID HE DO?

25 A HE SHOWED US A -- LIKE A CASSETTE, MUSIC CASSETTE.

1 CASE. HE HAD LIKE A STACK OF THEM IN LIKE AN OLD
2 ENTERTAINMENT CENTER. AND HE SHOWED US THE CASSETTE THAT
3 HE HAD SOME MORE DRUGS IN IT. IT WAS ANOTHER SMALL BAG --
4 THEY ALL THREE WERE ABOUT THE SAME SIZE, APPROXIMATELY.

5 Q ARE YOU FAMILIAR WITH STATE'S EXHIBIT NO. 2?

6 A YES, MA'AM.

7 Q AND WHAT IS THAT?

8 A IT'S JUST A SMALL -- I CALL THEM LIKE A BOOKCASE SAFE.

9 Q OKAY. AND WHERE WAS THAT SAFE LOCATED OR FOUND?

10 A IT WAS IN HIS BEDROOM, I THINK RIGHT AT THE EDGE OF
11 THE BED KIND OF UNDERNEATH THE EDGE OF THE BED.

12 Q WHAT ABOUT STATE'S EXHIBIT NO. 3? DO YOU RECOGNIZE
13 THAT?

14 A YES, MA'AM. WE SEAL ALL OUR EVIDENCE THAT WE -- THAT
15 WE OBTAIN. OUR DRUG EVIDENCE HAS TO BE SENT TO SLED, WHICH
16 IS THE STATE LAW ENFORCEMENT DIVISION HERE IN SOUTH
17 CAROLINA. IT HAS TO BE SENT THERE FOR TESTING BY A
18 CERTIFIED CHEMIST. AND SLED DEVELOPED THESE THINGS THAT
19 ARE CALLED -- WE CALL THEM BEST PACKS, BUT IT'S LIKE AN
20 EVIDENCE PACKAGING SYSTEM THAT WE SEAL IT UP, WE WRITE OUR
21 NAME, PRINT OUR NAME, SIGN OUR NAME, AND PUT THE CASE
22 NUMBER AND ALL THAT KIND OF STUFF ON IT SO WE CAN IDENTIFY
23 IT WHEN IT COMES BACK. AND IT'S SENT TO SLED SEALED UP
24 LIKE THIS.

25 Q AND WHO FIRST FOUND -- WHO FOUND THE FIRST BAGS OF

SERGEANT CALHOUN -- DIRECT BY MS. PARR

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1 DRUGS?

2 A I DISCOVERED THE FIRST BAGS OF DRUGS IN THE
3 FLASHLIGHT. AGENT NIDA IS THE CASE AGENT, SO THOSE DRUGS
4 ARE TURNED OVER TO HIM, BASICALLY FOR HIM TO DO ALL THE
5 WORK -- THE PAPERWORK.

6 Q AND THE THIRD BAG, WHO FOUND THAT?

7 A THAT WAS DISCOVERED IN THE BEDROOM. THE DEFENDANT
8 ACTUALLY POINTED OUT THE CASSETTE CASE, AND I THINK AGENT
9 DRULIS RECOVERED THAT. AND, AGAIN, IT WAS TURNED OVER TO
10 AGENT NIDA. HE'S IN CHARGE OF ALL THE PAPERWORK.

11 Q NOW, DID YOU TAKE THE CASSETTE TAPE, THE CASSETTE?

12 A NO, MA'AM.

13 Q NOW, WHAT IF ANYTHING WAS IN THE SAFE? WHY DID YOU
14 TAKE THE SAFE?

15 A IN OUR -- IN OUR PAST INVESTIGATIONS WE OFTEN FIND
16 THAT DRUG DEALERS USE SAFES AS A WAY OF STORING DRUGS
17 AND ---

18 MR. MEETZE: REFERRING TO PAST CASES DOESN'T MEAN IT
19 APPLIES IN THIS CASE.

20 THE COURT: I'LL SUSTAIN THE OBJECTION, ASK YOU TO
21 MOVE ON, MS. PARR.

22 Q BUT YOU DID TAKE THE SAFE IN, CORRECT?

23 A YES, MA'AM.

24 Q NOW, WHAT IF ANYTHING ELSE DID YOU LOCATE IN THE ROOM?

25 A A SET OF DIGITAL SCALES.

1 Q AND DO YOU RECALL WHERE THE SCALES WERE FOUND IN
2 RELATION TO ---

3 A NO, MA'AM, I CAN'T RECALL AT THIS TIME.

4 Q WHO LOGGED THE EVIDENCE IN TO ---

5 A AGENT NIDA WOULD BE RESPONSIBLE FOR -- FOR THE
6 PAPERWORK. I MEAN, WE WORK AS A UNIT, AS A TEAM, SO WE'RE
7 ALL TOGETHER ALL THE TIME, BUT THE PERSON THAT ACTUALLY
8 DOES THE PAPERWORK WOULD HAVE BEEN AGENT NIDA.

9 MS. PARR: BEG THE COURT'S INDULGENCE.

10 (PAUSE.)

11 MS. PARR: PLEASE ANSWER ANY QUESTIONS THAT MR. MEETZE
12 MAY HAVE FOR YOU.

13 THE COURT: CROSS EXAMINATION, MR. MEETZE.

14 MR. MEETZE: THANK YOU, YOUR HONOR.

15 CROSS EXAMINATION BY MR. MEETZE:

16 Q SERGEANT CALHOUN, WHEN YOU -- PRETTY MUCH RIGHT WHEN
17 YOU GOT INTO THE HOUSE YOU DIDN'T SPEAK WITH ANYBODY IN
18 THERE, YOU STARTED SEARCHING?

19 A YEAH, I MEAN IT WOULD HAVE BEEN, YOU KNOW, COME ON IN
20 HERE AND HAVE A SEAT IN THE LIVING ROOM TYPE THING. IT
21 WOULDN'T HAVE BEEN A CONVERSATION, NO, SIR.

22 Q AND YOU CONCENTRATED YOUR SEARCH, YOU INDICATED, ON
23 WHAT WAS DETERMINED TO BE MR. WILLIAMSON'S BEDROOM?

24 A THAT'S CORRECT.

25 Q DID YOU SEARCH ANYWHERE ELSE?

SERGEANT CALHOUN -- CROSS BY MR. MEETZE

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1 A YES, SIR, WE SEARCHED THE WHOLE HOUSE.

2 Q YOU SEARCHED THE WHOLE HOUSE. NOW, YOU GOT THIS SAFE
3 HERE AND IT'S BEEN ADMITTED INTO EVIDENCE. ANY OF THE
4 CONTRABAND THAT YOU FOUND IN THIS HOUSE -- NONE OF THAT WAS
5 IN THAT SAFE?

6 A NO, MA'AM -- NO, SIR, EXCUSE ME.

7 Q OKAY. NOTHING INCRIMINATING WAS IN THE SAFE THAT'S
8 BEEN PRESENTED HERE AS EVIDENCE?

9 A NO, SIR.

10 Q OKAY. DURING YOUR INVESTIGATION YOU DIDN'T
11 INVESTIGATE TO DETERMINE WHETHER THEY RENTED OR OWNED THAT
12 HOUSE?

13 A NO, SIR, I DIDN'T.

14 Q YOU DIDN'T INVESTIGATE TO DETERMINE IF THERE WAS A
15 LEASE, WHOSE NAME WAS ON THAT LEASE?

16 A NO, SIR.

17 Q THERE WERE THREE BEDROOMS IN THE HOUSE?

18 A YES, SIR.

19 Q YOU SEARCHED ALL OF THEM?

20 A YES, SIR.

21 Q ALL OF THEM APPEARED TO BE CURRENTLY LIVED IN?

22 A YES, SIR.

23 Q CLOTHES IN THERE, THINGS LIKE THAT, FURNITURE, BED?

24 A YES, SIR.

25 Q OKAY. ANY INVESTIGATION DONE -- WELL, THERE WAS

STATE VS. ANTHONY TYRONE WILLIAMSON

1 TESTIMONY BEFORE THAT MR. WILLIAMSON'S MOTHER WAS IN ONE OF
2 THE ROOMS; IS THAT WHAT YOU UNDERSTAND?

3 A YES, SIR, SHE LIVED IN THE BACK ROOM. I'D MET -- I'D
4 MET HER. SHE'S -- SHE WAS -- SHE WAS NOT AT THE HOUSE AT
5 THAT TIME.

6 Q OKAY. THERE WAS ANOTHER INDIVIDUAL THAT WAS ALSO
7 STAYING THERE?

8 A YES, SIR.

9 Q NO INVESTIGATION WAS DONE TO DETERMINE WHO THAT
10 INDIVIDUAL WAS?

11 A I DON'T HAVE THE INFORMATION AS TO WHO THAT WAS, BUT
12 THERE WAS REALLY NO NEED.

13 Q YOU DIDN'T DO ANY INVESTIGATION TO DETERMINE WHO THAT
14 WAS?

15 A NO, SIR.

16 MR. MEETZE: I DON'T HAVE ANY FURTHER QUESTIONS.

17 THE COURT: ANY REDIRECT?

18 MS. PARR: NO, YOUR HONOR.

19 THE COURT: YOU MAY STEP DOWN.

20 (THE WITNESS LEAVES THE WITNESS STAND.)

21 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

22 MS. PARR: YOUR HONOR, AT THIS TIME THE STATE WOULD
23 CALL SERGEANT DRULIS TO THE STAND.

24 ROBERT DRULIS, BEING FIRST

25 DULY SWORN, TESTIFIED AS FOLLOWS:

SERGEANT DRULIS - DIRECT BY MS. PARR

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1 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
2 RECORD.

3 THE COURT: PULL UP REAL CLOSE TO THAT MICROPHONE.
4 SPEAK LOUDLY, CLEARLY, AND SLOWLY, AND STATE YOUR FULL
5 NAME.

6 WITNESS: YES, SIR. ROBERT R. DRULIS, JR.

7 DIRECT EXAMINATION BY MS. PARR:

8 Q SERGEANT DRULIS, WHERE ARE YOU EMPLOYED?

9 A WITH THE CITY OF FLORENCE POLICE DEPARTMENT.

10 Q AND HOW LONG HAVE YOU BEEN WITH THE FLORENCE POLICE
11 DEPARTMENT?

12 A GOING ON 11 YEARS NOW.

13 Q AND HAVE YOU HAD ANY PREVIOUS LAW ENFORCEMENT
14 EXPERIENCE?

15 A NO, MA'AM.

16 Q NOW, HAVE YOU HAD ANY SPECIAL TRAINING FOR YOUR JOB?

17 A YES, MA'AM, I HAVE. I'VE HAD EXTENSIVE TRAINING. I
18 HAVE MY 4 YEAR DEGREE IN CRIMINAL JUSTICE FROM COLUMBIA
19 COLLEGE IN WILLIAMSPORT, PENNSYLVANIA. I GRADUATED FROM
20 THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY. ABOUT 3 AND A
21 HALF YEARS AFTER I WAS EMPLOYED WITH THE FLORENCE POLICE
22 DEPARTMENT WENT TO WORK WITH THE DRUG ENFORCEMENT
23 ADMINISTRATION AS A TASK FORCE OFFICER. AND DURING MY 4
24 AND A HALF YEARS WITH THEM ---

25 Q WAS THAT WITH THE FEDERAL GOVERNMENT?

STATE VS. ANTHONY TYRONE WILLIAMSON

1 A YES, MA'AM, WITH THE FEDERAL GOVERNMENT. I'VE HAD
2 EXTENSIVE TRAINING GOING FROM THE D.E.A. BASIC TO THE
3 D.E.A. ADVANCED TO METHAMPHETAMINE TRAINING TO
4 METHAMPHETAMINE SAFETY OFFICER. I COULD GO ON A LITTLE
5 BIT, BUT IT WOULD BE REDUNDANT.

6 Q NOW, WHAT IS YOUR PRESENT ASSIGNMENT?

7 A WELL, CURRENTLY I AM A SERGEANT OVER THE SOUTH REGION
8 PATROL DIVISION. I WAS RECENTLY PROMOTED TO THAT IN LATE
9 NOVEMBER, EARLY DECEMBER. PRIOR TO THAT I WAS THE CORPORAL
10 WITH THE FLORENCE NARCOTICS UNIT.

11 Q OKAY. AND HOW LONG WERE YOU IN NARCOTICS?

12 A ABOUT 7 AND A HALF YEARS.

13 Q NOW, ARE YOU FAMILIAR WITH THE SO-CALLED MIRANDA
14 WARNINGS?

15 A YES, MA'AM, I AM.

16 Q AND DURING YOUR COURSE OF LAW ENFORCEMENT EXPERIENCE,
17 HAVE YOU HAD OCCASION TO ADMINISTER THOSE WARNINGS?

18 A QUITE A FEW TIMES.

19 Q AND HOW DO YOU GIVE THOSE WARNINGS?

20 A MY METHOD VARIES A LITTLE DIFFERENT FROM THE OTHER
21 OFFICERS THAT TESTIFIED. I HAVE WHAT'S CALLED A D.E.A.
22 FORM 13-A. AND I APOLOGIZE. I DON'T HAVE IT WITH ME, BUT
23 IT'S A YELLOW CARD ABOUT THAT BIG, ABOUT THAT WIDE. IT
24 BASICALLY SAYS THE EXACT SAME THING. MIRANDA IS A -- IT
25 APPLIES TO BOTH FEDERAL AND STATE LAW. THE REQUIREMENTS

SERGEANT DRULIS - DIRECT BY MS. PARR

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1 ARE THE SAME. AND THAT'S THE CARD THAT I USE.

2 Q AND WHEN WERE YOU BROUGHT IN TO THIS CASE?

3 A THIS PARTICULAR CASE IT WAS ON THE DATE OF THE SEARCH
4 WARRANT EXECUTION.

5 Q OKAY. AND SO THAT WOULD HAVE BEEN ON NOVEMBER 14,
6 2007?

7 A YES, MA'AM.

8 Q AND TELL US WHAT YOU DID ON THAT PARTICULAR DAY?

9 A ON THE 14TH -- JUST AS THE OTHER OFFICERS STATED. WE
10 ALL OPERATE AS A GROUP. WHEN YOU'RE DEALING WITH
11 NARCOTICS, YOU KNOW, YOU DEAL WITH MONEY, YOU DEAL WITH --
12 WITH GUNS. AND THERE'S ALWAYS A -- THERE'S ALWAYS A
13 CERTAIN LEVEL OF DANGER THAT'S ASSOCIATED WITH IT. WHETHER
14 IT'S PRESENT OR ASSUMED, YOU STILL ASSUME THAT THERE'S A
15 LEVEL OF DANGER.

16 SO WHEN WE EXECUTE SEARCH WARRANTS, WE EXECUTE THEM IN
17 FORCE. WE TYPICALLY LIKE TO HAVE FOUR OR MORE OFFICERS
18 WITH US. ON THIS DAY WE HAD FOUR WITH US.

19 THE UNIT GROUPED UP AND WE -- WE WENT TO THE FRONT
20 DOOR OF MR. WILLIAMSON'S HOUSE. WE KNOCKED ON IT QUITE A
21 FEW TIMES. WE EVEN RANG THE DOORBELL -- AS THE OTHER
22 OFFICERS TESTIFIED -- WITH NO RESPONSE. WE FORCIBLY
23 ENTERED THE -- WE FORCIBLY ENTERED THE RESIDENCE. AND THE
24 REASON WE FORCIBLY ENTER A RESIDENCE IS -- AND IT DIDN'T
25 HAPPEN IN THIS CASE, BUT TYPICALLY PEOPLE WILL GET THEIR

STATE VS. ANTHONY TYRONE WILLIAMSON

1 DRUGS AND TRY TO FLUSH THEM DOWN THE TOILET. SOMETIMES
2 PEOPLE TRY TO EAT THEM -- DO WHATEVER THEY CAN TO GET RID
3 OF THE INCRIMINATING EVIDENCE -- SO THAT, YOU KNOW, WE
4 CAN'T JUST SIT THERE AND KNOCK AND KNOCK AND KNOCK FOR A
5 HALF AN HOUR HOPING THAT SOMEONE WILL COME TO THE DOOR.
6 AND WE HAVE TO GET IN AND DO OUR JOBS.

7 SO WE ENTERED THE RESIDENCE BY FORCE. WHEN WE WENT
8 IN, WE SAW MR. WILLIAMSON WALKING DOWN THE HALLWAY. HE WAS
9 -- HE WAS THEN DETAINED. WHEN WE DETAIN SOMEONE, WE -- WE
10 PUT THEM IN HANDCUFFS AT THAT TIME.

11 AT THAT PARTICULAR TIME HE WAS ALSO UNDER ARREST. WE
12 ADDITIONALLY HAD AN ARREST WARRANT FOR HIM.

13 MR. MEETZE: OBJECTION, YOUR HONOR.

14 THE COURT: I SUSTAIN THE OBJECTION.

15 MR. MEETZE: YOUR HONOR, I'D LIKE TO MAKE A MOTION.

16 THE COURT: ALL RIGHT. MADAM FORELADY, LADIES AND
17 GENTLEMEN OF THE JURY, I'M GOING TO ASK THAT YOU RETIRE TO
18 THE JURY ROOM FOR ONE MOMENT.

19 (THE JURY RETIRES TO THE JURY ROOM AT 2:53 P.M.)

20 THE COURT: MR. MEETZE.

21 MR. MEETZE: YOUR HONOR, AT THIS TIME I WOULD MAKE A
22 MOTION FOR THE COURT TO DECLARE A MISTRIAL IN THIS CASE.
23 THE JURY HAS JUST BEEN TOLD THAT ALONG WITH THE SEARCH
24 WARRANT, THEY ALSO HAD A WARRANT FOR MR. WILLIAMSON'S
25 ARREST. I THINK THAT THAT CERTAINLY PREJUDICES THIS JURY,

SERGEANT DRULIS — DIRECT BY MS. PARR

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1 YOU KNOW, BEYOND REPAIR. CERTAINLY, THE COURT CAN GIVE A
2 CURATIVE INSTRUCTION. BUT, YOU KNOW, I THINK THAT'S A
3 SITUATION WHERE YOU JUST CAN'T UN-RING THAT BELL. AND I
4 FEEL LIKE UNDER THE CIRCUMSTANCES THE PROPER THING WOULD BE
5 TO DECLARE A MISTRIAL IN THIS CASE. AND WE WOULD ASK THE
6 COURT TO DO SO.

7 THE COURT: MS. PARR.

8 MS. PARR: YOUR HONOR, WE WOULD ASK THAT THE COURT NOT
9 DECLARE A MISTRIAL IN THIS PARTICULAR CASE. HE ALSO
10 INDICATED, YOU KNOW, THEY HAD THE SEARCH WARRANT. AND I
11 THINK THEY MENTIONED EARLIER THAT THERE WAS AN ARREST
12 WARRANT FOR THE DEFENDANT, AND HE ---

13 THE COURT: I DON'T THINK THERE'S BEEN ANY MENTION OF
14 THAT. IF IT HAS, IT STILL DOESN'T REMOVE THE FACT THAT
15 IT'S OBJECTIONABLE.

16 MR. MEETZE: I THINK IT WAS MENTIONED IN THE DENNO
17 HEARING. IT HASN'T BEEN MENTIONED IN FRONT OF THE JURY.

18 THE COURT: ALL RIGHT.

19 MS. PARR: AND, YOUR HONOR, WE BELIEVE THAT WE HAVE
20 NOT -- THERE WAS NO TESTIMONY AS TO WHAT THE ARREST WARRANT
21 WAS INVOLVING IN THIS PARTICULAR CASE. YOUR HONOR, WE
22 BELIEVE THAT IF ANYTHING, THE COURT CAN GIVE A CURATIVE
23 STATEMENT THAT WOULD TAKE CARE OF THIS MATTER, AND WE WOULD
24 ASK THAT A MISTRIAL NOT BE DECLARED IN THIS CASE.

25 THE COURT: WE'RE GOING TO STAND AT EASE ABOUT 5

1 MINUTES.

2 (A RECESS WAS TAKEN.)

3 THE COURT: MS. PARR, WERE YOU AWARE THAT THERE WAS
4 GOING TO BE SUCH TESTIMONY WITH REGARD TO AN UNRELATED
5 ARREST WARRANT?

6 MS. PARR: YOUR HONOR, I WAS NOT AWARE THAT THERE
7 WAS GOING TO BE ANYTHING OTHER THAN, YOU KNOW, THE SEARCH
8 WARRANT; AND THAT'S WHAT -- YOU KNOW, IT WAS IN THE
9 INCIDENT REPORT THAT THEY HAD AN ARREST WARRANT FOR THE
10 DEFENDANT BUT NOT ---

11 THE COURT: DID YOU SPECIFICALLY DISCUSS WITH THIS
12 WITNESS ABOUT NOT GETTING IN TO THAT?

13 MS. PARR: YOUR HONOR, WHEN WE WENT OVER THE TESTIMONY
14 -- WENT OVER THE CASE, HE WAS JUST TO TELL WHAT PART HE
15 PLAYED, THAT HE WAS ONE OF THE ONES THAT DISCOVERED THE
16 DRUGS IN THE FLASHLIGHT.

17 THE COURT: DID YOU SPECIFICALLY TELL HIM NOT TO GET
18 IN TO THE ARREST WARRANT?

19 MS. PARR: NO, I CAN'T SAY I SPECIFICALLY SAID THAT.

20 THE COURT: OKAY. WAS THERE A DISCUSSION ABOUT IT?

21 MS. PARR: NOT SPECIFICALLY. WE TALKED ABOUT THAT WE
22 CAN'T SHOW THAT THE DEFENDANT HAD HAD ANY PRIOR DEALINGS
23 WITH THE LAW BECAUSE, YOU KNOW, HE'D HAD ALL THESE PRIOR
24 CASES AND I SPECIFICALLY TALKED TO THEM ABOUT THAT.

25 THE COURT: OKAY. HOW LONG HAVE YOU BEEN IN LAW

SERGEANT DRULIS — DIRECT BY MS. PARR

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1 ENFORCEMENT?

2 AGENT DRULIS: GOING ON 11 YEARS, SIR.

3 THE COURT: OKAY. I THINK YOU SAID YOU GOT ALL KIND
4 OF TRAINING. YOU'RE NOT AWARE OF THE FACT THAT YOU AREN'T
5 SUPPOSED TO BRING UP UNRELATED MISCONDUCT?

6 AGENT DRULIS: YES, SIR, AND FOR LACK OF A BETTER
7 TERM, WHEN IT CAME OUT, I WISH I COULD HAVE GRABBED IT.

8 THE COURT: ALL RIGHT.

9 AGENT DRULIS: IT WAS -- IT WAS JUST ONE -- I WAS
10 RECALLING WHY WE'RE THERE. I WAS RECALLING THE INCIDENT.

11 THE COURT: AND THERE WILL NOT BE ANY REFERENCE TO ANY
12 UNRELATED CONDUCT. I'M GOING TO GIVE THE JURY A CURATIVE
13 CHARGE AND TAKE THE MATTER UNDER CONSIDERATION THROUGHOUT
14 THE BALANCE OF THE TRIAL.

15 I'M NOT GOING TO GRANT THE MISTRIAL AT THIS TIME.

16 WE'RE READY FOR THE JURY.

17 (THE JURY RETURNS TO THE COURTROOM AT 3:09 P.M.)

18 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF
19 THE JURY, YOU HAVE HEARD TESTIMONY CONCERNING AN UNRELATED
20 ARREST WARRANT. THAT STATEMENT WAS MADE IN ERROR AND IT
21 WAS INCORRECT. THERE'S NO SUCH UNRELATED ARREST WARRANT.
22 LADIES AND GENTLEMEN OF THE JURY, EVEN IF THERE WERE SUCH
23 UNRELATED ARREST WARRANT, IT WOULD BE INADMISSIBLE BECAUSE
24 YOU HAVE A SOLEMN DUTY IN ANY CRIMINAL TRIAL TO DETERMINE
25 WHETHER OR NOT THE STATE CAN PROVE A GIVEN DEFENDANT GUILTY

STATE VS. ANTHONY TYRONE WILLIAMSON

1 OF AN ALLEGED OFFENSE BEYOND A REASONABLE DOUBT WITHOUT
2 REGARD AND NOT BEING INFLUENCED BY ANY ALLEGATIONS OF ANY
3 PRIOR MISCONDUCT. AFTER ALL, CAN YOU THINK OF ANYTHING
4 MORE UNFAIR THAN CONVICTING AN INDIVIDUAL BY TAKING INTO
5 CONSIDERATION SOME UNRELATED CONDUCT? THAT'S NOT WHAT
6 WE'RE HERE ABOUT.

7 THERE IS NO SUCH MISCONDUCT IN THIS CASE; THAT
8 TESTIMONY IS STRICKEN. IT WAS MADE IN ERROR.

9 AND, MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
10 NOT ONLY IS IT STRICKEN, YOU ARE PROHIBITED FROM DISCUSSING
11 THAT MISSTATEMENT OF FACT IN THE JURY ROOM. AND, MADAM
12 FORELADY, IT'S GOING TO BE YOUR JOB AND YOUR RESPONSIBILITY
13 AS A JUROR TO NOT ALLOW THAT TO ENTER IN TO DISCUSSIONS IN
14 ANY WAY, SHAPE, OR FORM.

15 MS. PARR, YOU'RE RECOGNIZED.

16 MS. PARR: THANK YOU.

17 DIRECT EXAMINATION CONTINUED BY MS. PARR:

18 Q SERGEANT DRULIS, YOU WENT IN THE DEFENDANT'S ROOM TO
19 SEARCH; IS THAT CORRECT?

20 A YES, MA'AM, I DID.

21 Q OKAY. AND WOULD YOU PLEASE TELL US WHAT IF ANYTHING
22 YOU FOUND IN THE DEFENDANT'S ROOM?

23 A YES, MA'AM. SERGEANT CALHOUN AND I WENT INTO THE
24 BEDROOM, AND WE NOTICED THAT THERE WAS A FLASHLIGHT ON THE
25 BED. SERGEANT CALHOUN PICKED THE FLASHLIGHT UP AND OPENED

SERGEANT DRULIS - DIRECT BY MS. PARR

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1 IT UP AND FOUND THAT THERE WAS TWO BAGS OF -- TWO SMALL
2 BAGS OF CRACK COCAINE.

3 I THEN TOOK THE -- TOOK THE FLASHLIGHT AND, YOU KNOW,
4 KIND OF RUSED MR. WILLIAMSON. I WENT OUT TO MR. WILLIAMSON
5 AND ASKED HIM FOR PERMISSION TO USE HIS FLASHLIGHT THAT HE
6 HAD IN HIS BEDROOM UNDER THE AUSPICE THAT I DID NOT HAVE MY
7 FLASHLIGHT. WE ROUTINELY TAKE FLASHLIGHTS IN. LIKE I
8 SAID, IT WAS A RUSE.

9 WHEN MR. WILLIAMSON GAVE ME PERMISSION TO USE THE
10 FLASHLIGHT, I CUT IT ON AND NOTHING HAPPENED BECAUSE
11 THERE'S TWO BAGS OF CRACK COCAINE WHERE THE BATTERIES WERE
12 TO BE. I ASKED, IT'S NOT WORKING. TOOK IT APART. AND
13 SAID, OH. I SHOWED HIM THE CRACK COCAINE, AND PUT HIS HEAD
14 DOWN AS -- IN A -- IN A -- WELL, HE JUST PUT HIS HEAD DOWN.

15 AT THAT POINT HE SAID -- TOLD -- HE TOLD MYSELF AND
16 CORPORAL NIDA THAT THERE WAS ADDITIONAL CRACK COCAINE IN
17 THE BEDROOM. HE WOULD TAKE US BACK THERE -- OR TAKE -- GO
18 BACK THERE AND SHOW ME WHERE IT WAS.

19 MR. WILLIAMSON AND I THEN WALKED BACK TO THE BEDROOM
20 AND HE POINTED TO A STEREO-TYPE CASE WHERE THERE WAS
21 NUMEROUS STACKS OF CASSETTE TAPES. AND HE SAID, YOU KNOW,
22 IN ONE OF THE CASSETTE TAPES IN THERE, THERE'S A SMALL --
23 WHAT THEY REFER TO AS A SLAB OF CRACK COCAINE. AND I'LL
24 EXPLAIN THAT TO YOU IN A LITTLE BIT. BUT AFTER GOING
25 THROUGH SOME OF THE CASSETTE TAPES, WE FOUND AN EMPTY

STATE VS. ANTHONY TYRONE WILLIAMSON

1 CASSETTE TAPE, DID NOT HAVE THE CASSETTE IN IT, WITH THAT
2 SMALL PIECE OF CRACK COCAINE.

3 Q I'M SHOWING YOU WHAT'S BEEN ENTERED (SIC) INTO
4 EVIDENCE AS STATE'S EXHIBIT NO. 3. DO YOU RECOGNIZE THAT?

5 A YES, MA'AM, I DO.

6 Q AND COULD YOU TELL US HOW YOU RECOGNIZE IT?

7 A YES, MA'AM. THE -- AS CORPORAL NIDA TESTIFIED BEFORE,
8 THE BEST PACK HAS HIS NAME AND SIGNATURE ON IT. AND I
9 SPECIFICALLY RECOGNIZE THIS -- THIS KIND OF PIE-SHAPED
10 PIECE AS BEING THE QUOTE, UNQUOTE, SLAB PIECE THAT WAS
11 LOCATED INSIDE THE CASSETTE TAPE. AND THE ADDITIONAL
12 PIECES HERE, THE ADDITIONAL TWO BAGS -- WHICH THESE AREN'T
13 THE ORIGINAL PACKAGING, I BELIEVE. THE ORIGINAL PACKAGING,
14 I BELIEVE, IS IN THERE. YOU ALL WILL BE ABLE TO SEE IT FOR
15 YOURSELF. BUT THESE OTHER TWO -- TWO PACKAGES HERE WERE IN
16 THE FLASHLIGHT THEMSELVES.

17 AND TO BE HONEST, AGAIN, WITH THE MULTITUDE OF
18 CASSETTE TAPES THAT WERE IN -- THAT WERE IN THAT STEREO
19 EQUIPMENT CONTAINER THING, YOU KNOW, WITHOUT MR.
20 WILLIAMSON'S COOPERATION, THERE'S A VERY GOOD CHANCE THAT
21 WE WOULD HAVE MISSED IT IN THERE, YOU KNOW, JUST FOR THE
22 MULTITUDE OF CASSETTES, YOU KNOW, GOING THROUGH EACH AND
23 EVERY ONE. THERE IS A CHANCE WE MAY HAVE MISSED ONE, YOU
24 KNOW. YES, MA'AM.

25 Q AND AFTER HE SHOWED YOU, YOU OBTAINED THE CRACK

SERGEANT DRULIS - CROSS BY MR. MEETZE

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1 COCAINE, WHAT DID YOU DO?

2 A WE THEN TOOK THE -- TOOK THE CRACK COCAINE BACK TO
3 CORPORAL NIDA WHO, AGAIN, WAS, YOU KNOW, MAINTAINING THE --
4 MAINTAINING THE NOTES WITH THE CASE. AND I TURNED IT OVER
5 TO -- TO CORPORAL NIDA TO MAINTAIN CUSTODY AND CONTROL
6 UNTIL HE RECORDED IT IN THE EVIDENCE ROOM.

7 MS. PARR: BEG THE COURT'S INDULGENCE.

8 (PAUSE.)

9 MS. PARR: WOULD YOU PLEASE ANSWER ANY QUESTIONS MR.
10 MEETZE WOULD HAVE FOR YOU.

11 THE COURT: CROSS EXAMINATION, MR. MEETZE.

12 MR. MEETZE: THANK YOU, YOUR HONOR.

13 CROSS EXAMINATION BY MR. MEETZE:

14 Q SERGEANT DRULIS?

15 A YES, SIR.

16 Q I WANT TO GET YOUR TITLE RIGHT.

17 A THAT'S FINE.

18 Q YOU INDICATED YOU WERE THERE WHEN THIS SEARCH WARRANT
19 WAS BEING EXECUTED?

20 A YES, SIR, I WAS.

21 Q AND YOU HAD INDICATED THAT YOU ALL HAD TO END UP
22 FORCING YOUR WAY INTO THE HOUSE?

23 A YES, SIR, WE DID.

24 Q YOU EVEN INDICATED THAT THE REASON FOR THAT IS BECAUSE
25 IF YOU WAIT TOO LONG, THEY MAY BE -- WHOEVER IS BACK THERE,

STATE VS. ANTHONY TYRONE WILLIAMSON

1 IF THERE ANY EVIDENCE IN THE HOUSE, THEN THEY'D BE ABLE TO
2 GET RID OF IT ONE WAY OR ANOTHER?

3 A THAT IS THE INFERENCE, YES, SIR.

4 Q NOW, YOU ALSO INDICATED IN YOUR TESTIMONY AND I'M
5 GOING TO ASK YOU TO REITERATE IT HERE, THAT WAS NOT THE
6 CASE HERE?

7 A NO, SIR, IT WASN'T.

8 Q NO EVIDENCE OF THAT AT ALL?

9 A NO, SIR.

10 Q NOW, WHEN YOU ALL ARE EXECUTING A SEARCH WARRANT,
11 SOMEBODY GETTING RID OF EVIDENCE, THAT'S NOT YOUR ONLY
12 CONCERN?

13 A NO. THERE'S -- THERE'S GUNS AND EVERYTHING ELSE.

14 Q POTENTIAL?

15 A POTENTIAL, YES, SIR.

16 Q RIGHT. AND IN YOUR POSITION WITH YOUR JOB WHEN YOU'RE
17 EXECUTING A SEARCH WARRANT LIKE THIS, YOU PRETTY MUCH GOT
18 TO BE PREPARED FOR ANYTHING?

19 A THAT IS CORRECT.

20 Q ALL RIGHT. NOTHING OF THAT NATURE -- YOU KNOW,
21 OBVIOUSLY, GETTING RID OF EVIDENCE IS ONE THING. SOMEBODY
22 BEHIND THE DOOR WITH A GUN IS COMPLETELY AND TOTALLY
23 ANOTHER THING. AND, THAT'S OBVIOUSLY WITH YOUR JOB A
24 CONCERN, CORRECT?

25 A YES, SIR.

SERGEANT DRULIS - CROSS BY MR. MEETZE

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- 1 Q NOTHING LIKE THAT IN THIS CASE AS WELL?
- 2 A NO, SIR.
- 3 Q AND, IN FACT, NO INDICATION THAT HE WAS TRYING TO
4 HIDE. IT'S NOT UNUSUAL IN A SITUATION LIKE THIS FOR A
5 PERSON TO TAKE OFF, TRY TO DIVE OUT OF A BACK WINDOW?
- 6 A IT DOES HAPPEN ON OCCASION, YES, SIR.
- 7 Q THERE'S NOTHING LIKE THAT IN THIS CASE?
- 8 A NO, SIR.
- 9 Q OKAY. EXECUTING A SEARCH WARRANT, YOU WENT ALL
10 THROUGH THE HOUSE?
- 11 A YES, SIR.
- 12 Q AND THERE WERE ONLY TWO INDIVIDUALS IN THE HOUSE AT
13 THE TIME THE SEARCH WARRANT WAS EXECUTED?
- 14 A YES, SIR.
- 15 Q BUT OTHER PEOPLE LIVED THERE?
- 16 A YES, SIR. YES, SIR.
- 17 Q FROM YOUR OBSERVATION ---
- 18 A UH-HUH.
- 19 Q --- FROM WHAT YOU COULD TELL AND GLEAN FROM SEARCHING
20 ALL THE BEDROOMS AND EVERYTHING ---
- 21 A YES, SIR.
- 22 Q --- SOMEBODY ELSE LIVED THERE?
- 23 A YES, SIR.
- 24 Q OKAY. THIS SAFE WAS TAKEN INTO EVIDENCE, OBVIOUSLY?
- 25 A YES, SIR.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 Q WERE YOU THERE WHEN IT WAS LOCATED?

2 A YES, SIR.

3 Q ALL RIGHT. NOTHING OF AN EVIDENTIARY VALUE FOR THIS
4 CASE WAS FOUND IN THAT SAFE?

5 A NOTHING OF EVIDENCE IN THERE. NO, SIR.

6 Q OKAY. THIS WOULD BE WHAT'S CALLED CONSTRUCTIVE
7 POSSESSION, CORRECT?

8 A YES, SIR. HE DID NOT PHYSICALLY HAVE IT ON HIS
9 PERSON. I WOULD CONSIDER IT A LITTLE -- I'LL PUT A CAVEAT
10 ON CONSTRUCTIVE POSSESSION BECAUSE HE TOLD US WHERE THE --
11 WHERE THE ONE IS.

12 Q WELL, I MEAN ---

13 A YES, SIR, IT'S STILL CONSTRUCTIVE, YES, SIR.

14 Q IT'S EITHER CONSTRUCTIVE OR IT'S ACTUAL PHYSICAL?

15 A YES, SIR.

16 Q YOU JUST SAID IT'S NOT ACTUAL PHYSICAL?

17 A ABSOLUTELY.

18 MR. MEETZE: YOUR HONOR, I DON'T HAVE ANY FURTHER
19 QUESTIONS.

20 THE COURT: ANY REDIRECT?

21 MS. PARR: NOT FOR THIS WITNESS, YOUR HONOR.

22 THE COURT: YOU MAY STEP DOWN.

23 (THE WITNESS LEAVES THE WITNESS STAND.)

24 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

25 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL BO

OFFICER MYERS — DIRECT BY MS. PARR

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1 MYERS TO THE STAND.

2 THOMAS MYERS, BEING FIRST

3 DULY SWORN, TESTIFIED AS FOLLOWS:

4 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
5 RECORD.

6 THE COURT: PULL UP REAL CLOSE TO THAT MICROPHONE.
7 SPEAK LOUDLY, CLEARLY, AND SLOWLY IN ORDER THAT THE LAST
8 PERSON IN THE JURY BOX CAN HEAR YOU. STATE YOUR FULL NAME.

9 WITNESS: THOMAS MYERS.

10 DIRECT EXAMINATION BY MS. PARR:

11 Q OFFICER MYERS, WHERE ARE YOU EMPLOYED?

12 A THE CITY OF FLORENCE POLICE DEPARTMENT.

13 Q AND WHAT DO YOU DO FOR THE CITY OF FLORENCE?

14 A I'M AN INVESTIGATOR ASSIGNED TO THE CRIMINAL
15 INVESTIGATIONS DIVISION, CRIME SCENE UNIT.

16 Q OKAY. AND HOW LONG HAVE YOU BEEN AT THE FLORENCE
17 POLICE DEPARTMENT?

18 A NEARLY 6 YEARS.

19 Q AND WERE YOU WORKING DURING NOVEMBER 14, 2007?

20 A YES, MA'AM.

21 Q AND IN WHAT CAPACITY?

22 A I WAS ASSIGNED TO THE CRIME SCENE UNIT.

23 Q NOW, ARE YOU A CERTIFIED LAW ENFORCEMENT OFFICER?

24 A YES, I AM.

25 Q AND HOW LONG HAVE YOU BEEN IN EVIDENCE?

STATE VS. ANTHONY TYRONE WILLIAMSON

1 A BEEN ASSIGNED TO THE CRIME SCENE UNIT APPROXIMATELY 2
2 AND A HALF YEARS.

3 Q NOW, HOW DID YOU BECOME INVOLVED IN THIS PARTICULAR
4 CASE?

5 A ROUTINELY WE TRANSPORT CERTAIN EVIDENCE TO THE STATE
6 LAB AT SLED IN COLUMBIA. THAT'S A TASK THAT'S ASSIGNED TO
7 THE CRIME SCENE UNIT. WE DO THAT ON A ROTATION BASIS,
8 DEPENDING ON THE SCHEDULE OF EACH INVESTIGATOR. MY ROLE IN
9 THIS WAS TRANSPORTING EVIDENCE FOR THIS CASE TO THE LAB.

10 Q AND WAS THAT WHAT'S BEEN ENTERED INTO EVIDENCE AS
11 STATE'S EXHIBIT NO. 3?

12 A YES.

13 Q AND AT SOME POINT WERE YOU SUPPOSED TO TRANSPORT THAT?

14 A I WAS. ON NOVEMBER 28 I SIGNED OUT THIS EXHIBIT TO BE
15 TRANSPORTED TO THE LAB. THERE WAS AN INCIDENT BEYOND
16 ANYONE'S CONTROL THAT PROHIBITED THE TRANSPORTATION OF ALL
17 EVIDENCE THAT WAS SIGNED OUT THAT DAY. SO THE FOLLOWING
18 MORNING, THIS ALONG WITH THE OTHER ASSIGNED EVIDENCE TO BE
19 TRANSPORTED WAS TURNED BACK IN TO EVIDENCE.

20 Q AND WAS THAT EVIDENCE, STATE'S EXHIBIT NO. 3, STILL
21 WITHIN THE ORIGINAL CONTAINER, BEST PACK SEALED CONTAINER
22 WHEN YOU OBTAINED IT?

23 A YES. YES, MA'AM.

24 Q AND WHAT ABOUT WHEN YOU RETURNED IT BACK IN TO
25 EVIDENCE?

OFFICER MYERS -- CROSS BY MR. MEETZE

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1 A THE SAME CONDITION.

2 Q AND YOU MAINTAINED IT IN YOUR CONTROL THAT SHORT
3 PERIOD OF TIME?

4 A IT IS -- ALL EVIDENCE IS SECURED IN A LOCKED SAFE
5 WITHIN OUR CRIME SCENE LAB WITH LIMITED ACCESS.

6 Q OKAY. AND IT WAS YOU WHO RETURNED IT BACK?

7 A YES, MA'AM.

8 MS. PARR: PLEASE ANSWER ANY QUESTIONS MR. MEETZE MAY
9 HAVE.

10 THE COURT: CROSS EXAMINATION.

11 MR. MEETZE: THANK YOU, YOUR HONOR.

12 CROSS EXAMINATION BY MR. MEETZE:

13 Q OFFICER MYERS, THAT WAS THE EXTENT OF YOUR INVOLVEMENT
14 IN THIS CASE?

15 A YES, IT WAS.

16 Q TRANSPORTING EVIDENCE?

17 A RIGHT.

18 Q AND YOU WEREN'T THERE AT THE ---

19 A AT THE SCENE, NO, SIR, I WAS NOT.

20 Q YOU HAVE NO PERSONAL KNOWLEDGE OF ANYTHING THAT WENT
21 ON THERE?

22 A NO, SIR.

23 MR. MEETZE: I DON'T HAVE ANYTHING FURTHER, YOUR
24 HONOR.

25 THE COURT: YOU MAY STEP -- ANY REDIRECT?

STATE VS. ANTHONY TYRONE WILLIAMSON

1 MS. PARR: NO, YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN.

3 (THE WITNESS LEAVES THE WITNESS STAND.)

4 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL
5 MICHAEL BRANDT TO THE STAND.

6 MICHAEL BRANDT, BEING FIRST
7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
9 RECORD.

10 THE COURT: PULL REAL CLOSE TO THAT MICROPHONE.
11 SPEAK LOUDLY, CLEARLY, AND SLOWLY, AND STATE YOUR FULL
12 NAME.

13 WITNESS: YES, SIR. MY NAME IS MICHAEL CHRISTOPHER
14 BRANDT. I'M CURRENTLY A SERGEANT WITH THE FLORENCE POLICE
15 DEPARTMENT, BEEN EMPLOYED WITH THE FLORENCE POLICE
16 DEPARTMENT FOR APPROXIMATELY 11 YEARS.

17 DIRECT EXAMINATION BY MS. PARR:

18 Q SERGEANT BRANDT, WHAT DO YOU DO FOR THE POLICE
19 DEPARTMENT?

20 A I'M CURRENTLY THE SUPERVISOR OVER THE CRIME SCENE
21 UNIT. AT THE TIME MY INVOLVEMENT IN THIS INCIDENT, I WAS A
22 CORPORAL IN THE ROTATION WITH THE CRIME SCENE
23 INVESTIGATORS.

24 Q AND HOW DID YOU BECOME INVOLVED?

25 A ON DECEMBER 10, 2007 AT APPROXIMATELY 2:00 IN THE

SERGEANT BRANDT - DIRECT BY MS. PARR

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1 AFTERNOON I SIGNED OUT A BULK TRANSFER OF EVIDENCE, MEANING
2 I SIGNED OUT NUMEROUS CASES THAT NEEDED TO BE ANALYZED AT
3 THE STATE LAW ENFORCEMENT DIVISION FORENSIC LABORATORY.
4 THE DRUGS -- STATE'S EXHIBIT 3 WAS A PART OF THIS DRUG
5 TRANSFER -- OR EVIDENCE TRANSFER TO THE STATE LAW
6 ENFORCEMENT DIVISION. ONE OF THE PROCEDURES THAT WE DO
7 WHEN WE ACCEPT EVIDENCE FOR TRANSPORT IS TO EXAMINE IT TO
8 MAKE SURE THAT ITS INTEGRITY SEAL IS INTACT.

9 IF YOU CAN SEE, THERE'S BLUE SWIRLS ALONG THE EDGES OF
10 THE FACTORY SEALED EDGES OF THE SECURITY POUCH. AND AT THE
11 TOP THERE'S AN ADHESIVE WITH THE SAME SWIRLS. ONE OF THE
12 THINGS THAT WE DO WHEN WE ACCEPT THOSE PACKAGES IT TO
13 ENSURE THAT IT'S COMPLETED AND IT'S SEALED IN PROPER
14 FASHION. IF THERE IS ANY INDICATION IT'S BEEN TAMPERED
15 WITH OR IMPROPERLY SEALED, WE DO NOT RECEIVE IT IN TO OUR
16 CUSTODY.

17 AND IN THIS CASE IT WAS PACKAGED AND SEALED PROPERLY,
18 SO I RECEIVED IT IN MY CUSTODY, COMPLETED THE PAPERWORK,
19 AND SECURED IT IN THE CRIME LAB SAFE.

20 ON THE FOLLOWING MORNING, WHICH WAS THE 11TH OF
21 DECEMBER 2007, I TOOK CUSTODY OF THE BULK TRANSFER EVIDENCE
22 AND TOOK IT TO SLED WHERE I SIGNED IT OVER TO AN EVIDENCE
23 TECHNICIAN.

24 MS. PARR: PLEASE ANSWER ANY QUESTIONS DEFENSE MAY
25 HAVE FOR YOU.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 CROSS EXAMINATION BY MR. MEETZE:

2 Q AND THAT WAS YOUR ONLY INVOLVEMENT IN THIS CASE AS
3 WELL?

4 A YES, SIR, MR. MEETZE.

5 Q YOU AREN'T THERE FOR ANY OF THE INVESTIGATION OR AT
6 THE INCIDENT LOCATION?

7 A NO, SIR.

8 Q OTHER THAN YOUR INVOLVEMENT WITH REGARD TO YOU TAKING
9 CUSTODY AND TRANSPORTING THE EVIDENCE, YOU HAVE NO OTHER
10 INVOLVEMENT IN THE CASE OR NO OTHER PERSONAL KNOWLEDGE OF
11 THE CASE?

12 A NO, SIR, I DO NOT.

13 MR. MEETZE: I DON'T HAVE ANYTHING FURTHER.

14 THE COURT: ANY REDIRECT?

15 MS. PARR: NO, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN.

17 (THE WITNESS LEAVES THE WITNESS STAND.)

18 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL BETH
19 HOOVER TO THE STAND.

20 BETH HOOVER, BEING FIRST DULY
21 SWORN, TESTIFIED AS FOLLOWS:

22 THE COURT: PULL UP CLOSELY TO THAT MICROPHONE. SPEAK
23 LOUDLY, CLEARLY, AND SLOWLY. AND I ASK THAT YOU STATE YOUR
24 FULL NAME.

25 WITNESS: MY NAME IS BETH ANN HOOVER.

BETH HOOVER — DIRECT BY MS. PARR

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1 THE COURT: ALL RIGHT.

2 DIRECT EXAMINATION BY MS. PARR:

3 Q AND, MS. HOOVER, WHAT IS YOUR OCCUPATION OR
4 PROFESSION?

5 A I'M A CHEMICAL ANALYST, A FORENSIC ANALYST.

6 Q AND WHO ARE YOU EMPLOYED WITH?

7 A CURRENTLY I'M EMPLOYED WITH THE ALABAMA DEPARTMENT OF
8 FORENSIC SCIENCE.

9 Q AND HOW LONG HAVE YOU BEEN WITH ALABAMA?

10 A APPROXIMATELY 7 MONTHS.

11 Q AND WHAT POSITION DO YOU HOLD WITH THEM?

12 A I AM A FORENSIC ANALYST THERE AS WELL.

13 Q NOW, WERE YOU PREVIOUSLY EMPLOYED WITH SLED OR THE
14 SOUTH CAROLINA LAW ENFORCEMENT DIVISION PRIOR TO GOING TO
15 ALABAMA?

16 A YES, I WAS.

17 Q AND HOW LONG WERE YOU WITH SLED?

18 A APPROXIMATELY A YEAR AND A HALF.

19 Q AND WHAT WERE YOUR DUTIES AT SLED?

20 A I WOULD TAKE IN EVIDENCE OR ACCEPT EVIDENCE FROM
21 DIFFERENT AGENCIES AND TEST THEM FOR THE PRESENCE OF
22 CONTROLLED SUBSTANCES.

23 Q AND SPECIFICALLY, WHAT WAS YOUR POSITION WITH SLED?

24 A A CHEMICAL ANALYST OR FORENSIC ANALYST FOR DRUG -- FOR
25 DRUGS.

- 1 Q NOW, HAVE YOU HAD ANY SPECIAL TRAINING FOR YOUR JOB?
- 2 A YES, I GRADUATED FROM COLUMBIA COLLEGE WITH HONORS IN
3 CHEMISTRY AND BIOLOGY. I'M CURRENTLY FINISHING UP MY
4 MASTERS FROM THE UNIVERSITY OF SOUTH CAROLINA IN
5 CRIMINOLOGY, CRIMINAL JUSTICE. I GRADUATED FROM THE LEGALS
6 COURSE IN SOUTH CAROLINA, CERTIFYING ME AS A CLASS 3 LAW
7 ENFORCEMENT OFFICER. AND THEN I ALSO COMPLETED FOR SOUTH
8 CAROLINA LAW ENFORCEMENT DIVISION A 6-MONTH TRAINING ON THE
9 DIFFERENT CLASSIFICATIONS OF DRUGS AS WELL AS DOING ANOTHER
10 TRAINING SESSION IN ALABAMA WHEN I MOVED THERE.
- 11 Q AND ARE YOU ALSO CERTIFIED TO ANALYZE MARIJUANA AS
12 WELL?
- 13 A YES, I AM.
- 14 Q NOW, DID YOU HAVE AN OCCASION TO BE -- HAVE YOU HAD AN
15 OCCASION TO ANALYZE NARCOTIC DRUGS WHILE YOU WERE AT SLED?
- 16 A YES.
- 17 Q OKAY. AND HOW MANY TIMES?
- 18 A THE EASIEST WAY TO EXPLAIN IS APPROXIMATELY 100 TO 120
19 CASES A MONTH IS WHAT I WOULD ANALYZE.
- 20 Q AND HAVE YOU HAD AN OCCASION TO CHEMICALLY ANALYZE
21 SUBSTANCE TO DETERMINE WHETHER OR NOT IT CONTAINED COCAINE
22 BASE OR WHAT'S KNOWN AS CRACK?
- 23 A YES, I HAVE.
- 24 Q AND ABOUT HOW MANY TIMES A MONTH FOR THAT?
- 25 A THE EASIEST WAY TO EXPLAIN THAT IS ALSO PROBABLY 70,

BETH HOOVER — DIRECT BY MS. PARR

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1 75 PERCENT OF THE CASES WE GET IN ARE EITHER CRACK COCAINE
2 OR COCAINE.

3 Q NOW, DO YOU MAKE ANALYSIS AS A REGULAR PART OF YOUR
4 DUTIES?

5 A YES, I DO.

6 Q NOW, HAVE YOU HAD AN OCCASION TO QUALIFY AS AN EXPERT
7 IN THE AREA OF COURT IN SOUTH CAROLINA GENERAL SESSIONS OR
8 CRIMINAL COURT AS A CHEMICAL ANALYST?

9 A YES, I HAVE.

10 Q AND ABOUT HOW MANY TIMES?

11 A TO DATE IT'S BEEN 6 TIMES. I BELIEVE AT THE TIME I
12 HAD ANALYZED THIS CASE I HAD TESTIFIED ONE TIME PRIOR TO
13 THIS CASE.

14 MS. PARR: YOUR HONOR, AT THIS TIME THE STATE WOULD
15 MOVE TO HAVE HER DECLARED AN EXPERT IN THE FIELD OF
16 CHEMISTRY AND THE ANALYSIS OF NARCOTICS.

17 THE COURT: ANY QUESTIONS WITH REGARD TO HER
18 QUALIFICATIONS, MR. MEETZE?

19 MR. MEETZE: NO, YOUR HONOR.

20 THE COURT: ALL RIGHT. MADAM FORELADY AND LADIES AND
21 GENTLEMEN OF THE JURY, NORMALLY A PERSON CANNOT GIVE
22 OPINION TESTIMONY. NORMALLY WHEN A PERSON TESTIFIES, THEY
23 MUST TESTIFY TO EITHER WHAT THEY SAW, HEARD, OR SENSED BY
24 SMELL. HOWEVER, THERE IS AN EXCEPTION WHEN SOMEONE IS
25 QUALIFIED BECAUSE OF EDUCATION OR EXPERIENCE. THEY ARE

STATE VS. ANTHONY TYRONE WILLIAMSON

1 PERMITTED TO GIVE THEIR OPINION IN CERTAIN AREAS IF THE
2 COURT QUALIFIES THEM.

3 NOW, THIS WITNESS WILL BE QUALIFIED IN THE AREA OF
4 CHEMICAL ANALYSIS, TO GIVE OPINION TESTIMONY IN THAT AREA.
5 IT DOES NOT MEAN THAT YOU MUST ACCEPT THE OPINION. BUT
6 IT'S EVIDENCE FOR YOU TO USE ANY WAY YOU SEE FIT.

7 MS. PARR.

8 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
9 NO. 3. DO YOU RECOGNIZE THAT?

10 A YES, I DO.

11 Q OKAY. AND HOW CAN YOU -- BASED UPON YOUR PAST
12 EXPERIENCE AND TRAINING, DO YOU HAVE AN OPINION AS TO WHAT
13 THIS SUBSTANCE IS IN STATE'S EXHIBIT NO. 3?

14 A AFTER MY FINAL ANALYSIS, YES, I DO HAVE AN OPINION.

15 Q NOW, HOW CAN YOU IDENTIFY THAT STATE'S EXHIBIT 3?

16 A WHENEVER WE RECEIVE OUR EVIDENCE, WHICH IS ALWAYS
17 BROUGHT IN IN THESE BEST KITS, WHICH ARE TAMPER-PROOF,
18 WHICH MEANS THAT IF THIS GREEN SEAL HERE HAS BEEN TAMPERED
19 WITH, YOU CAN TELL AT EITHER PULLS. WHEN I RECEIVED THIS
20 CASE, IT HAD NOT BEEN TAMPERED WITH, AND I HAD STATED HERE
21 THAT THE SEAL WAS INTACT WITH MY NAME AND THE DATE THAT I
22 RECEIVED OR WAS GOING TO ANALYZE THIS EVIDENCE.

23 Q OKAY. AND WHEN DID YOU RECEIVE THIS EXHIBIT?

24 A I RECEIVED IT INTO MY CUSTODY ON FEBRUARY 20TH OF
25 2008.

BETH HOOVER — DIRECT BY MS. PARR

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1 Q AND WHERE DID YOU -- HOW DID YOU GET IT IN YOUR
2 CUSTODY?

3 A WHEN I'M READY TO WORK THAT CASE, I GO DOWN TO LOG-IN
4 WHERE ALL OF THE EVIDENCE HAS BEEN BROUGHT IN AND PUT INTO
5 A SECURE LOCATION, AND I REQUEST THAT. AND IT IS PUT
6 DIRECTLY INTO MY CUSTODY.

7 Q OKAY. ALL RIGHT. NOW, WHEN YOU RECEIVED THAT,
8 STATE'S EXHIBIT NO. 3 -- AND THE WAY IT IS PACKAGED TODAY,
9 WHO PACKAGED IT AS IT CURRENTLY IS?

10 A ARE YOU REFERRING TO THE WHOLE PACKAGE?

11 Q YES, REFERRING TO THE WHOLE PACKAGE.

12 A OKAY. I WAS THE PERSON THAT HAD SEALED THIS PACKAGE
13 AT THE END OF MY ANALYSIS AS MY INITIALS AND THE DATE ARE
14 INSIDE THE PACKAGE. AND THEN THE SEAL WAS PUT OVER THAT
15 INITIAL AND DATE.

16 Q OKAY. AND IS THAT PACKAGING STILL INTACT?

17 A YES, IT IS.

18 Q OKAY. NOW, WOULD YOU PLEASE OPEN THAT PACKAGE?

19 A SURE. (PAUSE.) OKAY.

20 Q AND IS THIS EXHIBIT IN THE SAME CONDITION NOW AS IT
21 WAS WHEN YOU FIRST RECEIVED IT?

22 A AFTER I HAD OPENED IT, YES, IT IS ALL IN THE SAME
23 FORMAT.

24 Q AND WHAT PURPOSE DID THIS EXHIBIT COME INTO YOUR
25 POSSESSION?

STATE VS. ANTHONY TYRONE WILLIAMSON

1 A FOR THE SOLE PURPOSE OF ANALYZING IT FOR CONTROLLED
2 SUBSTANCES.

3 MS. PARR: YOUR HONOR, AT THIS TIME, THE STATE WOULD
4 MOVE TO ENTER INTO EVIDENCE STATE'S EXHIBIT NO. 3.

5 MR. MEETZE: MAY I JUST LOOK AT IT?

6 THE COURT: YES.

7 (PAUSE.)

8 MR. MEETZE: NO OBJECTION, YOUR HONOR.

9 THE COURT: STATE'S EXHIBIT NO. 3 IS IN EVIDENCE
10 WITHOUT OBJECTION FROM DEFENSE.

11 (STATE'S EXHIBIT NO. 3 RECEIVED IN EVIDENCE.)

12 Q MS. HOOVER, WHAT IS THE WEIGHT -- WELL, FIRST OF ALL,
13 WHAT IS THAT SUBSTANCE? WHAT DID YOU DETERMINE IT TO BE?

14 A I DETERMINED ALL THREE BAGS INDIVIDUALLY TO BE COCAINE
15 BASE, CRACK COCAINE.

16 Q OKAY. AND WHAT WAS THE WEIGHT OF THAT COCAINE BASE?
17 OR WHAT IS THE WEIGHT OF THE COCAINE BASE?

18 A THE TOTAL WEIGHT IS 13.94 GRAMS.

19 Q NOW, ON WHAT OCCASION DID YOU MAKE AN ANALYSIS?

20 A THE DATE OF ANALYSIS WAS MARCH 5TH OF 2008.

21 Q NOW, WHAT TESTS WERE MADE BY YOU?

22 A I DID A PRELIMINARY TEST, IT'S CALLED A CHEMICAL COLOR
23 TEST. AND WHAT IT DOES IS ONCE I ADD THE CHEMICALS TO THE
24 SUBSTANCE, IT WILL GIVE ME PARTICULAR COLOR. AND THAT'S
25 JUST INDICATIVE OF A CERTAIN CLASS OF DRUG, AND IT GIVES ME

1 AN IDEA OF WHERE TO GO WITH MY NEXT ANALYSIS.

2 THE NEXT STEP IN THIS INSTANCE WAS TO DO AN F.T.I.R.,
3 WHICH STANDS FOR FIERIER TRANSFORM INFRARED SPECTROSCOPY,
4 AND THAT IS A CONFIRMATORY TEST.

5 Q AND WERE ANY OTHER EXAMINATIONS PERFORMED ON THIS
6 PARTICULAR PIECE OF EVIDENCE?

7 A NO.

8 Q NOW, FROM THESE TESTS WERE YOU ABLE TO FORM AN EXPERT
9 OPINION AS TO WHAT THE EXHIBIT IS OR CONTAINS?

10 A YES, I WAS.

11 Q AND PLEASE STATE THAT OPINION?

12 A AS PER MY REPORT, COCAINE BASE, CRACK WAS FOUND.

13 Q OKAY. WHAT WAS THE BASIS OF YOUR OPINION?

14 A ACCORDING TO THE CONFIRMATORY TEST AND ME TAKING A
15 LOOK OR ANALYZING THE DATA AND COMING TO THE CONCLUSION
16 THAT IT IS COCAINE BASE.

17 MS. PARR: PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY
18 HAVE.

19 THE COURT: CROSS EXAMINATION.

20 CROSS EXAMINATION BY MR. MEETZE:

21 Q AS YOU'VE ALREADY SAID, YOUR PURPOSE IN THIS CASE WAS
22 TO ANALYZE THE SUBSTANCE IN THOSE BAGS AND DETERMINE
23 WHETHER THERE IS CONTROLLED SUBSTANCE DETECTED?

24 A THAT IS CORRECT.

25 Q AND OTHER THAN YOUR JOB OF DOING THAT, YOU DON'T HAVE

1 ANY OTHER PERSONAL KNOWLEDGE WITH REGARD TO THIS CASE?

2 A NO.

3 MR. MEETZE: I DON'T HAVE ANY FURTHER QUESTIONS.

4 THE COURT: ANY REDIRECT?

5 REDIRECT EXAMINATION BY MS. PARR:

6 Q WHEN YOU WEIGHED THE COCAINE BASE, WAS THAT

7 INDIVIDUALLY OR COLLECTIVELY?

8 A I TEST EACH ITEM THAT COMES IN INDIVIDUALLY, SO I HAVE
9 INDIVIDUAL WEIGHTS. BUT THAT 13.94 GRAMS IS A TOTAL WEIGHT
10 OF ALL THREE ITEMS.

11 MS. PARR: NOTHING FURTHER.

12 THE COURT: YOU MAY STEP DOWN.

13 (THE WITNESS LEAVES THE WITNESS STAND.)

14 MS. PARR: YOUR HONOR, AT THIS TIME WE WOULD CALL
15 SHANNON HILL TO THE STAND.

16 SHANNON HILL, BEING FIRST
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 CLERK: PLEASE BE SEATED AND STATE YOUR NAME FOR THE
19 RECORD.

20 THE COURT: SPEAK LOUDLY, CLEARLY, AND SLOWLY IN ORDER
21 THAT EVERYONE CAN HEAR WHAT YOU'VE GOT TO SAY. AND STATE
22 YOUR FULL NAME.

23 WITNESS: SHANNON HILL.

24 DIRECT EXAMINATION BY MS. PARR:

25 Q OFFICER HILL, WHERE ARE YOU EMPLOYED?

OFFICER HILL - DIRECT BY MS. PARR

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1 A WITH THE CITY OF FLORENCE POLICE DEPARTMENT.

2 Q AND WHAT ARE YOUR DUTIES WITH THE FLORENCE POLICE
3 DEPARTMENT?

4 A I AM CURRENTLY ASSIGNED TO THE INVESTIGATIVE DIVISION
5 UNDER THE CRIME SCENE UNIT.

6 Q NOW, DID YOU HAVE AN OCCASION TO BECOME INVOLVED IN
7 THIS MATTER?

8 A I DID.

9 Q AND WHEN WAS THAT?

10 A ON THE 18TH OF MARCH 2000 -- OF THIS YEAR, 2009.

11 Q AND HOW DID YOU BECOME INVOLVED?

12 A I BROUGHT A COLLECTION OF EVIDENCE THAT WAS SENT TO
13 SLED AT AN EARLIER DATE BACK TO THE POLICE DEPARTMENT TO BE
14 PUT INTO OUR EVIDENCE ROOM.

15 Q AND WAS THIS PIECE OF EVIDENCE THAT WAS ENTERED INTO
16 EVIDENCE AS STATE'S EXHIBIT NO. 3 PART OF THAT COLLECTION
17 OF EVIDENCE?

18 A YES, IT WAS.

19 Q AND WAS IT PACKAGED SEPARATELY FROM ALL THE OTHER
20 PIECES?

21 A YES, IT WAS.

22 Q AND WHEN YOU RETURNED THAT TO THE FLORENCE POLICE
23 DEPARTMENT, WHAT DID YOU DO?

24 A AS SOON AS I RETURNED BACK TO THE FLORENCE POLICE
25 DEPARTMENT, I WENT STRAIGHT TO THE EVIDENCE ROOM HERE AT

1 THE POLICE DEPARTMENT AND TURNED IT BACK OVER TO THE
2 CUSTODY OF OUR EVIDENCE TECHNICIAN.

3 MS. PARR: PLEASE ANSWER ANY QUESTIONS THAT THE
4 DEFENSE MAY HAVE.

5 CROSS EXAMINATION BY MR. MEETZE:

6 Q AND THAT'S THE EXTENT OF YOUR INVOLVEMENT?

7 A THAT'S CORRECT, YES, SIR.

8 Q YOU DON'T HAVE ANY PERSONAL KNOWLEDGE ABOUT THE
9 INVESTIGATION OR ANYTHING THAT HAPPENED AT THE INCIDENT
10 LOCATION?

11 A NO, SIR, I DO NOT.

12 MR. MEETZE: NOTHING FURTHER, YOUR HONOR.

13 MS. PARR: YOUR HONOR, THE STATE WOULD REST AT THIS
14 TIME.

15 THE COURT: VERY GOOD. YOU MAY STEP DOWN.

16 (THE WITNESS LEAVES THE WITNESS STAND.)

17 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF
18 THE JURY, THE STATE HAS RESTED. AT THIS TIME WE NEED TO
19 TAKE UP SOME LEGAL MATTERS OUTSIDE OF YOUR PRESENCE. I ASK
20 THAT YOU RETIRE TO THE JURY ROOM BUT DO NOT DISCUSS THE
21 CASE IN ANY WAY, SHAPE, OR FORM. THANK YOU VERY MUCH.

22 (THE JURY RETIRES TO THE JURY ROOM AT 3:39 P.M.)

23 THE COURT: ARE THERE ANY MOTIONS AT THIS TIME?

24 MR. MEETZE: YOUR HONOR, AT THIS TIME I MAKE A MOTION
25 FOR A DIRECTED VERDICT BASED ON THE EVIDENCE AS PRESENTED

1 BEING INSUFFICIENT TO SUPPORT A GUILTY VERDICT.

2 I WOULD ALSO AT THIS TIME RENEW MY PREVIOUS MOTION FOR
3 A MISTRIAL BASED ON THE STATEMENT THAT THEY ALSO HAD AN
4 ARREST WARRANT ALONG WITH THE SEARCH WARRANT THAT THEY HAD.
5 AGAIN, JUST RESTATING MY GROUNDS AS BEFORE. I BELIEVE THAT
6 THAT IS JUST OVERLY PREJUDICIAL. I THINK THAT'S SOMETHING
7 THAT A JUROR WOULD HAVE A HARD TIME GETTING OUT OF THEIR
8 MIND. I THINK, AS I SAID BEFORE, YOU CAN'T UN-RING THAT
9 BELL, I THINK IS HOW I PHRASED IT BEFORE. AND, AGAIN,
10 WOULD RENEW THAT MOTION AS WELL AND AGAIN ASK FOR A
11 MISTRIAL.

12 THE COURT: VERY GOOD. MS. PARR.

13 MS. PARR: MAY IT PLEASE THE COURT. YOUR HONOR, THE
14 STATE BELIEVES THERE IS SUFFICIENT EVIDENCE PRESENTED TO
15 DENY THE REQUEST FOR A DIRECTED VERDICT.

16 YOUR HONOR, THE TESTIMONY INDICATED THAT THEY DID HAVE
17 A VALID SEARCH WARRANT. THE DEFENDANT GAVE A VOLUNTARY
18 STATEMENT AFTER HE WAS READ HIS MIRANDA WARNINGS. HE
19 ACTUALLY -- THE DRUGS, OR THE COCAINE BASE WAS ACTUALLY
20 FOUND IN THE DEFENDANT'S ROOM. THE FIRST TWO BAGS WERE
21 FOUND IN A FLASHLIGHT THAT BELONGED TO HIM. THEN AFTER
22 THAT WAS FOUND, THE DEFENDANT ACKNOWLEDGED THAT HE HAD MORE
23 COCAINE BASE IN THE ROOM AND IN FACT TOOK THE OFFICERS TO
24 WHERE IT WAS FOUND IN A CASSETTE TAPE AND TOOK THEM
25 DIRECTLY TO IT.

1 AND GIVEN THE NUMBER OF CASSETTES THAT WAS THERE AND
2 THE WAY HIS ROOM WAS LAID OUT, THE FACT THAT ALL THE
3 INFORMATION IN THE ROOM WERE PERSONAL EFFECTS OF THE
4 DEFENDANT, TO INCLUDE MAIL. AND ALSO THE DOOR HAD A
5 PADLOCK ON IT WHEREAS THE OTHER BEDROOMS DID NOT. AND
6 THAT'S THE DIRECTION THE OFFICERS SAW THE DEFENDANT COMING
7 OUT OF WHEN THEY ENTERED THE ROOM.

8 THEREFORE, WE THINK THERE IS SUFFICIENT EVIDENCE TO
9 DENY THE REQUEST FOR A DIRECTED VERDICT.

10 THE COURT: ALL RIGHT. THE MOTION FOR A DIRECTED
11 VERDICT IS INDEED DENIED.

12 ANY TESTIMONY OFFERED ON BEHALF OF THE DEFENSE?

13 MR. MEETZE: NO, YOUR HONOR. THE DEFENDANT WOULD
14 REST.

15 THE COURT: ALL RIGHT. AND WE'RE GOING TO PROCEED
16 FORWARD WITH CLOSING ARGUMENTS. MS. PARR, YOU UNDERSTAND
17 YOU'RE GOING FIRST?

18 MS. PARR: YES, YOUR HONOR.

19 THE COURT: VERY GOOD. ALL RIGHT. WE'LL TAKE A BRIEF
20 RECESS. WE'LL COME BACK. WE'LL TAKE ABOUT A 5-MINUTE
21 RECESS. WE'LL COME BACK FOR CLOSING ARGUMENTS.

22 (A RECESS WAS TAKEN.)

23 THE COURT: WE'RE READY FOR THE JURY.

24 (THE JURY RETURNS TO THE COURTROOM AT 3:50 P.M.)

25 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF

1 THE JURY, THE STATE HAS RESTED AND AT THIS TIME I WILL
2 RECOGNIZE THE DEFENDANT.

3 MR. MEETZE: I'M SORRY, YOUR HONOR. THE DEFENSE RESTS
4 AT THIS POINT IN TIME.

5 THE COURT: VERY GOOD. ALL RIGHT. WE'RE READY TO
6 PROCEED FORWARD WITH CLOSING ARGUMENTS.

7 LADIES AND GENTLEMEN OF THE JURY, AS I MENTIONED IN MY
8 OPENING COMMENTS TO YOU, WE'VE TAKEN ALL OF THE EVIDENCE IN
9 THIS CASE, AND WE'RE AT THE JUNCTURE IN THE TRIAL WHERE
10 WE'RE GOING TO HAVE CLOSING ARGUMENTS. AND THE LAWYERS ARE
11 GOING TO HAVE AN OPPORTUNITY TO POINT OUT EVIDENCE THAT
12 SUPPORTS THEIR RELATIVE POSITIONS.

13 WHAT THEY SAY IS NOT EVIDENCE, BUT IT'S VERY IMPORTANT
14 FOR YOU TO PAY ATTENTION. IT WILL AID YOU IMMENSELY IN
15 YOUR DELIBERATION PROCESS. SO PAY VERY CLOSE ATTENTION TO
16 THAT.

17 MS. PARR, YOU'RE RECOGNIZED.

18 MS. PARR: MAY IT PLEASE THE COURT AND MR. MEETZE.
19 CLOSING ARGUMENTS BY MS. PARR ON BEHALF OF THE STATE:

20 LADIES AND GENTLEMEN OF THE JURY, AT THE BEGINNING OF
21 THE TRIAL I TOLD YOU THAT WE WOULD BE TRYING THE CASE
22 AGAINST THE DEFENDANT FOR TRAFFICKING IN COCAINE BASE, ALSO
23 KNOWN AS CRACK, BETWEEN 10 GRAMS AND 28 GRAMS.

24 I ALSO TOLD YOU THAT WE WOULD PRESENT CERTAIN EVIDENCE
25 AND THAT EVIDENCE WOULD COME BY WAY OF TESTIMONY AND ALSO

1 PHYSICAL EVIDENCE THAT WAS ENTERED INTO EVIDENCE.

2 WE BELIEVE THE EVIDENCE HAS SHOWN THAT ON NOVEMBER 14,
3 2007 OFFICERS FROM THE SPECIAL INVESTIGATION UNIT OF THE
4 FLORENCE POLICE DEPARTMENT EXECUTED A LAWFUL SEARCH WARRANT
5 ON SANBORNE STREET, WHICH WAS DETERMINED TO BE THE
6 RESIDENCE OF THE DEFENDANT, ANTHONY TYRONE WILLIAMSON.

7 WE BELIEVE THE EVIDENCE HAS SHOWN THAT WHEN THEY
8 APPROACHED THAT HOME TO EXECUTE THE WARRANT, THEY KNOCKED
9 ON THE DOOR AND RANG THE DOORBELL. AND WHEN NO ONE CAME TO
10 THE DOOR, THEY FORCEFULLY ENTERED THE RESIDENCE AND
11 OBSERVED THE DEFENDANT COMING OUT OF THE BACK OF THE HOUSE
12 DOWN THE HALLWAY.

13 WE ALSO BELIEVE THE EVIDENCE HAS SHOWN THAT THE
14 DEFENDANT WAS ADVISED THAT THERE WAS IN FACT A SEARCH
15 WARRANT FOR THE HOME, THAT HE WAS TAKEN INTO THE LIVING
16 ROOM ALONG WITH ANOTHER PERSON WHO WAS AT THE HOME, WHICH
17 HAD BEEN IDENTIFIED AS HIS GIRL FRIEND.

18 WE BELIEVE THE EVIDENCE HAS SHOWN THAT AGENT NIDA
19 ADVISED THE DEFENDANT OF HIS MIRANDA WARNINGS. AND UPON
20 BEING GIVEN THOSE WARNINGS, HE INDICATED THAT HE WANTED TO
21 COOPERATE. IN FACT, ONCE THE OTHER OFFICERS WENT INTO HIS
22 ROOM -- THE ROOM THAT WAS IDENTIFIED AS HIS, THEY FOUND
23 WHAT WAS BELIEVED TO BE TWO BAGGIES OF COCAINE BASE IN A
24 FLASHLIGHT THAT WAS ON HIS BED.

25 WE BELIEVE THE EVIDENCE HAS SHOWN THAT WHEN THAT

1 EVIDENCE WAS FOUND OR THAT COCAINE BASE WAS FOUND, THAT
2 FLASHLIGHT WAS SHOWN TO THE DEFENDANT AND THE OFFICER TOLD
3 HIM THAT -- HE ASKED TO USE THE FLASHLIGHT. AND WHEN IT
4 WOULD NOT WORK, OPENED IT UP AND SHOWED HIM THE COCAINE
5 BASE THAT WAS FOUND IN THERE.

6 WE ALSO BELIEVE THE EVIDENCE HAS SHOWN THAT AFTER
7 THAT, THE DEFENDANT VOLUNTARILY TOLD THE OFFICERS THAT HE
8 HAD MORE COCAINE BASE -- OR THAT THERE WAS MORE COCAINE
9 BASE IN THE BEDROOM. AND, IN FACT, HE TOOK THEM AND SHOWED
10 THEM SPECIFICALLY WHERE IT WAS.

11 NOW, WHEN WE TALK ABOUT THE BEDROOM OF THAT HOUSE, I
12 BELIEVE THE EVIDENCE HAS SHOWN THAT THERE WERE THREE
13 BEDROOMS OF THE HOUSE, NOT EXTREMELY LARGE HOUSE. AND THE
14 DEFENDANT'S BEDROOM WAS SOMEWHAT UNIQUE FROM THE OTHER TWO.
15 ALL THE OTHER BEDROOMS HAD DOORS WITH YOUR NORMAL LOCKS ON
16 YOUR DOOR. BUT DEFENDANT'S BEDROOM HAD A PADLOCK ON IT.
17 AT THE TIME THE OFFICERS WENT IN, IT WAS OPEN, BUT IT AS
18 THEY SAID IN THEIR TESTIMONY, THE DEFENDANT HAD BEEN COMING
19 FROM THAT PARTICULAR AREA. AND IT APPEARED THAT HE HAD
20 JUST -- HE HAD BEEN ASLEEP AND HAD JUST WOKEN UP.

21 AND AS I SAID BEFORE, THAT WAS THE ONLY ROOM WITH A
22 PADLOCK OR A LOCK ON THE DOOR.

23 WE ALSO BELIEVE THE EVIDENCE HAS SHOWN THAT THE
24 DEFENDANT HAD NUMEROUS CASSETTE TAPES IN HIS STEREO SYSTEM
25 IN HIS BEDROOM, AND THAT HE SPECIFICALLY TOOK THE OFFICERS

1 TO THE CASSETTE THAT HAD THE CRACK COCAINE. AND I BELIEVE
2 AS IT WAS TESTIFIED TO THAT, BECAUSE OF THE NUMEROUS
3 CASSETTES, THE OFFICERS SAID THEY MAY HAVE OVERLOOKED IT
4 HAD IT NOT BEEN FOR THE DEFENDANT TO INDICATE WHICH ONE IT
5 WAS.

6 WE BELIEVE ONCE THAT EVIDENCE WAS OBTAINED, IT WAS
7 SENT TO SLED. THE TESTIMONY INDICATES THAT IT WAS PACKAGED
8 PROPERLY, THAT IT WAS SECURED. AND WHEN MS. BETH HOOVER
9 TOOK IT OUT OF HER LOCKER IN WHICH TO ANALYZE IT,
10 EVERYTHING WAS INTACT. SHE ANALYZED IT USING SEVERAL
11 DIFFERENT TESTS AND CONFIRMED THAT IT WAS IN FACT CRACK
12 COCAINE.

13 WE ALSO BELIEVE THE EVIDENCE HAS SHOWN THAT SHE
14 WEIGHED IT -- EACH OF THE THREE DIFFERENT BAGGIES AND CAME
15 UP A COMPOSITE WEIGHT OF 13.94 GRAMS, WHICH CLEARLY FALLS
16 BETWEEN THE 10 GRAMS AND 28 GRAMS.

17 WE BELIEVE THAT THAT CRACK COCAINE THAT WAS TAKEN FROM
18 THAT BEDROOM ON SANBORNE STREET WAS CLEARLY WITHIN THE
19 CONTROL OF THE DEFENDANT, AS HE INDICATED TO THE OFFICER.

20 NOW, WE WOULD ASK THAT YOU REVIEW ALL THE EVIDENCE YOU
21 HAVE HEARD IN THIS MATTER AND SEEN. AND ONCE YOU'VE HAD AN
22 OPPORTUNITY TO DO THAT, WE WOULD ASK THAT YOU FIND THE
23 DEFENDANT, ANTHONY TYRONE WILLIAMSON, GUILTY OF TRAFFICKING
24 IN COCAINE BASE 10 GRAMS TO 28 GRAMS -- BETWEEN 10 GRAMS
25 AND 28 GRAMS.

1 THANK YOU.

2 THE COURT: MR. MEETZE, YOU'RE RECOGNIZED.

3 MR. MEETZE: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
4 COURT AND MS. PARR.

5 CLOSING ARGUMENTS BY MR. MEETZE ON BEHALF OF THE DEFENDANT:

6 I TOLD YOU EARLIER THAT I'D BE BACK UP IN FRONT OF YOU
7 AGAIN AT THIS TIME AND ASK THAT YOU BRING BACK A VERDICT OF
8 NOT GUILTY IN THIS CASE, AND THAT'S EXACTLY WHAT I'M DOING.

9 MR. WILLIAMSON HAS BEEN CHARGED WITH TRAFFICKING IN
10 CRACK COCAINE. AND YOU HAVE BEEN TOLD A LITTLE BIT ABOUT
11 THAT.

12 THE JUDGE IS GOING TO INSTRUCT YOU ON THE LAW WITH
13 REGARD TO THAT CHARGE. AND WHATEVER HE INSTRUCTS YOU IS
14 WHAT YOU USE, OBVIOUSLY, IN YOUR DELIBERATIONS WHEN YOU ARE
15 APPLYING IT TO THE FACTS AS YOU BELIEVE IT TO BE, TO THE
16 LAW THE JUDGE CHARGES THEM.

17 AND MR. WILLIAMSON IS CHARGED WITH TRAFFICKING IN AN
18 AMOUNT BETWEEN 13 GRAMS -- EXCUSE ME, BETWEEN 10 AND 28
19 GRAMS. THAT'S CALLED A THRESHOLD LEVEL OR AN INFERENCE
20 LEVEL. OKAY? AN INFERENCE LEVEL ESSENTIALLY MEANS -- AND,
21 AGAIN, I BELIEVE YOU'LL BE INSTRUCTED TO THIS AS WELL. BUT
22 AN INFERENCE LEVEL BASICALLY MEANS -- IT'S LIKE THE DUI
23 LAW. .08 BLOOD ALCOHOL CONTENT IS AN INFERENCE -- CREATES
24 AN INFERENCE THAT SOMEBODY'S DRIVING ABILITY HAS BEEN
25 IMPAIRED MENTALLY OR PHYSICALLY -- THEIR FACULTIES. IT

1 DOESN'T MEAN THAT THEY HAVE TO BE FOUND TO HAVE BEEN
2 IMPAIRED, JUST MEANS THAT THEY CAN.

3 WELL, IT'S THE SAME THING WITH THE DRUG CODE ON
4 INFERENCE LEVELS. SOMEBODY FOUND TO BE IN POSSESSION OF 10
5 TO 28 GRAMS OR MORE THAN 10 GRAMS OF CRACK COCAINE CAN BE
6 INFERRED THAT THEY'RE TRAFFICKING. BUT IT DOESN'T HAVE TO
7 BE.

8 AND THE SOLICITOR AND EVERYBODY THAT WANTS YOU TO
9 THINK THAT TRAFFICKING, YOU KNOW, MEANS A WHOLE BUNCH OF
10 DRUGS, BUT IT'S NOT THE CASE. AND YOU'LL GET TO SEE IT,
11 IT'S THIS MUCH DRUGS. YOU'LL HAVE THIS BACK THERE AND
12 YOU'LL GET TO SEE. AND EVEN THE OFFICERS THAT TESTIFIED --
13 SEVERAL OF THEM. I DON'T KNOW IF ALL THREE OF THEM
14 TESTIFIED THIS WAY, BUT AT LEAST A COUPLE OF THEM DID.
15 REFERRED TO WHEN THEY FOUND THE SUBSTANCE IN THE
16 FLASHLIGHT, THEY FOUND JUST A SMALL AMOUNT OF WHAT WE
17 BELIEVE TO BE CRACK COCAINE THERE. THEN WE OPEN THIS
18 CASSETTE TAPE BOX, FOUND THIS SMALL AMOUNT.

19 IT WAS ALWAYS REFERRED TO AS A SMALL AMOUNT. THERE'S
20 NO INTENT TO DO ANY TRAFFICKING IN THIS CASE. THERE'S BEEN
21 NO EVIDENCE PRESENTED OF ANY INTENT TO DO ANY TRAFFICKING
22 IN THIS CASE. AND WITHOUT THAT SIMPLY FINDING SOMEBODY
23 GUILTY BECAUSE THEY HAD A CERTAIN AMOUNT, I WOULD SUBMIT TO
24 YOU WOULD BE INAPPROPRIATE IN THIS CASE.

25 AND, AGAIN, THERE'S NO EVIDENCE OF ANY LARGE AMOUNTS

1 OF MONEY. THEY BROUGHT THIS SAFE OR WHATEVER IT IS INTO
2 THE COURTROOM AND PRESENTED IT AS EVIDENCE, BUT THERE WAS
3 NOTHING IN THERE. IF THEY HAD FOUND STACKS AND STACKS OF
4 MONEY IN THERE, YOU KNOW, CERTAINLY THAT WOULD HAVE BEEN
5 EVIDENCE TO INDICATE AN INTENT TO TRAFFIC IN NARCOTICS.
6 THERE'S NO EVIDENCE LIKE THAT FOUND.

7 IN FACT, THERE'S NO TESTIMONY THAT ANY AMOUNT OF MONEY
8 WAS FOUND ANYWHERE IN THE HOUSE, AND ALL THE BEDROOMS WERE
9 SEARCHED.

10 SO WITH THAT BEING THE CASE, I WOULD SUBMIT TO YOU
11 THAT THE EVIDENCE OF TRAFFICKING IN CRACK COCAINE IS
12 INSUFFICIENT AND CREATES REASONABLE DOUBT, AND WOULD ASK
13 THAT HE BE FOUND NOT GUILTY OF THAT CHARGE.

14 I WOULD ALSO SAY TO YOU THAT IT CAN'T BE OVERLOOKED.
15 THERE'S ALSO EVIDENCE IN THIS CASE THAT MR. WILLIAMSON IS
16 NOT THE ONLY PERSON THAT LIVED THERE. ALL RIGHT. DON'T
17 KNOW WHO THE LAST PERSON WAS. HIS MOTHER LIVED THERE.
18 SOMEBODY ELSE LIVED THERE, BUT WE DON'T KNOW WHO THAT IS,
19 DON'T KNOW ANYTHING ABOUT THAT PERSON.

20 THE FACT THAT WE DON'T KNOW WHO THAT IS, WE DON'T KNOW
21 ANYTHING ABOUT THAT PERSON, CREATES A REASONABLE DOUBT.
22 THE GUY COULD BE A DRUG KINGPIN OF THE WORLD. WE DON'T
23 KNOW. COULD BE THE NICEST GUY IN THE WORLD. WE DON'T KNOW
24 THAT EITHER, BECAUSE THERE WASN'T ANY INVESTIGATION IN
25 REGARDS TO THAT; THAT'S EVIDENCE THAT YOU'RE ENTITLED TO

1 HEAR AND YOU WEREN'T ABLE TO HEAR IT.

2 THAT'S PART OF THE STATE'S BURDEN TO PROVE TO YOU
3 BEYOND A REASONABLE DOUBT THAT SOMEBODY IS GUILTY OF THE
4 CRIME, BUT THEY DIDN'T PRESENT THAT TO YOU AND YOU DESERVE
5 TO HEAR THAT. YOU DIDN'T GET TO, UNFORTUNATELY.

6 BUT IN DOING SO WHAT THE STATE IS ASKING YOU TO DO IS;
7 I UNDERSTAND IT IS MY BURDEN TO PRESENT TO YOU ALL THIS
8 EVIDENCE SO THAT YOU WOULD HAVE A CLEAR PICTURE OF WHAT
9 HAPPENED, AND I UNDERSTAND THAT THEY DIDN'T DO THAT IN THIS
10 CASE, BUT I'M GOING TO ASK YOU TO FORGIVE ME THIS ONE TIME
11 AND STILL FIND HIM GUILTY. BUT THAT'S NOT WHAT IT'S ABOUT.
12 BEYOND A REASONABLE DOUBT IS JUST THAT. AND WHEN THERE'S
13 EVIDENCE THAT YOU DIDN'T GET TO CONSIDER, THAT RAISES A
14 REASONABLE DOUBT.

15 AND I WOULD ASK YOU BASED ON THAT TO FIND HIM NOT
16 GUILTY AS WELL.

17 AND MS. PARR INDICATED IN HER CLOSING ARGUMENT AND THE
18 TESTIMONY ON THE STAND WAS THAT ALL OF THIS STUFF WAS FOUND
19 IN HIS BEDROOM. WELL, THAT DOESN'T NECESSARILY MEAN
20 THEY'RE HIS.

21 CERTAINLY -- I LIVE BY MYSELF NOW, BUT I USED TO LIVE
22 WITH MY FAMILY MEMBERS AND THINGS LIKE THAT. THERE'S
23 THINGS IN THE HOUSE WHEN I LIVED WITH MY FAMILY THAT I KNEW
24 THEIR LOCATION, KNEW WHERE THEY WERE, COULD FIND THEM.
25 THEY WEREN'T MINE.

1 YOU KNOW, YOU'VE GOT TO PROVE MORE THAN KNOWLEDGE IN
2 ORDER FOR SOMEBODY TO BE FOUND IN CONSTRUCTIVE POSSESSION.

3 NOW, I WILL START OVER WITH THAT. THERE'S TWO WAYS TO
4 BE IN POSSESSION OF SOMETHING LEGALLY. ONE WOULD BE TO BE
5 IN ACTUAL PHYSICAL POSSESSION. THESE ARE MY CAR KEYS,
6 THEY'RE IN MY HAND OR THEY'RE IN MY POCKET. I'M IN ACTUAL
7 PHYSICAL POSSESSION OF THESE CAR KEYS. OBVIOUSLY, THAT'S
8 LEGAL POSSESSION.

9 I'M NO LONGER IN ACTUAL PHYSICAL POSSESSION OF MY CAR
10 KEYS. THEY'RE SITTING RIGHT THERE ON THIS TABLE, BUT
11 THEY'RE STILL MINE. I STILL HAVE THE RIGHT TO DOMINION AND
12 CONTROL OVER THOSE KEYS. AND THAT'S CONSTRUCTIVE
13 POSSESSION.

14 THIS IS OBVIOUSLY A CONSTRUCTIVE POSSESSION CASE
15 BECAUSE MR. WILLIAMSON WASN'T FOUND IN ACTUAL PHYSICAL
16 POSSESSION OF ANYTHING.

17 AND THOUGH THESE SUBSTANCES WERE FOUND IN HIS BEDROOM,
18 THERE WERE OTHER PEOPLE THAT LIVED IN THE HOUSE. IT'S NOT
19 UNREASONABLE TO BELIEVE THAT IF SOME OTHER PERSON STAYED OR
20 LIVED IN THAT HOUSE WANTED TO HIDE SOMETHING, THEY WOULD
21 HIDE IT SOMEWHERE OTHER THAN THEIR OWN BEDROOM, MAYBE IN
22 SOMEBODY ELSE'S BEDROOM.

23 SIMILARLY, THAT'S NOT AN UNREASONABLE THING TO
24 BELIEVE. AND I WOULD SUBMIT TO YOU THAT'S VERY POSSIBLE IN
25 THIS CASE.

1 AND THE FACT THAT THAT'S VERY POSSIBLE IN THIS CASE
2 CREATES A REASONABLE DOUBT. AND BASED ON THAT REASONABLE
3 DOUBT I WOULD ALSO ASK YOU TO FIND HIM NOT GUILTY IN THAT
4 INSTANCE, FOR THOSE REASONS.

5 OTHER THINGS THAT -- THERE'S BEEN AN ATTEMPT TO MAKE
6 IT MORE IMPORTANT THAN IT REALLY IS AS FAR AS EVIDENCE
7 GOES. THE FIRST ONE I MENTIONED WAS THIS SAFE. OKAY.
8 THAT'S ALL IT IS. THERE WAS NOTHING FOUND IN IT, ON IT.
9 THERE'S NO OTHER EVIDENTIARY VALUE THAT CAN BE GLEANED FROM
10 THIS PIECE OF EVIDENCE IN REGARDS TO THIS CASE, IN REGARDS
11 TO A TRAFFICKING CHARGE AGAINST MR. WILLIAMSON.

12 ALSO, THE FACT THAT THERE WAS A PADLOCK ON HIS DOOR.
13 OKAY. IT WASN'T LOCKED AT THE TIME THE OFFICERS WERE
14 THERE, AND THERE'S NO WAY OF KNOWING AND THERE'S NO
15 TESTIMONY TO KNOW WHAT HIS PRACTICE WAS WITH REGARDS TO
16 LOCKING THAT DOOR. AND SO THERE'S NOTHING FROM THAT
17 STANDPOINT -- WE DON'T KNOW. IF IT'S NOT IN EVIDENCE,
18 THEN IT'S JUST NOT ABLE TO BE CONSIDERED IN REGARDS TO
19 THE CASE.

20 LADIES AND GENTLEMEN, I APPRECIATE YOU LISTENING TO
21 ME. I APPRECIATE YOUR CONSIDERATION OF ALL THE EVIDENCE.
22 AND, AGAIN, WOULD ASK YOU BASED ON THAT EVIDENCE TO FIND
23 MR. WILLIAMSON NOT GUILTY.

24 THANK YOU.

25 THE COURT: THANK YOU, MR. MEETZE.

1 CHARGE OF THE COURT:

2 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
3 WE'VE HEARD ALL THE TESTIMONY IN THIS CASE. WE'VE HEARD
4 THE CLOSING ARGUMENTS. NOW IT'S MY DUTY TO CHARGE YOU THE
5 LAW. THIS IS A VERY IMPORTANT CASE. IT'S IMPORTANT TO THE
6 STATE OF SOUTH CAROLINA. IT'S IMPORTANT TO THE DEFENDANT.
7 AND YOU HAVE TAKEN A VERY SOLEMN OATH TO PAY ATTENTION TO
8 THE FACTS AS IT COMES FROM THE WITNESS STAND AND APPLY IT
9 TO THE LAW.

10 I KNOW THAT YOU ALL HAVE PAID VERY CLOSE ATTENTION TO
11 THE TESTIMONY, BECAUSE I'VE WATCHED YOU. YOU ALL HAVE BEEN
12 PAYING ATTENTION.

13 IN ORDER FOR YOU TO COMPLETE YOUR VERY SOLEMN OATH,
14 YOU NEED TO PAY ATTENTION TO THE LAW. AND THERE'S NO REAL
15 EASY WAY TO DO THAT. IT'S KIND OF LIKE TAKING MEDICINE.
16 I'M GOING TO DO MY VERY BEST TO EXPLAIN THE LAW TO YOU.
17 I'M GOING TO ASK YOU TO PERK UP, SIT ON THE EDGE OF YOUR
18 CHAIR. I KNOW IT'S LATE IN THE AFTERNOON. I WANT YOU ALL
19 TO PAY ATTENTION. THIS IS IMPORTANT STUFF. WE NEED TO
20 PROCEED FORWARD WITH A SERIOUS MIND.

21 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, THE
22 INDICTMENT CHARGES THE DEFENDANT WITH TRAFFICKING IN CRACK
23 COCAINE, COCAINE BASE. I REMIND YOU THAT THE FACT THAT THE
24 DEFENDANT WAS ARRESTED, CHARGED, AND INDICTED IN THIS CASE
25 IS NOT EVIDENCE IN THIS CASE, CANNOT BE CONSIDERED BY YOU

1 AS EVIDENCE OF GUILT IN THIS CASE. NOR DOES IT CREATE ANY
2 PRESUMPTION OR INFERENCE OF GUILT. THIS DOCUMENT IS SIMPLY
3 THE FORMAL WRITTEN INSTRUMENT WHICH CONTAINS A CHARGE MADE
4 AGAINST THE DEFENDANT. IT'S A FORMAL DOCUMENT BY WHICH
5 THIS CASE IS BROUGHT IN TO THIS COURT.

6 LADIES AND GENTLEMEN OF THE JURY, THE DEFENDANT HAS
7 PLED NOT GUILTY TO THIS INDICTMENT. AND THAT PLEA PUTS THE
8 BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY.

9 A PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN
10 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF INNOCENT.

11 I CHARGE YOU THAT AS AN IMPORTANT RULE OF THE LAW THAT
12 THE DEFENDANT IN A CRIMINAL TRIAL NO MATTER WHAT THE
13 SERIOUSNESS OF THE CHARGE MAY BE WILL ALWAYS BE PRESUMED TO
14 BE INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS
15 ISSUED UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING
16 YOU OF THAT GUILT BEYOND A REASONABLE DOUBT.

17 THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU
18 BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANT
19 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF GUILTY
20 BASED ON EVIDENCE CONVINCING YOU OF THAT GUILT BEYOND A
21 REASONABLE DOUBT.

22 PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
23 RIGHTEOUSNESS ABOUT THE SHOULDERS OF THE DEFENDANT WHICH
24 REMAINS WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM
25 THE DEFENDANT BY EVIDENCE SATISFYING YOU OF THE DEFENDANT'S

1 GUILT BEYOND A REASONABLE DOUBT.

2 THE PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL
3 THEORY. IT'S NOT JUST A LEGAL PHRASE. IT IS A SUBSTANTIAL
4 RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU THE
5 JURY ARE SATISFIED FROM EVIDENCE OF THE DEFENDANT'S GUILT
6 BEYOND A REASONABLE DOUBT.

7 LADIES AND GENTLEMEN OF THE JURY, WHAT IS REASONABLE
8 DOUBT IN THE LAW? A REASONABLE DOUBT IS THE KIND OF DOUBT
9 THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

10 ALTERNATIVELY, IT'S BEEN DEFINED THE STATE HAS THE
11 BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE
12 DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL
13 CASES WHERE YOU ARE TOLD THAT IT IS ONLY NECESSARY TO PROVE
14 THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY A
15 GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE.

16 IN CRIMINAL CASES THE STATE MUST PROVE -- THE PROOF
17 MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A
18 REASONABLE DOUBT.

19 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES
20 YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE
21 VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE
22 CERTAINTY. AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE
23 PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.

24 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE
25 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME

1 CHARGED, YOU MUST FIND THE DEFENDANT GUILTY.

2 IF ON THE OTHER HAND YOU THINK THERE IS A REAL
3 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE
4 THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT
5 GUILTY.

6 LADIES AND GENTLEMEN OF THE JURY, I REMIND YOU THAT
7 DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES TO PERFORM.
8 AS A TRIAL JUDGE IT IS MY RESPONSIBILITY TO PRESIDE OVER
9 THE TRIAL OF THIS CASE. I ALSO HAVE THE DUTY TO RULE ON
10 ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL.

11 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE
12 YOU.

13 LADIES AND GENTLEMEN OF THE JURY, THERE WAS TESTIMONY
14 ORDERED STRICKEN FROM THE RECORD OF THIS CASE DURING THIS
15 TRIAL. YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO
16 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM
17 THIS WITNESS STAND AND EXHIBITS WHICH HAVE BEEN MADE A PART
18 OF THIS RECORD AND ANY STIPULATIONS OF COUNSEL.

19 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
20 APPLICABLE TO THIS CASE.

21 AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW
22 IN THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND
23 APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY
24 HAVE AN IDEA AS TO WHAT THE LAW IS AND WHAT THE LAW OUGHT
25 TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE

1 LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO
2 ACCEPT AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

3 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE
4 JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN
5 THE CASE.

6 A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR
7 MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A
8 CASE.

9 SINCE YOU THE JURY ARE THE SOLE JUDGE OF THE FACTS IN
10 THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID
11 DURING THE PROGRESS OF THIS TRIAL IN RULING ON THE
12 ADMISSIBILITY OF EVIDENCE OR OTHERWISE OR ANYTHING THAT I
13 SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU THAT I
14 HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW
15 DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN
16 THIS CASE. THIS IS A MATTER SOLELY FOR YOU THE JURY TO
17 DETERMINE.

18 AS JURORS IT IS YOUR DUTY TO DETERMINE THE EFFECT,
19 VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING
20 THIS TRIAL.

21 LADIES AND GENTLEMEN OF THE JURY, THERE ARE TWO TYPES
22 OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL,
23 DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

24 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON THAT
25 CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN

1 EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES
2 THE MAIN FACT TO BE PROVED.

3 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS
4 AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT
5 IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS
6 FROM WHICH THE MAIN FACTS MAY BE INFERRED.

7 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT
8 ON PERSONAL KNOWLEDGE OR OBSERVATION.

9 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
10 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
11 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF
12 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
13 DIRECT EVIDENCE.

14 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE.
15 AFTER WEIGHING ALL OF THE EVIDENCE IF YOU ARE NOT CONVINCED
16 OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT,
17 YOU MUST FIND THE DEFENDANT NOT GUILTY.

18 NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF
19 WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY
20 SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS
21 TO ANALYZE AND EVALUATE THE EVIDENCE AND DETERMINE WHICH
22 EVIDENCE CONVINCES YOU OF ITS TRUTH.

23 IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE
24 TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER
25 SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS.

1 YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS
2 AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME
3 WITNESS.

4 YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS
5 ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS
6 ENTIRETY.

7 YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO
8 YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS
9 CASE.

10 YOU MAY ALSO CONSIDER THE APPEARANCE, THE MANNER OF
11 THE WITNESS WHILE ON THE WITNESS STAND, THEIR DEMEANOR.

12 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
13 WITNESSES TO TESTIFY AS TO OPINIONS OR CONCLUSIONS. THE
14 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL EXPERT
15 WITNESSES. A WITNESS WHO BY EDUCATION AND EXPERIENCE HAS
16 BECOME EXPERT IN SOME ART, SCIENCE, OR PROFESSION, OR
17 CALLING MAY STATE AN OPINION AS TO RELEVANT, MATERIAL
18 MATTER IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT MAY ALSO
19 STATE THE REASONS FOR THE OPINION.

20 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN TO
21 EVIDENCE IN THIS CASE LIKE ANY OTHER EVIDENCE, GIVE IT THE
22 WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE
23 OPINION OF AN EXPERT IS NOT BASED ON SUFFICIENT EDUCATION
24 OR EXPERIENCE OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN
25 SUPPORT OF THE OPINION ARE NOT SOUND, THAT THE OPINION IS

1 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION
2 ENTIRELY.

3 THE EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO
4 GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE
5 THE WITNESS IS AN EXPERT.

6 FURTHER, YOU ARE NOT TO REQUIRE -- YOU'RE NOT REQUIRED
7 TO ACCEPT AN EXPERT'S OPINION EVEN THOUGH IT IS NOT
8 CONTRADICTED.

9 UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA THE
10 DEFENDANT MAY BE TRIED EVEN IF THE DEFENDANT DOES NOT
11 ATTEND THE TRIAL. THE FACT THAT THE DEFENDANT IS NOT
12 PRESENT MAY NOT BE CONSIDERED AGAINST THE DEFENDANT IN ANY
13 MANNER WHATSOEVER.

14 MADAM FORELADY, I'M GOING TO ASK THAT YOU ENFORCE THAT
15 RULE OF LAW IN THE JURY ROOM. THAT CANNOT BE DISCUSSED IN
16 ANY WAY, SHAPE, OR FORM. I'M GOING TO ASK THAT YOU ENFORCE
17 THAT RULE.

18 FURTHER, I INSTRUCT YOU AND EMPHASIZE THAT THE FACT
19 THE DEFENDANT DID NOT TESTIFY IS NOT A FACTOR TO BE
20 CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATIONS AND IN
21 YOUR CONSIDERATION ON THE QUESTION OF THE GUILT OR THE
22 INNOCENCE OF THE DEFENDANT. IT MUST NOT BE CONSIDERED BY
23 YOU IN ANY MANNER WHATSOEVER. A DEFENDANT HAS A
24 CONSTITUTIONAL RIGHT TO REMAIN SILENT. AN ASSERTION OF
25 THIS RIGHT MUST NOT BE CONSIDERED BY YOU IN YOUR

1 DELIBERATIONS.

2 I REPEAT. UNDER YOUR OATH, YOU ARE TO DRAW NO
3 CONCLUSION WHATSOEVER FROM THE FACT THAT THE DEFENDANT IN
4 THIS CASE DID NOT TESTIFY. THE FACT THAT THIS DEFENDANT
5 DID NOT TESTIFY SHOULD NOT EVEN BE DISCUSSED IN THE JURY
6 ROOM.

7 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, I'M
8 GOING TO ASK THAT THE FORELADY ENFORCE THAT RULE; THAT'S
9 NOT EVEN TO BE DISCUSSED.

10 THE BURDEN OF PROOF AS I HAVE STATED TO YOU IS ON THE
11 STATE. THE DEFENDANT IS NOT REQUIRED TO PROVE HIS
12 INNOCENCE. THE BURDEN OF PROOF REMAINS ON THE STATE TO
13 PROVE GUILT BEYOND A REASONABLE DOUBT.

14 LADIES AND GENTLEMEN OF THE JURY, A STATEMENT ALLEGED
15 TO HAVE BEEN MADE BY THE DEFENDANT HAS BEEN ADMITTED INTO
16 EVIDENCE IN THIS CASE. WHILE THIS COURT HAS DETERMINED
17 THAT THE STATEMENT IS ADMISSIBLE, I INSTRUCT YOU THAT YOU
18 MAKE THE ULTIMATE DECISION OF WHETHER OR NOT THE DEFENDANT
19 MADE THE STATEMENT.

20 IF THE DEFENDANT DID MAKE THE STATEMENT, YOU MUST
21 DETERMINE WHETHER THE STATEMENT WAS MADE BY THE DEFENDANT
22 VOLUNTARILY, OF HIS OWN FREE WILL. THIS MEANS THAT THE
23 STATEMENT WAS NOT CAUSED BY PRESSURE, FORCE, FEAR, THREATS,
24 COERCION, OR INTIMIDATION, BY HOPE, OR PROMISE OF LENIENCY,
25 OR A REWARD OF ANY KIND.

1 IN DETERMINING WHETHER THE STATEMENT WAS VOLUNTARY,
2 YOU MUST CONSIDER BOTH THE CHARACTERISTICS OF THE DEFENDANT
3 AND THE DETAILS OF THE QUESTIONING. SOME OF THE FACTORS
4 YOU MUST CONSIDER ARE: THE AGE OF THE DEFENDANT, THE
5 DEFENDANT'S EDUCATION OR LACK OF EDUCATION, THE DEFENDANT'S
6 MENTAL ABILITY OR CAPACITY, THE DEFENDANT'S I.Q. OR
7 INTELLIGENCE, THE DEFENDANT'S BACKGROUND AND ENVIRONMENT,
8 PLACE AND LENGTH OF DETENTION, THE NATURE OF QUESTIONING,
9 ADVICE OR LACK THEREOF TO THE DEFENDANT OF HIS
10 CONSTITUTIONAL RIGHTS INCLUDED BUT NOT LIMITED TO THE RIGHT
11 TO REMAIN SILENT, THAT ANY STATEMENT COULD BE USED AGAINST
12 HIM IN A COURT OF LAW, THE RIGHT TO HAVE A LAWYER PRESENT.
13 IF HE COULD NOT AFFORD A LAWYER, A LAWYER WOULD BE
14 APPOINTED TO REPRESENT HIM WITHOUT ANY COST, THAT HE COULD
15 STOP MAKING A STATEMENT AT ANY TIME.

16 YOU MUST CAREFULLY CONSIDER ALL THE SURROUNDING
17 CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO AN ALLEGED
18 STATEMENT.

19 THE STATE HAS THE BURDEN OF PROVING BEYOND A
20 REASONABLE DOUBT THAT THE ALLEGED STATEMENT WAS VOLUNTARY.
21 IF YOU DETERMINE IT WAS, YOU MAY GIVE THE STATEMENT ANY
22 FURTHER CONSIDERATION THAT YOU DEEM PROPER.

23 YOU MUST DECIDE WHAT WEIGHT IF ANY SHOULD BE GIVEN TO
24 THE ALLEGED STATEMENT.

25 IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT A FREE

1 AND VOLUNTARY STATEMENT OF THE DEFENDANT, YOU SHOULD NOT
2 CONSIDER THE STATEMENT AT ALL.

3 I'M GOING TO DEFINE FOR YOU THE SUBSTANCE OF LAW WITH
4 REGARD TO TRAFFICKING IN CRACK COCAINE OR COCAINE BASE.
5 AND I USE THOSE TERMS INTERCHANGEABLE, CRACK COCAINE,
6 COCAINE BASE, THE SAME THING.

7 THE DEFENDANT IS CHARGED WITH TRAFFICKING IN CRACK
8 COCAINE.

9 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
10 THE DEFENDANT KNOWINGLY SOLD, MANUFACTURED, CULTIVATED,
11 DELIVERED, PURCHASED, BROUGHT INTO THIS STATE, PROVIDED
12 FINANCIAL ASSISTANCE, OR OTHERWISE AIDED, ABETTED,
13 ATTEMPTED OR CONSPIRED TO SELL, MANUFACTURER, CULTIVATE,
14 DELIVER, PURCHASE, OR BRING INTO THIS STATE, WAS KNOWINGLY
15 IN ACTUAL OR CONSTRUCTIVE POSSESSION, KNOWINGLY ATTEMPTED
16 TO BECOME IN ACTUAL OR CONSTRUCTIVE POSSESSION OF CRACK
17 COCAINE.

18 LADIES AND GENTLEMEN, FOR THE PURPOSES OF THIS
19 STATUTE, I'M GOING TO DEFINE WHAT POSSESSION MEANS. TO
20 PROVE POSSESSION THE STATE MUST PROVE BEYOND A REASONABLE
21 DOUBT THAT THE DEFENDANT HAD BOTH POWER AND INTENT TO
22 CONTROL THE DISPOSITION OR USE OF THE CRACK COCAINE.

23 POSSESSION MAY BE EITHER ACTUAL OR CONSTRUCTIVE.

24 ACTUAL POSSESSION MEANS THAT THE CRACK COCAINE WAS IN
25 THE ACTUAL PHYSICAL CUSTODY OF THE DEFENDANT.

1 CONSTRUCTIVE POSSESSION MEANS THE DEFENDANT HAD
2 DOMINION AND CONTROL OR THE RIGHT TO EXERCISE DOMINION OR
3 CONTROL OVER THE CRACK COCAINE ITSELF OR THE PROPERTY IN
4 WHICH THE CRACK COCAINE WAS FOUND.

5 MERE PRESENCE AT THE SCENE WHERE DRUGS WERE FOUND IS
6 NOT ENOUGH TO PROVE POSSESSION. ACTUAL KNOWLEDGE OF THE
7 PRESENCE OF THE CRACK COCAINE IS STRONG EVIDENCE OF THE
8 DEFENDANT'S INTENT TO CONTROL ITS DISPOSITION OR USE.

9 THE DEFENDANT'S KNOWLEDGE OF POSSESSION MAY BE
10 INFERRED WHEN A SUBSTANCE IS FOUND ON THE PROPERTY UNDER
11 THE DEFENDANT'S CONTROL.

12 HOWEVER, THIS INFERENCE IS SIMPLY AN EVIDENTIARY FACT
13 TO BE TAKEN INTO CONSIDERATION BY YOU, ALONG WITH OTHER
14 EVIDENCE IN THE CASE, TO BE GIVEN THE WEIGHT YOU DECIDE IT
15 SHOULD HAVE.

16 THE STATE MUST ALSO PROVE BEYOND A REASONABLE DOUBT
17 THE AMOUNT OF THE CRACK COCAINE WAS 10 GRAMS OR MORE, BUT
18 LESS THAN 28 GRAMS.

19 LADIES AND GENTLEMEN OF THE JURY, MERE PRESENCE AT THE
20 SCENE IS NOT SUFFICIENT TO PROVE SOMEONE GUILTY OF A CRIME.
21 THE DEFENDANT'S PRESENCE WHERE A CRIME IS BEING COMMITTED
22 OR MERE ASSOCIATION WITH A PERSON WHO COMMITS A CRIME DOES
23 NOT MAKE A DEFENDANT AN ACCOMPLICE OR AN AIDER OR ABETTER
24 OF THE PERSON COMMITTING THE CRIME.

25 THE BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT OF

1 THE CRIME CHARGED. IF YOU FIND AFTER REVIEWING ALL THE
2 EVIDENCE THE STATE HAS PROVED THE DEFENDANT WAS ONLY
3 PRESENT AT THE SCENE OF THE CRIME, THEY HAVE NOT PROVED
4 BEYOND A REASONABLE DOUBT ANY OTHER PARTICIPATION IN THE
5 CRIME, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.

6 THE LAW IS THAT PROOF OF ONE BEING AT THE SCENE OF A
7 CRIME IS NOT SUFFICIENT TO FIND SOMEONE GUILTY.

8 LADIES AND GENTLEMEN OF THE JURY, I'M GOING TO COME
9 FORWARD AND SHARE WITH YOU THE VERDICT FORM.

10 (PAUSE.)

11 MS. EADDY, IF YOU COULD, I'M GOING TO ASK YOU TO
12 STAND. I'M GOING TO GO OVER THIS FORM WITH YOU. THIS IS A
13 FORM THAT'S ENTITLED VERDICT, VERDICT FORM. STATE OF SOUTH
14 CAROLINA, COUNTY OF FLORENCE. STATE OF SOUTH CAROLINA
15 VERSUS ANTHONY TYRONE WILLIAMSON. IT'S GOT WE'RE IN THE
16 COURT OF GENERAL SESSIONS AND THE CASE NUMBER.

17 THE ONLY ONE COUNT THAT THEY HAVE ALLEGED HE IS GUILTY
18 OF IS TRAFFICKING IN COCAINE BASE. AND IT SAYS RIGHT HERE:
19 WE THE JURY UNANIMOUSLY FIND THE DEFENDANT NOT GUILTY OF
20 TRAFFICKING IN COCAINE OR WE THE JURY UNANIMOUSLY FIND THE
21 DEFENDANT GUILTY OF TRAFFICKING IN COCAINE BASE. A PLACE
22 FOR YOU TO SIGN. AND THERE'S A DATE AND YEAR.

23 YOUR VERDICT MUST BE UNANIMOUS. IT CAN'T BE 11 TO 1.
24 IT CAN'T BE 10 TO 2. 6 TO 6. YOU HAVE TO AGREE IN THAT
25 REGARD. YOU MAY HAVE A SEAT.

1 I DID WANT TO MENTION TOO, MADAM FORELADY, THAT YOU
2 ARE TO PRESIDE OVER THE DELIBERATION PROCESS. AND THAT
3 ESSENTIALLY MEANS THAT EVERYBODY'S VOICE IS HEARD.

4 IN ADDITION TO THAT, I WANT TO REEMPHASIZE THAT THE
5 VERDICT DOES INDEED HAVE TO BE UNANIMOUS.

6 SOMEONE MIGHT DURING THE DELIBERATION PROCESS GET UP
7 AND USE THE REST ROOM. I'M GOING TO ASK AND DIRECT THAT
8 YOU DISCONTINUE DELIBERATIONS UNTIL EVERYONE CAN
9 PARTICIPATE. EVERYONE HAS TO PARTICIPATE IN ALL THE
10 DELIBERATIONS.

11 THERE MIGHT COME A TIME WHERE THERE'S A QUESTION WITH
12 REGARD TO WHATEVER. I DON'T ANTICIPATE THAT BEING THE CASE
13 BECAUSE YOU ALL HAVE HEARD ALL OF THE EVIDENCE IN THIS
14 CASE, HEARD THE LAW AS I CHARGED IT TO YOU, YOU HAVE PAID
15 ATTENTION.

16 HOWEVER, IF THERE IS A QUESTION, WRITE IT DOWN ON A
17 PIECE OF PAPER AND YOU CAN SUBMIT IT TO ME. I'LL MAKE AN
18 EFFORT TO ANSWER IT.

19 I'LL TELL YOU FROM THE VERY OUTSET IS THE MOST
20 DIFFICULT QUESTIONS IN ANY TRIAL ARE FACTUAL QUESTIONS.
21 THOSE ARE THINGS THAT YOU ALL HAVE TO WRESTLE WITH. IF
22 IT'S A QUESTION WITH REGARD TO LAW, I CAN ANSWER THAT. IF
23 IT'S A QUESTION WITH REGARD TO A FINDING OF FACT, I CAN'T
24 ANSWER THAT; THAT'S YOUR PARAMETERS AS A JUROR.

25 IF THERE'S A QUESTION ABOUT WHATEVER THE NATURE OF THE

1 QUESTION IS, JUST ASK ME, AND IF I CAN ANSWER IT, I WILL.

2 I DON'T ANTICIPATE THERE WILL BE ANY QUESTIONS.

3 I DO WANT TO MENTION TOO THAT WHEN YOU REACH A
4 VERDICT, KNOCK ON THE DOOR AND NOTIFY THE BAILIFF. I'VE
5 HEARD TELL IN GREENVILLE, SOUTH CAROLINA THERE'S A JURY
6 THAT WAS LEFT IN THE JURY ROOM FOR THREE DAYS. NOBODY
7 KNOCKED ON THE DOOR.

8 SO WHEN YOU DO COMPLETE DELIBERATIONS, PLEASE LET THE
9 BAILIFF KNOW THAT YOU ARE COMPLETE, YOU HAVE FINISHED YOUR
10 DELIBERATION PROCESS.

11 THROUGHOUT THE TRIAL OF THIS CASE WHEN I'VE ASKED YOU
12 TO LEAVE THE COURTROOM, I HAVE TOLD YOU NOT TO BEGIN
13 DELIBERATIONS. ONCE AGAIN, I'M GOING TO ASK YOU NOT TO DO
14 THAT BECAUSE I'M GOING TO HAVE TO TALK TO THESE FINE
15 LAWYERS AND FIND OUT WHETHER OR NOT THERE'S AN OBJECTION TO
16 THE MANNER IN WHICH I'VE CHARGED YOU THE LAW, IF THERE'S AN
17 ADDITION IN THAT REGARD.

18 ADDITIONALLY, THERE'S BEEN SOME DOCUMENTARY EVIDENCE
19 THAT'S BEEN PRESENTED AS EVIDENCE, AND THAT'S GOING TO GO
20 BACK WITH YOU IN THE JURY ROOM. AND WE'RE GOING TO GO
21 THROUGH ALL OF THAT, MAKE SURE THAT EVERYTHING IS IN ORDER.

22 AND IF THERE IS NO REASON FOR ME TO BRING YOU BACK
23 INTO THE COURTROOM, I'M GOING TO ASK THE BAILIFF TO GET ALL
24 THE DOCUMENTARY EVIDENCE. THEY'LL GIVE YOU A BLANK PIECE
25 OF PAPER OR BLANK PAD WITH A PENCIL TO HELP YOU FOR

1 WHATEVER REASON YOU MIGHT HAVE, MAKE NOTES. AND THEN I
2 WILL TELL THE BAILIFF TO GIVE YOU INSTRUCTIONS TO BEGIN
3 DELIBERATIONS.

4 BUT DO NOT BEGIN DELIBERATIONS UNTIL THAT TIME.

5 I'M GOING TO ASK THAT YOU RETIRE TO THE JURY ROOM.
6 ONCE AGAIN, DO NOT BEGIN DISCUSSING THE CASE.

7 (THE JURY RETIRES TO THE JURY ROOM AT 4:25 P.M.)

8 THE COURT: ANY OBJECTION WITH REGARD TO THE JURY
9 CHARGE, MS. PARR?

10 MS. PARR: NO, YOUR HONOR.

11 THE COURT: ANY FROM DEFENSE?

12 MR. MEETZE: NO, YOUR HONOR.

13 THE COURT: WAS IT AN EXCEPTIONAL CHARGE, MS. PARR?

14 MS. PARR: ABSOLUTELY, OF COURSE.

15 THE COURT: ALL RIGHT. MR. MEETZE.

16 MR. MEETZE: I'M NOT SURE I'M GOING ON WITH
17 EXCEPTIONAL.

18 THE COURT: ALL RIGHT. VERY GOOD. I'M GOING TO ASK
19 MS. PARR TO COME FORWARD AND MR. MEETZE TO COME FORWARD. I
20 WANT YOU TO PUT ALL DOCUMENTARY EVIDENCE ON THAT TABLE AND
21 I WANT YOU TO ASSURE THAT EVERYTHING THAT'S GOING BACK TO
22 THE JURY ROOM IS IN EVIDENCE, THERE'S NOT ANYTHING THAT'S
23 GOING BACK THERE THAT'S NOT IN EVIDENCE.

24 (PAUSE.)

25 MR. MEETZE: SATISFIED, YOUR HONOR.

1 THE COURT: THERE ARE ONLY 3 ARTICLES IN EVIDENCE.

2 MS. PARR: YES, SIR.

3 THE COURT: ALL RIGHT. I'M GOING TO ASK THAT WE GET A
4 PAD AND PENCIL. WE'VE GOT THAT. LET THE LAWYERS LOOK AT
5 IT, MAKE SURE THERE'S NOT ANYTHING ON IT.

6 (PAUSE.)

7 THE COURT: ALL RIGHT. I'M GOING TO ASK THAT YOU TAKE
8 THE DOCUMENTARY EVIDENCE INTO THE JURY ROOM, AND, MADAM
9 CLERK. YOU MAY TELL THEM TO BEGIN DELIBERATIONS.

10 (VERDICT FORM AND EXHIBITS WERE SENT TO THE JURY TO
11 BEGIN DELIBERATIONS AT 4:27 P.M.)

12 (THE ALTERNATE JUROR ENTERS THE COURTROOM AND IS
13 EXCUSED.)

14 (THE COURT IS AT EASE AWAITING A VERDICT OF THE JURY.)

15 THE COURT: MS. PARR, I UNDERSTAND THERE WAS A
16 CONVICTION LAST WEEK. WHAT WAS THE DATE OF THAT
17 CONVICTION?

18 MS. PARR: APRIL 13. AND THEN HE HAD A PRIOR
19 CONVICTION MAY 20TH OF 2001.

20 THE COURT: ALL RIGHT. DO WE AGREE THAT THERE IS A
21 MINIMUM MANDATORY SENTENCE FOR THIS INDICTED CHARGE, WHICH
22 IS A MINIMUM MANDATORY 25 YEARS; IS THAT CORRECT?

23 MS. PARR: YES, YOUR HONOR.

24 THE COURT: IS THAT YOUR UNDERSTANDING, MR. MEETZE?

25 MR. MEETZE: WELL, YOUR HONOR, AS A THIRD OFFENSE,

1 YES, SIR, I WOULD SAY THAT IT IS MINIMUM MANDATORY 25. YOU
2 KNOW, HOWEVER, I BELIEVE TO PROVE PRIOR CONVICTIONS, THEY
3 NEED CERTIFIED COPIES OF THOSE. AND IF THEY DON'T HAVE
4 THAT, I WOULD ASK THE COURT TO SENTENCE HIM AS A FIRST
5 OFFENSE.

6 THE COURT: AND, ACTUALLY, THERE WAS NO STIPULATION IN
7 THAT REGARD. I MEAN, THERE WAS NO STIPULATION ON PROOF OF
8 A PRIOR OFFENSE, WAS IT?

9 MR. MEETZE: WELL, I DON'T THINK IT'S AN ELEMENT THAT
10 HAS TO BE PROVED DURING THE CASE. I CERTAINLY THINK THE
11 PRIOR OFFENSES ARE A SENTENCING FUNCTION TO BE PRESENTED TO
12 THE COURT AT SENTENCING. BUT I THINK THEY HAVE TO BE DONE
13 SO BY USE OF A CERTIFIED COPY OF THE CONVICTION.

14 THE NCIC REPORT SAYS RIGHT ON IT, AUTHORIZED CRIMINAL
15 JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR
16 SPECIFIC MORE DATA ABOUT CHANGES OR DISPOSITIONS BECAUSE
17 ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME.

18 SO WITHOUT A CERTIFIED CONVICTION, I WOULD ASK HE BE
19 SENTENCED AS A FIRST OFFENSE.

20 MS. PARR: YOUR HONOR, THE STATE WOULD NOT CONCUR WITH
21 THAT INTERPRETATION. YOUR HONOR, WE HAVE THE CLERK OF
22 COURT'S RECORDS HERE THAT WILL DEFINITELY ATTEST TO THE
23 FACT HE WAS CONVICTED ON APRIL 13, 2009 IN THIS COURTROOM
24 -- THE COURTROOM UPSTAIRS, YOUR HONOR.

25 THE COURT: CAN WE AGREE WITH REGARD TO A SECOND

1 OFFENSE, IT'S A MINIMUM MANDATORY 25 YEARS?

2 MR. MEETZE: SECOND OFFENSE 10 TO 28 GRAMS IS A
3 MINIMUM 5. 5 TO 30.

4 THE COURT: THE MINIMUM IS 5 TO 30?

5 MS. PARR: YES, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 MS. PARR: BUT, YOUR HONOR, IF THE STATE WOULD BE
8 GIVEN AN OPPORTUNITY TO INQUIRE IN THE COURT'S RECORD AS TO
9 THE PRIOR CONVICTION, THE DATE, BECAUSE HE WAS CONVICTED IN
10 FLORENCE COUNTY.

11 (PAUSE.)

12 MS. PARR: THE OFFENSE DATE WAS MAY 20, 2001.

13 CLERK: YOUR HONOR, MAY 2, 2001 HE WAS CONVICTED
14 AUGUST 14, 2001. POSSESSION OF CRACK FIRST.

15 (PAUSE.)

16 MS. PARR: YOUR HONOR, MR. RICHARDSON CAN GO GET THAT
17 FOR ME.

18 THE COURT: CAN GET WHAT?

19 MS. PARR: GET A CERTIFIED COPY.

20 (PAUSE.)

21 THE COURT: ALL RIGHT. MR. RICHARDSON, I BELIEVE IT
22 WOULD PROBABLY BE IN YOUR BEST INTEREST TO GET CERTIFIED
23 RECORDS WITH REGARD TO TWO PRIOR CONVICTIONS IF WE INTEND
24 ON -- IF WE CAN'T AGREE THAT IT'S A THIRD OFFENSE.

25 MR. RICHARDSON: YES, SIR.

1 (PAUSE.)

2 THE COURT: WE'RE GOING TO GO AHEAD AND RECEIVE THE
3 VERDICT, THEN WE WILL TAKE CARE OF THE ADMINISTRATIVE
4 MATTER WITH REGARD TO SENTENCING AFTER THAT. LET'S GO
5 AHEAD AND GET THE JURY OUT. WE'RE READY FOR THE JURY.

6 (THE JURY ENTERS THE COURTROOM AT 4:58 P.M.)

7 THE COURT: MADAM FORELADY, HAVE YOU REACHED A
8 VERDICT?

9 FORELADY: WE HAVE, YOUR HONOR.

10 THE COURT: I'M GOING TO ASK YOU TO PROVIDE THE
11 VERDICT FORM TO THE CLERK.

12 (PAUSE.)

13 THE COURT: THE VERDICT FORM SEEMS TO BE IN ORDER.
14 I'LL ALLOW YOU TO PUBLISH THE VERDICT AT THIS TIME, MADAM
15 CLERK.

16 VERDICT OF THE JURY:

17 CLERK: STATE OF SOUTH CAROLINA, COUNTY OF FLORENCE,
18 IN THE COURT OF GENERAL SESSIONS, CASE NO. 07-GS-21-334.
19 THE STATE OF SOUTH CAROLINA VERSUS ANTHONY TYRONE
20 WILLIAMSON, TRAFFICKING IN COCAINE BASE. WE THE JURY
21 UNANIMOUSLY FIND THE DEFENDANT GUILTY OF TRAFFICKING IN
22 COCAINE BASE, SIGNED DEBBIE EADDY, FOREMAN, DATED APRIL 21,
23 2009.

24 MEMBERS OF THE JURY, IF THIS IS YOUR VERDICT, PLEASE
25 RAISE YOUR RIGHT HAND.

STATE VS. ANTHONY TYRONE WILLIAMSON

1 (ALL HANDS WERE RAISED.)

2 THE COURT: ANY ADDITIONAL REQUEST TO POLL, MR.

3 MEETZE?

4 MR. MEETZE: NO, YOUR HONOR.

5 THE COURT: ALL RIGHT. VERY GOOD.

6 (THE JURY WAS EXCUSED.)

7 THE COURT: MS. PARR, I'M GOING TO ALLOW YOU TO PUT ON

8 THE RECORD HOW YOU CAN ESTABLISH THAT THIS IS INDEED A

9 THIRD OFFENSE.

10 MS. PARR: MAY IT PLEASE THE COURT. YOUR HONOR, I

11 HAVE A COPY, A CERTIFIED COPY OF HIS SENTENCING SHEET FOR

12 INDICTMENT (SIC) 08-1207, POSSESSION OF CRACK FIRST

13 OFFENSE. THE JUDGE WAS THE HONORABLE JAMES BROGDON. AND I

14 WOULD PASS TO THE COURT.

15 THE COURT: AND 4/13/08, I ASSUME?

16 MS. PARR: AND THIS IS THE COPY OF 08-317, A CERTIFIED

17 COPY OF THE VERDICT.

18 THE COURT: OKAY. ALL RIGHT. HAVE YOU HAD AN

19 OPPORTUNITY TO VIEW THE CERTIFIED VERDICT FORMS, MR.

20 MEETZE?

21 MR. MEETZE: YOUR HONOR, I'VE REVIEWED ONE OF THEM.

22 THE POSSESSION ONE, WOULD YOU READ THAT INDICTMENT NUMBER

23 AGAIN?

24 THE COURT: ACTUALLY, IT DOES SAY 2008 ON THE

25 INDICTMENT. THAT'S PROBABLY A TYPO.

1 MR. MEETZE: JUDGE BROGDON WASN'T A JUDGE THEN.

2 THE COURT: LET'S TAKE A LOOK AND SEE HOW THAT ---

3 (PAUSE.)

4 MS. PARR: YOUR HONOR, THIS IS THE ONE THAT WAS DONE
5 LAST WEEK. THIS IS THE ONE HE WAS FOUND GUILTY ON APRIL
6 13, 2009.

7 THE COURT: BOTH OF THOSE?

8 MS. PARR: YES, HE HAD TWO CHARGES.

9 THE COURT: ALL RIGHT. THIS IS A 2001, AND THIS IS
10 THE ONE -- OKAY.

11 MR. MEETZE: I JUST THOUGHT YOU SAID 2008, BUT IT IS
12 HAS GOT 2001. YOUR HONOR, DEFENDANT IS SATISFIED WITH
13 REGARD TO THE ENHANCEMENT.

14 THE COURT: ALL RIGHT.

15 MS. PARR: AND, YOUR HONOR, I WOULD PASS TO THE COURT
16 THE SENTENCING SHEET.

17 THE COURT: ALL RIGHT. AND, MR. MEETZE, I UNDERSTAND
18 THAT YOU'VE HAD AN OPPORTUNITY TO REVIEW THE PLEA SHEET OF
19 2001-GS-21-1207 AND THE VERDICT FORM OF 2008-GS-21-317 AND
20 THEREFORE ARE SATISFIED THAT THIS IS INDEED A THIRD
21 OFFENSE?

22 MR. MEETZE: YOUR HONOR, I HAVE. I WOULD LIKE TO BE
23 HEARD ON A COUPLE THINGS BEFORE YOU SEAL YOUR SENTENCE.

24 THE COURT: OKAY. AND CERTAINLY, YOU WILL HAVE AN
25 OPPORTUNITY TO DO THAT. AND WE DO INDEED AGREE THERE'S A

1 MINIMUM MANDATORY 25?

2 MR. MEETZE: DO AGREE WITH THAT, YOUR HONOR.

3 THE COURT: VERY GOOD. MR. MEETZE, I'LL ALLOW YOU TO
4 OFFER ANY MITIGATION WITH REGARD TO THE SENTENCE.

5 MR. MEETZE: YOUR HONOR, YOU KNOW, OBVIOUSLY, THE
6 COURT'S HEARD THE FACTS AND EVIDENCE IN THE CASE AGAINST
7 MR. WILLIAMSON. THERE IS A MANDATORY MINIMUM 25 YEAR
8 SENTENCE IN THIS MATTER. THERE'S NO DISCRETION WITH
9 REGARDS TO THE SENTENCE. IT CARRIES A MAXIMUM 30 YEARS.
10 BUT WE WOULD ASK THE COURT TO CONSIDER GIVING HIM THE
11 MANDATORY MINIMUM, WHICH IS STILL CERTAINLY A SUBSTANTIAL
12 SENTENCE.

13 (PAUSE.)

14 THE COURT: ANYTHING FURTHER, MR. MEETZE?

15 MR. MEETZE: YOUR HONOR, WITH REGARD TO ANY POST-TRIAL
16 MOTIONS OR ANYTHING LIKE THAT, I BELIEVE I WOULD BE ABLE TO
17 DO THAT AT THE TIME THE SENTENCE IS UNSEALED. BUT I WOULD
18 LIKE TO RENEW MY PREVIOUS MOTIONS, PARTICULARLY THE MOTION
19 THAT THE COURT DECLARE A MISTRIAL, FOR ALL THE ARGUMENTS
20 THAT I STATED BEFORE.

21 THE COURT: ALL RIGHT. THOSE OBJECTIONS ARE NOTED AND
22 DENIED.

23 (LISTING OF POTENTIAL WITNESSES MARKED FOR
24 IDENTIFICATION AS COURT'S EXHIBIT NO. 2.)

25 --- END OF TRANSCRIPT OF RECORD ---

1 I, THE UNDERSIGNED DIANNE A. RUTLEDGE, OFFICIAL COURT
2 REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF
3 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
4 TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THE RECORD OF THE
5 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE
6 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT
7 FOR FLORENCE COUNTY, SOUTH CAROLINA ON THE 22ND DAY OF
8 APRIL 2009.

9 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
10 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

11

12

JULY 3, 2010

13

14

A handwritten signature in cursive script, reading "Dianne A. Rutledge", is written over a solid horizontal line.

15

COURT REPORTER

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STATE VS. ANTHONY TYRONE WILLIAMSON

Tuesday 4-22-89

County: Florence

VOIR DIRE

Case No: 09821-334

Judge: Michael Nettles

Pl./State: State

State/Pl's. Atty: Patricia Pass

Defendant: Anthony Williamson

Defense Atty: Vic Meetze

Court Reporter: Deanne A. Rutledge

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Juror No.	Name	Sex	Race	*Court	Strikes		
					Plaintiff	Defense	Accept
36	Clotell Daniels	B	F				✓
25	Clifton Collins	W	M				✓
129	Gudean Stone	W	F				✓
93	Kevin Lynch	W	M				✓
105	Janel Morris	B	M		X		
91	Ashley Lockblair	W	F				✓
5	Mark Anderson	W	M				✓
119	Lucille Rodgers	W	F				✓
111	Julian Newsome	W	M				✓
143	Anwar Williams	B	M		X		
155	Jelie Hayes	W	F				✓
69	Annalove Haselden	W	M				✓
71	Diane Harreger	B	F		X		
16	Tammy Benjamin	B	F				✓
121	Sherline Brewer	B	F				✓
47	Debbie Eaddy	W	F				✓
151	William Altman	W	M				✓

*For the court column, please indicate who made the motion to strike the juror: "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

 ORIGINAL

STATE OF SOUTH CAROLINA))
COUNTY OF FLORENCE)) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA))
STATE,))

v.

ANTHONY TYRONE WILLIAMSON)
DEFENDANT.)

TRANSCRIPT OF RECORD
08-GS-21-317
October 29, 2009
Florence, South Carolina

BEFORE:

THE HONORABLE RALPH KING ANDERSON, JR., JUDGE

APPEARANCES:

PATRICIA SINGLETON PARR, ESQ.
Assistant Solicitor

VICK MEETZE, ESQ.
Attorney for the Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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2	Sealed sentence envelope	9
3	Sentencing sheet	15

1 **THE COURT:** All right, Mrs. Solicitor.

2 **MRS. PARR:** Your Honor, this is the matter of the State
3 versus Anthony Tyrone Williamson. He has two matters.
4 The first one is 08-GS-317. There was a jury trial on
5 April 13th, 2009 where he was convicted of trafficking
6 cocaine base second offense and PWID cocaine base within
7 proximity, and there was a sealed sentence.

8 **THE COURT:** All right.

9 **MRS. PARR:** You want me to give you the second one too
10 or you want —

11 **THE COURT:** Second one too.

12 **MRS. PARR:** The second case is 09-GS-21-334, and there
13 was a jury trial on April 21st, 2009 and he was convicted
14 of trafficking in cocaine base third offense.

15 **THE COURT:** All right, counsel, you represent the
16 defendant?

17 **MR. MEETZE:** Your Honor, I was appointed on the day of
18 trial for indictment number 2009-GS-21-0334 and did
19 represent him in his absence at that trial. He was not
20 represented by anyone at the previous trial. I think you
21 said the indictment number was 2008-GS-21-0317. Was that
22 —

23 **MRS. PARR:** Uh-huh.

24 **MR. MEETZE:** I would ask that the Court before reading
25 the sentences appoint me on that indictment as well for

1 purposes of filing any appeals or anything like that that
2 may take place.

3 **THE COURT:** You're hereby appointed to represent him in
4 that regard.

5 In order for the record to be pristine, the history
6 of sealed sentences is elucidating. At least three
7 circuit judges have been reversed by the South Carolina
8 Supreme Court for failing to either understand or follow
9 the rule in regard to a sealed sentence. The leading
10 case, and I believe the seminal case, in South Carolina in
11 regard to a sealed sentence is State versus Alton Smith.
12 In State versus Smith the circuit judge refused to
13 consider the sentence that had been sealed, and the State
14 Supreme Court instructed circuit judges that in the
15 opening of a sealed sentence the judge who opens the
16 sentence: One, is the sentencing judge; and two, must
17 exercise his or her discretion in regard to sentence.
18 Stated differently, Smith says the sealed sentence does
19 not become the judgment of the Court until it is opened
20 and read to the defendant. The exclusive and sole
21 authority in regard to sentencing is then entrusted to the
22 judge who opens the sealed sentence.

23 In State versus Arthur Jackson, almost ten years
24 later, the circuit court again missed the point of a
25 sealed sentence. And in State versus Arthur L. Jackson

1 the judge who opened the sealed sentence refused to
2 consider the sentencing in a virginal analysis; and the
3 State Supreme Court, as it is prone to do, slapped the
4 hands of the circuit judge by saying, appellate excepts to
5 the sentencing judge's refusal to entertain his motion for
6 a reduction of the sentence. While we need not address
7 this issue in light of our disposition in this case, we
8 reiterate for the benefit of the trial bench our holding
9 in State versus Smith, 276 S.C. 494, 280 S.C.2d 200.
10 That, when a sealed sentence is open and read the judge
11 has the authority to consider a motion for reduction of
12 sentence.

13 Following Smith and Jackson, this Court now opens
14 two sealed sentences, and I will then give a sentence
15 today and it will be a sentence by Anderson. I open the
16 sentence that was sealed on April 13, 2009. In terms of
17 count one, trafficking cocaine base second, the sentence
18 is the defendant is committed to the State Department of
19 Corrections for a term of 15 years. The sentence of the
20 Court in regard to count two, possession with intent to
21 distribute cocaine base, is ten years and it is
22 concurrent.

23 I now open the sealed sentence by Judge Michael
24 Nettles. It is trafficking in cocaine base third, and the
25 defendant is committed to the State Department of

1 Corrections for a term of 25 years. That's the sentence
2 issued by Judge Nettles.

3 All right. Does the State want to be heard further
4 in regard to sentencing?

5 MRS. PARR: No, Your Honor, unless you want his record,
6 prior record.

7 THE COURT: I do.

8 MRS. PARR: Your Honor, in '94 it was a forgery; '97,
9 resisting arrest and loafing and loitering; '98, forgery;
10 '99, obtaining goods under false pretenses; May 2nd, 2001,
11 possession of cocaine base and possession of steroids;
12 2004, simple assault and battery; 2004, criminal domestic
13 violence; 2004, assault and battery of a high and
14 aggravated nature. And then these convictions.

15 THE COURT: Is that record correct, sir?

16 THE DEFENDANT: All except the steroids, sir. I never
17 had no steroids. I don't know -- it was like a dime of
18 crack cocaine. I'm a user actually, sir, and not really a
19 drug dealer if I may speak.

20 THE COURT: All right.

21 MRS. PARR: And Your Honor, also the State had
22 additional charges on him that he were for distribution
23 cocaine base and —

24 THE COURT: Those have not been tried?

25 MRS. PARR: Right. Those are the ones, yes, we're not

1 gonna try those.

2 THE COURT: Well, if we treat this matter in the last
3 sentence response by the Court by Judge Michael Nettles,
4 it's trafficking in cocaine base third offense so we have
5 the mandatory minimum in that regard, counsel.

6 MR. MEETZE: Your Honor, yes, sir, if I just may
7 address each of these.

8 THE COURT: Yes.

9 MR. MEETZE: Your Honor, with regard to indictment
10 2008-GS-21-317 that I believe was a trial before Your
11 Honor.

12 THE COURT: It was. It was.

13 MR. MEETZE: He was facing, I think, on the trafficking
14 5 to 30 years as a second offense, and then the proximity
15 charge would have carried it 10 to 15 year sentence and
16 the proximity charge obviously is suspendible. As a
17 second offense the trafficking charge, and he understands
18 that that is a no parole offense, any sentence given in
19 that regard is an 85 percent sentence so even the minimum
20 of 5 years is something that carries with it the
21 substantial amount of jail time. His only prior, I think,
22 drug conviction that he had from 2001 was a 2000 -- was a
23 possession charge, possession of crack cocaine conviction,
24 not a distribution level offense. On -- on that charge,
25 you know, the Court could have sentenced him up to 30

1 years, did not, sentenced him for 15, but we would ask the
2 Court at this time based on not having any prior
3 distribution level offenses on his record we would ask the
4 Court to reconsider that sentence and sentence him to
5 something lower, closer to the five years.

6 THE COURT: What about the trafficking in cocaine base
7 third by Judge Nettles?

8 MR. MEETZE: Your Honor, you know, the trafficking
9 cocaine base third, obviously the conviction in front of
10 the Court is what allowed the State to proceed with that
11 as a third offense I do believe. And we would ask the
12 Court, when he was charged with that he didn't have all
13 that on his record. We would ask the Court to consider
14 treating that as a second offense and sentence him
15 accordingly as well.

16 THE COURT: How can I treat it as a second offense when
17 in reality the truth is it's a third offense trafficking?

18 MR. MEETZE: I understand, Your Honor. I'm, you know,
19 and I explained to him. This morning is the first time I
20 had an opportunity to meet with Mr. Williamson at all in
21 any regard whatsoever; and I did explain to him that as,
22 you know, the case that was tried in front of Judge
23 Nettles was tried as a third offense and it did carry a
24 mandatory minimum sentence of 25 years and that, you know,
25 but as a third offense that that was the least amount of

1 time that he could receive. But you know, I understand
2 the Court's feeling on that as far as that goes, and you
3 know, he was convicted of a trafficking the week prior to
4 going to trial on that case in front of Judge Nettles and
5 they did use that conviction a week earlier to enhance. I
6 would only, you know, I would just ask that the Court
7 consider not using that as an enhanceable offense in this
8 matter. But Your Honor, I would also ask.

9 THE COURT: Hold on one second.

10 MR. MEETZE: Sure.

11 (Court's Exhibit Numbers 1 and 2 were marked
12 and made a part of the record.)

13 THE COURT REPORTER: Okay.

14 MR. MEETZE: Your Honor, I would also ask and — 'cause
15 I don't know if any such notations were had, but I would
16 ask that all of these sentences run concurrently that have
17 been given here and handed down here today.

18 THE COURT: For the record, the sentence that I gave on
19 count one trafficking cocaine base second I marked
20 concurrent, concurrent sentence in that regard. And I
21 marked concurrent in regard to possession with intent to
22 distribute cocaine base — I'm sorry, trafficking in
23 cocaine base I marked concurrent. Possession with intent
24 to distribute cocaine base, I marked concurrent, and Judge
25 Nettles has marked his concurrent.

1 **MR. MEETZE:** Thank you.

2 **THE COURT:** He's got it on the form.

3 **MR. MEETZE:** Very good. Your Honor, I believe
4 Mr. Williamson would like to address the Court.

5 **THE COURT:** All right, yes, sir.

6 **THE DEFENDANT:** Your Honor, I ask you for your mercy
7 right now. I'm not a drug dealer, sir. I'm a drug user,
8 and I've been a drug user for a long time. If you review
9 my record, all this happened inside a year. I met some
10 guys in prison while I was in prison. And they lived in
11 the area of Florence and who in effect actually worked for
12 Mr. Nada and given -- and made a bunch of controlled buys
13 for him. That Nada actually had got these guys led to a
14 lot of arrests. He was telling me that, you know, I made
15 four controlled buys for a great amount of dope from
16 Mr. Nada, and they were actually -- when I left Florence,
17 South Carolina the way Mr. Nada wrote the last one -- I
18 have a playground in my backyard, and for the amount of
19 drugs that I bought from the guy was 14-grams. He counted
20 like pieced the stuff together and said that I was the guy
21 who snitched on him. And I was at work and I got off work
22 and he threatened me there. He said he was going to kill
23 me. And I stay with my mom and so I -- that's why I ran,
24 sir. I was in fear for my life and I got in my car and I
25 just drove, just drove out of town. Mr. Nada and them

1 told me that, you know, by me helping them I signed my car
2 over to the city, but I didn't buy that car by selling no
3 drugs. I ain't never been a drug dealer. I was just
4 selling drugs to use drugs actually. And I guess I make
5 four major buys for him and told him a lot of people where
6 a lot of drugs was at that I know that led to a lot of
7 convictions here in this court.

8 THE COURT: Here is my dilemma. If I treat the —
9 which I must at this point unless the State is willing to
10 change the charge. If I treat it as trafficking in
11 cocaine base third offense, Judge Nettles was bound at
12 that time and I would be bound today to give you the
13 mandatory minimum.

14 MR. MEETZE: Yes, sir.

15 THE COURT: There's no way around it. I don't — I
16 must exercise discretion in sentencing under Smith and
17 Jackson. But the exercise of Smith and Jackson in the way
18 of discretion is limited by the absolute legislative
19 mandatory minimum law, and it's that law that limits me to
20 the trafficking in cocaine base third and the 25 years in
21 that regard.

22 Is the State willing to take a lesser charge in that
23 regard? I don't know what Mr. Nada's position is.

24 MRS. PARR: No, Your Honor.

25 THE COURT: No?

1 **MRS. PARR:** No.

2 **THE COURT:** The answer is no?

3 **THE DEFENDANT:** I don't understand that though, Your
4 Honor. I understand I have to go to jail, but I'm not no
5 major drug dealer. I turned in a bunch of major drug
6 dealers though. And I guess Mr. Nada, he should be able
7 to — Mr. Nada, I turned in a bunch of major drug dealers
8 and they were both of them, he said, they had federal
9 charges. But this one guy got out somehow and he was
10 going to kill me, and that's the reason why I ran, Judge.
11 That's the only reason why I ran. I was fear for my —
12 not my life but my mom life. I didn't want them to come
13 around her house shooting at her. That's the only reason
14 why I ran.

15 **THE COURT:** All right, Ms. Court Reporter —

16 **THE DEFENDANT:** Mr. Nada, you know it too, sir. And
17 you know that, man, and I feel that, man. I did help you
18 for me really. You sold me — you told me that you was
19 going to help me. That's why I — you said you would help
20 me. That's why I made them buys. Was they little buys?
21 No, sir, they were major buys. So I guess —

22 **MRS. PARR:** Your Honor, the State is dropping some of
23 these other charges, the other drug charges that he's had
24 since —

25 **THE DEFENDANT:** I'm a drug user. I ain't no dope

1 dealer, man.

2 MRS. PARR: --up until October of 2008.

3 THE DEFENDANT: Mrs. Parr know me. She know my record,
4 man. I ain't never sold no dope before man. That man
5 told me -- I'm sorry, sir.

6 THE COURT: All right. Ms. Court Reporter, I want it
7 emphasized for the record that I am now utilizing and
8 giving full efficacy to State versus Smith and State
9 versus Jackson so I am the sentencing judge today on all
10 three of these charges. Now in terms of the paperwork,
11 the sentence that I gave on count one, trafficking cocaine
12 base second, was a sentence of 15 years. That's what I
13 sentenced him to in regard to the sealed sentence. That's
14 what I now give today; that's what I now impose today. I
15 will not re-do the form. I will not re-do the sentence
16 sheet, but I've given that 15 year sentence today. But I
17 do make it concurrent, concurrent to any other sentence
18 imposed today.

19 In regard to the count two offense of possession
20 with intent to distribute cocaine base, I gave 10 years at
21 the time of the sealed sentence. I now give 10 years
22 today, and I make it concurrent. It is absolutely
23 concurrent with count one trafficking in cocaine base
24 second offense.

25 In regard to the sentence that Judge Nettles gave I

1 will require the State to re-do the sentence form when I
2 finish here. I'm going to leave Judge Nettles' form in
3 the record for all appellate review purposes, but Smith
4 and Jackson mandate that I do the sentencing, and I'm
5 going to sentence the defendant in regard to trafficking
6 in cocaine base third offense. He is committed to the
7 State Department of Corrections for a term of 25 years and
8 it is concurrent. It is concurrent in regard to all
9 sentences.

10 So the record will be absolute filled with
11 exactitude, this individual is given the 25 years on
12 trafficking in cocaine base third offense, and that
13 sentence encapsulates the other charges and the other
14 sentence. That's the complete sentence in regard to this
15 defendant.

16 Ms. Solicitor, just re-do this form and I'll put my
17 name and signature on it, but we're gonna leave this in
18 the record. All this will be in the record with the court
19 reporter. Thank you very much, Counsel.

20 **THE DEFENDANT:** Thank you a lot, Mr. Nada, and you know
21 what I'm saying. That's all right.

22 (Court's Exhibit Number 3, sentencing sheet, was
23 marked and made a part of the record.)

24 **THE COURT:** This sentence by Judge Michael Nettles has
25 been superceded by the sentence of Ralph King Anderson,

1 Junior, dated October 29.

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3 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 27th day of February, 2010.


FRANCES BAKIS-RAY, RPR
My Commission Expires: 9-13-2014

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,#1

APPELLANT

FINAL BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

- I. Whether the trial court judge erred by allowing the State to call appellant's case to trial when appellant was not represented by counsel?

- II. Whether the trial court judge erred by allowing the State to call appellant's case to trial when the state failed to show it had meaningfully informed appellant that a trial would occur on that date, and would proceed in his absence?

STATEMENT OF THE CASE

Anthony Tyrone Williamson was indicted by the Florence County grand jury during its January, 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Hon. Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction is the basis of this appeal. (08-GS-21-317).

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Nettles and a jury on April 22, 2009 on the trafficking charge. Judge Nettles appointed Vic Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed. This conviction is the basis for the companion appeal. (09-GS-21-334).

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date, Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

This appeal timely follows.

ARGUMENT

I. The trial court judge erred by allowing the State to call appellant's case to trial when appellant was not represented by counsel.

On April 13, 2009, the State called appellant's case to trial. He was charged with trafficking in crack cocaine, and possession of crack cocaine within proximity of a school or park. The court stated it would ascertain whether the case could proceed. ROA 13. The court understood it would have to analyze whether the defendant voluntarily waived his right to be present, and whether a defendant was warned that a trial would proceed in his absence if he failed to attend. ROA 16. The State called an employee of the clerk of court's office. According to her testimony, appellant received a bond on September 14, 2007. As a condition of the bond, appellant was to appear at General Sessions Court beginning October 15, 2007. If no disposition was made during that term, appellant was ordered to appear and remain throughout each succeeding term of court until final disposition was made. ROA 16. On March 10, 2009, a bench warrant was issued for appellant. When asked whether appellant was given or provided a copy of this bond, the clerk responded, "I believe he was." ROA 16, l. 20. Based on this testimony, the trial court judge concluded that appellant was given notice to appear for court, and was made aware of the fact he could be tried in his absence. The court ordered that the state could proceed with the trial. ROA 17 – 18. There being no attorney present, no objection was interposed at this time.

The trial court judge erred by allowing the trial to proceed because the judge never inquired whether appellant knowingly and voluntarily waived his right to counsel.

Once the adversarial judicial process has begun, the 6th amendment guarantees a defendant the right to have counsel present at all "critical" stages of the proceeding. A trial

is a critical stage of the proceeding. Argersinger v. Hamlin, 407 U.S. 25 (1972); Montejo v. Louisiana, 129 S.Ct. 2079 (2009); United States v. Wade, 388 U.S. 218 (1967); Powell v. Alabama, 287 U.S. 45 (1932).

Appellant never waived his right to counsel. The waiver of the right to counsel must be knowing, voluntary, and intelligent. Johnson v. Zerbst, 304 U.S. 458 (1938). The waiver must be an “intentional relinquishment or abandonment of a known right or privilege. Id. at 464 (emphasis added). The accused must know what he is doing so that “his choice is made with eyes open.” Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942). See also Moran v. Burbine, 475 U.S. 412 (1986). The information that a defendant must possess in order to make an intelligent election depends on a range of case-specific factors, including his education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding. Iowa v. Tovar, 541 U.S. 77 (2004). Regarding the significance of the waiver in the context of forfeiting the right to counsel at trial, the Court has held:

[R]ecognizing the enormous importance and role than an attorney plays at a criminal trial, we have imposed the most rigorous restrictions on the information that must be conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988 (emphasis added). See also Faretta v. California, 422 U.S. 806 (1975). In this case, the judge simply did not make any inquiry at all about why no attorney was present to represent appellant and whether appellant waived his right to counsel.

At appellant's second trial, the judge there asked the State to place on the record its justification for going forward with its case against appellant, in his absence and without counsel. There, the State explained that appellant was denied a public defender. The State

also informed the judge that appellant had a prior case in which he had hired counsel, but that counsel moved to be relieved because the defendant “failed to cooperate” with him. According to the State, this attorney never appeared on behalf of the appellant on this (the second trial) particular case. Having heard the State’s account, this judge ordered an attorney be assigned to represent appellant. ROA 91.

An attorney representing appellant's interests in this first trial may, for example, have objected to a law enforcement characterization of appellant as a “middle level sized dealer.” ROA 42. He or she may also have objected to the law enforcement officer's testimony that appellant was also selling marijuana. ROA 43. An attorney may also have objected to entering an unrelated firearm into evidence. ROA 43. An attorney may have raised issues related to the execution of a search warrant. ROA 21. An attorney may also have objected to a codefendant's hearsay statement claiming ownership of drugs found in a car. Additionally, an attorney may have challenged the statement that appellant purportedly made to law enforcement regarding these events. ROA 27 An attorney may also have objected to testimony that a scanner found in appellant's bedroom was used to monitor these law enforcement officers’ communications. ROA 31. In short, an attorney may have insured that appellant received a fair trial. Respectfully, the trial court judge erred by allowing the state to proceed with its prosecution against appellant on this basis.

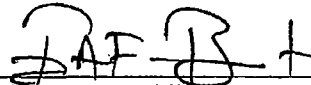
II. The trial court judge erred by allowing the State to call appellant's case to trial when the state failed to show it had meaningfully informed appellant that a trial would occur on that date, and would proceed in his absence.

The trial court judge erred in allowing the state to proceed when the State failed to show that it had given meaningful notice to appellant that his trial would proceed in his absence if he was not present. ROA 12- 20 and ROA 90-102. The state chose to call appellant's first case to trial 544 days after he was initially noticed to appear in court. In South Carolina, the solicitors control the docket. S.C. Code Ann. Section 1-7-330 (1976). The State did not provide any evidence to show that any attempt was made to contact appellant to inform him that his trial was going to be held on April 13, 2009 or April 22, 2009. Instead, it relied on the boilerplate language of a bond form that insisted that appellant remain tethered to the courthouse until it decided to exercise its power and call his case to trial. Such a practice fails to offer meaningful notice to defendant that his case will be tried and is a fundamental denial of due process. Peralta v. Heights, 485 U.S. 80 (1988); Armstrong v. Manzo, 380 U.S. 545 (1965); Mullane v. Central Hanover Bank & Tire Co., 339 U.S. 306, 313 ("Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.") An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer, 311 U.S. 457, Grannis v. Ordean, 234 U.S. 385. Appellant was not afforded notice, reasonably calculated, and under all the circumstances, that his case was going to be tried by the state of South Carolina 544 days after he was summoned to court. Respectfully, appellant asks this Court to reverse his convictions and remand his case for trial.

CONCLUSION

For the preceding reasons, appellant respectfully asks this Court to reverse his convictions and remand his case for trial.

Respectfully submitted,

Handwritten signature of Elizabeth A. Franklin-Best, consisting of stylized initials 'EAF-B' followed by a vertical line.

Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

This 2nd day of June, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 2, 2011



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,#1

APPELLANT

CERTIFICATE OF SERVICE

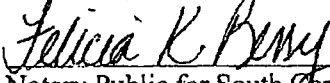
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 2nd day of June, 2011.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 2nd day of June, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL**I.**

Appellant waived his right to counsel by his conduct – his inexcusable absence from trial.

II.

Appellant received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show.

STATEMENT OF THE CASE

For purposes of this brief, Respondent agrees with Appellant's statement of the case.

STATEMENT OF FACTS

Following a tip from a reliable informant, the Florence Police Department executed a search warrant on Appellant Williamson's residence on September 13, 2007. Police stopped Williamson in his driveway as he and another individual were pulling out in a vehicle. Officer Joe Nida observed cocaine base on the floorboard. Williamson admitted he gave the cocaine base to the other individual in the car. Utilizing Williamson's keys, police entered the residence. Williamson, Gwendolyn Williamson, Williamson's girlfriend, and Williamson's mother were directed to sit on the couch and law enforcement read them all their Miranda rights. Williamson told the police he kept crack in the bedside safe. Police found 19.4 grams of crack cocaine, packaged for distribution, and cash in the safe. They also found a police scanner, rolling papers, a 40 caliber pistol, shells, and digital scales. Transcript of April 13, 2007 trial (Tr. #1) pp. 25-33; pp. 39-43; p. 56.

ARGUMENT

I.

Appellant waived his right to counsel by his conduct – his inexcusable absence from trial.

Appellant Williamson admitted fleeing Florence. He admitted he “just drove, just drove out of town” purportedly because he was scared of another dealer. Sentencing Transcript dated October 29, 2009 (Sent. Tr.) p. 10, lines 23-25, p. 12, lines 11-14.

Appellant did not qualify for a public defender, and was advised he should hire an attorney. Transcript dated April 22, 2009 (Tr. #2, p. 17). The record does not reflect that he made any effort to attain counsel for this or his subsequent trial.

Appellant, represented by counsel at the sentencing hearing, did not allege he failed to receive notice of the trial. Appellant also did not contest that his right to counsel was violated. Accordingly, this issue is not preserved for appeal. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Appellant forfeited his right to counsel by his conduct. State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009). In Roberson, the Supreme Court noted three ways a defendant may relinquish his right to counsel: “(1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture.” Id., 382 S.C. at 187, 675 S.E.2d at 732. In the instant case, Appellant was advised of his right to counsel but instead he chose to flee and make himself unavailable to the trial court. Further, like the defendant in Roberson, Appellant was no

stranger to the criminal justice system. His priors are as follows: forgery in 1994, resisting arrest in 1997, loafing and loitering in 1998, forgery again in 1999, obtaining goods by false pretenses in 2001, and possession of crack, criminal domestic violence, and assault and battery of a high and aggravated nature, all in 2004. Sent. Tr. p. 6, lines 8-14.

The Roberson court found that an inexcusable absence from trial constituted a waiver of right to counsel by conduct. Id., 382 S.C. at 733, 675 S.E.2d at 733. Accordingly, in the instant case, Appellant waived his right to counsel by his inexcusable absence from trial.

Further, during sentencing, Appellant admitted guilt: "I was just selling drugs to use drugs actually." Sent. Tr. p. 11, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the appellant's conviction] is eliminated by the admission of appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary").

II.

Appellant received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show.

The issue is not preserved. Appellant had counsel appointed and was present at his sentencing hearing. He did not object to the trial being held in his absence nor contend he did not receive notice that he would be tried in his absence. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson admitted fleeing Florence. He admitted he “just drove, just drove out of town” purportedly because he was scared of another dealer. Sent. Tr. p. 10, lines 23-25, p. 12, lines 11-14.

Further, the trial court followed the dictates of Rule 16, SCRCrP by making a finding that Williamson received notice of his right to be present and warned that the trial would proceed in his absence if he failed to attend court. Transcript dated April 13, 2009 (Tr. #1) pp. 13-19. Since the record reflects that the trial court made the requisite inquiry, the trial court did not commit error. State v. Castineira, 341 S.C. 619, 535 S.E.2d 449 (Ct. App. 2000).

The conditions of his bond indicate that he was to attend General Sessions on October 15, 2007 and remain there throughout the term and every succeeding term until his charges were disposed of, unless otherwise directed by the court. Court’s Exhibit #1. Williamson failed to attend court as the bond required. The record does not reflect that he received

special instructions from the court as stated in the bond. Further, Williamson was required to notify the court if he changed his address. It does not appear that he notified the court after he fled. Id. Finally, he was advised that his trial would proceed in his absence if he failed to attend court as directed. Id.

Finally, during sentencing, Appellant admitted guilt: "I was just selling drugs to use drugs actually." Sent. Tr. p. 11, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the appellant's conviction] is eliminated by the admission of appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary.")

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
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ATTORNEYS FOR RESPONDENT

April 7, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1,

Appellant.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes the following to be included in the Record on Appeal:

Court's Exhibit #1 (Bail proceeding forms)

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

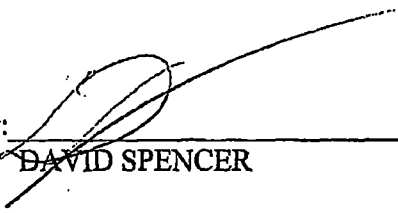
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ATTORNEYS FOR RESPONDENT

April 7, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1,

Appellant.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Elizabeth A. Franklin-Best, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 7th day of April, 2011.


NORMA BIGBEE
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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,#2

APPELLANT

FINAL BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

Whether the trial court judge erred by declining to grant appellant's motion for a mistrial when a law enforcement officer testified that at the time they executed the search warrant, they also possessed a warrant for appellant's arrest?

STATEMENT OF THE CASE

Anthony Tyrone Williamson was indicted by the Florence County grand jury during its January, 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Hon. Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction forms the basis of appellant's companion appeal. (08-GS-21-317).

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Nettles and a jury on April 22, 2009 on the trafficking charge. Judge Nettles appointed Vic Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed. This conviction forms the basis of this appeal (09-GS-21-334).

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date, Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

This appeal timely follows.

ARGUMENT

The trial court judge erred by declining to grant appellant's motion for a mistrial when a law enforcement officer testified that at the time they executed the search warrant, they also possessed a warrant for appellant's arrest.

A week after the state secured its first conviction against appellant, it decided to call an additional case to trial before another judge. This trial court judge appointed counsel to represent appellants' interests at trial. See Appellant's Brief, 08-GS-21-317. The trial court judge erred, in this second trial, by not granting appellant's motion for a mistrial when law enforcement testified that it also had an arrest warrant for appellant during its execution of a search warrant.

During its case in chief, the state called Sgt. Drulis to testify regarding the execution of a search warrant. He testified:

"So we entered the residence by force. When we went in, we saw Mr. Williamson walking down the hallway. He was -- he was then detained. When we detain someone, we -- we put them in handcuffs at that time. At that particular time he was also under arrest. We additionally had an arrest warrant for him."

ROA 80, ll. 7-12.

Trial counsel then objected and then asked the judge to declare a mistrial:

MR. MEETZE: Your Honor, at this time I would make a motion for the court to declare a mistrial in this case. The jury has just been told that along with the search warrant, they also had a warrant for Mr. Williamson's arrest. I think that that certainly prejudices this jury, you know, beyond repair. Certainly the court can give a curative instruction. But, you know, I think that a situation where you just can't un-ring that bell. And I feel like under the circumstances the proper thing would be to declare a mistrial in this case."

ROA 81.

The trial court judge was exceptionally concerned about this testimony and the state's eliciting it from the officer:

"THE COURT: Ms. Parr, were you aware that there was going to be such testimony with regard to an unrelated arrest warrant?"

MS. PARR: Your Honor, I was not aware that there was going to be anything other than, you know, the search warrant; and that's what -- you know, it was in the incident report that they had an arrest warrant for the defendant but not--

THE COURT: Did you specifically discuss with this witness about not getting into that?

MS. PARR: Your Honor, when we went over the testimony -- went over the case, he was just to tell what part he played, that he was one of the ones that discovered the drugs in the flashlight.

THE COURT: Did you specifically tell him not to get in to the arrest warrant?

MS. PARR: No, I can't say I specifically said that.

THE COURT: Okay. Was there a discussion about it?

MS. PARR: Not specifically. We talked about that we can't show that the defendant had had any prior dealings with the law because, you know, he had all of these prior cases and I specifically talked to them about that.

THE COURT: Okay. How long have you been in law enforcement?

AGENT DRULIS: Going on 11 years, sir.

THE COURT: Okay. I think you said you got all kind of training. You're not aware of the fact that you are supposed to bring up unrelated misconduct?

AGENT DRULIS: Yes, sir, and for lack of a better term, when it came out, I wish I could have grabbed it.

THE COURT: All right.

AGENT DRULIS: It was-- it was just one-- I was recalling why we're there. I was recalling the incident.

THE COURT: And there will not be any reference to any unrelated conduct. I'm going to give the jury a curative charge and take the matter under consideration throughout the balance of the trial. I'm not going to grant the mistrial at this time.

ROA 81-83.

The trial court judge gave a curative instruction:

THE COURT: Madame Forelady, ladies and gentlemen of the jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There is no such unrelated arrest warrant. Ladies and gentlemen of the jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard to not be influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, ladies and gentlemen of the jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam Forelady, it's going to be your job and your responsibility as a juror cannot allow that to enter into discussion in any way, shape, or form.

ROA 83-84.

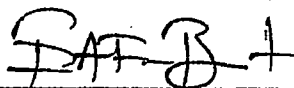
The trial court judge erred by not granting the mistrial because the state's witness interjected irrelevant, and wholly improper character evidence, and appellant was denied his right to a fair trial. SCRE, Rules 403, 404. State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006). The arrest warrant was not related to this case, and the jury's hearing of the warrant

tended to offer an improper basis for rendering its verdict. Additionally, the curative instruction was insufficient to cure the harm since the error was so substantial. State v. Kennedy, 272 S.C. 231, 250 S.E.2d 338 (1978). Respectfully, appellant asks this Court to reverse his convictions and remand his case for trial.

CONCLUSION

For the preceding reason, appellant respectfully asks this Court to reverse his convictions and remand his case for trial.

Respectfully submitted,

Handwritten signature of Elizabeth A. Franklin-Best, consisting of stylized initials 'EAFB' followed by a vertical line.

Elizabeth A. Franklin-Best
Appellate Defender

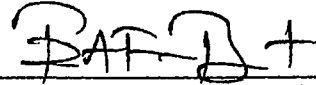
ATTORNEY FOR APPELLANT.

This 2nd day of June, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 2, 2011



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Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,#2

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 2nd day of June, 2011.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 2nd day of June, 2011.

Felicia K. Berry (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Florence County
Michael G. Nettles, Circuit Court Judge and
Ralph King Anders, Jr., Special Circuit Court Judge

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vs.

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<u>State v. Wasson</u> , 299 S.C. 508, 386 S.E.2d 255 (1989)	3

STATEMENT OF ISSUE ON APPEAL

The trial court did not err in denying the motion for mistrial.

STATEMENT OF THE CASE

For purposes of this brief only, Respondent agrees with Applicant's statement of the case.

STATEMENT OF FACTS

Officer Joe Nida obtained a search warrant on November 9, 2007 and executed the search warrant on November 14, 2007 on Appellant Williamson's residence at [REDACTED] Street. Law enforcement knocked on the front door and when there was no answer, used force to enter. When they entered, Williamson was coming out of his bedroom. Williamson's girlfriend was also inside the house. Officers found two bags of crack cocaine in a flashlight left on the bed. They noted a padlock on the outside of Williamson's bedroom door. They opened up the flashlight in front of Williamson who just hung his head. Williamson led them to a cassette case that also had a bag of crack inside. Sergeant Calhoun found digital scales. Tr. pp. 50-56; pp. 70-74. A total of 13.9 grams of crack cocaine was seized by law enforcement. Tr. p. 102.

ARGUMENT

The trial court did not err in denying the motion for mistrial.

Appellant Williamson complains that the trial court erred in not directing his motion for a mistrial. The trial court did not err, instead relying on a thorough and stern curative instruction. Further, the issue should not be reviewed since Williamson did not object to the sufficiency of the instruction or renew his mistrial motion after the instruction.

Sergeant Drullis testified that law enforcement was serving both a search warrant and arrest warrant when they entered [REDACTED]. The record is clear that the prosecution did not intend to elicit testimony about the arrest warrant and Sergeant Drullis admitted to the trial court: “. . . for lack of a better term, when it came out, I wish I could have grabbed it.” Tr. p. 83, lines 6-7. The trial court denied the motion for mistrial but gave the following instruction to the jury:

Madam Forelady, Ladies and Gentlemen of the Jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There's no such unrelated arrest warrant. Ladies and Gentlemen of the Jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard and not being influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, Ladies and Gentlemen of the Jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam

Forelady, it's going to be your job and your responsibility as a juror to not allow that to enter into discussion in any way, shape, or form.

Tr. p. 83, line 18 - p. 84, line 14.

The perceived error was cured by the trial court's stern and emphatic instruction. An appropriate curative instruction is generally considered to cure any error. State v. Dawkins, 297 S.C. 386, 377 S.E.2d 298 (1989). On appeal, a denial of a motion for mistrial will not be reversed absent a showing that the trial court abused its discretion. Id.

Accordingly, the grant of a mistrial was not warranted. "A mistrial should not be granted except in cases of manifest necessity and ought to be granted with the greatest caution for very plain and obvious reasons." State v. Wasson, 299 S.C. 508, 386 S.E.2d 255 (1989) *cited in* State v. Patterson, 337 S.C. 215, 522 S.E.2d 845 (Ct. App. 1999) (noting trial judge should exhaust other methods to cure possible prejudice before aborting a trial).

"The granting of a mistrial motion is an extreme measure to be taken only where an incident is so grievous that its prejudicial effect can be removed in no other way." State v. Dempsey, 340 S.C. 565, 570, 532 S.E.2d 306, 309 (Ct. App. 2000). "The less than lucid test is therefore declared to be whether the mistrial was dictated by manifest necessity or the ends of public justice." State v. Prince, 279 S.C. 30, 33, 301 S.E.2d 471, 472 (1983); *see* State v. Howard, 296 S.C. 481, 483-85, 374 S.E.2d 284, 285-86 (1988) (finding curative instruction admonishing the jury to disregard co-defendant's inadmissible testimony that murder defendant was involved in an earlier homicide was sufficient to cure error and mistrial was not warranted).

In the instant case, it is hard to envision a more thorough or explicit instruction to the

jury. The jury was told there was not an arrest warrant and told to disregard the testimony. The jury was prohibited from making any mention of it to each other. Jurors are presumed to follow the trial court's instructions. State v. Queen, 264 S.C. 515, 521, 216 S.E.2d 182, 185 (1975). The trial court did not abuse its discretion in denying the motion for mistrial.

Further, the issue is not preserved. Williamson's attorney moved for mistrial when he made the objection. However, after the trial court's extensive curative instruction, Williamson's attorney, perhaps finding the curative thorough and explicit enough to cure the error, did not raise an objection to the sufficiency of the instruction or renew the motion for mistrial. Accordingly, this Court should not review this issue. State v. Harry, 321 S.C. 273, 280, 468 S.E.2d 76, 80-81 (Ct. App. 1996) (where the trial court attempts to cure error by way of instruction to the jury and the objecting party is not satisfied with the instruction, the objecting party is required to object to the sufficiency of the instruction to preserve the issue for review).

Finally, during sentencing, Appellant admitted guilt: "I was just selling drugs to use drugs actually." Sent. Tr. p. 11, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the appellant's conviction] is eliminated by the admission of appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary.")

Accordingly, the trial court did not err and the conviction and sentence should be affirmed.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

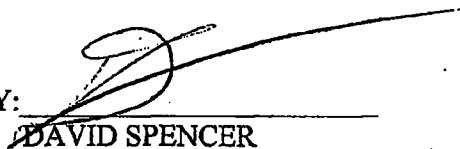
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DAVID SPENCER
Senior Assistant Attorney General

E. L. CLEMENTS, III
Solicitor, Twelfth Judicial Circuit

BY:



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ATTORNEYS FOR RESPONDENT

April 7, 2011

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Florence County
Michael G. Nettles, Circuit Court Judge and
Ralph King Anders, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #2,

Appellant.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes no additional matter beyond that designated by Appellant.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.


ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DAVID SPENCER
Senior Assistant Attorney General

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Ralph King Anders, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #2,

Appellant.


PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Elizabeth A. Franklin-Best, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 7th day of 2011.


NORMA BIGBEE
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,
v.
Anthony Tyrone Williamson, Appellant.

Appeal From Florence County
Ralph King Anderson, Jr., Circuit Court Judge

Unpublished Opinion No. 2012-UP-089
Submitted February 1, 2012 – Filed February 22, 2012

AFFIRMED

Appellate Defender Elizabeth A. Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Salley W. Elliott, and

Assistant Attorney General David Spencer, all of Columbia; and Solicitor E.L. Clements, III, of Florence, for Respondent.

PER CURIAM: In this consolidated appeal, Anthony Tyrone Williamson appeals his convictions for two counts of trafficking in cocaine base and possession of cocaine base within a proximity of a school or park. Williamson argues the trial court erred in: (1) proceeding with his first trial although he was not represented by counsel; (2) proceeding with his first trial in absentia without meaningfully informing him his trial would be conducted despite his absence; and (3) denying his motion for a mistrial. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. As to Williamson's issues concerning his right to counsel and his being tried in absentia: State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal."); State v. Williams, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) ("In order to claim the protection afforded by [Rule 16, SCRCrimP], a defendant or his attorney must object at the first opportunity to do so.").

2. As to Williamson's motion for a mistrial: State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000) (stating a defendant must show both error and prejudice resulting from such error to receive a mistrial); State v. White, 371 S.C. 439, 447-48, 639 S.E.2d 160, 164 (Ct. App. 2006) ("Insubstantial errors that do not impact the result of a case do not warrant a mistrial when guilt is conclusively proven by competent evidence.").

AFFIRMED.

FEW, C.J., HUFF and SHORT, J.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

Opinion No. 2012-UP-089

PETITION FOR REHEARING

Counsel for Anthony Tyrone Williamson respectfully asks this Court to rehear his case. Counsel alleges this Court has either overlooked or misapprehended facts and law that are necessary for the proper conclusion of this case. Specifically, this Court has overlooked that Williamson did not waive his right to counsel when he was tried in his absence and without an attorney. Additionally, the Court overlooked that Williamson did not receive meaningful notice that he trial would occur when he did. Also, this Court has overlooked that Williamson was entitled to a mistrial when law enforcement testified they executed a search warrant while they had a warrant out for his arrest. For these reasons, Williamson respectfully asks this Court to grant his petition for rehearing.

RELEVANT FACTS:

This case involves the consolidation of two appeals. Anthony Tyrone Williamson was not present for either of his trials, but was sentenced on both of them once he was taken into custody. He was indicted by the Florence County grand jury during its January, 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Honorable Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction is the basis of this appeal.

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Nettles and a jury on April 22, 2009 on the trafficking charge. Judge Nettles appointed Vic Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed.

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date, Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

ISSUE ONE: The trial court judge erred by allowing the state to call Williamson's case to trial when he was not represented by counsel.

On April 13, 2009, the State called appellant's case to trial. He was charged with trafficking in crack cocaine, and possession of crack cocaine within proximity of a school or park. The court stated it would ascertain whether the case could proceed. Tr. 13. The court understood it would have

to analyze whether the defendant voluntarily waived his right to be present, and whether a defendant was warned that a trial would proceed in his absence if he failed to attend. Tr. 16. The State called an employee of the clerk of court's office. According to her testimony, appellant received a bond on September 14, 2007. As a condition of the bond, appellant was to appear at General Sessions Court beginning October 15, 2007. If no disposition was made during that term, appellant was ordered to appear and remain throughout each succeeding term of court until final disposition was made. Tr. 16. On March 10, 2009, a bench warrant was issued for appellant. When asked whether appellant was given or provided a copy of this bond, the clerk responded, "I believe he was." Tr. 16, l. 20. Based on this testimony, the trial court judge concluded that appellant was given notice to appear for court, and was made aware of the fact he could be tried in his absence. The court ordered that the state could proceed with the trial. Tr. 17 – 18. There being no attorney present, no objection was interposed at this time.

The trial court judge erred by allowing the trial to proceed because the judge never inquired whether appellant knowingly and voluntarily waived his right to counsel.

Once the adversarial judicial process has begun, the 6th amendment guarantees a defendant the right to have counsel present at all "critical" stages of the proceeding. A trial is a critical stage of the proceeding. Argersinger v. Hamlin, 407 U.S. 25 (1972); Montejo v. Louisiana, 129 S.Ct. 2079 (2009); United States v. Wade, 388 U.S. 218 (1967); Powell v. Alabama, 287 U.S. 45 (1932).

Appellant never waived his right to counsel. The waiver of the right to counsel must be knowing, voluntary, and intelligent. Johnson v. Zerbst, 304 U.S. 458 (1938). The waiver must be an "intentional relinquishment or abandonment of a known right or privilege. Id. at 464 (emphasis added). The accused must know what he is doing so that "his choice is made with eyes open." Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942). See also Moran v. Burbine, 475

U.S. 412 (1986). The information that a defendant must possess in order to make an intelligent election depends on a range of case-specific factors, including his education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding. Iowa v. Tovar, 541 U.S. 77 (2004). Regarding the significance of the waiver in the context of forfeiting the right to counsel at trial, the Court has held:

[R]ecognizing the enormous importance and role than an attorney plays at a criminal trial, we have imposed the most rigorous restrictions on the information that must be conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988 (emphasis added)). See also Faretta v. California, 422 U.S. 806 (1975). In this case, the judge simply did not make any inquiry at all about why no attorney was present to represent appellant and whether appellant waived his right to counsel.

At appellant's second trial, the judge there asked the State to place on the record its justification for going forward with its case against appellant, in his absence and without counsel. There, the State explained that appellant was denied a public defender. The State also informed the judge that appellant had a prior case in which he had hired counsel, but that counsel moved to be relieved because the defendant “failed to cooperate” with him. According to the State, this attorney never appeared on behalf of the appellant on this (the second trial) particular case. Having heard the State’s account, this judge ordered an attorney be assigned to represent appellant. See transcript, April 22, 2009, Tr. 17.

An attorney representing appellant's interests in this first trial may, for example, have objected to a law enforcement characterization of appellant as a “middle level sized dealer.” Tr. 42. He or she may also have objected to the law enforcement officer's testimony that appellant was also selling marijuana. Tr. 43. An attorney may also have objected to entering an unrelated firearm into evidence. Tr. 43. An attorney may have raised issues related to the execution of a search warrant.

Tr. 21. An attorney may also have objected to a codefendant's hearsay statement claiming ownership of drugs found in a car. Additionally, an attorney may have challenged the statement that appellant purportedly made to law enforcement regarding these events. Tr. 27 An attorney may also have objected to testimony that a scanner found in appellant's bedroom was used to monitor these law enforcement officers' communications. Tr. 31. In short, an attorney may have insured that appellant received a fair trial. Respectfully, the trial court judge erred by allowing the state to proceed with its prosecution against appellant on this basis.

ISSUE TWO: The trial court judge erred when he allowed the state to call Williamson's case to trial when the state failed to show it meaningfully informed him that his trial would occur on that date and would proceed in his absence.

The trial court judge erred in allowing the state to proceed when the State failed to show that it had given meaningful notice to appellant that his trial would proceed in his absence if he was not present. April 13, 2009, Tr. 12- 20 and April 22, 2009, Tr. 16- 28. The state chose to call appellant's first case to trial 544 days after he was initially noticed to appear in court. In South Carolina, the solicitors control the docket. S.C. Code Ann. Section 1-7-330 (1976). The State did not provide any evidence to show that any attempt was made to contact appellant to inform him that his trial was going to be held on April 13, 2009 or April 22, 2009. Instead, it relied on the boilerplate language of a bond form that insisted that appellant remain tethered to the courthouse until it decided to exercise its power and call his case to trial. Such a practice fails to offer meaningful notice to defendant that his case will be tried and is a fundamental denial of due process. Peralta v. Heights, 485 U.S. 80 (1988); Armstrong v. Manzo, 380 U.S. 545 (1965); Mullane v. Central Hanover Bank & Tire Co., 339 U.S. 306, 313 ("Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum

they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.”) An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer, 311 U.S. 457, Grannis v. Ordean, 234 U.S. 385. Appellant was not afforded notice, reasonably calculated, and under all the circumstances, that his case was going to be tried by the state of South Carolina 544 days after he was summoned to court.

ISSUE THREE: The trial court judge erred when he denied Williamson’s motion for a mistrial when a law enforcement officer testified that, at the time they executed the search warrant, they also possessed a warrant for his arrest.

A week after the state secured its first conviction against appellant, it decided to call an additional case to trial before another judge. This trial court judge appointed counsel to represent appellants' interests at trial. See Appellant’s Brief, 08-GS-21-317. The trial court judge erred, in this second trial, by not granting appellant's motion for a mistrial when law enforcement testified that it also had an arrest warrant for appellant during its execution of a search warrant.

During its case in chief, the state called Sgt. Drulis to testify regarding the execution of a search warrant. He testified:

“So we entered the residence by force. When we went in, we saw Mr. Williamson walking down the hallway. He was -- he was then detained. When we detain someone, we -- we put them in handcuffs at that time. At that particular time he was also under arrest. We additionally had an arrest warrant for him.”

ROA 80, ll. 7-12.

Trial counsel then objected and then asked the judge to declare a mistrial:

MR. MEETZE: Your Honor, at this time I would make a motion for the court to declare a mistrial in this case. The jury has just been told that along with the search warrant, they also had a warrant for Mr. Williamson's arrest. I think that that certainly prejudices this jury, you know, beyond repair. Certainly the court can give a curative instruction. But, you know, I think that a situation where you just can't unring that bell. And I feel like under the circumstances the proper thing would be to declare a mistrial in this case."

ROA 81.

The trial court judge was exceptionally concerned about this testimony and the state's eliciting it from the officer:

"THE COURT: Ms. Parr, were you aware that there was going to be such testimony with regard to an unrelated arrest warrant?

MS. PARR: Your Honor, I was not aware that there was going to be anything other than, you know, the search warrant; and that's what -- you know, it was in the incident report that they had an arrest warrant for the defendant but not—

THE COURT: Did you specifically discuss with this witness about not getting into that?

MS. PARR: Your Honor, when we went over the testimony -- went over the case, he was just to tell what part he played, that he was one of the ones that discovered the drugs in the flashlight.

THE COURT: Did you specifically tell him not to get in to the arrest warrant?

MS. PARR: No, I can't say I specifically said that.

THE COURT: Okay. Was there a discussion about it?

MS. PARR: Not specifically. We talked about that we can't show that the defendant had had any prior dealings with the law because, you know, he had all of these prior cases and I specifically talked to them about that.

THE COURT: Okay. How long have you been in law enforcement?

AGENT DRULIS: Going on 11 years, sir.

THE COURT: Okay. I think you said you got all kind of training. You're not aware of the fact that you are supposed to bring up unrelated misconduct?

AGENT DRULIS: Yes, sir, and for lack of a better term, when it came out, I wish I could have grabbed it.

THE COURT: All right.

AGENT DRULIS: It was-- it was just one-- I was recalling why we're there. I was recalling the incident.

THE COURT: And there will not be any reference to any unrelated conduct. I'm going to give the jury a curative charge and take the matter under consideration throughout the balance of the trial. I'm not going to grant the mistrial at this time.

ROA 81-83.

The trial court judge gave a curative instruction:

THE COURT: Madame Forelady, ladies and gentlemen of the jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There is no such unrelated arrest warrant. Ladies and gentlemen of the jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard to not be influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, ladies and gentlemen of the jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam Forelady, it's going to be your job and your responsibility as a juror cannot allow that to enter into discussion in any way, shape, or form.

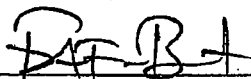
ROA 83-84.

The trial court judge erred by not granting the mistrial because the state's witness interjected irrelevant, and wholly improper character evidence, and appellant was denied his right to a fair trial. SCRE, Rules 403, 404. State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006). The arrest warrant

was not related to this case, and the jury's hearing of the warrant tended to offer an improper basis for rendering its verdict. Additionally, the curative instruction was insufficient to cure the harm since the error was so substantial. State v. Kennedy, 272 S.C. 231, 250 S.E.2d 338 (1978).

For these reasons, Williamson respectfully asks this Court to rehear his case.

Respectfully submitted,



Elizabeth A. Franklin-Best
Appellate Defender

This 7th day of March, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

CERTIFICATE OF SERVICE

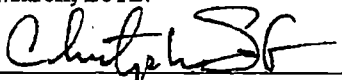
The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon David Spencer, Esquire, this 7th day of March, 2012.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 7th day
of March, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 Appeal From Florence County
 Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Appellant.

**RETURN TO PETITION
 FOR REHEARING**

Respondent objects to the petition for rehearing, and would argue the petition for rehearing is not in compliance with Rule 221, SCACR. Rule 221 requires a petition for rehearing to “state with particularity the points supposed to have been overlooked and misapprehended by the court.” The Petition for Rehearing fails to do this. Instead, it appears that Appellant Williamson has cut and pasted the same argument from his Initial Brief (the petition for rehearing cites to transcript pages rather than pages in the record) for his first two issues and from his Final Brief for the last issue. Respondent believes that the Court did not overlook the entirety of Williamson’s two briefs¹ and therefore, the petition for rehearing should be denied.

¹ The opinion and the petition for rehearing combine the appeals from two separate convictions briefed by the parties as Anthony Tyrone Williamson #1 and Anthony Tyrone Williamson #2.

Respondent, rather than reiterating every point made in its Final Briefs, would crave reference for this Court and incorporate Respondent's the Statement of Facts and Argument previously presented in the Final Briefs. Respondent will attempt to summarize these points as follows:

1. This Court did not overlook any points of law or fact in determining that the trial court did not err in allowing the case go to trial in absentia and where appellant was not represented by counsel. This Court cited State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) and State v. Williams, 292 S.C.231, 232, 355 S.E.2d 861, 862 (1987) for the proposition that the issues must be raised to the trial court at the first opportunity in order to be reviewed on appeal. Williamson has failed to argue in the petition for rehearing why this Court's reliance on basic principles of appellate review were in error.

Williamson, represented by counsel at the sentencing hearing, did not allege he failed to receive notice of the trial. He did not object to the trial being held in his absence nor contend he did not receive notice that he would be tried in his absence. Williamson also did not contest that his right to counsel was violated. Accordingly, these issues are not preserved for appeal. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson forfeited his right to counsel by his conduct. State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009). In Roberson, the Supreme Court noted three ways a defendant may relinquish his right to counsel: "(1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture." Id., 382 S.C. at 187, 675 S.E.2d at 732. In the instant case, Williamson was advised of his right to counsel but instead he chose to flee and make himself

unavailable to the trial court. Further, like the defendant in Roberson, Williamson was no stranger to the criminal justice system. His priors are as follows: forgery in 1994, resisting arrest in 1997, loafing and loitering in 1998, forgery again in 1999, obtaining goods by false pretenses in 2001, and possession of crack, criminal domestic violence, and assault and battery of a high and aggravated nature, all in 2004. ROA p. 223, lines 8-14.

The Roberson court found that an inexcusable absence from trial constituted a waiver of right to counsel by conduct. Id., 382 S.C. at 733, 675 S.E.2d at 733. Accordingly, in the instant case, Williamson waived his right to counsel by his inexcusable absence from trial.

The trial court followed the dictates of Rule 16, SCRCRP by making a finding that Williamson received notice of his right to be present and warned that the trial would proceed in his absence if he failed to attend court. ROA pp. 13-19. Since the record reflects that the trial court made the requisite inquiry, the trial court did not commit error. State v. Castineira, 341 S.C. 619, 535 S.E.2d 449 (Ct. App. 2000).

The conditions of his bond indicate that he was to attend General Sessions on October 15, 2007 and remain there throughout the term and every succeeding term until his charges were disposed of, unless otherwise directed by the court. Court's Exhibit #1.

Williamson failed to attend court as the bond required. Instead, Williamson admitted fleeing Florence. He admitted he "just drove, just drove out of town" purportedly because he was scared of another dealer. ROA p. 227, lines 23-25, p. 229, lines 11-14.

By his conduct, he waived the right to be present at trial and the right to be represented by counsel, even if this Court were to ignore the requirements of error preservation.

2. Williamson did not show up for his second trial either. He alleges that he should have been granted a mistrial. This Court relied on cases indicating that this Court found the

supposed error was not sufficiently prejudicial to warrant mistrial. State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000); State v. White, 371 S.C. 439, 447-448, 639 S.E.2d 160, 164 (Ct. App. 2006).

This Court did not overlook any points of law or fact in reaching this conclusion, especially in light of the trial court's stern instructions to the jury to disregard the objectionable testimony.

Sergeant Drullis testified that law enforcement was serving both a search warrant and arrest warrant when they entered [REDACTED] Street. The record is clear that the prosecution did not intend to elicit testimony about the arrest warrant and Sergeant Drullis admitted to the trial court: ". . . for lack of a better term, when it came out, I wish I could have grabbed it." ROA. p. 83, lines 6-7. The trial court denied the motion for mistrial but gave the following instruction to the jury:

Madam Forelady, Ladies and Gentlemen of the Jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There's no such unrelated arrest warrant. Ladies and Gentlemen of the Jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard and not being influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, Ladies and Gentlemen of the Jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam Forelady, it's going to be your job and your responsibility as a juror to not allow that to enter into discussion in any way, shape, or form.

ROA p. 83, line 18 - p. 84, line 14.

The perceived error was cured by the trial court's stern and emphatic instruction. An appropriate curative instruction is generally considered to cure any error. State v. Dawkins, 297 S.C. 386, 377 S.E.2d 298 (1989). The remedy of mistrial was not appropriate in this case in light of the stern instructions and the insubstantial prejudicial effect from the purported error. "The granting of a mistrial motion is an extreme measure to be taken only where an incident is so grievous that its prejudicial effect can be removed in no other way." State v. Dempsey, 340 S.C. 565, 570, 532 S.E.2d 306, 309 (Ct. App. 2000).

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DAVID SPENCER
Assistant Deputy Attorney General

E. L. CLEMENTS, III
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BY: 

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ATTORNEYS FOR RESPONDENT

March 30, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Appellant.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Return to Petition for Rehearing by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Elizabeth A. Franklin-Best, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 30th day of March, 2012.


NORMA BIGBEE
Legal Assistant

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The South Carolina Court of Appeals

The State,

Respondent,

v.


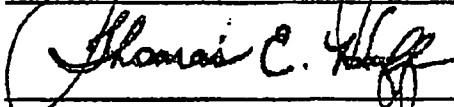
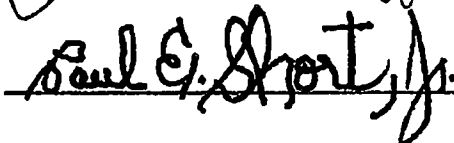
Anthony Tyrone Williamson,

Appellant.

The Honorable Ralph King Anderson, Jr.
 Florence County
 Trial Court Case No. 2008-GS-21-00317
 2009-GS-21-00334

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing. It is, therefore, ordered that the Petition for Rehearing be denied.

 Few, C. J.
 Huff, J.
 Short, J.

Columbia, South Carolina

cc: Appellate Defender Elizabeth Franklin-Best
 Attorney General Alan Wilson
 Chief Deputy Attorney General John W. McIntosh
 Assistant Deputy Attorney General Salley W. Elliott
 Senior Assistant Attorney General David Spencer

FILED

4 May 2012

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

Opinion No. 2012-UP-089 (S.C. Ct. App. filed 2/22/2012)

08-GS-21-317, 09-GS-21-334

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

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Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR PETITIONER.

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 II. The Court of Appeals erred in affirming the trial court’s ruling to proceed with both of Petitioner’s trials *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence.18

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on 5/4/2012. App. 3 – 11; 20.

QUESTIONS PRESENTED

- I. Did the Court of Appeals err in affirming the trial court's ruling to proceed with Petitioner's first trial where Petitioner was denied his right to counsel when he was tried *in absentia* and without counsel?

- II. Did the Court of Appeals err in affirming the trial court's ruling to proceed with both of Petitioner's trials *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence?

STATEMENT OF THE CASE

On January 10, 2008, Petitioner Anthony Tyrone Williamson was indicted by the Florence County Grand Jury for: trafficking cocaine base; possession of cocaine base with the intent to distribute (PWID) within proximity of a school or park; and two counts of possession of cocaine base. R. 237.

On April 13, 2009, Petitioner was tried *in absentia* and without counsel before the Honorable Ralph King Anderson, Jr., and a jury. R. 1 – 74. The State was represented by Patricia Parr. R. 1. The State brought the trafficking cocaine base and PWID within proximity of a school or park charges before the jury. R. 3, l. 24 – 4, l. 2. The jury found Petitioner guilty as charged. R. 71, ll. 18-25. The trial court sealed Petitioner's sentences. R. 73, ll. 1-19.

On March 05, 2009, Petitioner was again indicted by the Florence County Grand Jury for trafficking cocaine base and PWID within proximity of a school or park.

On April 22, 2009, Petitioner was tried *in absentia* before the Honorable Michael Nettles and a jury. R. 75 – 217. However, unlike Petitioner's *first* trial, Judge Nettles appointed Vic Meetze to represent Petitioner despite Meetze's motion to be relieved and no prior knowledge of Petitioner's case. R. 97, l. 1 – 98, l. 7. The State was represented by Patricia Parr. R. 75. The State brought the trafficking cocaine base charge before the jury. R. 78, ll. 3-6. The jury found Petitioner guilty as charged. R. 212, ll. 16-25. The trial court sealed Petitioner's sentence. R. 213, l. 7 – 215, l. 22.

On October 29, 2009, Petitioner appeared before Judge Anderson for the opening of the sealed sentences. R. 218 – 233. Petitioner was represented by Vic Meetze, and the State was represented by Patricia Parr. R. 218. On the April 13, 2009 convictions, Judge Anderson sentenced Petitioner to fifteen years imprisonment for trafficking cocaine base, second offense, and ten years

imprisonment for PWID within proximity of a school or park. R. 222, ll. 13-21. Judge Anderson also sentenced Petitioner to twenty-five years imprisonment on the April 22, 2009, trafficking cocaine base, third offense, conviction. R. 222, l. 23 – 223, l. 2. The sentences were to run concurrently for a total of twenty-five years imprisonment. R. 222, ll. 21-22; 231, ll. 6-9.

Petitioner's appeal involved the consolidation of both the April 13 and 22, 2009, convictions and the October 29, 2009, sentences. The convictions and sentences were affirmed in *State v. Williamson*, Op. No. 2012-UP-089 (S.C. Ct. App. filed February 22, 2012). App. 1 – 2. Petitioner subsequently filed a petition for rehearing on March 7, 2012. App. 3 – 12. The State filed its return to the petition for rehearing on March 20, 2012. App. 13 – 19. The South Carolina Court of Appeals issued an Order denying the petition for rehearing on May 4, 2012. App. 20.

This petition for a writ of certiorari to the Court of Appeals follows.

ARGUMENT

- I. **The Court of Appeals erred in affirming the trial court's ruling to proceed with Petitioner's first trial where Petitioner was denied his right to counsel when he was tried *in absentia* and without counsel.**

Relevant Facts

On April 13, 2009, Petitioner was tried *in absentia* and without counsel before the Honorable Ralph King Anderson, Jr., and a jury. R. 1 – 74. Petitioner was charged with trafficking cocaine base and PWID within proximity of a school or park. R. 3, l. 24 – 4, l. 2. The trial court noted that it would have to “ascertain whether [Petitioner's] case can proceed.” R. 13, ll. 14-16. The trial court also noted its duty to conduct “the analysis in regard to the requirements to try a defendant *in absentia*.” R. 13, l. 17 – 14, l. 9. The State then called Doris Poulos O'Hara, an employee of the Florence County Clerk of Court's office, to testify. R. 14, ll. 16-22.

O'Hara maintained that Petitioner received a bond on September 14, 2007, and as a condition of the bond, Petitioner was to appear for General Sessions Court on October 15, 2007. R. 15, ll. 11-25. O'Hara also maintained that if no disposition was made during that term of court, that Petitioner was ordered to “appear and remain throughout each succeeding term of court until final disposition is made of its case unless otherwise ordered by the Court.” R. 15, l. 25 – 16, l. 3. O'Hara further stated that a bench warrant was issued for Petitioner on March 10, 2009. R. 16, ll. 11-13.

Notably, when asked whether Petitioner was “given or provided a copy of this bond[,]” O'Hara replied, “*I believe he was.*” R. 16, ll. 18-20 (emphasis added). O'Hara subsequently claimed Petitioner was advised of the conditions of his bond because Petitioner had signed the bond on September 14, 2007. R. 16, ll. 21-23. Based on O'Hara's testimony, the trial court found that “[Petitioner] was given notice to appear for court and has failed [to] do so” and that “[Petitioner]

was made aware of the fact that he could be tried in his absence.” R. 17, l. 20 – 18, l. 4. The Court then ruled that “the State may proceed with a trial in absentia.” R. 18, l. 4-6. There was no objection to the denial of Petitioner’s right to counsel because Petitioner was tried *in absentia* and without counsel.

Nine days later at Petitioner’s *second* trial on April 22, 2009, Petitioner was again tried *in absentia* on separate charges. R. 91, ll. 1-2. A *different* trial judge appointed Vic Meetze to represent Petitioner despite Meetze’s motion to be relieved and no prior knowledge of Petitioner’s case. R. 97, l. 1 – 98, l. 7. The State then informed the trial court that Petitioner had been “denied [a] public defender” and that “the State has had *no contact* with [Petitioner].” R. 91, ll. 10-15 (emphasis added). The State maintained that “[Petitioner] had a prior case in which he had hired counsel by way of Mr. Ethridge for *a much older case* . . . [Mr. Ethridge] was *relieved as his counsel* because [Petitioner] failed to cooperate and get in contact with him.” R. 91, ll. 14-19 (emphasis added). The State noted, however, “[Mr. Ethridge] *never appeared on behalf of [Petitioner]* on this particular case [Petitioner’s second trial].” R. 91, ll. 19-21 (emphasis added).

Discussion

The Court of Appeals erred in affirming the trial court’s ruling to proceed with Petitioner’s *first* trial for two reasons. First, the Court of Appeals erroneously found that the issue was not preserved for appellate review. App. 1 – 2. Second, Petitioner was denied his right to counsel. *See State v. Thompson*, 355 S.C. 255, 584 S.E.2d 131 (Ct. App. 2003) (finding Thompson did not waive his right to counsel by conduct nor did Thompson relinquish it through forfeiture).

Issue was Preserved for Review

The Court of Appeals affirmed the trial court’s ruling and cited two cases as controlling authority: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (“Issues not raised

and ruled upon in the trial court will not be considered on appeal”); and *State v. Williams*, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) (“In order to claim the protection afforded by [Rule 16, SCRCrimP], a defendant or his attorney must object at the first opportunity to do so.”). App. 1 – 2.

Here, the issue was preserved for appellate review because Petitioner was denied his right to counsel in his *first* trial when he was tried *in absentia* and without counsel. See *McKnight v. State*, 320 S.C. 356, 465 S.E.2d 352 (1995) (ordinary issue-preservation analysis is foregone and prejudice is presumed when a defendant's right to counsel is completely denied); *Cf. State v. Stevens*, 116 S.C. 210, 107 S.E.2d 906 (1921) (noting “[w]hile no motion was made for a directed verdict by the defendant, as required by rules of court, we will consider the exceptions, as it is a criminal case and *involves the liberty of a citizen*”) (emphasis added).

Although Vic Meetze was appointed to represent Petitioner on separate charges at Petitioner's *second* trial, Meetze had no authority to object to defects in Petitioner's *first* trial. R. 97, l. 1 – 98, l. 7. Notably, Meetze's representation of Petitioner during the *second* trial was *per se* ineffective assistance of counsel because Meetze was not appointed to represent Petitioner until *after* the jury was selected and Meetze had approximately two hours to prepare for Petitioner's trial. R. 97, l. 15 – 110, l. 14. See *United States v. Cronin*, 466 U.S. 648, 656 (1984) (noting “[t]he right to the effective assistance of counsel is thus the right of the accused to require the prosecution's case to survive the crucible of meaningful adversarial testing”); see also *Wiggins v. Smith*, 539 U.S. 510, 524-25 (2003) (holding counsel must conduct a reasonable investigation “to discover *all reasonably available* mitigation evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor”) (citation omitted); accord *Nance v. Ozmint*, 367 S.C. 547, 626 S.E.2d 878 (2006) (finding counsel's failure to investigate, plan, and present a defense constituted “a classic example of a complete breakdown in the adversarial process”).

Right to Counsel

“The Sixth and Fourteenth Amendments of our Constitution guarantee that a person brought to trial in any state or federal court must be afforded the right to the assistance of counsel before he can be validly convicted and punished by imprisonment.” *Faretta v. California*, 422 U.S. 806, 807 (1975); *see also Gideon v. Wainwright*, 372 U.S. 335, 339-40 (1963). The Sixth Amendment also guarantees that, once the adversarial judicial process has begun, a criminal defendant has the right to have counsel present at all “critical” stages of the proceeding. *See Argersinger v. Hamlin*, 407 U.S. 25 (1972); *see also Powell v. Alabama*, 287 U.S. 45 (1932). Notably, the Supreme Court of the United States has held, “Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.” *United States v. Cronin*, 466 U.S. 648, 654 (1984).

However, a defendant may surrender his right to counsel through (1) waiver by affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture. *See State v. Boykin*, 324 S.C. 552, 556, 478 S.E.2d 689, 690 (Ct. App. 1996). A waiver is an *intentional* and *voluntary* relinquishment of a known right. *See Johnson v. Zerbst*, 304 U.S. 458, 464 (1938); *see also Maxwell v. Genez*, 350 S.C. 563, 571, 567 S.E.2d 496, 500 (Ct. App. 2002). The accused must know what he is doing so that “his choice is made with eyes open.”¹ *Adams v. United States ex rel. McCann*, 317 U.S. 269, 279 (1942). Notably, the courts indulge every reasonable *presumption against waiver* of fundamental constitutional rights, and do *not* presume acquiescence in the loss of fundamental rights. *See Zerbst*, 304 U.S. at 464; *see also Pitts v. North Carolina*, 395 F.2d

¹ *See Iowa v. Tovar*, 541 U.S. 77 (2004) (noting the information that a defendant must possess in order to make an intelligent election depends on a range of case-specific factors, including his education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding).

182, 188 (4th Cir. 1968).

Not Waived by Verbal Request

To effectuate a valid waiver of the right to counsel by verbal request, the two-pronged *Faretta* test must be met in which the accused is (1) advised of his right to counsel and (2) adequately warned of the dangers of self-representation. *Prince v. State*, 301 S.C. 422, 423-24, 392 S.E.2d 462, 463 (1990) (citing *Faretta*, 422 U.S. 806).

Here, Petitioner clearly did not waive his right to counsel by verbal request because Petitioner was tried *in absentia* and without counsel. R. 1 – 74. Accordingly, the trial court has no way of knowing if Petitioner was advised of his right to counsel or adequately warned of the dangers of self-representation. *See Prince*, 301 S.C. at 423-24, 392 S.E.2d at 463 (citing *Faretta*, 422 U.S. 806).

Not Waived by Conduct

A defendant may waive his right to counsel through his conduct. *See Thompson*, 355 S.C. 255, 263, 584 S.E.2d 131, 135 (Ct. App. 2003) (citing *United States v. Goldberg*, 67 F.3d 1092, 1100 (3d Cir.1995)). Most courts have held that a defendant must *first be warned* that his misconduct will thereafter be treated as a waiver. *Boykin*, 324 S.C. at 556, 478 S.E.2d at 691. “[T]o the extent that the defendant's actions are examined under the doctrine of ‘waiver,’ there can be no valid waiver of the Sixth Amendment right to counsel unless the defendant also receives *Faretta* warnings.” *Goldberg*, 67 F.3d at 1100.

In *Thompson*, 355 S.C. at 265-266, 584 S.E.2d at 137, the South Carolina Court of Appeals cited *Pennsylvania v. Ford*, 715 A.2d 1141 (Pa. Super.Ct. 1998), as “[a]n excellent academic explication of an appellant tried *in absentia* and without representation[.]” In *Ford*, “[w]hen the appellant did not appear for jury selection, his private counsel filed a motion to withdraw,

arguing that the appellant had not paid a large portion of his fee and his absence impeded trial preparation The [trial] court granted the motion [to be relieved] and proceeded to try the appellant *in absentia* and without counsel.” *Thompson*, 355 S.C. at 265-266, 584 S.E.2d at 136 (citing *Ford*, 715 A.2d at 1143).

“The [*Ford*] court found the appellant did not validly waive his right to counsel because there was no inquiry on the record as to whether the appellant was aware of his rights or whether he knowingly waived them. *Id.* at 265-266, 584 S.E.2d at 136 (citing *Ford*, 715 A.2d at 1144). “The [*Ford*] court observed that this type of inquiry is ‘quite obviously impossible’ when a defendant fails to appear in court.” *Id.* “However, the [*Ford*] court ruled that ‘[f]ailure to appear ... is not tantamount to a knowing waiver.’” *Id.* Ultimately, the *Ford* court held that “[t]he appellant’s fugitive status was not a *per se* waiver nor could it be punished by the ‘negation of constitutional rights’” and that “[h]is fugitive status was a separate wrong with its own consequences.” *Id.*

Furthermore, the Court of Appeals found that the facts in *Thompson* were “most similar to the facts” presented in *Slayton v. Indiana*, 755 N.E.2d 232 (Ind. Ct. App. 2001).² *Id.* at 266-677, 584 S.E.2d at 137. The Court of Appeals noted that the defendants in both cases were tried *in absentia* and without counsel, but had appeared in court several times *before* trial. *Id.* The Court of Appeals further noted that “[n]either of the defendants [were] advised of the dangers and disadvantages of self-representation under *Faretta*” and that there was no evidence showing that *Thompson* understood the dangers and disadvantages of self-representation. *Id.* The Court of Appeals held, “Abiding by the *presumption against a waiver* of the right to counsel, we

² (finding no waiver of right to counsel where “[t]he State’s argument for ‘waiver’ would turn this presumption [against waiver] on its head, requiring a defendant to clearly exercise rights that were never explained to him”).

conclude Thompson did not waive his right to counsel through his conduct when he never was apprised of his right nor the dangers and disadvantages of self-representation.” *Id.* (emphasis added).

In this case, at Petitioner’s *first* trial on April 13, 2009, the trial court failed to conduct even a minimal inquiry as to: (1) why no attorney was present to represent Petitioner; (2) whether Petitioner was represented by a public defender or a private attorney; or (3) whether Petitioner had waived or forfeited his right to counsel. Therefore, Petitioner did not waive his right to counsel because “there was no inquiry on the record as to whether the appellant was aware of his rights or whether he knowingly waived them.” *Thompson*, 355 S.C. at 265-266, 584 S.E.2d at 137 (citing *Ford*, 715 A.2d at 1144); *See Faretta*, 422 U.S. 806.

Not Relinquished by Forfeiture

The United States Supreme Court has addressed the significance of forfeiting the right to counsel at trial:

[R]ecognizing the *enormous importance* and role than an attorney plays at a criminal trial, we have imposed the *most rigorous restrictions* on the information that *must be* conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988) (emphasis added). The *Thompson* Court noted, “[B]ecause of the drastic nature of the sanction, forfeiture would appear to require extremely dilatory conduct.” *Thompson*, 355 S.C. at 268, 584 S.E.2d at 137 (citing *Goldberg*, 67 F.3d at 1101). “Situations where a defendant’s own conduct forfeits his right to counsel are unusual, typically involving a manipulative or disruptive defendant.” *Id.* (citing *State v. Coleman*, 253 Wis.2d 693, 644 N.W.2d 283, 288 (Ct. App. 2002)).

In *Boykin*, 324 S.C. at 554-55, 478 S.E.2d at 689-90, the defendant verbally abused and physically threatened defense counsel, and the trial court granted counsel’s request to be

relieved. Despite the defendant's disruptive and abusive behavior, the *Boykin* court held:

Although we do not condone Boykin's actions, *we do not believe they were so severe as to permanently deprive him of appointed counsel.* Both cases which have held a defendant forfeited his right to counsel involved a course of conduct more egregious than the single incident alleged here. Accordingly, we need not decide whether South Carolina should embrace the doctrine of forfeiture because *we find that Boykin's conduct in the one event related by Padgett was not sufficient to constitute forfeiture.* While the trial judge was certainly justified in granting Padgett's motion to be relieved as counsel, *substitute counsel should have been appointed for Boykin.* Therefore, the decision of the trial court is reversed and the case remanded for a new trial.

Id. at 558-59, 478 S.E.2d at 692 (emphasis added).

In this case, at Petitioner's *first* trial on April 13, 2009, there was no examination of why Petitioner was not represented by an attorney. Accordingly, Petitioner did not forfeit his right to counsel because Petitioner's conduct was not sufficient to constitute forfeiture. *See Thompson*, 355 S.C. at 269, 584 S.E.2d at 138 (finding "[f]orfeiture of counsel is a drastic consequence, requiring more than absence from trial").

Prejudice is Presumed

Additionally, the erroneous deprivation of a defendant's fundamental right to the assistance of counsel is *per se* reversible error. *See Boykin*, 324 S.C. at 555, 478 S.E.2d at 690 (citing *Chapman v. California*, 386 U.S. 18, 23 n. 8 (1967)). "Actual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice." *McKnight v. State*, 320 S.C. at 358, 465 S.E.2d at 353 (quoting *Strickland v. Washington*, 466 U.S. 668, 692 (1984)).

Notably, although prejudice is presumed, an attorney representing Petitioner at his *first* trial could have objected to the following: (1) the execution of the search warrant; (2) the police officer's characterization of Petitioner as a "middle level sized dealer[;]" (3) the police officer's testimony

that Petitioner was also selling marijuana; (4) the State entering an unrelated firearm into evidence; (5) the codefendant's hearsay statement claiming ownership of drugs found in a car; (6) the statement that Petitioner purportedly made to law enforcement regarding these events; and (7) testimony regarding a scanner found in Petitioner's bedroom was used to monitor these police officers' communications. R. 21; 27; 31; 42; 43. In short, an attorney zealously advocating on Petitioner's behalf may have insured that Petitioner received a fair trial.

Petitioner was erroneously deprived of his fundamental right to assistance of counsel under the Sixth Amendment to the United States Constitution. *See Faretta*, 422 U.S. at 807; *see also Cronin*, 466 U.S. at 656. Thus, the Court of Appeals erred in affirming the trial court's ruling to proceed with Petitioner's first trial. App. 1 – 2; *See Thompson*, 355 S.C. 255, 584 S.E.2d 131.

- II. The Court of Appeals erred in affirming the trial court's ruling to proceed with both of Petitioner's trials *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence.**

Relevant Facts

On April 22, 2009, Petitioner was tried *in absentia* for the second time in nine days before Judge Nettles and a jury. R. 75 – 217. The State informed the trial court that Petitioner had been “denied [a] public defender” and that “the State has had *no contact* with [Petitioner].” R. 91, ll. 10-15 (emphasis added). The State maintained that “[Petitioner] had a prior case in which he had hired counsel by way of Mr. Ethridge for *a much older case* . . . [Mr. Ethridge] was *relieved as his counsel* because [Petitioner] failed to cooperate and get in contact with him.” R. 91, ll. 14-19 (emphasis added). The State noted, however, “[Mr. Ethridge] *never appeared on behalf of [Petitioner]* on this particular case [Petitioner's second trial].” R. 91, ll. 19-21 (emphasis added).

The State called Nicole Bethea, a deputy clerk in the criminal division of the Florence County Clerk's office, to testify. R. 92, ll. 4-9. Bethea maintained that Petitioner was issued a bond on October 9, 2008. R. 92, l. 23 – 93, l. 4. Bethea then read the conditions of Petitioner's bond:

The defendant shall appear at the time of court of General sessions beginning on Thursday, December 18, 2008 at 9:00 o'clock a.m. at room 1105 City-County Complex, 180 North Irby Street, Florence, South Carolina 29501 and remain there throughout this term of court. If no disposition is made during that time, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case unless otherwise ordered by the court.

R. 93, ll. 12-20. Bethea claimed that Petitioner had been advised of the bond conditions because Petitioner had signed the back of the bond form. R. 93, l. 21 – 94, l. 12. Bethea further noted that a bench warrant was issued for Petitioner's failure to appear on December 18, 2008, and that the State has not been able to locate Petitioner. R. 94, l. 23 – 95, l. 22.

However, unlike Petitioner's *first* trial, Judge Nettles appointed Vic Meetze to represent Petitioner despite Meetze's motion to be relieved as counsel. R. 97, l. 1 – 98, l. 7. Notably, Meetze was not appointed to represent Petitioner until *after* the jury was selected and Meetze had approximately two hours to prepare for Petitioner's trial. R. 97, l. 15 – 110, l. 14.

Discussion

The Court of Appeals erred in affirming the trial court's ruling to proceed with both of Petitioner's trials for two reasons. First, the Court of Appeals erroneously found that the issue was not preserved for appellate review. App. 1 – 2. Second, the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence. *See Illinois v. Allen*, 397 U.S. 337 (1970) (holding an accused has the right to be present at every stage of his trial).

Issue was Preserved for Review

The Court of Appeals affirmed the trial court's ruling and cited two cases as controlling authority: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (“Issues not raised and ruled upon in the trial court will not be considered on appeal”); and *State v. Williams*, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) (“In order to claim the protection afforded by [Rule 16, SCRCrimP], a defendant or his attorney must object at the first opportunity to do so.”).

Here, the issue was preserved for appellate review. At Petitioner's *second* trial, Judge Nettles appointed Vic Meetze to represent Petitioner after the trial court had realized “the serious of [the charges]” and that Petitioner was tried *in absentia* and without counsel just nine days earlier before Judge Anderson. R. 97, l. 2 – 98, l. 10. Meetze moved to be relieved as counsel and argued: “I have a case where failing to appear for your trial is a waiver, at least according to my colleague, Mr. Smith, is a waiver of your right to an attorney.” R. 97, l. 15 – 98, l. 2. Judge

Nettles denied Meetze's motion to be relieved as counsel and stated:

I think that given the nature of the case, I just think in the interest of fundamental fairness it would be in the interest of justice to have someone speak on behalf of the defendant.

98, ll. 3-7.

It is clear that Judge Nettles was well aware that Petitioner was being tried *in absentia* after hearing testimony from a deputy clerk in the criminal division of the Florence County Clerk's office and based on his decision to appoint Meetze to represent Petitioner. R. 92, l. 4 – 95, l. 22; 97, l. 2 – 98, l. 10. *See State v. Passmore*, 363 S.C. 568, 584-585, 611 S.E.2d 273, 282 (Ct. App. 2005) (finding one exception to error preservation law is “the doctrine of futility, which recognizes that in circumstances where it would be futile to raise an objection to the trial judge, failure to raise the objection will be excused”); *see also State v. Higgenbottom*, 344 S.C. 11, 542 S.E.2d 718 (2001) (employing futility doctrine).

Right to be Present

An accused has the right to be present at every stage of his trial. *See Illinois v. Allen*, 397 U.S. 337 (1970). This right, however, may be waived. *See Ellis v. State*, 267 S.C. 257, 227 S.E.2d 304 (1976). Rule 16, SCRCrimP provides:

[A] person indicted for misdemeanors and/or felonies may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court.

See City of Aiken v. Koontz, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (Ct. App. 2006) (noting a waiver of such an important right is permitted only in limited circumstances). Therefore, before a defendant may be tried in absentia, the trial court must determine a defendant voluntarily waived his right to be present at trial, making findings of fact on the record that the defendant (1)

received notice of his right to be present and (2) was warned that the trial would proceed in his absence. *See Id.*

In *Koontz*, 368 S.C. at 547-48, 629 S.E.2d at 689-90, the defendant signed a bond form entitled, "Acknowledgement by Defendant," which read "I understand and have been informed that I have a right and obligation to be present at trial and *should I fail to attend the court, the trial will proceed in my absence.*" *Id.* (emphasis added). The Court of Appeals found that the defendant was warned that his failure to appear would result in a trial in his absence and that the defendant understood the warning and obligation by signing the bond form. Consequently, the Court of Appeals held that a bond form may serve as the requisite notice for waiver if it provides notice that a defendant can be tried *in absentia*. *Id.*

Insufficient Notice

In this case, the State chose to call Petitioner's *first* trial 544 days after he was initially noticed to appear in court. Notably, in South Carolina, the solicitors control the docket. *See* S.C. Code Ann. § 1-7-330 (1976 as amended). The only evidence presented by the State regarding notice was its reliance on the boilerplate language of a bond form that required Petitioner to remain tethered to the courthouse until the State decided to exercise its power and call his case to trial. R. 93, ll. 12-20. This practice fails to offer meaningful notice to defendant that his case will be tried and is a fundamental denial of due process. *See Mullane v. Central Hanover Bank & Tire Co.*, 339 U.S. 306, 313 ("Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case"). Accordingly, Petitioner did not waive his right to be present because he failed to receive sufficient notice by the State. *See Koontz*, 368 S.C. 542,

547, 629 S.E.2d 686, 689; *see also* Rule 16, SCRCrimP.

Inadequate Warning

Furthermore, there was no evidence presented before the trial court that the bond form contained an adequate warning to serve as requisite notice for waiver. R. 93, l. 12 – 94, l. 12; *Cf. Koontz*, 368 S.C. at 547-48, 629 S.E.2d at 689-90.

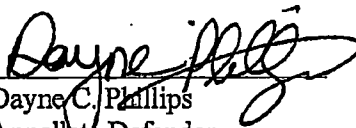
No Finding of Fact on the Record

Additionally, the trial court failed to make a finding of fact on the record that the defendant (1) received notice of his right to be present; and (2) was warned that the trial would proceed in his absence should he fail to attend. *See State v. Jackson*, 288 S.C. 94, 96, 341 S.E.2d 375 (1986). Accordingly, the Court of Appeals erred in affirming the trial court's ruling to proceed with both of Petitioner's trials *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence. *See Allen*, 397 U.S. 337 (1970) (holding an accused has the right to be present at every stage of his trial).

CONCLUSION

Based on the foregoing reasons, Petitioner Anthony Williamson's petition for writ of certiorari to the Court of Appeals should be granted to allow further briefing on the issue.

Respectfully submitted,


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER.

This 1st day of August, 2012

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Ralph King Anderson, Jr., Circuit Court Judge

Opinion No. 2012-UP-089 (S.C. Ct. App. filed 2/22/2012)
08-GS-21-317, 09-GS-21-334

THE STATE,

RESPONDENT,


V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

CERTIFICATE OF SERVICE

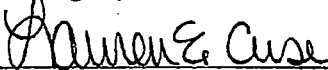
I certify that a true copy of the petition for writ of certiorari and a copy of the appendix, in this case has been served on David Spencer, Esquire, of the South Carolina Attorney Generals Office, and the S.C. Court of Appeals this 1st day of August, 2012.



Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 1st day
of August, 2012.



(L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari from Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge (first trial)
Michael G. Nettles, Circuit Court Judge (second trial)
—————

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 & #2,

Petitioner.

—————
**RETURN TO PETITION
FOR WRIT OF CERTIORARI**
—————

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STATEMENT OF ISSUES ON APPEAL**I.**

Williamson waived his right to counsel by his conduct – his inexcusable absence from trial.

II.

Williamson received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show.

III

Williamson may not challenge his trial in absence for the second trial where he did not raise the issue to the trial court or on appeal to the Court of Appeals and the trial court did not err in trying Williamson in his absence.

STATEMENT OF THE CASE

Petitioner Williamson fled the jurisdiction and was tried by jury in absentia and, since he neglected hiring an attorney, without counsel, on April 13, 2009 before the Honorable Ralph King Anderson, Jr., for trafficking cocaine base and possession of cocaine base with intent to distribute in proximity of a school or park. The jury found Williamson guilty of both counts and Judge Anderson sealed Williamson's sentences.

Williamson, who still had not returned to the jurisdiction, was tried by jury in absentia on April 22, 2009 for a separate charge of trafficking cocaine base before the Honorable Michael G. Nettles. Judge Nettles elected to appoint counsel for the trial. The jury found Petitioner guilty and Judge Nettles sealed Williamson's sentence.

Williamson was brought before Judge Anderson on October 29, 2009 and his counsel

was present. Judge Anderson unsealed the sentences. For the first trial, Judge Anderson sentenced Williamson to fifteen years imprisonment for trafficking, second offense, and ten years imprisonment for the proximity charge. For the second trial, Judge Anderson sentenced Williamson to twenty-five years imprisonment for trafficking, third offense. All the sentences were run concurrently.

Williamson appealed the convictions from both trials, separately, and submitted separate briefs to the Court of Appeals for each trial. The Court of Appeals affirmed all convictions and sentences in a consolidated opinion. State v. Williamson, Op. No. 2012-UP-089 (S.C. Ct. App., filed February 22, 2012). The Court of Appeals denied the petition for rehearing. Williamson filed a single petition for writ of certiorari to this Court. The State's return follows.

STATEMENT OF FACTS

Trial #1: Following a tip from a reliable informant, the Florence Police Department executed a search warrant on Appellant Williamson's residence on September 13, 2007. Police stopped Williamson in his driveway as he and another individual were pulling out in a vehicle. Officer Joe Nida observed cocaine base on the floorboard. Williamson admitted he gave the cocaine base to the other individual in the car. Utilizing Williamson's keys, police entered the residence. Williamson, Gwendolyn Williamson, Williamson's girlfriend, and Williamson's mother were directed to sit on the couch and law enforcement read them all their Miranda rights. Williamson told the police he kept crack in the bedside safe. Police found 19.4 grams of crack cocaine, packaged for distribution, and cash in the safe. They also found a police scanner, rolling papers, a 40 caliber pistol, shells, and digital scales. ROA

pp. 25-33; pp. 39-43; p. 56.

Trial #2: Officer Joe Nida obtained a search warrant on November 9, 2007 and executed the search warrant on November 14, 2007 on Appellant Williamson's residence. Law enforcement knocked on the front door and when there was no answer, used force to enter. When they entered, Williamson was coming out of his bedroom. Williamson's girlfriend was also inside the house. Officers found two bags of crack cocaine in a flashlight left on the bed. They noted a padlock on the outside of Williamson's bedroom door. They opened up the flashlight in front of Williamson who just hung his head. Williamson led them to a cassette case that also had a bag of crack inside. Sergeant Calhoun found digital scales. ROA. pp. 50-56; pp. 70-74. A total of 13.9 grams of crack cocaine was seized by law enforcement. ROA. p. 102.

ARGUMENT

I.

Williamson waived his right to counsel by his conduct – his inexcusable absence from trial.

Williamson admitted fleeing Florence. He admitted he "just drove, just drove out of town" purportedly because he was scared of another dealer. ROA p. 227, lines 23-25, p. 229, lines 11-14.

Williamson did not qualify for a public defender, and was advised he should hire an attorney. ROA p. 91. The record does not reflect that he made any effort to attain counsel for either trial.

Williamson, represented by counsel at the sentencing hearing, did not allege he failed to receive notice of the trial. Williamson also did not contest that his right to counsel was

violated. Accordingly, this issue is not preserved for appeal. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson forfeited his right to counsel by his conduct. State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009). In Roberson, the Supreme Court noted three ways a defendant may relinquish his right to counsel: “(1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture.” Id., 382 S.C. at 187, 675 S.E.2d at 732. In the instant case, Williamson was advised of his right to counsel but instead he chose to flee and make himself unavailable to the trial court. Further, like the defendant in Roberson, Williamson was no stranger to the criminal justice system. His prior convictions are as follows: forgery in 1994, resisting arrest in 1997, loafing and loitering in 1998, forgery again in 1999, obtaining goods by false pretenses in 2001, and possession of crack, criminal domestic violence, and assault and battery of a high and aggravated nature, all in 2004. ROA p. 223, lines 8-14.

The Roberson court found that an inexcusable absence from trial constituted a waiver of right to counsel by conduct. Id., 382 S.C. at 733, 675 S.E.2d at 733. Accordingly, in the instant case, Williamson waived his right to counsel by his inexcusable absence from trial. Williamson fails to cite or distinguish Roberson in his petition for certiorari.

The Idaho Court of Appeals cited Roberson favorably and also noted the following:

While the Sixth Amendment guarantees a defendant the right to counsel, and court-appointed counsel if indigent, a defendant cannot use this right to play a cat-and-mouse game with the court or by ruse or stratagem fraudulently seek to have the trial judge placed in a position where, in moving along the business of the court, the judge appears to be

arbitrarily depriving the defendant of counsel. United States v. Murphy, 469 F.3d 1130, 1135 (7th Cir. 2006); United States ex rel. Davis v. McMann, 386 F.2d 611, 618-19 (2d Cir. 1967); see also Releford v. United States, 309 F.2d 706, 708 (9th cir. 1962) (noting that the constitutional guarantee of the right of a defendant to have the assistance of counsel cannot be turned into a weapon whereby a defendant can prevent his or her case from ever being brought to trial).

State v. Schwab, 281 P.3d 1103, 1111 (Id. Ct. App. 2012). In the instant case, Williamson neglected to meet with his attorney, decided to flee the jurisdiction, and neglected to inform the court of his whereabouts. Williamson waived his right to counsel by his conduct.

Further, during sentencing, Williamson admitted guilt: "I was just selling drugs to use drugs actually." ROA p. 228, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the Appellant's conviction] is eliminated by the admission of Appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary").

II.

Williamson received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show (Trial #1).

The issue is not preserved. Williamson had counsel appointed and was present at his sentencing hearing. He did not object to the trial being held in his absence nor contend he did not receive notice that he would be tried in his absence. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson admitted fleeing Florence. He admitted he "just drove, just drove out of

town” purportedly because he was scared of another dealer. ROA p. 227, lines 23-25, p. 229, lines 11-14.

Further, the trial court followed the dictates of Rule 16, SCRCRP by making a finding that Williamson received notice of his right to be present and warned that the trial would proceed in his absence if he failed to attend court. ROA pp. 13-19. Since the record reflects that the trial court made the requisite inquiry, the trial court did not commit error. State v. Castineira, 341 S.C. 619, 535 S.E.2d 449 (Ct. App. 2000).

The conditions of his bond indicate that he was to attend General Sessions on October 15, 2007 and remain there throughout the term and every succeeding term until his charges were disposed of, unless otherwise directed by the court. Court’s Exhibit #1. Williamson failed to attend court as the bond required. The record does not reflect that he received special instructions from the court as stated in the bond. Further, Williamson was required to notify the court if he changed his address. It does not appear that he notified the court of his new location. Id. Finally, he was advised that his trial would proceed in his absence if he failed to attend court as directed. Id.

Additionally, during sentencing, Williamson admitted guilt: “I was just selling drugs to use drugs actually.” ROA p. 228, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) (“Any doubt about the correctness of [affirming the Appellant’s conviction] is eliminated by the admission of Appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary.”)

III. Williamson may not challenge his trial in absence for the second trial where he did not raise the issue to the trial court or on appeal to the Court of Appeals and the trial court did not err in trying Williamson in his absence.

On appeal to the Court of Appeals, the only challenge to the conviction and sentence for Williamson's second trial (*State v. Anthony Tyrone Williamson #2*) was Judge Nettles' denial of a motion for mistrial. The efficacy of a trial in absence was not raised to Judge Nettles or to the Court of Appeals. Without a doubt, the issue has been waived at this stage of appeal. *State v. Oxner*, 391 S.C. 132, 705 S.E.2d 51 (2011) ("An argument that is not raised to an intermediate appellate court is not preserved for review by this Court"); *Bonaparte v. Bonaparte*, 317 S.C. 256, 452 S.E.2d 836 (1995) (where the Court of Appeals does not address a particular issue, petitioner cannot argue the merits of the issue in a petition for writ of certiorari because the issue is not preserved for review); *State v. Primus*, 349 S.C. 576, 583, 564 S.E.2d 103, 107 (2002) (an issue not raised in the brief to the Court of Appeals, but instead raised for the first time in the petition for rehearing is not properly preserved for the Supreme Court's consideration in a petition for writ of certiorari) *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005).

Respondent moved to strike the petition for writ of certiorari, in part, on the basis that this issue was not raised to the Court of Appeals. In response to Respondent's motion, Petitioner responded that the rules did not provide for Respondent's motion but then admitted: "However, in due candor to the Court, Counsel concedes that the second issue presented in the Petition for Writ of Certiorari to the Court of Appeals is incorrectly worded to also include Petitioner's second trial." Pet. for W.C. p. 6. Petitioner then requested to modify the second question presented to reflect a challenge to only the first trial. *Id.*

Of course, the issue was not preserved for review as it was not raised to the trial court. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review); State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Further, the trial court did not err in proceeding with the trial in Williamson's absence. The solicitor advised Judge Nettles that the Honorable Chevrone Scott, a municipal court judge, allowed Williamson to have a bond and at that time, Williamson was advised he was to appear in court. Williamson did not appear. Williamson was denied a public defender and advised he would need to hire counsel. Williamson did not hire counsel. ROA. p. 17.

The Deputy Clerk from the Clerk of Court's Office, Nicole Bethea, testified Williamson was issued a bond on October 9, 2008 by Judge Scott. Under the terms of the bond, Williamson was to appear in Court on December 18, 2008 and each succeeding term until the case was resolved. The bond was signed by Williamson, acknowledging his address and telephone number. A bail bonding company posted the bond. A bench warrant was issued on December 18, 2008 when Williamson failed to appear. ROA pp. 18-21.

Williamson complains about the Solicitor's docket control in this case, and apparently the delay in bringing this case to trial. The argument is without merit. Williamson delayed the trial by five months by fleeing the jurisdiction. The State even tried to locate him before calling the case to trial. The assistant solicitor noted the following:

Your Honor, the State has made every effort in order to locate the defendant, even using his prior counsel, and he has not

been able to locate the defendant. The bondsman has also gone to Washington, D.C. area where the defendant was believed to have been, to no avail.

ROA. p. 21. Note Williamson makes no attempt in his petition to justify his absence. He is unable to do so. Williamson cannot blame the State for his failure to abide by the rules of his bond where he made sure he could not be located. He should not be allowed to endlessly postpone his trial until it suits him to dispose of the charges.

CONCLUSION

For all of the foregoing reasons, the petition for writ of certiorari should be denied. Should this Court see fit to grant the petition, Respondent respectfully requests the opportunity to more fully brief the issues.

Respectfully submitted,

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Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

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ATTORNEYS FOR RESPONDENT

March 4, 2013

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari from Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge (first trial)
Michael G. Nettles, Circuit Court Judge (second trial)
—————

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 & #2,

Petitioner.

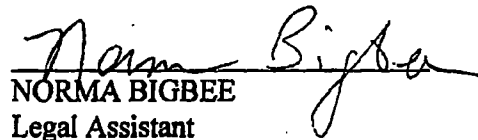
—————
PROOF OF SERVICE
—————

I, Norma Bigbee, certify that I have served the within Return to Petition for Writ of Certiorari by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Dayne C. Phillips, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
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Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 4th day of March, 2013.


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The Supreme Court of South Carolina

The State, Respondent

v.

Anthony Tyrone Williamson, Petitioner.

*close -
sc-0
PCR applied:*

Appellate Case No. 2012-212230

Lower Court Case No.'s 2008GS21317; 2009GS21334

ORDER

Petitioner seeks a writ of certiorari to review the Court of Appeals' opinion in *State v. Williamson*, Op. No. 2012-UP-089 (S.C. Ct. App. filed Feb. 22, 2012). We deny the petition.


C.J.
FOR THE COURT

Columbia, South Carolina

October 18, 2013

cc:

The Honorable Jenny A. Kitchings

John W. McIntosh

Salley W. Elliott

Alan McCrory Wilson

David A. Spencer

Edgar Lewis Clements, III

Carmen Vaughn Ganjehsani

Connie Reel-Shearin

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SCOTT OF
APPELLATE

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- I. Whether the South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's case to trial in Petitioner's absence and without any representation by counsel when there was no evidence that Petitioner ever understood that he had a Sixth Amendment right to counsel and chose to waive that right?

- II. Whether the South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's cases to trial in Petitioner's absence when the State failed to show that it had meaningfully informed Petitioner of the actual trial dates thus depriving Petitioner of his fundamental right to be present at his own trial?

PARTIES TO THE PROCEEDINGS BELOW

The parties to the proceeding in the South Carolina Court of Appeals were
Petitioner Anthony Tyrone Williamson and Respondent State of South Carolina.

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PETITION FOR WRIT OF CERTIORARI

Counsel for Anthony Tyrone Williamson petitions the Court to issue a writ of certiorari to review the judgment of the South Carolina Court of Appeals affirming his convictions for (1) trafficking cocaine base, second offense; (2) possession of cocaine base with the intent to distribute within proximity of a school or park; and (3) trafficking cocaine base, third offense. Petitioner seeks review where the State of South Carolina has deprived him of his Sixth Amendment right to counsel and of his fundamental right to be present at his own trial.

OPINION BELOW

The opinion of the South Carolina Court of Appeals affirming Petitioner's convictions is reported as State v. Anthony Tyrone Williamson, 2012-UP-089 (filed February 22, 2012). App. A2-A3.

JURISDICTION

The judgment of the South Carolina Court of Appeals was entered on February 22, 2012. App. A2-A3. The petition for rehearing was denied on May 4, 2012. App. A4. Petitioner filed a Petition for Writ of Certiorari with the South Carolina Supreme Court on August 1, 2012 which was denied by Order of the South Carolina Supreme Court on October 18, 2013. App. A1. This Court's jurisdiction is invoked pursuant 28 U.S.C. § 1257(a), Petitioner having asserted below and asserting herein deprivation of rights secured by the United States Constitution.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Sixth Amendment to the United States Constitution, which provides in pertinent part, "In all criminal prosecutions, the accused shall enjoy the right to . . . the assistance of counsel for his defense."

This case also involves the Fourteenth Amendment to the Constitution of the United States which provides in pertinent part, "[N]or shall any state deprive any person of life, liberty, . . . without due process of law"

STATEMENT OF THE CASE

Factual Background

Petitioner was indicted on January 10, 2008 for trafficking cocaine base; possession of cocaine base with the intent to distribute ("PWID") within the proximity of a school or park; and two counts of possession of cocaine base. R. 237. On April 13, 2009, the State called Petitioner's case to trial before the Honorable Ralph King Anderson, Jr. and a jury on one count of trafficking cocaine and one count of PWID within proximity of a school or park. R. 1-74. Neither Petitioner nor any counsel representing Petitioner were present, and the trial court noted that it would have to "ascertain whether [Petitioner's] case can proceed." R. 13. The trial court recognized it would need to analyze whether the defendant voluntarily waived his right to be present and whether the defendant was warned that a trial would proceed in his absence if he failed to attend. R. 16. The State then called an employee of the county clerk of court's office to testify. R. 14.

According to her testimony, Petitioner received a bond on September 14, 2007. As a condition of the bond, Petitioner was to appear for General Sessions Court beginning October 15, 2007. R. 15. If no disposition was made during that term, Petitioner was ordered to "appear and remain throughout each succeeding term of court until final disposition is made of its case, unless otherwise ordered by the court." R. 15-16; 235.

When asked whether Petitioner was given or provided a copy of this bond, the clerk responded, "I believe he was." R. 16. The clerk further claimed Petitioner was advised of the conditions of his bond because Petitioner had signed the bond on September 14, 2007. R. 16. Based on the clerk's testimony, the trial court concluded that Petitioner was given notice to appear for court and was made aware of the fact he could be tried in his absence. The trial court ruled that "the State may proceed with a trial in absentia" even though the State chose to call the case to trial 544 days after Petitioner was initially noticed on September 14, 2007 to appear in court.¹ Petitioner never received any additional notice that his trial was going to be held on April 13, 2009. There being no attorney present, no objection was interposed at this time. Accordingly, Petitioner was tried *in absentia* and without counsel and ultimately convicted by the jury on both charges. R. 71. The trial court sealed Petitioner's sentences. R. 73.

Nine days later, on April 22, 2009, Petitioner was again tried *in absentia* before the Honorable Michael G. Nettles on separate charges of trafficking cocaine base

¹ At the time of Petitioner's trial in South Carolina, the prosecuting attorneys controlled the docket. S.C. CODE ANN. § 1-7-330.

even though Petitioner received no notice of the trial date except for the general notice on a bond form he signed on October 9, 2008. R. 91-93. However, unlike Petitioner's first trial, this trial court appointed a public defender to represent Petitioner even though this public defender had no knowledge of Petitioner's case. R. 97-98. The court-appointed public defender had only approximately two hours to prepare for trial. R. 97-110. At the conclusion of the second trial, the jury found Petitioner guilty as charged. R. 212. The trial court sealed Petitioner's sentences. R. 213-215.

On October 29, 2009, Petitioner appeared before Judge Anderson for the opening of the sealed sentences from Petitioner's first and second trials. R. 218-233. On the April 13, 2009 convictions, the trial court sentenced Petitioner to fifteen years imprisonment for trafficking cocaine base, second offense, and ten years imprisonment for PWID within proximity of a school or park. R. 222. The trial court sentenced Petitioner to twenty-five years imprisonment on the April 22, 2009 trafficking cocaine, third offense, conviction. R. 222-223. The sentences were to run concurrently for a total of twenty-five years imprisonment. R. 222; 231.

The State Appellate Decision

The Appellate Division of the Office of Indigent Defense took over Petitioner's appeal after the public defender filed notices of intent to appeal all sentences imposed upon Petitioner. The April 13 and 22, 2009 convictions and October 29, 2009 sentences were consolidated for appeal. On appeal, Petitioner argued to the South Carolina Court of Appeals that the trial court violated Petitioner's Sixth Amendment right to have counsel at all "critical" stages of the proceeding by trying the Petitioner

in absentia and without counsel where the trial court never inquired as to whether Petitioner knowingly and voluntarily waived his right to counsel. Petitioner cited this Court's precedents in Iowa v. Tovar, 541 U.S. 77 (2004); Argersinger v. Hamlin, 407 U.S. 25 (1972); Montejo v. Louisiana, 129 S.Ct. 2079 (2009); Patterson v. Illinois, 487 U.S. 285, 298 (1988); Moran v. Burbine, 475 U.S. 412 (1986); Faretta v. California, 422 U.S. 806 (1975); United States v. Wade, 388 U.S. 218 (1967); Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942); Johnson v. Zerbst, 304 U.S. 458 (1938); and Powell v. Alabama, 287 U.S. 45 (1932).

Petitioner additionally argued the State violated the Due Process Clause of the Fourteenth Amendment where it called Petitioner's two cases to trial without meaningfully informing Petitioner that a trial would occur on those particular dates and would proceed in his absence if he failed to appear. Petitioner argued that the State's reliance on "the boilerplate language of a bond form that insisted that [Petitioner] remain tethered to the courthouse until it decided to exercise its power and call his case to trial" failed to offer Petitioner meaningful notice that his case would be tried and was a fundamental denial of due process. With respect to this argument, Petitioner cited this Court's precedents in Peralta v. Heights, 485 U.S. 80 (1988); Armstrong v. Manzo, 380 U.S. 545 (1965); Mullane v. Central Hanover Bank & Tire Co., 339 U.S. 306 (1950); Milliken v. Meyer, 311 U.S. 457 (1940); and Grannis v. Ordean, 234 U.S. 385 (1914).

The South Carolina Court of Appeals decided the case without oral argument and affirmed Petitioner's convictions in an unpublished opinion. App. A2-A3. The

Court of Appeals held Petitioner's issues concerning his right to counsel and his being tried in absentia were not preserved for appeal and therefore refused to consider whether Petitioner's constitutional rights had been violated despite the fact that the trial judges in both Petitioner's first and second trials considered and ruled upon the very constitutional issues Petitioner raised in his appeal.

Petitioner petitioned the South Carolina Supreme Court to review the decision of the Court of Appeals on August 1, 2012 which the court denied by order filed October 18, 2013. App. A1.

REASONS FOR GRANTING THE PETITION

This case presents a compelling need for this Court's review. The South Carolina appellate courts, in affirming Petitioner's convictions, have sanctioned the deprivation of Petitioner's Sixth Amendment right to counsel and his right to be present at his own trial. This Court should grant the petition to prevent criminal defendants from being tried and convicted in the State of South Carolina (1) in their absence without any representation of counsel; and (2) in their absence without any meaningful notice of the actual trial date.

The South Carolina Court of Appeals avoided addressing the egregious violation of Petitioner's constitutional rights by cloaking itself with the shield of the rules of error preservation. In both Petitioner's first and second trials, however, the trial judges considered and ruled upon the constitutional issues set forth in this Petition. Both trial judges heard testimony and ruled upon whether it was proper for Petitioner to be tried *in absentia*. The trial judge in Petitioner's first trial was no doubt

aware when it ruled that Petitioner could be tried *in absentia* that it was also implicitly ruling that Petitioner could be tried without counsel when there was no counsel present at the trial on behalf of Petitioner.

In addition, Petitioner has a fundamental right to the assistance of counsel and any erroneous deprivation of that right is *per se* reversible error. See Chapman v. California, 386 U.S. 18, 23, n.8 (1967); Gideon v. Wainwright, 372 U.S. 335 (1963); State v. Thompson, 355 S.C. 255, 261, 584 S.E.2d 131, 134 (Ct. App. 2003). Where the trial judge knowingly allowed Petitioner's first trial to proceed in his absence and without any assistance of counsel, such action by the trial judge clearly deprived Petitioner of his basic constitutional rights and should be subject to reversal.

I. The South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's case to trial in Petitioner's absence and without any representation by counsel when there was no evidence that Petitioner ever understood that he had a Sixth Amendment right to counsel and chose to waive that right.

"The Sixth and Fourteenth Amendments of our Constitution guarantee that a person brought to trial in any state or federal court must be afforded the right to the assistance of counsel before he can be validly convicted and punished by imprisonment." Faretta v. California, 422 U.S. 806, 807 (1975); see also Gideon v. Wainwright, 372 U.S. 335, 339-40 (1963). The Sixth Amendment also guarantees that, once the adversarial judicial process has begun, a criminal defendant has the right to have counsel present at all "critical" stages of the proceeding. See Argersinger v. Hamlin, 407 U.S. 25 (1972); see also Powell v. Alabama, 287 U.S. 45 (1932). Notably, this Court has held, "Of all the rights that an accused person has, the right to

be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.” United States v. Cronin, 466 U.S. 648, 654 (1984).

A defendant, however, may surrender his right to counsel through (1) waiver by affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture. See State v. Boykin, 324 S.C. 552, 556, 478 S.E.2d 689, 690 (Ct. App. 1996). A waiver is an intentional and voluntary relinquishment of a known right. See Johnson v. Zerbst, 304 U.S. 458, 464 (1938); see also Maxwell v. Genez, 350 S.C. 563, 571, 567 S.E.2d 496, 500 (Ct. App. 2002). The accused must know what he is doing so that “his choice is made with eyes open.” Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942). Notably, the courts indulge every reasonable presumption against waiver of fundamental constitutional rights and do not presume acquiescence in the loss of fundamental rights. See Zerbst, 304 U.S. at 464; see also Pitts v. North Carolina, 395 F.2d 182, 188 (4th Cir. 1968).

In the present case, there is no question that Petitioner did not waive his right to counsel in his first trial by either affirmative waiver, waiver by conduct, or forfeiture.

Not Waived by Verbal Request

First, to effectuate a valid waiver of the right to counsel by verbal request, the two-pronged Faretta test must be met in which the accused is (1) advised of his right to counsel and (2) adequately warned of the dangers of self-representation. Prince v. State, 301 S.C. 422, 423-24, 392 S.E.2d 462, 463 (1990) (citing Faretta, 422 U.S. 806). Here, Petitioner clearly did not waive his right to counsel by verbal request because

Petitioner was tried *in absentia* and without counsel. R. 1 – 74. Accordingly, the trial court has no way of knowing if Petitioner was advised of his right to counsel or adequately warned of the dangers of self-representation. See Prince, 301 S.C. at 423-24, 392 S.E.2d at 463 (citing Faretta, 422 U.S. 806).

Not Waived by Conduct

While a defendant may waive his right to counsel through his conduct, this also does not apply to Petitioner. See Thompson, 355 S.C. 255, 263, 584 S.E.2d 131, 135 (Ct. App. 2003) (citing United States v. Goldberg, 67 F.3d 1092, 1100 (3d Cir.1995)). Most courts have held that a defendant must first be warned that his misconduct will thereafter be treated as a waiver. Boykin, 324 S.C. at 556, 478 S.E.2d at 691. “[T]o the extent that the defendant’s actions are examined under the doctrine of ‘waiver,’ there can be no valid waiver of the Sixth Amendment right to counsel unless the defendant also receives Faretta warnings.” Goldberg, 67 F.3d at 1100.

In Thompson, 355 S.C. at 265-266, 584 S.E.2d at 137, the South Carolina Court of Appeals cited Pennsylvania v. Ford, 715 A.2d 1141 (Pa. Super. Ct. 1998), as “[a]n excellent academic explication of an appellant tried in absentia and without representation[.]” In Ford, “[w]hen the appellant did not appear for jury selection, his private counsel filed a motion to withdraw, arguing that the appellant had not paid a large portion of his fee and his absence impeded trial preparation The [trial] court granted the motion [to be relieved] and proceeded to try the appellant in absentia and without counsel.” Thompson, 355 S.C. at 265-266, 584 S.E.2d at 136 (citing Ford, 715 A.2d at 1143).

“The [Ford] court found the appellant did not validly waive his right to counsel because there was no inquiry on the record as to whether the appellant was aware of his rights or whether he knowingly waived them. Id. at 265-266, 584 S.E.2d at 136 (citing Ford, 715 A.2d at 1144). “The [Ford] court observed that this type of inquiry is ‘quite obviously impossible’ when a defendant fails to appear in court.” Id. “However, the [Ford] court ruled that ‘[f]ailure to appear ... is not tantamount to a knowing waiver.’” Id. Ultimately, the Ford court held that “[t]he appellant’s fugitive status was not a per se waiver nor could it be punished by the ‘negation of constitutional rights’” and that “[h]is fugitive status was a separate wrong with its own consequences.” Id.

In this case, at Petitioner’s first trial on April 13, 2009, the trial court failed to conduct even a minimal inquiry as to: (1) why no attorney was present to represent Petitioner; (2) whether Petitioner was represented by a public defender or a private attorney; or (3) whether Petitioner had waived or forfeited his right to counsel. Therefore, Petitioner did not waive his right to counsel because “there was no inquiry on the record as to whether the appellant was aware of his rights or whether he knowingly waived them.” Thompson, 355 S.C. at 265-266, 584 S.E.2d at 137 (citing Ford, 715 A.2d at 1144); see Faretta, 422 U.S. 806.

Not Relinquished by Forfeiture

This Court has addressed the significance of forfeiting the right to counsel at trial:

[R]ecognizing the *enormous importance* and role than an attorney plays at a criminal trial, we have imposed the *most rigorous restrictions* on the

information that *must be* conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988) (emphasis added). The Thompson court noted, “[B]ecause of the drastic nature of the sanction, forfeiture would appear to require extremely dilatory conduct.” Thompson, 355 S.C. at 268, 584 S.E.2d at 137 (citing Goldberg, 67 F.3d at 1101). “Situations where a defendant's own conduct forfeits his right to counsel are unusual, typically involving a manipulative or disruptive defendant.” Id. (citing State v. Coleman, 253 Wis.2d 693, 644 N.W.2d 283, 288 (Ct. App. 2002)).

In Boykin, 324 S.C. at 554-55, 478 S.E.2d at 689-90, the defendant verbally abused and physically threatened defense counsel, and the trial court granted counsel's request to be relieved. Despite the defendant's disruptive and abusive behavior, the Boykin court held:

Although we do not condone Boykin's actions, we do not believe they were so severe as to permanently deprive him of appointed counsel. Both cases which have held a defendant forfeited his right to counsel involved a course of conduct more egregious than the single incident alleged here. Accordingly, we need not decide whether South Carolina should embrace the doctrine of forfeiture because we find that Boykin's conduct in the one event related by Padgett was not sufficient to constitute forfeiture. While the trial judge was certainly justified in granting Padgett's motion to be relieved as counsel, substitute counsel should have been appointed for Boykin. Therefore, the decision of the trial court is reversed and the case remanded for a new trial.

Id. at 558-59, 478 S.E.2d at 692.

In this case, at Petitioner's first trial on April 13, 2009, there was no examination of why Petitioner was not represented by an attorney and no evidence in the record of any conduct by Petitioner that would warrant the severe sanction of

forfeiture of the right to counsel. See Thompson, 355 S.C. at 269, 584 S.E.2d at 138 (finding “[f]orfeiture of counsel is a drastic consequence, requiring more than absence from trial”). As such, Petitioner did not relinquish his right to counsel by forfeiture.

Prejudice is Presumed

The denial of a defendant’s fundamental right to the assistance of counsel is reversible error without the need for the showing of prejudice. Chapman v. California, 386 U.S. 18, 23 n.8 (1967). The actual or constructive denial of the assistance of counsel is legally presumed to result in prejudice. Strickland v. Washington, 466 U.S. 668, 692 (1984).

While Petitioner does not have to prove prejudice from the denial of his right to counsel, an attorney representing Petitioner’s interests could have objected to multiple issues that arose at Petitioner’s April 13, 2009 trial. An attorney may have raised issues relating to the execution of a search warrant. R. 21. An attorney may have objected to a law enforcement officer’s characterization of Petitioner as a “middle level sized drug dealer.” R. 42. He or she may have also objected to the law enforcement officer’s testimony that Petitioner was also selling marijuana. R. 43. An attorney may have also objected to the entering of an unrelated firearm into evidence. R. 43. An attorney may also have objected to a co-defendant’s hearsay statement claiming ownership of drugs found in a car. Additionally, an attorney may have challenged the statement that Petitioner purportedly made to law enforcement regarding these events. Tr. 27. An attorney may also have objected to testimony that a scanner found in Petitioner’s bedroom was used to monitor these law enforcement officers’

communications. Tr. 31. In short, an attorney zealously advocating on Petitioner's behalf may have insured that Petitioner received a fair trial.

Petitioner was erroneously deprived of his fundamental right to assistance of counsel under the Sixth Amendment to the United States Constitution in his April 13, 2009 trial. See Faretta, 422 U.S. at 807; see also Cronic, 466 U.S. at 656. This error was only compounded by the trial court's ruling that Petitioner could be tried *in absentia*.

There are very few published decisions where a trial court permits a defendant to be tried *in absentia* and without counsel. Significantly, the majority of the cases which present this factual scenario arise out of proceedings in South Carolina's state trial courts. See State v. White, 305 S.C. 455, 409 S.E.2d 397 (1991); State v. Williams, 303 S.C. 410, 401 S.E.2d 168 (1991); State v. Cain, 277 S.C. 210, 284 S.E.2d 779 (1981); State v. Fairey, 374 S.C. 92, 646 S.E.2d 445 (Ct. App. 2007); State v. Roberson, 371 S.C. 334, 638 S.E.2d 93 (Ct. App. 2006); City of Aiken v. Koontz, 368 S.C. 542, 629 S.E.2d 686 (Ct. App. 2006); State v. Thompson, 355 S.C. 255, 584 S.E.2d 131 (Ct. App. 2003); see also People v. McCombs, 866 N.E.2d 1200 (Ill. App. Ct. 2007); People v. Gargani, 863 N.E.2d 762 (Ill. App. Ct. 2007); Jackson v. State, 868 N.E.2d 494 (Ind. 2007); State v. Clay, 11 S.W.3d 706 (Mo. Ct. App. 1999); Commonwealth v. Ford, 715 A.2d 1141 (Pa. Super. Ct. 1998).

This case is about the fundamental right to counsel as guaranteed by the Sixth Amendment to the United States Constitution. The appellate courts in South Carolina have refused to address Petitioner's deprivation of this fundamental right

and have allowed to stand the conviction of a defendant who was tried in his absence and without the assistance of counsel where there is no indication anywhere in the record that Petitioner understood he had a right to counsel and was waiving that right. Accordingly, Petitioner respectfully requests this Court to grant certiorari on this issue to review and redress Petitioner's deprivation of his fundamental right to counsel.

II. The South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's cases to trial in Petitioner's absence when the State failed to show that it had meaningfully informed Petitioner of the actual trial dates thus depriving Petitioner of his fundamental right to be present at his own trial.

Petitioner was tried in two separate trials on different charges. Both trials proceeded in Petitioner's absence even though the State had never given him actual notice of the trial date. Instead, in both cases the State relied on the boilerplate language of a bond form that insisted Petitioner remain tethered to the courthouse until it decided to exercise its power and call his case to trial. The State called Petitioner's first case to trial on April 13, 2009, *544* days after he signed his bond form on September 14, 2007. The State then called Petitioner's second case to trial on April 22, 2009, *195* days after he signed his second bond form on October 9, 2008.

Such a practice, insisting that the defendant come to every single term of court until his case is called and refusing to provide the defendant notice of the actual trial date, fails to offer meaningful notice to the defendant that his case will be tried and is a fundamental denial of due process.

An accused's right to be present at his own trial is among the most

fundamental rights our Constitution secures. It is a basic premise of our justice system that “in a prosecution for a felony the defendant has the privilege under the Fourteenth Amendment to be present in his own person whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.” Snyder v. Massachusetts, 291 U.S. 97, 105–106, (1934). This longstanding right reflects the “notion that a fair trial [can] take place only if the jurors me[e]t the defendant face-to-face and only if those testifying against the defendant [do] so in his presence.” Crosby v. United States, 506 U.S. 255, 259 (1993); see also Diaz v. United States, 223 U.S. 442, 455 (1912) (right to be present is “scarcely less important to the accused than the right of trial itself”). Thus, in general, “if [the defendant] is absent [from trial], . . . a conviction will be set aside.” Crosby, 506 U.S. at 259.

This Court has acknowledged only two exceptions to this general rule. First, at least in noncapital trials, a defendant may waive his right to be present “if, after the trial has begun in his presence, he voluntarily absents himself.” Crosby, 506 U.S. at 260, (quoting Diaz, 223 U.S. at 455). Second, “a defendant can lose his right to be present at trial if, after being warned that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom.” Illinois v. Allen, 397 U.S. 337, 343 (1970).

Petitioner’s case does not fall within either of these two exceptions recognized by this Court. Rather, the South Carolina courts have conceived an additional exception, one never recognized by this Court: waiver on the basis of a defendant’s

actions prior to the start of trial. The trial judges in Petitioner's two state court trials concluded that Petitioner's actions established such waiver on the basis of only Petitioner's acknowledgment on the bond forms that a trial could proceed in his absence if he failed to attend. The bond forms did not provide any notice of the actual trial date.

Whether the Constitution permits the trial *in absentia* of a defendant who is not present at the start of the trial and who was never given notice of the actual date of trial is a serious question that this Court needs to address. As Justice Sotomayor has recognized, "[a] trial conducted without actual notice to a defendant and in his absence makes a mockery of fair process and the constitutional right to be present at trial." Fairey v. Tucker, 132 S. Ct. 2218, 2221 (2012). This Court's intervention is therefore warranted to ensure the preservation of an accused's right to be present at his own trial in the State of South Carolina.

CONCLUSION:

For the reasons set forth herein, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

Susan B. Hackett

SUSAN B. HACKETT

Counsel of Record

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ATTORNEYS FOR PETITIONER

January 16, 2014.

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

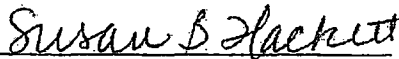
v.

STATE OF SOUTH CAROLINA, Respondent.

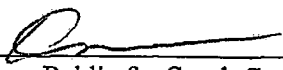
**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

CERTIFICATE OF FILING BY MAIL

I hereby certify that I am a member of the Bar of this Court and that on January 16, 2014, I filed the petition for writ of certiorari in the above-referenced case, together with a motion for leave to proceed in forma pauperis with accompanying affidavit, by causing the originals and ten copies of the same to be deposited in the United States Mail, postage prepaid, and properly addressed to the Clerk of this Court.


Susan B. Hackett
Counsel of Record

SUBSCRIBED AND SWORN TO before me
this 16th day of January, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 21, 2023.

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

CERTIFICATE OF SERVICE

I certify that copies of the petition for writ of certiorari and appendix in this case have been served upon opposing counsel for Respondent, the State of South Carolina, David Spencer, by mailing copies in envelopes properly addressed with postage prepaid to the Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211 on this 16th day of January, 2014. Counsel is also today, January 16, 2014, sending a copy of the petition for writ of certiorari and appendix to opposing counsel by e-mail to: dspencer@scag.gov.

Susan B. Hackett

 SUSAN B. HACKETT
 Counsel of Record

SWORN TO BEFORE me this 16th
day of January, 2014.

[Signature] (L.S.)

 Notary Public for South Carolina
 My Commission Expires: August 21, 2023.

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

APPENDIX

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ATTORNEYS FOR PETITIONER

The Supreme Court of South Carolina

The State, Respondent

v.

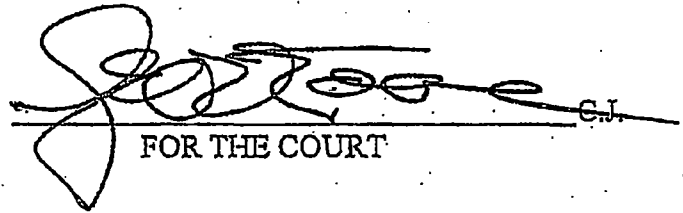
Anthony Tyrone Williamson, Petitioner.

Appellate Case No. 2012-212230

Lower Court Case No.'s 2008GS21317; 2009GS21334

ORDER

Petitioner seeks a writ of certiorari to review the Court of Appeals' opinion in *State v. Williamson*, Op. No. 2012-UP-089 (S.C. Ct. App. filed Feb. 22, 2012). We deny the petition.


C.J.
FOR THE COURT

Columbia, South Carolina
October 18, 2013

- cc:
- The Honorable Jenny A. Kitchings
- John W. McIntosh
- Salley W. Elliott
- Alan McCrory Wilson
- David A. Spencer
- Edgar Lewis Clements, III
- Carmen Vaughn Ganjehsani
- Connie Reel-Shearin

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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.
Anthony Tyrone Williamson, Appellant.

Appeal From Florence County
Ralph King Anderson, Jr., Circuit Court Judge

Unpublished Opinion No. 2012-UP-089
Submitted February 1, 2012 – Filed February 22, 2012

AFFIRMED

Appellate Defender Elizabeth A. Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Salley W. Elliott, and

Assistant Attorney General David Spencer, all of Columbia; and Solicitor E.L. Clements, III, of Florence, for Respondent.

PER CURIAM: In this consolidated appeal, Anthony Tyrone Williamson appeals his convictions for two counts of trafficking in cocaine base and possession of cocaine base within a proximity of a school or park. Williamson argues the trial court erred in: (1) proceeding with his first trial although he was not represented by counsel; (2) proceeding with his first trial in absentia without meaningfully informing him his trial would be conducted despite his absence; and (3) denying his motion for a mistrial. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. As to Williamson's issues concerning his right to counsel and his being tried in absentia: State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal."); State v. Williams, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) ("In order to claim the protection afforded by [Rule 16, SCRCrimP], a defendant or his attorney must object at the first opportunity to do so.").

2. As to Williamson's motion for a mistrial: State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000) (stating a defendant must show both error and prejudice resulting from such error to receive a mistrial); State v. White, 371 S.C. 439, 447-48, 639 S.E.2d 160, 164 (Ct. App. 2006) ("Insubstantial errors that do not impact the result of a case do not warrant a mistrial when guilt is conclusively proven by competent evidence.").

AFFIRMED.

FEW, C.J., HUFF and SHORT, J.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

The State, Respondent,


v.

Anthony Tyrone Williamson, Appellant.

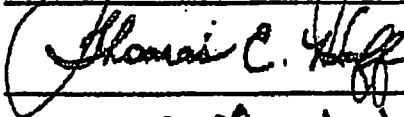
The Honorable Ralph King Anderson, Jr.
Florence County
Trial Court Case No. 2008-GS-21-00317
2009-GS-21-00334

ORDER DENYING PETITION FOR REHEARING

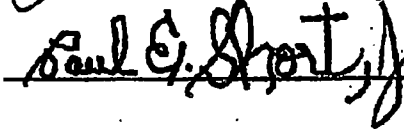
PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing. It is, therefore, ordered that the Petition for Rehearing be denied.



Few, C. J.



Huff, J.



Short, J.

Columbia, South Carolina

cc: Appellate Defender Elizabeth Franklin-Best
Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Senior Assistant Attorney General David Spencer

FILED

4 May 2012

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

Opinion No. 2012-UP-089

PETITION FOR REHEARING

Counsel for Anthony Tyrone Williamson respectfully asks this Court to rehear his case. Counsel alleges this Court has either overlooked or misapprehended facts and law that are necessary for the proper conclusion of this case. Specifically, this Court has overlooked that Williamson did not waive his right to counsel when he was tried in his absence and without an attorney. Additionally, the Court overlooked that Williamson did not receive meaningful notice that he trial would occur when he did. Also, this Court has overlooked that Williamson was entitled to a mistrial when law enforcement testified they executed a search warrant while they had a warrant out for his arrest. For these reasons, Williamson respectfully asks this Court to grant his petition for rehearing.

RELEVANT FACTS:

This case involves the consolidation of two appeals. Anthony Tyrone Williamson was not present for either of his trials, but was sentenced on both of them once he was taken into custody. He was indicted by the Florence County grand jury during its January, 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Honorable Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction is the basis of this appeal.

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Nettles and a jury on April 22, 2009 on the trafficking charge. Judge Nettles appointed Vic Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed.

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date, Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

ISSUE ONE: The trial court judge erred by allowing the state to call Williamson's case to trial when he was not represented by counsel.

On April 13, 2009, the State called appellant's case to trial. He was charged with trafficking in crack cocaine, and possession of crack cocaine within proximity of a school or park. The court stated it would ascertain whether the case could proceed. Tr. 13. The court understood it would have

to analyze whether the defendant voluntarily waived his right to be present, and whether a defendant was warned that a trial would proceed in his absence if he failed to attend. Tr. 16. The State called an employee of the clerk of court's office. According to her testimony, appellant received a bond on September 14, 2007. As a condition of the bond, appellant was to appear at General Sessions Court beginning October 15, 2007. If no disposition was made during that term, appellant was ordered to appear and remain throughout each succeeding term of court until final disposition was made. Tr. 16. On March 10, 2009, a bench warrant was issued for appellant. When asked whether appellant was given or provided a copy of this bond, the clerk responded, "I believe he was." Tr. 16, l. 20. Based on this testimony, the trial court judge concluded that appellant was given notice to appear for court, and was made aware of the fact he could be tried in his absence. The court ordered that the state could proceed with the trial. Tr. 17 - 18. There being no attorney present, no objection was interposed at this time.

The trial court judge erred by allowing the trial to proceed because the judge never inquired whether appellant knowingly and voluntarily waived his right to counsel.

Once the adversarial judicial process has begun, the 6th amendment guarantees a defendant the right to have counsel present at all "critical" stages of the proceeding. A trial is a critical stage of the proceeding. Argersinger v. Hamlin, 407 U.S. 25 (1972); Montejo v. Louisiana, 129 S.Ct. 2079 (2009); United States v. Wade, 388 U.S. 218 (1967); Powell v. Alabama, 287 U.S. 45 (1932).

Appellant never waived his right to counsel. The waiver of the right to counsel must be knowing, voluntary, and intelligent. Johnson v. Zerbst, 304 U.S. 458 (1938). The waiver must be an "intentional relinquishment or abandonment of a known right or privilege. Id. at 464 (emphasis added). The accused must know what he is doing so that "his choice is made with eyes open." Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942). See also Moran v. Burbine, 475

U.S. 412 (1986). The information that a defendant must possess in order to make an intelligent election depends on a range of case-specific factors, including his education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding. Iowa v. Tovar, 541 U.S. 77 (2004). Regarding the significance of the waiver in the context of forfeiting the right to counsel at trial, the Court has held:

[R]ecognizing the enormous importance and role that an attorney plays at a criminal trial, we have imposed the most rigorous restrictions on the information that must be conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988 (emphasis added)). See also Faretta v. California, 422 U.S. 806 (1975). In this case, the judge simply did not make any inquiry at all about why no attorney was present to represent appellant and whether appellant waived his right to counsel.

At appellant's second trial, the judge there asked the State to place on the record its justification for going forward with its case against appellant, in his absence and without counsel. There, the State explained that appellant was denied a public defender. The State also informed the judge that appellant had a prior case in which he had hired counsel, but that counsel moved to be relieved because the defendant "failed to cooperate" with him. According to the State, this attorney never appeared on behalf of the appellant on this (the second trial) particular case. Having heard the State's account, this judge ordered an attorney be assigned to represent appellant. See transcript, April 22, 2009, Tr. 17.

An attorney representing appellant's interests in this first trial may, for example, have objected to a law enforcement characterization of appellant as a "middle level sized dealer." Tr. 42. He or she may also have objected to the law enforcement officer's testimony that appellant was also selling marijuana. Tr. 43. An attorney may also have objected to entering an unrelated firearm into evidence. Tr. 43. An attorney may have raised issues related to the execution of a search warrant.

Tr. 21. An attorney may also have objected to a codefendant's hearsay statement claiming ownership of drugs found in a car. Additionally, an attorney may have challenged the statement that appellant purportedly made to law enforcement regarding these events. Tr. 27 An attorney may also have objected to testimony that a scanner found in appellant's bedroom was used to monitor these law enforcement officers' communications. Tr. 31. In short, an attorney may have insured that appellant received a fair trial. Respectfully, the trial court judge erred by allowing the state to proceed with its prosecution against appellant on this basis.

ISSUE TWO: The trial court judge erred when he allowed the state to call Williamson's case to trial when the state failed to show it meaningfully informed him that his trial would occur on that date and would proceed in his absence.

The trial court judge erred in allowing the state to proceed when the State failed to show that it had given meaningful notice to appellant that his trial would proceed in his absence if he was not present. April 13, 2009, Tr. 12- 20 and April 22, 2009, Tr. 16- 28. The state chose to call appellant's first case to trial 544 days after he was initially noticed to appear in court. In South Carolina, the solicitors control the docket. S.C. Code Ann. Section 1-7-330 (1976). The State did not provide any evidence to show that any attempt was made to contact appellant to inform him that his trial was going to be held on April 13, 2009 or April 22, 2009. Instead, it relied on the boilerplate language of a bond form that insisted that appellant remain tethered to the courthouse until it decided to exercise its power and call his case to trial. Such a practice fails to offer meaningful notice to defendant that his case will be tried and is a fundamental denial of due process. Peralta v. Heights, 485 U.S. 80 (1988); Armstrong v. Manzo, 380 U.S. 545 (1965); Mullane v. Central Hanover Bank & Tire Co., 339 U.S. 306, 313 ("Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum

they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.") An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer, 311 U.S. 457; Grannis v. Ordean, 234 U.S. 385. Appellant was not afforded notice, reasonably calculated, and under all the circumstances, that his case was going to be tried by the state of South Carolina 544 days after he was summoned to court.

ISSUE THREE: The trial court judge erred when he denied Williamson's motion for a mistrial when a law enforcement officer testified that, at the time they executed the search warrant, they also possessed a warrant for his arrest.

A week after the state secured its first conviction against appellant, it decided to call an additional case to trial before another judge. This trial court judge appointed counsel to represent appellants' interests at trial. See Appellant's Brief, 08-GS-21-317. The trial court judge erred, in this second trial, by not granting appellant's motion for a mistrial when law enforcement testified that it also had an arrest warrant for appellant during its execution of a search warrant.

During its case in chief, the state called Sgt. Drulis to testify regarding the execution of a search warrant. He testified:

"So we entered the residence by force. When we went in, we saw Mr. Williamson walking down the hallway. He was -- he was then detained. When we detain someone, we -- we put them in handcuffs at that time. At that particular time he was also under arrest. We additionally had an arrest warrant for him."

ROA 80, ll. 7-12.

Trial counsel then objected and then asked the judge to declare a mistrial:

MR. MEETZE: Your Honor, at this time I would make a motion for the court to declare a mistrial in this case. The jury has just been told that along with the search warrant, they also had a warrant for Mr. Williamson's arrest. I think that that certainly prejudices this jury, you know, beyond repair. Certainly the court can give a curative instruction. But, you know, I think that a situation where you just can't unring that bell. And I feel like under the circumstances the proper thing would be to declare a mistrial in this case."

ROA 81.

The trial court judge was exceptionally concerned about this testimony and the state's eliciting it from the officer:

"THE COURT: Ms. Parr, were you aware that there was going to be such testimony with regard to an unrelated arrest warrant?

MS. PARR: Your Honor, I was not aware that there was going to be anything other than, you know, the search warrant; and that's what -- you know, it was in the incident report that they had an arrest warrant for the defendant but not--

THE COURT: Did you specifically discuss with this witness about not getting into that?

MS. PARR: Your Honor, when we went over the testimony -- went over the case, he was just to tell what part he played, that he was one of the ones that discovered the drugs in the flashlight.

THE COURT: Did you specifically tell him not to get in to the arrest warrant?

MS. PARR: No, I can't say I specifically said that.

THE COURT: Okay. Was there a discussion about it?

MS. PARR: Not specifically. We talked about that we can't show that the defendant had had any prior dealings with the law because, you know, he had all of these prior cases and I specifically talked to them about that.

THE COURT: Okay. How long have you been in law enforcement?

AGENT DRULIS: Going on 11 years, sir.

THE COURT: Okay. I think you said you got all kind of training. You're not aware of the fact that you are supposed to bring up unrelated misconduct?

AGENT DRULIS: Yes, sir, and for lack of a better term, when it came out, I wish I could have grabbed it.

THE COURT: All right.

AGENT DRULIS: It was-- it was just one-- I was recalling why we're there. I was recalling the incident.

THE COURT: And there will not be any reference to any unrelated conduct. I'm going to give the jury a curative charge and take the matter under consideration throughout the balance of the trial. I'm not going to grant the mistrial at this time.

ROA 81-83.

The trial court judge gave a curative instruction:

THE COURT: Madame Forelady, ladies and gentlemen of the jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There is no such unrelated arrest warrant. Ladies and gentlemen of the jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard to not be influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, ladies and gentlemen of the jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam Forelady, it's going to be your job and your responsibility as a juror cannot allow that to enter into discussion in any way, shape, or form.

ROA 83-84.

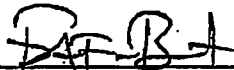
The trial court judge erred by not granting the mistrial because the state's witness interjected irrelevant, and wholly improper character evidence, and appellant was denied his right to a fair trial.

SCRE, Rules 403, 404. State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006). The arrest warrant

was not related to this case, and the jury's hearing of the warrant tended to offer an improper basis for rendering its verdict. Additionally, the curative instruction was insufficient to cure the harm since the error was so substantial. State v. Kennedy, 272 S.C. 231, 250 S.E.2d 338 (1978).

For these reasons, Williamson respectfully asks this Court to rehear his case.

Respectfully submitted,



Elizabeth A. Franklin-Best
Appellate Defender

This 7th day of March, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ANTHONY TYRONE WILLIAMSON,

APPELLANT

CERTIFICATE OF SERVICE

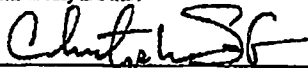
The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon David Spencer, Esquire, this 7th day of March, 2012.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 7th day
of March, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021.



Division of Appellate Defense
1330 Lady Street, Suite 401
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Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 16, 2014

Honorable Scott S. Harris
Clerk, Supreme Court of the United States
1 First Street, N.E.
Washington, DC 20543

Re: State of South Carolina v. Anthony Tyrone Williamson

Dear Mr. Harris:

Enclosed are the petition for writ of certiorari, a motion for leave to proceed *in forma pauperis*, and an affidavit of Anthony Tyrone Williamson in support of motion to proceed *in forma pauperis*. The certificate of service is attached to the original petition. Representing the State of South Carolina is David Spencer, Esquire, of the Office of the Attorney General, Post Office Box 11549, Columbia, South Carolina 29211-1549. His phone number is (803) 734-3970. I represent Petitioner Anthony Tyrone Williamson. The other information required by Rule 29.5 is contained above. If additional information is desired, please contact me.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH

Enclosure

cc: Honorable Daniel E. Shearouse
David Spencer, Esquire



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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 16, 2014

David Spencer, Esquire
Assistant Deputy Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Re: State of South Carolina v. Anthony Tyrone Williamson

Dear David:

Enclosed is a copy of petition for writ of certiorari, a motion for leave to proceed *in forma pauperis*, and an affidavit of Anthony Tyrone Williamson in support of motion to proceed *in forma pauperis*, which I have filed today in the United States Supreme Court. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH

Enclosures



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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 16, 2014

The Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: State of South Carolina v. Anthony Tyrone Williamson

Dear Mr. Shearouse:

Enclosed is a copy of petition for writ of certiorari, a motion for leave to proceed *in forma pauperis*, and an affidavit of Anthony Tyrone Williamson in support of motion to proceed *in forma pauperis*, which I have filed today in the United States Supreme Court. Please contact me if you have any questions.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH

Enclosures

cc: David Spencer, Esquire



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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 16, 2014

Mr. Anthony Tyrone Williamson, #303726
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Your appeal

Dear Mr. Williamson:

Enclosed is a copy of the petition for writ of certiorari to the South Carolina Court of Appeals and appendix I filed on your behalf today with the United States Supreme Court. I will let you know when I hear a decision.

Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Carmen V. Ganjehsani
Appellate Defender

CVG

Enclosures



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 16, 2014

Honorable Scott S. Harris
Clerk, Supreme Court of the United States
1 First Street, N.E.
Washington, DC 20543

Re: State of South Carolina v. Anthony Tyrone Williamson

Dear Mr. Harris:

Enclosed is Petitioner's Certificate of Filing by Mail in the above-referenced case.

Sincerely,

A handwritten signature in cursive script that reads "Susan B. Hackett".

Susan B. Hackett
Appellate Defender

SBH

Enclosure

cc: David Spencer, Esquire
Honorable Daniel E. Shearouse, Clerk

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Anthony Tyrone Williamson asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

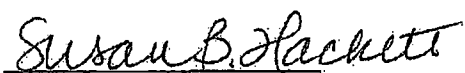
Florence County, South Carolina Circuit Court; South Carolina Court of Appeals;

South Carolina Supreme Court

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Respectfully submitted,



Susan B. Hackett
Attorney at Law
South Carolina Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Fourth Floor
Columbia, SC 29201
(803) 734-1330

January 16, 2014.

No. 13-_____

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.


**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

CERTIFICATE OF SERVICE

I certify that copies of the motion for leave to proceed in forma pauperis together with the affidavit of Anthony Tyrone Williamson have been served upon opposing counsel, David Spencer, by mailing copies in envelopes properly addressed with postage prepaid to the Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211 on this 16th day of January, 2014.


SUSAN B. HACKETT
Counsel of Record

SWORN TO BEFORE me this 16th
day of January, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 21, 2023.

No. 13- 8346

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

**NOTICE OF APPEARANCE AND
SUBSTITUTION OF COUNSEL OF RECORD**

Pursuant to SUP. CT. R. 9(2), Carmen V. Ganjehsani hereby enters an appearance as counsel for Petitioner Anthony Tyrone Williamson in the above-captioned case and should be substituted as counsel of record in place of Susan B. Hackett of my office.

Respectfully submitted,



Carmen V. Ganjehsani
Attorney at Law
South Carolina Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Fourth Floor
Columbia, SC 29201
(803) 734-1330

May 23, 2014.

No. 13-8346

In the Supreme Court of the United States

ANTHONY TYRONE WILLIAMSON, Petitioner,

v.

STATE OF SOUTH CAROLINA, Respondent.

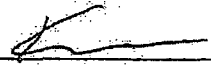
**ON PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

CERTIFICATE OF SERVICE

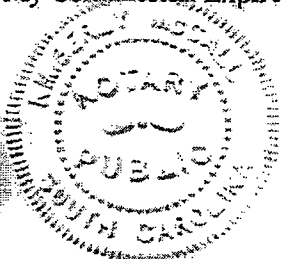
I certify that copies of the Notice of Appearance and Substitution of Counsel of Record have been served upon opposing counsel, David Spencer, by mailing copies in envelopes properly addressed with postage prepaid to the Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211 on this 23rd day of May, 2014.


CARMEN V. GANJEHSANI

SWORN TO BEFORE me this 23rd
day of May, 2014.



(L.S.)
Notary Public for South Carolina.
My Commission Expires: August 21, 2023.



IN THE SUPREME COURT OF THE UNITED STATES

October Term 2013

No. 13-8346

ANTHONY TYRONE WILLIAMSON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

**BRIEF IN OPPOSITION TO THE
PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

ALAN WILSON
Attorney General

*SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DAVID SPENCER
Senior Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

*Counsel of Record

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PETITIONER'S QUESTIONS PRESENTED

- I. Whether the South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's case to trial in Petitioner's absence and without any representation by counsel when there was no evidence that Petitioner ever understood that he had a Sixth Amendment right to counsel and chose to waive that right?
- II. Whether the South Carolina Court of Appeals erred in affirming Petitioner's convictions where the trial court allowed the State to call Petitioner's cases to trial in Petitioner's absence when the State failed to show that it had meaningfully informed Petitioner of the actual trial dates thus depriving Petitioner of his fundamental right to be present at his own trial?

COUNTERSTATEMENT OF QUESTIONS PRESENTED

- I. Is certiorari warranted to review Petitioner's claim that his Sixth Amendment right to counsel was violated where the conviction was affirmed on independent and adequate state grounds finding that the issue was procedurally barred; where Petitioner waived his right to counsel by his conduct of absconding; and where he was advised that he needed to find counsel after he failed to qualify for a public defender?
- II. Is certiorari warranted to review Petitioner's claim that both of his trials conducted in his absence violated his constitutional right to be present where the conviction for the first trial was affirmed on independent and adequate state grounds finding the issue was not preserved for review because neither Petitioner nor his counsel objected to Petitioner being tried in his absence for either trial; where Petitioner never raised the issue of the trial in absence for his second trial to the South Carolina Court of Appeals; where Petitioner was warned in his bond form that trial could proceed in his absence if he failed to appear; and where Petitioner absconded prior to trial?

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2013

No. 13-8346

ANTHONY TYRONE WILLIAMSON,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

**BRIEF IN OPPOSITION TO THE
PETITION FOR WRIT OF CERTIORARI TO THE
SOUTH CAROLINA COURT OF APPEALS**

Respondent State of South Carolina now makes its Brief in Opposition to the Petition for Writ of Certiorari to the South Carolina Court of Appeals. Respondent requests that the Petition be denied.

OPINION BELOW

The South Carolina Court of Appeals' decision is reported as State v. Anthony Tyrone Williamson, 2012-UP-089 (S.C. Ct. App. filed February 22, 2012) and is reproduced in the Appendix to the Petition (App.) at pages A2 to A3.

JURISDICTION

The South Carolina Court of Appeals issued its decision on February 22, 2012. App. pp. 2-3. Petitioner's petition for rehearing was denied on May 4, 2012. App. p. 4.

Petitioner then filed his petition for writ of certiorari with the South Carolina Supreme Court on August 1, 2012. The petition was denied by order of the South Carolina Supreme Court on October 18, 2013. App. p. 1.

Petitioner claims the deprivation of rights protected by the United States Constitution and asserts this Court's jurisdiction under 28 U.S.C. § 1257(a). However, as will be shown, the convictions and sentences were based on independent state grounds. See Henry v. Mississippi, 379 U.S. 443, 446-47 (1965) (finding "this Court will decline to review state court judgments which rest on independent and adequate state grounds . . . [including] in cases involving state procedural grounds . . ." "[However], when and how defaults in compliance with state procedural rules can preclude our consideration of a federal question is itself a federal question.").

CONSTITUTIONAL PROVISIONS INVOLVED

"In all criminal prosecutions, the accused shall enjoy the right to . . . have the assistance of counsel for his defense." U.S. Const. amend. VI.

"[N]or shall any state deprive any person of life, liberty, . . . without due process of law. . . ." U.S. Const. amend. XIV.

RESPONDENT'S STATEMENT OF THE CASE

Petitioner appeals convictions from two separate sets of charges that were tried in two separate trials. The offense date for the charges related to the first trial is September 13, 2007. Indictment 2008-GS-21-317. Petitioner was issued his first bond on September 14, 2007. ROA pp. 234-35. The language found in the first bond form, which is reproduced in the record, indicates that Petitioner was to attend General Sessions on October 15, 2007; and remain there throughout the term and every succeeding term until

his charges were disposed of, unless otherwise directed by the court. ROA pp. 234-235 (bond form).

While on his first bond, Petitioner committed the offense that was the subject of his second trial on November 14, 2007. Indictment 2008-GS-21-334. Subsequently, Petitioner was issued a bond for this conviction on October 9, 2008. Respondent's Appendix (Resp. App. pp. 61-62). Under the terms of the bond, Petitioner was to appear in court on December 18, 2008, and each succeeding term of court until the case was resolved. Petitioner signed an acknowledgement that he was advised of the information on the back of the bond and his address and phone number were also provided on the bond form. ROA p. 93, lines 9-25. A bail bonding company posted the bond. A bench warrant was issued on December 18, 2008, when Petitioner failed to appear. ROA pp. 92-95. The record does not indicate any attempt by Petitioner to notify the court of his whereabouts or otherwise appear before the court before he was tried in his absence.

First trial: After fleeing some point prior to trial, Petitioner was tried by jury in absentia and without counsel on April 13, 2009, for trafficking cocaine base and possession of cocaine base with intent to distribute in proximity of a school or park. ROA p. 1; p. 3. The offense date was September 13, 2007. ROA pp. 235-36. The jury found Petitioner guilty of both counts and Judge Ralph King Anderson, Jr., issued and sealed Petitioner's sentences at the conclusion of the trial. ROA p. 71.

Second trial: Petitioner, who still had not returned to the jurisdiction, was tried by jury in his absence nine days after his first trial on April 22, 2009, for trafficking cocaine base. ROA p. 75, p. 78. The offense date for this charge was November 14, 2007. ROA p. 78. Petitioner was tried in his absence before Judge Michael Nettles. Judge Nettles

appointed a public defender, Vic Meetze, Esquire, to represent Petitioner. ROA pp. 78-79. Meetze did not object to Petitioner being tried in his absence. The jury found Petitioner guilty and Judge Nettles sealed Petitioner's sentence. ROA p. 212.

Sentencing hearing: Petitioner was subsequently taken into custody. Petitioner was brought before Judge Anderson on October 29, 2009, for sentencing on both sets of convictions. Meetze, his attorney from the second trial, represented Petitioner. Meetze was appointed, at Meetze's request, for the indictment from the first trial; so Meetze represented Petitioner for both sets of charges at the sentencing proceeding. ROA pp. 220-21. Judge Anderson unsealed the sentences from both trials. For the first trial, Judge Anderson sentenced Williamson to fifteen years imprisonment for trafficking, second offense, and ten years imprisonment for the proximity charge. For the second trial, Judge Anderson sentenced Williamson to twenty-five years imprisonment for trafficking, third offense. All the sentences were run concurrently. ROA pp. 230-31.

Public defender Meetze did not object during sentencing to either trial being tried in Petitioner's absence or to Petitioner being tried without counsel in the first trial.

Appeal to the South Carolina Court of Appeals: Petitioner appealed the convictions from both trials, separately, and submitted separate briefs to the South Carolina Court of Appeals for each trial. In his brief concerning the first trial, Petitioner argued that Judge Anderson erred in trying Petitioner in his absence and without counsel. However, in his brief in the appeal of his second trial, Petitioner only alleged Judge Nettles erred in denying a mistrial motion made by his counsel based on a police officer's reference to a prior warrant. Petitioner did not challenge Judge Nettles' decision to allow Petitioner to be tried in his absence for the second trial to the South Carolina Court of

Appeals. See Resp. App. p. 33 (Statement of Issues on Appeal, State v. Anthony Tyrone Williamson, #2).

The South Carolina Court of Appeals affirmed all convictions and sentences from both trials in a consolidated opinion. State v. Williamson, Op. No. 2012-UP-089 (S.C. Ct. App. filed February 22, 2012). The Court of Appeals found the issues raised concerning Petitioner's trial in his absence and his trial without counsel for the first trial were not preserved for review. App. p. 3. The Court of Appeals found Judge Nettles did not abuse his discretion in denying the motion for mistrial in the appeal of the second trial. Id. Petitioner was subsequently denied discretionary review by the South Carolina Supreme Court. App. p. 1.

RESPONDENT'S STATEMENT OF THE CRIMES

First trial: Following a tip from a reliable informant, police executed a search warrant on Petitioner's residence on September 13, 2007. Police stopped Petitioner in his driveway as he and another individual were pulling away in a vehicle. Police observed cocaine base on the floorboard of the vehicle. Petitioner admitted to police that he provided the cocaine base to the other individual with him in the car. Utilizing Petitioner's keys, police entered the residence. Petitioner and other people present in the house were directed to sit on the couch and law enforcement read them all their Miranda rights. Petitioner then told police he kept cocaine base in the bedside safe. Police found 19.4 grams of cocaine base, packaged for distribution, and cash in the safe. They also found a police scanner, rolling papers, a .40 caliber pistol, shells, and digital scales. ROA pp. 25-33; pp. 39-43; p. 56.

Second trial: Police executed a search warrant on November 14, 2007, on

Petitioner's residence. Police knocked on the front door and when there was no answer, forcibly entered to find Petitioner coming out of his bedroom. Officers found two bags of cocaine base in a flashlight left on the bed. Petitioner showed officers a cassette case in which police found a small bag of cocaine base inside. Police also recovered digital scales. ROA pp. 124-30; pp. 144-48. Police recovered a total of 13.9 grams of cocaine base. ROA p. 176.

REASONS WHY CERTIORARI SHOULD BE DENIED

Certiorari should be denied because the convictions were affirmed on adequate and independent state grounds.

This Court has made clear that it will not review a decision of a state court when the decision of the state court rests on a state law ground independent of any federal question and adequate to support the judgment. See, e.g., Coleman v. Thompson, 501 U.S. 722, 729 (1991). "This rule applies whether the state law ground is substantive or procedural." Id. "In the context of direct review of a state court judgment, the independent and adequate state ground doctrine is jurisdictional." Id.

The South Carolina Court of Appeals applied established procedural rules to find the issues barred for review. In State v. Williams, 292 S.C. 231, 355 S.E.2d 861 (1987), cited by the South Carolina Court of Appeals in the instant case, the South Carolina Supreme Court found that the propriety of the appellant to be tried in his absence was not preserved for review, noting "a defendant or his attorney must object at the first opportunity to do so." Id., 303 S.C. at 202, 355 S.E.2d at 862.

In State v. Williams, 303 S.C. 410, 401 S.E.2d 168 (1991), the appellant was tried in his absence and without counsel. He was, however, represented by counsel at the

sentencing hearing. On appeal he claimed the record did not establish he knowingly and voluntarily waived the right to counsel at trial. The South Carolina Supreme Court held “[w]hen a defendant is tried in absentia, judgment is not final until the sealed sentence is opened and read . . . [C]ounsel could have interposed a timely objection at sentencing in order to have this issue ruled upon by the circuit court in the first instance.” *Id.*, 303 S.C. 411-12, 401 S.E.2d at 169.

In contrast, in *State v. Roberson*, 382 S.C. 185, 675 S.E.2d 732 (2009), Roberson failed to appear for trial and he was tried in his absence and without counsel and found guilty. Three years later, he was represented by counsel at the sentencing hearing. Roberson’s counsel objected to the trial in absence and deprivation of counsel. The South Carolina Supreme Court reviewed the deprivation of counsel on the merits. *Id.* In the instant case, had counsel objected at Petitioner’s sentencing hearing, his constitutional claims would have been reviewed on the merits.

Instead, the South Carolina Court of Appeals found neither issue from the first trial challenged in this petition preserved.¹ The opinion frames the issues as follows:

Williamson argues the trial court erred in: (1) proceeding with his first trial although he was not represented by counsel; (2) proceeding with his first trial in absentia without meaningfully informing him his trial would be conducted despite his absence; and (3) denying his mistrial.

App. p. 3 (emphasis added).

The Court of Appeals found the issues raised in this petition unpreserved, ruling as follows:

¹ As will be shown, the South Carolina Court of Appeals never ruled on whether Petitioner should have been tried in his absence for his second trial because the issue was not raised to the South Carolina Court of Appeals. See Resp. App. p. 31; p. 33.

1. As to Williamson's issues concerning his right to counsel and his being tried in absentia: State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal."); State v. Williams, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) ("In order to claim the protection afforded by [Rule 16 SCRCrimP], a defendant or his attorney must object at the first opportunity to do so.").

Id.

Respondent is aware that "when and how defaults in compliance with state procedural rules can preclude our consideration of a federal question is itself a federal question." Henry v. Mississippi, 379 U.S. 443, 47 (1965). However, Petitioner fails to offer any valid reason why the state procedural bar is inadequate. Petitioner simply had the opportunity, with the benefit of counsel, to object during his sentencing hearing to his trial in absence for both trials and to the court's failure to appoint counsel for the first trial. Petitioner and his counsel failed to do so as explicitly required by South Carolina state law. State v. Williams, 292 S.C. 231, 355 S.E.2d 861 (1987); State v. Williams, 303 S.C. 410, 401 S.E.2d 168 (1991).

To summarize, the South Carolina Court of Appeals reasonably applied the state's firmly established procedural rules. Accordingly, certiorari should be denied as to both issues raised because the Court of Appeals' ruling is based on adequate and independent state grounds. Coleman v. Thompson, 501 U.S. 722, 729 (1991).

I. Petitioner waived his right to counsel by his conduct – his inexcusable absence from his first trial – and the issue was properly found to be procedurally barred.

Petitioner complains that his constitutional right to counsel was not freely and voluntarily waived when he was tried without counsel and in his absence at his first trial.

At Petitioner's second trial, the prosecutor advised Judge Nettles that Petitioner did

not qualify for a public defender and, at the time he made bond (October 2008), that Petitioner was advised he should hire an attorney. ROA p. 91. The record does not reflect that Petitioner made any effort to obtain counsel for either trial.²

At the sentencing hearing, Petitioner admitted fleeing Florence, where he resided. Petitioner told the sentencing judge that he “just drove, just drove out of town” purportedly because he was scared of another dealer. ROA p. 227, lines 23-25; p. 229, lines 11-14. A bench warrant was issued on December 18, 2008, when Williamson failed to appear in court for the charges related to the second trial. ROA p. 93; p.95. Subsequently, Judge Anderson issued a bench warrant on March 10, 2009. ROA p. 16. As of the date of the second trial, Petitioner was never picked up on the bench warrant.

Petitioner, represented by counsel at the sentencing hearing, did not allege he failed to receive notice of the first trial. Petitioner and his counsel also did not assert at the sentencing hearing that his right to counsel for the first trial was violated. Accordingly, under South Carolina state law, this issue was procedurally barred. State v. Williams, 303 S.C. 410, 401 S.E.2d 168 (1991) (finding, where appellant was tried in his absence and without counsel, that the issue of right to counsel was not preserved where neither counsel or appellant objected at the sentencing hearing); State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review); State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Further, Petitioner waived his right to counsel by his conduct. State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009). In Roberson, the South Carolina Supreme Court

² At the second trial, Judge Nettles appointed Meetze on the day of trial. ROA p. 97.

noted three ways a defendant may relinquish his right to counsel: "(1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture." Id., 382 S.C. at 187, 675 S.E.2d at 732. Roberson was issued a bond on the condition he would appear for court on the date set for trial. Two "Notices of Appearance for Court" were sent to his last known address. When Roberson failed to appear, he was tried in his absence and without counsel and found guilty. Three years later, he was represented by counsel at the sentencing hearing. Roberson's counsel objected to the trial in absence and deprivation of counsel.³ The South Carolina Supreme Court found that "given [Roberson's] criminal history, his disregard for the instructions of the court, and his inexcusable absence from trial, a waiver by conduct of the right to counsel is inferable." Id., 382 S.C. at 188, 675 S.E.2d at 733.

In the instant case, Petitioner was advised of his right to counsel but instead chose to flee and make himself unavailable to the trial court. Further, like the defendant in Roberson, Petitioner was no stranger to the criminal justice system. His prior convictions are as follows: forgery in 1994; resisting arrest in 1997; loafing and loitering in 1998; forgery again in 1999; obtaining goods by false pretenses in 2001; and possession of crack, criminal domestic violence, and assault and battery of a high and aggravated nature, all in 2004. ROA p. 223, lines 8-14.

The Roberson court found that an inexcusable absence from trial constituted a waiver of right to counsel by conduct. Id., 382 S.C. at 733, 675 S.E.2d at 733. Accordingly, in the instant case, Williamson waived his right to counsel by his inexcusable

³ Note that both the South Carolina Supreme Court in Roberson, and the South Carolina Court of Appeals in State v. Roberson, 371 S.C. 334, 638 S.E.2d 93 (Ct. App. 2006), determined the issue on its merits since counsel had objected at the earliest opportunity, the sentencing hearing.

absence from trial.

The Idaho Court of Appeals cited Roberson favorably and also noted the following:

While the Sixth Amendment guarantees a defendant the right to counsel, and court-appointed counsel if indigent, a defendant cannot use this right to play a cat-and-mouse game with the court or by ruse or stratagem fraudulently seek to have the trial judge placed in a position where, in moving along the business of the court, the judge appears to be arbitrarily depriving the defendant of counsel. United States v. Murphy, 469 F.3d 1130, 1135 (7th Cir. 2006); United States ex rel. Davis v. McMann, 386 F.2d 611, 618-19 (2d Cir. 1967); see also Releford v. United States, 309 F.2d 706, 708 (9th Cir. 1962) (noting that the constitutional guarantee of the right of a defendant to have the assistance of counsel cannot be turned into a weapon whereby a defendant can prevent his or her case from ever being brought to trial).

State v. Schwab, 281 P.3d 1103, 1111 (Id. Ct. App. 2012). In the instant case, Petitioner failed to obtain counsel, disregarded the instructions to appear in court, fled the jurisdiction, and neglected to inform the court of his whereabouts. Petitioner waived his right to counsel by his conduct.

II. Petitioner received sufficient notice and warning that he could be tried in his absence before he absconded and the issue was properly found procedurally barred.

Petitioner complains he did not receive sufficient notice of either trial and argues the State could only try Petitioner in his absence if he attended part of his trial before fleeing. Petitioner complains that the State's reliance on what he dismisses as "boilerplate" warnings in the bond forms he signed were insufficient notice that his trial would proceed in his absence. However, as discussed below, Petitioner voluntarily absented himself despite express warnings in the bond form, and the issues were validly barred on state procedural grounds.

A. The trial court in the first trial did not err in trying Petitioner in his absence and the issue was procedurally barred where Petitioner admitted fleeing the jurisdiction and did not object to being tried in his absence at his sentencing hearing.

For the first trial, the South Carolina Court of Appeals properly determined that his challenge to his trial in absence was procedurally barred. Coleman v. Thompson, 501 U.S. 722, 729, 111 S.Ct. 2546, 2553-54, 115 L.Ed.2d 640 (1991) (finding this Court will not review cases determined on independent and adequate state grounds, including procedural bars).

Petitioner had counsel appointed and present at Petitioner's sentencing hearing. Petitioner and counsel did not object to the first trial being held in Petitioner's absence nor contend he did not receive notice that he would be tried in his absence. State v. Williams, 292 S.C. 231, 355 S.E.2d 861 (1987) (finding an objection to a defendant being tried in his absence must be raised at the first opportunity to be preserved for appellate review). Under state law, constitutional issues, like any other issue, must be presented to the trial court in order to be reviewed on appeal. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review); State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal). Neither Petitioner nor his counsel objected to the trial in his absence for the first trial, and the Court of Appeals properly relied on State v. Williams, 292 S.C. 231, 355 S.E.2d 861 (1987) to find the issue was procedurally barred.

Petitioner admitted to the sentencing court that he fled Florence. Petitioner admitted he "just drove, just drove out of town" purportedly because he was scared of

another drug dealer. ROA p. 227, lines 23-25; p. 229, lines 11-14. The record does not reflect that Petitioner appeared for court even one time as the bond form directed.

Further, at the start of the first trial, Judge Anderson followed the dictates of state law, set out under Rule 16, SCRCrimP, as follows:

Except in cases wherein capital punishment is a permissible sentence, a person indicted for misdemeanors and/or felonies may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that such person has received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court.

Judge Anderson followed SCRCrimP, Rule 16, by making a finding that Williamson received notice of his right to be present and warned that the trial would proceed in his absence if he failed to attend court. ROA pp. 13-19.

Support for this conclusion was specifically stated in the bond form. Petitioner was issued a bond on September 14, 2007. The language found in the bond form, which is reproduced in the record, indicates that Petitioner was to attend General Sessions on October 15, 2007, and remain there throughout the term and every succeeding term until his charges were disposed of, unless otherwise directed by the court. ROA pp. 234-235 (bond form). Further, Petitioner was required to notify the court if he changed his address. It does not appear that Petitioner notified the court of his new location prior to his April trials. Id. Finally, he was advised by the language in the bond form that his trial would proceed in his absence if he failed to attend court as directed. Id. The bailiff, pursuant to Judge Anderson's request, called Petitioner's name in the hallway of the Courthouse three times and received no response. ROA p. 3. Note Petitioner was on bond for this charge on November 14, 2007, when he committed the offense that was the subject of the second

trial. ROA p. 78. The record does not reflect that Petitioner appeared even once for a scheduled court date while he was out on bond.

The accused has a constitutional right to be present in the courtroom at every stage of his trial, but that right may be waived. Diaz v. United States, 223 U.S. 442 (1912). In United States v. Muzevsky, 760 F.2d 83 (4th Cir. 1985), the Fourth Circuit Court of Appeals indicated that among the factors to determine if a trial in absence was appropriate, the district court should consider “the likelihood of the trial soon taking place with the defendant present and the preservation of testimony . . .” Id. at 84. “In the proper circumstances, a short postponement of the trial might prevent the need to try an absent defendant. However, when the court does not know the reasons for the defendant’s absence and has no basis to believe that the trial can be rescheduled within a reasonable time, consideration of the government’s difficulty in reassembling its proof may dictate an immediate trial.” Id. at 85.

In Diaz, this Court quoted with approval an earlier Court of Appeals’ decision as follows:

It does not seem to us to be consonant with the dictates of common sense that an accused person, being at large upon bail, should be at liberty, whenever he pleased to withdraw himself from the courts of his country and to break up a trial already commenced. The practical result of such a proposition, if allowed to be law, would be to prevent any trial whatever until the accused person himself should be pleased to permit it.

Diaz, 223 U.S. at 457 (internal quotation marks omitted) (quoting Falk v. United States, 15 App. D.C. 446, 454 (1899) *cert. denied*, 181 U.S. 618 (1901)).

In United States v. Sharp, 38 M.J. 33 (1993), the United States Court of Military Appeals held: “Ordinarily, notice of the exact trial date would be desirable but is not a

prerequisite for a trial in absentia. There is no requirement that appellant be warned that he has a right to be present and that the trial might continue in his absence.” *Id.* at 35 (citing Taylor v. United States, 414 U.S. 17, 19 (1973) (holding defendant tried in his absence after fleeing after his trial began waived his right to be present even if he was not warned the trial would continue in his absence if he was not present)).

In the instant case, the trial court was unaware of why Petitioner was not present and there was no indication at the time of trial that Petitioner would be found in the near future. The trial court and the State were not required to wait until Petitioner chose to present himself for trial. Petitioner voluntarily chose to absent himself, with full notification by way of the bond form that the trial would potentially proceed in his absence if he chose, as he did, to abscond.

B. Petitioner may not challenge his trial in absence for the second trial where he did not raise the issue to the trial court or on appeal to the South Carolina Court of Appeals, and where Petitioner waived consideration of the error to the South Carolina Supreme Court.

Petitioner raises a challenge in his petition to his trial in absence for his second trial, but he never raised this issue on appeal of his second trial to the South Carolina Court of Appeals. On appeal to the South Carolina Court of Appeals, the only challenge to the conviction and sentence for Williamson’s second trial (State v. Anthony Tyrone Williamson #2) was whether the trial court erred in denying his counsel’s motion for mistrial. Resp. App. p. 33. The issue of whether Petitioner should have been tried in his absence was not raised to the trial judge at the second trial, the sentencing court, or to the Court of Appeals. The South Carolina Court of Appeals never ruled on the efficacy of the trial in absence for Petitioner’s second trial.

Without a doubt, the issue was waived in state court. State v. Oxner, 391 S.C. 132, 705 S.E.2d 51 (2011) (“An argument that is not raised to an intermediate appellate court is not preserved for review by this Court”); Bonaparte v. Bonaparte, 317 S.C. 256, 452 S.E.2d 836 (1995) (where the Court of Appeals does not address a particular issue, petitioner cannot argue the merits of the issue in a petition for writ of certiorari because the issue is not preserved for review); State v. Primus, 349 S.C. 576, 583, 564 S.E.2d 103, 107 (2002) (an issue not raised in the brief to the Court of Appeals, but instead raised for the first time in the petition for rehearing, is not properly preserved for the Supreme Court’s consideration in a petition for writ of certiorari) *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005)).

Respondent moved to strike the petition for writ of certiorari to the South Carolina Supreme Court on the basis that this issue was not raised to the Court of Appeals. Resp. App. pp. 1-4. In response to Respondent’s motion, Petitioner countered that the rules did not provide for Respondent’s motion but then admitted: “However, in due candor to the Court, Counsel concedes that the second issue presented in the Petition for Writ of Certiorari to the Court of Appeals is **incorrectly worded to also include Petitioner’s second trial.**” Resp. App. p. 10 (emphasis added). Further, Petitioner requested to modify the second question presented to reflect a challenge to only the first trial. Id. Thus Petitioner, in effect, conceded to the South Carolina Supreme Court that the issue of trial in absence for the second trial was procedurally barred and withdrew any challenge to the trial in absence for the second trial.

Further, Judge Nettles properly determined that Petitioner was aware that the trial would proceed in his absence if he did not appear. At the second trial, the solicitor

informed Judge Nettles that the municipal court judge advised Petitioner to appear in court. ROA p. 91. The Deputy Clerk of Court testified Petitioner was issued a bond on October 9, 2008, by the municipal judge. The Deputy Clerk published the content of the bond to Judge Nettles. Under the terms of the bond, Petitioner was to appear in court on December 18, 2008, and each succeeding term until the case was resolved. The bond form was signed by Petitioner, acknowledging his address and telephone number. A bail bonding company posted the bond. A bench warrant was issued on December 18, 2008, when Williamson failed to appear. ROA pp. 92-95; Resp. App. pp. 61-62 (bond form). Judge Nettles, at the prosecution's suggestion, sent the bailiff to call Petitioner's name three times. The bailiff returned and advised Judge Nettles that he called Petitioner's name three times on two floors of the courthouse and received no response. ROA p. 96. Petitioner never appeared once for court on this charge prior to his April 2009 trial.

Petitioner complains about the Solicitor's administration of the docket ("control") in this case, but it has no bearing on the situation created by Petitioner. The predicament for the trial court was hardly unique to South Carolina, as trial judges nationwide are challenged by defendants disrupting the criminal justice system by their willful absence. State v. Luna, 936 A.2d 957, 965 (N.J. 2007) ("We cannot allow crowded court calendars to be disrupted by defendants who knowingly and voluntarily absent themselves from trial, and then seek reversal of their convictions on the ground that the trial date could conveniently have been rescheduled." (citation and internal quotation marks omitted)). Petitioner delayed the trial by four months by fleeing the jurisdiction. The State tried to locate him before calling the case to trial. Addressing Judge Nettles, the assistant solicitor explained the following:

Your Honor, the State has made every effort in order to locate the defendant, even using his prior counsel, and he has not been able to locate the defendant. The bondsman has also gone to [the] Washington, D.C. area where the defendant was believed to have been, to no avail.

ROA p. 95. Note Petitioner makes no attempt in his petition to justify his absence. He is unable to do so. Petitioner cannot blame the State for his failure to abide by the rules of his bond where he made sure he could not be located. He should not be allowed to endlessly postpone his trial until it suits him to dispose of the charges.

CONCLUSION


For all of the foregoing reasons, Respondent respectfully submits that this Court should deny the Petition for Writ of Certiorari.

Respectfully submitted,

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March 24, 2014

APPENDIX

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge
Michael G. Nettles, Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Petitioner.

**MOTION TO SEVER APPEAL;
MOTION TO STRIKE PETITIONER'S PETITION
FOR WRIT OF CERTIORARI; MOTION TO DISMISS
APPEAL OF ANTHONY TYRONE WILLIAMSON #2
ON GROUNDS OF ABANDONMENT OF ISSUES; AND
MOTION TO HOLD MATTER IN ABEYANCE PENDING
RESOLUTION OF THE STATE'S MOTION**

This matter is before this Court by way of a petition for writ of certiorari filed by Petitioner on August 1, 2012. Petitioner appealed two separate trials and was represented by Elizabeth Franklin-Best for the appeal of each trial.

1. On April 13, 2009, Petitioner, who fled the jurisdiction, was tried in his absence before the Honorable Ralph King Anderson, Jr., for trafficking cocaine base and possession with intent to distribute cocaine base within proximity of a school or park. Petitioner was found guilty as charged.

2. On April 22, 2009, Petitioner was tried in his absence before the Honorable Michael G. Nettles for a separate charge of trafficking cocaine base, the offense occurred on

a separate date than the charges for the first trial. Petitioner was found guilty as charged.

3. Petitioner was brought before Judge Anderson for sentencing on all charges on October 29, 2009. Petitioner admitted fleeing the jurisdiction.

4. Petitioner appealed both trials and was represented by Elizabeth Franklin-Best, Esquire, then of the Office of Appellate Defense. Petitioner submitted separate briefs and separate records for each trial. For the first trial, Petitioner alleged Judge Anderson erred in allowing his trial to proceed in his absence and that he did not freely and voluntarily waive the right to counsel. For the second trial, Petitioner alleged Judge Nettles erred in denying a motion for mistrial, but did not challenge the trial in absence on appeal.

5. No motion for consolidation was made by either party. Additionally, the Court of Appeals never issued an order consolidating the appeals. However, the Court of Appeals affirmed both convictions in a single unpublished opinion. State v. Anthony Tyrone Williamson, 2012-UP-089 (S.C. Ct. App., filed Feb. 22, 2012). Petitioner filed a single petition for rehearing for both appeals. Petition for rehearing was denied on May 4, 2012.

6. Petitioner, now represented by Dayne C. Phillips, Esquire, filed a single petition for writ of certiorari raising only two issues in the statement of issues: (1) that Petitioner did not freely and voluntarily waive counsel in the first trial and (2) that the trial judges erred in allowing him to be tried in his absence at both trials. The trial in absence was not raised in the appeal to the Court of Appeals for the second trial (Anthony Tyrone Williamson #2).

7. Respondent moves to sever the appeal as the appeal was never explicitly consolidated by order of the Court of Appeals; it concerns two separate trials for two separate offense dates; and Petitioner originally submitted two separate briefs and two separate records on appeal. Respondent responded with two separate briefs. Consolidation of the two separate trials has created confusion as evidenced by the briefing of an issue in the petition

for writ of certiorari not raised in the original brief for the second trial.

8. Respondent moves to strike Petitioner's petition for writ of certiorari. Petitioner did not raise the issue of trial in absence for Petitioner's second trial. Accordingly, the issue is abandoned on appeal and cannot now be reviewed. Additionally, Petitioner asserts an ineffective assistance of counsel argument not raised in briefing to the Court of Appeals and that is not appropriate for a direct appeal of a conviction. Finally, Petitioner raises an issue of docket control, which was not raised to the trial court or raised previously on appeal. Respondent requests that this Court strike the petition for writ of certiorari and limit Petitioner to those issues previously raised to the Court of Appeals in its brief. State v. Oxner, 391 S.C. 132, 705 S.E.2d 51 (2011) ("An argument that is not raised to an intermediate appellate court is not preserved for review by this Court"); Bonaparte v. Bonaparte, 317 S.C. 256, 452 S.E.2d 836 (1995) (where the Court of appeals does not address a particular issue, petitioner cannot argue the merits of the issue in a petition for writ of certiorari because the issue is not preserved for review); State v. Primus, 349 S.C. 576, 583, 564 S.E.2d 103, 107 (2002) (an issue not raised in the brief to the Court of Appeals, but instead raised for the first time in the petition for rehearing is not properly preserved for the Supreme Court's consideration in a petition for writ of certiorari) *overruled on other grounds* by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

9. Respondent moves to dismiss the appeal of Petitioner's second trial. Petitioner raised only one issue in challenge to that trial, the denial of Petitioner's motion for mistrial. Petitioner did not petition this Court for a petition for writ of certiorari on that issue. Accordingly, Petitioner has now abandoned the only issue that was raised in the Court of Appeals in relation to the second trial. Therefore, dismissal of the petition for writ of certiorari as to the conviction and sentence of the second trial is warranted.

10. Respondent moves to hold its time limits for filing the petition (or petitions) for writ of certiorari in abeyance, pending this Court's ruling on the aforementioned motions.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that appeal from each trial be severed from each other; that Petitioner's petition for writ of certiorari be stricken and that Petitioner submit petitions for writ of certiorari limited to the issues raised to the Court of Appeals; that appeal of the second trial be dismissed as the only issue raised to the Court of Appeals has been abandoned; that this Court hold the time limits in abeyance pending its ruling on the aforementioned motions.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DAVID SPENCER
Assistant Deputy Attorney General

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ATTORNEYS FOR RESPONDENT

October 29, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Appellant.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Motion to Sever, etc., by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Dayne C. Phillips, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 29th day of October, 2012.


NORMA BIGBEE
Legal Assistant

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cm

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

Opinion No. 2012-UP-089 (S.C. Ct. App. filed 2/22/2012)

08-GS-21-317, 09-GS-21-334

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT.

**RETURN TO RESPONDENT'S MOTION TO: SEVER APPEAL;
STRIKE PETITIONER'S PETITION FOR WRIT OF CERTIORARI;
DISMISS APPEAL OF ANTHONY WILLIAMSON #2; AND
HOLD MATTER IN ABEYANCE PENDING RESOLUTION OF THIS MOTION**

Procedural History

On April 13, 2009, Petitioner was tried *in absentia* and *without counsel* before the Honorable Ralph King Anderson, Jr., and a jury. R. 1 - 74. The State was represented by Patricia Parr. R. 1. Petitioner was charged with trafficking cocaine base, second offense, and possession of cocaine base with the intent to distribute (PWID) within proximity of a school or park. R. 3, l. 24 - 4, l. 2. The jury found Petitioner guilty as charged. R. 71, ll. 18; 25. The trial court sealed Petitioner's sentences. R. 73, ll. 1-19.

On April 22, 2009, Petitioner was tried *in absentia* for the second time in nine days before the Honorable Michael Nettles and a jury. R. 75 – 217. After the jury was selected, Judge Nettles appointed Vic Meetze to represent Petitioner despite Meetze's motion to be relieved as counsel, no prior knowledge of Petitioner's case, and approximately two hours to prepare for Petitioner's trial. R. 97, l. 1 – 110, l. 14. The State was represented by Patricia Parr. R. 75. Petitioner was charged with trafficking cocaine, third offense. R. 78, ll. 3-6. The jury found Petitioner guilty as charged. R. 212, ll. 16-25. The trial court sealed Petitioner's sentence. R. 213, l. 7 – 215, l. 22.

On October 29, 2009, Petitioner appeared before Judge Anderson for the opening of the sealed sentences. R. 218 – 233. Petitioner was represented by Vic Meetze, and the State was represented by Patricia Parr. R. 218. Judge Anderson sentenced Petitioner to fifteen years imprisonment on the trafficking cocaine base, second offense, conviction and ten years imprisonment on the PWID within proximity of a school or park conviction. R. 222, ll. 13-21. Judge Anderson also sentenced Petitioner to twenty-five years imprisonment on trafficking cocaine base, third offense, conviction pursuant to S.C. Code Ann § 44-53-375(C)(1)(c). R. 222, l. 23 – 223, l. 2. The sentences were to run concurrently for a total of twenty-five years imprisonment. R. 222, ll. 21-22; 231, ll. 6-9.

On June 02, 2011, Appellate Defender Elizabeth Franklin-Best filed the Final Brief on Appellant on the April 13, 2009 convictions, and a second Final Brief of Appellant on the April 22, 2009 conviction. In the *first* Brief of Appellant, two issues were presented: (1) Whether the trial court erred by allowing the State to call Appellant's case to trial when Appellant was not represented by counsel?; and (2) Whether the trial court judge erred by allowing the State to call Appellant's case to trial when the State failed to show it had meaningfully informed Appellant that a trial would occur on that date, and would proceed in his absence? In the *second* Brief of Appellant, one issue

was presented: Whether the trial court judge erred by declining to grant Appellant's motion for a mistrial when a law enforcement officer testified that at the time they executed the search warrant, they also possessed a warrant for Appellant's arrest?

On February 22, 2012, in an unpublished *per curiam* opinion, the South Carolina Court of Appeals affirmed Petitioner's convictions and sentences. See *State v. Williamson*, Op. No. 2012-UP-089 (S.C. Ct. App. filed February 22, 2012). App. 1 -- 2. In its opinion, the Court of Appeals stated the following:

In this consolidated appeal, Anthony Tyrone Williamson appeals his convictions for two counts of trafficking in cocaine base and possession of cocaine base within proximity of a school or park. Williamson argues the trial court erred in: (1) proceeding with his first trial although he was not represented by counsel; (2) proceeding with his first trial in absentia without meaningfully informing him his trial would be conducted despite his absence; and (3) denying his motion for a mistrial.

(emphasis added). The Court of Appeals found that issues (1) and (2) from Petitioner's first trial were not raised and ruled upon by the trial court and will not be considered on appeal. As for issue (3) from Petitioner's second trial, the Court of Appeals found that the error was insubstantial and did not warrant a mistrial.

On March 7, 2012, Appellate Defender Elizabeth Franklin-Best filed a Petition for Rehearing on Petitioner's behalf. App. 3 -- 12. All three issues were before the Court of Appeals in the Petition for Rehearing. Respondent filed a Return to the Petition for Rehearing on March 30, 2012. App. 13 -- 19. In the Return, Respondent argued "that the Court did not overlook the entirety of Williamson's two briefs" and in footnote one, argued that "[t]he opinion and the petition for rehearing *combine the appeals from two separate convictions* briefed by the parties as Anthony Tyrone Williamson #1 and Anthony Tyrone Williamson #2." (emphasis added). The South Carolina Court of Appeals issued an Order denying the Petition for Rehearing on May 4, 2012.

App. 20.

On August 1, 2012, Appellate Defender Dayne C. Phillips filed the Petition for Writ of Certiorari to the Court of Appeals. Two issues were presented to this Court: (1) Did the Court of Appeals err in affirming the trial court's ruling to proceed with Petitioner's first trial where Petitioner was denied his right to counsel when he was tried *in absentia* and without counsel; and (2) Did the Court of Appeals err in affirming the trial court's ruling to proceed with both of Petitioner's trials *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence.

Response to Respondent's Motion to Sever Appeal

This Court should deny Respondent's Motion to Sever the Appeal for three reasons. First, the Court of Appeals decision to consolidate Petitioner's appeals *sua sponte* is within the Court's discretion. See Rule 214, SCACR (Consolidation: "Where there is more than one appeal from the same order, judgment, decision or decree, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal to be consolidated."). Second, when the Court of Appeals consolidated the two appeals and found the issues presented in Petitioner's first appeal not preserved for appellate review makes the record from the second appeal and the sentencing hearing necessary for a full and adequate review of the decision of the Court of Appeals. See Rule 242(b)(4), SCACR ("Where substantial constitutional issues are directly involved.").

Third, Respondent has waived this argument by failing to file a petition for rehearing within fifteen days after the filing of the opinion. See Rule 221, SCACR. Notably, in the Return to Petitioner's Petition for Rehearing, Respondent argued "that the Court did not overlook the

entirety of Williamson's two briefs" and in footnote one, argued that "[t]he opinion and the petition for rehearing *combine the appeals from two separate convictions* briefed by the parties as Anthony Tyrone Williamson #1 and Anthony Tyrone Williamson #2." (emphasis added).

Response to Respondent's Motion to Strike Petitioner's Petition for Writ of Certiorari

This Court should deny Respondent's Motion to Strike Petitioner's Petition for Writ of Certiorari because there is no legal authority permitting Respondent to file this motion. The proper place for Respondent to make the argument that "Petitioner did not raise the issue of trial in absence for Petitioner's second trial" was in a Return to the Petition for Writ of Certiorari. See Rule 242(f), SCACR ("The return shall include an argument on each question and may include a counter-statement of the case and of the questions presented for review."). However, in due candor to the Court, Counsel concedes that the second issue presented in the Petition for Writ of Certiorari to the Court of Appeals is incorrectly worded to also include Petitioner's second trial.

The second issue should read as follows: Did the Court of Appeals er in affirming the trial court's ruling to proceed with Petitioner's first trial *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be present or that Petitioner was sufficiently warned the trial would proceed in his absence. Regardless of Respondent's contention, the record from the second appeal and the sentencing hearing is still necessary for a full and adequate review of the decision of the Court of Appeals because the Court of Appeals found the issues presented in Petitioner's first trial not preserved for appellate review despite being tried *in absentia* and without counsel.

Specifically, although Vic Meetze was appointed to represent Petitioner *after* the jury was selected on a separate trafficking charge at Petitioner's *second* trial, Meetze did not have sufficient

knowledge of Petitioner's *first* trial nor did he have the authority to object to defects in Petitioner's *first* trial. R. 97, L. 1 - 98, L. 7. This is because Meetze did not retroactively represent Petitioner for purposes of the *first* trial when the sentences were subsequently unsealed.

Counsel also objects to Respondent's assertion that Counsel raised two additional issues on appeal: (1) ineffective assistance of counsel; and (2) solicitor control of the docket. As to ineffective assistance of counsel, Counsel did not raise an additional issue on appeal; instead, Counsel noted that Meetze's representation of Petitioner during the *second* trial was *per se* ineffective assistance of counsel because Meetze was not appointed until *after* the jury was selected (i.e., critical stage of trial) and had approximately two hours to prepare for Petitioner's trial. As for solicitor control of the docket, Counsel wanted to bring to this Court's attention that the State chose to call Petitioner's *first* trial 544 days after he was initially noticed to appear in court and that the Solicitor decided to call the *second* case to trial just nine days after Petitioner was tried *in absentia* and without an attorney.

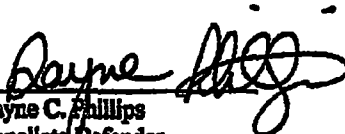
Response to Respondent's Motion to Dismiss Appeal of Petitioner's Second Trial

This Court should deny Respondent's Motion to Dismiss the Appeal of Petitioner's Second Trial for three reasons. First, the record from the second appeal and the sentencing hearing is still necessary for a full and adequate review of the decision of the Court of Appeals because the Court of Appeals consolidated Petitioner's appeals. Second, Respondent failed to provide a proper basis to dismiss under Rule 242(i), SCACR, which provides that this Court will grant or deny any question presented in a Petition for Writ of Certiorari to the Court of Appeals. Counsel respectfully requests that this Court modify the second question presented to reflect: Did the Court of Appeals err in affirming the trial court's ruling to proceed with Petitioner's first trial *in absentia* where the State failed to show that Petitioner received meaningful notice of his right to be

present or that Petitioner was sufficiently warned the trial would proceed in his absence. Third, the proper place for Respondent to make these arguments was in a Return to the Petition for Writ of Certiorari because there is no legal authority permitting Respondent to file these motions. Respondent should not be allowed to circumvent the orderly process of the Appellate Court Rules on Certiorari to the Court of Appeals.

WHEREFORE, Petitioner requests that this Court dismiss Respondent's Motion to: sever... appeal; strike Petitioner's Petition for writ of certiorari; dismiss appeal of Anthony Tyrone Williamson #2.

Respectfully submitted,


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER.

This 7th day of November, 2012

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Florence County
Ralph King Anderson, Jr., Circuit Court Judge

Opinion No. 2012-UP-089 (S.C. Ct. App. filed 2/22/2012)
08-GS-21-317, 09-GS-21-334

THE STATE,

RESPONDENT,

V.

ANTHONY TYRONE WILLIAMSON,

APPELLANT


CERTIFICATE OF SERVICE

I certify that a true copy of the Return to Respondent's Motion to: sever appeal; strike Petitioner's Petition for writ of certiorari; dismiss appeal of Anthony Tyrone Williamson #2 on grounds of abandonment of issues; and hold matter in abeyance pending resolution of the State's motion in this case has been served on David Spencer, Esquire, of the South Carolina Attorney Generals Office, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 7th day of November, 2012.


Dayne C. Phillips
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 7th day
of November, 2012.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge
Michael G. Nettles, Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Petitioner.

REPLY TO RETURN TO MOTION TO SEVER APPEAL;
MOTION TO STRIKE PETITIONER'S PETITION
FOR WRIT OF CERTIORARI; MOTION TO DISMISS
APPEAL OF ANTHONY TYRONE WILLIAMSON #2
ON GROUNDS OF ABANDONMENT OF ISSUES; AND
MOTION TO HOLD MATTER IN ABEYANCE PENDING
RESOLUTION OF THE STATE'S MOTION

The State now makes its reply to Appellant Williamson's return to the State's motion to sever the appeal, strike petitioner's petition for writ of certiorari, and motion to dismiss the appeal of State v. Anthony Tyrone Williamson #2.

1. Regarding the State's motion to sever, the State disagrees that it has waived the ability to move for severance merely because it did not petition for rehearing following the Court of Appeals affirming both convictions and sentences. The necessity for severance has only now become apparent by Appellant's hopeless mingling of issues between the two cases. Further, this Court has the inherent power to sever the cases at this juncture.

2. Williamson concedes in his return that he intended to raise the propriety of a trial

in absence as to the first trial only and not on the second. Accordingly, the petition should be struck so as to allow Williamson the opportunity to correct the petition to avoid confusion for the parties and this Court.

3. Based on this admission by Williamson, it appears that he is not challenging any issues as to the second trial. Accordingly, severance is warranted so that the remittitur for the appeal of the second trial can be issued.

4. Williamson attempts to explain why he has raised the assertion that Vick Meetze was per se ineffective when appointed for the second trial. However, Vick Meetze's representation was not raised to the Court of Appeals, is not proper for direct appeal, and has no relevance to the only issue raised to the Court of Appeals concerning the second trial, whether the trial court should have granted a mistrial motion.

5. Williamson concedes that he is not attempting to raise an issue concerning the Solicitor's administration of the docket.

6. This Court should grant the State's motion to sever. The record still may be properly comprised of the transcripts of the first trial and the sentencing proceeding.

7. This Court should grant the motion to strike the petition so that Williamson can appropriately edit the petition for writ of certiorari so it is clear he is challenging the trial in absentia as to the first trial only and so that confusing references to the second trial are eliminated from the petition for the benefit of clarification of the issues for this Court and the parties.

8. This Court should issue a remittitur for the second trial as there remains no dispute as to the efficacy of the conviction and sentence on direct appeal of the conviction. The only issue raised as to the second trial (the mistrial motion) has now been waived in the petition for writ of certiorari. Williamson then could pursue any collateral claims he feels appropriate

as to the second conviction and sentence.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that appeal from each trial be severed from each other; that Petitioner's petition for writ of certiorari be stricken and that Petitioner submit petitions for writ of certiorari limited to the issues raised to the Court of Appeals; that appeal of the second trial be dismissed as the only issue raised to the Court of Appeals has been abandoned; that this Court hold the time limits in abeyance pending its ruling on the aforementioned motions.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DAVID SPENCER
Assistant Deputy Attorney General

E. L. CLEMENTS, III
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ATTORNEYS FOR RESPONDENT

November 15, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

Respondent,

VS.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Appellant.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Reply to Return to Motion to Sever, etc., by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Dayne C. Phillips, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 15th day of November, 2012.


NORMA BIGBEE
Legal Assistant

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The Supreme Court of South Carolina

The State, Respondent

v.

Anthony Tyrone Williamson, Petitioner.

Appellate Case No. 2012-212230

ORDER

This matter is before the Court by way of a petition for a writ of certiorari from an opinion of the Court of Appeals addressing two appeals filed by petitioner. The State has filed a Motion to Sever Appeal, Motion to Strike Petitioner's Petition for Writ of Certiorari, Motion to Dismiss Appeal of Anthony Tyrone Williamson #2 on Grounds of Abandonment of Issues, and Motion to Hold Matter in Abeyance Pending Resolution of the State's motion. Petitioner has filed a return in opposition to the motions. The motions, with the exception of the motion to hold the matter in abeyance pending a decision by this Court on the State's motions, are denied.


 C.J.
 FOR THE COURT

Columbia, South Carolina

December 6, 2012

cc:

John W. McIntosh
 Salley W. Elliott
 Alan McCrory Wilson
 David A. Spencer
 Dayne C. Phillips

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE

RESPONDENT

v.

ANTHONY TYRONE WILLIAMSON, II

APPELLANT

FINAL BRIEF OF APPELLANT

ELIZABETH A. FRANKLIN BEST
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUES ON APPEAL

I. Whether the trial court judge erred by allowing the State to call appellant's case to trial when appellant was not represented by counsel?

If: Whether the trial court judge erred by allowing the State to call appellant's case to trial when the state failed to show it had meaningfully informed appellant that a trial would occur on that date and would proceed in his absence?

STATEMENT OF THE CASE

Anthony Pyron Williamson was indicted by the Florence County grand jury during its January 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Hon. Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction is the basis of his appeal. (08-GS-21-317).

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Neiles and a jury on April 22, 2009 on the trafficking charge. Judge Neiles appointed V.G. Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed. This conviction is the basis for the companion appeal. (09-GS-21-334).

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

This appeal timely follows.

ARGUMENT

1. The trial court judge erred by allowing the State to call appellant's case to trial when appellant was not represented by counsel.

On April 13, 2008, the State called appellant's case to trial. He was charged with trafficking in crack cocaine and possession of crack cocaine within proximity of a school or park. The court stated it would ascertain whether the case could proceed. ROA 13. The court understood it would have to analyze whether the defendant voluntarily waived his right to be present and whether a defendant was warned that a trial would proceed in his absence if he failed to attend. ROA 16. The State called an employee of the clerk of court's office. According to her testimony, appellant received a bond on September 14, 2007. As a condition of the bond, appellant was to appear at General Sessions Court beginning October 15, 2007. If no disposition was made during that term, appellant was ordered to appear and remain throughout each succeeding term of court until final disposition was made. ROA 16. On March 10, 2009, a bench warrant was issued for appellant. When asked whether appellant was given or provided a copy of this bond, the clerk responded, "I believe he was." ROA 16, l. 20. Based on this testimony, the trial court judge concluded that appellant was given notice to appear for court, and was made aware of the fact he could be tried in his absence. The court ordered that the state could proceed with the trial. ROA 17-18. There being no attorney present, no objection was interposed at this time.

The trial court judge erred by allowing the trial to proceed because the judge never inquired whether appellant knowingly and voluntarily waived his right to counsel.

Once the adversarial judicial process has begun, the 6th amendment guarantees a defendant the right to have counsel present at all "critical" stages of the proceeding. A trial

is a critical stage of the proceeding: Argersinger v. Hamlin, 407 U.S. 25 (1972); Montejo v. Louisiana, 129 S.Ct. 2079 (2009); United States v. Wade, 388 U.S. 218 (1967); Powell v. Alabama, 287 U.S. 45 (1932).

Appellant never waived his right to counsel. The waiver of the right to counsel must be knowing, voluntary, and intelligent. Johnson v. Zerbst, 304 U.S. 458 (1938). The waiver must be an "intentional relinquishment or abandonment of a known right or privilege. Id. at 464 (emphasis added). The accused must know what he is doing so that "his choice is made with eyes open." Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942). See also Moran v. Burbine, 475 U.S. 412 (1986). The information that a defendant must possess in order to make an intelligent election depends on a range of case-specific factors, including his education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding: Iowa v. Tovar, 541 U.S. 77 (2004). Regarding the significance of the waiver in the context of forfeiting the right to counsel at trial, the Court has held:

[R]ecognizing the enormous importance and role that an attorney plays at a criminal trial, we have imposed the most rigorous restrictions on the information that must be conveyed to a defendant, before permitting him to waive his right to counsel at trial.

Patterson v. Illinois, 487 U.S. 285, 298 (1988) (emphasis added). See also Faretta v. California, 422 U.S. 806 (1975). In this case, the judge simply did not make any inquiry at all about why no attorney was present to represent appellant and whether appellant waived his right to counsel.

At appellant's second trial, the judge there asked the State to place on the record its justification for going forward with its case against appellant, in his absence and without counsel. There, the State explained that appellant was denied a public defender. The State

also informed the judge that appellant had a prior case in which he had hired counsel, but that counsel moved to be relieved because the defendant "failed to cooperate" with him. According to the State, this attorney never appeared on behalf of the appellant on this (the second trial) particular case. Having heard the State's account, this judge ordered an attorney be assigned to represent appellant. ROA 91.

An attorney representing appellant's interests in this first trial may, for example, have objected to a law enforcement characterization of appellant as a "middle level sized dealer." ROA 42. He or she may also have objected to the law enforcement officer's testimony that appellant was also selling marijuana. ROA 43. An attorney may also have objected to entering an unrelated firearm into evidence. ROA 43. An attorney may have raised issues related to the execution of a search warrant. ROA 21. An attorney may also have objected to a codefendant's hearsay statement claiming ownership of drugs found in a car. Additionally, an attorney may have challenged the statement that appellant purportedly made to law enforcement regarding these events. ROA 27. An attorney may also have objected to testimony that a scanner found in appellant's bedroom was used to monitor these law enforcement officers' communications. ROA 31. In short, an attorney may have insured that appellant received a fair trial. Respectfully, the trial court judge erred by allowing the state to proceed with its prosecution against appellant on this basis.

11. The trial court judge erred by allowing the State to call appellant's case to trial when the state failed to show it had meaningfully informed appellant that a trial would occur on that date, and would proceed in his absence.

The trial court judge erred in allowing the state to proceed when the State failed to show that it had given meaningful notice to appellant that his trial would proceed in his absence if he was not present. ROA 12-20 and ROA 903102. The state chose to call appellant's first case to trial 544 days after he was initially notified to appear in court. In South Carolina, the solicitors control the docket. S.C. Code Ann. Section 1-7-330 (1976). The State did not provide any evidence to show that any attempt was made to contact appellant to inform him that his trial was going to be held on April 13, 2009 or April 22, 2009. Instead, it relies on the boilerplate language of a bond form that insisted that appellant remain tethered to the courthouse until it decided to exercise its power and call his case to trial. Such a practice fails to offer meaningful notice to defendant that his case will be tried and is a fundamental denial of due process. Peralte v. Heights, 485 U.S. 80 (1988); Armstrong v. Mingo, 380 U.S. 545 (1965); Mullane v. Central Hanover Bank & Tr. Co., 339 U.S. 306, 313 ("Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case."); An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer, 311 U.S. 457; Grannis v. Ordean, 238 U.S. 385. Appellant was not afforded notice, reasonably calculated, and under all the circumstances, that his case was going to be tried by the state of South Carolina 544 days after he was summoned to court. Respectfully, appellant asks this Court to reverse his convictions and remind his case for trial.

CONCLUSION

For the preceding reasons, appellant respectfully asks this Court to reverse his convictions and remand his case for trial.

Respectfully submitted,


Elizabeth A. Franklin, Esq.
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of June, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 2, 2011



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ANTHONY TYRONE WILLIAMSON, #1

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 2nd day of June, 2011.

Elizabeth A. Franklin Best
Elizabeth A. Franklin Best
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me:
this 2nd day of June, 2011.

Johanna R. Kunc (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ANTHONY TYRONE WILLIAMSON, JR.

APPELLANT

FINAL BRIEF OF APPELLANT

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TABLE OF AUTHORITIES

Cases

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STATEMENT OF ISSUES ON APPEAL

Whether the trial court judge erred by declining to grant appellant's motion for a mistrial when a law enforcement officer testified that at the time they executed the search warrant, they also possessed a warrant for appellant's arrest?

STATEMENT OF THE CASE

Anthony Tyrone Williamson was indicted by the Florence County grand jury during its January, 2008 term for trafficking in cocaine base and possession of cocaine base with intent to distribute within proximity of the school or park. He was tried before the Hon. Ralph King Anderson, Jr. and a jury on April 13, 2009. Appellant was not represented by counsel, and he did not appear for his trial. He was convicted, and his sentence sealed. This conviction forms the basis of appellant's companion appeal. (08-GS-21-317).

Appellant was also indicted by the Florence County grand jury of distribution of cocaine base, 2nd offense, distribution of cocaine base within proximity of a school or park, trafficking in cocaine base, 2nd offense, and possession of cocaine base with intent to distribute during its March 2009 term. He was tried before the Hon. Michael Nettles and a jury on April 22, 2009 on the trafficking charge. Judge Nettles appointed Vic Meetze, Esquire to represent appellant. Appellant was convicted, and again his sentence was sealed. This conviction forms the basis of this appeal (09-GS-21-334).

On October 29, 2009, appellant was present in court and his sentences were unsealed. On that date, Judge Anderson sentenced appellant to 15 years and 10 years, respectively, for the April 13, 2009 convictions. Appellant was sentenced to 25 years for the trafficking conviction secured on April 22, 2009, which was enhanced from the second offense due to the April 13, 2009 convictions.

This appeal timely follows.

ARGUMENT

The trial court judge erred by declining to grant appellant's motion for a mistrial when a law enforcement officer testified that at the time they executed the search warrant, they also possessed a warrant for appellant's arrest.

A week after the state secured its first conviction against appellant, it decided to call an additional case to trial before another judge. This trial court judge appointed counsel to represent appellants' interests at trial. See Appellant's Brief, 08-GS-21-317. The trial court judge erred, in this second trial, by not granting appellant's motion for a mistrial when law enforcement testified that it also had an arrest warrant for appellant during its execution of a search warrant.

During its case in chief, the state called Sgt. Drulis to testify regarding the execution of a search warrant. He testified:

"So we entered the residence by force. When we went in, we saw Mr. Williamson walking down the hallway. He was -- he was then detained. When we detain someone, we -- we put them in handcuffs at that time. At that particular time he was also under arrest. We additionally had an arrest warrant for him."

ROA 80, II. 7-12.

Trial counsel then objected and then asked the judge to declare a mistrial:

MR. MEETZE: Your Honor, at this time I would make a motion for the court to declare a mistrial in this case. The jury has just been told that along with the search warrant, they also had a warrant for Mr. Williamson's arrest. I think that that certainly prejudices this jury, you know, beyond repair. Certainly the court can give a curative instruction. But, you know, I think that a situation where you just can't un-ring that bell. And I feel like under the circumstances the proper thing would be to declare a mistrial in this case."

ROW 88

The trial court judge was exceptionally concerned about this testimony and the state's eliciting it from the witness.

THE COURT: Ms. Parr, were you aware that there was going to be such testimony with regard to an unrelated arrest warrant?

MS. PARR: Your Honor, I was not aware that there was going to be anything other than, you know, the search warrant and that's what -- you know, it was in the incident report that they had an arrest warrant for the defendant but not --

THE COURT: Did you specifically discuss with this witness about not getting into that?

MS. PARR: Your Honor, when we went over the testimony -- went over the case, he was just to tell what part he played, that he was one of the ones that discovered the drugs in the flashlight.

THE COURT: Did you specifically tell him not to get into the arrest warrant?

MS. PARR: No, I can't say I specifically said that.

THE COURT: Okay. Was there a discussion about it?

MS. PARR: Not specifically. We talked about that we can't show that the defendant had had any prior dealings with the law because, you know, he had all of these prior cases and I specifically talked to them about that.

THE COURT: Okay. How long have you been in law enforcement?

AGENT DRULIS: Going on 11 years, sir.

THE COURT: Okay. I think you said you got all kind of training. You're not aware of the fact that you are supposed to bring up unrelated misconduct?

AGENT DRULIS: Yes, sir, and for lack of a better term, when it came out, I wish I could have grabbed it.

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THE COURT: All right.

AGENT DRULIS: It was-- it was just one-- I was recalling why we're there. I was recalling the incident.

THE COURT: And there will not be any reference to any unrelated conduct. I'm going to give the jury a curative charge and take the matter under consideration throughout the balance of the trial. I'm not going to grant the mistrial at this time.

ROA 81-83.

The trial court judge gave a curative instruction:

THE COURT: Madame Forelady, ladies and gentlemen of the jury, you have heard testimony concerning an unrelated arrest warrant. That statement was made in error and it was incorrect. There is no such unrelated arrest warrant. Ladies and gentlemen of the jury, even if there were such unrelated arrest warrant, it would be inadmissible because you have a solemn duty in any criminal trial to determine whether or not the State can prove a given defendant guilty of an alleged offense beyond a reasonable doubt without regard to not be influenced by any allegations of any prior misconduct. After all, can you think of anything more unfair than convicting an individual by taking into consideration some unrelated conduct? That's not what we're here about.

There is no such misconduct in this case; that testimony is stricken. It was made in error.

And, Madam Forelady, ladies and gentlemen of the jury, not only is it stricken, you are prohibited from discussing that misstatement of fact in the jury room. And, Madam Forelady, it's going to be your job and your responsibility as a juror cannot allow that to enter into discussion in any way, shape, or form.

ROA 83-84.

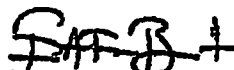
The trial court judge erred by not granting the mistrial because the state's witness interjected irrelevant, and wholly improper character evidence, and appellant was denied his right to a fair trial. SCRE, Rules 403, 404. State v. Bryant, 369 S.C. 511, 633 S.E.2d 152 (2006). The arrest warrant was not related to this case, and the jury's hearing of the warrant

tended to offer an improper basis for rendering its verdict. Additionally, the curative instruction was insufficient to cure the harm since the error was so substantial. State v. Kennedy, 272 S.C. 231, 250 S.E.2d 338 (1978). Respectfully, appellant asks this Court to reverse his convictions and remand his case for trial.

CONCLUSION

For the preceding reason, appellant respectfully asks this Court to reverse his convictions and remand his case for trial.

Respectfully submitted,



Elizabeth A. Franklin-Best
Appellate Defender


ATTORNEY FOR APPELLANT.

This 2nd day of June, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 2, 2011



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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Ralph King Anderson, Jr., Special Circuit Court Judge

THE STATE:

RESPONDENT,

v.

ANTHONY TYRONE WILLIAMSON, #2

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 2nd day of June, 2011.


Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 2nd day of June, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020.

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**Certiorari from Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge (first trial)
Michael G. Nettles, Circuit Court Judge (second trial)**

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 & #2,

Petitioner.

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STATEMENT OF ISSUES ON APPEAL**I.**

Williamson waived his right to counsel by his conduct – his inexcusable absence from trial.

II.

Williamson received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show.

III

Williamson may not challenge his trial in absence for the second trial where he did not raise the issue to the trial court or on appeal to the Court of Appeals and the trial court did not err in trying Williamson in his absence.

STATEMENT OF THE CASE

Petitioner Williamson fled the jurisdiction and was tried by jury in absentia and, since he neglected hiring an attorney, without counsel, on April 13, 2009 before the Honorable Ralph King Anderson, Jr., for trafficking cocaine base and possession of cocaine base with intent to distribute in proximity of a school or park. The jury found Williamson guilty of both counts and Judge Anderson sealed Williamson's sentences.

Williamson, who still had not returned to the jurisdiction, was tried by jury in absentia on April 22, 2009 for a separate charge of trafficking cocaine base before the Honorable Michael G. Nettles. Judge Nettles elected to appoint counsel for the trial. The jury found Petitioner guilty and Judge Nettles sealed Williamson's sentence.

Williamson was brought before Judge Anderson on October 29, 2009 and his counsel

was present. Judge Anderson unsealed the sentences. For the first trial, Judge Anderson sentenced Williamson to fifteen years imprisonment for trafficking, second offense, and ten years imprisonment for the proximity charge. For the second trial, Judge Anderson sentenced Williamson to twenty-five years imprisonment for trafficking, third offense. All the sentences were run concurrently.

Williamson appealed the convictions from both trials, separately, and submitted separate briefs to the Court of Appeals for each trial. The Court of Appeals affirmed all convictions and sentences in a consolidated opinion. State v. Williamson, Op. No. 2012-UP-089 (S.C. Ct. App., filed February 22, 2012). The Court of Appeals denied the petition for rehearing. Williamson filed a single petition for writ of certiorari to this Court. The State's return follows.

STATEMENT OF FACTS

Trial #1: Following a tip from a reliable informant, the Florence Police Department executed a search warrant on Appellant Williamson's residence on September 13, 2007. Police stopped Williamson in his driveway as he and another individual were pulling out in a vehicle. Officer Joe Nida observed cocaine base on the floorboard. Williamson admitted he gave the cocaine base to the other individual in the car. Utilizing Williamson's keys, police entered the residence. Williamson, Gwendolyn Williamson, Williamson's girlfriend, and Williamson's mother were directed to sit on the couch and law enforcement read them all their Miranda rights. Williamson told the police he kept crack in the bedside safe. Police found 19.4 grams of crack cocaine, packaged for distribution, and cash in the safe. They also found a police scanner, rolling papers, a 40 caliber pistol, shells, and digital scales. ROA

pp. 25-33; pp. 39-43; p. 56.

Trial #2: Officer Joe Nida obtained a search warrant on November 9, 2007 and executed the search warrant on November 14, 2007 on Appellant Williamson's residence. Law enforcement knocked on the front door and when there was no answer, used force to enter. When they entered, Williamson was coming out of his bedroom. Williamson's girlfriend was also inside the house. Officers found two bags of crack cocaine in a flashlight left on the bed. They noted a padlock on the outside of Williamson's bedroom door. They opened up the flashlight in front of Williamson who just hung his head. Williamson led them to a cassette case that also had a bag of crack inside. Sergeant Calhoun found digital scales. ROA. pp. 50-56; pp. 70-74. A total of 13.9 grams of crack cocaine was seized by law enforcement. ROA. p. 102.

ARGUMENT

I.

Williamson waived his right to counsel by his conduct – his inexcusable absence from trial.

Williamson admitted fleeing Florence. He admitted he "just drove, just drove out of town" purportedly because he was scared of another dealer. ROA p. 227, lines 23-25, p. 229, lines 11-14.

Williamson did not qualify for a public defender, and was advised he should hire an attorney. ROA p. 91. The record does not reflect that he made any effort to attain counsel for either trial.

Williamson, represented by counsel at the sentencing hearing, did not allege he failed to receive notice of the trial. Williamson also did not contest that his right to counsel was

violated. Accordingly, this issue is not preserved for appeal. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson forfeited his right to counsel by his conduct. State v. Roberson, 382 S.C. 185, 675 S.E.2d 732 (2009). In Roberson, the Supreme Court noted three ways a defendant may relinquish his right to counsel: "(1) waiver by an affirmative, verbal request; (2) waiver by conduct; and (3) forfeiture." Id., 382 S.C. at 187, 675 S.E.2d at 732. In the instant case, Williamson was advised of his right to counsel but instead he chose to flee and make himself unavailable to the trial court. Further, like the defendant in Roberson, Williamson was no stranger to the criminal justice system. His prior convictions are as follows: forgery in 1994, resisting arrest in 1997, loitering and loitering in 1998, forgery again in 1999, obtaining goods by false pretenses in 2001, and possession of crack, criminal domestic violence, and assault and battery of a high and aggravated nature, all in 2004. ROA p. 223, lines 8-14.

The Roberson court found that an inexcusable absence from trial constituted a waiver of right to counsel by conduct. Id., 382 S.C. at 733, 675 S.E.2d at 733. Accordingly, in the instant case, Williamson waived his right to counsel by his inexcusable absence from trial. Williamson fails to cite or distinguish Roberson in his petition for certiorari.

The Idaho Court of Appeals cited Roberson favorably and also noted the following:

While the Sixth Amendment guarantees a defendant the right to counsel, and court-appointed counsel if indigent, a defendant cannot use this right to play a cat-and-mouse game with the court or by ruse or stratagem fraudulently seek to have the trial judge placed in a position where, in moving along the business of the court, the judge appears to be

arbitrarily depriving the defendant of counsel. United States v. Murphy, 469 F.3d 1130, 1135 (7th Cir. 2006); United States ex rel. Davis v. McMann, 386 F.2d 611, 618-19 (2d Cir. 1967); see also Releford v. United States, 309 F.2d 706, 708 (9th Cir. 1962) (noting that the constitutional guarantee of the right of a defendant to have the assistance of counsel cannot be turned into a weapon whereby a defendant can prevent his or her case from ever being brought to trial).

State v. Schwab, 281 P.3d 1103, 1111 (Id. Ct. App. 2012). In the instant case, Williamson neglected to meet with his attorney, decided to flee the jurisdiction, and neglected to inform the court of his whereabouts. Williamson waived his right to counsel by his conduct.

Further, during sentencing, Williamson admitted guilt: "I was just selling drugs to use drugs actually." ROA p. 228, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the Appellant's conviction] is eliminated by the admission of Appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary").

II.

Williamson received sufficient notice and warning that he could be tried in his absence and he fled town – he was never going to show (Trial #1).

The issue is not preserved. Williamson had counsel appointed and was present at his sentencing hearing. He did not object to the trial being held in his absence nor contend he did not receive notice that he would be tried in his absence. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review). State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Williamson admitted fleeing Florence. He admitted he "just drove, just drove out of

town" purportedly because he was scared of another dealer. ROA p. 227, lines 23-25, p. 229, lines 11-14.

Further, the trial court followed the dictates of Rule 16, SCRCRP by making a finding that Williamson received notice of his right to be present and warned that the trial would proceed in his absence if he failed to attend court. ROA pp. 13-19. Since the record reflects that the trial court made the requisite inquiry, the trial court did not commit error. State v. Castineira, 341 S.C. 619, 535 S.E.2d 449 (Ct. App. 2000).

The conditions of his bond indicate that he was to attend General Sessions on October 15, 2007 and remain there throughout the term and every succeeding term until his charges were disposed of, unless otherwise directed by the court. Court's Exhibit #1. Williamson failed to attend court as the bond required. The record does not reflect that he received special instructions from the court as stated in the bond. Further, Williamson was required to notify the court if he changed his address. It does not appear that he notified the court of his new location. Id. Finally, he was advised that his trial would proceed in his absence if he failed to attend court as directed. Id.

Additionally, during sentencing, Williamson admitted guilt: "I was just selling drugs to use drugs actually." ROA p. 228, lines 3-4. The correctness of the conviction is certain. State v. Sroka, 267 S.C. 664, 665, 230 S.E.2d 816, 817 (1976) ("Any doubt about the correctness of [affirming the Appellant's conviction] is eliminated by the admission of Appellant in open court, . . . Further review of the record, therefore, is rendered unnecessary.")

III. Williamson may not challenge his trial in absence for the second trial where he did not raise the issue to the trial court or on appeal to the Court of Appeals and the trial court did not err in trying Williamson in his absence.

On appeal to the Court of Appeals, the only challenge to the conviction and sentence for Williamson's second trial (*State v. Anthony Tyrone Williamson #2*) was Judge Nettles' denial of a motion for mistrial. The efficacy of a trial in absence was not raised to Judge Nettles or to the Court of Appeals. Without a doubt, the issue has been waived at this stage of appeal. *State v. Oxner*, 391 S.C. 132, 705 S.E.2d 51 (2011) ("An argument that is not raised to an intermediate appellate court is not preserved for review by this Court"); *Bonaparte v. Bonaparte*, 317 S.C. 256, 452 S.E.2d 836 (1995) (where the Court of Appeals does not address a particular issue, petitioner cannot argue the merits of the issue in a petition for writ of certiorari because the issue is not preserved for review); *State v. Primus*, 349 S.C. 576, 583, 564 S.E.2d 103, 107 (2002) (an issue not raised in the brief to the Court of Appeals, but instead raised for the first time in the petition for rehearing is not properly preserved for the Supreme Court's consideration in a petition for writ of certiorari) *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005).

Respondent moved to strike the petition for writ of certiorari, in part, on the basis that this issue was not raised to the Court of Appeals. In response to Respondent's motion, Petitioner responded that the rules did not provide for Respondent's motion but then admitted: "However, in due candor to the Court, Counsel concedes that the second issue presented in the Petition for Writ of Certiorari to the Court of Appeals is incorrectly worded to also include Petitioner's second trial." Pet. for W.C. p. 6. Petitioner then requested to modify the second question presented to reflect a challenge to only the first trial. *Id.*

Of course, the issue was not preserved for review as it was not raised to the trial court. State v. Byram, 326 S.C. 107, 112-13, 485 S.E.2d 360, 362-63 (1997) (a constitutional issue must be presented to the trial court to be preserved for review); State v. Powers, 331 S.C. 37, 501 S.E.2d 116 (1998) (holding failure to raise constitutional issue at trial precluded its consideration on appeal).

Further, the trial court did not err in proceeding with the trial in Williamson's absence. The solicitor advised Judge Nettles that the Honorable Chevrone Scott, a municipal court judge, allowed Williamson to have a bond and at that time, Williamson was advised he was to appear in court. Williamson did not appear. Williamson was denied a public defender and advised he would need to hire counsel. Williamson did not hire counsel. ROA. p. 17.

The Deputy Clerk from the Clerk of Court's Office, Nicole Bethea, testified Williamson was issued a bond on October 9, 2008 by Judge Scott. Under the terms of the bond, Williamson was to appear in Court on December 18, 2008 and each succeeding term until the case was resolved. The bond was signed by Williamson, acknowledging his address and telephone number. A bail bonding company posted the bond. A bench warrant was issued on December 18, 2008 when Williamson failed to appear. ROA pp. 18-21.

Williamson complains about the Solicitor's docket control in this case, and apparently the delay in bringing this case to trial. The argument is without merit. Williamson delayed the trial by five months by fleeing the jurisdiction. The State even tried to locate him before calling the case to trial. The assistant solicitor noted the following:

Your Honor, the State has made every effort in order to locate the defendant, even using his prior counsel, and he has not

been able to locate the defendant. The bondsman has also gone to Washington, D.C. area where the defendant was believed to have been, to no avail.

ROA. p. 21. Note Williamson makes no attempt in his petition to justify his absence. He is unable to do so. Williamson cannot blame the State for his failure to abide by the rules of his bond where he made sure he could not be located. He should not be allowed to endlessly postpone his trial until it suits him to dispose of the charges.

CONCLUSION

For all of the foregoing reasons, the petition for writ of certiorari should be denied. Should this Court see fit to grant the petition, Respondent respectfully requests the opportunity to more fully brief the issues.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

March 4, 2013

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal From Florence County
 Ralph King Anderson, Jr., Special Circuit Court Judge
 Michael G. Nettles, Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Petitioner.

MOTION TO SUPPLEMENT
 RECORD ON APPEAL

This matter is before this Court by way of a petition for writ of certiorari filed by Petitioner on August 1, 2012. Petitioner appealed two separate trials and was represented by Elizabeth Franklin-Best for the appeal of each trial. In each trial, Petitioner was tried in his absence. Petitioner challenged the trial in absence for the first trial only on appeal to the Court of Appeals, but has now raised, for the first time, a challenge to the trial in absence on the second trial. Accordingly, Respondent now moves to supplement the record with Court's Exhibit #1 from that trial, which is the bail bond form admitted into evidence on page 94 of the Record on Appeal. In support of this motion, Respondent submits the following to this Court:

1. On April 13, 2009, Petitioner, who fled the jurisdiction, was tried in his absence before the Honorable Ralph King Anderson, Jr., for trafficking cocaine base and possession

with intent to distribute cocaine base within proximity of a school or park. Petitioner was found guilty as charged.

2. On April 22, 2009, Petitioner was tried in his absence before the Honorable Michael G. Nettles for a separate charge of trafficking cocaine base, the offense occurred on a separate date than the charges for the first trial. Petitioner was found guilty as charged.

3. Petitioner was brought before Judge Anderson for sentencing on all charges on October 29, 2009. Petitioner admitted fleeing the jurisdiction.

4. Petitioner appealed both trials and was represented by Elizabeth Franklin-Best, Esquire, then of the Office of Appellate Defense. Petitioner submitted separate briefs and separate records for each trial. For the first trial, Petitioner alleged Judge Anderson erred in allowing his trial to proceed in his absence and that he did not freely and voluntarily waive the right to counsel. For the second trial, Petitioner alleged Judge Nettles erred in denying a motion for mistrial, but did not challenge the trial in absence on appeal.

5. The Court of Appeals affirmed both convictions in a single unpublished opinion. State v. Anthony Tyrone Williamson, 2012-UP-089 (S.C. Ct. App., filed Feb. 22, 2012). Petitioner filed a single petition for rehearing for both appeals. Petition for rehearing was denied on May 4, 2012.

6. Petitioner, now represented by Dayne C. Phillips, Esquire, filed a single petition for writ of certiorari raising only two issues in the statement of issues: (1) that Petitioner did not freely and voluntarily waive counsel in the first trial and (2) that the trial judges erred in allowing him to be tried in his absence at both trials. The trial in absence was not raised in the appeal to the Court of Appeals for the second trial (Anthony Tyrone Williamson #2).

7. Respondent moved to strike Petitioner's petition for writ of certiorari on the grounds that Petitioner did not raise the issue of trial in absence for Petitioner's second trial

and further, to limit Petitioner to only those issues previously raised to the Court of Appeals in its brief. This motion was denied by this Court.

8. Respondent moves to supplement the record with the bail bond form entered as Court's Exhibit #1. See ROA p. 94, lines 10-19, as the exhibit is relevant to the issue raised for the first time in the petition for writ of certiorari. This exhibit was not previously designated by Respondent for the record on appeal because it was not relevant to the only issue raised to the Court of Appeals – whether Judge Nettles erred in denying a motion for mistrial. Respondent believes that this exhibit may be relevant to a determination of whether Petitioner's second trial should have proceeded in his absence.

9. Respondent moves to hold its time limits for filing a return to the petition for writ of certiorari in abeyance, pending this Court's ruling on the aforementioned motions.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that Respondent be allowed to supplement the record on appeal and that this Court hold the time limits in abeyance pending its ruling on the aforementioned motion.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DAVID SPENCER
Assistant Deputy Attorney General

E. L. CLEMENTS, III
Solicitor, Twelfth Judicial Circuit

BY: 

DAVID SPENCER

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 16, 2013

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Florence County
Ralph King Anderson, Jr., Special Circuit Court Judge
Michael G. Nettles, Circuit Court Judge

THE STATE,

Respondent,

vs.

ANTHONY TYRONE WILLIAMSON, #1 and #2,

Petitioner.

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Motion to Supplement the Record by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Dayne C. Phillips, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

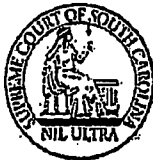
I further certify that all parties required by Rule to be served have been served.

This 16th day of January, 2013.


NORMA BIGBEE
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

DS
ain



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1489
www.sccourts.org

February 1, 2013

David A. Spencer, Esquire
PO Box 11549
Columbia SC 29211

Re: The State v. Anthony Tyrone Williamson
Appellate Case No. 2012-212230

Dear Counsel:

Enclosed please find copy of the order on your motion to supplement the record on appeal.

Any return to the petition for writ of certiorari should be served and filed within thirty (30) days from the date of this order.

Very truly yours,

CLERK

cc:
Dayne C. Phillips, Esquire

SEARCHED
INDEXED
SERIALIZED
FILED
FEB 1 2013
CLERK OF COURT
SOUTH CAROLINA

The Supreme Court of South Carolina

The State, Respondent

v.

Anthony Tyrone Williamson, Petitioner.

Appellate Case No. 2012-212230

ORDER

Respondent moves to supplement the record on appeal in this matter. Petitioner has not filed a return to the motion. The motion is denied.



FOR THE COURT

C.J.

Columbia, South Carolina

February 1, 2013

cc:
John W. McIntosh
Salley W. Elliott
Alan McCrory Wilson
David A. Spencer
Dayne C. Phillips
Edgar Lewis Clements, III

01/20/2013 12:01 8436653097

CLERK OF COURT

PAGE 03/04

1-398910 / 1-398911 / 1-398912
CRIMINAL CHARGING DOCUMENT NO.

**BAIL PROCEEDING
FORM II**

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF GENERAL SESSIONS FLORENCE

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

ANTHONY TYRONE WILLIAMSON
NAME OF DEFENDANT

EXHIBIT
Courts

Offense Charged: **DIST. COCAINE BASE/ DIST. COCAINE BASE PROX. OF PARK / TRAFFICKING COCAINE/ BASE**

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

(Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and reputation in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____ his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this order, acknowledging an indebtedness to the State in the amount of 25,000

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on Tuesday, December 18, 2012 at 9:00 o'clock, AM, at ROOM 1103, CITY-COUNTY COMPLEX, 180 N. JEFF ST., FLORENCE, SC 29502 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MUNICIPAL COURT OF beginning on _____ at _____ o'clock, AM, at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT [Signature]

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

[Signature]
SIGNATURE OF JUDGE

12/19/12
DATE

RECEIVED
FLORENCE COUNTY SHERIFF'S OFFICE
ANTHONY TYRONE WILLIAMSON

FILED
NOV 18 AM 11:00
CLERK OF COURT
FLORENCE COUNTY SHERIFF'S OFFICE

01/20/2013 12:01

8436653097

CLERK OF COURT

PAGE 04/04

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

1414 513 Sanborn St.
ADDRESS

Florence S.C. 943 407 7356
CITY/STATE/ZIP TELEPHONE

[Signature]
SIGNATURE OF DEFENDANT

DATE

SOCIAL SECURITY NUMBER

DRIVER'S LICENSE OR ID NUMBER

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. Placement in custody. The defendant is placed in the custody of: _____
NAME OF PERSON OR ORGANIZATION

ADDRESS

CITY/STATE

ZIP

TELEPHONE

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. Part-time Release. The defendant will be released from custody from _____ o'clock, _____ o'clock, _____
TIME AM/PM TIME AM/PM

on _____ on condition that he return to the custody of _____
DATES NAME OF PERSON OR ORGANIZATION

at _____ as designated.
LOCATION

d. Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 9th day of Oct, 2013, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of 25,000, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

This surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Black Cat Bail Bonds 316 9555
NAME OF SURETY BONDSMAN TELEPHONE

900 S. Ivy St Tel 734
ADDRESS OF SURETY BONDSMAN

Florence S.C. 29505
CITY/STATE/ZIP

NAME OF INSURANCE COMPANY

ADDRESS OF INSURANCE COMPANY

CITY/STATE/ZIP

[Signature]
SIGNATURE OF SURETY BONDSMAN

[Signature]
SIGNATURE OF JUDGE

10/9/13
DATE

IN THE SUPREME COURT OF THE UNITED STATES

Anthony Tyrone Williamson, Petitioner

v.

State of South Carolina, Respondent

PROOF OF SERVICE

I certify that copies of the Brief in Opposition to the Petition for Writ of Certiorari and attached Appendix in the case have been served upon opposing counsel for the Petitioner depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Susan B. Hackett Esquire
 SC Commission on Indigent Defense
 Division of Appellate Defense
 P.O. Box 11539
 Columbia, SC 29211

Dayne C. Phillips, Public Defender
 407 1/2 West Main St.
 Lexington, SC 29072

I further certify that all parties required by Rule to be served have been served.

This 24th day of March, 2014


 NORMA BIGBEE
 Legal Assistant

Office of Attorney General
 Post Office Box 11549
 Columbia, SC 29211
 (803) 734-3727

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

June 16, 2014

Ms. Carmen V. Ganjehsani
1330 Lady Street, Suite 401
Columbia, SC 29201

RECEIVED

JUN 18 2014

SC OFFICE OF
CLERK

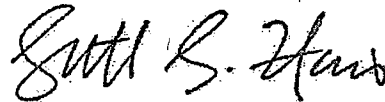
Re: Anthony Tyrone Williamson
v. South Carolina
No. 13-8346

Dear Ms. Ganjehsani:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



Scott S. Harris, Clerk

FORM 5

20 14 CP 21 1938

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE, S.C)
)
Anthony Tyrone Williamson 303726)
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
 2014 JUL 14 PM 3:31
 CONNIE REED FOR
 FLORENCE COUNTY, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution
2. Name and location of Court which imposed sentence Florence County, S.C
3. Name(s) of co-defendant(s) (if any) No co-defendants.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) No. 2008-GS-21-00317
 - (b) No. 2009-GS-21-00334
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) October 29, 2009
 - (b) Trafficking in cocaine base, second offense-15 years

CERTIFIED: A TRUE COPY
Connie Reed-Stephens
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

(c) Proximity charge-10 years

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty * _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes, I did appeal

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals

ii. S.C. Supreme Court

iii. United States Supreme Court

(b) the result in each such Court to which you appealed:

i. affirmed my conviction

ii. denied my petition

iii. denied my petition

(c) the date of each such result:

i. February 22, 2012

ii. October 18, 2013

iii. June 16, 2014

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) _____
- (b) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) _____
- (b) _____
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NB
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) I have not previously these claims b/c there are claims

(b) proper for post-conviction relief

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes _____
- (c) your sentencing? Yes _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Vick Meetze, 180 N. Irby St, Florence, S.C 29501
- ii. Elizabeth Franklin-Best, 1330 Lady St, Suite 401, Cola Sc 29201
- iii. Dayne C. Phillips, 1330 Lady St, Suite 401, Cola S.C 29201
- (b) the proceedings at which each such attorney represented you:
- i. My April 22, 2009 trail and October 29, 2009 sentencing
- ii. appeals, S.C. Court, SC Supreme Court, US Supreme Co
- iii. apeals, SC Court, SC Supreme Court, US Supreme Court
19. State clearly the relief you seek in filing this application:
Seeking a new trail
20. Are you now under sentence from any other court that you have not challenged?
Not under any other sentence

STATE OF SOUTH CAROLINA)
)
County of)

VERIFICATION

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Constance Marie W. Williams

SWORN to and subscribed before me this 16th
day of July, 2014.

Nancy C. Merchant (L.S.)
Notary Public

My Commission Expires: 1-23-2023

2014 JUL 14 PM 3:31
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Christy Nicole Williams
Applicant

SWORN or affirmed to and subscribed before me this

16th day of July, 2014.

Nancy C. Sheehan
Notary Public

My Commission Expires: 1-23-2021

FILED
2014 JUL 14 PM 3:31
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

5. The date upon which sentence was imposed and the term of the sentence:

(D) Trafficking in cocaine base, third offense-25 years

10. and 11. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

State concisely and in the same order the facts which support each of the grounds set out in (10):

(A) Failure of the Trial Court in my April 13, 2009 trial to determine whether I knowingly and intelligently waived my right to counsel as required by the U.S. Supreme Court in Faretta v. California, 422 U.S. 806 (1975)

(B) Failure of my Public Defender Vick Meetze to object and to preserve for appeal to my being tried in absentia at my April 22, 2009 trial

(C) Failure of my Public Defender Vick Meetze to object and to preserve for appeal at the October 29, 2009 sentencing hearing to my being tried in absentia and without counsel at my April 13, 2009 trial and to my being tried in absentia at my April 22, 2009 trial

(D) My Public Defender Vic Meetze was not prepare to try my case where he only had two hours to prepare for my April 22, 2009 trial

(E) Failure to have an attorney present during jury selection at my April 22, 2009 trial

(F) Sergeant Drulis stated during trial that we additionally had an arrest warrant for him.

Mr. Meetze: Objection, Your Honor.

The Court: I sustain the objection.

Mr. Meetze: Your Honor, I'd like to make a motion.

The Court: All right. Madam Forelady, Ladies and Gentlemen of the jury, I'm going to ask that you retire to the jury room for one moment.

(The jury retires to the jury room at 2:53 P.M.)

The Court: Mr. Meetze.

Mr. Meetze: Your Honor, at this time I would make a motion for the court to declare a mistrial in this case. The jury has just been told that along with the search warrant, they also had a warrant for Mr. Williamson's arrest. I think that that certainly prejudices this jury, you know, beyond repair. Certainly the court can give a curative instruction. But, you know, I think that's a situation where you just can't un-ring that bell. And I feel like under the circumstances the proper thing would be to declare a mistrial in this case. And we ask the court to do so.

18. If you answered "yes" to one or more parts of (17), list:
iiii. Carmen V, Ganjehsani

(B) the proceeding at which each such attorney represented you

appeals at the SC Court of appeals, SC Supreme Court and US Supreme Court

iiii. 1330 Lady St. Suite 401, Cola, S.C. 29201

STATE OF SOUTH CAROLINA)
 COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS)
 TWELFTH JUDICIAL CIRCUIT)

Anthony T. Williamson, #303726,)

2014-CP-21-1938)

Applicant,)

v.)

RETURN AND PARTIAL MOTION)
 TO DISMISS)

State of South Carolina,)

Respondent.)

In response to the post-conviction relief application filed on July 14, 2014, the Respondent would show this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the January 2008 term of the Florence County Grand Jury for trafficking in cocaine base and possession of cocaine base with intent to distribute (PWID) (2008-GS-21-0317). Applicant was also indicted at the March 2009 term of the Florence County Grand Jury distribution of cocaine base, distribution of cocaine base within proximity of a park, trafficking in cocaine base, possession of cocaine base with intent to distribute, and possession of cocaine base with intent to distribute within proximity of a park (2009-GS-21-0334).

On April 13, 2009, Applicant was tried *in absentia* and without counsel before the Honorable Ralph King Anderson, Jr, on the charges contained in indictment number 2008-GS-21-0317. The jury found Applicant guilty, and Judge Anderson sealed Applicant's sentences.

On April 29, 2009, Applicant was tried *in absentia* before the Honorable Michael G. Nettles,

but this time he was tried on the charges contained in indictment number 2009-GS-21-0334. Applicant was represented by Vick Meetze, Esquire. The jury convicted Applicant of trafficking in cocaine base, third offense, and Judge Nettles sealed Applicant's sentence.

On October 29, 2009, Applicant appeared before Judge Anderson. Applicant was represented at the sentencing hearing by Vick Meetze, Esquire. Judge Anderson unsealed the verdict forms and sentenced Applicant to concurrent terms of ten (10) years imprisonment for PWID and fifteen (15) years imprisonment for trafficking on indictment number 2008-GS-21-0317. Applicant was also sentenced to a concurrent twenty-five (25) year term of imprisonment for the conviction on indictment number 2009-GS-21-0334.

Applicant filed a timely Notice of Appeal. An appeal was perfected by Elizabeth A. Franklin-Best, Esquire, of the South Carolina Commission on Indigent Defense. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences. State v. Williamson, 2012-UP-089 (filed February 22, 2012). Applicant filed a Petition for Rehearing which was denied by Order filed May 4, 2012.

Applicant subsequently filed a Petition for a Writ of Certiorari with the South Carolina Supreme Court. Applicant was represented by Dayne C. Phillips, Esquire, of the South Carolina Commission on Indigent Defense. By Order dated October 18, 2013 and filed October 21, 2013, the South Carolina Supreme Court denied Applicant's petition. The Remittitur was sent on October 25, 2013 and filed October 28, 2013.

Applicant subsequently filed a Petition for a Writ of Certiorari in the Supreme Court of the United States on January 16, 2014. Applicant's counsel of record was Carmen V. Ganjehsani, Esquire, of the South Carolina Commission on Indigent Defense. By Order dated June 16, 2014, the

Supreme Court denied Applicant's petition.

II.

In his application for post conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to object to both of Applicant's trials in absentia.
 - b. Inadequate preparation prior to trial.
2. Trial Court Errors.
 - a. Failure of trial court to have an attorney present for April 22, 2009 jury selection.
 - b. Failure of trial court on April 22, 2009 to declare a mistrial based on Officer Drulis' testimony.
 - c. Failure of April 13, 2009 trial court to determine whether Applicant knowingly and intelligently waived his right to counsel under Faretta v. California.

Attached herewith and incorporated herein by reference are the records of the Florence County Clerk of Court regarding the subject convictions, Applicant's records from the Department of Corrections, the trial transcripts, and the appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent asserts that Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent also asserts that Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). The proper measure of performance is

whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland v. Washington. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. As such, Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Additionally, Respondent submits the Court should dismiss the applicant's allegations of trial court errors as barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id. This application

presents allegations that could have been and were raised in Applicant's direct appeal. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRPC, the Court should dismiss these claims as barred by *res judicata*.

V.

Each and every allegation contained within the application not hereinbefore, either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, Respondent requests an evidentiary hearing solely for the purpose of determining whether Applicant's trial counsel was ineffective.

Respectfully submitted,

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Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General

By: 

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Nov. 10, 2014

1 State of South Carolina) Court of Common Pleas
 2 County of Florence) 2014-CP-21-01938

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5 Anthony Tyrone)
 6 Williamson)
 7 vs.) Transcript of Record
 8)

9 The State of South)
 10 Carolina)

11

12

August 10, 2016
 Florence, South Carolina

13

14

15 BEFORE:

16 Honorable William H. Seals, Judge.

17

18 APPEARANCES:

19

Jonathan D. Waller
 Attorney for the Petitioner

20

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Johanna C. Valenzuela, Esq.
 Attorney for the State

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Teresa J. F. Bautz, RPR
 Official Court Reporter

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Anthony T. Williamson				
Mr. Waller	7	--	--	--
Ms. Valenzuela	--	12	--	--
Vic Meetze				
Mr. Waller	22	--	47	--
Ms. Valenzuela	--	35	--	--

E X H I B I T S

NO.	DESCRIPTION	ID	EV
14	No exhibits submitted.		
22	Exhibits retained by Clerk of Court.		

1 (The hearing commenced at approximately
2 10:19 a.m.)

3 THE COURT: If the State would like to call your
4 first case.

5 MS. VALENZUELA: Yes. Thank you, Your Honor.
6 This is the case of Anthony Williamson versus the State
7 of South Carolina, Case No. 2014-CP-21-1938. Your
8 Honor, this application was filed on July 14th of 2014.
9 The Applicant is currently incarcerated. He was
10 indicted at the January 2008 term by the Florence
11 County Grand Jury for trafficking cocaine base and
12 possession of cocaine base with intent to distribute.

13 He was also indicted in the March 2009 term for
14 distribution of cocaine base, distribution of cocaine
15 base within the proximity of a park, trafficking
16 cocaine, possession of cocaine with intent to
17 distribute, and possession of cocaine base with intent
18 to distribute within the proximity of a park.

19 On April 13th, 2009, he was tried in absence
20 without counsel before Judge Ralph King Anderson on the
21 charges indicted for in the first -- from the
22 January 2008. And the judge ended up finding -- I'm
23 sorry, and the jury ended up finding the Applicant
24 guilty, and Judge Anderson sealed his sentences.

25 Then a week later, April 29th, 2009, the Applicant

1 was tried, started to be tried in -- or he was tried in
2 absence before Judge Nettles. He went through jury
3 selection without an attorney, and then Judge Nettles
4 appointed Vic Meetze, a public defender, to serve as
5 counsel for the Applicant starting before -- with
6 pretrial motions. The jury ended up convicting the
7 Applicant of trafficking in cocaine base, third
8 offense, and Judge Nettles sealed that sentence as
9 well.

10 On October 29th, 2009, the Applicant is found, and
11 he does come before Judge Anderson. He's represented
12 at that time by Vic Meetze who is the attorney who is
13 appointed to him in the second trial. And Judge
14 Anderson ends up appointing Vic Meetze to represent the
15 Applicant on both of the trials for sentencing
16 purposes.

17 Judge Anderson unsealed the verdict forms and
18 sentenced the Applicant to concurrent terms of ten
19 years for the possession with intent to distribute, and
20 15 years for trafficking. And he also sentenced him to
21 a concurrent 25 years for the conviction under the
22 second trial. The Applicant did file a notice, a
23 timely notice of appeal, and the South Carolina Court
24 of Appeals affirmed the Applicant's convictions and
25 sentences.

1 Just a little bit on the procedural history
2 because it gets a little tricky. They did file two
3 notices of appeal on the two different trials, and
4 those were argued before the Court of Appeals. And the
5 Court of Appeals ended up issuing one opinion that
6 addressed both of the notices of appeal.

7 The Applicant ended up after that, the conviction
8 and sentences were affirmed, the Applicant petitioned
9 for rehearing and then filed a petition for a writ with
10 the South Carolina Supreme Court. The South Carolina
11 Supreme Court denied the Applicant's petition. That
12 remittitur was filed on October 28th of 2013.

13 And then the Applicant petitioned for cert to the
14 United States Supreme Court. And by order of June 16,
15 2014, the Supreme Court denied the Applicant's petition
16 at that time.

17 That's what brings us to the Court today is his
18 present application, which makes the allegations of
19 failure to object to Applicant's -- to both of
20 Applicant's trials, the TIA's, and inadequate
21 preparation prior to trial. It also makes trial court
22 errors of failure of the trial court to have an
23 attorney present for the second jury selection, failure
24 of the trial Court to declare a mistrial based on one
25 of the officer's testimony in that second trial, and

1 failure of the first trial's trial Court to determine
2 whether the Applicant knowingly and intelligently
3 waived his right to counsel under Faretta.

4 There was a return filed in this case, Your Honor,
5 and we did a partial motion to dismiss where we moved
6 to dismiss any of the trial Court errors under the res
7 judicata under the argument that these -- any trial
8 court errors should have been raised to the Court in
9 the direct appeal process and are not proper for the
10 PCR process.

11 We would ask the Court to consider that so that we
12 can understand what allegations we're moving forward
13 on. And then, the Applicant is represented today by
14 counsel Jonathan Waller.

15 THE COURT: All right. Mr. Waller?

16 MR. WALLER: Thank you, Your Honor. Your Honor,
17 that's -- the State's motion to dismiss, I guess, the
18 second part of Mr. Williamson's application about trial
19 Court errors, I think that was properly in front of the
20 Court of Appeals. Obviously, we are going to get into
21 some of those issues today but not -- those aren't our
22 claims here today. So I don't have an argument against
23 the motion to dismiss.

24 We're going to be focusing on errors by Mr. Meetze
25 or allegations of errors by Mr. Meetze both in the

1 second trial and in the sentencing portion of both
2 trials, and Your Honor, also Mr. Meetze not having the
3 time or ability to properly prepare for his trying of
4 the second case.

5 Your Honor, if the Court please, I will call
6 Anthony Williamson.

7 THE COURT: All right. And I will grant the
8 State's motion to dismiss.

9 MS. VALENZUELA: Thank you, Your Honor.

10 MR. WALLER: Thank you.

11 THE COURT: All right.

12 ANTHONY TYRONE WILLIAMSON, after being duly sworn,
13 testified as follows:

14 THE CLERK: Thank you.

15 THE COURT: Have a seat.

16 MR. WALLER: Thank you, Your Honor. May it please
17 the Court.

18 THE COURT: Sure.

19 DIRECT EXAMINATION

20 BY MR. WALLER:

21 Q Good morning, Mr. Williamson. How are you today?

22 A Fairly well, sir.

23 Q Mr. Williamson, this is about your first time to
24 be able to come to court; isn't it?

25 A Yes, sir, this is.

ANTHONY T. WILLIAMSON-DIRECT BY MR. WALLER

8

1 Q I want to go back to when you were originally
2 arrested on all these three different charges. Do you
3 recall when you were originally arrested?

4 A Yes, sir, I do.

5 Q Okay. When you were first arrested, did you have
6 an attorney?

7 A When I -- yeah, I had hired Johnny Etheridge, the
8 Gardner Law Firm, out of the Gardner Law Firm, I did,
9 had a lawyer to begin with.

10 Q Okay. And they represented you on all three of
11 these charges for the two separate incidents for a
12 while?

13 A Well, there was -- he never actually came to court
14 for me, so I don't -- I just hired him, I don't...

15 Q But you hired him?

16 A Yes, sir.

17 Q Okay. And he was technically your lawyer for a
18 little bit of time?

19 A Yes, sir.

20 Q At some point did he make a motion to the Court to
21 be relieved as your attorney? Did you find out that he
22 made a motion to be relieved?

23 A No, I haven't -- I didn't find that out until I
24 was actually incarcerated.

25 Q Okay.

1 A In prison actually.

2 Q Okay. But at some point you did find out that
3 you --

4 A Yes.

5 Q -- that he had been relieved as your counsel and
6 that you had been tried --

7 A Yes, sir.

8 Q -- two times?

9 A Yes, sir.

10 Q When was the first time you met Mr. Meetze?

11 A At the sentencing. At October 2009 when they --

12 when I came back to Florence County, and we were --

13 they said I was coming to court. This was during the

14 Christmas holidays time, so I thought court was not

15 going to be in session until -- you know, it usually is

16 take a break that time.

17 But that day they allowed me to come to court, and

18 that's when I met Mr. Meetze. I didn't know who he

19 was. I was looking for Johnny Etheridge who -- the guy

20 I hired for this case.

21 Q Okay. When you had Mr. Etheridge as your
22 attorney, did y'all talk about the different charges
23 that you had?

24 A Yes, we did, sir.

25 Q Did y'all go over the elements of those offenses?