

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable D. Craig Brown, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHRISTOPHER GREENE III,

APPELLANT

APPELLATE CASE NO 2018-000189

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY) CASE NO. 2017-GS-08-00396
2017-GS-08-00397

STATE OF SOUTH)
CAROLINA,)
Plaintiff,) Transcript of Record
vs.)
CHRISTOPHER GREENE,) Date: January 29, 2018
III,) January 30, 2018
Defendant.

* * * * *

B E F O R E:

The Honorable D. Craig Brown

* * * * *

Denise J. Lauder, RPR
Ninth Judicial Circuit

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1 (The following proceedings were had
2 1/29/18, Berkeley County General Sessions Court, in
3 re State v. Greene, at 11:34 a.m.)

4 THE COURT: State, call your first
5 case, please.

6 MR. MCNEELY: Your Honor, the State
7 calls Christopher Greene.

8 THE COURT: Do you have the Indictment?

9 MR. MCNEELY: I do, Your Honor;
10 Indictment No. 2017-GS-08-00396 and 00397.

11 THE COURT: Ladies and gentlemen, the
12 State has called State of South Carolina v.
13 Christopher Greene. Mr. Greene is charged by
14 indictment with the offense of failure to stop for
15 blue light, as well as possession of crack cocaine.

16 The blue light charge of the indictment
17 alleges that in Berkeley County, South Carolina on
18 or about October 1, 2016, the Defendant,
19 Christopher Greene, the Third, while driving a
20 motor vehicle on a road, street, or highway of the
21 state, did in the absence of mitigating
22 circumstances, knowingly fail to stop after being
23 signaled to do so by law enforcement vehicle by
24 means of flashing light and/or a siren. Such being
25 in violation of Section 56-5-750, South Carolina

VOIR DIRE

1 Code of Law.

2 The second charge, possession of crack
3 cocaine, alleges that the Defendant, Christopher
4 Greene, the Third, did on or about October 1, 2016,
5 in Berkeley County, South Carolina knowingly or
6 intentionally possess crack cocaine, a cocaine
7 base, defined by Section 44-53-110, South Carolina
8 Code of Laws.

9 Ladies and gentlemen, to the indictment
10 -- or indictments, the Defendant has pled not
11 guilty; therefore, the State of South Carolina
12 bears the burden of proving his guilt beyond a
13 reasonable doubt.

14 The indictments that I just read to
15 you, ladies and gentlemen, are not evidence in this
16 case. They are simply the charging documents which
17 brings this case into this court.

18 Again, the Defendant has pled not
19 guilty and, therefore, the State of South Carolina
20 bears the burden of proving his guilt beyond a
21 reasonable doubt.

22 Now, before we move forward with
23 selecting the jury, there are certain questions
24 that I must ask of you.

25 Is there any member of the jury panel

VOIR DIRE

1 that's ever been related by blood, connected by
2 marriage; had a close personal, business, or social
3 relationship with Mr. Christopher Greene, the
4 Third? If so, please stand.

5 Yes, sir; your name and number, please?

6 PROSPECTIVE JUROR: Number 4.

7 THE COURT: Mr. Ronnie Ancrum?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: In what capacity do you
10 know Mr. Greene? Friend?

11 PROSPECTIVE JUROR: Distant -- distant
12 -- yes.

13 THE COURT: You said distant relative
14 maybe?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Second cousin? Third
17 cousin?

18 PROSPECTIVE JUROR: Probably, like
19 third.

20 THE COURT: Okay. I'm going to set you
21 aside for the trial of this case. You may be
22 seated. Thank you for standing.

23 Yes, ma'am, your name and number,
24 please?

25 PROSPECTIVE JUROR: 24, Bassanya

VOIR DIRE

1 Bryant. I'm not -- we used to attend the same
2 church. His family stopped coming to that church
3 years ago.

4 THE COURT: Ms. Bryant?

5 PROSPECTIVE JUROR: Yes, 24.

6 THE COURT: You are not related to him?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Do you engage in social
9 activities with Mr. Greene?

10 PROSPECTIVE JUROR: No.

11 THE COURT: When was the last time
12 you've seen him.

13 PROSPECTIVE JUROR: Oh, years.

14 THE COURT: All right. If you were
15 selected as a juror in this case, could you be fair
16 and impartial to both the State and defense?

17 PROSPECTIVE JUROR: I could.

18 THE COURT: Thank you. You may be
19 seated.

20 The following, ladies and gentlemen, is
21 a list of potential witnesses in this case. They
22 include Quinn Hayden, Berkeley County Sheriff's
23 Office; Caleb Ballantine, Berkeley County Sheriff's
24 Office; David Driggers, Berkeley County Sheriff's
25 Office; Neal Johnson, Berkeley County Sheriff's

VOIR DIRE

1 Office; Timothy Davidson, Berkeley County Sheriff's
2 Office; Kevin McGowan, Berkeley County Sheriff's
3 Office; Jackie Davis and Ashley Bell, both of whom
4 work with SLED.

5 Is there anyone on the jury panel
6 connected by marriage; had a close personal,
7 business, or social relationship with any of those
8 potential witnesses? If so, please stand.

9 JURY PANEL: (None)

10 THE COURT: At this time, if the
11 attorneys will stand and introduce themselves to
12 the jury panel, the State followed by defense
13 counsel.

14 MR. MCNEELY: Thank you, Your Honor.

15 Good morning. My name is Wilton
16 McNeely. I represent the Ninth Circuit Solicitor's
17 Office on behalf of the elected Solicitor, Scarlett
18 Wilson. I have a position in Berkeley County so I
19 only work in Berkeley County. Assisting me in this
20 case is Bart Stegall, as well as Denita Brown, our
21 paralegal.

22 MR. CHURCH: My name is John Church; I
23 represent Mr. Greene. Sitting at the table with me
24 is Debbie Littlejohn. She is my co-counsel in this
25 case.

VOIR DIRE

1 THE COURT: Is there any member of the
2 jury panel ever been related by blood, connected by
3 marriage; have a close personal, business, or
4 social relationship, or ever been represented by
5 any of the attorneys involved in this case? If so,
6 please stand.

7 (JURY PANEL) None.

8 THE COURT: Does the State or defense
9 counsel have any additional voir dire?

10 MR. CHURCH: May I approach?

11 THE COURT: Come on up.

12 (Bench conference)

13 THE COURT: Is there any member of the
14 jury panel, or their immediate family,
15 acquaintance, or friend know any of the law
16 enforcement officers or anyone working in the Ninth
17 Circuit Solicitor's Office, Berkeley and Charleston
18 County? If so, please stand.

19 JURY PANEL: (None)

20 PROSPECTIVE JUROR: Just Charleston and
21 Berkeley County or law enforcement, period?

22 THE COURT: Let's broaden it to
23 enforcement in general.

24 Tell me your name and number, please.

25 PROSPECTIVE JUROR: 145, Whitney

VOIR DIRE

1 Shaver.

2 THE COURT: What agency?

3 PROSPECTIVE JUROR: Well, it was in
4 Pennsylvania. He was a state police, he was an
5 undercover.

6 THE COURT: Where?

7 PROSPECTIVE JUROR: Pennsylvania.

8 THE COURT: Pennsylvania?

9 The fact that you stood in response to
10 that question, if you were selected as a juror in
11 this case, could you be fair and impartial to both
12 the State and defense?

13 PROSPECTIVE JUROR: Not with drugs, no.

14 THE COURT: Thank you. You're set
15 aside for this case. You may be seated.

16 Yes, ma'am, your name and number?

17 PROSPECTIVE JUROR: 98, Tina

18 Lanci-Lucey.

19 THE COURT: What agency?

20 PROSPECTIVE JUROR: Berkeley County
21 Sheriff's Office.

22 THE COURT: The fact that you stood in
23 response to that question, if you were selected as
24 a juror in this case, could you be fair and
25 impartial to both the State and defense?

VOIR DIRE

1 PROSPECTIVE JUROR: Probably not.

2 THE COURT: Thank you. You may be
3 seated.

4 Has any member of the jury panel or
5 their immediate family contributed to the election
6 of Sheriff Lewis or the election of Solicitor
7 Scarlett Wilson? If so, please stand.

8 JURY PANEL: (None)

9 THE COURT: Is there any member of the
10 jury panel formed or expressed an opinion about any
11 issue or matter involved in this case? If so,
12 please stand.

13 JURY PANEL: (None)

14 THE COURT: All right. Any member of
15 the jury panel aware of any bias or prejudice for
16 the State or Defendant in this case? If so, please
17 stand.

18 JURY PANEL: (None)

19 THE COURT: Is there any member of the
20 jury panel -- hold on.

21 Is there any member of the jury panel
22 know of any reason -- any reason whatsoever why he
23 or she should not serve in this case with
24 particular emphasis placed on your ability to be
25 fair and impartial to both the State and defense?

VOIR DIRE

1 If so, please stand.

2 JURY PANEL: (None)

3 THE COURT: Does the State have any
4 additional voir dire?

5 MR. MCNEELY: No, sir, Your Honor.

6 THE COURT: Defense counsel?

7 MR. CHURCH: No, Your Honor.

8 THE COURT: All right. Five and five
9 on the strikes. One alternate sufficient?

10 MR. MCNEELY: Should be, Your Honor.

11 MR. CHURCH: Yes, Your Honor.

12 THE COURT: Can the lawyers approach
13 for a minute, please?

14 (Bench conference.)

15 THE COURT: While we're generating a
16 strike list, ladies and gentlemen, what we're going
17 to do IS -- we have three cases that are up for
18 trial this week that I've been advised of -- we're
19 going to select all three juries this morning,
20 rather than pick a jury, send you home, bring you
21 all back maybe tomorrow afternoon. We're going to
22 pick them all today; so when you leave here today,
23 you will have an idea of what you may be on or not
24 on.

25 This is our first jury. This is going

VOIR DIRE

1 to be either panel one or panel A. I will let the
2 clerk's office figure out which one they want to
3 label them.

4 THE CLERK: We use numbers.

5 THE COURT: You do numbers down here.
6 This is going to be panel number one. Okay? After
7 we select panel number one, I will send you back
8 out to the audience and we're going to select panel
9 two. After we select panel two, I'm going to send
10 you back out in the audience and we're going to
11 select panel number three. We'll let you know how
12 we're going to proceed thereafter once that is
13 done.

14 Okay. As they are generating that
15 list, I'll tell you, I know that jury service never
16 comes at a convenient time. I told the lawyers up
17 here at sidebar, and I sometimes tell the jury
18 panel this story, I had three people working for me
19 and I was summoned for jury duty in Florence, city
20 court. I thought to myself, I'll be able to get
21 out of this because I'm the only person working in
22 my office, only person generating the income.

23 So I go over to the courthouse that
24 Monday morning, and the city court judge --
25 explained my situation, and the city court looked

JURY SELECTION

1 at me and she said, Mr. Brown, I'm sorry, but
2 you're going to serve with us this week.

3 And I thought, well, surely, none of
4 these lawyers are going to put me on any of their
5 juries because I practice law with them, I have
6 cases with and against them.

7 Not only did I get put on -- get
8 selected as a juror that week for one trial, I got
9 selected as a juror for five trials. Okay. So the
10 good thing is, you-all are only -- if you want to,
11 you could call it the worst case scenario. I don't
12 say that because I think that everyone ought to
13 serve as a juror at some point.

14 You can only get put on three today,
15 not the five that I had the fortunate situation
16 being put on. But I'm -- I understand that you
17 have stuff going on and I'm going to get you out of
18 here, but it's important that you serve as jurors
19 as a citizen of this county and state and this
20 country.

21 Ready when you are.

22 THE CLERK: Ladies and gentlemen, as I
23 call your name, please come forth and bring your
24 personal belongings with you and follow the
25 instructions of the bailiff here standing with the

JURY SELECTION

1 burgundy jacket on.

2 If I say, seat the juror, have a seat
3 in the jury box. If I say, excuse the juror,
4 please return to your original seating.

5 Juror 165, Robert Tucker. What say you
6 for the State?

7 MR. MCNEELY: Please seat the juror.

8 THE CLERK: What say you for the
9 defense?

10 MR. CHURCH: Seat the juror.

11 THE CLERK: Seat the juror.

12 Juror 60, Brittany Flynn. What say you
13 for the State?

14 MR. MCNEELY: Seat the juror.

15 THE CLERK: What say you for the
16 defense?

17 MR. CHURCH: Please seat the juror.

18 THE CLERK: Seat the juror.

19 Juror 24, Bassanya Bryant. What say
20 you for the State?

21 MR. MCNEELY: Excuse the juror.

22 THE CLERK: Excuse the juror.

23 Juror 172, Sherri White. What say you
24 for the State?

25 MR. MCNEELY: Seat the juror.

JURY SELECTION

1 THE CLERK: What say you for the
2 defense?

3 MR. CHURCH: Seat the juror.

4 THE CLERK: Seat the juror.

5 Juror 14, Samuel Bodison. What say you
6 for the State?

7 MR. MCNEELY: Seat the juror.

8 THE CLERK: What say you for the
9 defense?

10 MR. CHURCH: Excuse the juror.

11 THE CLERK: Excuse the juror.

12 Juror 45, Ester Davis. What say you
13 for the State?

14 MR. MCNEELY: Seat the juror.

15 THE CLERK: What say you for the
16 defense?

17 MR. CHURCH: Seat the juror.

18 THE CLERK: Seat the juror.

19 Juror 123, Molly Murgatroyd. What say
20 you for the State?

21 MR. MCNEELY: Seat the juror.

22 THE CLERK: What say you for the
23 defense?

24 MR. CHURCH: Seat the juror.

25 THE CLERK: Seat the juror.

JURY SELECTION

1 Juror 137, Chantay Ravenell. What say
2 you for the State?

3 MR. MCNEELY: Seat the juror.

4 THE CLERK: What say you for the
5 defense?

6 MR. CHURCH: Excuse the juror.

7 THE CLERK: Excuse the juror.

8 Juror 103, Matthew Lekki. What say you
9 for the State?

10 MR. MCNEELY: Seat the juror.

11 THE CLERK: What say you for the
12 defense?

13 MR. CHURCH: Excuse the juror.

14 THE CLERK: Excuse the juror.

15 Juror 41, Linda Crosby. What say you
16 for the State?

17 MR. MCNEELY: Please excuse the juror.

18 THE CLERK: Excuse the juror.

19 Juror 185, Harlie Aaron. What say you
20 for the State?

21 MR. MCNEELY: Seat the juror.

22 THE CLERK: What say you for the
23 defense?

24 MR. CHURCH: Seat the juror.

25 THE CLERK: Seat the juror.

JURY SELECTION

1 Juror 143, Mary Ryan-McGovern. What
2 say you for the State?

3 MR. MCNEELY: Seat the juror.

4 THE CLERK: What say you for the
5 defense?

6 MR. CHURCH: Please seat the juror.

7 THE CLERK: Seat the juror.

8 Juror 26, Janine Bumgarner. What say
9 you for the State?

10 MR. MCNEELY: Seat the juror.

11 THE CLERK: What say you for the
12 defense?

13 MR. CHURCH: Seat the juror.

14 THE CLERK: Seat the juror.

15 Juror No. 10, Marty Benton. What say
16 you for the State?

17 MR. MCNEELY: Please seat the juror.

18 THE CLERK: What say you for the
19 defense?

20 MR. CHURCH: Please excuse the juror.

21 THE CLERK: Excuse the juror.

22 Defense has four strikes.

23 Juror 133, Moesha Pope. What say you
24 for the State?

25 MR. MCNEELY: Excuse the juror.

JURY SELECTION

1 THE CLERK: Excuse the juror.
2 Juror number 66, John Gascey. What say
3 you for the State?
4 MR. MCNEELY: Seat the juror.
5 THE CLERK: What say you for the
6 defense?
7 MR. CHURCH: Seat the juror.
8 THE CLERK: Seat the juror.
9 Juror No. 122, Monique Mouzon. What
10 say you for the State?
11 MR. MCNEELY: Seat the juror.
12 THE CLERK: What say you for the
13 defense?
14 MR. CHURCH: Excuse the juror.
15 THE CLERK: Excuse the juror. Defense
16 has exhausted its strikes.
17 Juror 34, Debra Clark. What say you
18 for the State?
19 MR. MCNEELY: Please seat the juror.
20 THE COURT: Any challenge for cause
21 from the defense?
22 MR. CHURCH: No challenge for cause.
23 THE CLERK: Seat the juror.
24 Juror 126, Bonita Orvig. What say you
25 for the State?

JURY SELECTION

1 MR. MCNEELY: Seat the juror.

2 THE CLERK: Any challenge for cause
3 from the defendant?

4 MR. CHURCH: No challenge for cause.

5 THE CLERK: Seat the juror.

6 Juror 142, Bernice Rumph. What say you
7 for the State?

8 MR. MCNEELY: Seat the juror.

9 THE CLERK: Any challenge for cause
10 from the defense?

11 MR. CHURCH: No challenge for cause.

12 THE CLERK: Seat the juror.

13 Picking for our alternate. Juror No.
14 94, Christy Keith. What say you for the State?

15 MR. MCNEELY: Seat the juror.

16 THE CLERK: What say you for the
17 defense?

18 MR. CHURCH: Excuse the juror.

19 THE CLERK: Excuse the juror.

20 Juror No. 21, Sherry Breeland. What
21 say you for the State?

22 MR. MCNEELY: Seat the juror.

23 THE CLERK: What say you for the
24 defense?

25 MR. CHURCH: Seat the juror.

JURY SELECTION

1 THE CLERK: Seat the juror.

2 THE COURT: All right. Any matters of
3 law we need to take up with regards to jury
4 selection in this case? From the State?

5 MR. MCNEELY: No, Your Honor.

6 THE COURT: Defense counsel?

7 MR. CHURCH: Beg the Court's
8 indulgence?

9 THE COURT: Any matters of law?

10 MR. MCNEELY: No further matters, Your
11 Honor.

12 THE COURT: Okay. Ladies and
13 gentlemen, those of you who are seated in the jury
14 box have been selected as fair and impartial jurors
15 for this particular case. You know very little
16 about this case. You are not to discuss it at all
17 with anyone until you are instructed to do so. You
18 are panel number one. Panel number one.

19 Okay. And at this time I will ask you
20 to come back out of the jury box and have a seat
21 back out in the courtroom.

22⁶ (There was a break in these
23 proceedings.)

24 THE COURT: Is the State ready to
25 proceed?

1 MR. MCNEELY: We are, Your Honor.

2 THE COURT: Defense counsel?

3 MR. CHURCH: We are, Your Honor.

4 THE COURT: Anything we need to address
5 before the jury comes out?

6 MR. MCNEELY: I don't think so, Your
7 Honor.

8 MR. CHURCH: I don't believe so.

9 (Jury in, 2:30 p.m.)

10 THE COURT: I've been advised that
11 Juror No. 3, Ms. Molly Murgatroyd -- did I
12 pronounce that correctly?

13 A JUROR: Yes, sir.

14 THE COURT: -- is our forelady, and
15 that would be your assigned seat throughout this
16 trial. Okay. Everyone else, as you come in and
17 out, you do not have assigned seats, except for Ms.
18 Breeland.

19 Ms. Breeland, that will be your
20 assigned seat throughout the remainder of this
21 trial. Everyone else, as you come in and out, you
22 may sit where you so desire.

23 Before we go any further, Madame Clerk,
24 will you swear the jury please?

25 THE CLERK: Yes, sir.

OPENING STATEMENT BY THE COURT

1

THE JURY,

2

being first duly sworn, testified as follows:

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THE COURT: Ladies and gentlemen, we are about to try the case of The State of South Carolina v. Mr. Christopher Greene, the Third, but before we begin the trial of this case, I want to tell you this trial will probably be different from what you might expect.

Many people do not have the chance to attend actual court sessions, as you are doing now, and may think from watching television, or movies, or reading books that trials are always full of high drama and intense action and riveting circumstances.

Now, while all of these things may be true at times, this trial, ladies and gentlemen, is not for entertainment. It is a fundamental part of our Democracy in an effort to make sure that justice is done between the parties. In making sure that justice is done between the parties, the process is often slow, deliberate, and repetitive; the opposite of what you may have scene on TV, in movies, or read in books.

This courtroom is a place of honor dedicated to the protection and preservation of

OPENING STATEMENT BY THE COURT

1 citizens' rights through what many have called the
2 greatest justice system ever created. Now, the
3 attorneys appearing before you, ladies and
4 gentlemen, are advocates for the parties they
5 represent, but, first and foremost, they are
6 officers of the court sworn to uphold the integrity
7 and fairness of our judicial system. You should
8 expect them to be professional, competent, and
9 ethical in the representation of their clients'
10 interest.

11 What I will now say to you, ladies and
12 gentlemen, is intended as an introduction to the
13 trial of this case. These remarks are not a charge
14 on the law in this case. I will instruct you on
15 the law applicable to this case at the end of the
16 trial before you retire to the jury room to
17 consider your verdict.

18 This is merely an explanation of the
19 procedure that we will follow in the trial of the
20 case so that you may better understand what may be
21 happening. The Defendant in this case, ladies and
22 gentlemen, is charged with possession of cocaine
23 base, as well as -- as well as failure to stop for
24 blue lights, the elements of which will be
25 explained to you later.

OPENING STATEMENT BY THE COURT

1 The indictment, as I told you from the
2 outset, is simply the charging document by which
3 this case is brought into this court, and it is in
4 no sense evidence of the allegations that it
5 contains. The State, ladies and gentlemen, has the
6 burden of proving each of the elements of the
7 indictment beyond a reasonable doubt. And it will
8 be your duty, ladies and gentlemen, to decide
9 whether the State has met that burden.

10 Your purpose as jurors is to find and
11 determine the facts. You, you are the sole and
12 exclusive judge of the facts. If at any time I
13 make any comment regarding the facts, you must
14 disregard it. You are to determine the facts from
15 the testimony that you hear and other evidence
16 introduced here in court. It is up to you to
17 determine the inferences which you feel may
18 properly be drawn from the evidence.

19 It is especially important that you
20 perform your duty of determining the facts
21 diligently and conscientiously, because ordinarily
22 there is no way to correct an erroneous
23 determination of the facts by a jury.

24 On the other hand, and with equal
25 emphasis, the same law that makes you the judge of

OPENING STATEMENT BY THE COURT

1 the facts makes me the judge of the law. The law
2 as given by the Court is the only law that you may
3 consider. You must accept and follow it even
4 though you may disagree with it.

5 I cannot tell you all what the facts
6 are and you cannot disagree with me about what the
7 law is or should be. Your job is to take the law
8 as I give it to you and apply it to the facts as
9 you find them from the testimony of the witnesses
10 and any other evidence that is introduced. After
11 doing that, you will render your verdict under the
12 solemn oath that you just took as jurors.

13 Until I tell you to begin your
14 deliberations, you must not, you must not discuss
15 this case with anyone, including your fellow
16 jurors, friends, family members, and anyone
17 involved in this case.

18 The attorneys and parties in this case
19 have been instructed that they are not to talk to
20 you at all. So if you see any of them outside of
21 the courtroom and they do not speak to you, they
22 are not being unfriendly. They are simply
23 following this Courts's instructions.

24 During your deliberation, you may only
25 discuss the case in the jury room with your fellow

OPENING STATEMENT BY THE COURT

1 jurors because they have seen and heard the same
2 evidence that you have. You must not discuss this
3 case with anyone other than your fellow jurors
4 until you have returned a verdict and the case is
5 at the end.

6 I remind you that you must decide the
7 case based solely on the evidence presented here in
8 this courtroom. This means that during the trial
9 you must not conduct any independent research about
10 this case, the facts of the case, the evidence
11 presented in the case, or the people or
12 organizations involved in any way in the case.

13 Please, do not try to find out
14 information from any source outside this courtroom.
15 In other words, you must not look at dictionaries
16 or other reference materials, search the Internet,
17 websites, or blogs, or use any other electronic
18 tools to get information about this case to help
19 you decide the case.

20 You may not use computers, telephones,
21 cell phones, smartphones, smartwatches, the
22 Internet, tablets, or other tools of technology
23 with communication capabilities at any time while
24 you're in the courtroom or during your
25 deliberation.

OPENING STATEMENT BY THE COURT

1 During the breaks for meals or
2 overnight, if necessary, you may use these devices;
3 however, you must not use those devices to
4 communicate with anyone about the case until the
5 case is over. This means that you must not use
6 phone calls, e-mails, text messaging, instant
7 messages, Twitter, or any blog, chat room, or
8 website, including Facebook, Google Plus, MySpace,
9 Linked, Youtube, or any social media websites to
10 send or receive information about this case.

11 This includes information about a
12 party, a witness, an attorney, or a court officer,
13 news accounts about the case, research on topics
14 raised, any topics you may think would be helpful
15 in deciding the case, or any testimony presented by
16 any witness.

17 During the trial, I don't think there
18 is going to be any, but you are instructed not to
19 read, listen to, or watch any news reports about
20 the case. This includes anything that may be in
21 the newspapers or on the Internet, radio, or
22 television. You must not, you must not consider
23 anything that you may have read or heard about the
24 case outside of this courtroom whether before or
25 during the trial. Information on television,

OPENING STATEMENT BY THE COURT

1 radio, the Internet, or from other sources might be
2 wrong or incomplete.

3 In our judicial system, it is important
4 that you are not influenced by anything or anyone
5 outside of this courtroom. If you become aware of
6 another juror's violation of these instructions,
7 please inform the Court immediately.

8 It is important, ladies and gentlemen,
9 that you keep an open mind and not decide any issue
10 in this case until all of the evidence has been
11 presented, parties have made their closing
12 arguments, and I have instructed you on the law
13 applicable to this case.

14 It is your solemn responsibility to
15 determine the guilt or innocence of the Defendant,
16 and your verdict must be based solely on the
17 evidence as it is presented to you in this trial
18 and on the law as I instruct you during and at the
19 close of this trial.

20 Now, in just a moment, the solicitor,
21 the prosecutor, will make what is called an opening
22 statement in which the solicitor will explain to
23 you the issues in this case, or at least what he
24 believes the issues to be. The attorney for the
25 Defendant may also make an opening statement,

OPENING STATEMENT BY THE COURT

1 although he's not required to do so.

2 What the attorneys tell you, ladies and
3 gentlemen, during their opening statements is not
4 evidence in this case. It is only their contention
5 as to what the issues are. The evidence in this
6 case will be presented to you by the testimony of
7 sworn witnesses from that witness stand, together
8 with any exhibits that may be introduced during the
9 course of the trial.

10 Now, from time to time, ladies and
11 gentlemen, during the course of a trial you may
12 hear one of the attorneys say something like, Your
13 Honor, I believe we have a question of law or a
14 matter of law to discuss. Or sometimes I myself
15 may find it necessary to excuse you from the
16 courtroom so that the attorneys and I can discuss a
17 matter of law.

18 The reason for this is because
19 sometimes when I am deciding an issue of law or a
20 matter of law, it may be necessary for me to make
21 some comment as to the facts in ruling whether or
22 not a particular law applies.

23 I am not supposed to tell you what I
24 think the facts are, so I will excuse you while
25 those discussions take place so that in no way, in

OPENING STATEMENT BY THE COURT

1 no way will you be influenced by anything that I
2 might say or do in connection with the facts.

3 Now, in determining what the facts are
4 in this case, ladies and gentlemen, you must decide
5 whether or not the testimony of the witnesses is
6 believable. It would be my responsibility to rule
7 as a matter of law as to whether testimony is
8 admissible. Once it is admitted, whether or not
9 you believe it is solely for you to determine.

10 Now, in deciding whether to believe a
11 witness you have the right to consider the interest
12 of any witness, the bias of any witness, the
13 prejudice of any witness, the opportunity for the
14 witness to have seen the matters and things about
15 which the witness may testify, the way the witness
16 acts on the stand.

17 You have the right to consider anything
18 that is in the record that would help you evaluate
19 the testimony of the witnesses. That means that it
20 is your duty to pay close attention to these
21 witnesses, to observe the witnesses, to listen to
22 the witnesses, and to pay close attention to the
23 attorneys and to the Court.

24 Please do not let your thoughts wander,
25 but give strict attention to the testimony in this

OPENING STATEMENT BY THE COURT

1 case so that at the end of all the testimony, after
2 the arguments of counsel, and the charge on the law
3 by the Court, you will then be in a position to
4 determine what the facts are and to apply the law
5 to those facts, and thus render a verdict.

6 Now, Madame Forelady, you have been
7 selected as the foreperson of this jury. It will
8 be your responsibility to preside over
9 deliberations in the jury room. It will also be
10 your responsibility to write the verdict when you
11 all reach a unanimous verdict at the conclusion of
12 the case. I will give you further instructions
13 with regard to that at the conclusion.

14 Now, in order to preserve everyone's
15 rights, I will give the parties an opportunity to
16 object to anything that I have said to you all, the
17 jury. Any exception to anything or objection to
18 anything that I have said to the jury by the State?

19 MR. MCNEELY: No, Your Honor.

20 THE COURT: Defense counsel?

21 MR. CHURCH: No, Your Honor.

22 THE COURT: Ladies and gentlemen, we
23 will now begin the trial of this case. The State
24 is recognized for opening argument.

25 MR. MCNEELY: Thank you, Your Honor.

OPENING STATEMENT BY MR. MCNEELY

1 Good afternoon, ladies and gentlemen.
2 I believe I introduced myself earlier; my name is
3 Wilton McNeely. I represent the solicitor's office
4 on behalf of the elected Solicitor for the Ninth
5 Circuit, Scarlett Wilson. Assisting me in this
6 trial is Bart Stegall.

7 We are here today for the case of State
8 v. Christopher Greene. At the end of this trial,
9 the judge has told you he's going to instruct you
10 on what the law is as you apply it to the facts you
11 derive from this trial.

12 Listen to the judge on the law, defer
13 to him; he is the ruler of the law. He is the
14 judge of the law. He will tell you what it is and
15 how to apply it.

16 Starting off here though, I want to
17 tell you a little about the law so you will know
18 what he's charged with, what we're looking at, and
19 where we're headed as the evidence is presented to
20 you.

21 He's charged with two crimes in this
22 case, failure to stop for blue lights and
23 possession of crack cocaine.

24 Failure to stop for blue lights: A
25 person commits this offense if a person drives a

OPENING STATEMENT BY MR. MCNEELY

1 motor vehicle on a roadway in the state, is
2 signaled by law enforcement vehicle to stop by
3 means of flashing lights and/or sirens -- it
4 doesn't have to be both. It can be both, lights
5 and sirens, but it can be just lights or sirens --
6 and the person does not stop.

7 It's that simple, failure to stop for
8 blue lights. When you're signaled by a law
9 enforcement officer's vehicle with lights and
10 sirens, you have to stop the vehicle. You're not
11 at liberty to drive home. You're not at liberty to
12 drive to the store you want to go to or park your
13 car where you want to.

14 Now, most officers are going to give
15 you a little leeway. You have to stop at a safe
16 place; you have to find a gas station to pull into.
17 They don't expect you to stop in the middle of the
18 road, but what you're not at liberty to do is just
19 drive wherever you want to. And that's what we're
20 talking about in this case. You have to stop when
21 you're signaled by law enforcement.

22 Possession of crack, another fairly
23 simple charge. A person commits this offense if
24 the person is in either actual or constructive
25 possession of crack cocaine. I put up here in

OPENING STATEMENT BY MR. MCNEELY

1 parentheses, it's also referred to as cocaine base.
2 You may hear that throughout the trial. Cocaine
3 base is the scientific term for it. Crack is the
4 street name. I think most people have heard crack.

5 Those are the charges that this
6 Defendant has in this case. And that -- as to the
7 possession of crack, actual possession means that
8 the Defendant was in physical actual custody of the
9 drugs; in his hands, in this pocket, shirt pocket,
10 somewhere hidden on his person.

11 Constructive possession means that the
12 Defendant had dominion and control over the drug or
13 had the right to exercise dominion or control over
14 the drug or the location where the drug was found.

15 Not everybody keeps drugs on your
16 person. If you're driving a car, you may have it
17 in the center console. You may have it in the
18 passenger seat. You may have it in the driver's
19 side door pocket. That's what we're going to be
20 talking about in this case. Just because it's not
21 actually on your person doesn't mean that you're
22 not in possession of those drugs, and that's what
23 the law tells us. In the car with you, nobody else
24 has it, those are your drugs.

25 That's the law as it applies to this

OPENING STATEMENT BY MR. MCNEELY

1 case. Those are the charges against the Defendant.

2 The evidence you're going to hear from
3 the witness stand is pretty straightforward.
4 You're going to hear from three law enforcement
5 officers that were on scene that day; you're going
6 to hear from an evidence custodian with Berkeley
7 County who took possession of the narcotics; and
8 you're going to hear from a SLED analyst who tested
9 and confirmed it was crack.

10 And what that evidence is going to tell
11 you from the witness stand is that on October 1,
12 2016, Berkeley County Sheriff's Deputy Hayden was
13 patrolling the area of Colonel Mayhem Drive and
14 McGuffy in the Saint Stephen area of Berkeley
15 County.

16 For those folks from Hanahan or Goose
17 Creek or Daniel Island, you don't venture up to the
18 north part of the county much, Saint Stephen is
19 about 15 miles north of here. It's on 52. If you
20 keep running 52 through Moncks Corner up to the
21 north side of the lake, that's Saint Stephen.

22 Deputy Hayden was patrolling and he
23 observed a Honda minivan being driven by this
24 Defendant and it was acting suspicious. So Deputy
25 Hayden decided to get behind the vehicle, from the

OPENING STATEMENT BY MR. MCNEELY

1 tag, to see if anything was going on with the
2 vehicle.

3 He got behind the Honda minivan and ran
4 the license plate, continued to follow the vehicle
5 down Highway 52 in Saint Stephen, and he confirmed
6 the vehicle tag with Dispatch. And Dispatch, after
7 he read the tag, informed him that the tag on that
8 Honda minivan came back to a different vehicle,
9 didn't match the vehicle.

10 At that point, Deputy Hayden decided he
11 was going to conduct a traffic stop on the vehicle
12 to check it out. They come to the intersection of
13 Highway 52 and 45 in Saint Stephen, which is the
14 main intersection in Saint Stephen. And the reason
15 he didn't initially conduct the stop when he first
16 got that tag information is because it's a rural
17 part of the county, and deputies like to have
18 another deputy in the vicinity before they conduct
19 a traffic stop.

20 So he called for backup and told him he
21 was going to conduct a traffic stop on the vehicle.
22 As soon as other deputies got close by, they're at
23 the intersection of 52 and 45, the light turns
24 green, he proceeds through the intersection with
25 him following directly behind the van driven by

OPENING STATEMENT BY MR. MCNEELY

1 this Defendant, and he initiated the traffic stop
2 by both lights and sirens in his marked patrol
3 vehicle.

4 Rather than stopping, the Defendant
5 sped his vehicle up. You're not going to hear
6 evidence that he was going 100 in this case.
7 You're going to hear that he accelerated. There
8 are multiple safe places to stop on 52. It's the
9 main artery through the county. There are gas
10 stations, businesses, and restaurants. This
11 Defendant could have stopped in any of them, but he
12 chose not to do so.

13 He accelerated his speed; he drove a
14 half mile; he made a right-hand turn on
15 Russellville Road; he went two houses down and made
16 a left-hand turn into the driveway. At that point,
17 he stopped the vehicle, but it didn't stop there.
18 He didn't remain in the vehicle. He got out and
19 ran away on foot into the woods behind the home.

20 The deputies gave chase, but he evaded
21 them at that time through the woods in Saint
22 Stephen. After that, they searched the vehicle.
23 They located crack cocaine in the driver's side
24 door pocket. They identified the Defendant and
25 several weeks later he was placed under arrest on

OPENING STATEMENT BY MR. CHURCH

1 these charges. That's the evidence you're going to
2 hear.

3 It's not a difficult case. It's not
4 going to take all week. It's straightforward.
5 You're going to be instructed by the Court on what
6 is beyond a reasonable doubt. That's our burden of
7 proof. And I think part of this you will see is
8 that there are a few things in life that we know
9 beyond a reasonable doubt -- or beyond all doubt.

10 What we know beyond all doubt are death
11 and taxes. That's not the burden of proof here.
12 Beyond a reasonable doubt means the evidence leaves
13 you firmly convinced of the Defendant's guilt.

14 After you hear the evidence from the
15 witness stand and view the evidence, you will be
16 firmly convinced that the Defendant is guilty of
17 failure to stop for blue lights and possession of
18 crack cocaine.

19 Thank you for your time.

20 THE COURT: Mr. Church.

21 MR. CHURCH: May it please the Court?

22 THE COURT: Yes, sir.

23 MR. CHURCH: Good afternoon, ladies and
24 gentlemen. I'm going to be very brief in my
25 opening. I'm John Church; I represent Christopher

OPENING STATEMENT BY MR. CHURCH

1 Greene seated at the table with me and Debbie
2 Littlejohn. She is my cocounsel.

3 Actually, Mr. Greene is not on trial
4 today. The State's allegations against Mr. Greene
5 is what is on trial. They have the total burden of
6 100 percent to prove every element of every charge
7 they have brought against him. He does not have to
8 take the stand. He does not have to do anything.
9 It's 100 percent up to them.

10 As a matter of fact, he does not have
11 to be here for you to find him not guilty of these
12 charges. Obviously, we disagree with what the
13 State is saying; otherwise, we wouldn't even be
14 here. This is why we asked for a trial.

15 As you heard from the State and the
16 Judge, the evidence is going to come from the stand
17 and the witnesses on the stand. So it is your duty
18 to hold the State to their burden, so pay attention
19 to the witnesses and see if what they testify to
20 adds up to a conviction in the end. And I'm
21 telling you now, it will not.

22 So pay attention to all the evidence
23 and when it's over we will ask you to return
24 verdicts of not guilty against Mr. Greene. Thank
25 you.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: State's first witness.

2 MR. MCNEELY: Thank you, Your Honor.

3 The State calls Mark Caleb Ballentine.

4 MARK CALEB BALLENTINE,

5 being first duly sworn, testified as follows:

6 THE CLERK: Please take a seat. State
7 your full name and spell the last.

8 THE WITNESS: Mark Caleb Ballentine,
9 B-A-L-L-E-N-T-I-N-E.

10 DIRECT EXAMINATION

11 BY MR. MCNEELY:

12 Q. Good afternoon, Mr. Ballentine. Where
13 are you currently employed?

14 A. Albany International.

15 Q. What is that?

16 A. It's basically a textile mill. We make
17 conveyor belts for all the paper mills throughout
18 the country.

19 Q. How long have you been working there?

20 A. About six months.

21 Q. Where were you employed during October
22 of 2016?

23 A. Berkeley County Sheriff's Office.

24 Q. What was your position at that time,
25 and how long had you worked in that capacity?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. I was a warrants officer with Berkeley
2 County Sheriff's Office for about two years.

3 Q. What does a warrants officer do?

4 A. Basically, we take a handful of
5 warrants out of the warrants office and go out and
6 look for people every day.

7 Q. Do warrants officers wear uniforms?

8 A. Yes, sir.

9 Q. Do they drive county sheriff's office
10 vehicles?

11 A. Yes, sir; generally unmarked to that
12 time.

13 Q. Are the vehicles equipped with lights
14 and sirens?

15 A. Yes, sir.

16 Q. By all accounts, you're an active duty
17 sheriff's deputy?

18 A. Yes, sir.

19 Q. Your duty is to try to round up people
20 with active warrants; is that correct?

21 A. Yes, sir.

22 Q. Were you working on October 1, 2016, in
23 the afternoon?

24 A. Yes, sir, I was.

25 Q. And in what capacity were you working

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 that day?

2 A. I was actually in the area of Beulah
3 Tabernacle, which is essentially the 41 community
4 in Saint Stephen. I had actually just finished
5 looking for someone on a warrant.

6 Q. Is that in Berkeley County?

7 A. Yes, sir.

8 Q. Were you in a marked patrol vehicle
9 that day?

10 A. No, sir.

11 Q. Please describe the vehicle that you
12 were in.

13 A. I was in a silver, unmarked Crown Vic.

14 Q. Was it equipped with lights and sirens?

15 A. Yes, sir.

16 Q. Were you dressed in a uniform that day?

17 A. Yes, sir.

18 Q. Were you in the vehicle by yourself?

19 A. Yes, sir.

20 Q. Was your vehicle equipped with an
21 in-car camera system?

22 A. No, sir.

23 Q. Please tell jury about how you became
24 involved in the incident that day at approximately
25 2:00 p.m. in Saint Stephen.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. About 2:00 a.m., I got a call on the
2 radio -- well, I didn't get a particular call. I
3 heard PFC Quinn asking for assistance on a traffic
4 stop with a vehicle that the tag did not come back
5 to the vehicle it was on.

6 I was probably two to three minutes
7 away, so I advised Dispatch I would be in route, at
8 which time I made contact with him at Highway 52
9 and 45.

10 Q. I believe I heard you say 2:00 a.m.
11 Was it 2:00 a.m. or 2:00 p.m.?

12 A. P.m., excuse me.

13 Q. So in the afternoon?

14 A. Yes, sir.

15 Q. And where were you in relation to where
16 Deputy Quinn Hayden was coming from?

17 A. When I got to the stoplight or --

18 Q. Let me rephrase the question. When you
19 started travelling, were you travelling in the same
20 direction as Deputy Hayden or in the opposite
21 direction?

22 A. Opposite.

23 Q. So you were going to meet him?

24 A. Yes.

25 Q. What were the weather conditions like

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 that day?

2 A. Clear.

3 Q. Was it raining?

4 A. No, sir.

5 Q. Sunny outside?

6 A. Yes.

7 Q. Daylight?

8 A. Yes, sir.

9 Q. I believe you said you made contact
10 with Deputy Hayden at the intersection of 52 and 45
11 in Saint Stephen; is that correct?

12 A. Yes, sir.

13 Q. What happened after that? Where was
14 your car located and where was his car located?

15 A. Deputy Quinn's car was in lane number
16 two, which is the farthest lane closest to the
17 sidewalk generally, and I was in lane number one on
18 the opposite direction of traffic where I could
19 visibly see the driver of the vehicle that he was
20 attempting to stop.

21 Q. Were you headed in opposite directions?

22 A. Yes, sir.

23 Q. Were you stopped at an intersection?

24 A. Yes, sir.

25 Q. And you said he and the suspect vehicle

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 were in lane number two?

2 A. Yes, sir.

3 Q. Is that the middle lane or the far
4 right?

5 A. Far right.

6 Q. Okay. Were they the first vehicles in
7 that area?

8 A. Yes, sir.

9 Q. Whose car was in front?

10 A. The Defendant's.

11 Q. And where was Deputy Hayden's vehicle?

12 A. Directly behind it.

13 Q. What type of vehicle was Deputy Hayden
14 in?

15 A. I can't recall.

16 Q. Was it marked?

17 A. Yes.

18 Q. Do they have lights and sirens?

19 A. Yes, sir.

20 Q. Have an external light bar, or were
21 they internal?

22 A. External.

23 Q. Did it have the Berkeley County
24 Sheriff's Office sticker on the side?

25 A. Yes, sir.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. And it was immediately behind the van?

2 A. Yes, sir.

3 MR. CHURCH: Objection.

4 THE COURT: Grounds?

5 MR. CHURCH: Leading. He's been
6 leading for a little while.

7 THE COURT: Sustained.

8 BY MR. MCNEELY:

9 Q. Where was Deputy Hayden's vehicle in
10 relation to the suspect van?

11 A. Directly behind it.

12 Q. Was there any car in between it?

13 A. No, sir.

14 Q. When you first made contact -- when you
15 first observed the vehicle, where were you in
16 relation to them?

17 A. At a diagonal from them is the best way
18 I can describe it.

19 Q. Were you at the intersection?

20 A. Yes, sir.

21 Q. Were there any cars in front of you at
22 the intersection?

23 A. No, sir.

24 Q. Did you have a clear line of sight
25 across the intersection?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. At that time were you able to see the
3 driver of the van?

4 A. Yes, sir.

5 Q. Did you observe any other occupants of
6 the vehicle at that time?

7 A. No, sir.

8 Q. And when I say, the vehicle, I mean the
9 van.

10 A. Correct. No, sir.

11 Q. Did you get a clear look at the
12 driver's face?

13 A. Yes, I did; the window was down.

14 Q. Can you please describe the driver of
15 the van?

16 A. Black male, approximately 50 to
17 60 years old, mustache, not very long hair, kind of
18 short.

19 Q. Did you recognize the driver of the van
20 at that time?

21 A. Yes, sir.

22 Q. What happened after that?

23 A. The light changed, at which time I got
24 directly behind Officer Hayden -- or Quinn, excuse
25 me, and he initiated the blue lights and attempted

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 to stop the vehicle, at which time I also attempted
2 to stop the vehicle with my blue lights and siren.

3 The vehicle passed multiple stopping
4 points at which time it turned off of 52 onto
5 Russellville Road and pulled into the driveway of
6 [REDACTED] -- or, excuse me, [REDACTED], and the subject fled
7 on foot.

8 Q. Let's back up --

9 A. I got the address wrong.

10 Q. Let's back up just a little bit. You
11 mentioned Deputy Hayden initiated a traffic stop?

12 A. Uh-huh.

13 Q. How did he initiate a traffic stop?

14 A. He advised Central and activated blue
15 lights.

16 Q. Did he only activate blue lights, or
17 did he also activate sirens?

18 A. To start with, blue lights, and when
19 the vehicle was not slowing down, he activated
20 sirens.

21 Q. At that time, did they drive past you
22 or --

23 A. I was already behind them.

24 Q. Did the van ever drive past you?

25 A. Yes, sir. They passed me in the

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 intersection.

2 Q. When the van drove past you in the
3 intersection, did you observe the driver again at
4 that time?

5 A. Yes, sir.

6 Q. Did you get another look at the
7 driver's face at that time?

8 A. Yes, sir.

9 Q. Was it a clear, unobstructed look?

10 A. Yes, sir.

11 Q. Did you still recognize the driver of
12 the van at that time?

13 A. Yes, I did.

14 Q. At that time, did you see any other
15 occupants in the vehicle other than the driver?

16 A. No, sir.

17 Q. What did you do at that time?

18 A. I was -- I got behind Deputy Quinn, and
19 he initiated a traffic stop.

20 Q. Were there any other deputies on scene?

21 A. Deputy Driggers.

22 Q. And where was he in relation to you
23 when you were at the red light?

24 A. He was behind me. I'm not sure what
25 lane he was in.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. Was he headed in the same direction as
2 you or the opposite?

3 A. Same direction I was.

4 Q. Immediately after Deputy Hayden
5 initiated the traffic stop, what did -- what
6 happened then?

7 A. The vehicle continued to travel down 52
8 past multiple stopping points, two gas stations and
9 a couple of other lots and side streets. And then
10 it turned on Russellville Road without stopping and
11 then pulled into that driveway where he fled.

12 Q. Did the van accelerate at that time?

13 A. Slightly, yes, sir.

14 Q. And what happened after that?

15 A. Subject bailed in the front yard of
16 that residence, ran around back, and we lost him in
17 the wood line.

18 Q. All right. Let's back up. You
19 mentioned that the vehicle turned off of 52?

20 A. Turned onto Russellville Road.

21 Q. Was that a left turn or a right turn?

22 A. It was a right turn.

23 Q. And what is Russellville Road? Is it a
24 two-lane road --

25 A. It's a two-lane road.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. And you said he made a right-hand turn?

2 A. Yes, sir.

3 Q. And after making that turn onto
4 Russellville Road, what did he do?

5 A. He went -- there's a strip mall right
6 there on 52, there's another house, and then the
7 residence that he pulled into. He took a left and
8 pulled into that driveway.

9 Q. You mentioned two residences?

10 A. Right.

11 Q. Just to clarify, is the driveway he
12 pulled into the first or second driveway?

13 A. Second.

14 Q. And is it on the left or the right?

15 A. Left.

16 Q. Did you recognize that location?

17 A. Yes, sir.

18 Q. How so?

19 A. I drive past it every day to and from
20 work.

21 Q. Do you live in that area?

22 A. Yes, I do.

23 Q. Do you work in that area?

24 A. Yes, I do.

25 Q. How long have you lived in that area?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. Twenty-seven years.

2 Q. Had you ever seen the Defendant at that
3 location?

4 A. Yes, I have.

5 Q. How many times?

6 A. Hundreds of times.

7 Q. Did you recognize him as living at that
8 location?

9 A. Yes, I did.

10 Q. Do you see the driver of the van in the
11 courtroom today?

12 A. Yes, I do.

13 Q. Can you point him out and describe what
14 he's wearing?

15 A. Gray suit. (Indicating)

16 Q. Where is he seated?

17 A. Directly right there, in the middle.

18 (Indicating)

19 Q. What happened after the Defendant
20 pulled into the driveway that day?

21 A. He pulled slightly behind a shed that's
22 in the yard of that residence and fled on foot
23 around the back of the trailer.

24 Q. What did you do at that time?

25 A. Pursued him also with Deputy Hayden.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. Were you on foot at that time?

2 A. Yes, sir.

3 Q. Did you run past the van at that time?

4 A. Yes, I did.

5 Q. Were there any other occupants in the

6 van other than the Defendant who had exited the

7 vehicle?

8 A. No, sir. We cleared it.

9 Q. What happened after that?

10 A. We attempted to set up a perimeter to

11 get other units there, and I stood by the vehicle

12 while they did that.

13 Q. Were you successful and -- was the

14 perimeter successful at that time?

15 A. No, sir.

16 Q. And please explain to the jury what it

17 means by the perimeter was not successful.

18 A. Basically, it means that there is no

19 way we could surround the area in which the subject

20 fled. There was no roads or it's too big of an

21 area to secure it so that we can't make sure that

22 he gets out of there before we can get enough

23 people to secure him or find him.

24 Q. Were you able to apprehend the

25 Defendant at that time?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. No, sir.

2 Q. What did you do after that?

3 A. I stood by with the vehicle until
4 Deputy Hayden and PFC Driggers returned to
5 inventory the vehicle.

6 Q. Did you participate in inventorying the
7 vehicle?

8 A. No, sir, I did not.

9 Q. What did you do?

10 A. I stood by.

11 Q. Okay. What happened next?

12 A. After multiple units arrived on scene,
13 I attempted to locate -- I knew that residence to
14 have been rented by a landlord that rents a lot of
15 properties on that street. I made contact with him
16 to confirm the subject who lived at the residence.

17 MR. CHURCH: Objection; hearsay.

18 THE COURT: Sustained. Go ahead.

19 BY MR. MCNEELY:

20 Q. Were you able to confirm a name for the
21 Defendant at that time?

22 A. Yes, I was.

23 MR. CHURCH: Objection.

24 THE COURT: I will allow that. Go
25 ahead.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 BY MR. MCNEELY:

2 Q. What did you do next?

3 A. I pulled up the name on the --

4 MR. CHURCH: Objection. Your Honor, we
5 might have a matter of law here.

6 THE COURT: Come up here.

7 (Bench conference.)

8 THE COURT: Objection sustained.

9 MR. MCNEELY: Thank you, Your Honor.

10 BY MR. MCNEELY:

11 Q. Was the vehicle searched at that time?

12 A. Yes, sir.

13 Q. I believe you said inventoried,
14 correct?

15 A. Yes.

16 Q. Was anything of note located in the
17 vehicle?

18 A. They said they found a white rock-like
19 substance that field tested presumptive for crack
20 cocaine.

21 Q. Did you have participation in locating
22 that?

23 A. No, sir.

24 Q. Did you make contact with anybody at
25 the residence that day?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. No, sir.

2 Q. Did you attempt to do so?

3 A. Yes, sir.

4 Q. Did you do anything else at the scene
5 that day?

6 A. I spoke to the landlord.

7 Q. What happened after that?

8 A. The landlord advised me that the
9 subject who lived there --

10 MR. CHURCH: Objection.

11 MR. MCNEELY: I'll rephrase the
12 question.

13 BY MR. MCNEELY:

14 Q. I believe you testified that the
15 Defendant was not apprehended at the scene that
16 day, correct?

17 A. Correct.

18 Q. Okay. And after that, the van was
19 inventoried, correct?

20 A. Correct.

21 Q. Okay. After that, did you leave the
22 scene or did you stay on scene?

23 A. I stayed.

24 Q. Okay. What did you do at that time?

25 A. Spoke to the landlord.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. After speaking to the landlord, what
2 did you do?

3 A. I returned to my vehicle at which time
4 I confirmed a name --

5 Q. Okay.

6 A. -- with a face.

7 MR. CHURCH: Objection.

8 THE COURT: Objection overruled.

9 BY MR. MCNEELY:

10 Q. After that, were warrants drawn up?

11 A. Yes, sir.

12 Q. What were the warrants for?

13 A. Possession of cocaine base and failure
14 to stop for blue lights.

15 Q. Were they served on the Defendant that
16 day?

17 A. No, sir.

18 Q. I want to ask you to look at what was
19 premarked as State's Exhibits 1 and 2.

20 MR. MCNEELY: Permission to approach,
21 Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. MCNEELY:

24 Q. Take a look at those photos.

25 Do you recognize what is depicted in

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 those photos?

2 A. Yes, sir.

3 Q. What is depicted in Exhibit 1? The
4 sticker is on the back if you need to look.

5 A. Looks like the intersection --
6 actually, it's the whole town of Saint Stephen with
7 the intersection of Highway 45 and 52.

8 Q. Is that a fair and accurate depiction
9 of the town of Saint Stephen as it appeared on
10 October 1, 2016?

11 A. Yes, sir.

12 Q. What is depicted in State's Exhibit 2?

13 A. Close-up of Russellville Road.

14 Q. Is that a fair and accurate depiction
15 of that area as it appeared on October 1, 2016?

16 A. Yes, sir.

17 MR. MCNEELY: Your Honor, at this time
18 I move to admit State's Exhibits 1 and 2 into
19 evidence.

20 THE COURT: Any objection?

21 MR. CHURCH: I will make an objection
22 to relevance.

23 THE COURT: Objection is overruled.

24 They're in.

25 (STATE'S EXH. 1 in evidence.)

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 (STATE'S EXH. 2 in evidence.)

2 MR. MCNEELY: Permission to publish?

3 THE COURT: Yes, sir.

4 MR. MCNEELY: Permission to approach
5 the witness?

6 THE COURT: Yes, sir.

7 BY MR. MCNEELY:

8 Q. I'm handing you a laser pointer. Do
9 you see the intersection at the top of the photo?

10 A. Yes, sir.

11 Q. Can you please point at it with the
12 laser pointer?

13 A. (Complies)

14 Q. Can you please identify the two roads
15 making that intersection?

16 A. This is Highway 52 and this is
17 Highway 45. (Indicating)

18 Q. When Deputy Hayden contacted you on the
19 radio, where was he coming from?

20 A. Up this way. (Indicating)

21 Q. Okay. And where were you coming from?

22 A. Down here. (Indicating)

23 Q. And you mentioned that you encountered
24 him at an intersection. Can you please point to
25 that intersection?

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 A. Right there. (Indicating)

2 Q. Okay. Where was -- after the light
3 turned Greene, where was the traffic stop on the
4 vehicle initiated?

5 A. About right here. (Indicating)

6 Q. And after the traffic stop was
7 initiated, where did the vehicle travel?

8 A. Down 52, passing all of these points
9 that he could have pulled over, and turned onto
10 Russellville Road which is right here.

11 (Indicating)

12 Q. I want to back up a little bit. You
13 mentioned points on 52 there. What are some of
14 those points, if you know, and point them out?

15 A. Well, there is an empty lot right
16 there. There is actually two driveways right here,
17 side road, old gas pump lot, gas station, empty
18 lot, another gas station, road, another empty lot,
19 and then Russellville Road. (Indicating)

20 Q. Could the Defendant have pulled into
21 any number of the locations to stop that day?

22 A. Yes, sir.

23 Q. Was there anything that prevented him
24 from doing so?

25 A. No, sir.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. Please point out the home where the
2 vehicle stopped that day and the Defendant fled on
3 foot.

4 A. Right there. (Indicating)

5 Q. About how far is that from where the
6 stop was initiated, if you know?

7 A. I'm not sure. It's probably quarter of
8 a mile maybe.

9 Q. Please point out the home, again, if
10 you don't mind. Can you show the jury with the
11 laser where the Defendant fled on foot?

12 A. He actually pulled right there and ran
13 around the back of the residence. (Indicating)

14 Q. And where did you attempt to set up a
15 perimeter?

16 A. Down Russellville Road, there are some
17 apartments over there down 52, and there's a road
18 that kind of cuts it off in the back that you can't
19 see on here. (Indicating)

20 Q. I want to show you what was marked as
21 State's Exhibit 3.

22 MR. MCNEELY: Permission to approach,
23 Your Honor?

24 THE COURT: You may.

25 BY MR. MCNEELY:

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. Do you recognize that location?

2 A. Yes, sir.

3 Q. What is that location?

4 A. That's the residence where that subject
5 fled on foot. It actually has a red roof now and
6 not as much grass.

7 Q. Other than that red roof, is it a fair
8 and accurate depiction of the residence as it
9 appeared on October 1, 2016?

10 A. Yes, it is.

11 Q. Does it appear to be changed or altered
12 beyond the red roof or grass?

13 A. No, sir.

14 MR. MCNEELY: At this time, I move to
15 admit State's Exhibit 3, Your Honor.

16 THE COURT: Any objection?

17 MR. CHURCH: No objection.

18 THE COURT: Without objection, so
19 admitted.

20 (STATE'S EXH. 3 in evidence.)

21 MR. MCNEELY: Permission to publish?

22 THE COURT: Yes.

23 BY MR. MCNEELY:

24 Q. With the laser pointer, Deputy
25 Ballantine, can you please show the jury where the

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 van driven by the Defendant pulled in that day?

2 A. It was kind of behind that little
3 building right there. (Indicating)

4 Q. And where were yours and Deputy
5 Hayden's vehicles?

6 A. Mine was about right here and Deputy
7 Hayden was right there. (Indicating)

8 Q. Okay. And where -- what direction did
9 the Defendant run that day?

10 A. This way --

11 Q. Okay.

12 A. -- and around the back of the house.
13 (Indicating)

14 MR. MCNEELY: Okay. Thank you, Dee.

15 By MR. MCNEELY:

16 Q. Just a few more questions. After your
17 efforts on the 1st were concluded of October and
18 the warrants were issued for the Defendant, did you
19 do anything further in the case following that day?

20 A. That same day or later on?

21 Q. Later on.

22 A. Yes, I did.

23 Q. What else did you do?

24 A. I attempted to locate the Defendant on
25 his warrants.

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 Q. Okay. Were you successful in doing
2 that?

3 A. Yes, sir.

4 Q. Do you recall when?

5 A. Not specific date, no, sir.

6 Q. If you saw your report, would that
7 refresh your memory?

8 A. Yes, it would.

9 MR. MCNEELY: Permission to approach,
10 Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. MCNEELY:

13 Q. Do you recall what date you located the
14 Defendant?

15 A. October 25th.

16 Q. So several weeks later?

17 A. Yes.

18 Q. Where did you locate the Defendant that
19 day?

20 A. At the residence of [REDACTED] Russellville
21 Road.

22 Q. Is that the same location that he fled
23 from several weeks earlier?

24 A. Yes, it was.

25 Q. Did you arrive at that location that

BALLENTINE, MARK - DIRECT EXAM BY MR. MCNEELY

1 day?

2 A. Yes.

3 Q. Were you by yourself or was anyone with
4 you?

5 A. I advised Saint Stephen Police
6 Department that I would be attempting to serve a
7 warrant, and they assisted.

8 Q. And, approximately, what time did you
9 arrive that day?

10 A. I'm not sure.

11 Q. Was it light or dark?

12 A. It was daytime. I think before
13 lunchtime.

14 Q. Okay. What did you observe when you
15 arrived?

16 A. The Defendant standing in the yard. He
17 was raking leaves.

18 Q. What did you do after you arrived?

19 A. I pulled into the driveway of the
20 residence and exited my vehicle, at which time the
21 Defendant fled on foot again around the back of the
22 residence.

23 Q. What happened at that time?

24 A. I chased him around the residence and
25 back out to the front where he was apprehended.

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 Q. When you say, apprehended, what do you
2 mean?

3 A. Arrested.

4 Q. Did you take him into custody that day?

5 A. Yes, sir, I did.

6 Q. What did you do after that?

7 A. I searched him incident to arrest and
8 transported him to the Berkeley County Detention
9 Center where he was served with these arrest
10 warrants.

11 Q. Following that day, did you have any
12 further involvement in this case?

13 A. No, sir.

14 MR. MCNEELY: No further questions from
15 the State at this time, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. CHURCH:

18 Q. Afternoon, Mr. Ballantine.

19 A. Afternoon.

20 Q. So on direct examination you said you
21 had hundreds of interactions?

22 A. Of passing by the residence and seeing
23 this gentlemen, yes, sir.

24 Q. You didn't put that in your report, did
25 you?

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 A. No, sir.

2 Q. You didn't put anything in the report
3 about recognizing him, did you?

4 A. No, sir.

5 Q. Is it the purpose of a report so you
6 can remember the details and what happened?

7 A. No, sir. I really didn't want to put
8 where I lived in the report.

9 Q. So you wanted to withhold information?

10 A. No, sir.

11 Q. Yet the most important thing you could
12 have put in your report, that you recognized him
13 that day, you didn't put it in there, did you?

14 A. No, sir.

15 Q. And according to your testimony, your
16 first seeing the suspect vehicle was at the
17 intersection of 45 and 52?

18 A. Yes, sir.

19 Q. And that's a fairly major intersection,
20 isn't it?

21 A. Yes, sir, it is.

22 Q. Okay. It's not like in a neighborhood
23 where the car is right across from you or 10 or
24 15 feet away from you? It's a good bit further
25 from one side --

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 A. A little bit, yeah. It's not too big,
2 but not too little either.

3 Q. And this was a sunny day?

4 A. Yes, sir.

5 Q. Okay. You're telling the jury that you
6 could see from one side of the intersection to the
7 other side and get a good view of somebody with the
8 windshield and windows?

9 A. The window was down.

10 Q. The side window?

11 A. Yes, sir.

12 Q. So you were looking at an angle?

13 A. Yes, sir.

14 Q. And from an angle, you could get a
15 really good view?

16 A. Yes, sir.

17 Q. And then when the vehicle went past
18 you, it was a moving vehicle?

19 A. Yes, sir.

20 Q. And you remember that, but you had
21 trouble remembering what Officer Hayden or Quinn --
22 kind of -- what type of car he was in?

23 A. Yes, sir. We change cars. After I
24 finished that, I didn't even drive a Crown Vic
25 anymore.

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 Q. Okay. But you don't remember what he
2 was driving that day?

3 A. I believe it was an Explorer, but I'm
4 not positive.

5 Q. How old are you?

6 A. Twenty-seven.

7 Q. Twenty-seven. How old were you when
8 this happened?

9 A. Twenty-seven.

10 Q. And according to one of the reports,
11 Mr. Greene was approximately 58 years old at the
12 time. You-all couldn't catch him?

13 A. No, sir.

14 Q. Somebody in their 20s couldn't run down
15 somebody almost 60 years old?

16 A. Well, what happened was, when he pulled
17 into the driveway, myself and Deputy Quinn
18 attempted to pull in at the same time. And as you
19 notice in the picture there's a fence, so we had to
20 stop and let one another go, and at that time the
21 subject fled. He was pretty quick.

22 Q. He was able to navigate all of these
23 obstacles and outrun you-all?

24 A. Uh-huh.

25 Q. But the second time he ran, you had no

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 problem catching him that time?

2 A. No, sir.

3 Q. Okay. When did you write your report?

4 A. The same day the incident occurred.

5 MR. CHURCH: Your Honor, may I approach
6 the witness?

7 THE COURT: Yes, sir.

8 BY MR. CHURCH:

9 Q. Can you confirm this is your
10 supplemental report that you did?

11 A. Yes, sir, it is.

12 Q. What's the date on that?

13 A. At the bottom is 11/26.

14 Q. That was over three weeks,
15 approximately, after the incident occurred?

16 A. Roughly.

17 Q. So you didn't write the report on the
18 day of the incident?

19 A. Actually, I did. I don't know why it
20 has that on the bottom. That would be a Records
21 question.

22 Q. You didn't have a camera in your
23 vehicle?

24 A. No, sir.

25 MR. CHURCH: Beg the Court's

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 indulgence?

2 THE COURT: Yes, sir.

3 BY MR. CHURCH:

4 Q. Did you attend the academy?

5 A. Yes, sir, I did.

6 Q. They have physical requirements there,
7 don't they?

8 A. Yes, sir.

9 Q. And you were fit enough to complete
10 those, but still not able to catch a 58-year-old?

11 A. Yes, sir. We did not.

12 Q. And you said your interactions are just
13 riding by?

14 A. Yes, sir.

15 Q. So you don't know him?

16 A. Not on a personal level, no, sir.

17 Q. Do you know anybody else that lives at
18 that residence?

19 A. No.

20 Q. You don't know what the other men that
21 might live there look like?

22 A. Huh-uh.

23 Q. Okay.

24 THE COURT: Is that a yes or no?

25 THE WITNESS: No, sir.

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 BY MR. CHURCH:

2 Q. You don't know what his brother looks
3 like?

4 A. No, sir.

5 Q. And what is a CAD report?

6 A. It's a report on an incident that
7 occurred that the deputy completes after each
8 incident.

9 Q. So -- so during this incident, you made
10 contributions to the CAD report?

11 A. Yes, sir.

12 Q. And do you remember what your number
13 was?

14 A. No, sir, not offhand. Which number are
15 you -- my call sign or my pay number?

16 Q. Unit number.

17 A. At one point, I believe it was 124.
18 I'm not sure.

19 Q. Does 158 sound right?

20 A. Yeah, that's it.

21 Q. Okay. So when you do your initial
22 call-in on the CAD report, is that when you first
23 get involved?

24 A. Yes, sir.

25 MR. CHURCH: Okay. Your Honor, may I

BALLENTINE, MARK - CROSS EXAM BY MR. CHURCH

1 approach the witness?

2 THE COURT: Yes.

3 BY MR. CHURCH:

4 Q. I'm showing you that -- is that a CAD
5 report?

6 A. Yes, sir.

7 Q. Okay. And if you look down by unit
8 158, what's the time on that that you reported in?

9 A. According to this, it's 14:06.

10 Q. And some seconds?

11 A. Yes; 14:06:37.

12 Q. Okay. Thank you.

13 And that would have been when you first
14 joined in the incident?

15 A. More than likely when I arrived to
16 assist him, yes, sir.

17 Q. Okay. Did nobody go to the residence
18 between the time this incident happened and the day
19 you showed up almost three weeks later?

20 A. In attempts to locate him?

21 Q. Or do any kind of investigation or
22 anything.

23 A. Not that I know of.

24 Q. You didn't do any of that?

25 A. No, sir.

BALLENTINE, MARK - REDIRECT EXAM BY MR. MCNEELY

1 MR. CHURCH: Beg the Court's
2 indulgence?

3 THE COURT: Yes, sir.

4 BY MR. CHURCH:

5 Q. Did they teach you anything in the
6 academy about cross racial identification?

7 A. No, sir.

8 MR. CHURCH: No further questions.

9 THE COURT: Any redirect?

10 MR. MCNEELY: Just a few.

11 REDIRECT EXAMINATION

12 BY MR. MCNEELY:

13 Q. The defense attorney asked you about
14 seeing the Defendant across the intersection.

15 A. Yes.

16 Q. Did you get a clear look at him?

17 A. Yes, I did.

18 Q. And did you recognize him when you saw
19 him?

20 A. Yes, I did.

21 MR CHURCH: Objection; asked and
22 answered.

23 THE COURT: I'll allow it.

24 BY MR. MCNEELY:

25 Q. And then did that vehicle drive by you?

BALLENTINE, MARK - REDIRECT EXAM BY MR. MCNEELY

1 A. Yes, he did.

2 Q. Did you get a clear look at the driver?

3 A. Yes, I did.

4 Q. Who was driving that vehicle?

5 A. The Defendant.

6 Q. How many times before had you seen the

7 Defendant?

8 A. Hundreds.

9 Q. And where had you seen him?

10 A. [REDACTED] Russellville Road.

11 Q. Is that the house where the van pulled

12 into the driveway?

13 A. Yes, it was.

14 Q. Is that the house where you arrested

15 him several weeks later?

16 A. Yes, it was.

17 Q. Any doubt in your mind it's the same

18 person driving that day?

19 A. No, it's not.

20 Q. He asked you several questions about

21 the chase as well.

22 A. Correct.

23 Q. And alluded to the fact that you're

24 younger than the Defendant?

25 A. Yep.

BALLENTINE, MARK - REDIRECT EXAM BY MR. MCNEELY

1 Q. Did the Defendant have a head start on
2 you?

3 A. Yes, he did.

4 Q. About how long?

5 A. A good two minutes probably.

6 Q. Was there any fencing involved?

7 A. Yes, there was.

8 Q. Explain that to the jury.

9 A. The yard is completely fenced in. Some
10 of it may be knocked down in places, but the whole
11 back side of the residence was fenced in and a
12 bunch of vines and everything else around it.

13 Q. Did the Defendant hop that fence?

14 A. Yes, he did.

15 Q. What did you all do?

16 A. Attempted to hop the fence, but with
17 all of our gear it was kind of difficult getting
18 hung up in vines.

19 Q. And what did you do after that?

20 A. We called for a perimeter as soon as he
21 bailed on foot. I went back and stood with the
22 vehicle.

23 Q. And then you located him later?

24 A. Yes.

25 Q. And took him into custody at that time?

BALLENTINE, MARK - RE-CROSS EXAM BY MR. CHURCH

1 A. Yes, sir.

2 MR. MCNEELY: Nothing further, Your
3 Honor.

4 THE COURT: Sir, anything further?

5 MR. CHURCH: Very briefly.

6 RE-CROSS-EXAMINATION

7 BY MR. CHURCH:

8 Q. You had seen him hundreds of time you
9 said?

10 A. Yes, sir.

11 Q. And you live right around there?

12 A. Yes, sir.

13 Q. Are you aware that he has a bad knee?

14 A. No, sir.

15 Q. Okay. And you still maintain that this
16 person almost 60 years old was able to jump all
17 these fences and elude all of you?

18 A. Yes, sir.

19 MR. CHURCH: Okay. No further
20 questions.

21 THE COURT: Sir, you may step down.
22 Thank you.

23 MR. STEGALL: The State would call
24 David Driggers.

25 DAVID DRIGGERS,

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 being first duly sworn, testified as follows:

2 THE CLERK: Please take a seat. State
3 your full name and spell the last.

4 THE WITNESS: David Driggers,
5 D-R-I-G-G-E-R-S.

6 DIRECT EXAMINATION

7 BY MR. STEGALL:

8 Q. Hey, Mr. Driggers. Would you tell the
9 jury what you do for a living?

10 A. I work for Berkeley County Sheriff's
11 Office, warrants and civil process division.

12 Q. You have rank on your sleeve. Can you
13 tell --

14 A. PFC.

15 Q. PFC. What are your duties and
16 responsibility with Berkeley County?

17 A. Primarily, I serve civil process
18 paperwork and I help out with warrants when they
19 need help.

20 Q. What were you doing on October 1, 2016?
21 Same job?

22 A. Same job, yes, sir.

23 Q. Did you receive a call related to the
24 case that we are here about today?

25 A. Yes, sir.

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 Q. And what was that call in reference to?

2 A. It was in reference to an officer going
3 to do a traffic stop and wanted backup.

4 Q. Do you remember who the officer was?

5 A. Officer Hayden. Deputy Hayden.

6 Q. What did you do when you received the
7 call?

8 A. Radioed Dispatch that I would be in
9 route.

10 Q. Okay. Who were you with?

11 A. Myself and Deputy Ballantine were in
12 the area, and we headed that way.

13 Q. Was anybody else in your car?

14 A. No, sir.

15 Q. What were you driving?

16 A. Chevrolet Silverado.

17 Q. Was it marked?

18 A. It was a marked unit, yes, sir.

19 Q. Okay. It had lights and siren?

20 A. It does.

21 Q. All right. So go back and tell the
22 jury how and where you became involved with this
23 traffic stop.

24 A. We were between Saint Stephen and
25 Bonneau. We were in the area trying to look for a

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 warrant subject and a call came out, and we at that
2 time went in route towards Saint Stephen.

3 Q. Okay. Do you remember where it was,
4 the intersection?

5 A. It's Highway 45 and Highway 52 is where
6 we met up with them.

7 Q. I'm going to show you what was marked
8 as State's Exhibit 2. We have this laser pointer
9 here. With that, can you show the jury where you
10 were coming from?

11 A. This is the south?

12 Q. Yeah.

13 A. I'm coming from this direction,
14 northbound on 52. (Indicating)

15 Q. Okay. All right. Can you see the
16 intersection?

17 A. Right here.

18 Q. Okay. All right. Thank you. What did
19 you do when you approached?

20 A. Approached the intersection? They were
21 stopped at the intersection. The light turned, we
22 made a U-turn in the intersection and got behind
23 Deputy Hayden and the suspect vehicle.

24 Q. Okay. Did you activate your lights?

25 A. Yes.

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 Q. Sirens?

2 A. Yes, sir.

3 Q. Where did you pursue him?

4 A. We went, approximately, a half mile
5 down the road, took a right on Russellville Road,
6 turned into I believe it was the second residence
7 on the left.

8 Q. Were there any points that he could
9 have turned in?

10 A. There were I believe two gas stations,
11 another business, an open median, and several
12 places he could have stopped.

13 Q. Okay. What did you do when he turned
14 on Russellville?

15 A. Turned on Russellville Road, made that
16 immediate left. I was the last vehicle in the
17 pursuit; turned left into the driveway. Vehicle
18 pulled up behind the shed -- between the shed and
19 the house. And when I got there they had went
20 behind the house.

21 Q. Did you see the Defendant exit?

22 A. I did not. They were out of the
23 vehicle and behind the house when I got there.

24 Q. And what did Ballantine and Hayden --
25 what did you see them do?

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 A. I saw them go -- leave their vehicles
2 and go around the house, and I proceeded back there
3 as well.

4 Q. Where did you say you went?

5 A. Around to the right side of the house
6 to the back, to a wood line there.

7 Q. Okay. And what was your intention to
8 go on the side of the house?

9 A. I was going to try to help them
10 apprehend this driver.

11 Q. Were you successful?

12 A. No, sir.

13 Q. Okay. What did you do after that?

14 A. At that point I left, went back around
15 on Highway 52 near the Citgo to try to set up a
16 perimeter in case he came out of the woods on that
17 side somewhere.

18 Q. Did you have any luck with that?

19 A. I did not.

20 Q. What did you do after that?

21 A. That was a short time after I got to
22 the Citgo and went back to the house, and at that
23 time they were searching the vehicle. And I
24 proceeded to help them search the vehicle.

25 Q. Who is they?

DRIGGERS, DAVID - DIRECT EXAM BY MR. STEGALL

1 A. Deputy Hayden and Ballantine.

2 Q. What did you do?

3 A. I went up to the driver's side,
4 searched the driver's area.

5 Q. Okay. Did you locate anything?

6 A. Down in the drivers's door pocket I
7 found a small plastic container. I opened that up.
8 It had some rock-like substance inside that
9 appeared to be some sort of drug. At that time, I
10 handed it to Deputy Hayden.

11 Q. Okay. What did you do after you handed
12 the box to Deputy Hayden?

13 A. Continued to search the driver's side
14 of the vehicle.

15 Q. Is that all of your involvement with
16 this case?

17 A. I stayed -- after the vehicle search
18 was over, I stayed and I did a tow receipt and
19 waited for the tow truck to come.

20 MR. STEGALL: Beg the Court's
21 indulgence?

22 THE COURT: Yes, sir.

23 MR. STEGALL: No further questions,
24 Your Honor.

25 THE COURT: Cross examination.

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 CROSS-EXAMINATION

2 BY MS. LITTLEJOHN:

3 Q. Officer Driggers, have you had an
4 opportunity to discuss this case with anyone, any
5 other officers or former police officers?

6 A. Just Deputy Ballantine and Hayden.

7 Q. Okay. And so you have spoken to both
8 of them. And how many times have you spoken with
9 folks from the solicitor's office?

10 A. Two occasions.

11 Q. Two or three. Did you attend the
12 academy?

13 A. Yes.

14 Q. And at the academy they teach you the
15 importance of drafting police reports, don't they?

16 A. Yes.

17 Q. And they tell you that those reports
18 are critical to have, correct?

19 A. Yes.

20 Q. They are important and all the facts
21 should go in them?

22 A. Yes.

23 Q. As a matter of fact, some of the
24 teachers go so far as to say if it's not in the
25 report, it didn't happen? Didn't they tell you

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 that? Don't they?

2 A. Yeah.

3 Q. They even give a complete one plus
4 courses in police drafting reports, right?

5 A. Yes.

6 Q. And the reason it's so important is
7 because other people may rely on your reports,
8 right?

9 A. Yes.

10 Q. Like other officers?

11 A. (Nodding)

12 Q. Yes?

13 A. Yes.

14 Q. She has to take it down. That's why --

15 A. Yes, ma'am.

16 Q. I can see you, but I want Ms. Denise to
17 be able to take it down.

18 THE COURT: Speak up too, please, sir.

19 THE WITNESS: Yes, sir.

20 BY MS. LITTLEJOHN:

21 Q. The solicitor's office has to rely on
22 the reports, right?

23 A. Yes.

24 Q. And maybe your higher-ups have to rely
25 on it?

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 A. Yes.

2 Q. All sorts of people have to rely on the
3 reports?

4 A. Yes, ma'am.

5 Q. In this case, you didn't write a
6 report, did you?

7 A. No, ma'am.

8 Q. So what date did this occur; do you
9 remember?

10 A. October, I think maybe the 1st, 2016.

11 Q. You say you were out serving warrants,
12 right?

13 A. Yes.

14 Q. Who did you serve a warrant to right
15 after this?

16 A. I don't recall.

17 Q. You don't know?

18 A. No, ma'am.

19 Q. So isn't it fair to say that the only
20 way your memory is jogged by this is because of the
21 other officers and the solicitors and looking at
22 their stuff, since you didn't write a report?

23 A. No, ma'am.

24 Q. So your memory is good enough to go all
25 the way back to this date?

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 A. Yes, ma'am.

2 Q. But you don't know who you served a
3 warrant to afterwards?

4 A. I do not.

5 Q. Bet yet you do agree that they teach
6 you at the academy if it's not in the report, it
7 didn't happen?

8 A. I believe that's been said, yes, ma'am.

9 Q. Would you -- at the academy don't they
10 also teach you that a year after your memory is not
11 as good as it was two or three days right after an
12 event?

13 A. I would say so, yes, ma'am.

14 Q. Let's talk about body cameras. We
15 see -- it's pretty blatant all over the news --
16 everybody has body cameras. Did you have a body
17 camera that day?

18 A. No, ma'am.

19 Q. Do you know if anyone had one?

20 A. No, ma'am.

21 Q. No, they didn't have one or you don't
22 know?

23 A. They didn't have.

24 Q. They didn't have one. What about
25 in-car video; did you have that?

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 A. No, ma'am.

2 Q. Do you know if anyone else had those?

3 A. I don't believe so.

4 Q. So no officers had body cameras and no
5 officer had in-car videos?

6 A. No, ma'am.

7 Q. Didn't you testify that you actually
8 found the drugs that were found in the car,
9 correct?

10 A. Yes, ma'am.

11 Q. And you took them from the -- wherever
12 they were in the driver's area you said, right?

13 A. Yes, ma'am, the door pocket.

14 Q. And you handed them to Officer Hayden?

15 A. Yes, ma'am.

16 Q. And you're familiar with what chain of
17 custody is, correct?

18 A. Yes, ma'am.

19 Q. And that's where if I have a pen in my
20 right hand and I hand it to you, it would go,
21 Debbie Littlejohn hands officer the pen, correct?

22 A. Yes.

23 MS. LITTLEJOHN: Okay. Your Honor,
24 permission to approach?

25 THE COURT: Yes, ma'am.

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 BY MS. LITTLEJOHN:

2 Q. What I'm going to show you is the chain
3 of custody sheet. Can you tell me who took credit
4 for finding the drugs? The initial officer on
5 there?

6 A. David Hayden's signature is right
7 there.

8 Q. Okay. So Deputy Hayden, according to
9 your testimony, didn't find the drugs, did he?

10 A. No, ma'am.

11 Q. So what's written on the sheriff's
12 department form is incorrect, right?

13 A. Yes.

14 Q. Do you know who actually signs those
15 forms? Does the officer actually sign them?

16 A. Yes, ma'am.

17 Q. How long have you been with the
18 sheriff's office or in law enforcement?

19 A. About two and a half years with the
20 sheriff's office.

21 Q. Before that?

22 A. Before that I was limited duty officer.
23 I did litter control for the county.

24 Q. Okay. So you're familiar with the
25 forensics unit over here, right?

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 A. Somewhat, yes, ma'am.

2 Q. You know they have the capability of
3 printing things --

4 A. Yes.

5 Q. -- taking prints? And that I may touch
6 this and you may not can get my print, but you can
7 swab it and collect my DNA from it, correct?

8 A. Yes.

9 Q. And as a matter of fact, DNA is pretty
10 unique to everyone, right?

11 A. Yes.

12 Q. That day was the forensic unit called
13 out?

14 A. I don't recall.

15 Q. Do you remember seeing the forensic
16 unit?

17 A. I do not know.

18 Q. Do you remember if the forensic unit
19 took fingerprints of the steering wheel?

20 A. I don't know.

21 Q. Do you know if the forensic unit took
22 DNA samples of the steering wheel?

23 A. I don't know.

24 Q. Do you remember if the forensic unit
25 tested the bag that had the drugs in it?

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 A. I don't know.

2 Q. But you -- and you don't know if they
3 did the door handle, the inside door handle, tested
4 it, do you?

5 A. No, ma'am.

6 Q. If I showed you the CAD report and the
7 forensic unit showed up, it would be on that CAD
8 report, wouldn't it?

9 A. Yes.

10 MS. LITTLEJOHN: Beg the Court's
11 indulgence?

12 THE COURT: Yes, ma'am.

13 BY MS. LITTLEJOHN:

14 Q. I'm going to show you this CAD report.
15 Can you tell me on there if Berkeley County
16 Sheriff's Office forensic team came out? And
17 there's a third page right there. (Indicating)

18 MR. STEGALL: Objection. Your Honor,
19 we'll agree that forensics didn't come to the
20 scene.

21 MS. LITTLEJOHN: If I could get the
22 officer to testify to that, Your Honor.

23 THE COURT: Answer the question.
24 They've stipulated to it.

25 BY MS. LITTLEJOHN:

DRIGGERS, DAVID - CROSS EXAM BY MS. LITTLEJOHN

1 Q. They did not come out, did they?

2 A. No, ma'am.

3 Q. And doesn't 1076 mean someone is in
4 route?

5 A. Yes.

6 Q. And 1023 means they have arrived,
7 correct?

8 A. Yes.

9 Q. On the CAD report that I showed you
10 just a minute ago, would you agree with me that
11 14:06:39 you clocked in as in route?

12 A. If that's what the report says, yes,
13 ma'am.

14 MS. LITTLEJOHN: Beg the Court's
15 indulgence. I just --

16 THE WITNESS: Question is?

17 BY MS. LITTLEJOHN:

18 Q. So you were in route at that time,
19 correct? At 1076?

20 A. At that time, we were -- according to
21 that, we were at 52 and 45.

22 Q. But according to what you called in to
23 Dispatch, you were in route?

24 A. Yes, ma'am.

25 MS. LITTLEJOHN: Beg the Court's

DRIGGERS, DAVID - REDIRECT EXAM BY MR. STEGALL

1 indulgence?

2 THE COURT: Yes, ma'am.

3 MS. LITTLEJOHN: I have no further
4 questions.

5 THE COURT: Any redirect?

6 MR. STEGALL: Just a few, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. STEGALL:

9 Q. Deputy Driggers, do you write a report
10 on every case that you handle?

11 A. No, sir.

12 Q. Was a report written in this case?

13 A. A report was written, yes.

14 MS. LITTLEJOHN: Your Honor, asked and
15 answered.

16 THE COURT: I'm going to allow it.

17 BY MR. STEGALL:

18 Q. Do you know who wrote that report?

19 A. Deputy Hayden and Deputy Ballantine
20 also.

21 Q. Was Deputy Hayden the case agent in
22 this case?

23 A. Yes.

24 Q. To the best of your knowledge, was
25 everything you testified to today provided to

DRIGGERS, DAVID - REDIRECT EXAM BY MR. STEGALL

1 Deputy Hayden for his report?

2 A. Yes, sir.

3 Q. You testified that you found a box in
4 the driver's side. What did you say you did with
5 that box?

6 A. I gave it to Deputy Hayden.

7 Q. Was that at the scene?

8 A. Yes, sir.

9 Q. What did Deputy Hayden do with that
10 box?

11 MS. LITTLEJOHN: Your Honor,
12 speculation.

13 THE COURT: I'll allow him to answer.

14 If you know the answer to the question,
15 you can answer it.

16 THE WITNESS: I handed it to him, and
17 at that point I don't know any further what he did
18 with it.

19 BY MR. STEGALL:

20 Q. For what purpose did you hand him the
21 box?

22 A. It looked like some type of drug. I
23 handed it to him to have it tested.

24 Q. And what were you thinking -- I'll
25 rephrase the question.

DRIGGERS, DAVID - REDIRECT EXAM BY MR. STEGALL

1 By handing him the box, what was he
2 going to do with it?

3 MS. LITTLEJOHN: Speculation, Your
4 Honor.

5 THE COURT: I'll sustain it unless he
6 knows the answer to it.

7 If you know the answer to it, you can
8 answer the question.

9 THE WITNESS: Can you repeat the
10 question please?

11 BY MR. STEGALL:

12 Q. Let me ask another. Have you ever
13 logged in evidence before?

14 A. I believe during FTO.

15 Q. Okay. Do you know typically when the
16 chain starts?

17 A. At the point that it's found.

18 MR. STEGALL: Beg the Court's
19 indulgence?

20 THE COURT: Yes, sir.

21 MR. STEGALL: No further questions,
22 Your Honor.

23 THE COURT: Any recross?

24 MS. LITTLEJOHN: Briefly.

25 RE-CROSS-EXAMINATION

DRIGGERS, DAVID - RECROSS EXAM BY MS. LITTLEJOHN

1 BY MS. LITTLEJOHN:

2 Q. Officer Driggers, how long -- what was
3 the last time you spoke to a member of the
4 solicitor's office or one of the officers involved
5 in this case?

6 A. The solicitor's office a couple of
7 weeks ago.

8 Q. And when was the last time you spoke
9 with one of the officers involved in this case
10 about the case?

11 A. I don't recall exactly.

12 Q. Was it today?

13 A. No, ma'am.

14 Q. Was it last week?

15 A. No, ma'am.

16 Q. You said they teach you the importance
17 of report writing, but they also teach you
18 unequivocally that the chain of custody starts --

19 MR. STEGALL: Objection.

20 MS. LITTLEJOHN: -- with whoever gets
21 it, right?

22 THE COURT: Objection sustained. Move
23 on to your next question.

24 BY MS. LITTLEJOHN:

25 Q. With regard to the chain, your

DRIGGERS, DAVID - RE-CROSS EXAM BY MS. LITTLEJOHN

1 testimony was it starts at the moment it's found,
2 correct?

3 A. Yes.

4 MS. LITTLEJOHN: No further questions.

5 THE COURT: Thank you, sir. You may
6 step down.

7 MR. CHURCH: May we approach?

8 (Bench conference.)

9 THE COURT: Ladies and gentlemen, we've
10 been going about an hour and a half. We're going
11 to stop and take a few-minute break. Please step
12 to the jury room and do not discuss the case. Do
13 not discuss the case. I'll get you back out here
14 as soon as possible.

15 (Jury out, 3:55 p.m.)

16 THE COURT: We'll stand down for a few
17 minutes.

18 (A recess transpired.)

19 (STATE'S EXH. 4, BEST Kit, was marked
20 for identification.)

21 THE COURT: Anything from the State
22 before we bring the jury back out?

23 MR. MCNEELY: No, Your Honor.

24 THE COURT: Defense counsel?

25 MR. CHURCH: Nothing from the defense.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: Will you see if they're
2 ready, please, sir?

3 (Jury in, 4:12 p.m.)

4 THE COURT: You may be seated. Call
5 the next witness.

6 MR. MCNEELY: Thank you, Your Honor.

7 The State calls Deputy Quinn Hayden.

8 QUINN HAYDEN,

9 being first duly sworn, testified as follows:

10 THE CLERK: Please take a seat. State
11 your full name and spell your last.

12 THE WITNESS: Quinn Hayden,
13 H-A-Y-D-E-N.

14 DIRECT EXAMINATION

15 BY MR. MCNEELY:

16 Q. Good afternoon, Deputy Hayden. Where
17 are you currently employed?

18 A. Berkeley County Sheriff's Office.

19 Q. What is your position there, and how
20 long have you been employed there?

21 A. I'm currently a road patrol deputy.
22 I've worked there, approximately, a year and a
23 half.

24 Q. What is your rank?

25 A. Corporal.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. Were you employed in that capacity
2 during October of 2016?

3 A. Yes, sir, I was.

4 Q. What was your position at that time?

5 A. The same.

6 Q. Please describe a little bit about your
7 background and educational training.

8 A. I have a bachelor's degree from the
9 College of Charleston, a master's degree from the
10 University of Cincinnati, and I'm certified as a
11 police officer through the South Carolina Criminal
12 Justice Academy.

13 Q. What are your duties in your position
14 as a patrol deputy?

15 A. We respond for calls of service,
16 initiate traffic stops, respond to calls for
17 service, get out with suspicious vehicles or
18 persons.

19 Q. Were you working in that capacity
20 during October of 2016?

21 A. Yes, sir.

22 Q. Were you working on the day of
23 October 1, 2016?

24 A. Yes, sir.

25 Q. Were you working during the afternoon

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 that day?

2 A. Yes, sir.

3 Q. While working on October 1, 2016, at
4 approximately 2:00 p.m., did you become involved in
5 an incident in the Saint Stephen area?

6 A. Yes, sir, I did.

7 Q. Is that in Berkeley County, South
8 Carolina?

9 A. Yes, sir.

10 Q. Were you in a marked patrol vehicle at
11 that time?

12 A. I was.

13 Q. Please explain to the jury what is
14 meant by marked patrol vehicle.

15 A. Marked patrol vehicle is any vehicle
16 that has the sheriff's office logo, has colors.
17 Some cars have a visible light bar on the outside
18 of the vehicle; some have it on the inside.

19 Q. Was your car marked with the Berkeley
20 County logo on the outside?

21 A. Yes.

22 Q. Was it equipped with an in-car camera
23 system?

24 A. No, sir.

25 Q. Did you have a body cam?

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 A. No, sir.

2 Q. So there is no video of this incident,
3 to your knowledge?

4 A. No, sir.

5 Q. Please tell the jury how you became
6 involved in the incident that day initially.

7 A. I was patrolling along Colonel Maham
8 Road which is in the county of Berkeley. As I came
9 up to a side road off of Colonel Maham, called
10 McGuffey Road, I observed a silver Honda minivan
11 coming off of McGuffey Road. As soon as the
12 Defendant saw me, he slammed on the brakes
13 approximately 20 feet away and slowly crept up to
14 it.

15 Q. What happened after that?

16 A. Based on the suspicious driver
17 behavior, I turned around and got behind the same
18 vehicle.

19 Q. And backing up a little bit, did you
20 get a look at the Defendant's face at that time?

21 A. Yes, sir, I did.

22 Q. Can you describe him?

23 A. It was an African American male,
24 approximately, 50 to 60 years old with a mustache.

25 Q. Was it the Defendant in this case?

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. Please describe the weather and
3 lighting conditions that day.

4 A. It was sunshine, clear, no clouds, no
5 rain.

6 Q. What did you do after your initial
7 observation of the Defendant in the van?

8 A. I turned around as quickly as I could
9 and got behind the same vehicle.

10 Q. Were there any other occupants?

11 A. No, sir.

12 Q. What did you do after getting behind
13 the vehicle?

14 A. I ran a license plate through Dispatch,
15 and they advised me it was coming back to a Buick.
16 I confirmed with Dispatch, gave the same license
17 plate, and they confirmed that it still was coming
18 back to a Buick.

19 Q. And that is a different vehicle than
20 the Defendant was driving; is that correct?

21 A. Correct. He was driving a Honda
22 minivan.

23 Q. What happened after Dispatch advised
24 you that the license plate did not match the
25 vehicle?

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 A. I asked if any deputies were in the
2 area to conduct a traffic stop.

3 Q. Did you immediately initiate a stop at
4 that time?

5 A. No, sir.

6 Q. Why did you not initiate a stop at that
7 time?

8 A. Because it's a very rural part of the
9 county. Just for officer's safety, I like to have
10 someone close to me.

11 Q. And what did Dispatch advise when you
12 radioed if there were any other -- excuse me, any
13 other units in the area?

14 A. I believe Deputy Ballantine and Deputy
15 Driggers advised they were close and they were
16 going to head my way.

17 Q. At that time, what direction were you
18 heading?

19 A. We were eastbound on Highway 52 towards
20 the town of Saint Stephen.

21 Q. Okay. And where were the other
22 deputies coming from; if you know?

23 A. I don't recall what they said.

24 Q. At some point, did you arrive at the
25 intersection of 52 and 45?

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. Where was your vehicle and where was
3 the Defendant's vehicle at that intersection?

4 A. We were at the red light. The
5 Defendant's vehicle was the first vehicle at the
6 stop bar in front of the stop light; I was directly
7 behind him with no cars in between us.

8 Q. Okay. Do you know where Deputy
9 Ballantine and/or Deputy Driggers were at that
10 time?

11 A. Yes, sir. They were in lane one facing
12 us. So they were in the lane closest to the double
13 yellow line in the intersection.

14 Q. Were they headed in the same direction
15 as you or in the opposite direction?

16 A. In the opposite direction.

17 Q. Okay. At some point, did the light
18 turn Greene?

19 A. Yes, sir.

20 Q. What happened after the light turned
21 Greene?

22 A. As soon as the light turned Greene, we
23 went in the intersection. As soon as we crossed
24 over to the opposite side of the intersection, I
25 initiated my flashing lights. When there was no

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 sign that the Defendant was going to stop by
2 pushing his brakes on or turning on his turn
3 signal, I activated my siren as well.

4 Q. What speed were you travelling when you
5 -- what speed was the Defendant travelling when you
6 initiated lights to conduct the stop?

7 A. Approximately, 30 miles an hour.

8 Q. What happened after that?

9 A. The Defendant continued to drive past
10 several businesses and empty lots and side roads
11 that he could have turned off of. We then made a
12 right turn onto Russellville Road, and he pulled
13 into a residence on Russellville Road.

14 Q. Backing up a little bit, did the
15 Defendant accelerate after you initiated the lights
16 and sirens?

17 A. Yes, sir. He sped up, approximately,
18 about 40 to 45 miles an hour.

19 Q. And what happened after that?

20 A. He turned right on Russellville Road,
21 pulled into a residence. He immediately exited the
22 vehicle, and Deputy Ballantine and I gave pursuit.

23 Q. Okay. Backing up a hair more, how far,
24 approximately, is it from where you initiated
25 lights and sirens to where he turned onto

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Russellville Road?

2 A. Approximately, half of a mile.

3 Q. Was that turn on Russellville Road a
4 right or left?

5 A. It was a right turn.

6 Q. And what did the Defendant do in the
7 van after he made the right turn onto Russellville
8 Road?

9 A. After he made a right turn on
10 Russellville Road, he continued going to the -- I
11 believe it was the second residence on Russellville
12 on the right-hand side.

13 Q. Did he make a turn at that time?

14 A. Yes, sir, into the driveway.

15 Q. And you said that was to the left?

16 A. Yes, sir.

17 Q. And after pulling into the driveway,
18 what did the Defendant do?

19 A. He exited the vehicle, ran on foot
20 around the right side of the house as you're
21 looking at it. We followed behind him, we cleared
22 the vehicle. We went slowly around the corner for
23 officer safety issue. As we came to the back of
24 the house, we saw the Defendant jumping the back
25 side of the fence.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. Backing up a hair, you said he fled on
2 foot?

3 A. Yes, sir.

4 Q. And did you chase after him?

5 A. Yes, sir.

6 Q. You mentioned that, we cleared the
7 vehicle. What do you mean by that?

8 A. Make sure there was nobody else hiding
9 inside the vehicle so that in case -- just officer
10 safety issue so no one followed behind us.

11 Q. Were there any other occupants in the
12 vehicle other than the Defendant?

13 A. No, sir.

14 Q. Did you make this observation while
15 pursuing the Defendant or at a different time?

16 A. When the Defendant first approached the
17 stop sign, I observed only him in the vehicle.
18 When we cleared the vehicle after he ran on foot,
19 we cleared the vehicle and there was no one inside
20 of it.

21 Q. What did you do after clearing the
22 vehicle?

23 A. Gave foot pursuit.

24 Q. I believe you testified that was around
25 the right side of the house?

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. What happened after you rounded the
3 right side of the house?

4 A. We saw the Defendant going through the
5 line at the rear of the house where there was a
6 fence. We observed the same Defendant jump over
7 the fence and take off.

8 Q. What did you do at that time?

9 A. Attempted to pursue to the fence line,
10 but it's pretty thick with vines and trees so we
11 stopped at the fence.

12 Q. Why did you decide to stop?

13 A. We no longer could see the Defendant.

14 Q. Was it a safety concern for you at that
15 point?

16 A. Yes, sir, it was.

17 Q. Based on the woods?

18 A. Yes, sir.

19 Q. What did you do after losing sight of
20 the Defendant in the woods?

21 A. We advised Dispatch, asked for more
22 deputies to set up a perimeter and tried to locate
23 the Defendant.

24 Q. What happened after that?

25 A. We inventoried the vehicle prior to

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 towing it. Myself and Deputy Driggers inventoried
2 it at the same time. ✓

3 Q. I want to back up a little bit and then
4 we'll come back to where we were just talking.

5 MR. MCNEELY: Dee, if you could please
6 publish State's Exhibit 1.

7 BY MR. MCNEELY:

8 Q. And, Deputy Hayden, there is a laser
9 pointer, at the top the button is red. Do you
10 recognize this photo admitted as State's Exhibit 1?

11 A. Yes, sir.

12 Q. What is this photo?

13 A. This is an aerial shot of Highway 52.

14 Q. What area of Highway 52?

15 A. Saint Stephen and Pineville.

16 Q. If pictured, can you show the jury
17 where you first encountered the Defendant in the
18 van that day?

19 A. Yes, sir. This road right here is
20 Colonel Maham. About right there is the dirt road
21 called McGuffy Road. (Indicating)

22 Q. I believe you indicated in your
23 testimony that you followed the van for some time
24 on 52 while running the tag?

25 A. Yes, sir.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. Please indicate where you followed.

2 A. I got behind him approximately right
3 there on Colonel Maham and 52. We traveled all the
4 way down Highway 52, over the canal, and into town.
5 (Indicating)

6 Q. Okay. And where is the town?

7 A. (Indicating) Right here.

8 Q. Okay. And where is the intersection
9 where you stopped behind the Defendant?

10 A. (Indicating) Right there.

11 Q. Okay. And where, if shown, did you
12 initiate the stop on the Defendant?

13 A. It was at the same intersection, right
14 there. (Indicating)

15 Q. Where did you pursue the Defendant
16 after initiating the stop when he did not do so?

17 A. From the intersection down 52 and right
18 on Russellville Road.

19 Q. Exhibit 2, please. This photo has been
20 admitted as State's Exhibit 2. Tell the jury what
21 we're looking at.

22 A. This is a closer aerial shot of
23 Highway 52 in Saint Stephen.

24 Q. Where is 52?

25 A. 52 is this road right here.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 (Indicating)

2 Q. What's that other road?

3 A. This road right here (Indicating) is
4 Highway 45 where I got behind him.

5 Q. Where, if shown, did you initiate the
6 stop?

7 A. Right there in that intersection.

8 (Indicating)

9 Q. Where did you follow the van while it
10 did not stop?

11 A. Followed it down Highway 52, past empty
12 lots and businesses to Russellville Road to this
13 residence right here. (Indicating)

14 Q. Is that the residence where the
15 Defendant parked the van and evaded on foot?

16 A. Yes, sir.

17 Q. You mentioned several places there on
18 the left -- my left side of Highway 52. Can you
19 please point out those locations, and tell the jury
20 in general terms what they are.

21 A. Yes, sir. Down 52, this is an empty
22 lot right here with a side road. (Indicating)
23 Directly past that is a business with a parking
24 lot; beside that is a gas station; beside that is a
25 convenience store; there's an empty lot right here

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 (indicating) and a side road; an empty lot right
2 here (indicating); a side road; a business with a
3 parking lot and a median the length of Highway 52.

4 Q. Could the Defendant have stopped at any
5 of those locations on October 1, 2016?

6 A. Yes, sir.

7 Q. Could he have done so safely?

8 A. Yes, sir.

9 Q. Did he do so?

10 A. No, sir.

11 Q. Going back, State's Exhibit 3, please.

12 Please look at what was submitted as State's

13 Exhibit 3. Do you recognize this photo?

14 A. Yes, sir.

15 Q. What is depicted here?

16 A. The same residence that the Defendant
17 pulled into.

18 Q. And where did the Defendant pull the
19 van?

20 A. Behind the shed, but in front of the
21 house, in between.

22 Q. Where was your vehicle?

23 A. (Indicating) About right there.

24 Q. Okay.

25 A. At that time, that SUV was not parked

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 there.

2 Q. And in what direction, if shown, did he
3 flee on foot?

4 A. If you're looking at the house, around
5 the right side towards the back.

6 Q. Thank you.

7 I believe you stated after you were
8 unable to locate the Defendant in the woods the
9 perimeter was called off. Did anybody attempt to
10 K9 track that day?

11 A. Yes, sir. I called the K9 officer and
12 told him what we had. I advised him there were
13 multiple dogs outside of the residence; and he
14 advised me because of other animals being outside
15 that he wouldn't be able to track him.

16 Q. So K9 was not possible?

17 A. No, sir.

18 Q. After the search was called off, did
19 you return to the vehicle?

20 A. Yes, sir.

21 Q. What did you do at that time?

22 A. I inventoried it with Deputy Driggers.

23 Q. Did anyone other than you and Deputy
24 Driggers search the vehicle that day?

25 A. No, sir.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. Was anything of note located in the van
2 at that time?

3 A. Yes, sir.

4 Q. Okay. Can you tell the jury what was
5 located?

6 A. In the driver's side door, I observed
7 Deputy Driggers take out a plastic container. When
8 I looked inside, it had a white rock-like
9 substance.

10 Q. You said you observed this?

11 A. Yes.

12 Q. Where were you in relation to Deputy
13 Driggers when the substance was removed from the
14 driver's door pocket?

15 A. About three feet away from him.

16 Q. Okay. And what did Deputy Driggers do
17 with the substance after it was removed from the
18 driver's door pocket?

19 A. He immediately handed it to me.

20 Q. And you observed this the entire time?

21 A. Yes, sir.

22 Q. Did anyone have custody or control of
23 the item from the time Deputy Driggers pulled it
24 out of the door until the time he handed it to you?

25 A. No, sir, nobody else.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. What happened after you took possession
2 of the substance at the scene?

3 A. I placed it into the drug bin at the
4 sheriff's office that is locked and secured.

5 Q. Why did you take possession of the
6 substance?

7 A. I was the case agent.

8 Q. Okay. After that, were warrants issued
9 for the Defendant?

10 A. Yes, sir.

11 Q. Okay. Was he located that day?

12 A. No, sir.

13 Q. The substance you recovered at the
14 scene that day, what did you do after you left the
15 scene?

16 A. I placed it into the drug bin at the
17 sheriff's office.

18 Q. Okay. Was the substance in your
19 continuous custody and control from the time you
20 took possession of it from Deputy Driggers at the
21 scene until you dropped it in the evidence locker?

22 A. Yes, sir.

23 Q. Did anybody else have access to it?

24 A. No, sir.

25 Q. At this time, I want to show you what's

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 been marked as State's Exhibit 4.

2 MR. MCNEELY: Permission to approach,
3 Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. MCNEELY:

6 Q. Deputy Hayden, look at State's Exhibit
7 4. Do you recognize this item?

8 A. Yes, sir.

9 Q. What is this item?

10 A. It's the evidence and chain of custody
11 that I filled out and signed.

12 Q. Is that for this case?

13 A. Yes, sir, it is.

14 Q. How do you know that?

15 A. It has my name and it has the same case
16 number.

17 Q. Okay. Is there a chain of custody form
18 attached to it?

19 A. Yes, sir.

20 Q. Can you please pull that out? What is
21 indicated on the chain of custody form?

22 A. It has my name and case number, the
23 type of case, the Defendant's name, the description
24 of the evidence, and the property receipt, so who
25 initially had it and who I turned it into.

HAYDEN, QUINN - DIRECT EXAM BY MR. MCNEELY

1 Q. Is the chain of custody created at the
2 scene or created when you log it into the evidence
3 locker?

4 A. It's created when you log it into the
5 evidence locker.

6 Q. Is that the reason your name is on it
7 instead of Deputy Driggers?

8 A. Yes, sir.

9 Q. And you observed the substance the
10 entire time Deputy Driggers had it in his hand?

11 A. Yes, sir.

12 Q. And it went directly into your hands?

13 A. Yes, sir.

14 Q. Is that the drug evidence that was
15 recovered from the vehicle that day at [REDACTED]
16 Russellville Road in this Defendant's van?

17 A. Yes, sir.

18 Q. And you know that by chain of custody?

19 A. Yes, sir.

20 Q. After dropping evidence, the drug
21 evidence, State's Exhibit 4 into the evidence
22 locker, did you have access to it?

23 A. No, sir.

24 Q. Please, explain a little bit about that
25 to the jury.

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 A. The evidence lockers at the Sheriff's
2 Office are locked and secured. Only the forensic
3 technicians have access to it. Once you close it,
4 there is no take backs.

5 Q. That's what you did in this case?

6 A. Yes, sir.

7 MR. MCNEELY: No further questions from
8 the State at this time, Your Honor.

9 THE COURT: Cross examination.

10 MR. CHURCH: Thank you, Your Honor.
11 May it please the Court.

12 CROSS-EXAMINATION

13 BY MR. CHURCH:

14 Q. Deputy, I believe you testified that
15 the tag on the vehicle did not match the vehicle?

16 A. Yes, sir.

17 Q. And that's why you conducted the stop?

18 A. Yes, sir.

19 Q. Did you do any investigation into that?

20 A. As far as?

21 Q. Did you take any fingerprints, DNA, any
22 forensics --

23 A. No.

24 Q. -- to see who might have handled the
25 tag or anything?

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 A. No, sir.

2 Q. On the CAD report you described the
3 suspect as being 6 foot, 180 to 190 pounds with a
4 white shirt. Does that sound familiar?

5 A. I believe so, yes, sir.

6 Q. Okay. But then on your report you have
7 him down as 5, 8, 168 pounds; is that correct?

8 A. Yes, sir.

9 Q. So that's a little bit of a discrepancy
10 there, isn't it?

11 A. Yes, sir. After we wrote the report,
12 we had already identified him.

13 Q. So the guy you were chasing looked a
14 lot bigger than the guy you eventually arrested?

15 A. It appeared that he would be around 5,
16 10, 6 feet.

17 Q. And how old are you?

18 A. Thirty-one.

19 Q. Okay. So you were 30 when this
20 happened?

21 A. Yes, sir.

22 Q. And same questions I asked Officer
23 Ballantine: You couldn't run down somebody that
24 was -- I believe on your report you said he was 58
25 years old?

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 A. I believe that's what the report says.

2 Q. And you still couldn't apprehend him at
3 some point?

4 A. No, sir. I didn't follow right behind
5 him. We had to clear the vehicle and make sure no
6 one else was in it. For officer safety issue, you
7 don't want someone chasing behind you while you're
8 chasing a suspect. When we went around the first
9 corner of the house, we took it slowly -- so
10 another officer safety issue -- in case somebody is
11 waiting there with a blunt object to hit us.

12 Q. Well, wouldn't you say that it's
13 conceivable that somebody nearly 60 years old
14 wouldn't run very far?

15 A. I can't say that. I know a lot of
16 60 year olds that do triathlons.

17 Q. The drugs you found in the vehicle, you
18 didn't have the box tested for fingerprints or DNA?

19 A. No, sir.

20 Q. Okay. You didn't have the car
21 fingerprinted or tested for DNA, the steering wheel
22 or anything for who might have been behind the
23 wheel?

24 A. No, sir.

25 Q. You-all didn't come back the next day

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 or days after to do any investigation?

2 A. No, sir. We had already identified the
3 Defendant.

4 Q. You didn't identify him, did you?

5 A. No, sir. Deputy Ballantine did.

6 Q. Did you do any investigation as to who
7 lived in the house?

8 A. We tried to. We knocked on the door
9 and nobody answered it.

10 Q. You never came back to try again?

11 A. No, sir. We had already identified the
12 suspect.

13 Q. You don't know what his brother looks
14 like, do you?

15 A. I don't know if he has a brother.

16 Q. That's something you might have found
17 out if you had gone back in and checked. What
18 about the other males that might live in the house?

19 A. There wasn't a need to do that. We had
20 already identified him.

21 Q. You didn't identify him.

22 A. Correct, Deputy Ballantine did.

23 Q. Who all lived in the house?

24 A. I don't know.

25 Q. Just a minute ago you testified that

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 the drugs were found in the Defendant's van. It
2 wasn't his van, was it?

3 A. I don't believe -- I never said it was
4 his van.

5 Q. You didn't say that on direct
6 examination, that the drugs were found in the
7 Defendant's van?

8 A. He had possession of the vehicle, yes,
9 sir.

10 Q. It wasn't his vehicle, was it?

11 A. I don't believe it was registered in
12 his name.

13 Q. Do you know who it was registered to?

14 A. I don't remember.

15 Q. You don't know who else that stays
16 there might drive the van?

17 A. It's a possibility.

18 Q. You don't have any idea who all might
19 use it?

20 A. No.

21 Q. Or who had been in it?

22 A. No, sir.

23 Q. And isn't it conceivable that a lot of
24 people could have been in it?

25 A. It's a possibility.

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 Q. Anybody could have left drugs in the
2 car, couldn't they?

3 A. Yes, sir.

4 Q. Okay. You personally have no knowledge
5 that Mr. Greene was ever in the car or that he knew
6 anything about the drugs, or anybody knew anything
7 about the drugs?

8 A. I knew he was in the car once we
9 identified him.

10 Q. For argument's sake, you don't know if
11 he knew the drugs were in the car, do you?

12 A. No.

13 Q. They were in a box and anybody could
14 have had access to that car and could have left the
15 drugs in there; isn't that correct?

16 A. Yes, sir.

17 Q. What is the purpose of the CAD report?

18 A. It dispatches a record of what happens
19 for radio transmissions.

20 Q. On that day, were you unit 176?

21 A. I believe so, yes, sir.

22 MR. CHURCH: Your Honor, may I approach
23 the witness?

24 THE COURT: You may.

25 BY MR. CHURCH:

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 Q. Can you identify what that document is?

2 A. It's the CAD incident detail for that
3 incident that day.

4 Q. And let me see. Right here, I have
5 underlined unit 176, 52 passing Highway 45. What
6 does that mean?

7 A. That means that -- that was me giving
8 that transmission as we were passing 52 -- I'm
9 sorry, on 52 passing Highway 45.

10 Q. So when you did that you had just
11 cleared the intersection?

12 A. Yes, sir.

13 Q. And what time was that on that?

14 A. This says 14:06:26.

15 Q. Okay. Thank you. So any transmissions
16 that come after this in time would have happened
17 after you cleared the intersection?

18 A. I'm not sure I understand the question.

19 Q. On here it says, 52 passing 45 at
20 14:06:26?

21 A. Right.

22 Q. So if somebody made an entry on it
23 after that, it would have happened after you passed
24 the intersection? There's a lot of entries on
25 here.

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 A. Yes.

2 Q. Everything after that would have
3 happened after you passed the intersection?

4 A. Yes, sir.

5 Q. And at one point on the CAD report
6 under your unit number, you say the suspect was
7 wearing a white shirt; is that correct?

8 A. If that's what the CAD says, yes, sir.

9 Q. I'll let you look at it and see.

10 A. Yes.

11 Q. And then a little bit further down it
12 says a gray shirt; is that correct?

13 A. Yes, sir.

14 MR. CHURCH: Beg the Court's
15 indulgence?

16 THE COURT: Yes, sir.

17 MR. CHURCH: May I approach the
18 witness, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. CHURCH:

21 Q. Can you describe what that document is?

22 A. This is a tow sheet for the sheriff's
23 office.

24 Q. Who do you have as the registered
25 owner?

HAYDEN, QUINN - CROSS EXAM BY MR. CHURCH

1 A. Deanna, I think it says, Mitchell.

2 Q. You don't really know who it is, do
3 you?

4 A. No, sir, I can't read the last name.
5 I'm assuming it says Mitchell.

6 Q. And you're the one who filled that out?

7 A. No, sir.

8 Q. Who filled that out?

9 A. I believe this is Deputy Driggers'
10 signature.

11 Q. Did you use that to go attempt to talk
12 to Ms. Mitchell?

13 A. At the address?

14 Q. Anywhere. Did you ever talk to her?

15 A. No, sir. We attempted to on scene;
16 nobody answered the door.

17 Q. You have never talked to the registered
18 owner?

19 A. No, sir.

20 MR. CHURCH: Okay. No further
21 questions.

22 THE COURT: Redirect?

23 MR. MCNEELY: Yes, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. MCNEELY:

HAYDEN, QUINN - REDIRECT EXAM BY MR. MCNEELY

1 Q. Defense asked you about forensics.

2 What is the forensic unit?

3 A. Forensic is for major crime scenes
4 where it's normal for them to handle the evidence
5 and if a road patrol deputy is unable to do that.

6 Q. Is it standard protocol to call
7 forensics out on a case like this?

8 A. No, sir, it is not.

9 Q. Is that why you didn't do so?

10 A. That's correct.

11 Q. Defense also asked you a good bit about
12 the registered owner of the van; is that correct?

13 A. Yes.

14 Q. Do you still have the CAD in front of
15 you?

16 A. I do not.

17 MR. MCNEELY: Permission to approach,
18 Your Honor?

19 THE COURT: Yes.

20 BY MR. MCNEELY:

21 Q. Deputy Hayden, when you're on the scene
22 and you have a vehicle and you want to know who the
23 registered owner of the van is, how do you find out
24 that information?

25 A. We run the VIN through Dispatch.

HAYDEN, QUINN - REDIRECT EXAM BY MR. MCNEELY

1 Q. Was that done in this case?

2 A. Yes, sir.

3 Q. Can you tell us who the registered
4 owner of the van was?

5 A. Deanna Milford.

6 Q. What's the middle name?

7 A. Greene.

8 Q. Greene?

9 A. Yes, sir, G-R-E-E-N-E.

10 Q. What's the Defendant's last name?

11 A. Greene, spelled the same way.

12 Q. What residence is that van registered
13 to?

14 A. It is registered to the same address,
15 [REDACTED] Russellville road.

16 Q. Is that the address where the Defendant
17 parked the vehicle on October 1st and ran on foot?

18 A. Yes, sir, it is.

19 Q. Thank you, Deputy.

20 He also asked you about the Defendant's
21 height. When you first observed the Defendant in
22 the van, was he seated or standing?

23 A. He was seated.

24 Q. And then when you next observed the
25 Defendant, was he standing still or was he running?

HAYDEN, QUINN - REDIRECT EXAM BY MR. MCNEELY

1 A. He was running away from me.

2 Q. Did you ever observe the Defendant
3 standing right next to you?

4 A. No.

5 Q. Because of that, was it difficult for
6 you to guess height?

7 A. Yes, sir.

8 Q. But you saw his face, correct?

9 A. Yes, sir, I did.

10 Q. And is the driver of that van in the
11 courtroom today?

12 A. Yes, sir. He's seated between
13 Ms. Littlejohn and Mr. Church.

14 Q. The defense also asked you about
15 whether you saw the Defendant put the drugs in the
16 van. Did you see the Defendant get in the van
17 initially?

18 A. No, sir.

19 Q. But you saw him get out of the van?

20 A. Yes, sir.

21 Q. Was anybody else in the van?

22 A. No, sir.

23 Q. Did anybody else get out of the van?

24 A. No, sir.

25 Q. Were there drugs in the van?

MCGOWAN, KEVIN - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir.

2 Q. Where were they?

3 A. In the driver's side door.

4 MR. MCNEELY: Nothing further from the
5 State.

6 THE COURT: Any cross?

7 MR. CHURCH: Nothing further.

8 THE COURT: Sir, you may step down.
9 Thank you.

10 MR. STEGALL: The State calls Kevin
11 McGowan.

12 KEVIN MCGOWAN,

13 being first duly sworn, testified as follows:

14 THE CLERK: Please take a seat. State
15 your full name and spell you're the last.

16 THE WITNESS: Kevin McGowan,
17 M-C-G-O-W-A-N.

18 DIRECT EXAMINATION

19 BY MR. STEGALL:

20 Q. Where are you currently employed?

21 A. Berkeley County Sheriff's Office.

22 Q. And what is your position, and how long
23 have you been employed there?

24 A. I work in the forensic unit, and I've
25 been there since September of 2016.

MCGOWAN, KEVIN - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. What is your title?

2 A. Corporal.

3 Q. Were you employed there during October
4 of 2016?

5 A. Yes, sir.

6 Q. Okay. What was your position at that
7 time?

8 A. Same position I hold today.

9 Q. Can you please describe your education,
10 training and experience?

11 A. You want all my experience or --

12 Q. As it relates to your position.

13 A. I've been a police officer for the
14 better part of 40 years, United States Air Force
15 Military Police, retired sergeant with the City of
16 Charleston, 29 years. I did five years with the
17 Charleston Aviation Authority Police, which is a
18 fancy name for the airport. I did about 18 months
19 here at the solicitor's office as an investigator.
20 I've been through the South Carolina Criminal
21 Justice Academy, numerous schools and classes
22 throughout my career.

23 Q. Okay. What are the duties of your
24 current position?

25 A. Our main function is to intake all the

MCGOWAN, KEVIN - DIRECT EXAM BY MR. STEGALL

1 evidence that comes through the sheriff's office.

2 Q. Okay. And do you have on occasion in
3 your job to handle various types of evidence?

4 A. Yes, sir.

5 Q. Okay. Can you tell the jury in general
6 terms how the evidence room in Berkeley County
7 works?

8 A. When a deputy collects evidence, they
9 fill out a chain of custody form. They put it into
10 one of the lockers that's located in the squadron
11 within the sheriff's office. When you put a piece
12 of evidence in there, it locks automatically behind
13 you.

14 There's only one set of keys that we
15 keep at the forensic office that's used to open
16 those lockers. No one else has access to them.

17 Q. Okay.

18 A. And once we collect the evidence, we
19 bring it back to our office, and they are logged
20 into the computer and placed in their appropriate
21 -- wherever they need to go.

22 MS. LITTLEJOHN: Your Honor, if it will
23 help, we'll stipulate to the chain.

24 THE COURT: Go ahead.

25 BY MR. STEGALL:

MCGOWAN, KEVIN - DIRECT EXAM BY MR. STEGALL

1 Q. As evidence custodian, did you receive
2 any evidence related to this case?

3 A. Yes, sir.

4 MR. STEGALL: May I approach, Your
5 Honor?

6 THE COURT: Yes.

7 BY MR. STEGALL:

8 Q. I show you what's been marked as
9 State's Exhibit 4. Do you recognize that?

10 A. Yes, sir. It's a BEST bag that's
11 utilized when we transport narcotics for drug
12 analysis to SLED, and we also have a chain of
13 custody which belongs to the sheriff's office, also
14 our bar code sticker that we put on every piece of
15 evidence that comes through.

16 Q. When did you receive custody of that?

17 A. This was done on the -- we got it at
18 the locker on the 1st of October 2016.

19 Q. Okay. What did you do with that
20 evidence?

21 A. I logged it into the computer and
22 affixed a sticker on it, and since it goes to drug
23 analysis to SLED, it goes into the send to SLED
24 bin. SLED only accepts so many at one time. So
25 when we get the bin full we take it to SLED.

MCGOWAN, KEVIN - DIRECT EXAM BY MR. STEGALL

1 Q. Does it say who took it to SLED?

2 A. Yes, sir. I went there that day with
3 Mack Flood. And that would have been on the 17th
4 of February.

5 Q. Was this evidence in your continuous
6 control from the time you received it on
7 October 1st until the time you took it to SLED?

8 A. It's in the control of the unit, yes,
9 sir.

10 Q. Okay. All right. Did you have any
11 other involvement in this case?

12 A. No, sir.

13 MR. STEGALL: Okay. No further
14 questions, Your Honor.

15 THE COURT: Cross examination.

16 MS. LITTLEJOHN: No questions, Your
17 Honor.

18 THE COURT: Sir, you may step down.

19 THE WITNESS: Thank you, sir.

20 THE COURT: Would the lawyers approach,
21 please?

22 (Bench conference.)

23 MR. MCNEELY: State calls Ashley Bell.

24 ASHLEY BELL,

25 being first duly sworn, testified as follows:

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 THE CLERK: Please take a seat. State
2 your full name and spell the last.

3 THE WITNESS: My name is Ashley Bell,
4 B-E-L-L.

5 DIRECT EXAMINATION

6 BY MR. MCNEELY:

7 Q. Afternoon, Ms. Bell. Where are you
8 currently employed?

9 A. The South Carolina Law Enforcement
10 Division, more commonly referred to as SLED.

11 Q. What is your position there and how
12 long have you been employed there?

13 A. I'm a forensic scientist in the drug
14 analysis department. I've been with that
15 department for, approximately, three years.

16 Q. Please describe your education and
17 training.

18 A. I have a Bachelor of Science Degree in
19 Biochemistry from Washington and Lee University; I
20 have successfully completed extensive in-house
21 training at SLED; I am a court-qualified expert in
22 forensic drug analysis; I have successfully
23 completed supervised case work, competency testing,
24 oral examinations and written examinations. I've
25 also successfully completed online course work with

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 West Virginia University and forensic drug
2 chemistry and forensic mass spectrometry.

3 Q. Tell the jury about your primary
4 function at SLED.

5 A. My primary function is to analyze items
6 of evidence and confirm the presence or absence of
7 controlled substances.

8 Q. Are controlled substances referred to
9 as drugs?

10 A. Yes, sir.

11 Q. What is your day-to-day responsibility
12 at SLED? What does your day consist of?

13 A. Analyzing the items of evidence,
14 documenting the results of my analysis, generating
15 reports based upon my findings, and testifying to
16 those reports.

17 Q. How does case evidence come to be in
18 your possession at SLED?

19 A. We have an evidence control department
20 or evidence intake. That is where submitting
21 agencies bring cases they have for submission.
22 It's also our long-term evidence storage area.
23 When I'm ready to work a case, I contact one of the
24 forensic technicians in the evidence control
25 department and go pick up that evidence.

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 Q. Once SLED takes possession of evidence,
2 how is it handled?

3 A. It is submitted to an evidence
4 technician in the evidence control department and
5 stored there until the analyst on the case picks it
6 up.

7 Q. Is a continuous chain of custody kept?

8 A. Yes; we do keep electronic chain of
9 custody.

10 Q. Is everybody who touches the evidence
11 logged on to that chain of custody?

12 A. Yes.

13 Q. How do you perform your analysis at
14 SLED?

15 A. We examine the BEST Kit to insure that
16 all of the seals are intact. We work one case at a
17 time and one item at a time. We work those items
18 separately.

19 The evidence is removed from the
20 packaging, a weight is taken, a small amount is
21 used for presumptive or preliminary testing.
22 Another small sample is used for confirmatory
23 testing. That sample is then repackaged, along
24 with the BEST Kit, inside of a heat-sealed bag and
25 then sealed and dated with my initials.

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 The evidence is run on our confirmatory
2 instrumentation, and I document the results of my
3 analysis and generate a report.

4 Q. Approximately, how many times have you
5 performed drug analysis at SLED?

6 A. Hundreds, if not thousands.

7 MR. MCNEELY: Your Honor, at this time,
8 the State would move pursuant to Rule 702 to submit
9 this witness as an expert --

10 MS. LITTLEJOHN: No objection, Your
11 Honor.

12 THE COURT: Let him finish.

13 MR. MCNEELY: -- in drug analysis.

14 THE COURT: Without objection.

15 Ladies and gentlemen, let me give you
16 an instruction real quickly. Normally, a person
17 can't give opinion testimony. Normally, when a
18 person testifies, they must testify as to what they
19 saw, heard, or sensed by smell, or something of
20 that nature; however, there is an exception when
21 someone is qualified because of education or
22 experience, they are permitted to give their
23 opinion in certain areas if the Court qualifies
24 them that way.

25 This witness is being qualified as an

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 expert in the field of forensic drug analysis to
2 give opinion testimony in that area. That does not
3 mean that you must accept the opinion, but it is
4 evidence for you to use in any way that you see fit
5 and give it the weight and credibility that you
6 believe is appropriate.

7 You may continue.

8 MR. MCNEELY: Thank you, Your Honor.

9 BY MR. MCNEELY:

10 Q. Did you receive evidence at SLED to
11 analyze for this case?

12 A. Yes, I did.

13 Q. Tell the jury what you received.

14 A. I received a BEST Kit.

15 Q. What is a BEST Kit?

16 A. BEST stands for best evidence sample
17 testing. A BEST Kit allows the officer to collect
18 the best evidence, seal it inside that BEST Kit and
19 submit it for analysis. The BEST Kit also comes
20 with two tamper evidence security features that are
21 designed to make any indications of tampering
22 apparent.

23 There is usually a sealable top, along
24 with cut and tear marks along the side, that make
25 it easier to detect tampering after that BEST Kit

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 has been sealed.

2 Each BEST Kit also comes with two
3 unique numbers. One is the BEST Kit control number
4 that is given to each BEST Kit during the
5 manufacturing process. The other is the unique
6 SLED lab number that is given to each case that
7 comes into SLED.

8 Both of these numbers we use to track
9 the evidence as well as any associated documents.
10 Both of these numbers are also documented on my
11 worksheets during my examination.

12 Q. Is that protocol followed for every
13 case?

14 A. Yes, it is.

15 Q. And is the purpose to ensure the
16 validity of evidence?

17 A. Yes.

18 MR. MCNEELY: Permission to approach
19 the witness, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. MCNEELY:

22 Q. Please look at what was marked as
23 State's Exhibit 4. Do you recognize this item?

24 A. I do recognize this item.

25 Q. What is this item?

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 A. It is a BEST Kit. I recognize it;
2 again, the BEST Kit control number, the unique SLED
3 lab number, and item number. I also see my
4 initials and the date along here on the seal as
5 well.

6 Q. And is that the BEST Kit you received
7 to test in this case?

8 A. Yes, it is.

9 Q. Was the BEST Kit sealed appropriately
10 when you received it?

11 A. Yes, it was.

12 Q. What would happen if it was not
13 appropriately sealed?

14 A. The evidence is still analyzed;
15 however, before any analysis can begin, extensive
16 documentation has to be performed. There has to be
17 photographs taken to document the condition of the
18 not-intact seal. There would be various places
19 that that also would be documented.

20 Right here on the BEST Kit, I would
21 write the words, seal not intact, if the evidence
22 was not intact. It would also be documented on my
23 worksheet as well as my report.

24 Q. But that wasn't the case in this case,
25 correct?

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 A. This was not the case in this case.

2 Q. It was properly sealed?

3 A. I have the words, seal intact, written
4 here on the BEST Kit, and I have it noted on my
5 worksheet as well that the seal was intact.

6 Q. What analysis did you perform on the
7 contents of the BEST Kit?

8 A. I performed a presumptive or
9 preliminary two-part chemical test that's used to
10 tell me if a controlled substance may possibly be
11 present. I then followed up that presumptive test
12 with a confirmatory using our gas chromatograph
13 mass spectrometer instrumentation.

14 Q. Did you do that in this case?

15 A. Yes, I did.

16 Q. And what were the results of your
17 laboratory analysis on the recovered substance in
18 this case?

19 A. May I refer to my notes, please?

20 Q. You may.

21 A. Cocaine base, or crack, C2 found in the
22 sample tested, one tested. Net weight 0.13, plus
23 or minus 0.01 grams; 2.00, plus or minus 0.15
24 grams.

25 Q. In laymen's terms, what was the

BELL, ASHLEY - DIRECT EXAM BY MR. MCNEELY

1 substance you tested?

2 A. Cocaine base or crack cocaine.

3 Q. After completing your analysis on the
4 crack in this case, what did you do?

5 A. The evidence was repackaged, along with
6 the BEST Kit, inside the heat-sealed pouch. I
7 dated and initialled here on the K pac and sealed
8 that. The K pac is then placed anyone within a
9 secure vault within our secured department until
10 I'm able to return it to our evidence control
11 department.

12 Q. And it's still the way you sealed it at
13 this time?

14 A. Yes, it is.

15 MR. MCNEELY: Okay. At this time, I
16 move to admit State's Exhibit 4 into evidence.

17 MS. LITTLEJOHN: Without objection.

18 THE COURT: Without objection, so
19 admitted.

20 (STATE'S EXH. 4 in evidence.)

21 BY MR. MCNEELY:

22 Q. Did you have any further involvement in
23 this case after confirming the substance was crack
24 cocaine?

25 A. No, I did not.

BELL, ASHLEY - CROSS EXAM BY MS. LITTLEJOHN

1 MR. MCNEELY: Thank you. Please answer
2 any questions from the defense.

3 THE COURT: Cross examination.

4 CROSS-EXAMINATION

5 BY MS. LITTLEJOHN:

6 Q. Agent Bell, how are you doing today?

7 A. I'm doing well.

8 Q. I just have a few questions for you
9 here on this. As the forensic technician and all,
10 you really don't have a clue what this case is
11 about in substance, do you? Other than something
12 involving drugs?

13 A. The only involvement I have with the
14 case is the BEST Kit that is submitted to SLED, and
15 I test what is inside the BEST Kit.

16 Q. So other than a sample comes to you,
17 that's all you know about the substance of the
18 case, right?

19 A. I'm --

20 Q. I guess, in general, what -- your focus
21 on the case is fairly narrow, isn't it?

22 A. My job really is just to examine the
23 items of evidence within the BEST Kit.

24 Q. So a substance will come to you from
25 Berkeley County because, although they may have

BELL, ASHLEY - CROSS EXAM BY MS. LITTLEJOHN

1 field kits, those don't always work and we need to
2 have it tested like through gas spectrometry and
3 all, correct?

4 A. We perform -- at SLED, we perform
5 presumptive testing, which is just indicative of
6 what may possibly be present. We then confirm the
7 presence or absence of a controlled substance using
8 the instrumentation.

9 Q. So that's sort of the end all, be all
10 test. That just tells us what it is.

11 A. The confirmation tests tells us what is
12 present, yes.

13 Q. At SLED, there are lots of different
14 departments, aren't there?

15 A. Yes, ma'am.

16 Q. So your department -- a specimen could
17 come into your department and you may be asked to
18 transfer it to another department, correct? For
19 testing?

20 A. There are times where we are asked to
21 submit the baggies or the packaging involved with
22 the case to a different department, yes.

23 Q. In this case, that was not requested,
24 was it?

25 A. No.

BELL, ASHLEY - CROSS EXAM BY MS. LITTLEJOHN

1 Q. And that's actually never requested by
2 defense attorneys, is it? SLED doesn't work with
3 defense attorneys, do they?

4 A. I don't know where that request comes
5 from. It's usually on the paperwork whether or not
6 there's any additional testing that needs to be
7 completed by a different department.

8 Q. And that paperwork comes from either
9 the solicitor's office or the sheriff's department,
10 generally speaking, doesn't it?

11 A. It comes from the submitting agency.

12 Q. The agency, right. So you didn't have
13 the opportunity to send this to have the bags
14 checked out or send it to the DNA lab? It didn't
15 go from you to the DNA lab, did it?

16 A. The only request on the evidence in
17 this case was for drug analysis.

18 Q. So it never went to DNA, as far as you
19 know, correct?

20 A. As far as I know, this evidence did not
21 go to any other department.

22 MS. LITTLEJOHN: Thank you. No further
23 questions.

24 THE COURT: Any redirect?

25 MR. MCNEELY: Just one, Your Honor.

BELL, ASHLEY - REDIRECT EXAM BY MR. MCNEELY

1 REDIRECT EXAMINATION

2 BY MR. MCNEELY:

3 Q. Long story short, you were asked to
4 test drugs and you tested drugs, correct?

5 A. That's correct.

6 Q. And the substance that you tested was
7 crack cocaine in this case, correct?

8 A. Correct.

9 MR. MCNEELY: That's it, Your Honor.

10 THE COURT: Anything further?

11 MS. LITTLEJOHN: Nothing further.

12 THE COURT: Ma'am, you may step down.

13 Thank you.

14 MR. MCNEELY: Your Honor, at this time,
15 the State rests its case.

16 THE COURT: Can the lawyers approach
17 real quick?

18 (Bench conference)

19 THE COURT: Ladies and gentlemen, we
20 are going to stop -- well, the State has rested its
21 case. We're going to stop at this time. I'm going
22 to let you all go home for the evening. There are
23 some matters I need to take up outside of your
24 presence, and we will deal with some of that this
25 afternoon.

1 I'm going to drive back to Florence
2 tonight and come back in the morning. If I'm
3 within two hours of my house, I'm driving home
4 because I want to sleep in my bed. So I'm going to
5 go home and I will come back in the morning. The
6 courthouse here opens at 9:00, not 8:30. Ours
7 opens in Florence at 8:30. We don't start court at
8 8:30 unless it's a long case. Typically, the cases
9 in South Carolina very rarely go beyond a week.
10 Sometimes they do.

11 I will have you all come back at
12 10:00 in the morning, because I will be here by
13 9:30 and we'll address some matters before you get
14 here. I don't want you all to sit back there while
15 it takes place. So be back here by 10:00 tomorrow
16 morning and we will start as promptly as possible.
17 I don't want you to have to wait back there any
18 longer than possibly necessary.

19 Do not -- as you leave here, as I told
20 you from the outset, do not discuss the case with
21 anyone. Do not do any independent research on your
22 own. You're to decide this case based on the
23 testimony and evidence presented in this courtroom,
24 in this courtroom, and no where else.

25 You all have a wonderful evening and I

1 will see you tomorrow morning.

2 (Jury out, 5:07 p.m.)

3 THE COURT: Any motions at this time?

4 MR. CHURCH: Your Honor, at this time,
5 the defense would make a motion for directed
6 verdict for the possession of crack cocaine. Your
7 Honor, there was no testimony or evidence that
8 Mr. Greene knew or was in possession of it. It was
9 in a box in a car that was not his per the
10 evidence.

11 The officer even testified that,
12 theoretically, Mr. Greene was in the car. He had
13 no knowledge or evidence of Mr. Greene knowing
14 about the crack cocaine. Your Honor, at best, it's
15 a mere presence situation. I see no evidence to
16 support that going to the jury.

17 For failure to stop for a blue lights,
18 we would make a motion for directed verdict. Most
19 of it was from in court identification. The
20 officer admitted that the most important stuff
21 about knowing the victim was not in his incident
22 report, and we would just ask that that be a
23 directed verdict.

24 THE COURT: Anything from the State?

25 MR. MCNEELY: Thank you, Your Honor.

1 The State would respectfully request that you deny
2 the defense's motion for directed verdict. In
3 ruling on a motion for directed verdict, the Court
4 is to view the evidence in the light most favorable
5 to the State and determine if there's any basis on
6 which the jury could find the Defendant guilty.

7 As to the failure to stop for blue
8 light, there is ample evidence that the Defendant
9 was signalled by both lights and sirens to stop the
10 vehicle. He failed to do so. Instead, driving
11 over a half of a mile, accelerating and parking
12 where he fled on foot. He was identified by two
13 deputies at the scene as the driver of the van, and
14 he was later apprehended at that same location.

15 As to the crack, it was located in the
16 driver's side door pocket where he was driving the
17 van. There was no one else in the vehicle and it
18 was in his dominion and custody and control at the
19 time of the incident when it was located.

20 For all that and the evidence presented
21 at trial, there is more than ample evidence to
22 submit this case to the jury and request that the
23 motion be denied.

24 THE COURT: All right. As each of you
25 know, the Court's concerned with the existence of

GREENE, CHRISTOPHER - EXAM BY THE COURT

1 the evidence, not its weight. With all due
2 respect, Mr. Church, if there is any evidence,
3 direct or circumstantial evidence, reasonably
4 tending to prove the guilt of the accused, then the
5 law requires that I submit it to the jury.

6 Your objection and your motion is noted
7 for the jury, but for the record, I respectfully
8 deny it.

9 MR. CHURCH: Thank you.

10 EXAMINATION

11 BY THE COURT:

12 Q. At this time, Mr. Greene, if you would
13 stand, please, sir.

14 I previously placed you under oath, Mr.
15 Greene. I will remind you that you are still under
16 oath.

17 A. Yes.

18 Q. What I'm going to do is, I'm going to
19 advise you of certain of your rights. Okay?

20 A. Yes, sir.

21 Q. Mr. Greene, we have reached the stage
22 of the trial where you may present your defense.
23 Okay. I'm going to go through these rights with
24 you. And as I go through these rights, at the
25 conclusion of me going through these rights with

GREENE, CHRISTOPHER - EXAM BY THE COURT

1 you, if you have any questions, I will do my best
2 to explain them to you. Okay?

3 A. Yes.

4 Q. If I can't answer them and your lawyer
5 can't answer them, we'll find an answer for it.
6 All right?

7 A. Yes, sir.

8 Q. Now, we have reached the stage of the
9 trial where you may present your defense; however,
10 you have a right to claim the protections given to
11 you by the Fifth Amendment to the United States
12 Constitution which states that no person, no person
13 shall be compelled in any criminal case to be a
14 witness against himself.

15 This means that you cannot be required
16 to testify in this case. You have a right to
17 testify on your own behalf; however, no one can
18 make you testify. This is a personal right and no
19 one can waive this right except you.

20 Now, if you decide to testify, you will
21 be subject to the same rules that govern other
22 witnesses, and you may be examined and
23 cross-examined on any relevant issue in this case.

24 In addition, if you have any
25 convictions involving dishonesty or false

GREENE, CHRISTOPHER - EXAM BY THE COURT

1 statement, or for crimes punishable by imprisonment
2 for more than a year, and this court determines
3 that the probative value of admitting that evidence
4 outweighs its prejudicial effect to you, the
5 prosecutor will be able to produce your record to
6 attack your credibility. Do you understand that?

7 A. Yes, sir.

8 Q. Now, if you decide to testify, this
9 decision must be your decision. It must be freely
10 and voluntarily and knowingly and intelligently
11 made with the knowledge of the protections given to
12 you by the Fifth Amendment to the United States
13 Constitution and the consequences of your decision
14 to testify.

15 Now, if you decide not to testify, I
16 will tell that jury that they cannot give the fact
17 that you did not testify any consideration
18 whatsoever and that there is to be absolutely no
19 prejudice to you because you did not testify.

20 And, in fact, I will tell them they
21 can't discuss that in the jury room. They can't
22 consider it in any way as evidence of guilt in this
23 case. Do you understand that?

24 A. Yes, sir.

25 Q. Now, I want you to understand whether

GREENE, CHRISTOPHER - EXAM BY THE COURT

1 or not you testify is left entirely up to you. You
2 may talk with your family, your friends, your
3 attorneys, or whoever you want to talk to, but the
4 final decision of whether or not you testify is
5 left entirely up to you. Do you understand what
6 I've explained to you?

7 A. Yes, sir, I do.

8 Q. Do you have any questions about what I
9 have explained to you here today?

10 A. One, sir.

11 Q. You have a question?

12 A. Yes, sir.

13 Q. Ask your lawyer first.

14 (Off the record discussion.)

15 A. I don't have a question.

16 Q. Now, I'm going to give you -- at this
17 stage of the day, I'm going to give you overnight
18 to consider and talk with whomever you want to
19 about whether you should testify in this case.
20 Now, when we reconvene here at 9:30 in the morning,
21 you and the attorneys involved in the case, we're
22 all going to be back here at 9:30, I will expect an
23 answer from you at that time. Do you understand
24 that?

25 A. I understand. Thank you, sir.

1 THE COURT: Okay. Anything else from
2 the State before we break for the day?

3 MR. MCNEELY: Did you say you want us
4 back at 9:30?

5 THE COURT: Yes. I want to inquire of
6 this Defendant what his intentions are, and we'll
7 have that on the record. Also, I'm going to -- I
8 had my law clerk back in Florence working on the,
9 charge. I haven't looked at it. I glanced over
10 it, and I saw one thing that needed to be added in
11 here and I have added it.

12 I would like to get your e-mail address
13 before you leave and I will e-mail this to you to
14 look at over night as well, and when we come back
15 at 9:30 we can discuss that.

16 Anything further from the State?

17 MR. MCNEELY: No, Your Honor.

18 THE COURT: Mr. Greene, I'm going to
19 let you remain out on bond overnight. Same
20 situation; if you don't come back, I'm going to
21 issue a bench warrant and we will continue this
22 trial. Do you understand that?

23 THE DEFENDANT: 0930, sir.

24 THE COURT: 0930. All right. You can
25 be seated.

1 I just sent that to you all. Take a
2 look at it overnight and we will discuss it in the
3 morning and go from there. Fair enough?

4 MR. MCNEELY: Yes, sir.

5 THE COURT: Anything from the defense?

6 MR. CHURCH: No, sir.

7 THE COURT: See you at 9:30 in the
8 morning. Have a good night.

9 (These proceedings were adjourned at
10 5:27 p.m., to be continued 1/30/18 at 9:30 a.m.)

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1 (The following proceedings were had
2 1/30/2018, 9:41 a.m., Berkeley County General
3 Sessions Court, in re: State v. Greene.)

4 THE COURT: Last night when we broke
5 court, I forwarded a copy of the proposed charges
6 to both the State and defense, and I spoke to them
7 at sidebar before I came into the courtroom. It's
8 my understanding that the State as well as the
9 defense has reviewed the proposed charges and there
10 are no objections. Is that right, from the State?

11 MR. MCNEELY: That's correct, Your
12 Honor.

13 THE COURT: Defense counsel?

14 MR. COOPER: That's correct, Your
15 Honor.

16 THE COURT: Okay. Mr. Greene, if you
17 would stand please, sir, I'm going to place you
18 back under oath.

19 CHRISTOPHER GREENE,
20 being first duly sworn, testified as follows:

21 EXAMINATION

22 BY THE COURT:

23 Q. Okay. You can put your hand down.
24 Yesterday, before we broke court, I advised you of
25 your constitutional rights to testify in your trial

1 as well as the -- your rights and what could happen
2 if you did testify. I gave you overnight to think
3 about it and talk with your lawyers, your family,
4 and whomever you wanted to talk to. I told you
5 yesterday, and I, will tell you again, the ultimate
6 and final decision is yours as to whether or not
7 you testify. Do you understand that?

8 A. Yes, sir.

9 Q. Do you have any questions about the
10 rights that I explained to you yesterday?

11 A. No, sir.

12 Q. Do you wish to testify in your trial?

13 A. No, sir.

14 THE COURT: Okay. You may be seated,
15 sir.

16 Mr. Church, is the defense going to put
17 up any evidence?

18 MR. CHURCH: No, Your Honor.

19 THE COURT: Okay. State will go first
20 and the defense will close.

21 MR. MCNEELY: That's correct.

22 THE COURT: We'll give the charge to
23 the jury and let them decide. The verdict form --
24 I didn't send this to you yesterday -- is pretty
25 straightforward.

1 We, the jury, unanimously find the
2 Defendant, failure to stop blue light, not guilty
3 or guilty. Same with the possession of crack
4 cocaine.

5 As soon as it's printed out, I will let
6 you all look at it. Okay.

7 Anything we need to address, before we
8 come back?

9 MS. LITTLEJOHN: Your Honor, briefly.
10 Procedurally, do you want us to rest in front of
11 the jury?

12 THE COURT: Yes, ma'am.

13 MS. LITTLEJOHN: And then what about
14 our renewing motion?

15 THE COURT: What I would like to do and
16 have done in the past is simply you all rest in
17 front of the jury and just renew all prior motions
18 and objections. I don't think there's any
19 necessity in going into detail and arguments unless
20 you have some new arguments.

21 If you have some new arguments, I'll
22 send them back out, but if you don't, just
23 certainly renew your objections and all prior
24 motions, and I'll state on the record that we're
25 going into closing arguments and I'll then give

1 them the charge on the law.

2 Is that okay with you all?

3 MS. LITTLEJOHN: Sounds great.

4 THE COURT: Okay. All right. Anything
5 else? I'm going to stand down until, I guess,
6 10:00.

7 MR. MCNEELY: May I approach real
8 quick?

9 THE COURT: Yes, sir.

10 (Off the record.)

11 THE COURT: All right. We'll stand
12 down on this case. Mr. Morris just me he told them
13 to be back about 9:45. As soon as we get everyone,
14 if it's before 10, let's go ahead and keep moving
15 in this case.

16 If you have anything in the meantime, I
17 will be back here in chambers.

18 (A recess transpired 9:44 a.m. - 10:08
19 a.m.)

20 THE COURT: Anything from the State
21 before I bring the jury in?

22 MR. MCNEELY: No, Your Honor.

23 THE COURT: Defense counsel?

24 MR. CHURCH: No, Your Honor.

25 THE COURT: Bring the jury, please.

1 (Jury in, 10:08 a.m.)

2 THE COURT: Thank you. Be seated,
3 please.

4 Madame Forelady, ladies and gentlemen
5 of the jury, I hope you had a nice evening last
6 night and are ready to proceed here today.

7 At this time I will recognize defense
8 counsel.

9 MR. CHURCH: Thank you, Your Honor.
10 May it please the Court. Your Honor, the defense
11 rests.

12 THE COURT: All right. Very well.

13 Ladies and gentlemen, you have heard
14 all of the evidence and testimony that you are
15 going to hear in this case.

16 Before I go any further, anything
17 further from defense counsel?

18 MS. LITTLEJOHN: We would just renew
19 our motions previously stated.

20 THE COURT: All prior objections and
21 motions are so noted for the record. The Court's
22 ruling remain the same as to such.

23 And now, ladies and gentlemen, what I
24 was going to tell you is you have heard all of the
25 testimony and evidence that you are going to hear

CLOSING ARGUMENT BY MR. MCNEELY

1 in the case. That which remains is closing
2 arguments by counsel and then my charge on the law
3 to you, and the case will be given to you to make a
4 decision.

5 The order in which this will take place
6 is the State goes first, the defense counsel will
7 close, and I will give you a charge on the law.

8 I will remind you, ladies and
9 gentlemen, that arguments of counsel are not
10 evidence in this case. It's not evidence in this
11 case. The State is recognized for closing
12 arguments.

13 MR. MCNEELY: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 MR. MCNEELY: Morning, ladies and
16 gentlemen. Thank you for your time and attention
17 during the trial of this case. You have heard the
18 evidence from the witness stand yesterday
19 afternoon. Luckily, this was a pretty quick one
20 and you didn't have to stay all week.

21 I told you yesterday when I opened that
22 this was a simple case. Having heard the evidence,
23 you can see by now that that's exactly what this
24 is. This is a simple case. That on October 1,
25 2016, this Defendant, Christopher Greene, failed to

CLOSING ARGUMENT BY MR. MCNEELY

1 stop for blue lights when signaled by law
2 enforcement to do so, and he was in possession of
3 crack cocaine.

4 I talked to you yesterday a little
5 about the law and, again, the judge is going to
6 instruct you on the law of this case, that you
7 review the law as it applies to this case. The
8 charge of failure to stop for blue lights, a person
9 commits the offense if the person drives a motor
10 vehicle on the roadway of this state, is signaled
11 by law enforcement to stop by lights or sirens, or
12 both -- doesn't have to be but can be, and it was
13 in this case -- and the person does not stop. It's
14 that simple.

15 On October 1, 2016, the Defendant was
16 signaled to stop by law enforcement and didn't do
17 so. He's guilty of this crime.

18 Possession of crack cocaine: A person
19 commits this offense if the person is in either
20 actual or constructive possession of crack cocaine
21 or cocaine base. You heard on October 1st that he
22 was in constructive possession. It wasn't found on
23 his person; we acknowledged that. It wasn't in his
24 pocket; he ran away.

25 When they searched the car, in the door

CLOSING ARGUMENT BY MR. MCNEELY

1 pocket they found crack cocaine. Constructive
2 possession means that the defendant had dominion
3 and control over the drug or had the right to
4 exercise dominion or control over the drug or the
5 property or location where the drug was found.
6 That's exactly what you have in this case.

7 He was the only person in the car. He
8 was driving the car. The crack was in the driver's
9 door pocket. He's the only person on earth that
10 had dominion and control over the drugs.

11 One very important thing that you're
12 going to hear from the Court on constructive
13 possession is just what I told you. The law says
14 the defendant's knowledge and possession of the
15 drugs may be inferred when the drug evidence is
16 found on property under the defendant's control.

17 That's exactly what you have here.
18 It's in the driver's door pocket. He's the only
19 person that had access to the drugs. He's in
20 possession of those drugs under the law.

21 The defense in this case, you heard
22 from them cross-examining the State's witnesses, is
23 nothing but red herrings. It's a simple case. The
24 evidence is clear. They didn't attack the clear
25 evidence.

CLOSING ARGUMENT BY MR. MCNEELY

1 They just pointed at things that don't
2 matter. Such as, Deputy Hayden reported the
3 Defendant's height incorrectly by a couple of
4 inches when we saw him sitting in a car and running
5 away. That's not important. That has nothing to
6 do with this.

7 It could have been his brother or
8 somebody else driving the car. They don't even
9 have a theory on who it was because it was the
10 Defendant. They're just throwing stuff at the wall
11 to see what sticks, if anything, but nothing
12 sticks. Because you heard the evidence and it's
13 clear what happened; it was the Defendant.

14 They didn't catch him in the woods that
15 day. You heard Officer Hayden testify that he
16 didn't chase him further in the woods because it
17 wasn't safe and it wasn't department protocol. You
18 don't chase somebody in the woods blind. You try
19 to set up a perimeter and catch them. If you catch
20 them, great; if not, you know who it was. You
21 issue a warrant and go arrest him later. Exactly
22 what happened here.

23 They didn't see the Defendant put the
24 drugs in the car, and somebody else could have put
25 them in the car before that day. The great anybody

CLOSING ARGUMENT BY MR. MCNEELY

1 on earth could have done this, except for all of
2 the evidence points to the fact that the drugs
3 could only belong to this Defendant, and that's
4 exactly who they belong to.

5 And, lastly, the forensic unit who
6 investigates murders and armed robberies and comes
7 out to seek trace evidence when they don't know who
8 did it. The forensics unit didn't come out and
9 conduct DNA testing or fingerprints or trace
10 evidence collection on a van who they knew who was
11 driving because the officers recognized him, or the
12 drugs that could only be in the Defendant's
13 possession.

14 This is the defense of the case. It's
15 nothing. All they do is ignore the facts and the
16 evidence that you heard that point clearly to this
17 Defendant of being guilty of these crimes and try
18 to draw your attention to anything and everything
19 minutely that doesn't matter.

20 Let's talk about what we do know.
21 First, let's talk about reasonable doubt. The
22 judge is going to instruct you, and I told you
23 yesterday, reasonable doubt is any doubt that would
24 cause a reasonable person to hesitate to act. It's
25 not beyond all doubt, it's not beyond a shadow of a

CLOSING ARGUMENT BY MR. MCNEELY

1 doubt or absolute certainty.

2 All reasonable doubt is, if the
3 evidence you heard from that witness stand in this
4 case leaves you firmly convinced that the Defendant
5 is guilty, then you must under the law find the
6 Defendant guilty. And that's exactly what we have
7 here. The evidence is clear. You should be firmly
8 convinced that the Defendant is guilty of both
9 crimes. And why should you be firmly convinced?
10 Because of the evidence that was presented.

11 As to the failure to stop for blue
12 lights charge, you heard from multiple officers on
13 the stand. He was signaled by law enforcement to
14 stop his vehicle at the intersection of 52 and 45
15 in St. Stephen. By activation of both lights and
16 sirens on a marked Berkeley County Sheriff's Office
17 patrol unit. After signaling, the Defendant
18 refused to stop. He accelerated his vehicle -- you
19 can consider that as evidence of failure to stop --
20 and continued to drive down Highway 52 towards his
21 house.

22 He passed multiple safe and convenient
23 places to stop the vehicle and refused to stop.
24 All he had to do was stop, and he didn't do it. He
25 made two separate turns away from the pursuing

CLOSING ARGUMENT BY MR. MCNEELY

1 deputies. He drove half a mile after the stop was
2 initiated before pulling into his driveway. And
3 after pulling deep into his driveway between the
4 house and the shed, he still refused to stop. He
5 exited the vehicle and fled on foot into the woods.
6 He ran away not to be caught that day.

7 He's seen during the pursuit and known
8 by deputies. This isn't just one encounter where
9 Deputy Ballantine came in here and said, oh, yeah,
10 I saw him, it was this guy. No. This is somebody
11 that lives on a street Deputy Ballantine drives
12 every day. He resides at that house. Deputy
13 Ballantine knew who he was, and that's reliable
14 testimony. It's not just a shot in the dark. It's
15 somebody he drives by every single day to and from
16 work, going to his home on the way home from church
17 or shopping. He sees the guys. He knows exactly
18 who he is and where he lives.

19 You saw these maps and they're in
20 evidence and you can look at them closer if you
21 want to, but Deputy Ballantine testified -- or
22 excuse me, Deputy Hayden testified that he
23 encountered the van up here in the north part of
24 St. Stephen. He thought it was suspicious and he
25 ran the tag, and they drove down 52 while he was

CLOSING ARGUMENT BY MR. MCNEELY

1 running the tag, which was confirmed by Dispatch to
2 come back to a Buick. Not to a Honda Odyssey
3 minivan.

4 They get to the intersection here in
5 town of 52 and 45. And based on that information
6 that he had, he's conducting a traffic stop, but he
7 didn't do it initially because he had to wait on
8 backup in a rural part of the county to be safe.
9 Ballantine and Driggers meet him at the
10 intersection of 52 and 45. He lights up the
11 Defendant, he refuses to stop and he drives half a
12 mile, making two turns into his driveway at [REDACTED]
13 Russellville where he flees on foot.

14 Exhibit 2, this is the intersection.
15 He initiates the stop here, passes lots, vacant
16 lots, business, business, business, gas station,
17 business, refusing to stop at all of them and,
18 lastly, the Golden Dragon Chinese Restaurant at the
19 intersection of 52 and Russellville Road.

20 He refuses to stop at all of those
21 locations despite them being safe and available to
22 do so in broad daylight. Instead, driving into his
23 driveway, deep between the shed and the house, and
24 running into the woods.

25 The evidence is clear that this

CLOSING ARGUMENT BY MR. MCNEELY

1 Defendant, who has been identified by both Deputy
2 Ballantine reliably and Deputy Hayden, from the
3 date of the incident failed to stop for blue lights
4 on October 1, 2016.

5 This is the house. See the driveway.
6 He pulled in right there, and both of them
7 testified that he ran this way into the woods; and
8 because he jumped a fence into the woods and
9 couldn't be seen anymore, they called off the chase
10 then and tried to set up a perimeter.

11 The evidence is clear, but the most
12 important evidence is the second charge. The most
13 important evidence is why he failed to stop for
14 blue lights that day. If you didn't do anything
15 wrong and you don't have anything to hide, why not
16 pull into a gas station. Or even if you can pull
17 into your driveway, why not stop and wait to
18 encounter the officers and talk to them.

19 The reason is because he had a motive
20 not to stop, and that motive is he had crack in the
21 vehicle and he knew that if he stopped they were
22 going to find that crack. This is the best
23 evidence of his guilt of both crimes. This
24 Defendant.

25 The Defendant was a driver and only

CLOSING ARGUMENT BY MR. MCNEELY

1 occupant of the van that day. After he refused to
2 stop, he fled on foot, and deputies searched the
3 van and they located a small container of white
4 rock-like substance in the door handle that
5 field-tested positive for crack. It was in the
6 driver's door pocket where only this Defendant had
7 access to it. Only he had custody and control of
8 the van and the place where it was found.
9 Exclusive dominion and control.

10 This Defendant had possession of crack
11 and that's why this arrest arose. He failed to
12 stop because he had possession of crack. He knew
13 he had the crack in the van and he ran. It
14 explains the whole crime that day. The crack was
15 taken by Berkeley County and delivered to SLED for
16 confirmation testing, and SLED Agent Ashley Bell
17 testified that it, in fact, was crack cocaine.

18 The evidence is admitted. I'm not sure
19 if they will let you take it back, but you can see
20 it in the bag. We're not talking about a kilo of
21 crack here. It's a possession amount that you can
22 see it. It's in the bag right here. It's white
23 rock. And Ashley Bell told everybody in this jury
24 that that is crack cocaine. Laboratory testing
25 proved it.

CLOSING ARGUMENT BY MR. CHURCH

1 It's a simple case, ladies and
2 gentlemen. Failure to stop for blue lights: The
3 Defendant was driving a motor vehicle on a roadway
4 of this state on October 1, 2016, signaled by
5 lights and sirens to stop. He didn't stop. He is
6 identified by multiple officers. It's as clear cut
7 as it can be. The Defendant is guilty of failure
8 to stop for blue lights.

9 The Defendant was in constructive
10 possession of crack. It's the motive of the crime.
11 He had exclusive dominion and control over the
12 location where it was found. It could not possibly
13 belong to anybody but this Defendant. The evidence
14 is clear; he's guilty of possession of crack. It
15 doesn't have to be on his person. The law will you
16 tell you he's guilty of the crime.

17 I ask that you consider the evidence.
18 I said it multiple times, it's a simple case; it's
19 not complicated; the law is clear. The Defendant
20 is guilty of failure to stop for blue lights and
21 possession of crack cocaine.

22 Thank you very much.

23 MR. CHURCH: May it please the Court.

24 Thank you for your participation and
25 for paying attention during this trial. I could

CLOSING ARGUMENT BY MR. CHURCH

1 tell everybody was listening to the evidence and
2 paying attention to everything.

3 Trials are like puzzles. You put them
4 together and you get a picture, a clear picture.
5 If you don't have all the pieces or are missing
6 some of the pieces, you don't have a picture.
7 That's reasonable doubt.

8 This trial has shown that they are
9 missing a lot of pieces of their puzzle for the
10 conviction for these charges. I will go through
11 and show you some of the missing pieces.

12 The drug charge: You heard the State
13 say he's guilty because the drugs were in the car.
14 We contend they have not proven that it was him in
15 the car, but even, hypothetically, if it was, they
16 have to have knowledge. This wasn't his car. They
17 don't know whose car it was. Deanna Greene
18 Milford, they don't know what relationship she is
19 to him, if any relationship.

20 They testified they don't know who's
21 been driving the car and who was in the car. The
22 drugs were found in a box. They're not out in the
23 open where they're plainly visible. No
24 fingerprints off the box. You also heard from the
25 officer. He testified that he had no evidence or

CLOSING ARGUMENT BY MR. CHURCH

1 knowledge that, hypothetically, if it was
2 Mr. Greene in the car, that he knew anything about
3 the drugs in the car.

4 Take the drugs back there and look.
5 See how little that bit is in that bag. Even if it
6 was in an opening, how would somebody know that
7 that was illegal drugs. Ask to see the drugs; they
8 were entered into evidence.

9 Failure to stop for a blue light: They
10 have to prove Mr. Greene was the driver of this car
11 at that time. Like I said before, there was no
12 evidence the car is his. They said it was Deanna
13 Milford Greene or Deanna Greene Milford. They were
14 confused, they gave the wrong name. I believe the
15 first officer testified it was Deanna Mitchel, and
16 then they testified it was Deanna Greene Milford.
17 They have no idea who this car belongs to, who has
18 been driving this car, who has been sitting in this
19 car, who's been passengers in this car. They have
20 no idea.

21 For the drugs to be his or to be guilty
22 of it he has to have knowledge. When two officers
23 told you in this case that they did not take any
24 DNA or forensic evidence, even though they have the
25 capability, they did not test the steering wheel or

CLOSING ARGUMENT BY MR. CHURCH

1 any of the instruments for DNA, or fingerprints, or
2 anything. Even though they could have.

3 They told you they would do this if
4 this was a major crime. Well, I submit to you all
5 that to Mr. Greene this is a major crime. He's
6 being charged for this. This is him on trial.
7 Don't you think the sheriff's department owes to
8 get the case right like they would if it was a
9 murder case? But they didn't.

10 The house where they went to: There
11 was no follow-up investigation. They don't know
12 who lives there, what other relatives, what they
13 look like. Ballantine testified he rides by there
14 all the time. He could have stopped by there any
15 day. They could have done any number of visits,
16 investigations to find out who was there, who might
17 have had access to the car, who drives the car.
18 None of that was provided to you in this case.

19 The identification of Mr. Greene: You
20 heard Officer Ballantine get up on the stand and
21 say he's had hundreds of interactions with him, but
22 he didn't know his name. Also, you heard Officer
23 Ballantine -- former Officer Ballantine testify,
24 and he admitted that he did not put any of that in
25 the report. The most important thing he could have

CLOSING ARGUMENT BY MR. CHURCH

1 put in his report, knowing the suspect, is not in
2 the report.

3 You also heard from Officer Driggers,
4 who went to the academy, just like Ballantine
5 testified that he did, that they taught them if
6 it's not in the report, it didn't happen. That's
7 how you should view this. It's interesting that he
8 comes up with this I know him now, but he didn't
9 put that in the report the day of this incident.

10 Okay. Let's get to the identification
11 at the intersection where they said they identified
12 him. And I also point out that if they were going
13 to stop him like they planned to and two cars were
14 coming from the opposite direction, they could have
15 just blocked the road to stop him right there out
16 in the street and then they would have definitely
17 known who was in the car, but they didn't do that.
18 They let it continue on.

19 I have to refer to my notes to get this
20 right. Officer Hayden testified that at 14:06:26
21 he was passing 45 on 52 intersection at that time.
22 That's when he called it in to his CAD report. It
23 was on the detailed report of their intersections
24 and their conversations over the radio. That's
25 when he crossed that intersection that Ballantine

CLOSING ARGUMENT BY MR. CHURCH

1 said he identified him at.

2 Ballantine testified that he got
3 involved at 14:06:37, 11 seconds after he passed
4 the intersection. So if that's true and that's
5 what they testified to, how was he parked at the
6 intersection looking at them when they had already
7 passed the intersection 11 seconds before? Based
8 on that he wouldn't have been in that intersection
9 at that time.

10 Consider this: He said that he saw him
11 and recognized him from across the intersection.
12 Just as average citizens, you know how hard it is
13 to recognize somebody in a car across the
14 intersection. It's a distance; there's a glare off
15 of windshields, windows; and just the distance
16 makes it hard to pick out details.

17 The description they gave you of the
18 suspect: Officer Hayden said he was six foot, 180
19 to 190 pounds, but then he said that when they
20 arrested him it was five, eight, 168 pounds. He
21 was 58 years old. Nearly 60 years old, and this
22 guy was able to outrun all of them. And they talk
23 about officer safety; you know, that officers chase
24 people through the woods and around houses.

25 They were close enough to see him get

CLOSING ARGUMENT BY MR. CHURCH

1 out of the car, according to them, but not able to
2 catch him. Nearly 60 years old and these officers
3 have been to the academy and through physical
4 training, were not able to run down somebody that
5 is almost 60 years old.

6 If it was him, why didn't they go back
7 the next day or the next day or the next day? They
8 didn't. They didn't go back until three weeks
9 later. Why? Because they really weren't sure it
10 was him and then it was just too hard to do the
11 investigation. The one time they went there nobody
12 was home or nobody answered the door, and they just
13 gave it up and did not try to do anything else.

14 You saw where they identified him in
15 court. Do not be impressed by that. He's the only
16 other person sitting at the table with us. That's
17 a no-brainer to say that's the Defendant. He's
18 sitting right there. He's the only other person at
19 the table.

20 In conclusion, think about this: If it
21 was Mr. Greene in the car, why would he drive back
22 to where he lives to run from there? If he was in
23 the car and he had the intention of running from
24 the police, he would have gone somewhere else,
25 parked the car in an unknown area and then run from

JURY CHARGE

1 there so they wouldn't know where to start an
2 investigation.

3 If he knew that drugs were in the car
4 and he was going to run, he would have taken the
5 drugs with him. The drugs were found in the car.
6 There is no evidence that Mr. Greene was in the
7 car. There is no evidence that he knew about any
8 of the drugs, so I'm going you to please find
9 Mr. Greene not guilty of these charges.

10 Thank you.

11 THE COURT: Can the lawyers approach a
12 minute please?

13 (Bench conference.)

14 THE COURT: All right. Ladies and
15 gentlemen, it is now my duty as the trial judge
16 under the constitution of this State to charge and
17 instruct you on the law applicable to this case.
18 It is your duty as jurors to accept and apply the
19 law as I will now state it to you. Furthermore, it
20 is your exclusive duty to decide all the issues of
21 fact in this case and to determine the effect,
22 value, and weight of the evidence.

23 Both the State and the Defendant have a
24 right to expect that you will carefully consider
25 and evaluate the evidence and apply the law of this

JURY CHARGE

1 case to it so that, in the end, both the State of
2 South Carolina and the Defendant will receive a
3 fair and impartial trial.

4 I want you to understand when I use the
5 word, defendant, I refer to Mr. Christopher Greene,
6 III. Furthermore, the charges alleged in the
7 indictment are failure to stop for blue light and
8 possession of crack cocaine. As to these charges,
9 the Defendant has entered a plea of not guilty.
10 This plea of not guilty places the burden of proof
11 on the State to prove the guilt of the Defendant to
12 you, the jury, beyond a reasonable doubt.

13 Now during the trial, ladies and
14 gentlemen, you and I have had separate duties to
15 perform. As the trial judge, it is my
16 responsibility to preside over this trial, and I
17 also have the duty to rule upon the admissibility
18 of the evidence offered during the process of this
19 trial.

20 In that regard, you are to consider
21 only the competent evidence before you; and you are
22 to disregard from your mind any testimony ordered
23 stricken from the record of this case during the
24 progress of the trial if there was any; and you are
25 to consider only the testimony which has been

JURY CHARGE

1 presented from the witness stand, together with any
2 exhibits admitted into the record of this case, and
3 any stipulations of counsel made into the record,
4 if there were any.

5 Furthermore, I have the additional duty
6 to charge you on the applicable law to this case,
7 and in that regard I am the sole and exclusive
8 judge of the law in this case. It is your duty to
9 accept and apply the law as I state it to you. If
10 you have any preconceived idea of what the law is
11 or what the law ought to be and it does not agree
12 with what I tell you the law is, you are obligated
13 under your oath to accept the law precisely as I
14 state it to you.

15 Ladies and gentlemen, in this trial,
16 you are the sole and exclusive judge of the facts
17 and I am the judge of the law. Do not infer that I
18 have any opinion about the facts in this case from
19 anything that I have said during the course of this
20 trial, in ruling upon the admissibility of
21 evidence, or otherwise. Or from anything I say
22 during the course of this charge to you. In this
23 regard, the law simply does not permit me to have
24 an opinion about the facts.

25 As jurors, it is your duty alone to

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1 determine the effect, value, and weight of the
2 evidence presented during the course of this trial.
3 Now, in determining what the facts in this case
4 are, you must judge the credibility, which simply
5 means the believability of the witnesses, and the
6 value of weight to be given to their testimony.
7 You alone must decide the force and effect of the
8 testimony.

9 Now, in making this decision, there are
10 many things that you may and should take into
11 consideration, such as the appearance and manner of
12 the witness on the stand. A characteristic, often
13 referred to as the demeanor of the witness. Was
14 the witness forthright or hesitant? Was the
15 witness's testimony consistent or did it contain
16 discrepancy? What was the ability of the witness
17 to know the facts about which he or she testified?
18 Did the witness have a cause or reason to be biased
19 and prejudiced in favor of the testimony he or she
20 gave? Was the testimony of the witness
21 corroborated or made stronger by other testimony
22 and evidence, or was it made weaker or impeached by
23 other such testimony and evidence?

24 As jurors, please understand that you
25 have the right to believe a small portion of a

JURY CHARGE

1 witness's testimony and discard the larger portion,
2 or vice versa. You may believe all of the
3 witness's testimony or none. You may believe the
4 testimony of a single witness against that of many
5 witnesses, or the other way around.

6 In exercising your mental processes in
7 attempting to decide the verdict, the law simply
8 requires that you exercise your good judgment, your
9 common sense, your sense of logic and reason, and
10 your experiences in life. You then apply these
11 attributes to the evidence and apply the law as I
12 state it to you and thus arrive at a verdict.

13 Now, ladies and gentlemen, I remind you
14 the fact that the Defendant was arrested, charged,
15 and indicted in this case is not evidence in this
16 case and cannot be considered by you as evidence of
17 guilt in this case. Nor does it create any
18 presumption or inference of guilt.

19 The indictment, as I told you from the
20 outset, is simply the formal written instrument
21 which contains the charge made against the
22 Defendant. It is the formal document by which this
23 case is brought into this court.

24 Now the indictment in this case alleged
25 two separate offenses against the Defendant. The

JURY CHARGE

1 charges are a failure to stop for a blue light and
2 possession of crack cocaine. Each indictment
3 charges a separate and distinct offense. You must
4 decide each indictment separately on the evidence
5 and law applicable to it uninfluenced by your
6 decision as to any other indictment.

7 The Defendant may be convicted or
8 acquitted on any or all of the offenses charged.
9 You will be asked to write a separate verdict of
10 guilty or not guilty for each indictment. It is
11 vital, ladies and gentlemen, that you understand
12 that the Defendant is presumed under the law to be
13 innocent of the charges against him.

14 The Defendant has no obligation to
15 prove his innocence. It is a fundamental rule of
16 our law that a Defendant, irrespective of the
17 seriousness of the charges against him, is always
18 presumed innocent of the crime for which he's
19 charged unless and until his guilt has been proven
20 by evidence that satisfies you, the jury, beyond a
21 reasonable doubt.

22 Presumption of innocence is not a mere
23 legal theory or a legal phrase. The presumption of
24 innocence is very important, and you need to
25 understand that this presumption accompanies the

JURY CHARGE

1 Defendant from the time of his arrest and
2 appearance in this court and continues with the
3 Defendant even after you retire to the jury room to
4 deliberate.

5 In other words, the Defendant receives
6 benefit of the presumption of innocence until the
7 very end of this trial when you, the jury, will
8 deliberate upon the evidence and decide whether the
9 State has proven his guilt beyond a reasonable
10 doubt.

11 Now what is a reasonable doubt in law?
12 A reasonable doubt, ladies and gentlemen, is the
13 kind of doubt that would cause a reasonable person
14 to hesitate to act. Proof beyond a reasonable
15 doubt is proof that leaves you firmly convinced of
16 the Defendant's guilt. Now, there are very few
17 things in this world that we know with absolute
18 certainty. So even in criminal cases, the law does
19 not require proof that overcomes every possible
20 doubt.

21 If, based on your consideration of the
22 evidence, you are firmly convinced that the
23 Defendant is guilty of the crimes charged, you must
24 find him guilty. If, on the other hand, you think
25 there is a real possibility that he's not guilty,

JURY CHARGE

1 you must give him the benefit of the doubt and find
2 him not guilty.

3 Please understand that reasonable doubt
4 may arise from evidence which has been presented in
5 the case or from the lack of evidence presented in
6 the case. It is your responsibility to determine
7 whether or not reasonable doubt exists as to the
8 guilt of this Defendant. I charge you that the
9 Defendant is entitled to every reasonable doubt
10 arising in the whole case.

11 If upon any issues of fact essential to
12 conviction and a verdict of guilty you have a
13 reasonable doubt as to how that issue should be
14 resolved, it would be your duty to resolve that
15 reasonable doubt in favor of the Defendant.

16 Thus, in summary, it is important to
17 understand that a Defendant is not required to
18 prove his innocence. Instead, the State is
19 required by law to prove every essential element of
20 the offenses charged against the Defendant by
21 evidence which satisfies you, the jury, beyond a
22 reasonable doubt. Only then can you convict the
23 Defendant and find him guilty.

24 Now, ladies and gentlemen, there are
25 two types of evidence which are generally presented

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1 during a trial; direct evidence and circumstantial
2 evidence. Direct evidence directly proves the
3 existence of a fact and does not require
4 deductions. Circumstantial evidence is proof of a
5 chain of facts and circumstance indicating the
6 existence of a fact.

7 Crimes may be proven by circumstantial
8 evidence. The law makes no distinction between the
9 weight or value to be given to either direct or
10 circumstantial evidence; however, to the extent the
11 State relies on circumstantial evidence, all of the
12 circumstances must be consistent with each other
13 and, when taken together, point conclusively to the
14 guilt of the accused beyond a reasonable doubt.

15 If these circumstances merely portray
16 the Defendant's behavior as suspicion, the proof
17 has failed. The State has the burden of proving
18 the Defendant guilty beyond a reasonable doubt.
19 This burden rests with the State regardless of
20 whether the State relies on direct evidence,
21 circumstantial evidence, or some combination of the
22 two.

23 Ladies and gentlemen, an issue in this
24 case is the identification of the Defendant as the
25 person who committed the crime -- the crimes

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1 charged. The State has the burden of proving
2 identity beyond a reasonable doubt. You must be
3 satisfied beyond a reasonable doubt of the accuracy
4 of the identification of the Defendant before you
5 may convict the Defendant.

6 Identification testimony is an
7 expression of belief or impression by a witness.
8 You must determine the accuracy of the
9 identification of the Defendant. You must consider
10 believability of each identification witness in the
11 same way as any other witness. You may consider
12 whether the witness had an adequate opportunity to
13 observe the offender at the time of the offense.
14 This would be affected by things like how long or
15 short a time was available, how far or close the
16 witness was, the lighting conditions, and whether
17 the witness had the chance to see or know the
18 person in the past.

19 Once again, I instruct you the burden
20 of proof on the State extends to every element of
21 the crime charged, and this specifically includes
22 the burden of proving beyond a reasonable doubt the
23 identify of the Defendant as the person who
24 committed the crime. If, after examining the
25 testimony, you have a reasonable doubt as to the

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1 accuracy of the identification, you must find the
2 Defendant not guilty.

3 Now, in order to establish criminal
4 liability, criminal intent is required. For
5 example, the mental state required to be proven by
6 the State for a particular crime might be purpose,
7 intent, knowledge, recklessness or criminal
8 negligence.

9 Criminal intent must be proven by the
10 State beyond a reasonable doubt. Criminal intent
11 is always a matter that must be determined by you,
12 the jury, from the circumstances surrounding the
13 situation. There is no way, ladies and gentlemen,
14 to prove intent to a mathematic certainty. There
15 is no way that medical science can dissect a
16 person's brain and term what the person had in
17 mind.

18 So the law says that criminal intent
19 may be inferred from the circumstances shown to
20 have existed. This is how you make a determination
21 of whether or not the element requiring intent was
22 present. It is not necessary to establish intent
23 by direct and positive evidence, but intent may be
24 established by inference in the same way as any
25 other fact, by taking into consideration the acts

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1 of the parties and all of the facts and
2 circumstances of the case.

3 Criminal intent is a mental state, a
4 conscious wrongdoing. It is up to you to determine
5 what the Defendant intended to do based on the
6 circumstances shown to have existed. Criminal
7 intent can arise from action or a failure to act.
8 It may arise from negligence, recklessness or an
9 indifference to duty or to consequences that is
10 considered by the law to be the equivalent of
11 criminal intent.

12 Ladies and gentlemen, I instruct you
13 and I emphasize to you that the fact that the
14 Defendant did not testify in this case is not a
15 factor to be considered by you in any way in your
16 deliberation and in your consideration on the
17 question of the guilt or innocence of the
18 Defendant. It must not be considered by you in any
19 manner whatsoever. A Defendant has the
20 constitutional right to remain silent, and the
21 assertion of this right must not be considered by
22 you in your deliberations.

23 I repeat, under your oath you are to
24 draw no conclusion whatsoever from the fact that
25 the Defendant in this case did not testify. The

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1 fact that this Defendant did not testify should not
2 even be discussed in the jury room.

3 The burden of proof, as I have stated
4 to you, is on the State. The Defendant is not
5 required to prove his innocence. The burden of
6 proof remains on the State, on the State, to prove
7 guilt beyond a reasonable doubt.

8 Now in this case, ladies and gentlemen,
9 you hear the testimony of someone who was qualified
10 as an expert witness. The rules of evidence
11 ordinarily do not permit witnesses to testify as to
12 opinions or conclusions. An exception to this rule
13 exists for witnesses that we call expert witnesses.
14 A witness who, because of their education and
15 experience, has become an expert in some art,
16 science, profession, or calling may state an
17 opinion as to a relevant and material matter in
18 which the witness claims to be an expert and may
19 also state the reasons for the opinion.

20 You should consider any expert opinion
21 received in evidence like any other evidence, give
22 it the weight that you think it deserves. If you
23 decide the opinion of an expert witness is not
24 based on sufficient education and experience, or if
25 you conclude that the reasons given in support of

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1 the reason are not sound, or that the opinion is
2 outweighed by other evidence, you may disregard the
3 opinion entirely.

4 Furthermore, an expert witness's
5 testimony is to be given no greater weight than
6 that of other witnesses simply because the witness
7 is an expert. Further, you are not required to
8 accept an expert's opinion even though it is not
9 contradicted.

10 Now, ladies and gentlemen, the
11 Defendant in this case is charged, as I told you
12 before, with two separate offenses, the first of
13 which is failure to stop for a blue light. In
14 order to prove this crime, the State must prove
15 beyond a reasonable doubt that the Defendant was
16 driving a motor vehicle on a road, street, or
17 highway of the state of South Carolina, that he was
18 signaled to stop by a law enforcement vehicle by
19 means of a siren or flashing light, and he did not
20 stop.

21 Now, in determining whether or not
22 there are mitigating circumstances which would
23 justify the Defendant's failure to stop for the
24 blue lights, you may consider actual road and
25 roadside conditions; other conditions such as

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1 lighting and weather; officer, driver and/or
2 passenger safety; and any other circumstances you
3 believe to reasonably mitigate the alleged
4 violation.

5 Now, an official signal requiring a
6 motorist to stop may be a siren or flashing light,
7 but both are not required. An attempt to increase
8 the speed of a vehicle or in some other manner
9 avoid the pursuing law enforcement vehicle when
10 signaled by siren or flashing light may be
11 considered as evidence of a failure to stop for
12 blue light; however, it is merely an evidentiary
13 fact to be taken into consideration by you along
14 with all of the other evidence in this case and to
15 be given the weight that you decide it should
16 receive.

17 The Defendant is also charged with the
18 offense of possession of crack cocaine. Under
19 South Carolina Code of Laws, it is unlawful for any
20 person to knowingly or intentionally possess a
21 controlled substance unless the substance is
22 obtained directly from or pursuant to a valid
23 prescription or order of a practitioner while
24 acting in the course of his professional practice.
25 Cocaine in any form is a controlled substance under

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1 the law of this State.

2 The State must prove beyond a
3 reasonable doubt that the substance involved was,
4 in fact, crack cocaine and that the Defendant
5 knowingly or intentionally possessed crack cocaine.
6 Knowingly means with knowledge or consciously, not
7 accidentally. Intentionally means willfully or
8 intending the result which actually occurred, not
9 accidentally or involuntary.

10 Intent may be shown by acts and conduct
11 of the Defendant and other circumstances from which
12 you may naturally and reasonably infer intent.

13 To prove possession, the State must
14 prove beyond a reasonable doubt that the Defendant
15 had actual or constructive possession of the
16 cocaine. Possession means more than simply having
17 a controlled substance in one's possession. There
18 must be knowing intentional possession.

19 The State must prove possession of
20 crack cocaine by the Defendant as well as the fact
21 that the Defendant knew he had crack cocaine in his
22 possession.

23 Again, possession may either be actual
24 or constructive. Actual possession means that the
25 crack cocaine was in the actual physical custody of

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1 the Defendant. Constructive possession means that
2 the Defendant had dominion and control or the right
3 to exercise dominion or control over either the
4 crack cocaine itself or the property on which the
5 crack cocaine was found.

6 The Defendant's knowledge and
7 possession may be inferred when a substance is
8 found on the property under the Defendant's
9 control; however, this inference is simply an
10 evidentiary fact to be taken into consideration by
11 you along with the other evidence in the case and
12 to be given the weight that you decide it should
13 receive.

14 Now, ladies and gentlemen, I'm now
15 drawing near the end of my charge to you and I want
16 you to clearly understand that you are not partisan
17 or advocates for the State of South Carolina or the
18 Defendant. It is your duty to determine the facts
19 and then take and apply the law which was been
20 given to you by this Court and thus arrive at a
21 verdict. Once you retire to the jury room, the
22 bailiff will give the verdict form to you, Madame
23 Forelady.

24 When you, the jury, arrive at a verdict
25 as to the offenses charged in this case, your

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1 responsibility will be to indicate the verdict on
2 the verdict form. If the State has failed to prove
3 the guilt of the Defendant beyond a reasonable
4 doubt, you will indicate your verdict by placing an
5 X beside not guilty.

6 Likewise, if the State has proven the
7 guilt of the Defendant beyond a reasonable doubt,
8 your verdict will be an X beside guilty.

9 You will do this for each charge listed
10 on the verdict form. The verdict that you render
11 in this case must be the verdict of each and every
12 juror. It must be your unanimous verdict. All 12
13 jurors must agree on the verdict which you
14 authorize the forelady to write for the jury.

15 I want you to further understand,
16 ladies and gentlemen, that the order in which the
17 choices of verdict appear on the verdict form are
18 not suggestive of any verdict on the part of this
19 court. The verdict in this case is to be
20 determined by you, the jury, not the Court.

21 Furthermore, please understand that
22 even though I will give the verdict form to the
23 forelady, it is not her verdict alone. It is the
24 verdict of all 12 of you. And, again, I emphasize
25 that it must be unanimous.

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1 I'm also going to give you all a copy
2 of these instructions in written form. During your
3 deliberations, you may refer to the instructions to
4 guide your decision-making. You must consider the
5 instructions as a whole and not follow some and
6 ignore others.

7 Please, Madame Forelady, return these
8 instructions to the Court at the time that the
9 verdict was rendered.

10 Now, I'm going to ask you all to retire
11 to the jury room, but before I do, let me ask this
12 question: Everybody on the jury feel okay?

13 THE JURY: (Nodding)

14 THE COURT: Do not begin your
15 deliberations until you are instructed to do so.
16 The law requires that I consult with the attorneys
17 to ensure that I have not left anything out of the
18 instructions. Now, after I have spoken with the
19 attorneys, the bailiff will bring in the items of
20 evidence along with a copy of the instructions.

21 During your deliberations, should you
22 have any questions, Madame Forelady, it will be
23 your responsibility to reduce such question to
24 writing, knock on the door and let the bailiff know
25 that you have the question, give it to the bailiff,

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1 they will give it to me, and I will answer it how I
2 deem appropriate.

3 Once you have reached a unanimous
4 verdict and filled out the verdict form, knock on
5 the door and let the bailiff know that you have
6 reached a verdict, and we will get you back into
7 the courtroom as promptly or as quickly as
8 possible.

9 At this time, I'm going to ask you to
10 step to the jury room, but do not, do not begin
11 your deliberations until you are instructed to do
12 so.

13 (Jury out, 10:49 a.m.)

14 THE COURT: All right. Any exception
15 or objection to the charge by the State?

16 MR. MCNEELY: No, Your Honor.

17 THE COURT: Defense counsel?

18 MR. CHURCH: No, Your Honor.

19 THE COURT: All right. If you would
20 come forward and make sure they have the items of
21 evidence. I have -- I had it in there. Let me ask
22 this. I added an identification after you all -- I
23 called you to side bar to advise you of such. I
24 sent these jury instructions. Initially, I did not
25 have identification in there.

1 You can stand down. I'm going to
2 release the alternate juror back here. Any
3 objection to that from the State?

4 MR. MCNEELY: None from the State.

5 MS. LITTLEJOHN: None from the defense.

6 THE COURT: This says is the amended
7 jury charge which includes identification in it.
8 Do you want to look at it? You are welcome to.

9 (Evidence and verdict form back to the
10 jury, 10:54 a.m.)

11 THE COURT: We will stand down on this
12 case. I just ask you to be close by in case
13 something comes up.

14 (A recess transpired.)

15 THE COURT: Before the jury comes back,
16 Mr. Greene, he's on probation, right? Do we need
17 -- are you on probation?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Are you from Probation?

20 Probation agent. Yes.

21 THE COURT: Anything from the State
22 before I bring the jury up?

23 MR. MCNEELY: No, Your Honor.

24 THE COURT: Defense counsel?

25 MR. CHURCH: No, Your Honor.

VERDICT

1 THE COURT: I will remind everyone in
2 the courtroom that whatever the verdict is, make
3 sure you keep your emotions in check.

4 Bring the jury in.

5 (Jury in, 11:37 a.m.)

6 THE COURT: Be seated, please.

7 Madame Clerk, you may publish the
8 verdict.

9 THE CLERK: State of South Carolina,
10 County of Berkeley, v. Christopher Greene, III;
11 Indictment No. 2017-GS-08-3096, Indictment No.
12 2017-GS-08-397, as to the charge of the failure to
13 stop for blue light, we, the jury, unanimously find
14 the Defendant, Christopher Greene, III, guilty.

15 As to charge of the possession of crack
16 cocaine, we, the jury, unanimously find the
17 Defendant, Christopher Greene, not guilty.

18 Signed by the Foreperson.

19 Madame Forelady, and ladies and
20 gentlemen of the jury, if I have adequately
21 published your verdict, please indicate by raising
22 your right hands at this time.

23 THE JURY: (Raised hands)

24 THE COURT: Very well. Anything from
25 the defense counsel before I release the jury?

1 MS. LITTLEJOHN: Poll the jury, please.

2 THE COURT: Please poll the jury.

3 THE CLERK: Starting with the
4 foreperson, Juror No. 123; is this your verdict?

5 JUROR NO. 123: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR NO. 123: Yes.

8 THE CLERK: JUROR NO. 165, is this your
9 verdict?

10 JUROR NO. 165: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR NO. 165: Yes.

13 THE CLERK: Juror 60?

14 JUROR NO. 60: Yes, ma'am.

15 THE CLERK: Is this your verdict?

16 JUROR NO. 60: Yes, ma'am.

17 THE CLERK: Is it still your verdict?

18 JUROR NO. 60: Yes, ma'am.

19 THE CLERK: Juror 172, is this your
20 verdict?

21 JUROR NO. 172: Yes, ma'am.

22 THE CLERK: Is it still your verdict?

23 JUROR NO. 172: Yes.

24 THE CLERK: Juror 45, is this your

25 verdict?

1 JUROR NO. 45: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR NO. 45: Yes.

4 THE CLERK: Juror 185, is this your
5 verdict?

6 JUROR NO. 185: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR NO. 185: Yes.

9 THE CLERK: Juror 143, is this your
10 verdict?

11 JUROR NO. 143: Yes.

12 THE CLERK: Is it still your verdict?

13 JUROR NO. 143: Yes.

14 THE CLERK: Juror 26, is this your
15 verdict?

16 JUROR NO. 26: Yes.

17 THE CLERK: Is it still your verdict?

18 JUROR NO. 26: Yes.

19 THE CLERK: Juror 66, is this your
20 verdict?

21 JUROR NO. 66: Yes.

22 THE CLERK: Is it still your verdict?

23 JUROR NO. 66: Yes.

24 THE CLERK: Juror 34, is this your
25 verdict?

1 JUROR NO. 34: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR No. 34: Yes.

4 THE CLERK: Juror 126, is this your
5 verdict?

6 JUROR NO. 126: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR NO. 126: Yes.

9 THE CLERK: Juror 142, is this your
10 verdict.

11 JUROR NO. 142: Yes.

12 THE CLERK: Is it still your verdict?

13 JUROR NO. 142: Yes.

14 THE CLERK: Your Honor, I have polled
15 the jury and the verdict stands?

16 THE COURT: Anything further?

17 MS. LITTLEJOHN: We just renew the same
18 motions and objections.

19 THE COURT: Prior motions and
20 objections are noted for the record. The Court's
21 ruling as to each remain the same.

22 Ladies and gentlemen, you have
23 fulfilled your responsibility as jurors in this
24 case. What I'm getting ready to do is release you
25 and give you an opportunity to leave. What will

1 take place now is sentencing, and that would be
2 conducted right now. You are certainly free to
3 stay and watch sentencing. I encourage juries to
4 do so to see both sides of it, but it's up to you.

5 I have told you from the outset of this
6 case not to discuss the case at all. When you
7 leave here today, you can discuss this case as much
8 as you want to with whomever you want to, but no
9 one can make you discuss the case. When you leave
10 here, if someone approaches you to talk about the
11 case and you tell them you don't want to talk about
12 it and they do not leave you alone, you let the
13 Court know and it will be taken care of.

14 I need all of you to call back tonight
15 after 6:00 which will give instructions concerning
16 panel number two and panel three and whatever
17 remaining panel -- the entire panel. Make sure
18 that you call that number back tonight after 6:00.

19 Does the State have a sentencing sheet?

20 MR. MCNEELY: We're getting it as we
21 speak, Your Honor.

22 THE COURT: You all do not need to be
23 here for the rest of the day. If you wish to
24 leave, you certainly are free to do so at this
25 point. If you wish to stay, you are free to do so

1 as well.

2 MR. MCNEELY: Judge, may I approach?

3 (Bench conference.)

4 THE COURT: What I'm going to do,
5 because panel number two is going to hear -- that
6 individual is also charged with failure to stop for
7 blue light. If you were on panel number two, I
8 will ask you to leave. There are some things that
9 are going to take place that I don't want you to
10 hear.

11 If you are on panel two, call that
12 number back after 6:00, and I will let you leave
13 right now.

14 Do we have anyone on the panel that's
15 on panel three? I'm going to ask you to leave.
16 I'm sorry, same situation. I want you to leave as
17 well.

18 (A recess transpired.)

19 THE COURT: The reason I asked them to
20 leave, you all will hear what the sentencing range
21 is on these particular offenses, and it's not
22 appropriate for a jury to consider such in
23 deliberations. That's why I don't want them to
24 hear that right now, and so that's why they were
25 asked to leave.

1 What I'm going to do at this time, I'm
2 going to hear from the State if there's anything
3 else that the State wishes to say. Once I have
4 heard from them, it's my understanding he's on
5 probation and this conviction will be a violation
6 of that probation, and I will hear from Probation
7 and then I will turn it over to you, Mr. Church.

8 Anything further from the State?

9 MR. MCNEELY: As to sentencing, yes,
10 Your Honor.

11 THE COURT: Let me hear from you.

12 MR. MCNEELY: Prior record of this
13 Defendant is a 2013, failure to stop for blue
14 lights and assaulting a police officer; 2010, open
15 container; 2009, criminal domestic violence, first;
16 2007, 15 counts of fraudulent check; 2000,
17 resisting arrest; and 1997, failure to stop for
18 blue lights and possession of crack, resisting
19 arrest, driving under suspension.

20 I have included a certified copy of the
21 conviction in 2013 for failure to stop for blue
22 lights to confirm this is a second offense or
23 subsequent, Your Honor. I handed it up under the
24 sentencing sheet.

25 Based on him being on probation at the

1 time of this offense for a similar offense and his
2 conduct exhibited in this offense, we would ask for
3 a maximum of five years on this charge to run
4 consecutive to the probation violation.

5 THE COURT: Has he been served with a
6 citation?

7 PROBATION AGENT: Your Honor, he was
8 served October 12, 2017. The citation has been
9 pending since. He was originally sentenced for
10 assaulting a police officer while resisting arrest
11 for ten years, suspended upon eight years, with
12 three years probation. He was sentenced on
13 March 1st, 2016. The recommendation of Probation
14 would be revocation.

15 THE COURT: Did I hear you correctly,
16 ten years suspended upon eight years?

17 PROBATION AGENT: That's correct.

18 THE COURT: And that was in March of
19 2016?

20 PROBATION AGENT: 2016.

21 THE COURT: So he did less than -- that
22 doesn't sound right. He would have done more
23 than --

24 MR. MCNEELY: My understanding, Your
25 Honor, is that was 2013.

1 PROBATION AGENT: Your Honor, it is
2 February 11, 2013. I'm sorry, that was a
3 scrivener's error on Probation. And he was served
4 -- he received time served for 449 days.

5 THE COURT: All right. 2013, he had an
6 eight-year sentence and he has two years left on
7 that.

8 PROBATION AGENT: That's correct.

9 THE COURT: Mr. Church, you represent
10 Mr. Greene, obviously, on this probation matter, as
11 well?

12 MR. CHURCH: Yes, I represent him on
13 everything, I guess.

14 THE COURT: Okay. Well, have you seen
15 the 1106 violation report?

16 MR. CHURCH: We have not seen the
17 report.

18 THE COURT: Can you provide Mr. Church
19 copy of this, please? I'll give you a minute to
20 look at that, sir.

21 Mr. McNeely?

22 MR. MCNEELY: Yes, sir.

23 THE COURT: While he's talking to his
24 client, give me that record again.

25 MR. MCNEELY: Sure. 2013, assaulting

1 an officer and failure to stop for blue light;
2 2010, open container; 2009, CDV first --

3 THE COURT: First?

4 MR. MCNEELY: Yes. 2007, 15 counts of
5 fraud check; 2000, resisting arrest; 1997, failure
6 to stop for blue lights, possession of crack,
7 resisting arrest and driving under --

8 THE COURT: Failure to stop for blue
9 light, resisting arrest, possession of crack?

10 MR. MCNEELY: And DUS.

11 THE COURT: That was in '97.

12 MR. MCNEELY: Yes, sir.

13 THE COURT: All right. Mr. Church, you
14 represent Mr. Greene in this probation matter. Do
15 you need any time to talk to him on the violation
16 report?

17 MR. CHURCH: Your Honor, we have a
18 disagreement with the report. It says, offender er
19 failed to report on 11/29/2016. I believe he was
20 still incarcerated on this charge. He went to
21 trial --

22 THE COURT: Regardless of what that
23 says, this conviction today is a violation of his
24 probation.

25 MR. CHURCH: Right. We didn't want the

1 Court to believe that he did not report.

2 THE COURT: So I do find, based upon
3 this conviction today, it's a willful violation of
4 his probation. Pursuant to such finding, is there
5 anything further that Probation wishes to add on
6 this matter?

7 PROBATION AGENT: No, Your Honor.

8 THE COURT: All right. I'll turn it
9 over completely to you, Mr. Church and
10 Ms. Littlejohn, on this.

11 MR. CHURCH: Thank you, Your Honor.
12 May it please the Court?

13 Your Honor, Mr. Greene is 59 years of
14 age. He went to high school in St. Stephen just
15 right up the road from here, graduated in 1976. He
16 said he had some college -- he informs me that he
17 has a college degree. He informed me he was in the
18 Army from '81 to '84 when he got an honorable
19 discharge.

20 Your Honor, he's not a bad person.
21 He's just -- sometimes he's made some bad decisions
22 in his past. Originally, this offer was to plead
23 guilty for -- effectively, it would have been a cap
24 of three years. We would ask the Court to stay
25 within that range and not punish him because of my

1 advice that -- for going to trial basically. And,
2 of course, he was found not guilty on one of the
3 charges.

4 THE COURT: Anything else, Mr. Church?

5 MR. CHURCH: We would ask the Court to
6 show as much leniency and mercy as possible.

7 THE COURT: Mr. Greene, anything you
8 wish to say, sir?

9 THE DEFENDANT: No, sir.

10 THE COURT: Mr. McNeely, his record
11 goes back to '97.

12 MR. MCNEELY: Yes, sir.

13 THE COURT: Is that the farthest you
14 have?

15 MR. MCNEELY: Let me double check.

16 THE COURT: And you will understand why
17 I'm asking that question in a minute, if not
18 already.

19 MR. CHURCH: I would ask that the
20 record -- Your Honor, I don't know, he's been
21 married for 40 years, and his wife is in
22 attendance.

23 MR. MCNEELY: Your Honor, I stopped at
24 1997. It goes back -- the earliest thing I have is
25 some driving charges in the earlier '90s.

1 THE COURT: Just driving?

2 MR. MCNEELY: A failure to stop for
3 blue lights in the '90s.

4 THE COURT: How many?

5 MR. MCNEELY: An assault while -- oh,
6 that was 2000. One other failure to stop for blue
7 lights.

8 THE COURT: In the early '90s.

9 MR. MCNEELY: 1990 is the earliest
10 arrest I have.

11 THE COURT: Mr. Church, does his wife
12 wish to say anything?

13 MR. CHURCH: She doesn't want to say
14 anything, but she is in attendance, Your Honor.

15 THE COURT: Okay. Mr. Greene.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Reason I asked the
18 Solicitor that question, he went back about
19 20 years on your record initially. From '97
20 forward, 21 years. Take away those 21 years, that
21 puts you at about 38 years old. You're 59 now; is
22 that right?

23 THE DEFENDANT: That's right, yes, sir.

24 THE COURT: Most of the people we see
25 come in and out of here day in and day out, week in

1 and week out, they start in criminal justice system
2 when they're about -- unfortunately, they're
3 getting younger and younger. And you've started at
4 about early '90s, about 31 years old. What
5 happened? Where did it go wrong?

6 THE DEFENDANT: After -- after I
7 finished college, upon completing college, about
8 four years of college, I was married and I had two
9 kids. I went into the military at the time. I
10 went into the military because at that point I got
11 to the point where I had to start supporting my
12 family.

13 My mom and my dad kept me up until as
14 long as I was in college. So I submitted to the
15 military. I went into the military and everything
16 went fine. After ETS --

17 THE COURT: After what?

18 THE DEFENDANT: ETSs from the military,
19 I went with the Kmart Corporation as an assistant
20 manager and things were still going fine. I moved
21 the family out to Tennessee -- Jackson, Tennessee,
22 with the Kmart Corporation. The Kmart Corporation
23 failed and so I had to find another job.

24 At that time I didn't know that I had
25 an opportunity to stay with the company, but I had

1 already packed up, bought the U-Haul and everything
2 because of what I was told by the store manager.
3 The district manager came back and told me he was
4 willing to relocate me from Jackson, Tennessee to
5 Nashville, Tennessee.

6 As I said, at that time I had already
7 packed up the house, my wife and three kids at that
8 time. We moved back here to the state of South
9 Carolina. I got with the Pick n Pay corporation.
10 I went and become a manager with the Pick n Pay
11 corporation. I trained here in Charleston and in
12 Moncks Corner and in Dorchester.

13 After my training, I got transferred to
14 Georgia -- Savannah, Georgia to my own store.
15 After -- after awhile, my dad had an aneurysm in
16 his head, and the aneurysm blow in his head and he
17 was taken to Trident Hospital. One day I got the
18 word that he left, so I had to move back from
19 Georgia to take care of my mom.

20 I can remember a confrontation with the
21 law at one time, and it went to the magistrate
22 court and it was thrown out. But then the same --
23 the other confrontation that he's talking about
24 there came up with the same officer. I don't know,
25 I had to feel there was some vendetta there.

1 I had to feel that there was something
2 that kept them on me or kept behind me, and I got
3 convicted. Well, at the time, had I known what I
4 know now, I wouldn't have pled guilty, but I didn't
5 know what I know now. So instead, I pled guilty,
6 and that's when all this rocky road started.
7 That's when -- I lost my mother in '97, and that's
8 when everything really blown way.

9 I tried my best. My wife is here.
10 She's been by my side the whole time. I have to
11 give her thanks because she stuck with me not only
12 through thin, but she stuck with me through thick
13 and more thick. And we tried our best to get
14 things back in order, but even as of now, still
15 unsuccessfully. I'm not giving excuses. You asked
16 me what led on to those things.

17 THE COURT: I wouldn't have asked if I
18 didn't want to know.

19 THE DEFENDANT: I appreciate you
20 asking. You didn't have to ask; I appreciate you
21 asking.

22 THE COURT: It bothers me. It bothers
23 me enough to see so many young people that come in
24 here that make terrible decisions and have
25 tremendous consequences, and it was unusual just to

1 see.

2 Ms. Littlejohn and Mr. Church knows.
3 They see it every day too.

4 How much time is he entitled to credit
5 for?

6 MR. MCNEELY: Your Honor, he was
7 arrested on October 25th, and he was released on
8 bond on December 22nd. So approximately --

9 THE COURT: Two months.

10 MR. MCNEELY: Fifty-seven days.

11 THE COURT: Anything further from the
12 State?

13 MR. MCNEELY: No, Your Honor.

14 THE COURT: Defense counsel, anything
15 further?

16 MR. CHURCH: No, Your Honor.

17 THE COURT: All right. In the
18 probation matter, I'm going to revoke two years
19 that's remaining on that. Give me the -- I'm
20 sorry. I'm looking for the indictment number. I
21 see it, I'm sorry.

22 MR. MCNEELY: Failure to stop, Your
23 Honor?

24 THE COURT: No. I'm looking for the
25 indictment number on assaulting the police officer,

SENTENCING

1 but I see it. It's a 2011 indictment number?

2 MR. MCNEELY: Just one second.

3 THE COURT: 2011-GS-08-0691.

4 MR. MCNEELY: Correct.

5 THE COURT: Two years on the assaulting
6 the police officer, revoke the remaining two years
7 on that. On Indictment 2017-GS-08-00396, the
8 Defendant is committed to the State Department of
9 Corrections for a period of five years, give him
10 credit for 57 days. They are to run concurrent.

11 Mr. Greene, it's not -- you started
12 down this road later in life at age 31. It's not
13 too late to get it back on the right track.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: It is not too late. I know
16 that the lawyers that represent you here today want
17 to see you do that. And for what it's worth, I
18 want to see you do that.

19 THE DEFENDANT: Thank you, sir.

20 THE COURT: You have to make that
21 decision. You're fortunate that your wife is here
22 still supporting you and has your back.

23 I've seen -- Ms. Littlejohn did a lot
24 of family work before she went into the public
25 defender's office. Seen a lot of people get

1 divorced over a lot less, I can tell you that.

2 THE DEFENDANT: Yes, sir. I realize
3 that.

4 THE COURT: I'm fortunate that both of
5 my parents are still living, which I find is a
6 blessing every day. It's important that's going to
7 change. I often tell my children -- I have an
8 18-year-old daughter, a 15-year-old son, and a
9 12-year-old son, and each one of them are
10 tremendously different.

11 You said you have at least three kids.

12 THE DEFENDANT: I have.

13 THE COURT: Then you know. Anyway, I
14 have one that tends to focus on the things that he
15 doesn't have more than the things that he does
16 have. I continuously find myself telling him, son,
17 count the blessings that you do have. Don't dwell
18 on the things that you don't have. And that's a
19 choice. That's a daily choice.

20 If you focus on the negatives in your
21 life, it will absolutely destroy you. It will
22 destroy you. They say grass -- that old saying
23 about the grass being greener on the other side;
24 it's not. It's not. Count the blessings that you
25 have and focus on those and that can turn things

1 around.

2 THE DEFENDANT: Thank you, sir.

3 THE COURT: Good luck to you. Thank
4 you.

5 (These proceedings were concluded at
6 12:13 p.m.)

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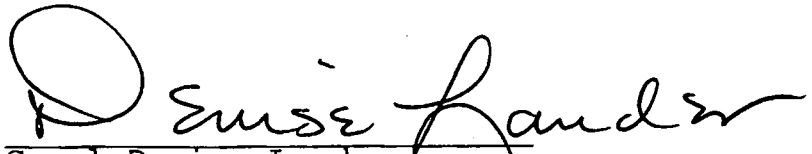
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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official seal this 29th day of April, 2018 at Charleston, Charleston County, South Carolina.



Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
February 27, 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
STATE OF SOUTH CAROLINA)
)

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT
INDICTMENT NO.(S): 2017-GS-08-00396

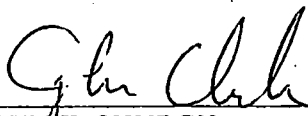
VS.

MOTION
FOR RECONSIDERATION

CHRISTOPHER GREENE
DEFENDANT

TO: WILTON H. MCNEELY, ASSISANT SOLICITOR, NINTH JUDICIAL
CIRCUIT

PLEASE TAKE NOTICE that the Defendant, by and through. his undersigned attorney
will move before the Honorable D. Craig Brown, Presiding Judge. soon as may be heard, for a
Motion to Reconsider the sentences imposed upon him on January 30, 2018.


JOHN T. CHURCH
Attorney for Defendant

Moncks Corner, South Carolina

February 1, 2018

FEB 02 2018

AK

FILED
2018 FEB -2 AM 11:50
MARY P. BARR
CLERK OF COURT
BERKELEY COUNTY, S.C.

WHM/0322799
WITNESSES

Berkeley County Sheriff's Office

[Signature]

AGENCY CASE NUMBER
2016-10073860

ARREST WARRANT NUMBER
2016A0810401452

DATE OF ARREST
10/25/2016

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

3/21/17
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-08-00396

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
MARCH TERM 2017

THE STATE

VS.

CHRISTOPHER GREENE, III.
B/M DOB: [REDACTED]

Indictment for

FAILURE TO STOP FOR A BLUE LIGHT
- SECOND

SC Code: § 56-05-0750(B)(2)
CDR Code: 2396

JFH
FILED
17 MAR 22 PM 12:28
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

JFH

STATE OF SOUTH CAROLINA

INDICTMENT


COUNTY OF BERKELEY

At a Court of General Sessions, convened March 2017, the Grand Jurors of Berkeley County present upon their oath:

Failure to Stop for a Blue Light

That in Berkeley County, South Carolina, on or about October 1, 2016, the Defendant, Christopher Greene III., while driving a motor vehicle on a road, street, or highway of the State did, in the absence of mitigating circumstances, knowingly fail to stop after being signaled to do so by a law enforcement vehicle by means of flashing light and/or a siren, such being a second or subsequent offense, in violation of Section 56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILTON H. MCNEELY
ASSISTANT SOLICITOR

COUNTY OF BERKELEY
STATE VS.

CHRISTOPHER GREENE, III.
AKA: Christopher Greene III, Christopher Greene, Iii
Race: Black/African American Sex: M
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: St. Stephen, SC 29479
DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE#: 2017-GS-08-00396
A/W: 2016A0810401452
Date of Offense: 10/01/2016
S.C. Code §: 56-05-0750(B)(1)
CDR Code #: 0065

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Failure To Stop For A Blue Light, 2d Offense (0-5)

In violation of § 56-05-0750(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2396

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature] 101638
Wilton W. McNeely, Assistant Solicitor SC Bar #

Defendant Attorney for Defendant 68550 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 11-05-08-00691

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 57 days

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ _____ Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ _____

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ _____

Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation

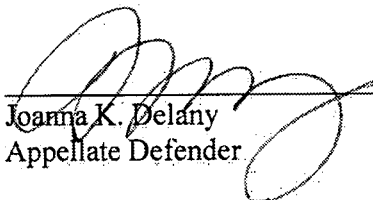
Clerk of Court/Deputy Clerk: A Howell
Court Reporter: Denise Lauder

Presiding Judge: [Signature]
Judge Code: 2160
Sentence Date: 1-30-18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of October, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

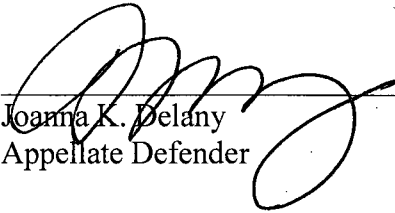
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

OCT 30 2018

SC Court of Appeals


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of October, 2018.