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 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTOINE F. CHESTNUT,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF Horry

IN THE COURT OF GENERAL SESSIONS
11-GS-26-02215

State of South Carolina,
vs.
Antoine F. Chesnut,
Defendant.

TRANSCRIPT OF RECORD

October 5-7, 2011
Conway, South Carolina

Before:

The Honorable, Benjamin H. Culbertson, Judge; and jury

Appearances:

BY: J. Scott Hucks, Esq.
Attorney for State

BY: Brana J. Williams, Esq.
Attorney for Antoine F. Chesnut

Brenda R. Babb
Circuit Court Reporter

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1 Mr. Hucks: We're here on the matter of Antoine
2 F. Chestnut, The State v. Antoine Chestnut. The indictment
3 that's on the trial roster is for trafficking in crack
4 cocaine third or subsequent offense under 2011-GS-26-2215
5 and the, it's scheduled for trial. It was scheduled to go
6 directly after Mr. DeBusk and Mr. Chrisco's trial and I
7 know that both myself and Ms. Williams had several issues
8 we might want to take up with the Court on the record in
9 reference to the case.

10 You may remember the case, Your Honor, the
11 defendant, several months ago we were in here and you
12 lifted the defendant's bench warrant. We had him in on,
13 well we brought him in because he wanted to get rid of Ms.
14 Williams as his attorney and you were going to, and she
15 said she couldn't, she couldn't deal with him because he
16 wouldn't come to her office ---

17 The Court: Right.

18 Mr. Hucks: So the State asked you to put him in
19 jail so she could get to him and he asked you not to
20 specifically because he had a crippled child and this that
21 and the other and then you told us to go to Georgetown a
22 week later and we went down to Georgetown for a meeting and
23 ever since then Mr. Chestnut has been gone and you issued a
24 bench warrant for him that day in Georgetown and the State
25 has several reasons that we believe that we should proceed
26 in a trial of absentia on this particular case at this time

1 and I know that dependent on Your Honor's ruling on that
2 particular issue the State will be willing to make its
3 showing. I'll pass up the subpoenas, whatever you'd like
4 to see at that time, and I understand that Ms. Williams
5 would have several motions as well related to the case.

6 The Court: All right, let me hear Ms. Williams,
7 motions?

8 Ms. Williams: Well, Your Honor, specifically
9 I'd like the State to show that there was actual notice
10 sent to the client and then written notice that the
11 proceeding, that the trial would proceed in his absence,
12 Your Honor. I think they have a duty to show that in order
13 to proceed so we would ask that the State make that
14 showing.

15 The Court: So you're saying that they have to
16 set it on the defendant in addition to just notifying you?

17 Ms. Williams: Yes, sir, I believe that's the
18 case, case law standard.

19 Mr. Hucks: And, Your Honor, that was done in
20 this case; I'd be more than happy to pass up the subpoenas
21 ---

22 The Court: All right.

23 Mr. Hucks: --- that were mailed to the
24 defendant specifically in this case. He has two addresses
25 on file in our office, a 1320 Turkey Ridge Road Apartment B
26 in Surfside, South Carolina, and also a 270 Ivy Stone Drive

1 Unit D in Myrtle Beach, South Carolina. The State's belief
2 at this particular point in time is that this put him on
3 notice of the trial procedure but further, Your Honor, what
4 put him on notice of the trial procedure that it would go
5 on in his absence is you told him that whenever you saw
6 him, when you were standing in front of him you said if you
7 don't come back for the rest of these trial, for the rest
8 of these court dates, and that's specifically why we called
9 the case in front of Your Honor because you had a specific
10 history with the case.

11 The Court: All right. All right, they have
12 presented the subpoena, two subpoenas in The State of South
13 Carolina v. Antoine F. Chestnut, indictment 2011-GS-26-
14 2215, subpoenaing the defendant to court. It says August 8
15 through 12.

16 Mr. Hucks: Pardon me, Your Honor, there are
17 multiple, he's been subpoenaed every month since you let
18 him out of jail.

19 The Court: Okay, well let's go through those.

20 Mr. Hucks: And I will, I will get those
21 immediately, those were the ones on top, Your Honor. I
22 believed that those were the right ones but I was wrong in
23 my assumption. You know what they say about assumptions.
24 The Court's indulgence one moment, Your Honor.

25 The Court: All right.

26 Mr. Hucks: I thought that I had those

1 particular ones pulled out; it's a big file. I'll just
2 have to sort through it.

3 The Court: All right, well let's, I've got a
4 question from the jury on this other case.

5 Mr. Hucks: Yes, Your Honor.

6 The Court: Let's just stand this down for a
7 second and let you get all that information together and
8 let me address these questions.

9 Mr. Hucks: And, Your Honor, at the appropriate
10 ---

11 The Court: All right, let me give those back to
12 you.

13 Mr. Hucks: The ones right here, Your Honor, and
14 you'll see the date includes this term of court. Those
15 were, those were taken directly from the Clerk's records
16 downstairs just a few moments ago.

17 The Court: All right.

18 (Whereupon the a recess was taken at this time
19 and the following takes place on the record after the
20 recess.)

21 The Court: All right, what's the defense's
22 position?

23 Ms. Williams: Your Honor, well I understand
24 those are the indictments that, those are the subpoenas
25 that would be actually sent to the defendant at his
26 potential addresses. I don't know that on the face of

1 those subpoenas it says that, you know, if you're not
2 present you'll be tried in your absence anyway, the trial
3 will proceed and, Your Honor, it's my understanding that's
4 a second prong of the test.

5 The Court: All right, well I'm going to go
6 ahead, I think he's been adequately advised. He should
7 have been advised at the time of the bond hearing and the
8 subpoena compels him to be here to tend to the Court's
9 business so --

10 Mr. Hucks: And, Your Honor, that's something
11 that you would, and is that the Court's ruling or would you
12 --

13 The Court: Yeah, no, no, I'm going to rule that
14 we can go ahead, I'll go ahead with the trial in the
15 absence. All right, anything else?

16 Mr. Hucks: Yes, Your Honor, I have just a
17 couple of things. I have the, from the State's
18 perspective, Your Honor, the confidential informant, this
19 is a C.I. buy that was, that was done. The defendant sold
20 some drugs to an undercover C.I., Mr. Wilson, who's present
21 in the court today and as a, just as a housekeeping measure
22 we would like, I would like to have the Court rule on what
23 parts of Mr. Wilson's past criminal history would be
24 admissible and what would not be admissible for the
25 purposes of this case. I would be more than happy to, I
26 know Ms. Williams and I have looked at his criminal history

1 briefly and I do have a copy of the NCIC for Ms. Williams.
2 It does consist of three or four prior drug convictions
3 and, and a failure to stop for a blue light. The State's
4 position will be that none of those involved dishonesty and
5 none of those reflect directly on his veracity or
6 truthfulness and as such would not be admissible to impeach
7 him with so that would be our argument.

8 The Court: All right, tell me, tell me exactly
9 what he's got and when he was convicted.

10 Mr. Hucks: Your Honor, he was, in 1992 he was
11 charged with armed robbery.

12 The Court: Don't tell me what he was charged
13 with, tell me what he was convicted of and when he was
14 convicted.

15 Mr. Hucks: Yes, Your Honor, in the year 2000,
16 Your Honor, he was convicted of MP cocaine first offense.

17 The Court: MP?

18 Mr. Hucks: MP, manufacture and distribution or
19 possession with intent to distribute, you know the
20 distribution and the possession with intent statute is the
21 same.

22 The Court: Okay, cocaine first offense.

23 Mr. Hucks: Yes, sir, in 2001 he has a
24 possession with intent to distribute cocaine.

25 In 2003 he has a possession with intent to
26 distribute cocaine, that would be two counts, Your Honor,

1 in 2003 that he pled to at the same time.

2 In 2005 he has a failure to stop for a blue
3 light.

4 In 2006 he has a driving under suspension second
5 offense.

6 And in 2011 he has a distribution of cocaine that
7 he was sentenced to a year on.

8 The Court: All right, let me see.

9 Mr. Hucks: And again, Your Honor, the State's
10 position would just be that none of these charges involve
11 dishonesty and do not reflect directly on his veracity to
12 truthfulness.

13 The Court: All right, was he, was he sent to
14 jail on the manufacturing distribution or possession of
15 cocaine first offense in 2000; what was his sentence on
16 that?

17 Mr. Hucks: Your Honor, he was given five years
18 suspended to 100 days and probation.

19 The Court: Does it say, five years suspended to
20 -

21 Mr. Hucks: A hundred days service and thirty-
22 six months probation.

23 The Court: Okay, so it's been more than ten
24 years since he's been released from jail. All right, the
25 PWID cocaine in 2001, did he go to jail on that?

26 Mr. Hucks: Your Honor, he got the exact same

1 sentence, one hundred, five years suspended to one hundred
2 days and thirty-six months probation.

3 The Court: And when was the date of that conviction?

4 Ms. Williams: May 9th.

5 Mr. Hucks: May 9, 2001.

6 Ms. Williams: 2001.

7 The Court: All right, so what's one hundred
8 days, when was he released, what I'm looking at is Rule
9 609.

10 Mr. Hucks: Yes, sir.

11 The Court: Says "evidence that a witness other
12 than an accused that's been convicted of a crime shall be
13 admitted subject to Rule 403 if the crime was punishable by
14 death or imprisonment in excess of one year under the law
15 under which the witness was convicted and evidence that an
16 accused has been convicted of such a crime shall be
17 admitted if the Court determines that the probative value
18 of admitting it outweighs the prejudicial effect." What
19 I've got to look to see has it been ten years since the
20 conviction or since his release from prison?

21 Mr. Hucks: Your Honor, it looks it would have
22 been right at ten years. Ms. Williams and I were just
23 discussing it; it's been just over ten years, it would,
24 like he would have gotten out in September and we are now
25 in the month of October.

26 The Court: Okay, well then by that she can use

1 the two PWID's in 2003, failure to stop for a blue light
2 that was first offense?

3 Mr. Hucks: Yes, sir, Your Honor.

4 The Court: All right, and DUI was -

5 Ms. Williams: Second.

6 The Court: Was second offense?

7 Ms. Williams: Yes, sir.

8 Mr. Hucks: DUS was second offense, yes, sir.

9 The Court: What's the penalty for DUS second?

10 Mr. Hucks: It is 60 days, yes, Your Honor.

11 The Court: Okay.

12 Ms. Williams: Well that's the new one.

13 Mr. Hucks: The old one, yeah, the old one was
14 \$1217 or 60 days.

15 The Court: All right, so she can use the two
16 P.W.I.D cocaine's in 2003 and the distribution of cocaine
17 in 2011.

18 Ms. Williams: And the failure to stop for a
19 blue light, Your Honor, it carries ninety days to one year
20 or ninety days, ninety days to three years.

21 The Court: A failure to stop first offense
22 carries up to three years?

23 Ms. Williams: Yes, sir.

24 The Court: Okay, well she can use that one
25 then, too.

26 Ms. Williams: All right, make sure I'm clear,

1 so I can use the '03 PWID, the two PWID's from '03, the
2 failure to stop in '05 and then the new drug from 2011?

3 The Court: Correct, now the 2011 is that a
4 conviction?

5 Mr. Hucks: Yes, Your Honor, he was convicted,
6 he was sentenced to one year.

7 The Court: All right.

8 Ms. Williams: And, Your Honor, for
9 clarification his original charge was trafficking and it
10 was obviously reduced so that will be what I'm allowed to
11 discuss with him, right?

12 The Court: Well I don't know about that.

13 Mr. Hucks: Your Honor, I have an objection to
14 Ms. Williams getting into the fact that he was convicted of
15 a distribution of cocaine in 2011 but as far as what he was
16 originally charged with, he wasn't convicted of that, so I
17 would object to her --

18 Ms. Williams: The question, Your Honor, comes
19 if he's a confidential informant it may come was that a
20 deal, where did the deal come, was that deal related to
21 this.

22 The Court: That's the 2011? Well I mean that's
23 an inculpatory and exculpatory evidence if that was the
24 deal made that he testify and do undercover work and they'd
25 reduce the charges then she can go into it.

26 Mr. Hucks: Yes, sir, Your Honor.

1 The Court: All right, I mean the jury is
2 entitled to know that. All right, so --

3 Mr. Hucks: So she would be allowed to ask him
4 if he was originally charged with trafficking and pled to a
5 lesser charge?

6 The Court: She would be allowed to get into
7 were you charged with trafficking, did you plead to a
8 lesser charge cause one of the conditions of having the
9 charges reduced against you that you would do undercover
10 work for the police, she can get into that.

11 Mr. Hucks: Your Honor, I would have just one
12 more housekeeping motion, wonder, I'm sure Your Honor is
13 aware of State v. Hatcher. It's a chain of custody case
14 that was decided by the Supreme Court several months ago
15 back in March. It was a, it was in Hatcher what happened,
16 and I'm sure Ms. Williams is familiar with Hatcher, we use
17 it a lot, it was a decision by Judge Cottingham where he
18 let, he let drugs into, into evidence when there was a
19 person in the chain who was unknown and unidentified. We
20 do not have that issue in this case but since it's the most
21 recent case of the Supreme Court we do have a single issue
22 as to whether there is an evidence custodian who their sole
23 job was to after the investigating officer put the drugs in
24 a drug drop box she took it out of the box and then put it
25 on a shelf and then later took it off the shelf and gave it
26 to Lisa Floyd to be tested and she is unavailable to

1 testify. What I do have available to testify is ---

2 The Court: Wait a minute, which one is unable,
3 is not available to testify?

4 Mr. Hucks: That person who took it out of the,
5 the box, put it on the shelf and then took it off the shelf
6 and gave it to the chemist.

7 The Court: Okay, so it went from person (a) to
8 person (b), person (b) put it on the shelf, person (b) took
9 it off the shelf and gave it to person (a) or to a --

10 Mr. Hucks: To a, to a chemist.

11 The Court: To a chemist, okay.

12 Mr. Hucks: And both the detective and the
13 chemist are willing to testify in court that the, that they
14 sealed the package prior to putting it in and sealed in a
15 best kit that was tamper proof and tamper evident and that
16 when it was received by the chemist that it was still in
17 that same bag that was tamper proof and tamper evident, the
18 same package that it was, the same package and the same lab
19 number that it was originally put in by the detective
20 himself.

21 The Court: I mean the chemist doesn't know what
22 the original person did.

23 Mr. Hucks: Right but they, she would testify --

24 -

25 The Court: Unless they there.

26 Mr. Hucks: --- that it's in the same, it's in

1 the, as per the chain of custody, it's in a best kit the
2 same best kit that officer dropped, that officer filled out
3 the form for and under Hatched and even, and I would
4 contest that even prior to being, prior to the Hatched's
5 decision the rule was that they had to be identified if
6 they didn't, if they didn't testify and it would have to be
7 proven as far as practicable but not everyone had to
8 testify and I would say even under the pre Hatched ruling
9 that this would qualify because she's identified. We know
10 her name, we know exactly what she did, and I further, Your
11 Honor, had her supervisor who is willing to come into Court
12 and testify as to what the County's procedure is and what
13 this person would have done with that, with that package at
14 that period of time, where it would have went, where it
15 comes from, where it would have gone to.

16 The Court: All right, what's the defense's
17 position on that?

18 Ms. Williams: Your Honor, we would object. We,
19 I don't think that, that this particular case is what is
20 contemplated. Your Honor, while I understand we had a
21 murder trial and, and people who may move it from shelf (a)
22 to shelf (b) to shelf (c) may not be necessarily required
23 because I don't think the State has the burden of proving
24 every single person who has to touch it but, Your Honor,
25 specifically in Hatcher when the Court makes a point of
26 saying the person who purchased, the officer who was on the

1 scene that purchased the drug was there, he was with the
2 other officer when it was sealed. That officer is the one
3 that didn't testify, the one whose initials were on the
4 sealed bag but they were together and then the officer who
5 was there is the one who transported it to Columbia and
6 then the chemist tested it. Your Honor, in this case we're
7 missing that transport.

8 Mr. Hucks: And, Your Honor, the full extent of
9 the transporter that she's speaking of is taking it out of
10 a box putting it on the shelf, taking it off the shelf, and
11 handing it to somebody, and she's identified what her job
12 is will be fully discussed by her supervisor who will come
13 in here and give us all of that information. I think that
14 Hatcher is much broader than what Ms. Williams says it was
15 and even if you look at the pre Hatcher decisions they were
16 very clear that as long as someone was identified and what
17 they did with the drugs were identified then they would be,
18 then they would be acceptable.

19 The Court: And how are they going to testify as
20 to what this person did?

21 Mr. Hucks: Well because that's what she does
22 with hundreds of them a day.

23 The Court: But it doesn't matter if she does it
24 with a hundred of them a day they're going to come in say,
25 I understand in Hatcher you had somebody right there that
26 saw what happened. Here I think you're going to have to

1 have somebody say I saw her take it from here, put it on
2 the shelf, I saw her take it from the shelf. I mean isn't
3 that the distinction between Hatcher and this case?

4 Mr. Hucks: I don't believe so at all, Your
5 Honor. If you look at, just one moment, Your Honor, read
6 through it earlier but I didn't want to mark up my copy.

7 Ms. Williams: Your Honor, do you have Hatcher?

8 The Court: Not in front of me, I've heard it
9 but I need to look back over it.

10 Mr. Hucks: And I'll hand you up a copy that I
11 have, Your Honor. I believe Hatcher, the holding in
12 Hatcher is a little broader. It further says that if it is
13 good enough for, you know, if the trial judge rules it
14 admissible that absent of use and discretion it won't be
15 overturned and there are several other cases mentioned in
16 Hatcher which were decided under the old, the old standard.
17 The pre Hatcher standard which in Hatcher the Supreme Court
18 says was always the standard it just had never been laid
19 out by the Supreme Court that, that were done in such a
20 way.

21 The Court: Hold for a second.

22 Mr. Hucks: This is what Hatcher is for.

23 The Court: Let me take a look at it.

24 Mr. Hucks: Yes, sir.

25 Ms. Williams: Your Honor, if I may when you get
26 a moment, but I would propose to the Court that my

1 understanding of the problem is, is that this particular
2 person is on vacation. Obviously this issue could be
3 remedied if we postpone this until next month in that
4 scenario.

5 Mr. Hucks: And the State's perspective there's
6 no need to do that because Hatcher, Hatcher is clear that
7 they don't even have to identified as long as the method of
8 handling ---

9 The Court: Well I mean, if I rule, if I deny
10 your motion you're still going forward with the TIA, if I
11 say, nope, you've got to have them here we're still going
12 forward with the trial?

13 Mr. Hucks: I'm going to try, I'm going to try
14 to put my hands on her this evening if, if, I mean I don't
15 know that I can do that, I don't know where her location
16 is.

17 The Court: But you're still going forward with
18 the trial regardless?

19 Mr. Hucks: Your Honor, that's my understanding
20 at this point in time, I mean unless my drugs are not
21 admissible.

22 The Court: Not your understanding, I want to
23 know, we trying this case tomorrow. I don't want me to
24 make a ruling on this and then you change your mind and say
25 well we're not going to call it cause the person is not
26 available.

1 Mr. Hucks: Well, Your Honor, if you rule that
2 the drugs are inadmissible then it's obviously not, I mean
3 I can't call a case if my drugs aren't admissible.

4 The Court: Okay, I'll take it under advisement
5 then and we'll decide.

6 Mr. Hucks: Thank you, Your Honor.

7 The Court: All right, I'll need to review it
8 and let you know. All right, what else have we got?

9 Ms. Williams: That's your motion?

10 Mr. Hucks: That's it, yes.

11 Ms. Williams: Your Honor, just briefly, I just
12 wanted to make sure, it's a preliminary matter. The
13 Solicitor, I believe, has agreed but since my client is
14 under a bench warrant and not present I just want to make
15 sure that there was no mention of that and that taint did
16 not arise at any point during the pendency of this trial.

17 The Court: Yeah, what's your position on that?

18 Mr. Hucks: Your Honor, our only argument to the
19 contrary is that evidence of flight is admissible and he
20 has flown the coop.

21 Ms. Williams: Well, Your Honor ---

22 The Court: I don't know, let me take a look at
23 that.

24 Ms. Williams: If I may respond briefly while
25 you're looking, our position with that is, Your Honor, he
26 has a right not to testify, he has a right to, I mean he

1 doesn't have anything. The entire burden is on the State
2 so I mean in reality he doesn't have to come other than the
3 trial going forward without him, I understand that, but he
4 has no duty to do anything at all while we're here.

5 Mr. Hucks: That, completely agree with that,
6 Your Honor, that it would be improper burden shift in to
7 put any burden on the defendant but evidence of flight is
8 in and of itself admissible.

9 The Court: I don't know, they've got, I've got
10 a jury charge here says the defendant may be tried even if
11 the defendant does not attend the trial but the fact that
12 the defendant is not present may not be considered against
13 the defendant in any manner whatsoever so --

14 Mr. Hucks: Well and if that's your holding,
15 Your Honor, I understand.

16 The Court: Yeah, so I'm not going to allow you
17 to testify that there's a bench warrant or that the
18 defendant, you can't argue that the defendant's failure to
19 attend here is any proof of guilt. I'm not going to, I'm
20 just, I'm going to grant the defendant's motion.

21 Mr. Hucks: Yes, sir, Your Honor.

22 The Court: All right.

23 Ms. Williams: Your Honor, next and I believe
24 the Solicitor and I are on the same page, I just want to
25 make it official for the record, Your Honor, what happened
26 here there were a series of charges. There was an alleged

1 first buy, there was a codefendant, that codefendant has
 2 pled. There was a first buy, a second buy, and then a
 3 search warrant. My understanding is here we are here to,
 4 this trial will be simply about the facts surrounding the
 5 second buy only, no mention of the first, no mention of the
 6 search warrant, that this is a singular incident.

7 The Court: All right, so what is it you're,
 8 what are you trying him on?

9 Mr. Hucks: We're here for a buy that happened
 10 on May 7th of 2010, Your Honor, that's all we intend to
 11 try. The only thing is that the identification of the
 12 defendant by police was made when they served the search
 13 warrant; they didn't know his name until they put hands on
 14 him and then they id'ed him, and I've spoken with the
 15 officer and he has no problem testifying to the fact that
 16 when the defendant was taken into custody they identified
 17 him as Antoine Chestnut because they knew him by a nickname
 18 up until that point, had a picture and a nickname.

19 The Court: That will be sufficient.

20 Ms. Williams: And, Your Honor, that will be an
 21 issue we do need to address but I think we have to address
 22 that with the officers present.

23 The Court: All right, let me hear ---

24 Mr. Hucks: The officer is present, Your Honor.

25 The Court: Let me, your motion now is to
 26 exclude any reference to which incident?

1 Ms. Williams: The first buy and the search
2 warrant. There were charges there, a distribution charges
3 from the first buy; there are major trafficking charges and
4 things from the second buy cause they said there was 100
5 plus grams of coke there ---

6 Mr. Hucks: That would be the third buy.

7 Ms. Williams: Well ---

8 Mr. Hucks: From the search warrant.

9 Ms. Williams: In the series.

10 The Court: I'm not following you, ya'll going
11 to have to explain it better.

12 Mr. Hucks: Yes, sir, Your Honor, the
13 confidential informant did a buy from these gentlemen.

14 The Court: When?

15 Mr. Hucks: I have it here in front of me.

16 The Court: It would be easier for me to follow
17 if you give me dates, times, and places.

18 Mr. Hucks: The first charge which was 2011-GS-
19 26-1027 there was a period of time in between March 1st and
20 May 15th where these two buys took place.

21 The Court: Okay.

22 Mr. Hucks: The buy that we intend to try
23 happened on May the 7th. Once this buy took place on May
24 the 7th the police went, which will be the second buy, the
25 first buy was in March, second buy was in May, and then
26 they came back and served a search warrant on the home

1 where there was some higher level trafficking charges made
2 on the defendant and a codefendant who has already pled
3 guilty. The, as I understand it Ms. Williams doesn't want
4 us to mention any of the other, any of the other buys aside
5 from what's happening here and the State's position is if
6 she doesn't ask, if she doesn't a question that opens that
7 door then I'm not going to get into it all.

8 The Court: All right, so, so there's a motion
9 to suppress mention of the March purchase and ---

10 Mr. Hucks: Of the search warrant.

11 The Court: Which was when?

12 Ms. Williams: May --

13 Mr. Hucks: It was after this, Your Honor.

14 Ms. Williams: Hold on, Your Honor, May 14th,
15 Your Honor.

16 Mr. Hucks: Yes, Your Honor, May 14th, that
17 sounds exactly right, and unless the defense opens the door
18 on that we're not intending to enter it all in any way
19 shape or form aside from the I.D. of the defendant.

20 The Court: So we're dealing only with the May
21 7th drug buy?

22 Mr. Hucks: Yes, Your Honor.

23 The Court: All right, well I mean is there any,
24 okay, so ya'll agree you're not going to mention it unless
25 they open the door?

26 Mr. Hucks: Exactly.

1 The Court: Okay.

2 Mr. Hucks: No question whatsoever.

3 The Court: All right, well that's that, and
4 likewise on the motion reference to the defendant's absence
5 and/or issuance of the bench warrant that's conditioned
6 upon the defendant not opening the door in that regard as
7 well, if it's opened then they can pursue it.

8 Ms. Williams: Certainly.

9 The Court: Okay, all right. All right,
10 anything else?

11 Ms. Williams: The only other issue at this
12 time, Your Honor, and I don't know that it would be but
13 while we're making them I'm going to bring it up, is
14 obviously with our defendant there would be no mention of
15 any prior bad acts of his because he does have a record.
16 My client has a record.

17 The Court: Okay, in other words if he ---

18 Mr. Hucks: No objection to that whatsoever,
19 Your Honor.

20 The Court: All right, that will be granted
21 unless he shows up for trial and appears and, yeah.

22 Mr. Hucks: The State's position is only
23 relevant unless he takes the stand and we don't intend to
24 get to it.

25 The Court: Yeah, that's true, all right, sounds
26 good, anything else?

1 Ms. Williams: I don't have anything else right
2 at this time, I assume we're going to sequester our
3 witnesses?

4 Mr. Hucks: I agree, no problem, we would, we
5 would ask that the lead investigator be allowed out as
6 allowed.

7 The Court: All right, and who is the lead
8 investigator?

9 Mr. Hucks: That would be Detective Rusty
10 Crocker who's seated in the courtroom here today.

11 The Court: All right, so he can be here then
12 everyone else be sequestered. If the defendant appears the
13 defendant can be present, all right.

14 Mr. Hucks: Yes, sir, Your Honor.

15 The Court: All right, anything else?

16 Mr. Hucks: Nothing from the State, Your Honor.

17 The Court: All right, well let me take a look
18 at this Hatcher case and see what it says.

19 Mr. Hucks: Thank you, Judge.

20 The Court: Thank you.

21 Ms. Williams: Thank you, sir.

22 The Court: State v. Antoine Chestnut, so ya'll
23 know, Ms. Carter who is the alternate witness in the prior,
24 I mean the alternate juror in the prior case I didn't
25 realize she was here when we were making all of the motions
26 in this Chestnut case so I'm going to go ahead and excuse

1 her from sitting in the Chestnut case, okay?

2 Mr. Hucks: Yes, sir.

3 Ms. Williams: Yes, sir, Your Honor.

4 The Court: All right, sounds good.

5 Jury Panel Member Carter: I'm sorry.

6 The Court: No, no, that's no problem. You
7 didn't anything wrong, don't think you did. All right,
8 here is, those are your, do you want to make these Court's
9 Exhibits?

10 Mr. Hucks: Yes, Your Honor, I believe it's
11 probably appropriate to make them Court's Exhibits.

12 The Court: All right, let's make this Court's
13 Exhibit 1 and 2 in the Chestnut case.

14 (Whereupon, Court's Exhibit Number 1 and 2 marked
15 for identification.)

16 The Court: I'd think we've got to wait to see
17 what your people testify to ---

18 Mr. Hucks: Okay.

19 The Court: --- but you're right, the law says
20 if they can show that the evidence is intact, hadn't been
21 tampered with, is in substantially the same condition as it
22 was from person (a) to person (c) you don't have to have
23 person (b) here.

24 Mr. Hucks: Yes, sir, that was my understanding
25 of it, yes, sir.

26 The Court: Well I'm going to have to wait and

1 see how the other people testify.

2 Mr. Hucks: All right.

3 The Court: And if they testify the way you say
4 they are then it probably still comes in.

5 Mr. Hucks: Okay, thank you, sir.

6 The Court: All right.

7 (Whereupon, the trial was recessed for the
8 evening and resumed on October 6, 2011, at 9:30 a.m.)

9 (Whereupon, State's Exhibits Numbers 1, 2, 3, 4,
10 5 and 6 marked for identification.)

11 Mr. Hucks: Excuse me, Judge, Your Honor,
12 we just would like to just have a little housekeeping
13 issue. Yesterday, Your Honor let in Court's Exhibits,
14 copies from the Clerk's office of the original subpoenas
15 that were sent to Mr. Chestnut, and over the course of last
16 night I found the originals that were that were, I mean the
17 certified original copies that were signed and Clerk Ward's
18 personal handwriting and I wanted, I was wondering about
19 substituting or making them a supplemental Court's Exhibit
20 because I think that they would be the better evidence.

21 The Court: Any objections?

22 Ms. Williams: Without objection.

23 The Court: All right, let's go ahead and make
24 those, that would be Court's Exhibits what?

25 Madam Court Reporter: 3 and 4.

1 The Court: Court's Exhibits 3 and 4.

2 (Whereupon, Court's Exhibits Numbers 3 and 4
3 marked for identification.)

4 Mr. Hucks: And further, Your Honor, Mr.
5 Chestnut's bond paper work when he bonded out on these
6 charges does specifically state that he could be tried in
7 his absence should he not, should he not appear in court;
8 it's on the second page of his bond paper work. I
9 understand that and I have been informed that I have a
10 right and obligation to be present at trial and should I
11 fail to attend the court the trial will proceed in my
12 absence and I would ask that you make that bond paper work
13 further a Court's Exhibit just for purposes of the record.

14 The Court: Any objection?

15 Ms. Williams: Your Honor, I understand that
16 those are copies, I mean I don't know that I have an
17 objection.

18 The Court: Okay, all right, we'll make that
19 Court's Exhibit ---

20 Mr. Hucks: It's a single document.

21 The Court: Okay, Court's Exhibit 5.

22 (Whereupon, Court's Exhibit Number 5 marked for
23 identification.)

24 The Court: All right, anything else?

25 Mr. Hucks: That will be the extent of the

1 State's.

2 The Court: All right, anything further from the
3 defense?

4 Mr. Hucks: Oh, Your Honor?

5 The Court: Okay?

6 Mr. Hucks: Excuse me, I forgot to mention,
7 yesterday we had a brief discussion on the record in
8 reference to the number of strikes each side would get in
9 this particular case. Ms. Williams and I both discussed
10 this morning the fact that under South Carolina Law 14-7-
11 1110 that it's our understanding that I believe that she,
12 that we agree completely that the amount of strikes are
13 five and five as opposed to five and ten.

14 The Court: Is that correct?

15 Ms. Williams: I believe that's what the rules
16 says, Your Honor, if you'd like --

17 Mr. Hucks: I'd be more than happy to pass up --

18 -

19 Ms. Williams: --- to verify ---

20 The Court: Well I mean what is, what is, the
21 indictment is for trafficking in cocaine base?

22 Mr. Hucks: Yes, sir, third offense.

23 The Court: Trafficking cocaine ---

24 Ms. Williams: Your Honor, but according to, if
25 you'll verify, I mean I think that's what the rule says but

1 it enumerates.

2 The Court: What does the rule say?

3 Mr. Hucks: 14-7-1110, Your Honor, says that
4 "any person who is in arraigned for the crime of murder,
5 manslaughter, burglary, arson, criminal sexual conduct,
6 armed robbery, grand larceny, or breach of trust when it's
7 punishable as for grand larceny, perjury, or forgery is
8 entitled to peremptory challenges not to exceed ten and the
9 State is entitled to peremptory challenges not exceeding
10 five. Any person who is indicted for any crime or offense
11 other than those enumerated above has the right to five."

12 The Court: Okay, let's see, all right, well if
13 trafficking cocaine base third offense is not one of them
14 then it will be five and five.

15 Mr. Hucks: Thank you, Judge.

16 The Court: All right, all right, anything else?

17 Mr. Hucks: Nothing from the State, Judge.

18 The Court: Anything from the defense?

19 Ms. Williams: No, sir, not at this time, I
20 think there will be some motions that I will have to renew
21 or make once the jury is sworn, Your Honor, renew the
22 motions from yesterday so for technical housekeeping
23 matters and stuff.

24 The Court: All right, anything from the State
25 before we bring the jury in and begin the jury selection

1 process? Anything from the State?

2 Mr. Hucks: Nothing, Your Honor.

3 The Court: Anything from the defense before we
4 bring the jury panel up?

5 Ms. Williams: No, sir, not at this time, I
6 don't --

7 The Court: All right, let's go ahead and bring
8 the jury panel up.

9 All right, I'm looking at the defendant's request
10 to voir dire, number four, Ms. Williams, any member, "does
11 any member of the jury panel or immediate family or close
12 friend been a victim of physical abuse?" What is the
13 relevancy of that?

14 Ms. Williams: Your Honor, I put that in there
15 because this is a matter of drugs and I think in, in
16 reality in a, typically in a community there are lots of
17 people that say well if we were on drugs and alcohol that
18 wouldn't have happened or people who get high, people who
19 do that kind of stuff, that there's a, a social
20 relationship with that, Your Honor, which was the basis for
21 my putting that in there.

22 The Court: Okay.

23 Mr. Hucks: Your Honor, the State's position is
24 simply that the standard voir dire that you already ask is
25 plenty, plenty good enough for us.

1 The Court: Okay.

2 Mr. Hucks: I think that a lot of this, you
3 know, just ends up being duplicates and -

4 The Court: Well I'm just, I'm not going to ask
5 the one about physical abuse. I will ask if any members
6 have been treated or have a close friend treated for
7 alcoholism or drug addiction.

8 Ms. Williams: Thank you, Your Honor.

9 The Court: Thank you.

10 (Whereupon, the jury venire enters the
11 courtroom.)

12 The Court: We are getting ready to start the
13 trial of the case of The State of South Carolina v. Antoine
14 F. Chestnut. Mr. Chestnut has been charged and indicted by
15 the grand jury for trafficking in cocaine base, no, we
16 still have more people coming, excuse me for just a second.
17 Is that everyone?

18 The Bailiff: Yes, sir.

19 The Court: All right, all right, ladies and
20 gentlemen, we are getting ready to start the trial of the
21 case of The State of South Carolina v. Antoine F. Chestnut.
22 Mr. Chestnut has been charged and indicted with trafficking
23 in cocaine base so what's commonly referred to as crack
24 cocaine. The allegations being that on or about May the
25 7th, 2010, he did knowingly sell, deliver, purchase, or

1 bring into the State or did aid, abet, attempt, or conspire
2 to sell, deliver, purchase, or bring into the State or was
3 in actual or constructive possession or attempted to become
4 in actual or constructive possession of a quantity of
5 cocaine base in the amount of more than ten grams but less
6 than twenty-eight grams. Now those are the allegations
7 contained in the indictment.

8 I have a series of questions to go over with you.
9 You've already been qualified to serve as jurors for this
10 term of General Sessions Court, however, I do have some
11 questions to go over with you now which is commonly
12 referred to as voir dire questions, that is to determine
13 whether or not you are qualified to serve as jurors on this
14 particular case and it also gives the attorneys some
15 additional information that will assist them in selecting a
16 jury for this case, so if everyone would, please, stand and
17 raise your right hand.

18 (Whereupon, the jury venire is sworn.)

19 All right, thank you very much, you may, please,
20 be seated, is there any member of the jury panel who did
21 not respond to the oath by saying I do, if so, please,
22 stand?

23 (No response.)

24 All right, good, all right, now the defendant in
25 this case is Antoine F. Chestnut, is there any member of

1 the jury panel related by blood or marriage, have a close
2 personal relationship, business relationship, social
3 relationship, or any other type of relationship with the
4 defendant Antoine F. Chestnut, if so, please stand?

5 (No response.)

6 All right, now the potential witnesses in this
7 case, if you would, please, listen up, potential witnesses
8 are:

9 David Crocker;

10 Ashley Hardee;

11 Sharon Lily;

12 Lisa Floyd;

13 Lori Rabon;

14 Rebecca Phillips;

15 James Clifford Wilson;

16 Timothy Alston;

17 Presley Pyatt;

18 Antoine Chestnut; and

19 Elbert Jones.

20 Is there any member of the jury panel related by
21 blood or marriage, have a close personal relationship,
22 business relationship, social relationship, or any other
23 type of relationship with any of these potential witnesses,
24 if so, please stand?

25 (No response.)

1 All right, I'm going to ask the attorneys,
2 please, stand, face the jurors and give the jurors your
3 name, please?

4 Mr. Hucks: My name is Scott Hucks.

5 Mr. Grooms: Steven Grooms.

6 The Court: All right, just anyone that's
7 participating in the case, that's fine.

8 Ms. Williams: Good morning, ladies and
9 gentlemen, my name is Brana Williams; I'm an attorney. My
10 office is at Murrell's Inlet and seated with me is Jim
11 Arnold who is my chief investigator. He's also my husband
12 but he's my investigator at my office.

13 The Court: All right, is there any member of
14 the jury panel related by blood or marriage, have a close
15 personal relationship, social relationship, business
16 relationship, or any other type of relationship with either
17 Ms. Williams, Mr. Arnold, Mr. Hucks, or and, I'm sorry, the
18 other Solicitor's name?

19 Mr. Grooms: Steven Grooms.

20 The Court: Or Mr. Grooms, if so, please stand?

21 (No response.)

22 Has any member of the jury panel ever been
23 represented by any of these attorneys, if so, please stand?

24 (No response.)

25 Has any member of the jury panel ever been

1 involved in a legal action in which one of these attorneys
2 represented another party to that action, if so, please
3 stand?

4 (No response.)

5 Is there any member of the jury panel who either
6 personally has a family member or a close personal friend
7 employed with the Fifteenth Circuit Solicitors office or
8 with Ms. Williams law office, if so, please stand?

9 Yes, sir, your name and number?

10 Jury Panel Member: 206, Mike McClellan.

11 The Court: All right, Mr. McMillan, you have,
12 this is you, a family member or a friend?

13 Jury Panel Member: My sister works with the
14 Solicitors office, Gabriel Richardson.

15 The Court: Okay, and that's here in Conway?

16 Jury Panel Member: Yes, sir.

17 The Court: All right, all right, Mr. McMillan,
18 I'm going to excuse you from this particular case, okay,
19 thank you very much.

20 Anyone else either personally, a family member,
21 or a close personal friend employed by Ms. Williams law
22 office or the Fifteenth Circuit Solicitors office, if so,
23 please stand?

24 (No response.)

25 Is there any member of the jury panel who has

1 heard anything, read anything, discussed anything, or knows
2 anything about this case, if so, please stand?

3 (No response.)

4 Has any member of the jury panel formed or
5 expressed an opinion about any issue or matter involved in
6 this case, if so, please stand?

7 (No response.)

8 Is any member of the jury panel aware of any bias
9 or prejudice towards either the State or the defendant in
10 this case, if so, please stand?

11 Yes, sir, your name and number?

12 Jury Panel Member: 231, Nichols, Michael.

13 The Court: All right, Mr. Nichols, if you would
14 come forward, please, the attorneys want to come forward,
15 too.

16 (Whereupon, a bench conference was held off the
17 record out of hearing of the jury venire and court
18 reporter.)

19 We'll excuse juror number 231 from this case,
20 thank you. Just stay with us, I'll excuse you in just a
21 minute.

22 Is there any member of the jury panel, any other
23 member of the jury panel aware of any bias or prejudice
24 towards either the State or the defendant, if so, please
25 stand?

1 (No response.)

2 Is there any member of the jury panel that was a
3 member of the grand jury that issued the indictment in this
4 case, if so, please stand?

5 Is there any member of the jury panel who is a
6 member of or a contributor to any group which has as its
7 primary concern the promotion of law enforcement or victims
8 rights? Some of these organizations are Mothers Against
9 Drunk Drivers, commonly referred to as MADD, Students
10 Against Drunk Drivers, commonly referred to as SADD,
11 Citizens Against Violent Crime or CAVE, and Citizens
12 Against Spousal Abuse, or CASA? Is there any member of the
13 jury panel a contributor to or a member of any such
14 organization, if so, please stand?

15 (No response.)

16 Has any member of the jury panel or any member of
17 your immediate family or close personal friend ever been a
18 party in any type of legal proceeding, if so, please stand?

19 All right, sir, your name and number?

20 Jury Panel Member: 267, James Roberts.

21 The Court: All right, Mr. Roberts, without
22 getting into the details what kind of legal proceeding, was
23 it a criminal or a civil case?

24 Jury Panel Member: Criminal, I was a narcotics
25 investigator for the City of Myrtle Beach and a homicide

1 investigator for the county.

2 The Court: All right, and how long ago was
3 that?

4 Jury Panel Member: Ten years, I retired.

5 The Court: Okay, would your involvement in that
6 case or your prior occupation affect your ability to be
7 fair and impartial to both the State and the defense in
8 this case?

9 Jury Panel Member: No, sir.

10 The Court: All right, would you be able to
11 disregard that legal proceeding in its entirety and base
12 your decision in this case exclusively on the testimony and
13 evidence in this case?

14 Jury Panel Member: Yes, sir.

15 The Court: All right, thank you for bringing
16 that to our attention, Mr. Roberts.

17 All right, anyone else ever been a participant in
18 a legal proceeding or had a close family, an immediate
19 family member or a close personal friend that's been
20 involved in a legal proceeding, if so, please stand?

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

22 Jury Panel Member: Sherry Jones, 172.

23 The Court: All right, Ms. Jones, now what kind
24 of proceeding was yours, a civil or a criminal?

25 Jury Panel Member: My ex-husband is a Myrtle.

1 Beach police officer.

2 The Court: Okay, how long have you been
3 divorced?

4 Jury Panel Member: Eleven years.

5 The Court: All right, do you still have any
6 type of contact with him or regular contact with him?

7 Jury Panel Member: Not regular contact, no,
8 sir.

9 The Court: Okay, would his employment or any
10 legal proceedings to which he has been involved affect your
11 ability to be fair and impartial to both the State and the
12 defendant in this case?

13 Jury Panel Member: I'm sorry, you said will I
14 be --

15 The Court: Would it, would his employment or
16 any involvement that he has had in any case in the past
17 affect your ability to be fair and impartial to the
18 plaintiff and, excuse me, to the State and the defendant in
19 this case?

20 Jury Panel Member: No, I would be fine.

21 The Court: All right, would you be able to
22 disregard his employment in its entirety and base your
23 decision in this case exclusively on the testimony and
24 evidence in the case?

25 Jury Panel Member: Yes, sir.

1 The Court: All right, thank you for bringing
2 that to our attention, Ms. Jones.

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

4 Jury Panel Member: Number 144, Sarah Harman.

5 The Court: Hold for one second, all right, Ms.
6 Harman, what kind of legal proceeding were you involved in?

7 Jury Panel Member: My son is a state highway
8 patrolman.

9 The Court: Okay.

10 Jury Panel Member: Here in Horry County.

11 The Court: All right, now does he live with you
12 or not?

13 Jury Panel Member: No.

14 The Court: Okay.

15 Jury Panel Member: I see him on a daily basis.

16 The Court: Would his employment affect your
17 ability to be fair and impartial to the State and the
18 defendant in this case?

19 Jury Panel Member: Yes, sir.

20 The Court: It would affect your ability?

21 Jury Panel Member: Yes, sir.

22 The Court: All right, thank you, Ms. Harman,
23 for bringing that to our attention. I'll excuse you from
24 this particular case, okay?

25 Yes, sir, your name and number?

1 Jury Panel Member: Robert Vittetoe, number 326.

2 The Court: All right, how do you pronounce your
3 name?

4 Jury Panel Member: Vittetoe.

5 The Court: All right, Mr. Vittetoe, is this you
6 or a family member or a friend?

7 Jury Panel Member: Myself.

8 The Court: All right, and what kind of legal
9 proceeding were you involved in?

10 Jury Panel Member: I was a military police
11 officer for twenty-six years. I supervised investigative
12 agents that were involved in numerous cases.

13 The Court: All right, and how long ago was
14 that?

15 Jury Panel Member: I retired in 2008.

16 The Court: All right, would your employment or
17 prior cases that you were involved in affect your ability
18 to be fair and impartial to the State and the defendant in
19 this case?

20 Jury Panel Member: No, sir.

21 The Court: All right, would you be able to
22 disregard your prior employment in its entirety as well as
23 any case that you may have been involved in in its entirety
24 and base your decision in this case exclusively on the
25 testimony and evidence in this case?

1 Jury Panel Member: Sure.

2 The Court: All right, thank you for bringing
3 that to our attention, Mr. Vittetoe.

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

5 Jury Panel Member: Christine Hodge, 149, my
6 husband is a state trooper.

7 The Court: All right, and where is he a state
8 trooper?

9 Jury Panel Member: Horry County.

10 The Court: Horry County?

11 Jury Panel Member: Yes.

12 The Court: All right, would his employment
13 affect your ability to be fair and impartial to the State
14 and the defendant in this case?

15 Jury Panel Member: Yes, sir.

16 The Court: Okay, all right, thank you, Ms.
17 Hodge, for bringing that to our attention. I'll excuse you
18 from this particular case.

19 All right, anyone else been involved in any type
20 legal proceeding?

21 Yes, sir, your name and number?

22 Jury Panel Member: Wallace Lunsford, 193.

23 The Court: All right, Mr. Lunsford, is this
24 you, a family member, or a friend?

25 Jury Panel Member: Myself and I'm not sure if

1 it applies but I'm retired from North Carolina Department
2 of Corrections so for a lot of my career I supervised
3 fellows incarcerated for drug offenses.

4 The Court: Okay, would your prior, how long ago
5 was that?

6 Jury Panel Member: I retired in '99.

7 The Court: All right, would that, your prior
8 employment affect your ability to be fair and impartial to
9 both the State and the defendant in this case?

10 Jury Panel Member: No, sir.

11 The Court: All right, would you be able to
12 disregard your employment, prior employment, in its
13 entirety and base your decision in this case exclusively on
14 the testimony and evidence in this case?

15 Jury Panel Member: Yes, sir.

16 The Court: Thank you, Mr. Lunsford, for
17 bringing that to our attention.

18 Anyone else been involved in any legal
19 proceedings?

20 Jury Panel Member: Your Honor, I have one other
21 I need to make you aware of.

22 The Court: All right, I apologize, but we've
23 got to make a record so I need you to give me your name and
24 number again?

25 Jury Panel Member: 267, James Roberts.

1 The Court: All right, Mr. Roberts?

2 Jury Panel Member: I was involved in a civil
3 case against the Solicitor's office and the State of South
4 Carolina, SLED.

5 The Court: All right, how long ago was that?

6 Jury Panel Member: '99.

7 The Court: All right, would that lawsuit affect
8 your ability to be fair and impartial to both the State and
9 the defendant in this case?

10 Jury Panel Member: No, sir.

11 The Court: Would you be able to disregard that
12 lawsuit in its entirety and base your decision in this case
13 exclusively on the testimony and evidence in this case?

14 Jury Panel Member: Yes, sir.

15 The Court: Was that civil action was that
16 against the Fifteenth Circuit Solicitors Office?

17 Jury Panel Member: Yes, sir.

18 The Court: Okay, thank you for bringing that to
19 our attention, Mr. Roberts.

20 Anyone else?

21 Is there any member of the jury panel who either
22 personally has a member of your immediate family or a close
23 personal friend that has been a witness in a legal
24 proceeding, if so, please stand?

25 (No response.)

1 Is there any member of the jury panel who either
2 personally has an immediate family member or a close
3 personal friend that has been the victim of a crime, if so,
4 please stand?

5 (No response.)

6 Is there any member of the jury panel who either
7 personally, has an immediate family member or a close
8 personal friend that suffers from or has ever been treated
9 for alcoholism and/or drug addition, if so, please stand?

10 All right, the first lady here in the gray
11 sweater, if you would come forward, please?

12 All right, your name and number?

13 Jury Panel Member: Kelly Leonard, 187, my
14 father ---

15 The Court: Hold for a second, all right, Ms.
16 Leonard?

17 Jury Panel Member: My father was on drugs and
18 my brother was also with alcohol and drugs.

19 The Court: Both alcohol and drugs?

20 Jury Panel Member: Uh-huh.

21 The Court: All right, would their conditions
22 affect your ability to be fair and impartial to both the
23 State and the defendant in this case?

24 Jury Panel Member: No, it wouldn't.

25 The Court: Okay, would the fact that this is a

1 drug trafficking case affect your ability to be fair to the
2 defendant in this case?

3 Jury Panel Member: I don't think it would, no.

4 The Court: Okay, and you'd be able to disregard
5 your family's conditions ---

6 Jury Panel Member: Yes.

7 The Court: --- in its entirety?

8 Jury Panel Member: Yes.

9 The Court: Okay, thank you for bringing that to
10 our attention, all right, thank you very much.

11 All right, the lady in the dark, the black
12 jacket, please, ma'am, your name and number?

13 Jury Panel Member: Cynthia Senatore, 276.

14 The Court: All right, all right, Ms. Senatore,
15 was this you, a family member or a friend?

16 Jury Panel Member: My son, he's a recovering
17 alcoholic, drug abuser.

18 The Court: Okay, now this is a drug trafficking
19 case, would your son's condition affect your ability to be
20 fair and impartial to both the State and the defendant?

21 Jury Panel Member: No, sir.

22 The Court: Would you be able to disregard your
23 son's condition in its entirety and base your decision in
24 this case exclusively on the testimony and evidence in this
25 case?

1 Jury Panel Member: Yes, sir.

2 The Court: Okay, thank you for bringing that to
3 our attention.

4 Yes, ma'am, if you'd come forward, please, your
5 name and number?

6 Jury Panel Member: Tammy Miller, 215.

7 The Court: Okay, now, Ms. Miller, is this you,
8 a family member, or who?

9 Jury Panel Member: My ex-husband.

10 The Court: Okay?

11 Jury Panel Member: Suffers from alcoholism.

12 The Court: All right, would his condition
13 affect your ability to give both the State and the
14 defendant a fair and impartial trial?

15 Jury Panel Member: No.

16 The Court: All right, would you be able to
17 disregard his condition in its entirety and base your
18 decision in this exclusively on the testimony and evidence
19 in this case, keeping in mind that this is a drug
20 trafficking case?

21 Jury Panel Member: Yes, sir.

22 The Court: Okay, thank you bringing that to our
23 attention.

24 All right, anybody else, yes, sir, if you'd come
25 forward, please.

1 Jury Panel Member: Sir, I just needed to go
2 back to the previous question on the victim of a crime.

3 The Court: Yes, sir?

4 Jury Panel Member: My number again is 326,
5 Robert Vittetoe.

6 The Court: All right, Mr. Vittetoe?

7 Jury Panel Member: Back in May my daughter
8 lives in Tacoma, Washington, they had a burglary in their
9 house where intruders broke in and my son in law actually
10 shot and killed one of the intruders and wounded another
11 one.

12 The Court: All right, would that incident
13 affect your ability to be fair and impartial to both the
14 State and the defendant in this case?

15 Jury Panel Member: No.

16 The Court: All right, would you be able to
17 disregard that incident in its entirety and base your
18 decision in this case exclusively on the testimony and
19 evidence in this case?

20 Jury Panel Member: Yes, sir.

21 The Court: All right, thank you, Mr. Vittetoe,
22 for bringing that to our attention.

23 Anyone else that involved, been a victim of a
24 crime or either personally has a family member or close
25 personal friend that suffers from alcoholism or drug

1 addiction, if so, please stand?

2 Jury Panel Member: Number 10, Ann Arnold.

3 The Court: All right, is this --

4 Jury Panel Member: It's a crime.

5 The Court: Okay, and, I'm sorry, your number
6 again?

7 Jury Panel Member: 10.

8 The Court: All right, Ms. Arnold, who was the
9 victim of a crime?

10 Jury Panel Member: My nephew.

11 The Court: All right, and how long ago was
12 this?

13 Jury Panel Member: It's been probably seven
14 years ago.

15 The Court: Seven years ago, all right --

16 Jury Panel Member: He was shot in Columbia.

17 The Court: He was shot?

18 Jury Panel Member: Uh-huh, and killed.

19 The Court: And killed?

20 Jury Panel Member: Uh-huh.

21 The Court: All right, would that incident
22 affect your ability to give both the State and the
23 defendant a fair and impartial trial in this case?

24 Jury Panel Member: No.

25 The Court: Would you be able to disregard that

1 incident in its entirety and base your decision in this
2 case exclusively on the testimony and evidence in this
3 case?

4 Jury Panel Member: Yes.

5 The Court: Okay, thank you, Ms. Arnold, for
6 bringing that to our attention.

7 Anyone else?

8 (No response.)

9 Does any member of the jury panel know of any
10 reason whatsoever why he or she should not serve as a juror
11 in this case, with particular emphasis being placed on your
12 ability to be fair and impartial to both the State and the
13 defendant, if so, please stand?

14 Yes, sir, your name and number?

15 Jury Panel Member: Bernel Vereen, number 321.

16 The Court: All right, Mr. Vereen, if you'd,
17 please, come forward?

18 Mr. Vereen, what's your situation?

19 Jury Panel Member: I have two cousins that were
20 addicted to crack cocaine and I had issues with them and my
21 uncle and I believe that another of my family participates
22 in that drug now and I despise that drug.

23 The Court: Okay, all right, and that would
24 affect your ability to be fair and impartial?

25 Jury Panel Member: I don't know, Your Honor.

1 The Court: Well and that's the reason I ask the
2 question. If there's any doubt in your mind that we need
3 to know, okay? All right, I'm going to go ahead and excuse
4 you, Mr. Vereen. Thank you for bringing that to our
5 attention, okay.

6 All right, juror number 321 is excused.

7 Any other member of the jury panel aware of any
8 reason whatsoever as to why he or she should not serve as a
9 juror in this case with particular emphasis being placed on
10 your ability to be fair and impartial to both the State and
11 the defendant, if so, please stand?

12 (No response.)

13 Any additional questioning from the State?

14 Mr. Hucks: None, Your Honor.

15 The Court: Any from the defense?

16 Ms. Williams: None from the defense, Your
17 Honor.

18 The Court: All right, all right, ladies and
19 gentlemen, I recognize some of you in the jury panel who
20 have been on a previous jury but for those of you have not
21 gone through this process before what will happen is the
22 Clerk will call your names one at a time. Your name has
23 been placed on a list in random order and as your name is
24 called if you would, please, come forward and stand here in
25 front of the attorneys and face the attorneys. Bring with

1 you any pocketbooks, coats, umbrellas, or whatever you
2 might have with you.

3 And what will happen is you'll come forward and
4 you'll stand in front of the attorneys and the State will,
5 State's attorney will take a look at their notes and then
6 they'll look at you a little while and then they'll look
7 back at their notes and then they'll look back at you a
8 little while and then they'll go through this process
9 unless and until they decide they want you as a juror and
10 if they want you as a juror then the defense attorney will
11 take a look at you a little while and look at her notes a
12 little while and take a look at you a little while and look
13 back at you and at her notes and then she'll decide if she
14 wants you as a juror and we go through this process until
15 we get twelve jurors and one alternate. Each side gets a
16 certain number of strikes that they can strike as jurors.

17 Now if you are struck as a juror in this case,
18 please, do not take it personally. It just means that for
19 whatever reason you did not fit the profile that that party
20 is looking for in this particular case. I've known many
21 cases where a juror has been struck in one case and
22 accepted in the next case. I've also known when they have
23 been accepted in one case and then struck in the following
24 case so there's really no rhyme or reason to it. It just
25 means that in each case they have a certain profile that

1 they're looking for and for whatever reason if you're
2 struck you don't meet the profile that they're looking for
3 in this particular case so, please, don't take it
4 personally.

5 All right, please listen up and as your name is
6 called if you would, please, come forward, stand in front
7 of the attorneys and face the attorneys. Let's move that
8 podium, please.

9 Madam Clerk: Juror Number 276, Cynthia
10 Senatore.

11 What say the State?

12 Mr. Hucks: Please present the juror.

13 Madam Clerk: Defense?

14 Ms. Williams: Please seat the juror.

15 Madam Clerk: Please be seated in the jury box.

16 290, Vincent Soto.

17 What say the State?

18 Mr. Hucks: Please present the juror.

19 Madam Clerk: Defense?

20 Ms. Williams: Please swear the juror.

21 Madam Clerk: Please be seated in the jury box.

22 166, Dennis Johnson.

23 What say the State?

24 Mr. Hucks: Please present the juror.

25 Madam Clerk: Defense?

1 Ms. Williams: Your Honor, may I inquire, I
2 missed his occupation?

3 The Court: All right, Mr. Johnson, what do you
4 do for a living?

5 Jury Panel Member: I work at Conbraco
6 Industries as a machinist.

7 The Court: All right.

8 Ms. Williams: Please swear the juror.

9 Madam Clerk: Please be seated in the jury box.
10 215, Tammy Miller.

11 What say the State?

12 Mr. Hucks: Please present the juror.

13 Madam Clerk: Defense?

14 Ms. Williams: Beg the Court's indulgence for
15 just one moment.

16 The Court: All right.

17 Ms. Williams: We, the defense would excuse this
18 witness.

19 The Court: All right.

20 Madam Clerk: You're excused from this
21 particular case.

22 294, Victoria Stanley.

23 What say the State?

24 Mr. Hucks: Please present the juror.

25 Madam Clerk: Defense?

1 Ms. Williams: Please swear the juror.

2 Madam Clerk: Please be seated in the jury box.

3 309, Hazel Teal.

4 What say the State?

5 Mr. Hucks: Please present the juror.

6 Madam Clerk: Defense?

7 Ms. Williams: Please swear the juror.

8 Madam Clerk: 187, Kelly Leonard.

9 What say the State?

10 Mr. Hucks: Excuse the juror from the trial of
11 this particular case.

12 Madam Clerk: You're excused from this
13 particular case.

14 18, Jamie Bell.

15 What say the State?

16 Mr. Hucks: Please present the juror, Your
17 Honor.

18 Madam Clerk: Defense?

19 Ms. Williams: Your Honor, I did not understand
20 you, could I get Mr. Bell to tell me his occupation?

21 Jury Panel Member: I'm with the Department of
22 Transportation.

23 Ms. Williams: Please swear the juror.

24 Madam Clerk: Please be seated in the jury box.

25 37, Jay Burr.

1 What say the State?

2 Mr. Hucks: Please present the juror.

3 Madam Clerk: Defense?

4 Ms. Williams: Your Honor, I did not, can I ask
5 Mr. Burr what his occupation is?

6 The Court: Your occupation?

7 Jury Panel Member: I'm self employed; I work on
8 waste handling equipment and recycling equipment.

9 Ms. Williams: Please swear the juror.

10 Madam Clerk: Please be seated in the jury box.

11 68, Sondra Coombs.

12 What say the State?

13 Mr. Hucks: Please present the juror.

14 Madam Clerk: Defense?

15 Ms. Williams: Please swear the juror.

16 Madam Clerk: Please be seated in the jury box.

17 88, Eric Donaldson.

18 What say the State?

19 Mr. Hucks: Please present the juror.

20 Madam Clerk: Defense?

21 Ms. Williams: Your Honor, could I inquire of
22 Mr. Donaldson of his employment?

23 Jury Panel Member: I work for Best Buy,
24 technology.

25 Ms. Williams: I'm sorry?

1 Jury Panel Member: Best But, technology.

2 Ms. Williams: Okay, Your Honor, the defense
3 would excuse this witness, this juror.

4 Madam Clerk: You're excused from this
5 particular case.

6 10, Ann Arnold.

7 What say the State?

8 Mr. Hucks: Please present Ms Arnold.

9 Madam Clerk: Defense?

10 Ms. Williams: I beg the Court's indulgence for
11 just one moment?

12 The Court: All right.

13 Ms. Williams: The defense would excuse Ms.
14 Arnold from this case.

15 Madam Clerk: You're excused from this
16 particular case.

17 198, John Marlow.

18 What say the State?

19 Mr. Hucks: Please present the juror.

20 Madam Clerk: Defense?

21 Ms. Williams: Please swear the juror.

22 Madam Clerk: Please be seated in the jury box.

23 180, Jason Killam.

24 What say the State?

25 Mr. Hucks: Please present the juror.

1 Madam Clerk: Defense?

2 Ms. Williams: Your Honor, may we inquire of Mr.
3 Killam his employment?

4 The Court: All right.

5 Jury Panel Member: Real estate agent.

6 Ms. Williams: Please swear the juror.

7 Madam Clerk: Please be seated in the jury box.
8 197, Sheree Marilla.

9 What say the State?

10 Mr. Hucks: Please present the juror.

11 Madam Clerk: Defense?

12 Ms. Williams: Your Honor, could we ask Ms.
13 Marilla what she does for her employment?

14 The Court: I'm sorry, I didn't hear what that
15 was?

16 Jury Panel Member: Nurse practitioner.

17 The Court: All right, thank you.

18 Ms. Williams: Please swear the juror.

19 Madam Clerk: Please be seated in the jury box.
20 193, Wallace Lunsford.

21 What say the State?

22 Mr. Hucks: Please present the juror.

23 Madam Clerk: Defense?

24 Ms. Williams: Please excuse this juror from
25 this case, Your Honor.

1 Madam Clerk: You're excused from this
2 particular case.

3 3, Andrew Adkins.

4 What say the State?

5 Mr. Hucks: Please excuse the juror from the
6 trial of this, this particular case.

7 Madam Clerk: You're excused from this
8 particular case.

9 108, Danny Fleming.

10 What say the State?

11 Mr. Hucks: Please present the juror.

12 Madam Clerk: Defense?

13 Ms. Williams: May we inquire of Mr. Fleming his
14 employment?

15 Jury Panel Member: Sales manager for a car
16 dealership.

17 Ms. Williams: Please swear the juror.

18 Madam Clerk: Please be seated in the jury box.

19 The Court: All right, one alternate enough or
20 do we need two alternates?

21 Mr. Hucks: That would be fine with the State,
22 Your Honor.

23 Ms. Williams: Your Honor, I think one is
24 plenty, thank you.

25 The Court: All right, so we'll choose an

1 alternate, the State gets one strike, defense gets two
2 strikes.

3 Madam Clerk: 161, Dorothy Inman.

4 What say the State?

5 Mr. Hucks: Please present the juror.

6 Madam Clerk: Defense?

7 Ms. Williams: Your Honor, may we inquire of Ms.
8 Inman?

9 Jury Panel Member: I am retired from Walmart.

10 Ms. Williams: Please excuse the juror from this
11 case.

12 Madam Clerk: You're excused from this
13 particular case.

14 127, Larry Gasque.

15 What say the State?

16 Mr. Hucks: Please present the juror.

17 Madam Clerk: Defense?

18 Ms. Williams: Your Honor, may we inquire of Mr.
19 Gasque his employment?

20 Jury Panel Member: I'm a retired heavy
21 equipment operator.

22 Ms. Williams: Heavy equipment?

23 Jury Panel Member: Yes.

24 Ms. Williams: Please swear the juror.

25 The Court: All right.

1 Madam Clerk: Please be seated in the jury box.

2 The Court: All right. ladies and gentlemen, you
3 will be the jury that will preside in this case. I'm going
4 to excuse you back to the jury room for just a few minutes
5 while I release the remaining jury panel.

6 While you're back in the jury room if I could get
7 you to select a foreman for me; if you're not able to
8 select a foreman don't worry about it, I can appoint
9 someone to serve as foreperson, excuse me, not foreman, but
10 foreperson for this jury. Many judges appoint their own
11 foreperson; I like to give the jury the opportunity to
12 select one on their own if they're able to do so, but if
13 you're not able to do so don't worry about it.

14 If you can select a foreperson just write the
15 foreperson's name on a sheet of paper with the jury number
16 and give the sheet of paper to the bailiff and she'll bring
17 it back in to the Court.

18 Now the foreperson has absolutely no more
19 importance, no more authority or no more influence than any
20 other juror. The foreperson is simply the liaison between
21 the Court and the jury. If the jury has a need or if the
22 jury has a question the foreperson let's the Court know.
23 When it's time to deliberate the foreperson will preside
24 over the deliberations, but other than that there is no
25 more importance or influence or authority that a foreperson

1 has over any other juror.

2 Now when you come back into the courtroom the
3 foreperson will always occupy this first seat which is
4 closest to the witness stand. The alternate will always
5 sit in the alternate where you are now sitting, Mr. Gasque,
6 is it Gasque?

7 Jury Panel Member: Yes, sir.

8 The Court: All right, Mr. Gasque, if you would
9 always sit in that seat unless and until you become a part
10 of the regular jury. The rest of you are at liberty to sit
11 in whatever seat you like. You can sit in the same seat
12 throughout the trial of the case or you can alternate seats
13 during the trial whichever makes you feel more comfortable.

14 The only restriction is at this point in time,
15 Mr. Gasque, you could not serve as foreperson since you are
16 an alternate at this point in time, okay, so I'm going to
17 excuse you back to the jury room for just a few minutes.
18 See if you can select a foreperson, write that person's
19 name on a sheet of paper with the jury number and we'll
20 bring you back into the courtroom at that time, thank you
21 very much. Everyone else, please, remain seated while the
22 jury is excused.

23 (Whereupon, the jury retired to the jury room at
24 10:25 a.m.)

25 The Court: All right, any challenges to the

1 selection or composition of the jury by the State?

2 Mr. Hucks: None whatsoever, Your Honor.

3 The Court: Any by the defense?

4 Ms. Williams: None from the defense, Your
5 Honor.

6 The Court: All right, ladies and gentlemen,
7 those of you who remain in the jury panel we do have our
8 jury for this case and so I am going to excuse you not only
9 for the remainder of the day but that will conclude your
10 services for this week. Once we finish this trial we won't
11 have time for any more jury trials, so I will excuse you
12 for the remainder of the week and I want to thank you
13 sincerely for being here and being ready and willing and
14 able to serve. Some of you have served on juries and we
15 thank you for that.

16 For those of you who have not had the opportunity
17 to serve on a jury, please, do not leave thinking you have
18 not fulfilled your duty as jurors because you have. We
19 have disposed of a great number of case, both on the civil
20 side and on the criminal side simply because you were here
21 ready and willing and able to serve as jurors and I want to
22 thank you for that service. You're free to go at this
23 time; you're free to stay with us if you'd like to, but if
24 you're ready to go you can certainly go, thank you very
25 much.

1 (Whereupon, the remaining jury venire is
2 excused.)

3 The Court: Let's take, I guess, about a five,
4 ten minute break and see if they can select a foreperson
5 and then we'll come back, okay.

6 Ms. Williams: Thank you, Your Honor.

7 Mr. Hucks: Thank you, sir.

8 The Court: All right.

9 (Whereupon, a recess was taken and the following
10 takes place on the record after the recess.)

11 The Court: I see they have selected juror
12 number 37, Jay Burr, as the foreperson. This will be
13 Court's Exhibit Number --

14 Madam Court Reporter: Six.

15 The Court: Six.

16 (Whereupon, Court's Exhibit Number 6 marked for
17 identification.)

18 Ms. Williams: Your Honor, I don't know if this
19 is the appropriate time but maybe it's good since our jury
20 is, is our jury sworn?

21 The Court: Not yet.

22 Mr. Hucks: No.

23 Ms. Williams: Okay, well not time.

24 The Court: All right, anything from the State
25 before we bring the jury in?

1 Mr. Hucks: No, Your Honor, I just believe that
2 there have some pretrial matters after they're sworn that
3 we have to take up.

4 The Court: All right, so we need to place them
5 under, I mean recommend putting them under oath and send
6 them back out?

7 Ms. Williams: I think technically, I'm just
8 worried about the appealability -

9 Mr. Hucks: I believe you have to, yes.

10 Ms. Williams: --- and protecting my client's
11 and making sure I do it right, dot my i's and cross my t's,
12 Your Honor.

13 The Court: Okay, all right, let me, let's bring
14 them in, we'll put them under oath, I'll do my preliminary
15 charge and then at the end of the preliminary charge that
16 gives us a good break where I can, I can tell them I'll
17 send them out and see if ya'll have any additions or
18 corrections to my charge and so I can go ahead and excuse
19 them and then you can put your motions on the record, okay.

20 Ms. Williams: Thank you, Your Honor.

21 Mr. Hucks: Thank you, Your Honor.

22 The Court: All right, let's go ahead and bring
23 the jury in.

24 Mr. Hucks: The juror, I mean the witnesses we
25 need to get them out of here now or just when we start?

1 The Court: Before we start taking any
2 testimony.

3 Mr. Hucks: Okay.

4 The Court: Yeah, okay, let's go ahead give them
5 some notepads, pens and pencils and we'll let them take
6 notes. I'll give them some instructions on that as well.

7 (Whereupon, the jury returns to the courtroom at
8 10:44 a.m.)

9 The Court: Welcome back, ladies and gentlemen,
10 I see, Mr. Burr, you've been selected as foreperson. I
11 want to thank you for serving in that capacity; if you'll
12 always occupy the seat where you now sit. Mr. Gasque, as
13 the alternate if you'd always occupy your seat and the rest
14 of you are at liberty to sit in whatever seat you'd like.
15 As I said you can sit in the same seat throughout the trial
16 of the case, alternate seats, just whatever makes you feel
17 more comfortable.

18 Now we're getting ready to start the case of The
19 State of South Carolina v. Antoine F. Chestnut. Now before
20 we begin the trial I want to tell you that the trial will
21 probably be different from what you're accustomed to
22 between watching t.v., the movies, reading books, things of
23 that nature. Trials are often full of a lot of action, a
24 lot of suspense, a lot of anxiety, and while that might be
25 the case in this trial it probably won't be.

1 The primary function of a trial is to determine
2 the truth, to find what happened, and that is often a slow
3 repetitive process, the exact opposite of what you might be
4 accustomed to from watching different media events, but I
5 hope you do find it entertaining. I hope you do find it
6 educational and I want to thank you in advance for your
7 service.

8 The attorneys appearing before you are advocates
9 for the parties they represent but first and foremost
10 they're officers of the Court. They're sworn to uphold the
11 integrity and fairness of our judicial system and to help
12 you in a search for the truth. You should expect them to
13 be professional, competent, and ethical in the
14 representation of their client's interest.

15 Now what I now say to you is intended to serve as
16 an introduction to the trial of the case. These remarks
17 are not a charge on the law. I will instruct you on the
18 law applicable to this case at the conclusion of all of the
19 evidentiary portion and before you retire to consider your
20 verdict. This is just an explanation of the procedure that
21 we will follow in the trial of this case so that you can
22 better understand what might be happening.

23 Now at this time I'm going to remind you that if
24 you have any cell phones, pager devices, or any other type
25 of communication devices if you would turn them off

1 completely. I'll be giving you plenty of opportunities to
2 check messages and things of that nature, but while we are
3 in the courtroom during the trial of this case I need
4 everyone's undivided attention and so I ask that you turn
5 those off completely or leave them outside of the
6 courtroom.

7 Now the defendant is charged by an indictment.
8 This is the indictment and it charges the defendant with
9 trafficking in cocaine base or what's commonly referred to
10 as crack cocaine. The elements of that crime I will
11 explain to you at a later time.

12 The indictment is simply the charge by which this
13 case is brought into court. It is not in any sense
14 evidence of the allegations it contains. The defendant has
15 pled not guilty to this indictment and the State,
16 therefore, has the burden of proving each of the elements
17 of the indictment beyond a reasonable doubt. It will be
18 your duty, ladies and gentlemen, to decide whether the
19 State has met that burden.

20 Your purpose as jurors is to find and determine
21 the facts. You are the sole judge of the facts. If at any
22 time I make a comment regarding the facts you must
23 disregard my comments. You are to determine the facts from
24 the testimony you hear and other evidence introduced in
25 court. It is up to you to determine the inferences which

1 you feel may properly be drawn from that evidence.

2 It is especially important that you perform your
3 duty of determining the facts diligently and
4 conscientiously because ordinarily there is no way to
5 correct an erroneous determination of the facts by a jury.

6 On the other hand and with equal emphasis the
7 same law that makes you the judge of the facts makes me the
8 judge of the law. The law as given by the Court is the
9 only law that you may consider. You must accept and follow
10 the law as I give it to you even though you may disagree
11 with it.

12 Just as I cannot tell you what the facts of this
13 case are you cannot disagree with me about the law to be
14 applied in the case. Your job is to take the law as I give
15 it to you and apply it to the facts as you find those facts
16 to be from the testimony of the witnesses and other
17 evidence that is introduced. After doing that you will
18 render a verdict, a true and just verdict under the solemn
19 oath you just took as jurors.

20 Until I advise you to begin your deliberations
21 you must not discuss this case with anyone. Do not discuss
22 it with your fellow jurors. your friends, family members,
23 or anyone involved in the case. After the case is
24 submitted to you for deliberations you must discuss it only
25 in the jury room with your fellow jurors.

1 The attorneys and parties in the case have been
2 advised that they're not to talk to you at all, so if you
3 see anyone involved in the case and they do not even say
4 hello they're not being rude, they're just following the
5 instructions of the Court.

6 During the trial do not read, listen to, or watch
7 any news reports about the case. This includes anything
8 that may be in the newspaper or on the internet, the radio,
9 or television. You must not consider anything you may have
10 read or heard about the case outside of the courtroom
11 whether that be before or during the trial of the case. It
12 is important that you keep an open mind and not decide any
13 issue in the case until all of the evidence has been
14 presented, the parties have made their closing arguments,
15 and I've instructed you on the law of the case. It is your
16 solemn responsibility to determine the guilt or innocence
17 of the defendant and your verdict must be based solely on
18 the evidence as it is presented to you in this trial and on
19 the laws I instruct you during and at the close of the
20 trial.

21 Now in just a moment the Solicitor will make
22 what's called an opening statement in which the Solicitor
23 will explain to you the issues in this case, or at least
24 what the Solicitor thinks the issues in this case are.

25 The attorney for the defendant may also make an

1 opening statement although she is not required to do so.

2 What the attorneys tell you during their opening
3 statements is not evidence in this case, it is only their
4 contention as to what the issues are in this case.

5 The evidence will be presented to you by
6 testimony of sworn witnesses from the witness stand and by
7 any exhibits that may be introduced into trial.

8 Now in determining what the true facts are in
9 this case you must decide whether or not the testimony of
10 witnesses is believable. It will be my responsibility to
11 rule as a matter of law as to whether certain testimony is
12 admissible or not but once testimony is admitted whether or
13 not you believe it is solely for you to determine.

14 In deciding whether to believe a witness you have
15 the right to consider the interest of any witness, the bias
16 of any witness, the prejudice of any witness, the
17 opportunity for the witness to have seen the matters and
18 things about which the witness may testify and the way the
19 witness acts on the witness stand.

20 You have the right to consider anything that is
21 in the record that will help you evaluate the testimony of
22 the witnesses. That means that it is your duty to pay
23 close attention to the witnesses, to observe the witnesses,
24 to listen to the witnesses, and to pay close attention to
25 the attorneys and to the Court. Don't let your thoughts

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

7 Now I understand that there has been a question
8 as to whether or not you can take notes and, yes, you can
9 take notes. Each of you should have been given a pad and a
10 pen to write with, but I need to give you some instructions
11 on note taking.

12 First of all do not feel that you are required to
13 take notes. Note taking is a privilege that you may or may
14 not decide to exercise. Not everyone finds it useful to
15 take notes. You are the best judge of whether taking notes
16 during the trial will help you follow and remember the
17 evidence that is presented at trial. Before the jury
18 begins its deliberations I will instruct you that in those
19 deliberations all jurors should be given equal attention
20 regardless of whether or not they took notes during this
21 trial or not.

22 Number two, do not try to record everything that
23 is said. If you do that then it will cause you to divert
24 your attention from all of the testimony of the witness.
25 The key to note taking is to jot down important facts that

1 you think you need to remember and to refresh your memory.

2 Now when you are excused from the courtroom, we
3 will take breaks from time to time, you will need to leave
4 your notepads here in the jury box. They will be given
5 back to you, but we do not want anybody deliberating too
6 early and so that is why we leave the notes here in the
7 jury box.

8 Number two, your notes are personal to you.
9 They're not to be shared with everyone. They are personal
10 to you to refresh your memory as to what you feel is
11 important when you begin your deliberations.

12 And, number three, is when you return to the jury
13 box make sure you have your own notepad, okay.

14 All right, now before I excuse you I have to
15 excuse you for just a minute because I need to check with
16 the attorneys to see if they have any challenges or
17 additions to my initial charges to you, so we will have to
18 take another short break but before we do as I told you
19 during qualifications and voir dire jurors are constantly
20 taking oaths so I'll need everyone to, please, stand and
21 raise your right hand while the Clerk swears you in as
22 jurors on this specific case.

23 (Whereupon, the jury was sworn.)

24 The Court: All right, is there any member of
25 the jury panel who did not or any member of the jury who

1 did not respond to the oath by saying I do?

2 (No response.)

3

4 All right, good, I'm going to excuse you for just
5 a minute, please leave your notepads in your seat and we'll
6 bring you back in just a quick second, thank you very much.

7 (Whereupon, the jury retired to the jury room at
8 10:54 a.m.)

9 The Court: All right, any challenges or
10 additions to opening instructions from the State?

11 Mr. Hucks: None, Your Honor.

12 The Court: Any by the defense?

13 Ms. Williams: None from the defense, Your
14 Honor.

15 The Court: All right, Ms. Williams, I
16 understand that you have some motions you want to put on
17 the record now?

18 Ms. Williams: Yes, sir, I do, but could we go
19 ahead and sequester our witnesses, Your Honor?

20 The Court: All right, let's go ahead and
21 sequester witnesses with the exception of who is the lead
22 investigator that's staying?

23 Detective Crocker: That would be me, Your
24 Honor.

25 The Court: And your name again?

1 Detective Crocker: Detective David Crocker.

2 The Court: All right, Mr. Crocker can stay,
3 everyone else if you're testifying in the case will need to
4 be sequestered.

5 Mr. Hucks: They're sequestered, Your Honor.

6 The Court: All right. All right, Ms. Williams,
7 let me hear from you.

8 Ms. Williams: Thank you, Your Honor, first is a
9 housekeeping matter. I think I have a duty to reiterate
10 some of the motions that we tried in our pretrial hearing
11 yesterday afternoon before Your Honor.

12 The first is the defendant on behalf of my client
13 I challenge the proceeding with this trial for the State to
14 show that actual notice had been sent to the client and
15 that written notice was provided to him that this trial
16 would proceed in his absence, Your Honor.

17 The Court: All right, I'm going to deny your
18 motion. I think they have sent out adequate subpoenas, his
19 bond forms, and I think he's had adequate notice that there
20 will be a trial in his absence if he doesn't appear so I'm
21 going to deny that motion.

22 Ms. Williams: Okay, Your Honor, the second
23 motion was the fact that he is not here and there is a
24 bench warrant issued and that there would be no mention of
25 the fact that he is not here and that the fact that a bench

1 warrant is out for him at this moment.

2 The Court: All right.

3 Mr. Hucks: And we agreed to that yesterday,
4 Your Honor.

5 The Court: I agree, all right, I'll agree.
6 I'll grant your motion there is to be no reference that
7 there is a pending bench warrant for the defendant, there
8 to be no reference to his failure to appear at his trial
9 unless, of course, the defense opens the door in some form
10 or fashion I'm ruling that that's admissible.

11 Mr. Hucks: Your Honor, just for clarification
12 if during an opening or closing argument if I were to say
13 he's not here but you can't hold that against him?

14 The Court: I wouldn't even mention it.

15 Mr. Hucks: Okay, don't mention it at all?

16 The Court: Yeah, I wouldn't mention that at all
17 because I'm going to instruct them that an absent, that his
18 absence from trial is not evidence of guilt in any fashion
19 so I wouldn't even mention it.

20 Mr. Hucks: Yes, sir.

21 The Court: All right.

22 Ms. Williams: Thank you, Your Honor, and I
23 think that's in conjunction with the fact that we agreed
24 that if he does not testify none of his prior bad acts
25 based under Lyle that are alleged previous buys a post

1 search warrant issues, you know, other outstanding warrants
2 prior bad acts, those type things will not be addressed
3 either.

4 Mr. Hucks: That won't be addressed whatsoever,
5 Your Honor, as per your ruling yesterday only to the extent
6 that he was arrested at a subsequent date and at that time
7 he was arrested he had some of the buy money on him from
8 this, from this thing. Now he was arrested at a search
9 warrant, if Ms. Williams asks them anything to where the
10 policeman has to answer that but he won't, he won't, I
11 won't open that door whatsoever. I won't ---

12 The Court: Well let's, wait a minute, let's get
13 back, now you're talking about his, I thought we were only
14 talking about the May 7th arrest, I mean the May 7th
15 incident?

16 Ms. Williams: Your Honor, here, here's the,
17 here's the issue and that was the second, I was leading
18 into that, here's somewhat of a quandary. The C.I. in this
19 case my understanding did not know my client, didn't
20 recognize him at all. There was a second person there; he
21 knew that second person as "Rat." There is arguably
22 video.

23 There was the first buy, the May 7th buy we're
24 here on, then the officers went and executed a search
25 warrant at the residence. When they executed the search

1 warrant my client was present at the house at the search
2 warrant. My understanding is based on him being at the
3 house at that search warrant I guess Detective Crocker
4 recognized my client as the person in the video from the
5 buy which we are here of today, so I think we've got it,
6 that was my second motion was to address the very --

7 The Court: What are you asking me to do? What
8 are you asking me to ---

9 Ms. Williams: How ---

10 Mr. Hucks: Here's what the State intends to do,
11 Your Honor, we intend to go over the facts but we have to
12 get into the identification simply because the defendant is
13 not here the jury can't look at the screen ---

14 The Court: So tell me what you're going to, go
15 ahead and tell me what you're going to do.

16 Mr. Hucks: What I'm going to do is I'm going to
17 show the video. I'm going to ask the C.I. what he knew
18 this fellow as and he did know him by a street name ---

19 The Court: Okay.

20 Mr. Hucks: --- and "Tweetsie" I think is, is,
21 was the street name, and ---

22 Ms. Williams: We'll see and I'm going to say
23 I'm going to object to that, go ahead and let you know
24 cause there's no idea that, I had no idea that "Tweetsie"
25 was around, never heard that name before.

1 Mr. Hucks: Well, I mean that's what he knows, I
2 mean he comes back, he tells Detective Crocker that he
3 bought the drugs. Detective Crocker, Detective Crocker
4 gets a search warrant for the residence, goes back as a
5 search ---

6 The Court: The residence, when he goes and gets
7 a search warrant for this defendant's residence ---

8 Mr. Hucks: No, for the residence to go ---

9 Ms. Williams: No, sir.

10 The Court: Okay, that's what ya'll are getting
11 me confused, let's be specific.

12 Mr. Hucks: Yes, sir.

13 The Court: Okay.

14 Mr. Hucks: The residence that the dope was sold
15 out of ---

16 The Court: Okay.

17 Mr. Hucks: The defendant was not a, did not
18 live at that residence but that was the residence where the
19 defendant on video sold crack out of that residence.

20 The Court: Okay, got you.

21 Mr. Hucks: And they get a search warrant and as
22 they come to serve the search warrant Ms. Williams' client
23 runs out of the back door and the agents surrounded the
24 house, stopped him. Detective Crocker recognizes him from
25 the video; he's bigger than I am. He's over six foot six

1 and over three hundred and something pounds, he's a big
2 fellow, and he recognizes him from the, from the video and
3 stops him and he places him under arrest so he can go get
4 the warrants because he didn't know his name until they put
5 hands on him that day, though he recognizes him from the
6 video. He searches incident to arrest and feels that
7 there's some of the buy money from this buy ---

8 The Court: Now what is he being arrested for
9 the May 7th?

10 Mr. Hucks: From the May 7th event, yes, sir.

11 The Court: Okay.

12 Mr. Hucks: He's being arrested for this
13 particular event and Detective Crocker goes and gets, gets
14 the arrest warrant and search incident to arrest of his
15 person reveals some of the marked buy money from this May
16 7th buy is in his pocket so what we would get into is
17 simply how Detective Crocker I.D'ed him when he was
18 eventually placed under arrest, not that they served a
19 search warrant on him or nothing like that, but that when
20 he was arrested some of the marked buy money from this buy
21 was on his person.

22 The Court: Okay, so that, so they're going to
23 be able to get into they arrested him at a later date
24 pursuant to the May 7th incident and that the buy money was
25 on him?

1 Ms. Williams: And that they at that arrest what
2 they're going to have to testify, if I understand
3 correctly, Your Honor, is that at that arrest is when they
4 identify him.

5 The Court: Okay.

6 Mr. Hucks: Given, that's how, that's how
7 Detective Crocker identified him, he got there that day
8 and, and recognized him from the picture. He's a, he's a,
9 he's bigger than I am and I'm pretty substantial.

10 The Court: So they knew his appearance, they
11 knew the location where the drugs were bought, they just
12 didn't know his name and when they went to that location at
13 a subsequent date to arrest him on the May 7th incident
14 that's when they got his name?

15 Ms. Williams: Not exactly.

16 The Court: All right.

17 Ms. Williams: Close. When they went back
18 subsequent they had a search warrant and they executed the
19 search warrant for drugs at that location, he just was
20 there.

21 Mr. Hucks: And that's when they recognized him
22 from the May 7th buy.

23 Ms. Williams: So they didn't really go to,
24 technically they didn't go there posed to arrest him on the
25 May 7th charges; they went there for another purpose but

1 when they got there they arrested him for the May 7th
2 charges.

3 The Court: So they went to execute a search
4 warrant to search the residence because the defendant had
5 sold drugs out of that residence on May 7th?

6 Mr. Hucks: Yes.

7 Ms. Williams: Correct.

8 The Court: Okay, and so what is it you're
9 asking me to do?

10 Ms. Williams: That that they are not going to
11 talk about that they went, exactly what Your Honor said is
12 what I don't want them to say. I understand he can say ---

13 The Court: Well tell me what is it you don't
14 want them to say?

15 Mr. Hucks: We will limit it, Your Honor, to say
16 that he was arrested.

17 The Court: Ya'll are getting me confused, tell
18 me what you do not want them to say?

19 Ms. Williams: I don't want them to say that we
20 had to go back on a search warrant to looking for
21 additional drugs and when we got there at the second time
22 on the search warrant for additional drugs we arrested him.

23 The Court: Why can't they say that?

24 Ms. Williams: Well I don't think they can say
25 they were looking for additional drugs and the purpose of

1 the search warrant cause we're not, we haven't addressed
2 the validity of the search warrant, you know, the whole
3 search warrant issue. I understand he can say, what I am
4 asking that he be limited to say is that he went back at a
5 later date and arrested him. He can even say I went back
6 at a later date to that resident with a search warrant he
7 was there and we arrested him at that time. I think that's
8 legit ---

9 Mr. Hucks: We won't mention any other bad acts;
10 we won't mention anything at all in reference that they
11 went back there to find more drugs. I think that might be
12 a little bit prejudicial under a 403 case.

13 The Court: Okay, but I think they can testify
14 that there was this transaction on May 7th, as a result of
15 that transaction they went and got a search warrant. They
16 went back to execute the search warrant and found, and
17 arrested the defendant without getting into whether or not
18 they executed the search warrant or whether or not they
19 searched the residence, whether or not they did anything.

20 Ms. Williams: Your Honor, I would say we would
21 object to that cause I think that would lead us into
22 testing the validity of the search warrant and if they had
23 it and if it was a valid search warrant and the whole nine
24 yards.

25 The Court: Well even if it's an invalid search

1 warrant, I mean the fact of the matter is is -

2 Mr. Hucks: He can rely on it either way, Your
3 Honor.

4 The Court: Yeah, I mean the fact of the matter
5 is is that's what brought them back to the residence was
6 to, now whether or not they executed the search warrant I
7 have no idea. I don't know that it's improper for them to
8 say we bought drugs from this residence on May 7th, they go
9 back we want to search residence so we get a search
10 warrant. We go back to execute the search warrant and we
11 see the defendant there so we place him under arrest. I
12 think they can testify to that, now they can't get into we
13 executed the search warrant, we found more drugs, we did
14 all that, I agree with you, we're not going to get into
15 that. We're going to keep it on the May 7th incident but I
16 don't know that it's prejudicial for them to say we bought
17 drugs. As a result of that drug buy we went to get a
18 search warrant and when we came back to execute it he was
19 there and we arrested him without getting into whether or
20 not they executed the search warrant found more drugs or
21 anything like that.

22 Ms. Williams: Okay.

23 The Court: All right.

24 Ms. Williams: And, Your Honor, the second
25 matter while they're still out and they're sworn is I, I

Detective Crocker - Dir. Exam. In Camera By Mr. Hucks 88

1 think it would be, I mean I don't know what order the
2 Solicitor is going to call them in but this is a C.I. buy
3 with a confidential informant, Your Honor, and I think the
4 State has a duty to show that this under the Aguilar-
5 Spinelli test that this informant was indeed reliable and
6 that this information was reliable and that he had been
7 reliable in the past, outside of the presence of the jury
8 so that this is a good valid information.

9 The Court: I don't know what the law is; what
10 is that?

11 Mr. Hucks: I have no problem doing that,
12 Detective Crocker is here and he can talk about that prior
13 work that the C.I. did in about five minutes.

14 Ms. Williams: That's it, I just, I just think
15 we have to do cause there will be things that he would
16 obviously have to testify to establish his reliability and
17 that that would not come in in front of the jury.

18 The Court: Okay.

19 Mr. Hucks: And I don't mind a bit.

20 The Court: All right, well I mean what is the
21 standard on the Court?

22 Ms. Williams: Your Honor, my understanding with
23 the Aguilar-Spinelli test is that he has to show that the
24 information regarding this buy is valid information that
25 would have substantiated which in effect if they said, if

Detective Crocker - Dir. Exam. In Camera By Mr. Hucks 89

1 they said, if you say there's drugs there and he goes in
2 there and makes a buy and he does buy drugs that validates
3 that and then you have to show that he has a prior history,
4 like for instance this wasn't the very first time and the
5 only time he's done it and, I mean he has to show his
6 history to prove that he is indeed reliable.

7 The Court: That is the standard, yes, ma'am.

8 Mr. Hucks: Yeah, that's the standard, Your
9 Honor, and I agree that that's the standard.

10 Ms. Williams: According to the two police
11 officers, Your Honor, that's what --

12 The Court: All right.

13 Mr. Hucks: And we can get that out of him in
14 about two minutes on the stand.

15 The Court: All right, you want to go ahead and
16 call your witness.

17 Mr. Hucks: Yes, sir, we'd call Officer David
18 Rushton Crocker to the stand.

19 The Court: All right, sir.

20 **Detective David Rushton Crocker**

21 **being first duly sworn, testified in camera as follows:**

22 Madam Clerk: Please state your full name and
23 spell your last name?

24 The Witness: David Rushton Crocker, c-r-o-c-k-
25 e-r.

1 Direct Examination

2 By Mr. Hucks:

3 Q And, Officer, what do you do for a living?

4 A I am a detective with the Horry County
5 Police department.6 Q And what specialty, if any, do you have as
7 a detective with the Horry County?8 A I am assigned, currently I am part of the
9 Horry County Police Department's Narcotics and Vice
10 Division, but I am currently assigned to the U.S. Drug
11 Enforcement Administration Task Force in Florence.12 Q Okay, and in the course of your employment
13 do you deal with confidential informants?

14 A Almost daily.

15 Q And have you ever heard of a fellow by the
16 name of James Wilson?

17 A Yes.

18 Q And what's your relationship with Mr.
19 Wilson?20 A Mr. Wilson served as a confidential
21 informant under my direction with the Horry County Police
22 Department from approximately February or March of 2010
23 until May or June of the same year.24 Q Okay, and he quit being a C.I. for you
25 because he went to jail?

Detective Crocker - Cross Exam. In Camera By Ms. Williams91

1 A That was one of the reasons; he had
2 completed the work that we had requested of him at that
3 time.

4 Q Okay, and how many, how many buys would you
5 say Mr. Wilson did for you over the course of his service?

6 A For me as an individual he did
7 approximately five; my partner at the time had another case
8 that was going on up in the Longs section of Horry County
9 and he did two buys up there.

10 Q Okay, and by buys, what do you mean by
11 that?

12 A The purchase of illegal drugs.

13 Q For the purposes of helping --

14 A For the purposes of helping the police,
15 yes.

16 Q And did he ever tell you he could go get
17 drugs somewhere and then not be able to get them?

18 A No, everything that he told us that he
19 could do he delivered on.

20 Q Okay, and you consider him a reliable
21 informant?

22 A Absolutely, the buy that we're here about
23 today was actually the second buy from this residence, the
24 first one that we utilized him for went exactly as he says
25 it would. The amount of money, the amount of drugs, the

Detective Crocker - Cross Exam. In Camera By Ms. Williams92
1 location was exact and the same situation for the buys that
2 were done in the Longs area using Mr. Wilson.

3 Q Okay, and you deal with a lot of C.I.'s
4 that aren't reliable?

5 A That is correct, yes, sir.

6 Q And would you, you would consider Mr.
7 Wilson an exception to that?

8 A Absolutely, Mr. Wilson did everything that
9 was asked and everything that he said he was going to do.

10 Mr. Hucks: Okay, I don't have anything further,
11 please answer any questions Ms. Williams has for you.

12 **Cross Examination**

13 **By Ms. Williams:**

14 Q Detective Crocker, I just want to clarify I
15 heard you, it's Mr. Wilson?

16 A Yes, ma'am.

17 Q Mr. Wilson did you said approximately five
18 buys for you?

19 A Well for the department, for me he did the
20 two in the Racepath section and two others so, excuse me,
21 it's four, two others in the Longs area and those two in
22 the Longs area were with my former partner, one was with my
23 former partner and one I was not able to attend, so for the
24 department that would have been a total of approximately
25 four or five buys.

Detective Crocker - Cross Exam. In Camera By Ms. Williams93

1 Q So he did four buys that you know of?

2 A Yes, ma'am, that I can attest to.

3 Q All right, did he ever give you any
4 information that like say let's go make a buy and we didn't
5 go make it?

6 A No, ma'am, every time that he said that,
7 that we were set up we were good to go.

8 Q Did he when you went to buy did he, was he
9 accurate on the amount of purchase that you were, that,
10 that the transaction ---

11 A Yes, ma'am, the transactions ---

12 Q --- like we were supposed to buy a kilo and
13 --

14 A The transactions were exactly described and
15 the thing about Mr. Wilson is a lot of times in the drug
16 trade they will what's called shorting you some weight or
17 showing up light, the individual will supply a less than
18 requested amount of illegal substance to the individual but
19 in this case everything that Mr. Wilson said was as
20 delivered.

21 Q How much were ya'll supposed to buy in this
22 transaction?

23 A Over, over an ounce.

24 Q Which is how many grams?

25 A Let's see, if my memory serves that's

Detective Crocker - Cross Exam. In Camera By Ms. Williams94

1 twenty-three, I think, or a little over twenty-three.

2 Q An ounce is how many grams?

3 A If I'm, my memory serves correct, I'm
4 drawing a blank right now at this particular moment but
5 it's ---

6 Q Isn't it twenty-eight, I mean I'm making
7 sure my math is right?

8 A I, you are correct, thank you, ma'am.

9 Q Twenty-eight grams equals an ounce?

10 A Yes, ma'am.

11 Q And this transaction he was supposed to buy
12 how much?

13 A He was supposed to buy twenty-eight but
14 the, the weight that you have there in front of you when we
15 receive the weight from the initial transaction, in this
16 case the cooked crack cocaine was still damp because of the
17 way that it's made using the water. So when Mr. Wilson
18 brings it to me and I immediately take it back to the
19 police department the initial weight will show the twenty-
20 eight grams but as it sits in evidence and it continues to
21 dry the moisture evaporates and, therefore, when Ms. Floyd
22 if you'll look, and she can testify to the fact that when
23 she receives especially crack cocaine a lot of times the
24 weight is off by several grams because of the evaporation
25 of the water that was in the product.

Detective Crocker - Cross Exam. In Camera By Ms. Williams95

1 Q Okay, let's talk about a minute his
2 previous charges and his prior record?

3 A Yes, ma'am.

4 Q Tell me what you know about that?

5 A He was brought to us by his attorney at the
6 time because he had been previously arrested by Detective
7 Hardee who at that time was my partner at the county police
8 department and that arrest took place, I believe, in late
9 2008, I'm not exactly sure on the date, but he was brought
10 because he had a trafficking arrest at that time.

11 Q And, and what, and I use the term deal
12 loosely, but what deal did you guys work with him?

13 A We, we do not offer any type of deal. We
14 hand them, we sit down with them and we read them a, what
15 we call a confidential informant packet and it lists our
16 responsibilities to him and his responsibilities to us
17 including his safety, our safety, how things are going to
18 work. In the confidential informant packet it does state
19 that if he cooperates or does what is asked of him or what
20 he's told us that he can do that at that time we will send
21 the information over to the Solicitor's office that he did
22 cooperate as an informant and he did exactly what he was
23 supposed to do. In Mr. Wilson's case he did exactly what
24 he was supposed to do and it was sent over that he did
25 exactly everything he told us he could do and he did it to

Detective Crocker - Cross Exam. In Camera By Ms. Williams96

1 the letter. Some C.I.'s show up and they don't cooperate
2 and the Solicitor's office will get a letter from us in
3 reference to the packet saying that they didn't do what
4 they said they were going to do.

5 Q And as a result of that his charges were
6 reduced, correct?

7 A Yes, ma'am.

8 Ms. Williams: Okay, one moment.

9 Q (Continuing) Did you ever polygraph this
10 C.I.?

11 A No, ma'am, that's not, polygraphs are not
12 routine practice. The only time that we will ask for a
13 polygraph or even a drug test on a confidential informant
14 is when we, there is some type of appearance of deception
15 we feel there's going to be deception but C.I.'s aren't
16 polygraphed as a, as a pre-employment, if you'll call it
17 opportunity.

18 Q Okay, let me ask you this, do you know how
19 many of the cases he's made has actually made it to court?

20 A Well you have a codefendant in this case
21 that has pled and my understanding of the Longs is that
22 that subject was arrested and I don't know the status of
23 the case.

24 Q You don't know where that one stands?

25 A No, ma'am, I do not, no, ma'am.

1 Ms. Williams: Okay, that's all the questions
2 that I have, Your Honor.

3 The Court: All right, anything on redirect?

4 Mr. Hucks: Nothing, Your Honor.

5 The Court: All right, you may step down.
6 Anything further from the State?

7 Mr. Hucks: Nothing, Your Honor.

8 The Court: All right, anything from the
9 defense?

10 Ms. Williams: Nothing further at this time,
11 Your Honor, other than ask the Court to make a ruling
12 regarding --

13 The Court: Okay, I rule that they've met the
14 sufficient requirement so that the confidential informant
15 can testify as far as reliability prior testimonies and
16 things of that nature. All right, anything further?

17 Mr. Hucks: Nothing, Judge.

18 The Court: Anything from the defense?

19 Ms. Williams: No, sir, that's it, thank you.

20 The Court: All right, we ready to bring the
21 jury in and start opening arguments?

22 Mr. Hucks: Yes, sir.

23 The Court: All right, let's go ahead, anything
24 from the defense before we bring the jury in?

25 Ms. Williams: Oh, no, sir, we're fine, thank

1 crack cocaine.

2 Now the law in South Carolina will be given to
3 you by the judge. Anything I say that conflicts with
4 anything the Judge says go with the Judge cause he's a
5 judge and I'm just a lawyer, but what I intend to prove to
6 you is through several witnesses we're going to put up,
7 what we want to prove to you today, and hopefully we'll be
8 done today, is that on or about May 7th of last year that
9 detectives from the Horry County Police Department got a
10 C.I., confidential informant, and they wired him up with
11 sight and sound, get to watch a little video, and they sent
12 him into the Myrtle Beach section of Horry County where he
13 met with Mr. Chestnut and he bought a quantity of crack
14 cocaine.

15 The law says that when you give or possess or
16 sell or distribute a quantity of crack cocaine that's over
17 a certain limit, it's considered trafficking. In the State
18 of South Carolina that threshold is ten grams. When you
19 sell more than ten grams of crack cocaine you become into
20 the trafficking level, it's an inference level.

21 Now what we intend to show you is that as a
22 result of this buy the C.I., Mr. Wilson, who you're going
23 to get and meet and hear from and who you're going to get
24 to see his video, he goes in and he meets with Mr.
25 Chestnut. He comes out with what is just under an ounce, I

1 want to say it's a twenty-three grams of crack cocaine, and
2 you know what's neat is as a prosecutor I ask jury's
3 regularly, I have to ask them to, well not to trust me but
4 to trust the facts and trust the evidence because you can't
5 trust me or a lawyer, right. What you can trust is you can
6 always trust whoever is sitting up here, you can listen to
7 them.

8 You know, my dad would say you look them up and
9 you look them down and you get a feel for them, you can
10 tell if somebody is telling you the truth or they're lying,
11 you do that every day when you walk down the street.
12 That's why you're the judges of the facts, the judges of
13 the truthfulness, of veracity of the witnesses that sit on
14 this witness stand. You look them up, you look them down,
15 and check them out and think about it.

16 I ask jury's to make leaps and logic from time to
17 time. As a prosecutor you have to because you lay down,
18 lay down the facts, right, you have a little hole in the
19 middle and the jury has to fill that hole in because they
20 have to find the facts. This isn't that case. This case
21 is as plain as the nose on your face. You do not have to
22 make any leaps or bounds or guess work. The worst thing
23 that you're going to have to do judgment wise in this case
24 is trust James Wilson, Mr. Wilson.

25 I'll tell you Mr. Wilson he's got a drug history

1 a mile long and he was working for the, working for the
2 police, but you don't have to just take his word for it
3 because you get to hear him tell you what happened and then
4 with a little bit of luck you'll get a chance to see it,
5 right. You don't have to take his word for it.

6 You know they say when you go to, when you're
7 trying to convict the devil you've got to go to hell for
8 your witnesses and Mr. Wilson he's got a criminal record
9 but I think that when you look him up and you look him down
10 and you sit him up here and you hear what he's going to say
11 you're going to realize that he's telling you the truth and
12 I thank you for your time.

13 All that the State is going to ask you to do in
14 this case is sit back and keep your mind open and listen.
15 Don't make your mind up on anything until after the judge
16 gives you the law at the end, sit down and listen, keep
17 your mind open and listen, ask those questions that you
18 have to ask in your day to day life and at the end of this
19 case you're going to come back and you're going to deliver
20 a verdict, a verdict from the Latin vere dictum which means
21 to speak the truth. When you come back we want you to
22 speak the truth and the truth in this case is all the State
23 can ask you to do and that's what the defendant deserves.
24 Thank you for your time and we'll get to speak with you
25 again at the end.

1 The Court: Ms. Williams?

2 **Opening Statement**

3 **By Ms. Williams:**

4 Your Honor, Mr. Solicitor, good morning, ladies
5 and gentlemen of the jury, the first thing I want to say is
6 thank you for being here. Obviously it's not convenient;
7 we know that there are other places you'd rather be and as
8 the Solicitor said this will be a relatively short trial
9 but that doesn't mean it's less important. It's very
10 important for my client Mr. Chestnut; it will impact his
11 life.

12 Let me say first the Solicitor told you that at
13 the end of this case you will be asked to render a verdict
14 that speaks the truth. The Judge will instruct you on the
15 law and the law in a criminal case is that the State has to
16 prove beyond a reasonable doubt the allegations that they
17 have.

18 It's very different than in a civil case. It's
19 not a preponderance of the evidence like you take a scale
20 and it shifts slightly. Beyond a reasonable doubt is a big
21 shift. The Judge will tell you it's not every doubt; it's
22 not any doubt; it's not all doubt, but it's beyond a
23 reasonable doubt, and the reason I point that out to you to
24 begin with because at the end of this it's going to take
25 twelve people making one decision that the State has or has

1 not met that burden and I think that's important for you
2 guys to understand.

3 Sometimes I think we as attorneys take it for
4 granted when we do this on a daily basis and we're in here
5 and we get nervous and we run in and we're all up here and
6 we're talking and we do this other kind of stuff, we forget
7 that most people don't come up here. The only time you
8 come is if you got to pay your taxes or you got to serve
9 jury duty and so it's a real different experience and I
10 want that to be really fresh and in your mind that it is
11 beyond a reasonable doubt and why do I say that, because
12 you're going to hear the facts and evidence from this
13 stand. What I want you to pay attention is what you hear,
14 what you don't hear, what you see, what you don't see. He
15 said it, plain as the nose on your face, pay attention to
16 what you see, what you don't see.

17 At the end of this case the Solicitor will be
18 asking you to come back with a verdict of guilty. The
19 defense will be asking you to find a verdict to sign a form
20 that says not guilty and to tell the State that they have
21 not proven their case beyond a reasonable doubt, thank you.

22 The Court: All right, Mr. Hucks, you can call
23 your first witness.

24 Mr. Hucks: Thank you, Your Honor, at this time
25 the State would call Detective Rebecca Phillips.

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1 The Court: All right.

2 Detective Rebecca Phillips

3 being first duly sworn, testified as follows:

4 Madam Clerk: Please state your full name and
5 spell your last name.

6 The Witness: My name is Rebecca Phillips, p-h-
7 i-l-l-i-p-s.

8 Direct Examination

9 By Mr. Hucks;

10 Q Detective, good morning?

11 A Good morning.

12 Q Could you, please, tell the jury what you
13 do for a living?

14 A I am a detective with the Horry County
15 Police Department. I am currently assigned to Narcotics
16 and Vice section.

17 Q Okay, what's that mean?

18 A We go out and we either work undercover or
19 to purchase illegal drugs or we use confidential informants
20 to do the same thing to purchase for us.

21 Q Okay, you talk about a confidential
22 informant, what is a confidential informant?

23 A It's just somebody for whatever reason they
24 come to us, they say that they can purchase illegal drugs
25 for us ---

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1 Ms. Williams: Your Honor, may we approach?

2 The Court: All right.

3 (Whereupon, a bench conference was held off the
4 record in the presence of the jury, but out of the hearing
5 of the jury and the court reporter.)

6 The Court: All right, go ahead, Mr. Hucks.

7 Mr. Hucks: Thank you, Your Honor..

8 Q (Continuing) Please continue with what a
9 C.I. is?

10 A It's, it's just an informant, confidential
11 informant like I said that, that comes to us for multiple
12 of reasons and they say that they can purchase drugs for us
13 and we in turn make cases against the defendants and arrest
14 them.

15 Q Okay, well how about walk the jury through
16 a C.I. buy, like you were saying how a C.I. can buy stuff?

17 A Yes, sir.

18 Q How does that work?

19 A Usually there is a case agent or a person
20 that's associated with a certain informant and will usually
21 get a phone call stating that they can buy from a
22 particular person at this place, date, time; this is how
23 much they can buy, this is what they can buy, and then we
24 go meet them, we, at a location that's usually a secure
25 location that we think nobody will see us. We reiterate

Detective Phillips - Direct Examination By Mr. Hucks 106

1 what's going to happen, who they're going to buy from,
2 where they're going to buy from at, how much, what, what
3 the type of drug it is, and at that time we search them.
4 We search their vehicle if they're in a vehicle. We search
5 their pockets, their person to make sure they don't have
6 any drugs or any other paraphernalia contraband of
7 anything, no weapons, anything like that, no extra money.

8 We give them marked police buy money, what I mean
9 by marked it's photocopied so we know the particular serial
10 number that's marked on each bill for each buy.

11 When they're wired they're either wired with
12 audio or video recording devices that are transmitting
13 devices so that we can actively hear as the buy is
14 occurring. After we, after we do the wiring, the
15 searching, giving them the money, they either get in their
16 car, we'll drop them off, we go to the location for them to
17 meet the suspect, and the buy occurs.

18 After the buy, after it's monitored and the buy
19 occurs they, we follow them back to the meet location or a
20 set meet location. We get, we take responsibility of the
21 drugs. We take the wire off of them, turn it off, we
22 search them again, search the vehicle again to make sure
23 they don't have any extra money, they don't have any extra
24 drugs other than what they told us they were going to buy.

25 Q Okay, and did you have an occasion to

Detective Phillips - Direct Examination By Mr. Hucks 107

1 participate in a C.I. buy with a confidential informant
2 named James Wilson?

3 A Yes.

4 Q Okay, and ---

5 Ms. Williams: Your Honor, can we approach one
6 more time?

7 The Courts: All right.

8 (Whereupon, a bench conference was held off the
9 record in the presence of the jury, but out of the hearing
10 of the jury and the court reporter.)

11 The Court: Go ahead.

12 Mr. Hucks: Thank you.

13 Q (Continuing) And once again did you have an
14 occasion to work on a confidential informant, with a
15 confidential informant by the name of James Wilson?

16 A Yes.

17 Q Okay, could you tell us how that came
18 about?

19 A I was asked by Detective Crocker to assist
20 him in the control purchase and --

21 Q You told the jury a few minutes ago about
22 the, how a C.I. buy works, is that how this one worked?

23 A Yes.

24 Q And was there any hiccup in it whatsoever?

25 A No, sir.

1 Q It was by the book?

2 A Yes.

3 Q And what part of the county did that occur
4 in?

5 A Myrtle Beach section Racepath, Magnolia
6 Lane Racepath community in Myrtle Beach.

7 Q Okay, and what county is that in?

8 A Horry.

9 Q Okay, so all of this, everything we're
10 talking about today happened in Horry County?

11 A Yes.

12 Q Okay, and what, if anything, was your, what
13 did you do, if anything, whenever you met up with Mr.
14 Wilson?

15 A My involvement, like I said I'm not the
16 case agent but we do this periodically where we'll assist
17 other case agents and we met with the informant at a
18 location in the area, 21st Avenue, and while Detective
19 Crocker was dealing with the informant, talking to him,
20 wiring him up, searching him, I searched the vehicle for
21 contraband.

22 Q Okay, and did you find any?

23 A No.

24 Q And that's the extent of your involvement
25 in this particular case?

Detective Phillips - Cross Examination by Ms. Williams 109

1 A Just my handwriting on the buy sheet and I
2 was the one that assisted him in while the buy occurred
3 prior to and after the buy occurred.

4 Q You guys do that in pairs, right?

5 A Yes, yes, we cannot do it alone, we do it
6 in pairs.

7 Q So you were, you were pretty much there to
8 assist Detective Crocker?

9 A Yes.

10 Mr. Hucks: Thank you so very much, I have no
11 further questions whatsoever for you.

12 A Thank you.

13 The Court: All right, Ms. Williams?

14 **Cross Examination**

15 **By Ms. Williams:**

16 Q Good morning, Detective Phillips.

17 A Morning.

18 Q Can you tell me about your training and
19 experience with narcotics, buys and searches?

20 A I am qualified on searches and seizures. I
21 am a Class I officer. I've been a detective in narcotics
22 for the past three years, have worked multiple cases
23 dealing with all types of drugs and search warrants,
24 applying for search warrants, and making seizures.

25 Q I understand, but can you tell me about

Detective Phillips - Cross Examination by Ms. Williams 110

1 your, well first of all what does Class I officer mean?

2 A I went to the academy got certified as a
3 law enforcement officer in the State of South Carolina.

4 Q So you passed, you went through the Academy
5 and you're an actual officer?

6 A Yes.

7 Q Okay, and that's what Class I means?

8 A Yes.

9 Q Okay?

10 A Yes.

11 Q So then tell me about any, any, if any,
12 training that you had specifically about searches and the
13 notations and what kind of documents you keep and that kind
14 of stuff when you're doing exactly what you performed in
15 this case?

16 A I have been to multiple classes; I've been
17 through a two week D.E.A. class that is put on by the Drug
18 Enforcement Administration that was here in Myrtle Beach,
19 that deals with what we do right here. I've been to an
20 informant, confidential informant class that was for a week
21 long in Columbia through the police academy.

22 Q Tell me what, when you performed this
23 search explain to the jury what you, what you mean by that,
24 I mean literally?

25 A When I perform the search?

Detective Phillips - Cross Examination by Ms. Williams 111

1 Q Yeah, what do you 'literally mean?

2 A Systematically other, other people can do
3 it differently but what I do is I go start at the drivers
4 side go through consoles, go through like little cups,
5 whatever he has there, a cigarette pack, whatever, you go
6 from one area of a car to the back and then to the other
7 back seat, back to the front seat, so I'm walking around
8 the car systematically checking each area where someone
9 would sit and then I check the trunk.

10 Q Okay, and in this you checked the pre
11 search, if you will, correct?

12 A Yes, and the after search also.

13 Q So you did the post search as well?

14 A Uh-huh.

15 Q Okay, now let me tell you this, if I
16 understand part of in policing I think one of the, if I
17 understand correctly if my years of doing this in defense
18 work and as a prosecutor that one of the most terrible jobs
19 for police officer is your paper work, correct?

20 A Somewhat it can be lengthy, yes.

21 Q And that's right and most files what the
22 officer does is generate the paper work, correct?

23 A It goes along with our case files, yes.

24 Q That's right, and the reason you do it is
25 because if it happens now realistically the resolution will

Detective Phillips - Cross Examination by Ms. Williams 112

1 be some time down the road, correct?

2 A You want a case later on to continue down
3 the road, yes.

4 Q And you would, but you do paper work cause
5 your memory is probably not going to be as fresh on down
6 the road, right?

7 A I do, yes. I do do paper work, if I'm a
8 case agent.

9 Q Only if you're the case agent?

10 A Unless it's something that's more than
11 this, it's something that I am more involved in other than
12 just assisting.

13 Q But isn't the fact that you actually are
14 the one that searched the car pretty critical in this case?

15 A We do not document other than on the buy
16 sheet who's there and what we're doing.

17 Q So that's it?

18 A It's the buy sheet, yeah, we go by the buy
19 sheet, yes.

20 Q But I mean that's it, you don't put any
21 kind of form, any kind of report, any kind of anything?

22 A No.

23 Q Okay, and that's where you denote that I
24 did the first and I did the post search?

25 A I remember because I remember searching his

Detective Phillips - Redirect Examination By Mr. Hucks 113

1 vehicle.

2 Q Okay, but that's the only way anybody else
3 would have found out about it is you remember it, right?

4 A Wasn't there, I believe on the video you
5 see me around the vehicle, I believe, I haven't viewed the
6 video in a long time. I'm not the case agent so I have not
7 reviewed the video.

8 Q But what you're here telling us is there's
9 no, you didn't, you didn't do any kind of supplemental
10 report?

11 A No.

12 Q In regard to your participation?

13 A No, ma'am.

14 Q In this event?

15 A No, ma'am.

16 Ms. Williams: Okay, one moment, please.

17 Q (Continuing) I just want to make sure you
18 or, your testimony is you only searched the vehicle, you did
19 not search Mr. Wilson, correct?

20 A Correct.

21 Q Okay, were you there during the, the
22 activity, so to speak?

23 A During the buy?

24 Q Yes.

25 A Yes, I was in the vehicle with Detective

Detective Phillips - Redirect Examination By Mr. Hucks 114

1 Crocker monitoring on the wire, we could hear it.

2 Q Okay, could you see?

3 A No, ma'am.

4 Ms. Williams: That's all the questions that I
5 have.

6 The Court: All right, redirect?

7 Mr. Hucks: Just briefly.

8 **Redirect Examination**

9 **By Mr. Hucks:**

10 Q Who was the case agent?

11 A Detective Crocker.

12 Q And you were assisting him?

13 A Yes, just assisting.

14 Mr. Hucks: Nothing further, Your Honor.

15 The Court: All right, you may step down.

16 A Thank you.

17 The Court: All right, you can call your next
18 witness.

19 Mr. Hucks: Yes, Your Honor, the State would
20 call Mr. James Wilson. Your Honor, we would, we would ask
21 that Detective Phillips be released from her subpoena for
22 today.

23 The Court: Any objection?

24 Ms. Williams: Without objection, Your Honor.

25 The Court: All right.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Mr. Hucks: I think she does want to hang
2 around; is that okay?

3 The Court: She's fine, but she's released from
4 her subpoena, that will be fine.

5 Detective Phillips: Thank you.

6 The Court: Thank you.

7 **James Clifton Wilson**

8 being first duly sworn, testified as follows:

9 Madam Clerk: Please state your full name and
10 spell your last name.

11 The Witness: James Clifton Wilson, w-i-l-s-o-n.

12 The Court: All right, Mr. Hucks?

13 Mr. Hucks: Thank you, Your Honor.

14 **Direct Examination**

15 **By Mr. Hucks:**

16 Q Mr. Wilson, what do you do for a living?

17 A Heating and air.

18 Q Are you a laborer or are you certified in
19 it?

20 A I'm a technician.

21 Q Technician, what is that, what do you do,
22 what's a technician do for heating and air?

23 A Fix units and refrigeration and all that.

24 Q So you have a trade?

25 A Yes, sir.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Q All right, now you, you got a little bit of
2 a criminal record, don't you?

3 A Yes, sir.

4 Q And you've served some time in jail,
5 haven't you?

6 A Yes, sir.

7 Q For what?

8 A Possession with intent to distribute crack
9 cocaine.

10 Q And how do you know Rusty Crocker?

11 A By Mr. Paul Taylor.

12 Q All right, but how, how do you know him,
13 you've worked with him before?

14 A Yeah, I worked with him.

15 Q Okay, and what kind of work did you do with
16 him?

17 A We made some buys.

18 Q Okay, so what, you were a C.I. for him?

19 A Yeah, C.I.

20 Q Okay, what's a C.I. stand for? You were an
21 informant for him?

22 A Yeah, informant.

23 Q All right, now did you have an occasion to
24 work with Rusty Crocker on or about May 7th of 2010?

25 A Yes, sir.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Q All right, and was that in reference to
2 Antoine Chestnut?

3 A Yes, sir.

4 Q Now walk the jury through what happened
5 that day, your interaction with Rusty in reference to
6 Antoine Chestnut?

7 A Well I was at home getting ready to go to
8 work and Mr. Crocker called me and said ---

9 Ms. Williams: Your Honor, may we approach?

10 The Court: All right.

11 (Whereupon, a bench conference was held off the
12 record in the presence of the jury, but out of the hearing
13 of the jury and the court reporter.)

14 The Court: All right, go ahead.

15 Mr. Hucks: (Continuing)

16 Q Please continue.

17 A Okay, Mr. Crocker had called me and told me
18 that he needed me to go and make another buy at Racepath so
19 then after I hung up with him I called Mr. Alston and set
20 up the deal, so Mr. Alston told me to come on, so after
21 that I called Mr. Crocker back and told him that I had the
22 deal set up, then I went to the judicial office in Myrtle
23 Beach and met him and Ms. Rebecca.

24 Q Okay, and then what happened?

25 A Then Ms. Rebecca searched the car to make

Mr. Wilson - Direct Examination By Mr. Hucks

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1 sure I didn't have anything in there and they searched me,
2 too, to make sure that I didn't have nothing on me, and
3 them Mr. Crocker wired me up. I got in my car, I mean
4 after he gave me the money I got in my car, cranked my car
5 up, backed out, and went down Grissom Parkway to Racepath
6 and they followed behind me.

7 Q Okay, then where did you go?

8 A Then I went into Racepath, they went and
9 parked over on Aaron's, in Aaron's parking lot while I went
10 in Racepath to Mr. Alston's house. When I got there I cut
11 my car off, I walked up in the yard to the door, knocked on
12 the door, Mr. Alston opened the door and then I said,
13 what's up, and then I went in, I walked in to the kitchen
14 and that where Mr. Chestnut was standing.

15 Q Okay?

16 A And Mr. Alston told him to go ahead and
17 serve me.

18 Q To serve you, what's that mean?

19 Ms. Williams: Your Honor, I object to the
20 hearsay.

21 Mr. Hucks: Okay, withdraw.

22 The Court: All right.

23 Mr. Hucks: (Continuing)

24 Q Just keep, walk us through what happened?

25 A Okay, so he went up in the cabinet and got

Mr. Wilson - Direct Examination By Mr. Hucks

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1 the dope and took dope out the cabinet, put it on the
2 scale, weighed it out, and then he reached over to the
3 kitchen table and got a sandwich bag and went back to the
4 scale, took the dope off the scale, put it in a sandwich
5 bag, and then he handed it to me; and then after that I
6 hand him the money and I, and I, after that I walked out,
7 went back to my car, got in my car, got on my cell phone
8 after I got down the road and I called Mr. Crocker and tell
9 him I already made the deal and we went back to the
10 judicial building in Myrtle Beach.

11 Q Okay, now did you know who Mr. Chestnut was
12 at that time when you saw him in that house?

13 A Yes, I know who he was.

14 Q But did you, did you know him by his name?

15 Ms. Williams: Your Honor, we have a matter of
16 law.

17 Mr. Hucks: Okay.

18 The Court: All right, ladies and gentlemen, I'm
19 going to excuse you back to the jury room for just a minute
20 while we address this matter of law, and I'll tell you why
21 we do that. It's not that we're trying to hide anything
22 from you, it's just that when we deal with these legal
23 matters it requires the attorneys and sometimes me as the
24 judge to discuss factual issues. Well whatever the
25 attorneys say and whatever I say are not, is not evidence

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1 in the case and you're not to consider what the attorneys
2 say or what I say. You're to base your decision in
3 deciding the facts exclusively on the testimony of the
4 witness and so that's why we excuse you while we decide
5 these legal matters, so I'm going to excuse you back to the
6 jury room for just a minute. Please leave your pads here,
7 do not discuss the case even among yourselves at this point
8 in time.

9 (Whereupon, the jury retired to the jury room at
10 12:00 p.m.)

11 The Court: All right, Ms. Williams?

12 Ms. Williams: Your Honor, the Solicitor just
13 asked this witness if he knew my client Antoine Chestnut.
14 Your Honor, I can tell you that in every bit of the
15 discovery provided for me, cause obviously as we discussed
16 there was a previous buy, this buy, and a search warrant.
17 There is nothing in any of the discovery that discusses
18 that he, that this witness knew him. In fact, everything
19 says that he did not know him; it's an unidentified male he
20 doesn't know who he is. I mean there's nothing that
21 indicates that. In fact earlier I was going to address the
22 Solicitor mentioned that he knows by his street name,
23 street name "Twizzler," I think that's just simply not in
24 anything that we were provided, Your Honor, and I will go
25 that, Your Honor, we made specific motions to have the

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1 information of the C.I. revealed, contact, to have him made
2 available. We were given his name.

3 Your Honor, my understanding is this gentleman
4 was homeless, there was, there was, while we were provided
5 his name practically there was no way for me to find him to
6 interview him. In fact the Solicitor informed us that he
7 has a cell phone and that's how he gets him. He calls him
8 on the cell phone, Mr. Wilson was real good about calling
9 him back and talking to him so, Your Honor, there's, there
10 was no way for me to know or be prepared cause the whole
11 basis of my preparation was that he did not know who he was
12 and in fact the evidence goes on to provide that it's
13 Detective Crocker that identifies, it says through further
14 investigation but basically at the search warrant they
15 identify him and put a name with him and know who he is, so
16 I don't think that testimony is accurate. I don't think
17 it's applicable and I think it needs to be stricken.

18 The Court: You're asking me to strike the
19 C.I.'s, this witnesses testimony?

20 Ms. Williams: Yes, sir, I am.

21 The Court: What is you want me to, what is
22 you're wanting me to do?

23 Ms. Williams: I want you to strike that
24 testimony that he knew him and knew anything about him.
25 Your Honor, I would move for a mistrial because I don't

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1 know at this point that him having said that because that
2 is part of our defense strategy, I mean maybe there's some
3 prejudicial that I can't overcome because I mean there was
4 nothing of that available to us that we could anticipate
5 that he said he knew him cause everything we had was that
6 he did not know him, it was the police that knew who he
7 was. His target was "Rat", Your Honor, so you'll
8 understand, I mean I will show you what we're getting into.

9 There were two buys, the whole discussion was he
10 was buying from "Rat". He was going to buy from Mr.
11 Alston. You heard him say his name. Timothy Alston is the
12 codefendant, Timothy Alston has pled.

13 The Court: Who is "Rat"?

14 Ms. Williams: Timothy Alston.

15 The Court: Okay.

16 Ms. Williams: It is not my client, Your Honor,
17 so I mean my client was present. I'm going to argue was
18 present, he's in the video he was there, but the target of
19 this was "Rat" and that's who in all of our discovery that
20 his target is "Rat." He buys from "Rat"; he makes a
21 statement that he came back and buys from "Rat". In fact,
22 Your Honor, he writes a statement, confidential informant -

23 --

24 The Court: He being who writes a statement?

25 Ms. Williams: The confidential informant Mr.

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1 Wilson wrote on his statement regarding the buy that we're
2 here for today, the May 7th buy, met with Rusty, something
3 \$1100 buy money and bought an ounce of crack from "Rat."

4 The Court: Okay.

5 Ms. Williams: There's no mention of my client;
6 there's no mention of "Twizzler." There's no mention of
7 "Twizzler's" presence. There's, I mean there's nothing.

8 Mr. Hucks: He was on the video doing it, Judge,
9 I don't understand --

10 Ms. Williams: But ---

11 The Court: He's on the video weighing it out
12 and handing it to him and doing all of that --

13 Ms. Williams: And, Your Honor, I'm going to
14 take issue with that. There is, and Your Honor will see,
15 there is a video and the video comes in literally, it's
16 kind of arguably there's you can see motion. Your Honor,
17 you know our position is when you look at the video you
18 don't see him sitting there doing this. You can't see the
19 scale, you can't see that arguable stuff. There are no
20 names called. There was no way for me to know at all, in
21 fact like I said my whole defense was that this C.I. did
22 not know my client. This C.I. knew Timothy Alston and knew
23 him as "Rat."

24 The Court: Okay, now did this, this witness
25 make a statement that he did not know, what led you to

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1 believe that he did not know your client?

2 Ms. Williams: The investigative report, the
3 only one received from Detective Crocker.

4 The Court: All right, let me hear from you on
5 that, Mr. Hucks?

6 Mr. Hucks: Your Honor, I believe the
7 investigative report says there was an unknown male in the
8 house, they didn't know his name, so they called him
9 unknown. The C.I. knows him as "Twizzie."

10 The Court: Okay, so you say unknown, all right,
11 you're saying that the investigative report specifically
12 says that the confidential informant did not know your
13 client?

14 Ms. Williams: Your Honor, the investigative
15 report on the initial buy, just so you'll understand, I
16 want the Court to be plain.

17 The Court: All right.

18 Ms. Williams: While we're here we have to
19 discuss the other incidents cause I think they're all
20 relevant in my opinion, but the first buy, in fact the
21 entire investigative report doesn't mention, the whole
22 thing is about "Rat" and he bought from "Rat" and he buys
23 from "Rat." In fact it doesn't even mention that there's
24 another person there.

25 The Court: Okay.

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1 Ms. Williams: Then you get to the second
2 investigative report, he met with confidential informant
3 who buys cocaine from "Rat." He's there, drove to a
4 location, the informant met with agents, the informant
5 identified one subject as a "Rat," and another whose name
6 he didn't know but had seen at the residence on a previous
7 occasion.

8 Mr. Hucks: Which means he didn't know his name,
9 Judge.

10 The Court: Well I don't know, that's certainly
11 a statement that prior statement if he gave it to the
12 police and said he didn't know him you can use it on cross
13 examination and I'll advise them and charge them on the law
14 as to prior inconsistency statements, that they can use
15 prior inconsistent statements made to police or whoever to
16 judge the witnesses credibility, so I don't know that it
17 strikes the testimony but if he's made a different
18 statement to police than what he's testifying to then you
19 can bring that up on cross examination to attack his
20 credibility. It's a prior inconsistent statement.

21 Ms. Williams: Yes, sir.

22 The Court: All right, all right, so I'm going
23 to deny your motion to strike the testimony but if he told
24 the police something else entirely you're entitled to cross
25 examine it and to get that, get that into before the jury.

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1 Mr. Hucks: Thank you, Judge.

2 The Court: All right, anything else?

3 Mr. Hucks: Nothing.

4 Ms. Williams: No, sir.

5 The Court: All right, let's go ahead and bring
6 the jury back in.

7 Mr. Hucks: Your Honor, just a housekeeping
8 matter. The video is I want to say forty-five minutes long
9 or something like that when it comes time to video, I just
10 wanted to let the Court know.

11 The Court: When are you going to be putting it
12 in?

13 Mr. Hucks: As soon as I get to it in my
14 questioning or that's what I'm going to be attempting to
15 get in.

16 Ms. Williams: And, Your Honor, while they're
17 out maybe we should address that at this point.

18 The Court: I want the jury back out. All
19 right, what?

20 Ms. Williams: I'm sorry, but it's about the
21 video. If he had the video on him, Your Honor, and as
22 Detective Phillips testified they didn't see the video,
23 they didn't, I mean did it record on him, did he have a, I
24 mean that's --

25 Mr. Hucks: Yeah, he's got a button camera on.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Ms. Williams: Where's the actual recording
2 device?

3 Mr. Hucks: It's in his, comes to the wire and
4 it's either in his pocket or on his person.

5 Ms. Williams: So it recorded and the camera on
6 him?

7 Mr. Hucks: Yes.

8 Ms. Williams: And then he brings it back and
9 gives it to him?

10 Mr. Hucks: Yes, it transmits the audio, that
11 it's hearing so they can listen to the audio real time, so
12 just in case he's in trouble or anything, but the video and
13 audio are being recorded on the hard drive on his person.

14 Ms. Williams: Okay, so you're going to go
15 through, okay, so you're going to go through the testimony
16 for him to view it and that's the video.

17 Mr. Hucks: Yeah.

18 Ms. Williams: All right.

19 The Court: All right, all right, any, well,
20 okay, and you say it takes how long?

21 Mr. Hucks: It's about an hour, forty-seven
22 minutes or something to that effect.

23 The Court: Okay, well then we'll probably break
24 for lunch before we put that in so, well let's go ahead and
25 bring the jury in and we'll see how far we get. We might

Mr. Wilson - Direct Examination By Mr. Hucks

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1 have to break in the middle of your direct but we'll see.

2 Mr. Hucks: Yes, sir.

3 (Whereupon, the jury returns to the courtroom at
4 11:56 a.m.)

5 The Court: All right, ladies and gentlemen,
6 welcome back, Mr. Hucks, you can continue with your
7 questioning.

8 Mr. Hucks: Thank you, Your Honor.

9 Q (Continuing) Who, if anybody, were you
10 there to set up for Rusty?

11 A I don't understand the question.

12 Q At that house who were you going to see at
13 that house?

14 A I was going to see "Rat."

15 Q Okay, now who's "Rat?"

16 A Timothy Alston.

17 Q And why were you going to see "Rat"?

18 A Cause that was the one I was dealing with.

19 Q Okay, now the gentleman that you know now
20 as Mr. Chestnut, what, if anything, did he do once you got
21 in that house?

22 A Once I got in the house he was, he was
23 sitting down then Mr. Alston told him to go ahead and serve
24 me the dope ---

25 Ms. Williams: Your Honor, I would object to

Mr. Wilson - Direct Examination By Mr. Hucks

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1 hearsay.

2 Mr. Hucks: (Continuing)

3 Q Don't say what Mr. Alston said, okay, just
4 say what Mr. Chestnut did?

5 The Court: Sustained.

6 The Witness: (Continuing)

7 A Oh, okay, well he, he went to the cabinet
8 and got the dope out and the scales and put the scale on
9 the counter and he weighed the dope out and that's when he
10 reached over to the kitchen table and grabbed a sandwich
11 bag and went back to the scale, took the dope off the scale
12 and put it in a sandwich bag, tied it up and handed it to
13 me and then I handed him the money. After I handed him the
14 money I walked out the house got back to my car, cranked my
15 car up, backed out the yard, when I got down the road
16 that's when I called Mr. Crocker.

17 Q Now how much dope were you there to buy?

18 A An ounce.

19 Q All right, how many grams in an ounce?

20 A Twenty-eight grams.

21 Q Okay, now how much money were you paying
22 for that ounce of dope?

23 A \$1100.

24 Q Okay, and what kind of dope were you there
25 to buy?

Mr. Wilson - Direct Examination By Mr. Hucks

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1 A Crack cocaine.

2 Q Now was there a record of any sort made of
3 any of this stuff you're just telling us about, you just
4 testified to?

5 A I don't understand the question.

6 Q Is there, let me show you something, let me
7 show you a couple of things --

8 Mr. Hucks: May I approach the witness, Your
9 Honor?

10 The Court: Yes.

11 Mr. Hucks: (Continuing)

12 Q Let me show you a couple of things. I want
13 to show you this picture here, tell me who you know that
14 person to be?

15 A I know him as "Tweezie."

16 Q Now who is, what did "Tweezie" do that day?

17 A He was the one who put the, got the dope
18 out the cabinet, put it on the scale and weighed it out and
19 handed it to me.

20 Q Okay, now did this picture come from
21 somewhere that you know of?

22 A No.

23 Q But you can identify "Tweezie"?

24 A Yeah, I can identify "Tweezie."

25 Q I show you one more, can you tell me what's

Mr. Wilson - Direct Examination By Mr. Hucks

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1 going on in there, it's been marked previously as State's
2 Exhibit 4 for I.D. purposes?

3 A He was weighing the dope out on the scale.

4 Q And that's what that shows?

5 A Yes, sir.

6 Q Let me show you Exhibit 5 for I.D., what's
7 that?

8 A That's when he was standing up there.

9 Ms. Williams: Your Honor ---

10 A Showing me the dope, that it was weighed
11 out ---

12 The Court: Hold for a second.

13 Ms. Williams: May we approach?

14 The Court: All right.

15 (Whereupon, a bench conference was held off the
16 record in the presence of the jury, but out of the hearing
17 of the jury and the court reporter.)

18 Mr. Hucks: (Continuing)

19 Q Are these pictures true and accurate
20 reflections of what happened with you that day in between
21 you and who you knew to be "Tweezie"?

22 A Yes, sir.

23 Q And have they been altered or tampered with
24 any way?

25 A No, sir.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Q Are they true and accurate?

2 A True and accurate.

3 Q And they show the gentleman you know as
4 "Tweezie"?

5 A Yes, sir.

6 Q Doing what he was doing?

7 A Yes, sir.

8 Mr. Hucks: All right, Your Honor, at this time
9 the State would move State's Exhibit for I.D. 3, 4, and 5
10 into evidence as State's 1, 2, and 3.

11 The Court: Any objection?

12 Ms. Williams: No, sir.

13 The Court: All right, State's Exhibit Number 3,
14 4 and 5 are admitted into evidence without objection.

15 (Whereupon, State's Exhibits Numbers 3, 4, and 5
16 entered into evidence.)

17 Mr. Hucks: (Continuing)

18 Q Now please explain to the jury what this
19 person you know as "Tweezie" is doing in each of these
20 photographs?

21 A In the first photograph Exhibit 3 he went
22 to grab the sandwich bag. Exhibit 4 he was weighing the
23 dope out.

24 Q And Exhibit 5?

25 A Exhibit 5 he was showing me that the dope

Mr. Wilson - Direct Examination By Mr. Hucks

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1 had weighed twenty-eight grams.

2 Q How did he do that?

3 A He turned to the side to let me see that
4 the dope was weighing twenty-eight grams on the scale.

5 Mr. Hucks: May we approach very briefly, Your
6 Honor.

7 The Court: All right.

8 (Whereupon, a bench conference was held off the
9 record in the presence of the jury, but out of the hearing
10 of the jury and the court reporter.)

11 Mr. Hucks: (Continuing)

12 Q This is marked as State's Exhibit 1 for
13 identification, tell me if you recognize that?

14 A It's a dvd.

15 Q All right, what's on that dvd?

16 A It's a dvd of the buy.

17 Q And you've seen this dvd?

18 A Yes, I've seen it before.

19 Q And is it a true and accurate reflection of
20 what happened that day?

21 A Yes, sir.

22 Mr. Hucks: Your Honor, at this time the State
23 would move the buy video into evidence as State's Exhibit,
24 State's Exhibit 1. It's currently marked as State's 1 for
25 I.D. only and would request to publish it to the jury as a,

Mr. Wilson - Direct Examination By Mr. Hucks

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1 as it's been authenticated by the confidential informant.

2 The Court: All right, Ms. Williams?

3 Ms. Williams: Without objection, Your Honor.

4 The Court: All right, State's Exhibit Number 1
5 is admitted into evidence without objection. I'll allow
6 you to go ahead and publish it to the jury.

7 (Whereupon, State's Exhibit Number 1 entered into
8 evidence.)

9 Mr. Hucks: Can we get the screen down, please?

10 (Whereupon, State's Exhibit Number 1 played in
11 open court.)

12 Mr. Hucks: (Continuing)

13 Q Mr. Wilson, is that a true and accurate
14 reflection of your encounter with the fellow you know as
15 "Tweezie" and with "Rat" that day?

16 A Yes, sir.

17 Q Is that what happened?

18 A Yes, sir.

19 Q What did you go there to do? What did you
20 go there to do?

21 A To buy an ounce of cocaine, crack cocaine.

22 Q And what did you do, what did you do when
23 you got there?

24 A I bought the ounce of crack cocaine and
25 then left.

Mr. Wilson - Direct Examination By Mr. Hucks

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1 Q How much did you give them?

2 A \$1100.

3 Q And do these pictures here do they
4 accurately reflect the fellow who sold you that crack
5 cocaine?

6 A Yes, sir.

7 Mr. Hucks: I have nothing further, Your Honor,
8 request to publish the pictures to the jury.

9 The Court: All right, go ahead, you can take
10 them and pass them around.

11 Mr. Hucks: And that will be all my questions
12 for Mr. Wilson on direct.

13 The Court: All right, Ms. Williams, cross
14 examination or let me see you up here a second.

15 Mr. Hucks: Yes, sir.

16 (Whereupon, a bench conference was held off the
17 record in the presence of the jury, but out of the hearing
18 of the jury and the court reporter.)

19 The Court: All right, ladies and gentlemen, we
20 still have the cross examination of this witness but I
21 understand it's going to be pretty lengthy. With it being
22 12:25 it's probably a good time for us to go ahead and
23 break for lunch at this time, so I'm going to excuse you to
24 go to lunch. Please be back in the jury room at 2:00.
25 Leave your notepads here in the jury box.

1 Do not discuss the case; do not talk about the
2 case with anyone even among yourselves at this point in
3 time. It's too early for deliberations so don't discuss
4 the case with anyone. Don't discuss it among yourselves,
5 don't conduct any independent investigations into the case.
6 Don't try to look through any newspaper accounts or go on
7 the internet or anything of that nature and try to find out
8 anything about the case. I hope everybody has a good
9 lunch.

10 I'll give you an opportunity to review those
11 photographs when you return from lunch and make sure you
12 leave everything in the jury box. I hope you have a good
13 lunch and we'll see you back at 2:00, okay. If everybody
14 else remain seated while the jury is excused.

15 (Whereupon, the jury was excused for lunch at
16 12:26 p.m.)

17 The Court: All right, anything from the State
18 before we break for lunch?

19 Mr. Hucks: No, sir.

20 The Court: Anything from the defense?

21 Ms. Williams: Nothing, Your Honor.

22 The Court: All right, Mr. Wilson, I hate to do
23 this to you but since we're in the middle of your testimony
24 you're not going to be able to talk to anybody while we're
25 at lunch, okay. You can't discuss anything with the

1 prosecution; you can't talk to anybody from the
2 prosecution. You can't talk to anybody from the defense
3 because the rules of procedure require that while you're
4 giving your testimony you can't discuss anything that
5 you've testified to or anything that you anticipate
6 testifying to with anyone so the best thing is while we
7 break for lunch is that you just kind of be kept by
8 yourself. Is there somewhere, how do we want to do this
9 cause he's going to have to eat lunch?

10 Mr. Hucks: Your Honor, it's our understanding
11 that Mr. Wilson intended to go to lunch with his wife. He
12 was going to use the detective's phone just to call his
13 wife to get his wife to come get him; if the court has a
14 phone he can use?

15 The Court: Okay, well I'll allow him to use a
16 phone to call his wife to go to lunch but don't, don't be
17 with or talk to anybody involved in this case, okay?

18 Mr. Hucks: And she has not been present for any
19 of the proceeding.

20 The Court: All right, that sounds good,
21 anything else from either party before we break for lunch?

22 Mr. Hucks: No, sir.

23 Ms. Williams: Nothing from the defense, Your
24 Honor.

25 The Court: All right, we'll resume at 2:00,

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1 we'll stand in recess until 2:00.

2 Mr. Hucks: Thank you, sir.

3 The Court: Thank you.

4 (Whereupon, court was recessed for lunch and the
5 following takes place on the record after the lunch
6 recess.)

7 The Court: All right, anything from the State
8 before we bring the jury back in?

9 Mr. Hucks: No, sir.

10 The Court: Anything from the defense?

11 Ms. Williams: Nothing from the defense, Your

12 Honor.

13 The Court: All right, let's go ahead and bring
14 the jury in.

15 (Whereupon, the jury returns to the courtroom at
16 2:07 p.m.)

17 The Court: All right, ladies and gentlemen,
18 welcome back, I hope everyone had a good lunch. We're now
19 ready to resume the trial of this case. Before we do so I
20 want to thank you for being prompt and being back on time
21 so that we can get started in this case. I also want to
22 remind you if you have any cell phones or pager devices if
23 you'd turn them off completely if you have not, if you have
24 brought them into the courtroom. Also make sure if you're
25 taking notes that you have your own pad and no one else's

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1 pad.

2 All right, we were getting ready, we were still
3 on the testimony of this witness Mr. James Clifford Wilson.
4 We were getting ready to start cross examination by Ms.
5 Wilson, Ms. Williams.

6 Ms. Williams: Thank you, Your Honor.

7 **Cross Examination**

8 **By Ms. Williams:**

9 Q Good afternoon, Mr. Wilson.

10 A Good afternoon.

11 Q Let me ask you, who did you know that, tell
12 me the location of the house that we saw in that video; do
13 you know the address of it?

14 A I don't know the address, excuse me, I
15 don't remember the address.

16 Q Okay, but it was in the area that's called

17 --

18 A Racepath.

19 Q Racepath in Myrtle Beach?

20 A Yes, ma'am.

21 Q Okay, who did you know lived at that house?

22 A Timothy Alston.

23 Q Okay, and what's Timothy's nickname?

24 A "Rat."

25 Q And how did you know "Rat?"

1 A I've known him for the longest.

2 Q And tell me what, if anything, you knew
3 about "Rat" and what he did?

4 A I knew what he did because I used to deal
5 with him.

6 Q Okay?

7 A Back in the days.

8 Q And what he did was what specifically?

9 A Sell drugs.

10 Q Sell drugs, do you know if anybody else
11 lives in that house that you went to on Racepath, in
12 Racepath?

13 A No, ma'am.

14 Q Okay, you don't know if anybody else lives
15 there or did anybody else live there?

16 A I didn't know if nobody else lived there, I
17 know he lived there, him and his kids and his girlfriend.

18 Q Them, and if somebody else, if there was
19 anybody else you just weren't aware of this, is what you're
20 telling me?

21 A Yes, ma'am.

22 Q Okay, but he's the one who definitely lived
23 there?

24 A Yes, ma'am.

25 Q Okay, now let me ask you, you said you knew

Mr. Wilson - Cross Examination By Ms. Williams

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1 Mr. Chestnut, did you know him?

2 A No, ma'am, I didn't know him as Mr.
3 Chestnut but I, I knew him but I didn't him as Mr.
4 Chestnut, I knew him as "Tweezie."

5 Q Okay, and was "Tweezie" a regular friend of
6 yours?

7 A No, ma'am.

8 Q How do you know him as "Tweezie"?

9 A Because every time I went over there to see
10 Mr. Timothy Alston he would be there, he usually be there.

11 Q All right, so you knew him cause you knew
12 "Rat"?

13 A Yes, ma'am.

14 Q All right, now let me ask you, when this
15 incident happened the police, you met with the police, they
16 did a search, right?

17 A Yes, ma'am.

18 Q And did they search you?

19 A Yes, ma'am.

20 Q Tell me how they searched you?

21 A Well Mr. Rusty pat me down and everything
22 and had me to pull everything out of my pocket and
23 everything and checked the car and all.

24 Q So he patted you down?

25 A Yes, ma'am.

1 Q Had you pull stuff out your pocket?

2 A Yes, ma'am.

3 Q Did you take your shoes off?

4 A No, ma'am.

5 Q Did you take your socks off?

6 A No, ma'am.

7 Q Did he do, I mean I don't mean to be crude,
8 but there's no other way to ask this question, I'm sorry,
9 when he did a pat did he do like a real up close and
10 personal kind of pat?

11 A Yes, ma'am.

12 Q So he did that?

13 A Yes, ma'am.

14 Q Okay, but you didn't take your shoes off?

15 A No, ma'am.

16 Q All right, all right, and do you know why
17 he did that?

18 A He has to make sure I didn't have nothing
19 illegal on me.

20 Q Okay, and so after you went and made the
21 transaction you came back and met with Detective Crocker,
22 right?

23 A Yes, ma'am.

24 Q And what, if anything, happened then?

25 A I didn't understand your question, what did

Mr. Wilson - Cross Examination By Ms. Williams

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1 you say?

2 Q Once you came back and met with Mr. Crocker
3 what happened then, what did you do?

4 A I parked the car, I cut it off, I got out,
5 I went walking over to him and I handed him the dope, the
6 drugs.

7 Q Okay, and what, if anything, did he do?

8 A Ma'am?

9 Q What did he do then?

10 A He took the drugs, he put it in a, in a bag
11 and sealed it up.

12 Q Okay, did he ask you any questions, did you
13 talk to him?

14 A No, ma'am.

15 Q So you didn't tell him anything about what
16 had just happened?

17 A The only thing I told him that I had done,
18 I called him and told him I made the buy already and when I
19 got back to him I gave him, I gave him the drugs.

20 Q All right, do you recall giving him a
21 written statement about what happened?

22 A Yes, ma'am.

23 Q Do you recall what you put in that
24 statement?

25 A Yes, ma'am.

1 Q Tell me what you put in that, you recall
2 that you put in that statement?

3 A I put in there, I, James Wilson, made a,
4 made a drug buy with \$1100 of drug, I mean police money.

5 Q And do you recall if you told him who you
6 bought the drugs from?

7 A Yes, ma'am.

8 Q How did you tell him?

9 A I told them "Rat," Timothy Alston.

10 Q You told them "Rat", right?

11 A Yes, ma'am.

12 Q Did you tell them you bought it from
13 "Twizzle"?

14 A No, ma'am.

15 Q Am I saying that right like a twizzler
16 twizzle?

17 A No, it's "Twizzie."

18 Q "Twizzie," okay, I want to make sure I got
19 it right, so you told them you bought drugs from "Rat" but
20 you didn't tell them you bought from "Tweezie"?

21 A No, ma'am.

22 Q Okay, did he specifically ask you was
23 anybody else there?

24 A Yes, ma'am.

25 Q And what did you tell him?

Mr. Wilson.- Cross Examination By Ms. Williams

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1 A And I told him that, I told him that
2 "Twizzie" was there and he was the one who gave me the
3 drugs.

4 Q Okay, so you told him that "Twizzie" was
5 there but yet when you wrote your statement you only told -
6 --

7 A Yeah.

8 Q --- you wrote the statement --

9 A And I put "Rat" name in it.

10 Q Yeah?

11 A Timothy Alston instead of "Twizzie."

12 Q And no "Twizzie," okay, now let me ask you
13 this, do you know why you wrote this statement; why you
14 gave him a statement?

15 A To I guess to be secure.

16 Q Okay?

17 A For me to be secure so when I go to, when I
18 went to court for my, my, my charge.

19 Q For your charges and we're going to come to
20 that, but let me ask you this, do you know if part of the
21 reason, well let me ask you this, do you think it was
22 important for you to put down on your statement exactly
23 what did happen?

24 A Yes, ma'am.

25 Q And you didn't, did you?

1 A No, ma'am.

2 Q But you're telling us today that's what
3 happened?

4 A Yes, ma'am.

5 Q Okay, do you recall telling Detective
6 Crocker that you didn't know who the other person was there
7 at the residence?

8 A I told him that I didn't know his name but
9 I know his street name, they call him "Twizzie."

10 Q So you're saying that you did tell
11 Detective Crocker at that day that "Twizzie" was at the
12 scene?

13 A Yes, yes, ma'am.

14 Q Okay, do you know if Detective Crocker put
15 that anywhere?

16 A I don't know, I have no idea.

17 Q Okay, but no doubt you didn't?

18 A Ma'am?

19 Q But no doubt you didn't put it anywhere?

20 A Yes, ma'am.

21 Q Okay, now let's take a minute and let's
22 talk, the Solicitor asked you and he said you had a prior
23 record, right?

24 A Yes, ma'am.

25 Q And when you said will you tell the ladies

Mr. Wilson - Cross Examination By Ms. Williams

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1 and gentlemen of the jury what it is you said you had a
2 possession with intent to distribute crack cocaine, right?

3 A Yes, ma'am.

4 Q That's all you told them?

5 A Yes, ma'am.

6 Q But you have more than that in your prior
7 record, don't you?

8 A Yes, ma'am.

9 Q Can you tell me what else it is that you
10 know that you have?

11 A I think there's another possession with
12 intent to distribute.

13 Q That would be two?

14 A And actually there's three of them ----

15 Q There's three?

16 A --- cause I had one in 2003.

17 Q One from 2003, two from 2003, and then one
18 from 2011, correct?

19 A Yes, ma'am.

20 Q All right, what else do you have?

21 A Failure to stop for a blue light.

22 Q And when was that; do you recall?

23 A No, I don't recall when that is cause ----

24 Q 2005 sound about right?

25 A Yes, ma'am.

1 Q All right, now let's talk about this, you
2 heard the detective say you said you, you actually pled, do
3 you remember what, you pled in January of 2011 to get this
4 last possession with intent to distribute charge, correct?

5 A Yes, ma'am.

6 Q And what were you originally charged with?

7 A Trafficking.

8 Q Okay, and tell me about why, how it came
9 about and the deal with that you actually pled to what we
10 call a pwid, which is a lesser charge, right?

11 A Yes, ma'am.

12 Q Tell me about it?

13 A My lawyer was the one that did the talking
14 and he told me they was offering ---

15 Q You can't, I was going to say you can't
16 repeat what your lawyer said, you can just say what you
17 did; I know it's our rules but just to make sure?

18 A My lawyer was the one that talked to them.

19 Q Well is it safe to say that what you did
20 was went and worked for the police to help with your
21 charges?

22 A Yes, ma'am.

23 Q Were you actually promised a deal?

24 A No, ma'am.

25 Q Because if I understand it correctly, I

Mr. Wilson - Cross Examination By Ms. Williams

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1 just want to make sure the jury understands, you aren't
2 promised in writing if you do one, two, three, we'll do
3 this, right?

4 A No, ma'am, wasn't promised nothing.

5 Q That's not the promise?

6 A I wasn't promised nothing.

7 Q That's right, but what you were told is if
8 you'll go out and do something and help us we'll take it
9 into consideration, basically, right?

10 A Yes, ma'am.

11 Q Now let me ask you this, would you have
12 done anything if you didn't think you were going to get
13 help?

14 A Yes, ma'am.

15 Q So you're telling us you would have worked
16 no matter what?

17 A Yes, ma'am.

18 Q Really?

19 A Yes, ma'am.

20 Q Okay, on these last charges with the pwid
21 what, if anything, did you receive?

22 A What did I receive?

23 Q Yep.

24 A A year.

25 Q Okay, if you had been convicted of the

Mr. Wilson - Cross Examination By Ms. Williams

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1 trafficking what would you have received?

2 A Actually I don't know.

3 Q You don't even know what your charges
4 carried?

5 Mr. Hucks: Your Honor, I would object, that
6 calls for a legal conclusion from the witness that he's not
7 qualified to answer.

8 The Court: Well he said he didn't know so I'll
9 allow you to go ahead and ask the question, if he knows he
10 can answer it, if he doesn't know then he doesn't know.

11 Mr. Hucks: Thank you, Your Honor.

12 The Court: All right.

13 Ms. Williams: (Continuing)

14 Q Do you know that, do you know whether or
15 not a trafficking charge carries more potential time than a
16 possession with intent to distribute crack?

17 A Yes, ma'am.

18 Q It does, doesn't it?

19 A Yes, ma'am.

20 Q Okay, and so by working that off you got
21 the opportunity to plead to a lesser charge, right?

22 A Yes, ma'am.

23 Q All right, now you said you were supposed
24 to go buy an ounce, right?

25 A Yes, ma'am.

Mr. Wilson - Cross Examination By Ms. Williams

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1 Q How much does an ounce cost in street
2 value?

3 A 1100.

4 Q \$1100?

5 A Yes, ma'am.

6 Q Do you know how much you actually got?

7 A Yes, ma'am.

8 Q What did you think you got?

9 A I got an ounce.

10 Q Okay, all right, and you said that you gave
11 us a detail by detail of exactly what happened, right?

12 A Yes, ma'am.

13 Q Okay, and there was some conversation that
14 you said happened that we should have been able to hear on
15 that video, right?

16 A Conversation?

17 Q Well like you said you went in and spoke
18 and you talked to "Rat" and then you talked to "Twizzie"?

19 A Yes, ma'am.

20 Q Okay, so if we listen to that video we
21 should be able to hear all the conversation that took
22 place, right?

23 A Yes, ma'am.

24 Q Okay, tell me this, I don't recall when did
25 ya'll discuss the \$1100?

Mr. Wilson - Cross Examination By Ms. Williams

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1 A At the place where I got wired up at.

2 Q Who did you discuss the \$1100 with, I'm not
3 following you?

4 A How you mean who I discussed it?

5 Q Well you discussed it with the police
6 obviously ---

7 A Yeah.

8 Q --- cause that's what they gave you?

9 A Yeah.

10 Q Okay, when did you discuss it with "Rat"
11 and "Twizzie"?

12 A Oh, over the telephone, over my cell phone.

13 Q Did you discuss it with "Rat" and "Twizzie"
14 or just "Rat"?

15 A I just discussed it with, with Timothy
16 Alston.

17 Q Who were expecting to be buying the dope
18 from?

19 A I was expecting to be buying it from, from
20 Timothy Alston.

21 Q Okay, cause that's what Timothy did, right?

22 A Yes, ma'am.

23 Q Do you know if he's actually been punished
24 and pled guilty to those charges?

25 A Yes, ma'am.

Mr. Wilson - Cross Examination By Ms. Williams

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1 Q He has?

2 Mr. Hucks: Your Honor, please, I would object,
3 it's completely irrelevant what a codefendant did or did
4 not do with his charges to this particular case.

5 The Court: Okay, overruled.

6 Mr. Hucks: It's outside of the scope of what
7 we're here for today.

8 The Court: Overruled, I'll allow it, go ahead.

9 Mr. Hucks: Thank you, sir.

10 Ms. Williams: (Continuing)

11 Q All right, so you know that when you went
12 to buy drugs from Timothy Alston that that's who you were
13 intending to buy from, correct?

14 A Yes, ma'am.

15 Q And that's who you discussed it on the
16 phone with, right?

17 A Yes, ma'am.

18 Q And that's who the police thought you were
19 going to buy from, correct?

20 A Yes, ma'am.

21 Q And you're also correct in that when you
22 came back you filled out a piece of paper that you bought
23 drugs from "Rat"?

24 A Yes, ma'am.

25 Q And never told them that you bought it from

1 "Twizzie"?

2 A No, ma'am.

3 Q You got, you can answer?

4 A Yeah, I mean I told them, I told them, I
5 told them I got it from "Twizzie" because and then I also
6 told them that I didn't know his real name, all I knew him
7 was by "Twizzie."

8 Q But when you filled out the statement ---

9 A I did not put his name on there.

10 Q That's right?

11 A That was my mistake.

12 Q That's right, so you said you wrote a
13 statement but you didn't put anybody's name on it but
14 "Rat"?

15 A Yes, ma'am.

16 Q Okay, now let's talk about this, let's get
17 into that for just a minute, you told them you would work
18 off your charges, right?

19 A Yes, ma'am.

20 Q How many charges did you, how much did you
21 do to help them?

22 A How much did I do?

23 Q Uh-huh.

24 A Like five, about five buys.

25 Q Okay, let me ask you on those buys did you

Mr. Wilson - Cross Examination By Ms. Williams

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1 fill out statements of who you dealt with?

2 A Yes, ma'am.

3 Q Did you put everybody you dealt with on
4 those statements?

5 A Yes, ma'am.

6 Q And because you did help you did get help
7 with your sentence and got it reduced from trafficking,
8 didn't you?

9 A Yes, ma'am.

10 Ms. Williams: Okay, beg the Court's indulgence
11 for just a minute.

12 The Court: All right.

13 Ms. Williams: (Continuing)

14 Q Mr. Wilson, let me ask you, when you went
15 there that day who did you give the money to?

16 A I gave the money to "Twizzie".

17 Q So you gave it to "Twizzie"?

18 A Yes, ma'am.

19 Q Okay, let me ask you this, do you use
20 drugs?

21 A No, ma'am.

22 Q Have you ever used drugs?

23 A No, ma'am.

24 Q You've never used them?

25 A Never used drugs.

Mr. Wilson - Redirect Examination By Mr. Hucks

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1 Q So you're not on them now?

2 A No, ma'am.

3 Q Okay, you just dealt drugs?

4 A Yes, ma'am.

5 Ms. Williams: I have no further questions, Your
6 Honor.

7 The Court: All right, redirect?

8 Mr. Hucks: Just briefly, Your Honor.

9 **Redirect Examination**

10 **By Mr. Hucks:**

11 Q Now did you watch that video that we
12 played?

13 A Yes, sir.

14 Q And did it show you going in your shoe or
15 your sock and getting anything out of it?

16 A No, sir.

17 Q Okay, now did you serve time on your other
18 charges?

19 A Yes, sir.

20 Q How much time did you get when you pled
21 guilty to the charge that you had, the most recent charge?

22 A The first one I got --

23 Q On the charge that you were trying to work
24 off, let's say, what did you, how much time did you have to
25 go to prison for that?

Detective Crocker - Direct Examination By Mr. Hucks 157

1 A A year.

2 Q Okay, so you had to go to prison?

3 A Yes, sir.

4 Q All right, you got anything at all charge
5 wise hanging over your head now today?

6 A No, sir.

7 Q Now we had a little bit of talk Ms.
8 Williams brought up about "Rat" and "Twizzie,", those
9 street names are weird for me, but do "Rat" and "Twizzie"
10 look anything alike?

11 A No, sir.

12 Q Explain to the jury a little bit the
13 differences, they saw the video, explain to them who "Rat"
14 was and who "Twizzie" was?

15 A Timothy Alston was "Rat." He was my height
16 with dreads, my complexion.

17 Q How about "Twizzie"?

18 A "Twizzie" he was kind of chubby, six foot
19 two or six foot three with a, with a clean cut.

20 Q Would you say he's substantially bigger
21 than "Rat"?

22 A Yes, sir.

23 Q Substantially bigger than Alston?

24 A Yes, sir.

25 Q So we're looking at that video who's the

Detective Crocker - Direct Examination By Mr. Hucks 158

1 big guy?

2 A That's "Twizzie."

3 Q The one playing with the scale, who's that?

4 A That's "Twizzie."

5 Q All right, and the one handing you the dope
6 who is that?

7 A That's "Twizzie."

8 Q Who did you give the money to?

9 A I gave it to "Twizzie."

10 Q Who gave you the dope?

11 A "Twizzie" gave me the dope.

12 Mr. Hucks: Thank you, that's all I have to ask,
13 thank you, Judge.

14 The Court: All right, you may step down, all
15 right, you can call your next witness.

16 Mr. Hucks: Thank you, Your Honor, the State
17 would call Detective Rusty Crocker of the Horry County
18 Police Department, David R. Crocker.

19 The Court: All right.

20 **Detective David Rushton Crocker**

21 **being first duly sworn, testified as follows:**

22 Madam Clerk: Please state your full name and
23 spell your last name.

24 The Witness: David R. Crocker, c-r-o-c-k-e-r.

25 **Direct Examination**

Detective Crocker - Direct Examination By Mr. Hucks 159

1 By Mr. Hucks:

2 Q Just for the record because I'm probably
3 going to call you, what's, what's your nickname?

4 A My, everybody calls me by nickname which is
5 Rusty; it's what I've gone by all my life.

6 Q And you don't have a problem with me
7 calling me you Rusty when we speak, do you?

8 A Absolutely not.

9 Q Been doing it for thirty years, all right,
10 now what do you do for a living, Rusty?

11 A I am currently a detective in the Horry
12 County Police Department's Narcotics and Vice Division but
13 I am currently assigned to the U. S. Drug Enforcement
14 Administration Task Force Office out of Florence.

15 Q Now what is your job description, walk us
16 through your job description; what do you do on an average
17 da of work?

18 A Average day of work is coming in and
19 obtaining information about any particular given area on a
20 local area, not with the task force level, but on the local
21 level at the time this was going on we obtained information
22 about any particular area in Horry County. If we obtained
23 information then we try to find ways to get into these
24 locations whether putting ourselves undercover or the
25 utilization of confidential informants. Through either one

Detective Crocker - Direct Examination By Mr. Hucks 160

1 of these methods then we will attempt to discover any type
2 of evidence of the sale of these illegal drugs, the use of
3 these illegal drugs and the places where they may be hidden
4 at.

5 Q All right, now the confidential informants
6 you're talking about we call those C.I.'s?

7 A Correct.

8 Q Okay, how many C.I. related buys would you
9 say you've done in your career?

10 A In excess of four hundred.

11 Q Okay, how long have you been a police
12 officer?

13 A Seventeen, almost seventeen years.

14 Q And how long have you been a detective?

15 A Five years.

16 Q How long doing narcotics?

17 A Two and a half years.

18 Q Okay, and how many C.I. buys did you say
19 you've done in two and a half years?

20 A Not including narcotic C.I.'s, you know the
21 C.I.'s are used for other work, as a detective probably in
22 the neighborhood four hundred total including my federal
23 government work, it kind of steps up a notch there.

24 Q Now were you in the courtroom when Rebecca
25 detective was in here talking about how a C.I. buys work?

Detective Crocker - Direct Examination By Mr. Hucks 161

1 A Yes, sir.

2 Q Okay, now did you hear her description as
3 to how they generally work?

4 A Yes, sir.

5 Q And was that a true and accurate
6 description of how you want your job to go?

7 A Yes, sir.

8 Q Okay, and in reference to May 7th of last
9 year with Mr. Wilson is that how that buy went?

10 A That buy was text book.

11 Q Okay, that's exactly how you would want a
12 buy to go?

13 A Yes, sir, absolutely.

14 Q Best case scenario?

15 A Absolutely.

16 Q All right, now I'm going to ask you a
17 little bit about May 7th, do you recall May 7th of last
18 year?

19 A Yes, sir.

20 Q Do you recall your interactions with Mr.
21 Wilson?

22 A Yes, sir.

23 Q All right, I'm going to have to ask you to,
24 please, walk the jury through your interactions that day
25 with Mr. Wilson and all the events surrounding it?

Detective Crocker - Direct Examination By Mr. Hucks 162

1 A I contacted Mr. Wilson earlier in the day
2 and told him that based upon the information we had in the
3 area I needed him to attempt to make contact with this
4 individual that he knew in the, in the Racepath area,
5 specifically Magnolia Lane, it's the Racepath community
6 based upon Racepath Street just outside the City of Myrtle
7 Beach. I instructed him to see if he could make contact
8 with the individual and try to set up a purchase for one
9 ounce of crack cocaine. He called me back a short time
10 later stated that he had spoke with the individual and that
11 he had set the deal, it's commonly referred to the deal up
12 for that afternoon.

13 A little bit later my normal partner at the time
14 was another detective who was unavailable, Detective
15 Phillips agreed to go with me. One of the cardinal rules
16 that we do any time that we have any interaction with a
17 confidential informant or any type of drug or any type of
18 money is there are always two people there. There are no
19 exceptions to that rule. She agreed to go down there with
20 me.

21 We met Mr. Wilson at the 21st Avenue magistrate's
22 office around the rear. We choose locations as secure as
23 possible not only so that we're not seen and discovered but
24 obviously for the safety of the cooperating individuals, in
25 this case Mr. Wilson, to ensure that no one sees him so

Detective Crocker - Direct Examination By Mr. Hucks 163

1 that his security is not at risk when he goes into these
2 locations.

3 His person was searched by me from top to bottom.
4 His shoes were pulled off from his body; I did go through
5 his shoes. He emptied his pockets for me. I completed a
6 complete pat down including his groin area, his belt area.
7 During this time Detective Phillips is searching his car
8 and she explained the search to you. She searches a car
9 pretty much the same way I do, you pick one spot, you start
10 at that spot and then you move to the next in a, you know,
11 a methodical fashion to make sure that you haven't skipped
12 anything. If you hop around you may forget one location
13 from another. As soon as I know that his person is clear
14 she knows that his car is clear. We know that he can't
15 bring any, reasonably can't bring any contraband into the
16 equation. He at that time ---

17 Q What, what do you mean by contraband?

18 A Any illegal, any substance, when you're
19 dealing with confidential informants as a byproduct of the
20 nature of the work that we do we're not always going to be
21 able to get close to people and unfortunately the people
22 that come to us and cooperate ninety five percent of them
23 are not or may not have the best histories themselves but
24 unfortunately the nature of this work is we have to utilize
25 some people who may have troubled pasts, checkered pasts,

Detective Crocker - Direct Examination By Mr. Hucks 164

1 or just plain old bad pasts in order to accomplish our
2 mission. so we have to check these people to make sure that
3 they don't have any drugs on them, that they don't have any
4 extra cash on them because the cash that they're given by
5 us, as explained by Detective Phillips, is photocopied so
6 that we can keep a track of all the serial numbers on the
7 money.

8 Once we've completed all of these factors you see
9 the video come on, that's where I have just completed
10 wiring this camera to him. The camera is basically it
11 looks like a button on a shirt, you'd have to get really
12 really close to notice it. It has a small pin hole in it.
13 Through the pin hole there's a little box that goes back
14 behind the shirt and there's a wire that runs to a smaller
15 box such as basically a computer hard drive. It's about
16 the size of a wallet. That's usually taped to the side or
17 even as low down as a leg or a hip and it's placed in and
18 it's turned on. This particular device records video and
19 audio and at the same time it transmits the audio over a
20 given signal of which we have a receiver in our vehicle
21 that we can hear what's going on. That was me turning it
22 on when you see the video to verify that it's working. You
23 also see that I, after I've verified that it's working and
24 got it set up I count the cash out to him. He takes it and
25 he verifies that I am giving him that amount of cash. Now

Detective Crocker - Direct Examination By Mr. Hucks 165

1 this is after we've made sure he cannot tamper with any
2 type of situation by introducing anything outside of this
3 equation.

4 He is then, gets in his vehicle, he pulls out, we
5 are immediately behind him. He turns out of 21st heads
6 north on 21st to Bob Grissom, makes a left on Bob Grissom.
7 We follow him down Bob Grissom to 501, just on the other
8 side of 501 is where the Racepath community is. It's as
9 soon as you cross 501 on Bob Grissom it's actually your
10 first left. There's only a loop in and a loop out. He
11 turns in; we can't turn in behind him. It's a closed
12 neighborhood and frankly two white people sitting in this
13 car in broad daylight is going to set off every alarm
14 because to this day I still get told I look like the
15 police. It's just one of the natures of the job of doing
16 it a long time.

17 We stopped at the Aaron's Rental Store directly
18 across the street, backed into a parking space on the side.
19 He drove in, we visually saw him drive down Racepath until
20 he disappears around the corner. The entire time we are
21 still listening to the wire. This is for two reasons that
22 it's broadcast, for his safety is the paramount reason
23 because regardless of what his past is or what he's trying
24 to do we still have a duty to protect him. He is, we're
25 listening to it and we're also listening to make sure

1 what's going on and that there may be no, you know,
2 anything untoward, any hanky panky going on in the
3 situation.

4 We listened, you could hear his music, his music
5 stops, You can actually hear him on the video; we can hear
6 him knocking on the door. He goes in; there's a little bit
7 of conversation. As you saw in the video where he's
8 standing there, he's quiet for a small time after they
9 exchanged pleasantries. I think he's talked about his
10 kids, Mr. Alston talked a his kids. That little bit of
11 interaction, there's a quiet time you saw when the camera
12 is basically kind of pointing at the ceiling because it
13 kind of sits on your chest. He comes back out and then I
14 can hear the car crank up from my vehicle from the wire and
15 I can hear him leaving, so as he's leaving he's driving,
16 he's got his music up if you notice, he gets a phone call.
17 That's me calling him to say, okay, are you coming out
18 because unfortunately I can't see where he's parked at. I
19 can't see where he's stopped at so I have a duty to make
20 sure that okay he's coming out now, we've had a period of
21 time, we had some quiet time, now there's music, "are you
22 coming out? Yeah, I'm coming out right now, I got it."
23 You hear him on there say I got it.

24 As we're sitting we see him come up Racepath
25 Avenue. He turns onto Bob Grissom to head back to 21st; we

Detective Crocker - Direct Examination By Mr. Hucks 167

1 turn in behind him. We follow him down to 21st, he pulls
2 out. On the video you see him walk up and if you notice
3 it's slightly down, you may see the edge of in the camera,
4 I'm holding open a bag, he takes the, the ounce or "cookie"
5 of crack cocaine as it's known and drops it in the bag,
6 okay.

7 Once he drops it in the bag we shut off the
8 equipment not because we're trying to hide anything but the
9 equipment only has a certain amount of battery life and
10 because of the nature of the equipment and the amount of
11 data that it has to record, you have to remember not only
12 is it recording this audio and this video to this hard
13 drive it's also broadcasting this data, okay, over a wire
14 just like a radio station, and we're picking up the data,
15 so the batteries run out very quickly.

16 As soon as he puts that in there he's immediately
17 searched again; his vehicle is searched again. He writes a
18 brief statement and we discuss what happens and then he
19 leaves. On this particular day he came back to us. We
20 stopped, we do the housekeeping stuff first. We, we get
21 the dope, we search him, and then once we've done all that
22 is then when we move forward with the stuff, keeping in
23 mind that this date was May the 7th of 2010, it's now
24 October of 2011. I can honestly sit here and tell you that
25 in reference to he did come and he did say that he, that

Detective Crocker - Direct Examination By Mr. Hucks 168

1 "Rat" was there but ---

2 Ms. Williams: Your Honor, may we approach?

3 The Court: All right.

4 (Whereupon, a bench conference was held off the
5 record in the presence of the jury, but out of the hearing
6 of the jury and the court reporter.)

7 The Court: All right, ladies and gentlemen, I'm
8 going to have to excuse back to the jury room for just a
9 minute while we address this matter of law. Please do not
10 discuss the case even among yourselves at this point in
11 time.

12 (Whereupon, the jury retired to the jury room at
13 2:37 p.m.)

14 The Court: All right, Ms. Williams?

15 Ms. Williams: Your Honor, the Detective just
16 first of all had testified with hearsay, it's what Mr.
17 Wilson said as opposed to the defendant. I don't think
18 that's admissible.

19 Secondly, Your Honor, every piece of paper that
20 we have, every stitch of discovery that's been provided
21 does not indicate what he just said. As I have stated
22 before there is no mention of "Twizzie," never heard the
23 term "Twizzie," don't know when it was, don't know when the
24 Solicitor found out about it, don't know anything at all
25 about it. I think that needs to be stricken. In fact I

Detective Crocker - Direct Examination By Mr. Hucks 169

1 think it is highly prejudicial.

2 The Court: What do you want me to strike?

3 Ms. Williams: I want, well obviously what I
4 want to do is move for a mistrial and the fact that I think
5 for him to be able to say that bolsters the other
6 witnesses testimony in just a way that there's no way I can
7 fix that. I was not privy to ---

8 The Court: Well you can show him, why can't you
9 just show him everything they've turned on to you and say
10 find me where "Twizzie" is in here, find me where you,
11 ya'll are incumbent to tell me everything, ya'll are
12 incumbent to disclose to me everything, show me where you
13 disclosed this to me or give me a reason as to why you
14 withheld it. I mean why can't you just challenge him with
15 a prior inconsistent statement?

16 Ms. Williams: Your Honor, I, well I, well I
17 certainly think that's the very minimum that I have to do,
18 Your Honor, but at this point we've already had the C.I.
19 sitting here testifying to all the stuff that, that I
20 certainly didn't know about, wasn't known about, stuff
21 that's not provided for me. In fact is an exact opposite
22 of stuff that, information that was provided to me.

23 The Court: Well I mean first let me back up,
24 excuse me for interrupting, tell me what they should have
25 done that they did not do?

Detective Crocker - Direct Examination By Mr. Hucks 170

1 Ms. Williams: I think that if, if the, first of
2 all ---

3 The Court: What should they have given you that
4 they did not give you?

5 Ms. Williams: They should have given me the
6 fact that the confidential informant ---

7 The Court: Now when you say given you the fact,
8 are you talking about giving you a statement, giving you a
9 CD, giving you a tape recording, giving you, what should
10 they have given you?

11 Ms. Williams: At a bare minimum, Your Honor, I
12 think when Detective Crocker made his report of his
13 investigation that should have provided me the information
14 that the confidential informant knew my client by his
15 street name of "Twizzie" if he did not know his formal
16 name. That, that fact alone was, which is critical, was
17 not disclosed anywhere. I had no way of getting in touch
18 with the confidential informant so I couldn't find that out
19 and I just think that for him to sit here and, and bolster
20 now and go back and say what he said and say the other is
21 impermissible hearsay to start out with and I just think
22 it's improper bolstering.

23 The Court: All right.

24 Mr. Hucks: Your Honor, anything, every single
25 thing that she just said is a basic objection. There's a

Detective Crocker - Direct Examination By Mr. Hucks 171

1 spontaneous objection that should be made. If he is saying
2 some hearsay object to him, tell him not to do it anymore.

3 The Court: Okay, I sustain her objection, he
4 cannot testify as to anything the C.I. said to him, okay.

5 Mr. Hucks: I understand and I'm not even
6 fighting that.

7 The Court: Okay.

8 Ms. Williams: Can we move to strike that
9 statement?

10 The Court: Okay, I'll strike it.

11 Mr. Hucks: And I have no problem with, with
12 striking anything, anything that --

13 The Court: All right, what part is it of his
14 testimony do you want stricken from the record?

15 Ms. Williams: I want him to strike the fact
16 that that day the C.I. came and told him that.

17 The Court: Okay.

18 Mr. Hucks: Told him what?

19 Ms. Williams: That he knew "Twizzie."

20 Mr. Hucks: He didn't say that.

21 The Witness: I didn't finish my statement.

22 Mr. Hucks: He was just sitting there, he was
23 about to say --

24 The Witness: I didn't finish ---

25 The Court: No, wait, wait, wait, wait, wait,

Detective Crocker - Direct Examination By Mr. Hucks 172

1 address the Court, what do you want me to strike from the
2 record?

3 Ms. Williams: His last statement, if the court
4 reporter will read it back for me I'll know exactly what he
5 said or he can, but you said I want to correct that, I
6 didn't write down the exact words, Your Honor, to the
7 affect of ---

8 The Court: All right, hold for a second, hold
9 for a second. Can you tell us what his last statement, the
10 witnesses last statement was?

11 Madam Court Reporter: "I can honestly sit here
12 and tell you that in reference to he did come and he did
13 say that he, that "Rat" was there but ---"

14 The Court: All right, I'll grant your motion.
15 I'll direct the jury that they're to disregard the
16 witnesses testimony where he said, where he said the C.I.
17 told him that "Rat" was there, that's hearsay and it's
18 inadmissible.

19 Ms. Williams: Thank you, Your Honor.

20 The Court: All right, anything else?

21 Ms. Williams: Your Honor, I made a motion for a
22 mistrial.

23 The Court: Yeah, I'm going to deny your motion
24 for a mistrial. I think that what he's delivered to you is
25 a prior inconsistent statement and you can cross examine

Detective Crocker - Direct Examination By Mr. Hucks 173

1 him with the prior inconsistent statement, all right.

2 Ms. Williams: Thank you.

3 Mr. Hucks: Thank you, Judge.

4 The Court: Anything else?

5 Mr. Hucks: Nothing whatsoever.

6 The Court: All right, let's bring the jury back
7 in.

8 (Whereupon, the jury returns to the courtroom at
9 2:45 p.m.)

10 The Court: All right, ladies and gentlemen,
11 welcome back, we're ready to proceed with the trial of the
12 case. I will direct the jury that you are to disregard the
13 witness' testimony where he said that the confidential
14 informant told him that "Rat" was there, that's hearsay
15 evidence. It cannot be cross examined by the defense.
16 that's why I'm striking that from the record and you're to
17 disregard that. All right, you can continue with your
18 questions.

19 Mr. Hucks: Thank you, Your Honor.

20 Mr. Hucks: (continuing)

21 Q Detective Crocker, the substance that you
22 were given by the confidential informant, Mr. Wilson, what
23 did you do with that substance?

24 A While Mr. Wilson finished his paper work
25 the substance was maintained in my possession. Once we

Detective Crocker - Direct Examination By Mr. Hucks 174

1 were done with Mr. Wilson he was allowed to leave. I drove
2 immediately back to the Horry County Police Department.
3 The substance was weighed on a scale in my office there.
4 Immediately upon weighing it we have a, anything that's
5 going to be examined by a chemist other than such as
6 marijuana, anything other than that's going to be examined
7 by the chemist is placed into what's known as a Best kit.
8 It's a kit that is used to submit the substance for
9 analysis. This kit is anything that's non marijuana that's
10 going to be examined by this chemist is placed into this
11 kit.

12 Q And where did you put that kit?

13 A As soon as I was finished with the kit and
14 the, the substance was sealed inside of the kit, excuse me,
15 it was weighed and it was also done field tested to just
16 check to make sure that there were cocaine attributes with
17 the substance and that's just a, a ---

18 Q Hang on for me just a minute?

19 A Okay.

20 Q Now that field test that's just something
21 you're trained to do?

22 A That's just something that we're trained to
23 do to verify that we have, we've not wasted our money,
24 that's all it is.

25 Q Okay, I'm going to approach you with your

Detective Crocker - Direct Examination By Mr. Hucks 175

1 notes and see if you believe that they would help you to as
2 to several questions I'll be asking you next?

3 A Okay.

4 Q Now what was the number of the Best kit
5 that you put that substance in?

6 A It's listed here as H, as in hotel, 010170.

7 Q Okay, and what lab number was then assigned
8 to that?

9 A The lab number is assigned after it's
10 turned over to evidence, the lab number listed here is
11 L100378.

12 Q All right, now I'm going to hand you
13 something, now is this the same Best kit that you turned
14 that substance over into evidence in?

15 A Yes, it is, the numbers match.

16 Ms. Williams: Your Honor?

17 The Court: Yes, ma'am?

18 Ms. Williams: May we approach, I have a
19 question?

20 (Whereupon, a bench conference was held off the
21 record in the presence of the jury, but out of the hearing
22 of the jury and the court reporter.)

23 The Court: All right. go ahead.

24 Mr. Hucks: (Continuing)

25 Q All right, and what is particular about a

Detective Crocker - Direct Examination By Mr. Hucks 176

1 Best kit packaging that would you lead you to believe that
2 this is the same one?

3 A The Best kit comes in a large manila
4 envelope about the same size as this folder here. You open
5 up the top, there is the plastic, may I hold that, the
6 plastic container inside of here is inside of that manila
7 envelope and there's also ---

8 Ms. Williams: Your Honor, I object that being -

9 --

10 Mr. Hucks: No problem.

11 Ms. Williams: --- published.

12 The Court: Sustained.

13 Mr. Hucks: I'll consent to that, Your Honor.

14 The Court: Sustained.

15 Mr. Hucks: (Continuing)

16 Q Explain to them what a Best kit is and
17 what's particular about the Best kit?

18 A Okay, the particulars we have this in there
19 and it gives us the ability to seal this evidence in a
20 tamper proof manner where it cannot be reopened without
21 obvious problems. It causes the package to be torn; it's
22 immediately evident, and then at that time we take it and
23 we place into an evidence locker if it's after hours.

24 Q Where did you put that?

25 A That particular evidence was taken over and

Detective Crocker - Cross Examination By Ms. Williams 177

1 stuck in a locker.

2 Q And is there any doubt in your mind that's
3 the same substance you placed into evidence that day?

4 A No.

5 Mr. Hucks: The Court's indulgence one moment,
6 please, Your Honor?

7 The Court: All right.

8 Mr. Hucks: (Continuing)

9 Q And again you, where did you drop those
10 drugs?

11 A I walked out of my office and directly
12 across the hall is the evidence section and they were put
13 into the evidence locker there.

14 Q Okay, and who has access to that locker?

15 A Only the, the, the evidence custodians,
16 once it's locked it has a lock and you lock it, remove the
17 key, and there's a small hole, just small to slide the key
18 through, you slide the key through and drop it in the
19 locker and it cannot be reopened until it's opened from the
20 other side by the evidence custodian.

21 Mr. Hucks: Thank you, Detective, I have no
22 further questions for you directly.

23 The Court: All right, Ms. Williams?

24 **Cross Examination**

25 **By Ms. Williams:**

Detective Crocker - Cross Examination By Ms. Williams 178

1 Q Detective Crocker, you said you've been a
2 police officer almost seventeen years ---

3 A Yes, ma'am.

4 Q --- correct?

5 A Yes, ma'am.

6 Q Can you tell me about your experience and
7 training and credentials?

8 A I'm a certified law enforcement officer by
9 the State of South Carolina. I have, I am radar, certified
10 in radar, was previously certified in Datamaster. I have
11 completed I believe the last estimate was in excess of nine
12 hundred hours of continuing education related to my law
13 enforcement experience. We have annual in service training
14 that is mandated every year by the South Carolina Criminal
15 Justice Academy. I have completed the USDEA two week
16 narcotic investigator school. I have also completed my
17 federal background as required by the DEA to obtain federal
18 credentials. I have attended the one week task force
19 officer orientation course for U.S. DEA.

20 Q And when you said nine hundred hours of cle
21 are those all narcotic related CLE's?

22 A No, ma'am, they're not.

23 Q What percentage of those do you think were
24 narcotics related?

25 A Probably the last fifteen percent.

Detective Crocker - Cross Examination By Ms. Williams 179

1 Q Okay, so the last fifteen percent you've
2 been concentrating on doing narcotic type cases?

3 A Yes, ma'am, for the last little over two
4 years that's been my assignment.

5 Q Okay, and when you do these classes the
6 reason we do these classes, I will presume, I don't want to
7 put words in your mouth, but let me see if it's fair to
8 say, part of what you're trying to do is make sure that
9 when you make a case you do it precisely and exactly within
10 the means of the law so that your case is what we call a
11 good case, right?

12 A Correct.

13 Q Okay, and we do training so that we don't
14 have rogue cops running around where you do something
15 wrong?

16 A Correct.

17 Q Okay, now and part of, I'm, I really don't,
18 again I don't want to put words in your mouth but let me
19 just make sure, is it fair to say that in part of this
20 training what you do is you do a good bit, in narcotics
21 wise especially, you do a good bit of pre-work, then
22 there's the work and then there's post work, correct?

23 A Yes, ma'am.

24 Q Okay, so in this case you are going to, Mr.
25 Wilson tells you he can make a buy from "Rat", right?

Detective Crocker - Cross Examination By Ms. Williams 180

1 A Yes, ma'am.

2 Q And you guys are going to this place on
3 Magnolia Lane?

4 A Yes, ma'am.

5 Q Who was the owner of Magnolia Lane?

6 A It turned out, I don't know who the actual
7 real estate owner was, but Mr. Alston was the one, if I
8 remember correctly, was listed on the lease at that
9 location.

10 Q So that's the same Timothy Alston "Rat"
11 that we've been discussing, right?

12 A Yes, ma'am, same person.

13 Q So he was the one that was renting the,
14 the, it was ---

15 A It's a single wide or a smaller double
16 wide, I believe, it had some additions to it so --

17 Q Okay, all right, but, but he's the one on
18 the rent lease?

19 A Yes, ma'am, if I recall correctly.

20 Q Okay, now tell me this, do you know the
21 difference between an informant, a confidential informant,
22 and a confidential reliable informant?

23 A Yes, ma'am.

24 Q Tell me about it?

25 A The confidential reliable informant is

Detective Crocker - Cross Examination By Ms. Williams 181

1 someone who has a, it was first a confidential informant
2 you have an informant, an informant who is someone who
3 comes forward and they volunteer information and their
4 identity may or may not be kept confidential based on the
5 nature of the information and what they're providing.

6 Q That's an informant?

7 A That's an informant.

8 Q Okay?

9 A Confidential informant is one who is
10 providing information but his identity is kept confidential
11 for particular reasons whether it may be for the
12 individual's safety or for security for the investigation.

13 Q And confidential reliable informant?

14 A Confidential reliable informant is an
15 individual who meets the two previous criteria but who has
16 previously demonstrated that they, the information that
17 they are providing to us is reliable.

18 Q Okay, so a confidential reliable informant
19 is somebody you trust, for lack of a better term?

20 A As much as you can trust a confidential
21 informant, yes, ma'am.

22 Q Correct, okay, so in this case we had a
23 c.i. working, right, Mr. Wilson?

24 A Yes, ma'am.

25 Q All right, and you're, Detective Phillips

1 is the one who searched the car?

2 A Yes, ma'am.

3 Q And you searched him?

4 A Yes, ma'am.

5 Q Okay, and did you search him in your
6 opinion thoroughly?

7 A Yes, ma'am.

8 Q And you said you took his shoes off, right?

9 A Yes, ma'am.

10 Q You were in here when he testified he
11 didn't have his shoes taken off; is that right?

12 A Yes, ma'am.

13 Q Okay, did you take his socks off?

14 A No, ma'am, but I did squeeze his feet, I
15 did feel, feel his feet around from his ankles all the way
16 down to his toes.

17 Q Did you check in between his toes?

18 A Yes, ma'am, you, you manipulate his foot.

19 Q Why do you do that?

20 A To make sure he doesn't have anything
21 stuffed in there.

22 Q Cause that's a typical place that people
23 can keep crack?

24 A It's, it's one of the places that they can
25 keep it, yes, ma'am.

Detective Crocker - Cross Examination By Ms. Williams 183

1 Q Okay?

2 A But the amount of crack that he's supposed
3 to be bringing to us is not something you're going to stick
4 in between your toes.

5 Q Okay, but actually took his shoes off and -

6 --

7 A Yes, ma'am, that's standard practice.

8 Q Felt his feet and felt up between his toes?

9 A Yes, ma'am.

10 Q Okay, and did you search his crotch area?

11 A Yes, ma'am.

12 Q Okay, and isn't that a particular, I'm
13 going to say a kind of typical place that they would hide?

14 A It's one of the hiding places, yes, ma'am.

15 Q And so when you say you searched crotch
16 area, and I don't mean to be crude but it's kind of no ,
17 other way to talk about it, when you search you actually
18 search the front part and the back part, right?

19 A Yes, ma'am, I, I for lack of a better way
20 to say I take my hand and grab everything there.

21 Q And search up in and ---

22 A On the outside of his clothing, yes, ma'am.

23 Q Okay, all right, and you did that in this
24 case?

25 A Yes, ma'am.

Detective Crocker - Cross Examination By Ms. Williams 184

1 Q Okay, now and this, you've watched the
2 video, too, correct?

3 A Yes, ma'am, several times.

4 Q And when you were here, when you were there
5 on the scene that day you didn't actually see the video,
6 correct?

7 A No, ma'am, the video has to be taken back
8 to the office and plugged into a computer by a usb port.

9 Q Okay, but you heard the audit, you heard it
10 as it was happening?

11 A Yes, ma'am.

12 Q All right, when you were looking at that
13 video did you actually see anybody hand Mr. Wilson any
14 drugs?

15 A Yes, ma'am, you can see that he walks up
16 and there's an exchange there. Now if that's the drugs or
17 the money but there is an exchange.

18 Q So you actually in your opinion when you're
19 looking at it you can actually see some, somebody hand him
20 a pen or hand him something?

21 A There's an exchange, yes, ma'am.

22 Q Okay, did you see any, did you see Mr.
23 Wilson hand anybody the money?

24 A There's some type of exchange, ma'am, in
25 the tape that's all I can --

Detective Crocker - Cross Examination By Ms. Williams 185

1 Q One, two?

2 A I know that there's one exchange hand to
3 hand and there's some kind of exchange that takes place in
4 the area where the cocaine or the crack cocaine is being
5 weighed out.

6 Q That's what you see in the tape?

7 A Yes, ma'am.

8 Q Okay, but you sent him in to buy drugs?

9 A Yes, ma'am.

10 Q So that's what you were expecting to see;
11 is that a fair statement?

12 A Yes, ma'am.

13 Q All right, now he was, you gave him a
14 \$1100, correct?

15 A Yes, ma'am.

16 Q And explain to me the significance of
17 \$1100?

18 A That's, at that time that's the going rate,
19 was the going market price, for lack of a better word, for
20 an ounce of crack cocaine.

21 Q And how much is an ounce of crack?

22 A How many or how much money?

23 Q I'm sorry, how much is it, how, if I say an
24 ounce of crack and I got it translated into grams, how many
25 grams is an ounce of crack?

Detective Crocker - Cross Examination By Ms. Williams 186

1 A Tewnty-eight.

2 Q Okay, so twenty-eight grams equals one
3 ounce?

4 A Yes, ma'am.

5 Q All right, now let me ask you, you, did you
6 ever pay Mr. Wilson for any of his work?

7 A No, ma'am, not in cash.

8 Q Not in cash?

9 A No, ma'am, he's not paid, he's not, he's
10 not what's known as a paid informant.

11 Q Explain to me, there seems to me to be like
12 the rest of the story with that, what would that mean?

13 A One of the first things that you learn when
14 you're doing narcotics work is there are various types of
15 informants. The majority, probably ninety percent or
16 better of the informants you've got are what are known as
17 criminal informants. They're people who have a criminal
18 record and they are contacting you in an effort to work off
19 or try to cooperate in exchange for, you know, maybe or in
20 exchange for a possible lesser sentence on their charges.

21 A paid informant will be someone who comes
22 forward with information who is not there to try to get
23 help in exchange for consideration on their pending,
24 pending charges. They are someone who for whatever reason
25 that their motivation is they have information; they come

Detective Crocker - Cross Examination By Ms. Williams 187

1 to us and they are actually paid in certain circumstances
2 when they conduct a transaction or conduct a buy of drugs
3 for us; and then there's an even smaller percentage that to
4 be honest with you I've never even seen but does happen
5 from time to time of the person who just wants to do
6 something for their community cause they're tired of drugs
7 in their neighborhood or issues in the neighborhood and
8 they come forward and they volunteer to do this type of
9 work.

10 Q A good citizen?

11 A Yes, ma'am.

12 Q Okay, but you said you had done
13 approximately four hundred buys overall throughout your
14 whole career?

15 A Yes, ma'am.

16 Q Give or take, have any of those ever lied
17 to you?

18 A Yes, ma'am.

19 Q Have any of those ever what we call do a
20 stole a little bit took a pinch of what they were supposed
21 to buy?

22 A Yes, ma'am.

23 Q All right, has any c.i. ever actually run
24 off with your wiring or with your money?

25 A No, ma'am, not with my wire.

Detective Crocker -- Cross Examination By Ms. Williams 188

1 Q Have they run off with your money?

2 A Not mine.

3 Q But you know that it happens?

4 A I know that it happens, yes, ma'am.

5 Q Okay, have you ever actually used anybody
6 as a drug informant that wasn't working off charges?

7 A Yes, ma'am.

8 Q How many do you think you've done with
9 that?

10 A Probably I can only think of three or four.

11 Q A few?

12 A Yes, ma'am, a few.

13 Q Okay, now, Detective, let's say you said
14 you've done nine hundred hours cle training, you've had the
15 USDA training, USDEA training, and that's the United States
16 Drug Enforcement Agency, right?

17 A Administration, yes, ma'am.

18 Q Yeah, Administration, and their focus is
19 drugs?

20 A Their focus is drugs, how I can put this,
21 their focus is drugs that are not handled on a state or
22 local level that cross the state boundaries that have
23 federal jurisdiction and it tends to be a lot more weight.
24 The drug amounts are much higher and the money involved is
25 much higher.

Detective Crocker - Cross Examination By Ms. Williams 189

1 Q All right, and you've done that training
2 cause you've got your federal background certification
3 cause that, that's where you're at now focused, correct?

4 A Yes, ma'am.

5 Q All right, and let me say in your seventeen
6 years of police work isn't it a fair statement that say one
7 of the basic principals that you learn is good paper work
8 makes a good report?

9 A Yes, ma'am.

10 Q Makes a good case?

11 A Yes, ma'am.

12 Q That's fair, correct?

13 A Yes, ma'am.

14 Q And there's several reasons that's fair,
15 one is and I think is the most obvious if this happened in
16 May of 2010 and we're now in October 2011 that's about a
17 year and a half?

18 A Yes, ma'am.

19 Q Memories aren't so good?

20 A No, ma'am.

21 Q And the reason we do paper work is to help
22 us do with our memories; is that fair?

23 A That's correct.

24 Q All right, now let me ask you this, when
25 you do your paper work what, if anything, do you consider

Detective Crocker - Cross Examination By Ms. Williams 190

1 when you're doing your paper work?

2 A In reference to?

3 Q The case?

4 A Are you talking about the completed case or
5 as the case is progressing?

6 Q You tell me?

7 A Well the, when we deal with individual
8 purchases, the individual buys, we have a buy sheet, it's a
9 standard sheet. On it lists the location, who the person
10 that we're intending to buy from, and also on there is a
11 list of things that are done as standard practice that were
12 described earlier, what time, and there's times beside
13 those and those a block beside those that we put the
14 individual detective or agent's badge numbers in, who did
15 what and when, what time did was the informant met with,
16 what time was he searched and wired, what time did he leave
17 here to go do the purchase, approximately what time based
18 upon either observation or listening to the wire did the
19 actual purchase take place, what time did he leave the buy
20 location, what time did he return to you, and what time
21 was, did he surrender the evidence and was searched again
22 and the wire removed from him.

23 Q So that's a pretty detailed report?

24 A Yes, ma'am.

25 Q And why would it be so detailed?

Detective Crocker - Cross Examination By Ms. Williams 191

1 A So that each individual time is tracked so
2 that there's no discrepancy.

3 Q Okay, let me ask you this do you put, do
4 you put things that aren't important in your reports?

5 A No, ma'am, not as a general rule.

6 Q Okay, so it's fair to say that the things
7 that are in your report are, are the things that are in
8 your report are important in your opinion, correct?

9 A Yes, ma'am.

10 Q All right, and if something was important
11 you would probably want to include it in there, correct?

12 A Yes, ma'am.

13 Q Okay, now I got a couple of questions to
14 ask you. You talked about that buy report, do you have
15 your buy report with you, are you familiar with the one you
16 filled out in this matter?

17 A Yes, ma'am.

18 Q Let me ask you this, when you're, if you
19 need to look at it to refresh your memory that's fine,
20 isn't one of the, the things that you put on the buy report
21 cause and when you're doing an investigation you talk about
22 your suspect, right?

23 A Yes, ma'am.

24 Q And the reason is because if you're
25 investigating somebody that's the name of a suspect?

Detective Crocker - Cross Examination By Ms. Williams 192

1 A Yes, ma'am.

2 Q And that's who you're focused on, correct?

3 A Yes, ma'am.

4 Q All right?

5 A It's who we're focused on but not limited
6 to.

7 Q Understood but that's who you're focused
8 on?

9 A Uh-huh.

10 Q All right, and in this report who were you
11 guys focused on?

12 A We have the nickname here as "Rat".

13 Q "Rat", were you guys focused on "Twizzie"?

14 A No, ma'am.

15 Q Okay, just "Rat"?

16 A Yes, ma'am.

17 Q All right, now and that's the report that's
18 done when you are on the scene so to speak?

19 A Yes, ma'am.

20 Q That's probably done right about the time
21 you finished that video, went back to your office did your
22 paper work?

23 A Yes, ma'am, I'm actually driving the
24 vehicle and running the wire and the Detective Phillips is
25 the actual one logging down the times here.

Detective Crocker - Cross Examination By Ms. Williams 193

1 Q Okay, all right, and you actually got, as
2 you stated you got a brief statement from the Mr. Wilson
3 the day it happened as well, correct?

4 A Yes, ma'am.

5 Q All right, and then when you got back what,
6 tell, tell me what it goes, like say you have this and then
7 I'm assuming you go back and this little, you guys do what
8 we call an investigative report, right?

9 A Yes, ma'am.

10 Q Tell me about that and what is that?

11 A The investigative report is done as after
12 the case we have made arrest in the case or the case is
13 going to be closed for whatever particular reason and the,
14 that is done as a preparation to put the case together and
15 if an arrest is made that case is sent over to the
16 Solicitor's office to make sure that they have the
17 information to assist in the prosecution.

18 Q Okay, and, and let me make sure I, I want
19 to make sure I state it correctly, part of the reason you
20 do that case report is so that all of the information that
21 you have the Solicitor has so they can know what to do with
22 the case?

23 A Correct.

24 Q Okay, and then the next thing that happens
25 if somebody is charged and they get a lawyer the Solicitor

Detective Crocker - Cross Examination By Ms. Williams 194

1 gives everything to the lawyer?

2 A Yes, ma'am.

3 Q Cause the State has to prove the defendant
4 did it, right?

5 A Yes, ma'am.

6 Q So it is fair to say that it's very
7 important that every detail, important detail you have goes
8 to the Solicitor, correct?

9 A Yes, ma'am.

10 Q And then that gets sent to me?

11 A Yes, ma'am.

12 Q Or me in this case?

13 A Yes, ma'am.

14 Q Okay, now do you have your investigative
15 report that you filled out in this matter?

16 A Yes, ma'am.

17 Q Have you refreshed your memory and reviewed
18 it recently?

19 A Yes, ma'am.

20 Q On Friday May the 7th did you do a report
21 in there and did you mention anything about a "Twizzie"?

22 A No, ma'am.

23 Q It's not in there, is it?

24 A No, ma'am.

25 Q Not in there at all?

Detective Crocker - Cross Examination By Ms. Williams 195

1 A No, ma'am.

2 Q And this was done, let's see, not done on
3 the report the day you finished up, right?

4 A Yes, ma'am.

5 Q Not done later when you're buttoning up
6 your report and giving it to the Solicitor?

7 A This report's done, this report is done
8 before it's sent over to the Solicitor.

9 Q Okay, but it's done so that the Solicitor
10 can know all the details?

11 A Yes, ma'am.

12 Q And doesn't your report, didn't you, how to
13 phrase this appropriately, doesn't your report reflect your
14 knowledge of the case?

15 A Yes, ma'am.

16 Q Things that were told to you, things that
17 you learned, things that you knew?

18 A Yes, ma'am.

19 Q And your report does not show that Mr.
20 Wilson knew "Twizzie"?

21 A It does not show that he mentioned the name
22 "Twizzie" to me or that I recall him mentioning it, it
23 would be in the report. It shows that there was another
24 individual there at that time that he, that was there but
25 as I recall and it's in the report he did not know the name

Detective Crocker - Cross Examination By Ms. Williams 196

1 of the individual but had seen him at the residence on
2 previous occasions.

3 Q But he didn't know his name?

4 A That's as I remember but I, yes, ma'am.

5 Q And it's fair to say to say that what you
6 put in your report is, was fresher in time to when the
7 conversations occurred, correct?

8 A Yes, ma'am.

9 Ms. Williams: Beg the Court's indulgence for
10 just one moment?

11 The Court: All right.

12 Ms. Williams: (Continuing)

13 Q Detective, I just want to be clear because
14 the video is in evidence, the jury is going to get it to
15 take back and look at it if they want to, right?

16 A Yes, ma'am.

17 Q Okay, so whatever you see or whatever I see
18 really they get to look at it?

19 A Yes, ma'am.

20 Q But I've asked you, you know, your opinion,
21 my opinion, when I sit here watching it we see "Twizzie"
22 standing at the kitchen, correct?

23 A Yes, ma'am.

24 Q Could he have been searching for a plate in
25 the cabinet?

Detective Crocker - Cross Examination By Ms. Williams 197

1 A It would be possible that he would be
2 searching a plate in the cabinet, it's certainly possible,
3 yes, ma'am.

4 Q Did you see his hands?

5 A Yes, ma'am.

6 Q Okay, did you actually see a scale in that
7 video; I didn't see one?

8 A No, ma'am, not in the video.

9 Q Did you actually see crack in the video; I
10 didn't see any?

11 A No, ma'am.

12 Q Did you actually see them do an exchange,
13 the actual exchange?

14 A There was an exchange, if that was the
15 exchange of the money and the crack I'm not certain.

16 Q So I don't understand how you could see an
17 exchange and not know what was exchanged if you saw the
18 exchange?

19 A Because the exchange is a hand to hand
20 transfer and the camera is in a position where you're not
21 going to be able to see each and every aspect of what is
22 exactly in someone's hand.

23 Q Let me ask you this, when I looked at the
24 video I saw "Rat" in there, you saw him in there, too,
25 right?

Detective Crocker - Cross Examination By Ms. Williams 198

1 A Yes, ma'am.

2 Q That's him with the dreds?

3 A Yes, ma'am.

4 Q Okay, and he walks over to the kitchen
5 counter beside where Mr. Chestnut's at, right?

6 A Yes, ma'am.

7 Q Okay, and "Rat" moves around a couple of
8 times and when the C.I. is sitting still for a long time,
9 isn't that right?

10 A I know that he walks up and then turns and
11 walks away and then at some other point the C.I. turns and
12 the camera is kind of pointing towards the ceiling.

13 Q That's right, and the C.I., the camera is
14 pointing toward the ceiling, so let me ask you this, is it
15 possible that "Rat's" the one that put the stuff on the
16 scales?

17 A It would certainly be possible, yes, ma'am.

18 Q Okay, cause we can't tell from the video,
19 can we?

20 A Not who put it on the scale, no, ma'am.

21 Q Okay, and "Rat's" who ya'll were expecting
22 to go there to buy that ounce of crack from, correct?

23 A Yes, ma'am.

24 Ms. Williams: Beg the Court's indulgence for
25 just one moment?

Detective Crocker - Redirect Examination By Mr. Hucks 199

1 The Court: All right.

2 Ms. Williams: That's all the questions I have,
3 thank you, Your Honor.

4 The Court: All right, redirect?

5 Mr. Hucks: Yes, Your Honor, briefly.

6 **Redirect Examination**

7 **By Mr. Hucks:**

8 Q Ms. Williams asked you a little bit about
9 the marked buy money, did you ever see any of that marked
10 buy money again?

11 A Yes, sir, on the day that we arrested Mr.
12 Chestnut.

13 Ms. Williams: Your Honor, I would object to
14 that.

15 The Court: Okay.

16 Ms. Williams: May we approach or do we need to
17 take it outside --

18 (Whereupon, a bench conference was held off the
19 record in the presence of the jury, but out of the hearing
20 of the jury and the court reporter.)

21 Mr. Hucks: (Continuing)

22 Q Now you got, you've worked with tons of
23 c.i.'s over the years?

24 A Yes, sir.

25 Q All right, and Ms. Williams asked you

1 specifically about different types of C.I.'s, what kind of
2 c.i. would you call Mr. Wilson?

3 A Confidential reliable informant.

4 Q That's the highest level there is?

5 A Yes, sir.

6 Mr. Hucks: Thank you, nothing further.

7 The Court: All right.

8 Ms. Williams: Briefly.

9 The Court: He didn't bring out anything new.

10 Ms. Williams: The confidential reliable, he
11 named, may I?

12 The Court: But you've already cross examined
13 him on that.

14 Ms. Williams: Okay.

15 The Court: All right, you may step down, all
16 right, it's about 3:15, let's go ahead and take, it's a
17 good time for us to take a little break, okay.

18 Mr. Hucks: Thank you, Your Honor.

19 The Court: All right, ladies and gentlemen,
20 we're going to take about a ten or fifteen minute break,
21 give you an opportunity to stretch your legs, use the
22 restroom, get something to drink, whatever the case may be.
23 You can check phone messages, return calls, but, please, do
24 not discuss this case, do not discuss it even among
25 yourselves at this point in time. If you have notes,

1 please, leave your notepads here in the jury box and we'll
2 return it to you when you return from your break. All
3 right, the jury is excused, everyone else, please, remain
4 seated.

5 (Whereupon, the jury retired to the jury room at
6 3:15 p.m.)

7 The Court: All right, anything further from the
8 State before we take a break?

9 Mr. Hucks: No, Your Honor.

10 The Court: Anything from the defense?

11 Ms. Williams: Not at this time, Your Honor,
12 thank you.

13 The Court: All right, let's take about a ten,
14 fifteen minute break, okay.

15 Ms. Williams: Thank you.

16 Mr. Hucks: Thank you, Judge.

17 (Whereupon, a recess was taken and the following
18 takes place on the record after the recess.)

19 The Court: All right, anything from the State
20 before we bring the jury back?

21 Mr. Hucks: Nothing, Your Honor.

22 The Court: Anything from the defense?

23 Ms. Williams: No, sir.

24 The Court: All right, let's go ahead and bring
25 the jury in.

Ms. Rabon - Direct Examination By Mr. Hucks

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1 Mr. Hucks: For the record, Mr. Wilson he would
2 ask that he relieved from his subpoena. He's here and he
3 wants to go home.

4 The Court: Any objection?

5 Ms. Williams: I have no objection, Your Honor.

6 The Court: All right, he's free to go, thank
7 you very much.

8 (Whereupon, the jury returns to the courtroom at
9 4:53 p.m.)

10 The Court: All right, ladies and gentlemen,
11 welcome back, hope everyone had a good break. Make sure
12 you have your own personal pads if you are taking notes.
13 Also if you have any cell phones, other communications
14 devices, please turn those off at this point in time. All
15 right, Mr. Hucks, you can call your next witness.

16 Mr. Hucks: Thank you, Your Honor, the State
17 would call Lori Rabon to the stand.

18 The Court: All right.

19 **Lori Rabon**

20 **being first duly sworn, testified as follows:**

21 Madam Clerk: Please state your full name and
22 spell your last name.

23 The Witness: Lori Rabon, r-a-b-o-n.

24 **Direct Examination**

25 **By Mr. Hucks:**

Ms. Rabon - Direct Examination By Mr. Hucks

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1 Q Ms. Rabon, would you, please, tell us what
2 you do for a living?

3 A I'm in charge of the property and evidence
4 section of the Horry County Police Department.

5 Q All right, what does that entail?

6 A My job is to supervise the duties of the
7 evidence technicians that our department has.

8 Q So is it fair to say you're the head of the
9 evidence?

10 A Yes, it is.

11 Q All the evidence of the county police?

12 A Yes, it is.

13 Q Now tell me for a minute who Sharon Lilly
14 is?

15 A Sharon Lilly is an evidence technician who
16 is an employee that is in my section.

17 Q Okay, and what, what does she do for a
18 living?

19 A Sharon her day to day activities are the
20 intake capability which means that when officers drop
21 evidence in a drop slot or the lockers, which the lockers
22 are just like a mailbox on the street, once you drop the
23 evidence into the locker the evidence personnel are the
24 only ones that can receive the evidence back out. Once the
25 officer drops it they cannot get it back out, so Sharon's

Ms. Rabon - Direct Examination By Mr. Hucks

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1 job is to pull the evidence out, log it in, and place it in
2 the vault for safe keeping.

3 Q Okay, and is that common business, that's
4 what all the evidence custodians or technicians do?

5 A Yes, it is.

6 Q Okay, and so if let's say I'm a policeman
7 and I come in and I've got some drugs or a gun or something
8 and I put it one of these boxes what happens to it from
9 there?

10 A Can you repeat that?

11 Q If I put it in a drop box like if I have
12 some drugs I bring it and put it in a drug drop box what
13 happens to it from there, it's after hours, you guys are --

14 A During the after hours like I said earlier
15 when the evidence is dropped in the drop slot the officers
16 drop it and again they can't pull it back out, our evidence
17 section has to be the one that opens the door and pulls it
18 out. We inventory the items that are in the bags making
19 sure that the seals are all intact and making sure that
20 ever piece is accounted for, then we, we enter the case
21 into our record management system and it's uploaded to the
22 inventory of our department.

23 Q Okay, now what happens if you get a package
24 that's not properly sealed?

25 A It's rejected immediately ---

Ms. Rabon - Direct Examination By Mr. Hucks

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1 Q Okay ---

2 A --- we call the officer back.

3 Q And what, what's a Best kit, could you tell
4 me that?

5 A Best kit is a drug kit that any drug that
6 will be tested by our regional laboratory is placed in, is
7 a plastic bag with integrity seal on all four sides.

8 Q Okay, is it tamper evident, I mean is that
9 why ---

10 A Yes.

11 Q Why do you use a Best kit?

12 A We use a Best kit because in any situation
13 if the bag was ripped or pulled or torn the seal around all
14 four sides of the bag it would be very evident that someone
15 had tried to tamper with it.

16 Q Okay, I'm going to show you a Best kit --

17 Mr. Hucks: If I may approach, Your Honor?

18 The Court: All right.

19 Mr. Hucks: (Continuing)

20 Q And I'm going to show you some records from
21 your department that the defense has --

22 Mr. Hucks: Your Honor, the Court's indulgence
23 for a moment.

24 (Whereupon, State's Exhibit Number 7 marked for
25 identification.)

1 Mr. Hucks: (Continuing)

2 Q I'm going to show you what's been marked as
3 State's 7 for I.D. purposes only, could you, please,
4 identify that?

5 A This is a drug examination request, also
6 known as a chain of custody form; it's the form that
7 accompanies the drugs on the inside of the drug kit.

8 Q And what does that tell you?

9 A This paper work will tell us the control
10 number which the drugs are placed in. The bag has like a
11 serial number on the outside of the bag and the envelope
12 also that the bag is contained in has the same serial
13 number on it and from the time the package is created until
14 it gets to the lab it has that same control number on it
15 which is, the control number is how we identify packaging
16 as well as that it also holds the suspect information and
17 description of the property that's to be located on the
18 inside of the package. The chain of custody just tells
19 that the people that had their hands on the evidence
20 throughout the transition.

21 Q Has this regular, is this a regular
22 business record you guys keep this in your regular course
23 of business?

24 A Yes, it is, yes, it is.

25 Q Keep on every case that has evidence?

Ms. Rabon - Direct Examination By Mr. Hucks

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1 A Yes, we do.

2 Q It has fungible evidence?

3 A That's correct.

4 Q I'm going to show at this time I'm going to
5 show you a Best kit, is that Best kit related to that
6 document?

7 A Yes, it is.

8 Q And what is that, how is that document
9 related to that kit?

10 A The Best kit has the serial ---

11 Q Don't show the jury yet, just explain it?

12 A I'm sorry, the Best kit has a serial number
13 on the bag that correlates to the control number on the
14 chain of custody.

15 Q Okay, so that piece of paper is related to
16 that package right there?

17 A Yes.

18 Q So that piece of paper tells where that
19 package has come from and where it went?

20 A Yes.

21 Q And could you tell me who checked that
22 package into your evidence control and custody?

23 A The package was checked in by Sharon Lilly.

24 Q Okay, and who did it come from prior to
25 going to Ms. Lilly?

1 A Detective Rusty Crocker.

2 Q Okay, and where did Ms. Lilly take that
3 package?

4 A The package was taken into our office and
5 was uploaded into our inventory and placed into the vault.

6 Q Okay, and where did it go from there?

7 A From the vault it would have been
8 transferred to Ms. Lisa Floyd who is our chemist.

9 Q Okay, and Ms. Lilly would have taken it in
10 and given it to the chemist?

11 A That's correct.

12 Q And had Ms. Lilly tampered with or caused
13 any problems to that kit it would be evident on that kit at
14 that point in time, wouldn't it?

15 A Yes, it would, and our chemist would have
16 also rejected the kit as their policy.

17 Q The office policy is for the chemist to
18 reject anything that's --

19 A The seal is broken on.

20 Q Okay, so this is the package that Sharon
21 Lilly transported?

22 A Yes, it is.

23 Q Moved?

24 A Yes, it is.

25 Q And took it from the drug drop and gave it

Ms. Rabon - Cross Examination By Ms. Williams

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1 to Lisa Floyd?

2 A Yes, it is.

3 Q And had it have been damaged or messed with
4 it all it would be evident on that package?

5 A Yes, it would.

6 Mr. Hucks: All right, that's the only questions
7 I have for Ms. Williams?

8 The Court: All right. Ms. Williams?

9 Ms. Williams: May I -- I didn't ask if I could
10 approach.

11 The Court: That's fine.

12 Ms. Williams: Thank you.

13 **Cross Examination**

14 **By Ms. Williams:**

15 Q Ms. Rabon, this evidence sheet I believe
16 that you called it that the Solicitor asked you about that
17 is the sheet that's associated with this particular
18 package, correct?

19 A Yes, it is.

20 Q Who fills these out?

21 A The officer, the packaging officer fills
22 those out.

23 Q And what kind of information is typically
24 put on these sheets?

25 A Typically you would say your control

1 number, your officer's name, your date, your incident
2 location, and suspect information at the time.

3 Q Suspect information?

4 A Yes.

5 Q If there's more than one suspect do they
6 normally put more than one suspect?

7 A I think it depends on a case by case basis.

8 Q Can you, can you give me a look at that and
9 maybe refresh your memory and tell me if you know that
10 refers to any suspect?

11 A It appears to have a street name in
12 parenthesis and Timothy Alston.

13 Q Do you see any other suspect?

14 A No, I do not.

15 Q And that street name you see is what?

16 A It's "R-a-t-t".

17 Q Okay, and, and that would be, that, you
18 don't fill that out or the other Ms. Lilly wouldn't fill
19 that out, right?

20 A No, we do not.

21 Q Because that starts when the officer brings
22 it and then whatever happens everybody signs off on it?

23 A That is correct.

24 Q And we do that so that we can maintain the
25 integrity of the evidence, right?

Ms. Rabon - Cross Examination By Ms. Williams 211

1 A Yes, we do.

2 Ms. Williams: All right, that's all the
3 questions that I have, thank you.

4 The Court: Redirect?

5 Mr. Hucks: Your Honor, the State would just ask
6 to move the document into evidence as State's Number 7?

7 The Court: Any objection?

8 Ms. Williams: Without objection.

9 The Court: All right, so State's Exhibit Number
10 7 is admitted into evidence without objection.

11 Mr. Hucks: Yes, sir.

12 (Whereupon, State's Exhibit Number 7 entered into
13 evidence.)

14 The Court: All right, anything else on
15 redirect?

16 Mr. Hucks: Nothing, Your Honor.

17 The Court: All right, you may step down.

18 Mr. Hucks: And, Your Honor, Ms. Rabon is here
19 under subpoena, we ask that she be released from that
20 subpoena at this time?

21 The Court: Any objection, sir

22 Ms. Williams: No, sir, without objection.

23 The Court: All right, she's free to go, thank
24 you very much. All right, you can call your next witness.

25 Mr. Hucks: We'd call Lisa Floyd.

Ms. Floyd - Direct Examination By Mr. Hucks

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1 Lisa Floyd

2 being first duly sworn, testified as follows:

3 Madam Clerk: Please state your full name and
4 spell your last name.

5 The Witness: Lisa Floyd, f-l-o-y-d.

6 Direct Examination

7 By Mr. Hucks:

8 Q Hi, Ms. Floyd, how are you?

9 A Good, thank you.

10 Q Ms. Floyd, what do you do for a living?

11 A I run the drug analysis laboratory for the
12 Horry County Police Department.

13 Q Now what's that involve?

14 A I receive suspected drug evidence for
15 testing then I analyze it and return it to evidence.

16 Q Okay, and your job is basically to test
17 drugs?

18 A That's correct, yes.

19 Q And what do you test them for?

20 A To determine whether any controlled or
21 prescription substances are present.

22 Q You test to see if they are drugs, right?

23 A Right.

24 Q They're not drugs until you say they're
25 drugs are they?

Ms. Floyd - Direct Examination By Mr. Hucks

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1 A Yes.

2 Q How long have you been doing this?

3 A I was hired in September of 2002.

4 Q Okay, and you've been doing that
5 specifically since then?

6 A That's correct, yes, sir.

7 Q Please tell the jury something about your
8 educational background, like I'm sure they don't just let
9 anybody test drugs, right, so please tell them something
10 about your education?

11 A I have a bachelors of science degree in
12 biochemistry from Clemson University and approximately
13 twenty-four hours towards a masters degree in the same.

14 Q And do you have any certifications or have
15 you been certified in any particular way to be able to
16 analyze drugs as a drug analyst?

17 A Yes, I went through a fourteen-week
18 training process with a former SLED chemist who opened the
19 Spartanburg Sheriff's Office laboratory in Spartanburg
20 County.

21 Q Okay, and what did that training entail?

22 A Basically testing and learning about every
23 type of drug possible.

24 Q Okay, and how to tell if they're drugs?

25 A Yes, that's correct.

Ms. Floyd - Direct Examination By Mr. Hucks

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1 Q Now have you ever, how many drugs tests
2 would you say you've done since 2002?

3 A Close to four thousand, five thousand.

4 Q And have you ever been qualified as an
5 expert in any court of law before?

6 A Yes, I have.

7 Q And specifically in this court of law in
8 Horry County?

9 A Yes, I have.

10 Q How many times would you say you've
11 qualified as an expert in drug analysis?

12 A Over forty times.

13 Q And you've testified, that means you've
14 testified over forty?

15 A Yes.

16 Mr. Hucks: Okay, and at this time, Your Honor,
17 the State would move to have the witness declared expert in
18 the field of drug analysis and detection.

19 The Court: Drug analysis and what?

20 Mr. Hucks: Detection.

21 The Court: All right, Ms. Williams, any
22 questions or challenges?

23 Ms. Williams: No, sir, we'll stipulate that
24 Officer Lori, I believe, Agent?

25 The Witness: Chemist.

Ms. Floyd - Direct Examination By Mr. Hucks

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1 Ms. Williams: Chemist Floyd is an expert in the
2 area.

3 Mr. Hucks: Chemist.

4 The Court: All right, I find this witness to be
5 an expert in the field of drug analysis and detection.
6 Now, ladies and gentlemen, I'll give you some further
7 instructions when I charge you on the law about expert
8 testimony, but some preliminary instructions is, ordinarily
9 a witness can only testify as to what they know personally,
10 personal knowledge, what they saw, what they tasted, what
11 they smelled, what they felt, things of that nature. There
12 is an exception for expert witnesses for people who are
13 qualified by some expertise in a certain field they are
14 allowed to give opinion testimony and I'll give you some
15 further instructions on that when I charge you on the law
16 but I have qualified this witness as an expert in the field
17 of drug analysis and detection which allows her to give an
18 opinion in that field, all right.

19 Mr. Hucks: (Continuing)

20 Q Now were you working for the Horry County
21 Police Department on or about July 12th of 2010?

22 A Yes, I was.

23 Q And I want to hand you what's been
24 previously entered into evidence as State's Number 7, could
25 you identify that for us?

1 A Yes, this is what's known as the drug
2 evidence examination request, that's the paper work that
3 the officer fills out when they turn in the drugs and this
4 is the chain of custody portion of that.

5 Q And what lab number is that in reference
6 to?

7 A My lab number is L100378.

8 Q And what Best kit number is that?

9 A The control number is H010170.

10 Q And I'm going to hand you something and you
11 tell me if that is the item that is related to that chain
12 of evidence?

13 A Yes, the control number and the lab number
14 do match.

15 Q Okay, who assigns the lab numbers?

16 A I do in the laboratory.

17 Q Now you're the only person, of course you
18 have a helper in the laboratory or are you the person that
19 works in the laboratory?

20 A I'm currently the only person in there.

21 Q Okay, now did you have, I guess before we
22 get into that, who did you get that package from?

23 A I received it from Sharon Lilly who works
24 in the evidence on July 12th of 2010.

25 Q Okay, and when you got that in your

Ms. Floyd - Direct Examination By Mr. Hucks

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1 possession had it been altered or tampered with in any way
2 and how do you know?

3 A No, it had not been and I know that because
4 I wrote my initials, the letters o.k. and the date that I
5 opened it along with the case number and the lab number
6 that I assigned and that o.k. signifies to me that I took a
7 look at the tamper evident packaging to make sure that
8 there was no evidence of any kind of tampering before I
9 even opened it.

10 Q So it was, it would have had to have been
11 in substantially the same shape and condition as it was
12 when whoever put it in that kit put it in?

13 A Yes.

14 Q Now do you have any notes that you took
15 whenever you did this particular analysis?

16 A I do.

17 Q And if you could just reflect on those
18 notes for just a minute, when you came into contact with
19 that package did do you have an a chance to test it?

20 A Yes, I did.

21 Q Okay, and when you tested that package what
22 did you discover that material to be?

23 A It was found to be cocaine base or what's
24 commonly referred to as crack cocaine.

25 Q And what was the weight of that material?

1 A Twenty-three point twenty-five grams which
2 is 358.74 grains.

3 Q Okay, now you've done a ton of these
4 things, is it common for the, for the field weight, let's
5 say, what the officer weighs it at and what you weigh it
6 out to be different, is that a pretty common occurrence?

7 A Yes, sir, it is.

8 Q And why is that?

9 A Any type of powder, you can think of your
10 pack of brown sugar at home in the kitchen it's going to
11 absorb moisture, in the same respect depending on the time
12 of year it can certainly also loose moisture from the air
13 or into the air.

14 Q I'm going to, I'm going to ask you a little
15 bit about how you tested it, how did you test that to
16 decide that it was crack cocaine?

17 A First I do what's called a preliminary test
18 which is simply a color test. It's very similar to what
19 the officers do in the field with their field test kit, and
20 the color change gave me a preliminary indication that it
21 was crack cocaine so at that point I do a selective
22 extraction which is prior to a confirmatory analysis that
23 is specific to crack cocaine. Cocaine hydrochloride will
24 not extract in this particular solvent which is hexane and
25 then I ran it using a gas chromatograph with a mass

Ms. Floyd - Direct Examination By Mr. Hucks

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1 spectrometry detector or gcm, mass for short. It's
2 commonly been used for the last few decades in forensic
3 drug analysis.

4 Q It's the field standard on how to decide if
5 something is drugs or not?

6 A Yes, it is.

7 Q And that's crack cocaine in that, in that
8 bag?

9 A Yes, it was found in the cocaine base.

10 Q Now based on your education and your
11 expertise as the Judge has qualified you do you have an
12 opinion as an expert on what this substance is in that
13 sack, in that bag?

14 A Yes, it was found to be cocaine base.

15 Q Crack cocaine?

16 A Or commonly referred to as crack, yes.

17 Q Now does the package appear to be in the
18 same condition it was in when it left you?

19 A No.

20 Q Okay, how about explain that to me or to
21 the jury?

22 A Well it was dry, in my notes I made a
23 notation that it was in a broken cookie shape or you think
24 it like a semi circle and it was solid. It is definitely
25 not in that condition anymore. It appears to have escaped

1 the packaging and also a lot of the writing which I put on
2 it to identify it have started to come off and it's
3 definitely wet inside where it was not when I turned it
4 back into evidence.

5 Q And do you have any idea as an expert in
6 drug analysis why that happens?

7 A Yeah, there's a few reasons why it can
8 drastically change appearance, crack cocaine can
9 drastically change appearance. The first reason would be
10 that simply the, when it was being cooked that the reaction
11 was not allowed to go to completion so when it's repackaged
12 the reaction would actually continue very, very slowly over
13 time and in this case that's probably the more likely
14 explanation because when cocaine hydrochloride reacts with
15 say sugar or baking soda or whatever the cutting agent
16 used, typically when crack is made baking soda is what they
17 use to make it with, water is a byproduct of that reaction,
18 so that is very possible.

19 Q So ---

20 Ms. Williams: Your Honor?

21 The Court: Yes?

22 Ms. Williams: I would object to the testimony
23 of there's a possible, possible explanation what, I think
24 as an expert she can say what she, you know, what she
25 believes it to be and the standard is, you know, to a

Ms. Floyd - Direct Examination By Mr. Hucks

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1 reasonable degree of scientific certainty. I mean I don't
2 know that I think, she testified she didn't know what
3 caused the change; she can give a couple of different
4 possible reasons but --

5 The Court: I'll allow you to address that on
6 cross examination. I'm going to overrule your objection,
7 I'll allow it.

8 Mr. Hucks: Thank you, Your Honor.

9 Ms. Williams: Okay.

10 Mr. Hucks: The Court's indulgence one moment.

11 Q (Continuing) So based on your years of
12 experience, education and training what's in that package
13 when you tested it was crack cocaine?

14 A Yes.

15 Q And at what weight?

16 A Twenty-three point twenty-five grams.

17 Mr. Hucks: Your Honor, at this time the State
18 would wish to move what has been marked as State's 2 into
19 evidence.

20 The Court: Any objection?

21 Mr. Hucks: It has been qualified by the, been
22 qualified by the expert.

23 Ms. Williams: Your Honor, subject to the
24 objection with regard to Ms. Floyd not testifying that we
25 discussed yesterday.

Ms. Floyd - Redirect Examination By Mr. Hucks

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1 A Yes.

2 Q All right, so this was not twenty-eight
3 point thirty-five?

4 A No, it was not.

5 Q All right, let me ask you this, you may or
6 may not know but I'm going to ask, are you familiar with
7 the street term an "eight ball" of crack?

8 A I've heard it, yes.

9 Q Do you know what weight an "eight ball"
10 would be?

11 A I do not.

12 Q Okay --

13 Ms. Williams: Beg the Court's indulgence for
14 just a moment?

15 The Court: All right.

16 Ms. Williams: That's all the questions I have,
17 Your Honor, thank you.

18 The Court: All right, redirect?

19 **Redirect Examination**

20 **By Mr. Hucks:**

21 Q Ms. Floyd, if I believe I heard you
22 correctly earlier, is it common for the street weight and
23 for your testing weight to be different?

24 A Yes, that's not uncommon.

25 Q It's not uncommon. That's it, thank you,

1 Your Honor.

2 The Court: All right, you may step down.

3 Mr. Hucks: And, Your Honor, we would further
4 ask that Ms. Floyd be released from her subpoena?

5 The Court: Any objection?

6 Ms. Williams: Without objection, Your Honor.

7 The Court: All right, you're free to go, thank
8 you very much. All right, you can call your next witness.

9 Mr. Hucks: Your Honor, may we briefly approach?

10 The Court: All right.

11 (Whereupon, a bench conference was held off the
12 record in the presence of the jury, but out of the hearing
13 of the jury and the court reporter.)

14 The Court: All right, ladies and gentlemen,
15 we've been taking care of some scheduling issues and I
16 think this next witness might take, I don't know how long
17 it's going to take but it's 4:20 so I think it's a good
18 time for us to go ahead and break for the evening so I'm
19 going to excuse you for the remainder of the evening.
20 Please be back in your jury room tomorrow morning at 9:15
21 and we'll try to take the bench, I'll try to take the bench
22 right at about 9:30. You get here about 9:15 and that will
23 give you an opportunity to get a cup of coffee and maybe a
24 doughnut or whatever they might have for you, we'll check
25 and see.

1 Please do not discuss the case even among
2 yourselves at this point in time. Don't conduct nay
3 independent investigation, don't try to do any research
4 into the case. If you're taking notes, please leave your
5 notepads here in the seat in the jury box. We'll take them
6 up and we'll give them back to you at a later time. I hope
7 everyone has a good evening, we'll see you back in the jury
8 room at 9:15 tomorrow morning, thank you very much.
9 Everyone else, please, remain seated while the jury is
10 excused.

11 (Whereupon, the jury was excused for the evening
12 at 4:20 p.m.)

13 The Court: Anything from the State before we
14 break for the evening?

15 Mr. Hucks: No, Your Honor.

16 The Court: Anything from the defense?

17 Ms. Williams: No, sir, other than do you want
18 to go ahead and if there are any specific requests for
19 charge or any of that or are you putting that together?

20 The Court: I'll be doing my charges, I've been
21 doing, that's what I've been up here working on the
22 computer doing my charges. Likewise I'll probably finalize
23 it tomorrow morning and usually finalize it right before I
24 change them. If you have any specific requests that you
25 want to, want me to charge get it to me first thing

1 tomorrow morning.

2 Ms. Williams: I was just going to say, Your
3 Honor, the only one I know I would like is mere presence at
4 that point and I think Your Honor's standard ---

5 The Court: Yeah, I'm going to charge them ---

6 Ms. Williams: --- mere presence is a fine
7 charge.

8 The Court: Yeah, I'll be charging them with
9 mere presence.

10 Mr. Hucks: We have no objection whatsoever to
11 that, Your Honor.

12 The Court: Okay, all right, and if you have
13 anything else just, just get it to me tomorrow morning and
14 I'll take a look at it, okay.

15 Ms. Williams: Thank you, sir.

16 Mr. Hucks: Thank you, Judge.

17 The Court: All right, we'll stand in recess. I
18 told them to be back at 9:15, I'll try to take the bench
19 right at 9:30. If you have any charges try to get them to
20 me, you know, between 9 and 9:15, okay.

21 Mr. Hucks: Thank you, Your Honor.

22 Ms. Williams: Thank you, Your Honor.

23 The Court: All right, thank you very much.

24 (Whereupon, court was adjourned for the evening
25 and resumes on October 7, 2012 at 9:30 a.m.)

1 The Court: Anything from the State before we
2 bring in the jury?

3 Mr. Hucks: Yes, sir, just for scheduling
4 purposes, Your Honor, the State, I know when we spoke
5 yesterday I said I thought that we had one more witness to
6 call, but it turns out I did have two to call but they're
7 very quick. There's not, I don't have more than a half
8 dozen questions to ask each of them.

9 The Court: All right, sounds good.

10 Ms. Williams: And, Your Honor, if I may, I
11 think just will clarify before the jury comes in here, the
12 Solicitor has informed me he intends to recall Detective
13 Crocker to the stand, Your Honor, we object to that
14 recalling.

15 The Court: Okay.

16 Ms. Williams: And I will tell you why I reject,
17 object to that, while I don't know that it technically is
18 disallowed under the rules, Your Honor, part of the reason
19 we do sequestration is so that one witness doesn't hear
20 what the other witness says, doesn't fix issues, doesn't
21 fix problems, doesn't do things like that. Detective
22 Crocker is the lead case agent; he's been in here the
23 entire time. He's actually already testified; he's done
24 everything. It would be our contention that at this point,
25 I mean the reason he's in here is he's the case agent.

1 He's already had his bite at the apple. At this point if
2 we recall him it's to clean up everything we messed up,
3 clean up everything we fixed in here, didn't get right and
4 I think that is not in line with what the rules call for,
5 not in line with what due process calls for. I don't think
6 it gives my client a fair trial and I would ask the Judge
7 not to allow the Solicitor to recall Detective Crocker as a
8 witness.

9 The Court: All right, and what is the purpose
10 for calling him?

11 Mr. Hucks: Your Honor, there's an element of
12 the crime as to identity that we were not, that we didn't
13 get into with Detective Crocker earlier and we just wish to
14 explore that particular issue of identity. Since the
15 defendant is not here the jury can't look at the video and
16 look at the defendant and that's ---

17 The Court: Well I mean why didn't you get into
18 it earlier; what was the reasoning?

19 Mr. Hucks: Your Honor, I believed at the time
20 that the, that we could get into it based off of the cross
21 examination of Ms. Williams when she mentioned the marked
22 buy money, I was trying to do that way. The Court ruled
23 that I could not get into through the money because he was
24 found with the money in his pocket and the issue I, I've
25 researched this issue thoroughly and there is only one case

1 that I can find where the Supreme Court said that a recall
2 of a witness was not allowed and in that particular case --
3 -

4 The Court: Where it was not allowed or where it
5 was not an abuse of discretion? As I understand it's up to
6 the, it's within the Judge's discretion.

7 Mr. Hucks: Yes, Your Honor, but every case
8 where it's come up except for one that I can find it was an
9 issue where the State had already closed and then moved
10 after closing, I mean not closed but already rested their
11 case and then wanted to call and every case I can find says
12 that's, that's when that comes in.

13 The basic test of whether a witness' testimony is
14 admissible is whether it's competent, relevant, and not
15 cumulative and he has new competent evidence. The evidence
16 is relevant to the identity of the defendant and it's not
17 cumulative because he won't be testifying to anything,
18 anything anyone else has already said. He didn't have to
19 be sequestered because he's the lead case agent and he's
20 allowed to be in here so we only intend to get into the
21 fact that Officer Crocker arrested him, he had marked buy
22 money on him and he was identified as Antoine Chestnut and
23 he's the fellow from the video. That's the only facts that
24 I intend to get into.

25 The Court: All right.

1 Ms. Williams: And, Your Honor, my response to
2 that is exactly, is exactly that. He was in here, he's
3 already had his bite at the apple. The Solicitor even said
4 he would have got into it on re-, on cross, Your Honor, on
5 redirect which means in response to my cross which again he
6 says he didn't do it on direct.

7 The Court: Right.

8 Ms. Williams: And, and my objection is I think
9 that as a lead case agent and he's been in here the whole
10 time I think that is fundamentally unfair to my client and
11 I don't think, I think it would be improper and an abuse of
12 my client's constitutional rights.

13 The Court: Okay, all right, I'm going since
14 they have not closed and since he is testifying as to
15 personal things that he did ---

16 Mr. Hucks: Yes, sir.

17 The Court: As I understand this is what he did?

18 Mr. Hucks: Yes, Your Honor.

19 The Court: And that has not already been
20 addressed I'm going to allow him to recall him.

21 Mr. Hucks: And, Your Honor, Detective Hardee is
22 here as well and we would just sequester him at this time.
23 He did not hear any testimony whatsoever in the case.

24 The Court: All right, that will be fine.

25 Mr. Hucks: And, Your Honor, I do know you told

1 us to let you know if we had any requests to charge
2 whatsoever, it might be a good way, a good time to take it
3 up outside the presence of the jury. The State believes
4 that the standard charges are all fine but we would ask
5 that you charge hand of one because so far the defense has
6 kept saying that ---

7 The Court: Yeah, and I was going to charge the
8 hand of one, I was.

9 Mr. Hucks: Okay, thank you, Your Honor.

10 Ms. Williams: And, Your Honor, if I may say
11 I'll address that first, the hand of one we would object to
12 in that sense that we do not, I mean my understanding of
13 hand of one is basically if I'm in the place with the other
14 guy and the other guy shoots him and we, we were
15 participating in it together. In this case their, their
16 actual allegation is that my client is the one that weighed
17 it out, my client is the one that did it, my client is the
18 one that took the money, and my client is the one that
19 handed him the dope. I mean I don't, I mean they're saying
20 he is the actual wrongdoer.

21 The Court: Yeah, they're also saying that they
22 went there to make the purchase from the other guy which is
23 your defense that he was purchasing it from the other guy;
24 I just think the hand of one is applicable in the case.

25 Ms. Williams: Yes, sir.

1 The Court: So I'm going to charge on that.

2 Ms. Williams: And if I may clarify on your
3 prior ruling, Your Honor, your, the Solicitor is going to
4 get into the identification. Your Honor, he also said he
5 intends to get into the buy money. The buy money was
6 brought up, I mean cause, because if you recall ---

7 The Court: Yeah ---

8 Ms. Williams: --- I asked and he said, yes, he
9 gave him money and so ---

10 The Court: Right, I'm going to allow him to
11 question him on the buy money. I'm going to allow, I'm not
12 going to allow Officer Crocker to correct or challenge
13 testimony already given by any other witness but if he's
14 going to testify I executed the warrant, I made the arrest,
15 I got the money, and I did the analogy of the money matched
16 up. I'm going to allow him to give that testimony.

17 Ms. Williams: Yes, sir.

18 The Court: All right, all right.

19 Mr. Hucks: Thank you, Your Honor.

20 The Court: Anything else?

21 Mr. Hucks: Nothing from the State, Judge,
22 whatsoever.

23 The Court: Anything else from the defense?

24 Ms. Williams: One moment, Your Honor.

25 The Court: All right, take your time.

Detective Crocker - Direct Examination By Mr. Hucks 233

1 Ms. Williams: I believe that's all, Your Honor.

2 The Court: All right, let's bring the jury back
3 in.

4 (Whereupon, the jury returns to the courtroom at
5 9:45 a.m.)

6 The Court: All right, ladies and gentlemen,
7 welcome back, I hope everyone had a good evening. We're
8 ready to resume the trial of this case. I remind you if
9 you have any cell phones or pagers or anything of that
10 nature if you'd, please, turn them off if you have not left
11 them outside of the courtroom. Also if you're taking notes
12 make sure that you have your own pads.

13 All right, the State can call its next witness.

14 Mr. Hucks: Your Honor, at this time the State
15 would recall Detective Crocker.

16 The Court: All right.

17 **Detective David Rushton Crocker**

18 **being first duly sworn, testified as follows:**

19 Madam Clerk: Please state your full name and
20 spell your last name.

21 The Witness: David Crocker, c-r-o-c-k-e-r.

22 **Direct Examination**

23 **By Mr. Hucks:**

24 Q And for the record again your nickname is?

25 A Rusty.

Detective Crocker - Direct Examination By Mr. Hucks 234

1 Q And it's okay with you if I call you that?

2 A It is.

3 Ms. Williams: Your Honor, I didn't know if I
4 needed to do a simultaneous restatement of what we
5 discussed, a simultaneous objection just to note it for the
6 record.

7 The Court: No, it's already on the record.

8 Ms. Williams: Okay, thank you.

9 The Court: All right.

10 Mr. Hucks: (Continuing)

11 Q Detective Crocker, over the course of this
12 investigation did you have an occasion to come into contact
13 with Antoine Chestnut?

14 A Yes, I did.

15 Q And how did that come about?

16 A We went back to the residence in question
17 to execute a search warrant and he was at the residence and
18 detained at that time.

19 Q Okay, did you make contact with him at that
20 time?

21 A Yes, sir, I did.

22 Q All right, walk us through that interaction
23 you had with Mr. Chestnut at that time?

24 A He was detained, excuse me, I walked,
25 walked over to where he was being detained at. He was

Detective Crocker - Direct Examination By Mr. Hucks 235

1 standing there and Mr. Chestnut is a large individual and
2 he's, he's bigger than you, walked over to him, I
3 recognized him to be the gentleman from the video that we
4 saw in the date in question. He had his South Carolina
5 identification card in his pocket that identified him as
6 Antoine Chestnut with his date, birth date and all that
7 identifying information on him. Also on his person was
8 approximately \$860, I believe, in cash and when we pulled
9 the cash out of his pocket because we always keep a copy of
10 the marked buy money, while he was being obtained I went
11 back to my vehicle with the cash and looked through the
12 xeroxed copies of the marked buy money and two of the \$100
13 bills that were in his pocket were marked buy money that
14 was used or issued to the criminal informant or the
15 confidential informant on the previous buy.

16 Q Okay, and you're talking about the buy
17 we're --

18 A The buy, the 7th, yes, sir.

19 Q What we're here for; is that right?

20 A Yes, sir.

21 Q So the money that James Wilson gave the
22 fellow in the video, "Twizzie", is the same money in, in
23 Mr. Chestnut's pocket?

24 A It was the same money that he had on that
25 day, yes, sir.

Detective Crocker - Direct Examination By Mr. Hucks 236

1 Q Okay, and the address that you went to was
2 that the same address that this sale happened at?

3 A Yes, sir, it was.

4 Q Now how did you recognize him from the
5 video?

6 A Well the first thing that's immediately
7 apparent if you look at the video his head is almost
8 brushing the ceiling and almost hitting a light fixture in
9 the video that's there in the kitchen area where he's seen
10 standing at the counter. So first off his mere presence,
11 there's not many people that are going to be that big in
12 that area and, secondly, you can see his face on the video
13 it's the same person.

14 Q Okay, I want to show you a couple of
15 pictures what has been marked as State's 3, 4, and 5 and
16 can you identify the fellow in those pictures -

17 A Yes, sir.

18 Q --- for the jury?

19 A Well the one in this picture is Mr. Alston
20 but it's ---

21 Q Give the jury the number?

22 A Okay, State's Exhibit 3 on the left side of
23 the picture as you're facing it is Mr. Alston. This is Mr.
24 Chestnut on the right side.

25 In State's Exhibit 4 this is also Mr. Chestnut;

Detective Crocker - Direct Examination By Mr. Hucks 237

1 if you notice you can explain about what a big large man he
2 is. I mean he's probably six-five or six-six in excess of
3 three hundred pounds and you can clearly see it in the
4 picture that I mean if he backs up he's almost going to
5 touch the light fixture and here in State's Exhibit 5 again
6 you can see the profile of him and his size in relationship
7 to the thing there, the roof, ceiling.

8 Q Now when you approached him I assumed you
9 placed him under arrest at that time?

10 A Well he, he was after we verified that he
11 had the marked buy money and that he was the same person,
12 yes, sir.

13 Q And again explain this buy money thing,
14 how, how do you know the money in his pocket was the money
15 you gave Mr. Wilson?

16 A Again every time that a confidential
17 informant is sent out to make a purchase the money that he
18 is used is given to him by us and we have made a copy of
19 that money. Almost always we lay it on a standard xerox
20 machine and we make copies of it so that you can read the
21 serial number. That way if we ever come across the money
22 again just for this reason that we know that money was some
23 money that was used in one of the transactions.

24 Mr. Hucks: No further questions, thank you,
25 Detective.

Detective Crocker -- Cross Examination By Ms. Williams 238

1 Ms. Williams: One moment, Your Honor.

2 The Court: All right.

3 **Cross Examination**

4 **By Ms. Williams:**

5 Q Good morning, Detective.

6 A Good morning.

7 Q Just briefly let me ask you this, are you
8 familiar with the term "eight ball", like an "eight ball"
9 of coke?

10 A Yes, ma'am.

11 Q Tell me what that is?

12 A It's three point eight grams of either, you
13 can have an "eight ball" of coke or an "eight ball" of
14 crack.

15 Q So it's a, that's, and the reason I ask
16 that you know that is, is it a safe assumption that's a, a
17 typical purchase? I mean a normal amount ---

18 A I don't understand ---

19 Q --- as opposed to like a five dollar bill
20 and a ten dollar bill and an "eight ball" is like if I go
21 out and get an "eight ball"?

22 A Well an "eight ball" is a term for an
23 amount of the drug.

24 Q Okay, and it's a commonly used term?

25 A If you're buying that amount, yes, ma'am.

Detective Crocker - Cross Examination By Ms. Williams 239

1 Q And do you know how much an "eight ball"
2 would cost give or take?

3 A Around, it varies from about \$180 to \$200
4 depending on where you're at and what's going on with the
5 supply at that time.

6 Q And an "eight ball" is like three point
7 eight grams?

8 A Yes, ma'am.

9 Q Three to four grams?

10 A Yes, ma'am.

11 Q Okay, and your testimony is that when you
12 arrested Mr. Chestnut he had \$200 of the marked buy money
13 from the May 7th transaction in his pocket?

14 A He had two \$100 bills, yes, ma'am.

15 Q Okay, what day did you arrest him?

16 A The 14th.

17 Q Of what?

18 A Of May, it was exactly one week later.

19 Q May 14th one week later?

20 A Yes, ma'am.

21 Ms. Williams: Beg the Court's indulgence for
22 just one moment.

23 Q (Continuing) All right, let me just make
24 sure I'm, cause I'm in a little different arena, we thought
25 an ounce was supposed to be 1100 bucks?

Detective Crocker - Cross Examination By Ms. Williams 240

1 A Yes, ma'am.

2 Q An "eight ball" is three to four grams 180
3 to \$200?

4 A Yes, ma'am.

5 Q How much is one gram?

6 A Depending upon street value one gram will
7 usually run you depending on whether it's crack or whether
8 it's powder is going to run you from roughly 80 to 100
9 bucks even up to 125 bucks. There's, it's not like going
10 to Walmart and there's a set price for bicycles at Target
11 and everybody else is going to try to match the same price,
12 it's the street level stuff.

13 Q All right, let me ask you this, and when
14 somebody does a hit of it, is that, that's the correct
15 term, right, they smoke it, they do something, crack you
16 smoke?

17 A Yes, ma'am.

18 Q Would they normally smoke a gram at a time?

19 A It's just going vary because they're, when
20 you get into what, how much you're going to smoke of crack
21 at the time it's not normally sold in, in a unit like that.
22 They break it up and they say, okay, well this is a twenty-
23 rock, this is a forty-rock; and when you're getting to
24 street level where you're going to smoke this or you're
25 going to smoke that that's not done as much by weight as it

Detective Crocker - Cross Examination By Ms. Williams 241

1 is, as it, the amount travels down the chain you're street
2 level guy he's going to break off pieces of whatever he's
3 got and he's going to sell it and quite frankly if it's
4 somebody that the street level dealer has dealt with before
5 and they've been in there a little while and they're savvy
6 they're probably going to give them a reasonable amount.
7 But if it's somebody they've never met or they're maybe
8 trying to make a little extra money they, they may give
9 them a much smaller piece but that's something that's not
10 going to be consistent.

11 Q All right, well let's make sure I
12 understand, cause a gram when we say a gram if I understand
13 like a gram of, of, I understand we're talking about crack
14 but let's use coke, if we're doing a gram of coke in a
15 line, we've all seen the line on t.v., right?

16 A We've all seen the t.v. lines, yes, ma'am.

17 Q That's right, and isn't a gram like the
18 amount that's in like a packet of Sweet & Low?

19 A Roughly, yes, ma'am, but now Sweet & Low
20 and cocaine are going to be a little different because
21 they're going to weigh a little different way but roughly a
22 gram is going to be a pack of Sweet & Low, yes, ma'am.

23 Q When we look at the, the, the look at it?

24 A Yes, ma'am.

25 Q Okay, and, and what's the gram of crack

1 look like?

2 A It's going to be just a small rock like
3 substance. Crack is a, is a cocaine, is a base made out of
4 cocaine using water and usually baking soda or some other
5 type of agent, even a baby laxative that they mix and they
6 use it to turn twenty-eight grams of powder into a much
7 larger amount of product and so they make more money off of
8 it.

9 Q Great. That's right, it's a, a little, a
10 little gram rock of crack is tiny, maybe as big as the head
11 of my pen, much smaller than the head of your pinky?

12 A About the, about the roughly the size of
13 your pinky fingernail, maybe a little smaller.

14 Q And if I was going to smoke it would I
15 smoke that whole thing or would I break it up?

16 A Normally you would smoke the whole thing, a
17 gram.

18 Q About a gram?

19 A Yes, ma'am.

20 Q That's what, that's what I want to make
21 sure, if I'm smoking I would probably just smoke a gram to
22 be my hit unless I was an addict or doing something
23 ridiculous cause can't you O.D. on it?

24 A Yes, ma'am, you can O.D. on almost anything
25 if you smoke enough or take in enough of anything.

Detective Hardee - Direct Examination By Mr. Hucks 243

1 Ms. Williams: That's all the questions I have,
2 thank you, thank you, Detective Crocker.

3 The Court: All right. redirect?

4 Mr. Hucks: Nothing, Your Honor, thank you.

5 The Court: All right, you may step down. You
6 can call your next witness.

7 Mr. Hucks: Yes, Your Honor, the State would
8 call Detective Ashley Hardee.

9 **Detective Ashley Hardee**

10 **being first duly sworn, testified as follows:**

11 Madam Clerk: Please state your full name and
12 spell your last name.

13 The Witness: Ashley Hardee, h-a-r-d-e-e.

14 **Direct Examination**

15 **By Mr. Hucks:**

16 Q Detective Hardee, how are you this morning?

17 A Good.

18 Q What do you do for a living?

19 A I'm a detective with the Horry County
20 Police Department Narcotics Unit.

21 Q All right, and what is that, what do you do
22 on a day to day basis, what's your job?

23 A We use informants to go out and purchase
24 narcotics.

25 Q Common thing you do every day?

1 A Yes.

2 Q Did you have an occasion to work on a case
3 involving the defendant Antoine Chestnut?

4 A Yes.

5 Q Okay, and what was your description, what
6 did you do on that case?

7 A I served the warrants on Mr. Chestnut at J.
8 Reuben Long.

9 Q Okay, well who was the case agent?

10 A Detective Crocker.

11 Q What, if any, relation did you have with
12 Detective Crocker in investigating Mr. Chestnut?

13 A I worked with Mr. Crocker on some other
14 parts of the case.

15 Q Okay, now I want to, were you still with,
16 were you with the Horry County Police Department on or
17 about May 14th of 2010?

18 A Yes.

19 Ms. Williams: Your Honor, I think you need a
20 matter of law outside the presence of the jury.

21 The Court: All right, ladies and gentlemen, let
22 me excuse you back to the jury room for just a brief
23 moment. Please leave your notebooks here, do not discuss
24 the case even among yourselves at this point in time.

25 (Whereupon, the jury retired to the jury room at

Detective Hardee - Direct Examination By Mr. Hucks 245

1 9:52 a.m.)

2 The Court: All right, Ms. Williams?

3 Ms. Williams: Thank you, Your Honor, if I am
4 correct I believe the Solicitor is going to ask this
5 detective about being on the SWAT team and being present at
6 the execution of the search warrant and I believe he's
7 going to testify that he saw the money come from Mr.
8 Chestnut on him; am I correct?

9 Mr. Hucks: No, what I'm attempting, what I
10 intend to elicit from this detective is the fact that he
11 was on the team that served the warrant on the house where
12 the defendant was arrested, that's it, and then the next
13 day he went and served the arrest warrants at the jail on
14 the defendant and he had a chance to identify him as
15 Antoine Chestnut; that's the only two things I'm asking
16 this guy.

17 Ms. Williams: And that's okay, I just wanted to
18 make sure because the only mention of this detective at all
19 in my case file is his signature on the warrant.

20 The Court: Okay.

21 Ms. Williams: And I just wanted to verify cause
22 the Solicitor had told me that he was there. I just wanted
23 to make sure that testimony wasn't coming in in the
24 presence of the jury.

25 Mr. Hucks: And, Your Honor, if you want just to

Detective Hardee - Direct Examination By Mr. Hucks 246

1 tell Detective Hardee that, all I'm trying to ask is that
2 he was on the team who served the search warrant where the
3 defendant was arrested and then subsequently he went the
4 next day to the jail and served the warrants on him and
5 that he identified him from the video because he was, he
6 participated in the investigation of the defendant.

7 Ms. Williams: Yeah, but, Your Honor, I would
8 say I don't, I mean there's nothing in there that this
9 detective has viewed the video, seen him or saw him, or the
10 Solicitor ---

11 Mr. Hucks: Ask him.

12 Ms. Williams: Well the entire, but that's not
13 the point. The point is when I get discovery I'm supposed
14 to know any evidence that's going to be presented at trial
15 and the testimony that's going to be given. There is
16 nothing in here. This detective's name, I'm telling you
17 the only place I see his name is on the Solicitor's
18 potential witness list and on serving the warrant, there is
19 nothing else. The other ---

20 The Court: Okay, limit his testimony to the
21 serving on the warrant on Antoine Chestnut.

22 Mr. Hucks: Okay, no problem.

23 The Court: All right, we'll do that.

24 Ms. Williams: Thank you, Your Honor.

25 The Court: All right, anything else before we

Detective Hardee - Direct Examination By Mr. Hucks 247

1 bring the jury back in?

2 Mr. Hucks: Your Honor, so I cannot ask him, I
3 can't elicit from him that he was there the day Antoine was
4 arrested and then he served the warrant on him?

5 The Court: Not if you didn't provide them with
6 that notice.

7 Mr. Hucks: Well he, he served the warrant so
8 I'll just ---

9 The Court: I mean is what she's telling me is
10 that the only information she has gotten from ya'll is that
11 this witness was going to testify that he served the
12 warrant.

13 Mr. Hucks: Your Honor, Ms. Williams represents
14 the defendant on five counts and out of four of those five
15 counts Detective Hardee is the gentleman who is backing up
16 Detective Crocker the entire time. She's got full
17 discovery that he was, he was the assisting agent on this
18 case throughout the investigation.

19 Ms. Williams: Not on this case.

20 The Court: Okay, well she's telling me she
21 doesn't. She's telling me that all she's been provided was
22 is that he was served, that he served the warrant out at
23 the jail on this offense, now which is right?

24 Ms. Williams: Your Honor, I have a case file I
25 can submit. I have one case file that comes from

Detective Hardee - Direct Examination By Mr. Hucks 248

1 Detective, sorry, Detective Crocker. In his case file he
2 says assisted by county police SWAT team executed search
3 warrant and as we have continually discussed there was a
4 third incident, the search warrant, there was a group of
5 charges from there. That's not we're on here today, we're
6 on here about the May 7th buy. There's nothing that this
7 officer's name is on the warrant for the May 7th buy.

8 Mr. Hucks: He's a member of the SWAT team but I
9 wasn't going to get into that.

10 The Court: Okay, just limit his testimony that
11 he served the warrant on Antoine Chestnut out at the jail.

12 Mr. Hucks: And the still photos that we have,
13 Your Honor, I could, may I ask him if that's the same
14 gentleman that he served the warrant?

15 The Court: That he served out at the jail,
16 yeah, you can do that, yeah.

17 Mr. Hucks: Okay, thank you.

18 The Court: All right, anything further from the
19 State?

20 Mr. Hucks: Nothing.

21 The Court: Anything from the defense?

22 Ms. Williams: No, sir, thank you.

23 The Court: All right, let's bring the jury back
24 in.

25 (Whereupon, the jury returns to the courtroom at

Detective Hardee - Cross Examination By Ms. Williams 249

1 10:04 a.m.)

2 The Court: Ladies and gentlemen, welcome back,
3 Mr. Hucks, you can continue your questioning.

4 Mr. Hucks: Thank you, Judge.

5 Mr. Hucks: (continuing)

6 Q Detective Hardee, you said that you served
7 the warrants on Mr. Chestnut?

8 A Yes.

9 Q All right, what does that mean to serve a
10 warrant on somebody?

11 A To serve the formal papers of their
12 charges, what they're being charged with.

13 Q To let them know what they're being charged
14 with?

15 A Yes.

16 Q Okay, and where did you do that at?

17 A At J. Reuben Long Detention Center.

18 Q Was it in a conference room or --

19 A Kind of in the booking area that we
20 normally go to.

21 Q Okay, was it well lit?

22 A Yes.

23 Q Did you have chance to look at him?

24 A Yes.

25 Q And could you, you couldn't, you didn't

Detective Hardee - Cross Examination By Ms. Williams 250

1 interview him?

2 A No.

3 Q But did you speak with him briefly?

4 A Briefly with the warrants, yes.

5 Q And did you have an occasion to take a good
6 look at him to see what he looked like?

7 A Yes.

8 Q I'm going to show you three photographs
9 that have been marked already as State's 3, 4, and 5, can
10 you tell me if that's the same fellow you served those
11 warrants on?

12 A Yes.

13 Q And State's Number 3?

14 A Three.

15 Q How about 4 and 5?

16 A There's no facial features on 4 but
17 definitely 3.

18 Q Okay, that's the same gentleman?

19 A Yes.

20 Mr. Hucks: I have no further questions for the
21 detective.

22 The Court: All right, Ms. Williams?

23 Ms. Williams: Thank you.

24 **Cross Examination**

25 **By Ms. Williams:**

Detective Hardee - Cross Examination By Ms. Williams 251

1 Q Good morning, Detective Hardee.

2 A Morning.

3 Q Can you tell me how long you've been with
4 Horry County Police Department?

5 A I've been with the Horry County Police
6 Department for eleven years.

7 Q Eleven years?

8 A Yes, ma'am.

9 Q And you said you're assigned to narcotics,
10 right?

11 A Yes, ma'am.

12 Q How long have you been in narcotics?

13 A I've been in narcotics since 2006.

14 Q 2006?

15 A Yes, ma'am.

16 Q Five years or so?

17 A Yes, ma'am.

18 Q Can you tell me about your training in
19 doing with narcotics?

20 A Yes, ma'am, I've completed DEA Level I
21 course, DEA Level or DEA Clan Lab Tech.

22 Q I'm sorry?

23 A DEA Clan Lab Technician.

24 Q Clan Lab.

25 A Clandestine Lab, yes, ma'am.

1 Q Thank you.

2 A I'm a hazmat tech, also completed
3 Department of Homeland Securities Level I Tactical School.

4 Q And in mainly I think you testified a lot
5 about what you do in narcotics is you get C.I.'s and you
6 sent them out on the street to try to get illegal drugs,
7 correct?

8 A Yes, ma'am.

9 Q Okay, so tell me and to your knowledge do
10 you know how much, and I don't mean to put you on the spot,
11 but an ounce of crack is equivalent to how many grams?

12 A An ounce of crack is twenty-eight grams.

13 Q One ounce is twenty-eight grams, right?

14 A Yes, ma'am.

15 Mr. Hucks: Objection, Your Honor, may we
16 approach just very briefly?

17 The Court: All right.

18 (Whereupon, a bench conference was held off the
19 record in the presence of the jury, but out of the hearing
20 of the jury and the court reporter.)

21 Ms. Williams: (Continuing)

22 Q Okay, and the street value for an ounce of
23 crack give or take is, do you know?

24 A Somewhere I'd say about, I'm not sure this
25 present day cause the price changes, I'd say somewhere

Detective Hardee - Cross Examination By Ms. Williams 253

1 around 1,000, 1100.

2 Q One thousand to \$1100, okay, and are you
3 familiar with the term an "eight ball"?

4 A Yes.

5 Q Tell me what that is to your knowledge?

6 A Three point five grams.

7 Q And how much is an "eight ball" worth, give
8 or take street value?

9 A It depends, I would say anywhere from
10 around two to 300.

11 Q Okay?

12 A Depending on how pure it is.

13 Q I understand ---

14 A And whoever is selling.

15 Q Yeah, there's a range but give or take it's
16 a couple hundred bucks, right?

17 A Yes.

18 Q Okay, and let me ask you this cause I'm not
19 this familiar with it and obviously it's what you do so I
20 want you to if you'll help me educate me a little bit.
21 When a person goes to smoke crack, that's what they do,
22 right?

23 A Yes.

24 Q Okay, when they go to do a hit of crack or
25 smoke crack about how much would they use?

Detective Hardee - Cross Examination By Ms. Williams 254

1 A I'm not sure, I have no idea on that.

2 Q Well tell me this, do you know if a person
3 can overdose on crack?

4 A I've never personally come in contact with
5 somebody who's overdosed on crack so I wouldn't know that.

6 Q So as part of your DEA training and all of
7 this training you've done to do drugs and everything else
8 you don't know how much is too much for a person to use?

9 A No, ma'am, I don't have any training in
10 medical so I'm not sure.

11 Q Okay, let me ask you this, have you ever
12 known, what's the typical, what's the smallest buy like
13 lots of people buy on the street; what's the smallest
14 amount that's typically bought?

15 A Of?

16 Q Crack.

17 A Crack, I've seen it anywhere from point
18 one, point two grams.

19 Q What's the street value, point one, point
20 two grams what's the street value?

21 A What's the street value?

22 Q Uh-huh of that small ---

23 A Point one grams is around ten bucks.

24 Q So you can buy a ten dollar hit or a twenty
25 dollar hit?

Detective Hardee - Cross Examination By Ms. Williams 255

1 A Yes.

2 Q Give or take, and that's pretty typical?

3 A In a lot of areas, yes, ma'am.

4 Ms. Williams: Beg the Court's indulgence for
5 just one moment.

6 The Court: All right.

7 Ms. Williams: That's all the questions that I
8 have, thank you, Detective Hardee.

9 The Court: All right, redirect?

10 Mr. Hucks: Nothing, Your Honor.

11 The Court: All right, you may step down.

12 A Thank you, Your Honor.

13 Mr. Hucks: We would ask that the detective be
14 released from his subpoena, should he be under one.

15 The Court: Any objection?

16 Ms. Williams: Without objection, Your Honor.

17 The Court: All right, he's free to go, thank
18 you very much. All right, you can call your next witness.

19 Mr. Hucks: Your Honor, that would be the extent
20 of the State's case in this matter.

21 The Court: All right, ladies and gentlemen, the
22 State has rested their case so now is the time of the trial
23 where I have to take up some matters of law with the
24 attorneys procedurally. It's just required and it's
25 required that we do it outside of the presence of the jury

1 so I'm going to excuse you back to the jury room for just a
2 few minutes. Do not begin deliberations in any form at
3 this point in time. If you have notepads, please, leave
4 your notepads here in the jury box and we'll be back with
5 you in just a second, thank you very much.

6 (Whereupon, the jury retired to the jury room at
7 10:10 a.m.)

8 The Court: All right, Ms. Williams, any
9 motions?

10 Ms. Williams: Yes, sir, at this time we'd make
11 a motion for a directed verdict that the State has failed
12 to meet their burden of proof with regard to identity and
13 with regard to my client's actual and participatory in this
14 case and, Your Honor, we'd submit that they have, and ask
15 for a directed verdict.

16 The Court: All right, your motion is noted, I'm
17 going to deny it. Anything else?

18 Mr. Hucks: Nothing from the State, Your Honor.

19 Ms. Williams: Nothing else from the defendant,
20 Your Honor.

21 The Court: All right, is the defense going to
22 put up anything?

23 Ms. Williams: No, sir, we won't be putting
24 anybody on the stand.

25 The Court: Okay, so I guess now we'll just go

1 into closing arguments and a charge.

2 Mr. Hucks: Fine with me, Your Honor.

3 The Court: All right, since the defense isn't
4 putting anything up they will be allowed to close last,
5 okay.

6 Mr. Hucks: Yes, sir.

7 The Court: Let me go get you my charges. Let
8 me run off a copy of the charges, give ya'll about five or
9 ten minutes to take a look at it before you do your closing
10 arguments, okay?

11 Mr. Hucks: Thank you, sir.

12 Ms. Williams: Thank you, sir.

13 The Court: All right, let's stand in recess for
14 about ten minutes.

15 (Whereupon, a recess was taken and the following
16 take place on the record after the recess.)

17 The Court: Anything from the State before we
18 bring the jury in?

19 Mr. Hucks: Your Honor, just briefly. The only
20 objection the State would have to the charges as set forth
21 by the Court would be the prior inconsistent statement
22 charge. I believe the substance of the defense's
23 objections thus far have been omissions and not prior
24 inconsistent statements.

25 The Court: I think your C.I. made some prior

1 inconsistent statements.

2 Mr. Hucks: Okay, thank you very much.

3 The Court: So I'm going to leave that in, all
4 right. Anything else?

5 Ms. Williams: Nothing from the defense, Your
6 Honor.

7 The Court: All right, let's bring the jury in.

8 (Whereupon, the jury returns to the courtroom at
9 10:36 a.m.)

10 The Court: All right, ladies and gentlemen,
11 welcome back, we're now ready to resume the trial of the
12 case. The State has closed in their case in chief. The
13 defense is not going to call any witnesses or present
14 anything in this trial so now is the time of the trial
15 where the attorneys will make their closing arguments to
16 you. Then at the conclusion of their closing arguments I
17 will then charge you with the law to be applied in this
18 case.

19 Just like their opening statements these closing
20 arguments are not evidence in the case. It is simply the
21 attorneys contention as to what they think the facts in
22 this case are and the law to be applied. If at any time
23 during their closing arguments the attorneys make reference
24 to a fact that is different from the facts as you find them
25 to be or makes reference to a law that is different from

1 the law as I instruct you at the close of their arguments
2 then you're to disregard their arguments because this is
3 just their contention as to what they think the facts are,
4 what they think the evidence has shown and what they think
5 the law is, okay.

6 All right, Mr. Hucks?

7 Mr. Hucks: Thank you, Judge.

8 **Closing Argument**

9 **By Mr. Hucks:**

10 Folks, I spoke to you briefly at the beginning,
11 well what lawyers would call briefly and you guys will
12 probably call drudgery, but got to speak with you a little
13 bit at the beginning about the defendant Mr. Chestnut, what
14 we believe that the State could show and could prove that
15 he did and as we spoke or as I spoke I told you and the
16 Judge told you at the beginning and Ms. Williams has
17 referenced it several times, he's charged with trafficking
18 in cocaine base or crack.

19 In order for you to find him guilty the State of
20 South Carolina through all the witnesses that you've seen
21 up here on this stand, I told you at the beginning to pay
22 attention to what's going on up here, we have to prove to
23 you that Mr. Chestnut committed a crime and that crime is
24 trafficking in cocaine base or crack.

25 Every crime in South Carolina has what are called

1 elements, elements of a crime. The State has to prove to
2 you beyond a reasonable doubt, you're going to get a lot of
3 that from the Judge, beyond a reasonable doubt that every
4 element of that is true.

5 Trafficking is unique because there's a, there's
6 some or's, a lot of statutes have and's, you have to do
7 this and do this and do this to be guilty, but trafficking
8 you'll notice has some or's in it. This is not the whole
9 statute, the Judge is going to read you the entire statute,
10 this I couldn't fit it one board so I had to pick the parts
11 I wanted to talk about.

12 Now in order for the State to prove to you that
13 he committed this crime the State through those witnesses
14 have to show that he knew what he was doing, he knowingly
15 sold, manufactured, delivered, or purchased, or he aided,
16 abetted, or conspired to sell, manufacture, deliver, or
17 purchase with somebody else, that he worked with somebody
18 else to do it. Either he did it, he worked with somebody
19 else to do it, or he personally was in possession of ten
20 grams or more of cocaine base.

21 What he's charged with is trafficking above ten
22 grams and less than twenty-eight grams, between ten and
23 twenty-eight grams, so the State's burden is to show you
24 that he either possessed, sold, made, delivered, or helped
25 somebody possess, conspire, manufacture, deliver, or

1 purchase, He either did it or he helped somebody do it or
2 he was in possession of it, that's an easy way to say it,
3 of an amount of crack cocaine that's over 10 grams.

4 We talked about it a little bit at the beginning
5 on May 7th, 2011, Detective Crocker, who you've heard from
6 twice for a long time, wired up Mr. Wilson, the
7 confidential informant in this case, put him, wired him up
8 for sight and for sound, put him on where you could hear
9 and see what was going on, and Mr. Wilson, you got to watch
10 it, you watched him. He got in his car, he met with Rusty,
11 he got in his car and drove to Racepath. He got out and he
12 walked up, knocked on the door, somebody answered the door,
13 he came in. You see a big fellow, you heard Detective
14 Crocker say he's bigger than I am, I'm a pretty good size
15 fellow, and he's in there and my contention is that you see
16 him open a cabinet door, you see him take something out,
17 you see him place it down in front of him, you see
18 something kind of going on.

19 You're going to get to take some evidence back
20 with you when you go back to deliberate and I'm going to
21 show you a couple of things. You recognize these from the
22 video, they're in evidence, Mr. Wilson told you that at one
23 point that the defendant Mr. Chestnut reached over and got
24 the baggies off the table. You saw him say that Mr.
25 Chestnut himself reached in the cabinet, the open cabinet,

1 got the crack cocaine out of that cabinet and put it on a
2 scale to weigh it up. Look at that on your own time,
3 that's look an awful like somebody putting something on a
4 scale and weighing it up to me, and here is when Mr. Wilson
5 says I walked up to him and we swapped and he handed me the
6 dope, gave him some money and he gave me some dope, right.
7 Those are still pictures of what the State is telling you
8 happened and evidence to support what happened.

9 Now you might ask yourselves well Mr. Wilson
10 called him "Twizzie" and then somebody else called him,
11 called him Mr. Chestnut and how does that work. You put
12 your fears at ease because if you think about it just a
13 little bit you heard Mr. Wilson say I knew that guy, that
14 big fellow as "Twizzie," I knew him as "Twizzie." You
15 heard Detective Crocker say I didn't know what his name is,
16 I just, I recognize him because of his sheer size.

17 Later on we go to the residence, we arrest him,
18 and I recognize him because he's the same big, big old
19 fellow that we saw in the, in the video, and lo and behold
20 he had his I.D. in his pocket and \$200 of the marked buy
21 money. Mr. Chestnut sold these drugs.

22 Absolute worst case scenario, if you look at the
23 evidence in light least favorable to the State Mr. Chestnut
24 helped "Rat" sell the drugs, either way he's guilty.
25 Either way he committed the crime.

1 We've proven to you that in Horry County in the
2 Myrtle Beach section where we discussed Racepath area that
3 Mr. Wilson went into that house and he bought this dope.
4 He called "Rat" and "Rat" set up the deal, he goes on down
5 there and he meets with "Twizzie," "Twizzie" gives him the
6 dope, he gives "Twizzie" the money. That's simple, folks,
7 told you at the beginning of this thing, this is, it's as
8 plain as the nose on your face, it is in black and white,
9 it is in photo.

10 Let's talk about the amount of drugs for just a
11 minute. We've heard a little bit of stuff, you heard Ms.
12 Williams cross examine Detective Crocker a little bit about
13 the amounts of drugs, what's a "eight ball", what's a hit,
14 all that stuff, and that a "eight ball" cost \$200 and I
15 guess that since he only had \$200 on him maybe Mr. Wilson
16 was only going to buy a "eight ball" which is less, but
17 what did you hear from the detective. I weighed it, it
18 weighed about an ounce. What did he send him to buy, think
19 about it, he sent him to buy an ounce, twenty-eight grams.
20 He said it was about an ounce.

21 You heard Ms. Floyd on the record right here in
22 front of you say that this, this soupy glop right here she
23 tested it after it came in, she did all this microscopic
24 scientific stuff that I'm too dumb to know anything about
25 but since she's an expert she can give her opinion on what

1 this stuff was and at the time what did she say. She said
2 this was crack cocaine. I want to say she said it was
3 about twenty-three and a half grams, it was a little under,
4 under an ounce. The statute is over ten and less than
5 twenty. He's right in the slot, folks.

6 I fish a little bit and you know you catch, catch
7 certain kinds of fish you can't keep them if they're too
8 small and you can't keep them if they're too big. You go
9 catch red fish or spot tails they've got to be in the slot.
10 They've got to be big enough to keep and small enough to
11 keep so I mean you have to take pictures of all your big
12 ones and throw them back. This catch is in the slot,
13 that's what it is. It's not difficult.

14 I don't want, I don't want to belabor the point
15 but he sold, manufactured, delivered, purchased. He sold
16 it, according to, to Ms. Floyd somebody manufactured it
17 poorly and it's dissolved over time because the particles
18 have separated or whatever all those smart people say
19 happened that I'm not as smart as they are, and he
20 delivered it. He sold it, right, he sold it, and he
21 delivered it. He sold it to James Wilson, delivered it to
22 James Wilson, but even if you don't think you saw that on
23 the video you saw him openly and actively participating
24 with "Rat" to sell it.

25 You heard Mr. Wilson say I called, "Rat" set up

1 the deal, I came in, I dealt with "Twizzie", boy, that's,
2 that's some simple stuff, folks, right there. The amount
3 is over ten grams.

4 I want to talk to you a little about credibility,
5 You're going to hear, the Judge is going to give you a
6 whole lot on credibility. You're the judge, you're the
7 judges of the facts, the jury. Like the Judge is the judge
8 of the law you're the judge of the facts. When you judge
9 the facts you have to do this delicate balancing act. It's
10 kind of like when I told you in the first part about I have
11 to look them up and look them down and figure out whether
12 somebody is, what part of their testimony to believe and
13 what part not to believe, or do you believe it all, do you
14 not believe it all, how does that work. Well I want to
15 talk to you about James Wilson for a minute because Mr.
16 Wilson is a unique cat and I think you guys got to see it
17 when he was sitting up here. He's got a record. You heard
18 him say he's been convicted of, I believe Ms. Williams
19 impeached him on three or four prior drug offenses. He's a
20 drug dealer.

21 You heard Detective Crocker say, well I couldn't
22 go in there and buy it, I had to get somebody to go in
23 there and buy it but think about this. You heard Officer
24 Crocker say that the camera is on a button of his shirt and
25 he walks around and whatever his button on his shirt sees

1 the camera sees, right. Well you take what Mr. Wilson said
2 sitting here and you compare it to that video. The video
3 is in evidence, you can watch it over and over again if you
4 want to. In fact I'm going to show you a little piece of
5 it here in a minute, compare it.

6 Mr. Wilson said Rusty and Becky wired me up and
7 they searched my car, they searched my person. You think
8 you heard at the beginning of the video Detective Crocker
9 said I don't want to know you like that, I've already, I've
10 already grabbed you high enough, and you heard Detective
11 Crocker say when I, when I search my confidential
12 informants, then one he called the highest level of
13 confidential informant Mr. Wilson, a dependable and
14 reliable informant, that when I, when I search them I
15 search them well. I take the shoes off, I feel in between
16 their toes, I feel up on their private areas like, like a
17 TSA pat down, and I feel him all over and I look for any
18 kind of contraband, any kind of drugs, anything he might
19 have on him, wasn't there. The car was searched, Becky
20 tells you it wasn't there, so Mr. Wilson says that
21 happened, the video shows it happened.

22 You hear Mr. Wilson listen to a bunch of really
23 bad music driving over there and he drives over there and
24 he knocks on the door, opens the door. Mr. Wilson says I
25 walked in, "Rat" let me in, I walked in he put me in touch

1 with "Twizzie," "Twizzie" is the fellow I dealt with, that
2 there was some conversation between "Rat" and "Twizzie."
3 "Twizzie," I went over, "Twizzie" took the dope out of the
4 cabinet, put on the scale, weighed it, invited me up to
5 show me what the weight was on it, and then handed it to me
6 and I give him the money, we eased on out the door, I
7 called Rusty, we met back up.

8 Folks, he also told you he's got not one single
9 charge hanging over his head. That came out of his
10 testimony. He said I'm not charged with anything right
11 now. It is reasonable for the State to, for you to
12 extrapolate there's nothing in it for him to be here,
13 right. He's here because he did this and he's standing up
14 for it, he's standing for by his word that he was going to
15 come and testify. His cases are done, he's served his year
16 in prison for his charges. He went to prison and paid his
17 debt to society for his charges and then showed up here and
18 testified sitting in this seat as to exactly what happened.
19 Mr. Wilson has got a record; he does, but let me tell you,
20 that ought to tell you something about him. His story
21 matches his video, ya'll saw that; the story matches the
22 video.

23 You further saw him come in here and he's not
24 charged with anything and he stood up there and he took the
25 oath and he told you exactly what happened that day. What

1 happened that day is Antoine Chestnut sold Mr. Wilson on
2 video crack cocaine more than ten grams less than twenty-
3 five grams.

4 Now let's talk about who Mr. Chestnut is because
5 Mr. Wilson knew him as "Twizzie" and Detective Crocker said
6 when we showed up at the house and placed him under arrest
7 it was obvious I recognized him from the video. When I saw
8 him, he's a big old giant fellow, and I recognized him and
9 I placed him under arrest and then you heard Detective
10 Hardee say that guy right there is the guy I served those
11 warrants on at the jail. That guy right there is Antoine
12 Chestnut. That's the guy who's identified as Antoine
13 Chestnut and who had his warrants served on him as Antoine
14 Chestnut at the jail.

15 Folks, I'm really not trying to belabor this
16 thing but I just want you to think about it critically. I
17 think that it is as plain as the nose on your face as I
18 told you earlier. You heard all you needed to find him
19 guilty. The drugs are into evidence, the forms are into
20 evidence, the pictures are into evidence, and the video is
21 into evidence. You can look at any of them if you want to,
22 but there's only one verdict that speaks the truth here and
23 that's the verdict of guilty because he is guilty. That's
24 a, that's a simple distinction to make. If he wasn't
25 guilty you could cut him loose but he's guilty. He's on

1 video selling the dope, he's I.D.'ed as the fellow selling
2 the dope and his name is Antoine Chestnut, right. He's the
3 defendant and he is the person who sold those drugs that
4 day.

5 I'm going to take just one more moment with you,
6 I'm going to show you a part of this video and discuss it
7 with you just one moment.

8 (Whereupon, State's Exhibit Number 1 played in
9 open court.)

10 You heard some questions. Folks, Ms. Williams
11 asked the detective could he have been getting a plate out
12 of there, there weren't no plate coming out of there. He
13 reached in that cabinet and got those drugs and put it down
14 in front of him on a scale. He's weighing those drugs;
15 he's doing exactly what Mr. Wilson told you he was doing.

16 (Whereupon, State's Exhibit Number 1 played in
17 open court.)

18 I think that's about all that we need to look at
19 right there at that point but he reaches in that cabinet
20 and he pulls out that product and he puts it on that scale
21 in front of him and then he calls "Rat" over and he and
22 "Rat" look at it together. You hear him say, that one
23 right there, that one right there, that one right there is
24 trafficking in crack cocaine. That's what that one right
25 there is doing.

1 I thank you for listening and please listen
2 attentively to whatever Ms. Williams has to tell you and
3 realize that what we're here for it's not complicated.
4 It's as straightforward as they get and we're only going to
5 ask you to come back with the truth and the truth here is
6 that he did it, thank you.

7 The Court: Ms. Williams?

8 Ms. Williams: Your Honor and Mr. Solicitor.

9 **Closing Argument**

10 **By Ms. Williams:**

11 Good morning, ladies and gentlemen of the jury,
12 let me start out by saying thank you for being here, thank
13 you for doing this. If you did not come and participate we
14 would not have the system that we have and as a lawyer as a
15 defense criminal lawyer it is incumbent upon the system to
16 have people who are willing to be jurors to come
17 participate to help the system move along to do two things.

18 First of all thank goodness we live in a country
19 where we have rules, regulations. We have police to
20 enforce the rules, it would be the wild west if we weren't,
21 and it's the Solicitor's job to try and help facilitate
22 that but you know the other part that people forget, and
23 it's been real blatant with the whole Casey Anthony thing
24 and then all this other stuff out there, but the reason we
25 have jurors make the decision is because it's not the

1 police job, it's not the Solicitor's job, it's your job.
2 It's your job to figure out what the truth is, not what
3 they say it is, not what they think it is, but what you
4 think it is, and you know when I; when I got this case and
5 I looked at it and I thought about it and thinking about it
6 through the trial what seems so glaring to me is this case
7 is about "Rat." What do you hear? What name did you hear
8 on every piece of paper I asked them about, "Rat," "Rat,"
9 "Rat," "Rat." You heard "Twizzie" testified to, and you
10 heard it, I'm not going to say you didn't cause I heard it,
11 too, cause I was like where did that come from, because
12 it's not on anything.

13 I'll break it, when I look at this let's break it
14 down to how, what I would do, what I think I would do if I
15 would ever serve on a jury. I've never gotten that
16 privilege. I hope one day I will but the first thing we
17 got to look at is the C.I. Now you know and I'm going to
18 say this, the reason I went through that whole big old deal
19 of what's an informant, what's confidential informant,
20 what's the confidential reliable informant, remember I'm
21 the one that brought that up. If you remember I'm the
22 first time ya'll heard that because up till that point Mr.
23 Wilson had been called a confidential informant, never said
24 confidential reliable till I brought it up and then the
25 Solicitor said and by the way what was he. You needed to

1 hear confidential reliable informant if ya'll were going to
2 believe it so that's what he had to do, no doubt, but you
3 know what, you brought your common sense in here and we
4 know it. What do informants do? They're out there to help
5 themselves. They'll say anything, they'll do anything,
6 they'll do whatever they've got to do and, why and he did
7 it.

8 He was charged with trafficking crack cocaine and
9 what did he plead to, possession with intent to distribute.
10 Why, because he had to work, he had to do it, he had to, he
11 had to help himself, and who was he helping. He was going
12 to buy drugs from "Rat." "Rat," "Rat," "Rat," that's all
13 we heard. Who was he going to, made a phone call to "Rat."

14 You have to decide if he's believable. The Judge
15 is going to tell you, you can believe part of what somebody
16 says, all of what they say, or nothing, okay, and ya'll
17 know every day most of the time people don't just lie on a
18 continual basis. Most people tell a story if it kind of
19 helps them; we all know that. It's called a little white
20 lie most of the time, sometimes it grows, but we all do
21 that, so we got to decide is he believable. I'm going to
22 submit to you, do you recall me asking him do you do drugs,
23 oh, no, I just sell them, really.

24 The Solicitor asked him, you got a prior record,
25 right, yeah, what is it, possession with intent to

1 distribute, and remember I said, now what's the rest of
2 your record and he had three different drug charges and a
3 failure to stop for a blue light, so I submit to you to
4 take back in the jury box if you lie about the little
5 things what about the big things.

6 You got a video, the video is here, you've seen
7 it once, a piece of it. I would actually ask you to take
8 it back in there and look at it because I would submit to
9 you it really doesn't show anything. You see two people on
10 it but you never see money being exchanged. You never see
11 a baggy being handed to anybody. You never see it. You
12 don't see the scales. You don't hear the conversation and
13 the audio is on. The Solicitor went through with Mr.
14 Wilson what did you talk about, well I went in and I asked
15 him about this and we talked about that, we went in, you
16 don't hear it. You never hear \$1100; you never hear I'm
17 ready for it. You don't hear anything. You certainly
18 don't hear "Twizzie" on the tape.

19 Now, yeah, I did bring up that whole conversation
20 up what's an ounce, what's crack, what's a "eight ball,"
21 what's a hit, because Mr. Wilson was sent in there to buy
22 an ounce. You heard the SLED chemist say he got twenty-
23 eight, twenty-three grams. Well rough math twenty-three
24 from twenty-eight, five, what's an "eight ball", four to
25 five grams. You heard me ask Mr. Wilson was he certain,

1 yeah, cause if you recall I didn't really want to discuss
2 how up close and personal he got. I asked him if he took
3 his shoes off, he said, no. When I asked the detective,
4 detective said, yeah, cause you remember I made a big deal
5 about manipulating through his toes and I have no doubt
6 that Detective Crocker searched his toes going in, I mean,
7 you know, he says he searched him going in and I heard that
8 testimony. I heard from him that he did not get searched
9 but I don't know that I ever heard about searching between
10 the toes when he got out. You have to recall what you
11 heard.

12 The State has the duty to prove to the twelve of
13 you beyond a reasonable doubt the elements of the crime. I
14 will submit to you here are the things that you can take
15 back that are not beyond a reasonable doubt. One, finally
16 one week later, seven days later Detective Crocker
17 testifies he arrested Antoine Chestnut as with \$800 on him,
18 200 of it was that additional money that had been given to
19 Mr. Wilson, a week later he's at his friend's house. The
20 Solicitor is asking you to make a leap that that's the
21 \$1100 handed to him and he kept, kept, kept, kept, no, no,
22 no explanation of 800. It's a whole week later, maybe he
23 had other money, maybe Mr. Alston gave it to him, maybe Mr.
24 Alston did it, maybe he borrowed money from Mr. Alston,
25 maybe he gave it back. I don't know, maybe he was over

1 there, maybe he had to do change. I don't know, but I can
2 tell you a week later and \$200 out of eight is not beyond a
3 reasonable doubt in my opinion.

4 The second thing, and I think it's critical of
5 beyond a reasonable doubt, is this whole "Twizzie" matter.
6 You guys recall me asking Mr. Wilson when he left that May
7 7th and came back, he wrote a statement, what did you put
8 on your statement, I bought an ounce from "Rat." Now he
9 says he told Detective Crocker, so I said Detective Crocker
10 you give me all as a lawyer the rules of law require, we're
11 supposed to know what, you know, client's are alleged to
12 do. Did you put "Twizzie" anywhere in any of your paper
13 work? Nope. Did you put down that he told you he bought
14 from "Rat" and "Twizzie?" Nope.

15 State's Exhibit Number 7 the evidence sheet, let
16 me stop, another piece, you heard Detective Crocker testify
17 that when he finished up that day he goes back to the
18 police station and he fills out that, that buy sheet.
19 Remember he documented the times, he talked about he
20 documented the times he put on there and I said, who's, do
21 you put a suspect, yeah, who's the suspect you put on
22 there, "Rat." Did you put "Twizzie," nope, any other
23 suspects, nope, just "Rat." He goes back to the police
24 department, drops the money in the Best bag, fills out a
25 chain sheet, who's on here, Timothy Alston "Rat." Antoine

1 Chestnut, no, ma'am, "Twizzie," nope, fresh that day less
2 than an hour or so after this whole event happened.
3 "Twizzie" isn't mentioned, Antoine Chestnut isn't
4 mentioned, and then we go to the video, I'll ask you again,
5 what did you see? Did you actually see it? Did you see
6 two people there? Sure. Did you see an actual exchange
7 and you know what I noticed at the end which I thought was
8 interesting and I would play it back but I'll ask you to do
9 it, Mr. Wilson said he did, he went through an elaborate
10 time line in and he said when he finished he gave him the
11 money and then he left. If you look at the video the very
12 end if you try to match Mr. Wilson's story up he's up there
13 it's like he does this and does a run out, it's really
14 quick which I thought was very strange. I just don't see
15 how what you see in that video matches the story from what
16 was told.

17 The bottom line is the dope that day is Timothy
18 Alston's. You heard Timothy Alston pled guilty to selling
19 it; he's pled guilty.

20 This Judge will instruct you the State has to
21 prove to you, the defendant has nothing to prove, and I
22 would submit that there's too much that hasn't been shown
23 to you. There's too much that was left out and I ask you
24 to come back with a verdict of not guilty, thank you.

25

Jury Charge

1 **By The Court:**

2 All right, ladies and gentlemen, all of the
3 evidence has been presented to you in this case and now is
4 the time for me to charge you with the law to be applied in
5 this case.

6 The indictment charges the defendant with
7 trafficking in cocaine base. I remind you that the fact
8 that the defendant was arrested, charged, and indicted in
9 this case is not evidence in this case and cannot be
10 considered by you as evidence of guilt in this case nor
11 does the defendant's arrest, charge, or indictment create
12 any presumption or inference of guilt. The indictment is
13 simply the formal written instrument which contains the
14 charge made against the defendant. It is the formal
15 document by which this case is brought into court at this
16 time.

17 The defendant has pled not guilty to this
18 indictment and that plea puts the burden on the State to
19 prove the defendant guilty.

20 A person charged with committing a criminal
21 offense in South Carolina is never required to prove his
22 innocence.

23 I charge you that an important rule of the law is
24 that the defendant in a criminal trial, no matter what the
25 seriousness of the charge may be, will always be presumed

1 to be innocent of the crime for which the indictment was
2 issued unless guilt has been proven by evidence satisfying
3 you of that guilt beyond a reasonable doubt.

4 This presumption of innocence does not end when
5 you begin your deliberations but it accompanies the
6 defendant throughout the trial until you reach a verdict of
7 guilt based on evidence satisfying you of that guilt beyond
8 a reasonable doubt.

9 The presumption of innocence is like a robe of
10 righteousness placed about the shoulders of the defendant
11 which remains with the defendant until it has been stripped
12 from the defendant by evidence satisfying you of the
13 defendant's guilt beyond a reasonable doubt.

14 The presumption of innocence is not a mere legal
15 theory. It is not just a legal phrase. It is a
16 substantial right to which every defendant is entitled
17 unless you the jury are satisfied from the evidence of the
18 defendant's guilt beyond a reasonable doubt.

19 Now what is reasonable doubt in the law? A
20 reasonable doubt is the kind of doubt that would cause a
21 reasonable person to hesitate to act.

22 Proof beyond a reasonable doubt is proof that
23 leaves you firmly convinced of the defendant's guilt.

24 We know very few things in this world with
25 absolute certainty and in criminal cases the law does not

1 require proof that overcomes every possible doubt.

2 If based on your consideration of the evidence
3 you are firmly convinced that the defendant is guilty of
4 the crime with which he is charged you must find the
5 defendant guilty.

6 If on the other hand you think a real possibility
7 exists that the defendant is not guilty you must give the
8 defendant the benefit of that doubt and find him not
9 guilty.

10 I'll remind you that during this trial you and I
11 have certain duties to perform. As the trial judge my
12 responsibility is to preside over the trial of this case.
13 I also have the duty to rule on the admissibility of
14 evidence offered during this trial.

15 You are to consider only the competent evidence
16 before you. If any testimony was ordered stricken from the
17 record in this case during this trial you must disregard
18 that testimony.

19 You are to consider only the testimony which has
20 been presented from the witness stand, any exhibits which
21 have been made a part of the record in this case, and any
22 stipulations of counsel.

23 I have the additional duty to charge you the law
24 applicable to this case. As the presiding judge I am the
25 sole judge of the law of this case. Your duty as jurors is

1 to accept and apply the law as I now state it to you. If
 2 you already have any ideas to what the law is or what the
 3 law ought to be and your idea is different from what I now
 4 tell you the law is you must abandon your idea of what the
 5 law is or ought to be because you are sworn to accept the
 6 law and apply the law exactly as I state it to you.

7 In every case tried in this court before a jury
 8 the jury is the sole and exclusive judge of the facts in a
 9 case. A trial judge cannot intimate, state, comment on, or
 10 make any statement to a trial jury about the facts in a
 11 case.

12 Since you the jury are the sole judge of the
 13 facts in this case you are not to infer from what I have
 14 said during the progress of this trial in ruling on the
 15 admissibility of evidence or otherwise or anything that I
 16 say now during the course of this instruction to you that I
 17 have any opinion about the facts in this case. The law
 18 does not allow me to have an opinion about the facts in
 19 this case. This matter is solely for you the jury to
 20 determine. As jurors your duty is to determine the effect,
 21 the value, the weight, and the truth of the evidence
 22 presented during this trial. Necessarily you must
 23 determine the credibility of witnesses who have testified
 24 in this case.

25 Credibility simply means believability. Your

1 duty as jurors is to analyze and to evaluate the evidence
2 and determine which evidence convinces you of its truth.

3 In determining the believability of witnesses who
4 have testified in this case you may believe one witness
5 over several witnesses or several witnesses over one
6 witness. You may believe a part of the testimony of a
7 witness and reject the remaining part of the testimony of
8 that same witness.

9 You may believe the testimony of a witness in its
10 entirety or reject the testimony of a witness in its
11 entirety. You may consider whether any witness has
12 exhibited to you any interest, bias, prejudice, or other
13 motive in this case.

14 You may also consider the appearance and manner
15 of a witness while on the witness stand.

16 The rules of evidence ordinarily do not permit
17 witnesses to testify to opinions or conclusions. An
18 exception to this rule exists for witnesses we call expert
19 witnesses. A witness who by education and experience has
20 become an expert in some art, science, profession, or
21 calling may state an opinion as to the relevant and
22 material matter in which the witness claims to be an expert
23 and may also state the reasons for the opinion.

24 You should consider any expert opinion received
25 in evidence in this case and like any other evidence give

1 it the weight you think it deserves. If you decide that
2 the opinion of an expert witness is not based on sufficient
3 education and experience or if you conclude that the reason
4 given in support of the opinion is not sound or that the
5 opinion is outweighed by other evidence you may disregard
6 the opinion entirely.

7 An expert witness' testimony is to be given no
8 greater weight than any other witness simply because the
9 witness is an expert. Further you are not required to
10 accept an experts opinion even though it is not
11 contradicted.

12 Evidence has been presented that some of the
13 State's witnesses have made prior statements which are not
14 consistent with their present testimony. You may use this
15 evidence to decide whether to believe the witness. You may
16 also use the evidence of the earlier contradictory
17 statements to determine the truth of those statements. It
18 is up to you to decide whether to believe the earlier
19 statements or the testimony given at trial.

20 If a witness is shown to have knowingly testified
21 untruthfully concerning any material matter you may
22 consider this in determining whether to trust the witness'
23 testimony as to other matters. You may reject all of the
24 testimony of that witness or give all or part of the
25 testimony the weight you think it deserves.

1 Also evidence has been presented that a witness
2 has a past criminal record. A person who has a past
3 criminal record is competent to testify during a trial. A
4 past record does not affect the ability of that witness to
5 testify. The past record may only be considered by you if
6 at all in determining the witness' believability. Remember
7 you are the sole judge of the facts in the case and the
8 believability of any and all of the witnesses.

9 However, I instruct you and emphasize that the
10 fact that the defendant did not testify is not a factor to
11 be considered by you in any way in your deliberation and in
12 your consideration on the question of guilt or the
13 innocence of the defendant. You must not consider that the
14 defendant's failure to testify in any manner whatsoever.

15 A defendant has the constitutional right to
16 remain silent and that assertion of this right must not be
17 considered by you in your deliberations. I repeat under
18 your oath you are to draw no conclusion whatsoever from the
19 fact that the defendant in this case did not testify. The
20 fact that this defendant did not testify should not even be
21 discussed in the jury room.

22 The burden of proof as I have stated to you is on
23 the State; the defendant is not required to prove his
24 innocence. The burden of proof remains on the State to
25 prove guilt beyond a reasonable doubt. In fact under the

1 laws of this state a defendant may be tried even if the
2 defendant does not attend the trial but the fact that the
3 defendant is not present may not be considered against the
4 defendant in any manner whatsoever.

5 If a crime is committed by two or more people who
6 are acting together in committing a crime the act of one is
7 the act of all. A person who joins with another to commit
8 an unlawful act is criminally responsible for everything
9 done by the other person which happens as a probable or
10 natural consequence of the acts done in carrying out the
11 common plan and purpose.

12 For example, two people can be guilty of killing
13 another person when only one of the two had a gun, there
14 was only one bullet, and only one of the two fired the shot
15 that caused the death. If two or more people are together
16 acting together, assisting each other in committing the
17 offense the act of one is the act of all or as it is
18 sometimes called the hand of one is the hand of all.

19 Prior knowledge that a crime is going to be
20 committed without more is not sufficient to make a person
21 guilty of that crime. Mere knowledge that another person
22 is going to commit a crime even if the defendant is present
23 when the crime is committed is not sufficient to convict
24 the defendant as a principal.

25 Guilt as a principal is shown by actual or

1 constructive presence at the scene as a result of a prior
2 arrangement, therefore, a finding of a prior arranged plan
3 or common scheme is necessary for a finding of guilt as a
4 principal. The State must prove beyond a reasonable doubt
5 by competent evidence the theory of the hand of one is the
6 hand of all.

7 A principal in a crime is one who either actually
8 commits the crime or who is present aiding, abetting, or
9 assisting in committing the crime. When a person does an
10 act in the presence of and with the assistance of another
11 the act is done by both.

12 Where two or more acting with a common plan or
13 intent are present at the commission of a crime it does not
14 matter who actually commits the crime, all are guilty. The
15 hand of one is the hand of all.

16 Present at the commission of a crime means to be
17 sufficiently near to aid and abet and assist in the
18 commission of the crime, however, mere presence at the
19 scene of the crime is not sufficient to convict one as a
20 principal on the theory of aiding and abetting.

21 Intent is also a necessary element for there must
22 have been a common design or intent to commit the crime and
23 the crime must have been committed pursuant thereto with
24 the person aiding and abetting by some overt act. Intent
25 means intending the result which actually occurs not

1 accidentally or involuntarily.

2 Intent may be shown by acts and conduct of the
3 defendant and other circumstances from which you may
4 naturally and reasonably infer intent. The State must
5 prove these elements beyond a reasonable doubt.

6 An issue in this case is the identification of
7 the defendant as the person who committed the crime
8 charged. The State has the burden of proving identity
9 beyond a reasonable doubt. You must be satisfied beyond a
10 reasonable doubt of the accuracy of the identification of
11 the defendant before you may convict the defendant.

12 Identification testimony is an expression of
13 belief or impression by a witness. You must determine the
14 accuracy of the identification of the defendant. You must
15 consider the believability of each identification witness
16 in the same way as any other witness.

17 You may consider whether the witness had an
18 adequate opportunity to observe the offender at the time of
19 the offense. This will be affected by things like how long
20 or short a time was available, how far or close the witness
21 was, the lighting conditions, and whether the witness had
22 the chance to see or know the person in the past.

23 Once again I instruct you the burden of proof is
24 on the State and it extends to every element of the crime
25 charged and this specifically includes the burden of

1 proving beyond a reasonable doubt the identity of the
2 defendant as the person who committed the crime.

3 If after examining the testimony you have a
4 reasonable doubt as to the accuracy of the identification
5 you must find the defendant not guilty.

6 In order to establish criminal liability criminal
7 intent is required. For example, the mental state required
8 to be proven by the State for a particular crime might be
9 purpose, intent, knowledge, recklessness, or criminal
10 negligence. Criminal intent must be proven by the State
11 beyond a reasonable doubt. Criminal intent is always a
12 matter that must be determined by the jury from the
13 circumstances surrounding the situation.

14 There's no way to prove intent to a mathematical
15 certainty. There's no way medical science can dissect a
16 persons brain and determine what the person had in mind, so
17 the law says that criminal intent may be inferred from the
18 circumstances shown to have existed. This is how you make
19 a determination of whether or not the element requiring
20 intent was present.

21 It is not necessary to establish intent by direct
22 and positive evidence but intent may be established by
23 inference in the same way as any other fact by taking into
24 consideration the acts of the parties and all the facts and
25 circumstances of the case.

1 Criminal intent is a mental state, a conscious
2 wrongdoing. It is up to you to determine what the
3 defendant intended to do based on the circumstances shown
4 to have existed.

5 Criminal intent can arise from action or a
6 failure to act. It may arise from negligence,
7 recklessness, or an indifference to duty, or to
8 consequences that is considered by the law to be the
9 equivalent of criminal intent.

10 Now mere presence at the scene is not sufficient
11 to prove someone guilty of a crime. A defendant's presence
12 where a crime is being committed or mere association with a
13 person who commits a crime does not make a defendant an
14 accomplice or an aider and abettor of the person committing
15 the crime.

16 The burden is on the State to prove every element
17 of the crime charged. If you find after reviewing all of
18 the evidence that the State has proved that the defendant
19 was only present at the scene of a crime and that they
20 have not proved beyond a reasonable doubt any other
21 participation in the crime then you must find the defendant
22 not guilty. The law is that proof of at the scene of the
23 crime is not sufficient to find someone guilty.

24 The defendant is charged with trafficking in
25 cocaine base or what's commonly referred to as crack

1 cocaine. To convict the defendant of this charge the State
2 must prove beyond a reasonable doubt that the defendant
3 knowingly sold, manufactured, cultivated, delivered,
4 purchased, brought into this State, provided financial
5 assistance or otherwise aided, abetted, attempted, or
6 conspired to sell, manufacture, cultivate, deliver,
7 purchase, or bring into this State, was knowingly in actual
8 or constructive possession or knowingly attempted to become
9 in actual or constructive possession of crack cocaine.

10 The State must also prove beyond a reasonable
11 doubt that the amount of the crack cocaine was 10 grams or
12 more but less than 28 grams.

13 Now you may find one of two possible verdicts in
14 this case. No significance is to be given to the order in
15 which I state these possible verdicts to you. I simply
16 must state one first and one second.

17 The possible verdicts in this case are, we the
18 jury find the defendant guilty of trafficking in cocaine
19 base or we the jury find the defendant not guilty.

20 Ladies and gentlemen, your verdict must be a
21 unanimous one. Mr. Burr, as foreperson when the jury
22 agrees on a verdict you will write that verdict below where
23 it says verdict on the indictment, sign your name as
24 foreperson, date the indictment, and then knock on the door
25 and tell the bailiff that you have reached a verdict in

1 this case.

2 Now some of you have taken notes during the trial
3 of this case, however, remember that some people are better
4 note takers than others. Some peoples recollections are
5 better without taking notes. A jurors notes should not be
6 given any greater weight than the recollection of other
7 jurors. The recollections of individuals jurors should be
8 considered as reliable as notes taken by any other jurors.

9 At this time I'm going to excuse you back into
10 the jury room. You can take your notepads with you but,
11 please, do not begin your deliberations at this point in
12 time. I have to check with the attorneys to see if they
13 have any challenges or additions to my charge on the law.
14 If they do and I deem them appropriate we'll bring you back
15 in and I'll make those corrections or additions or changes.
16 If not then we will send all of the exhibits back to you
17 with the indictment and the bailiff will instruct you that
18 you can begin your deliberations, so I'll excuse you back
19 to the jury room but, please, do not begin your
20 deliberations until you're told to do, thank you very much.

21 (Whereupon, the jury retired to the jury room at
22 11:25 a.m.)

23 The Court: All right, any exceptions to the
24 jury charge by the State?

25 Mr. Hucks: No, Your Honor.

1 The Court: Any by the defense?

2 Ms. Williams: No, sir.

3 The Court: All right, let's go ahead and make
4 sure we've got all of the exhibits. Here is the indictment
5 that we'll send back with the exhibits.

6 All right, let's go ahead and take that with the
7 indictment. You can tell the jury they can begin their
8 deliberations.

9 Mr. Hucks: Do you need to bring the alternate
10 back out?

11 The Court: Yeah, and we need to bring Mr.
12 Gasque back out.

13 (Whereupon, the verdict form and exhibits were
14 delivered to the jury room with instructions to begin
15 deliberations began at 11:26 a.m.)

16 (Whereupon, the alternate enters the courtroom.)

17 The Court: This is the part of trial I always
18 hate. As the alternate you are required to sit through the
19 entire trial but since we did not have any jurors leave the
20 jury pool for whatever reason you will not be allowed to
21 participate in deliberations. I kind of feel like I asked
22 you to a party but now I won't let you get a drink, so I
23 kind of hate that part of it, but I do want to thank you
24 for your service as juror in this case.

25 Do you have any, anything in the jury room, any

1 coat or umbrella or anything of that nature?

2 The Alternate: No, sir.

3 The Court: Okay, all right, well you will not
4 be allowed to deliberate with the jury; you are free to go
5 at this time. You're free to stay at this time, whatever
6 you want to do. If you want to stay and see how it turns
7 out you can do that; if you want to go you're free to go.
8 That would also conclude your services as juror for this
9 entire week and I want to thank you for your service, okay?
10 Thank you very much, please take care.

11 (Whereupon, the alternate exits the courtroom.)

12 The Court: All right, we'll be at ease until we
13 hear from the jury.

14 (Whereupon, the jury knocked with a verdict at
15 12:30 p.m.)

16 The Court: All right, I understand the jury has
17 reached a verdict; is that correct?

18 The Bailiff: Yes, sir.

19 The Court: All right, and I also understand
20 that the defendant is now present; is that correct?

21 The Bailiff: Yes, sir.

22 The Court: All right, let's go ahead and bring
23 him in.

24 (Whereupon, Defendant Chestnut enters the
25 courtroom.)

1 The Court: All right, sir, you're Mr. Antoine
2 F. Chestnut?

3 Defendant Chestnut: Yes, sir.

4 The Court: All right, let the record reflect, I
5 want to put this on the record outside of the presence of
6 the jury, let the record reflect that Mr. Chestnut is now
7 present and is in the courtroom for the reading of the
8 verdict, therefore, we will upon the reading of the
9 verdict, certainly if it's a not guilty verdict then
10 there's no consequence, if there is a guilty verdict there
11 will not be a need for me to seal the verdict since he is
12 now present in the courtroom and I can advise him of his
13 verdict, okay.

14 Ms. Williams: Yes, sir.

15 The Court: All right, anything from the State
16 before we bring the jury in?

17 Mr. Hucks: Nothing, Your Honor.

18 The Court: Anything from the defense?

19 Ms. Williams: Nothing from the defense, Your
20 Honor.

21 The Court: All right, let's go ahead and bring
22 the jury in, thank you.

23 (Whereupon, the jury entered the courtroom at
24 1:41 p.m. to deliver its verdict as to defendant Antoine F.
25 Chestnut.)

1 The Court: Ladies and gentlemen, welcome back,
2 Mr. Burr, I understand that the jury has reached a verdict;
3 is that correct?

4 Mr. Foreman: Yes, sir, we have.

5 The Court: All right, if you'd, please, give
6 the verdict to the bailiff.

7 All right, I'll ask the Clerk to, please, publish
8 the verdict.

9 Madam Clerk: Indictment number 2011-GS-26-2215,
10 The State of South Carolina County of Horry v. Antoine F.
11 Chestnut on the charge of trafficking cocaine base we the
12 jury unanimously find the defendant guilty, dated October
13 7th, 2011, signed by foreperson Jay Burr, Juror Number 37.
14 Ladies and gentlemen of the jury, if this is your verdict
15 so signify by raising your right hand.

16 (Whereupon, all jurors responded affirmatively.)

17 Madam Clerk: Thank you.

18 The Court: All right, please let the record
19 reflect that all jurors raised their right hand. Any
20 polling of the jury by the defense?

21 Ms. Williams: Yes, sir, we would request
22 polling.

23 The Court: All right, ladies and gentlemen,
24 we're going to poll the jury at this point in time and what
25 that means is when the Clerk calls your name if you would,

1 please, stand and she's going to ask you two questions.
2 Number one, is this your verdict, and number two, is this
3 still your verdict, and then once you answer those
4 questions you can be seated, okay, so please listen up for
5 your name and, please, just we'll do it by jury numbers.
6 You don't, she won't be calling your name, she'll just be
7 calling your jury number, so please listen up.

8 Madam Clerk: Juror Number 276, is this your
9 verdict?

10 Jury Panel Member: Yes, ma'am.

11 Madam Clerk: Is this still your verdict?

12 Jury Panel Member: Yes, ma'am.

13 Madam Clerk: Thank you, 290, is this your
14 verdict?

15 Jury Panel Member: Yes, ma'am.

16 Madam Clerk: Is this still your verdict?

17 Jury Panel Member: Yes, ma'am.

18 Madam Clerk: Thank you, 166, is this your
19 verdict?

20 Jury Panel Member: Yes, ma'am.

21 Madam Clerk: Is this still your verdict?

22 Jury Panel Member: Yes, ma'am.

23 Madam Clerk: Thank you, 294, is this your
24 verdict?

25 Jury Panel Member: Yes, ma'am.

1 Madam Clerk: Is this still your verdict?

2 Jury Panel Member: Yes, ma'am.

3 Madam Clerk: Thank you, 309, is this your
4 verdict?

5 Jury Panel Member: Yes, ma'am.

6 Madam Clerk: Is this still your verdict?

7 Jury Panel Member: Yes, ma'am.

8 Madam Clerk: Thank you, 18, is this your
9 verdict?

10 Jury Panel Member: Yes, ma'am.

11 Madam Clerk: Is this still your verdict?

12 Jury Panel Member: Yes, ma'am.

13 Madam Clerk: Thank you, 37, is this your
14 verdict?

15 Jury Panel Member: Yes, ma'am.

16 Madam Clerk: Is this still your verdict?

17 Jury Panel Member: Yes, ma'am.

18 Madam Clerk: Thank you, 68, is this your
19 verdict?

20 Jury Panel Member: Yes.

21 Madam Clerk: Is this still your verdict?

22 Jury Panel Member: Yes.

23 Madam Clerk: Thank you, 198, is this your
24 verdict?

25 Jury Panel Member: Yes, ma'am.

1 Madam Clerk: Is this still your verdict?

2 Jury Panel Member: Yes, ma'am.

3 Madam Clerk: Thank you, 180, is this your
4 verdict?

5 Jury Panel Member: Yes, ma'am.

6 Madam Clerk: Is this still your verdict?

7 Jury Panel Member: Yes, ma'am.

8 Madam Clerk: Thank you, 197, is this your
9 verdict?

10 Jury Panel Member: Yes, ma'am.

11 Madam Clerk: Is this still your verdict?

12 Jury Panel Member: Yes, ma'am.

13 Madam Clerk: Thank you, 108, is this your
14 verdict?

15 Jury Panel Member: Yes, ma'am.

16 Madam Clerk: Is this still your verdict?

17 Jury Panel Member: Yes, ma'am.

18 Madam Clerk: Thank you.

19 The Court: All right, ladies and gentlemen,
20 thank you very much, that will conclude your services as
21 jurors not only for this case but for the week. I want to
22 thank you for your service. I'm going to excuse you back
23 to the jury room very briefly. I want to come back and
24 thank you personally for your service not just for this
25 case but for this week. You have been of great assistance

1 throughout this entire week. It will only be for a few
2 minutes and I'll be back to see you in just a second, thank
3 you very much. Everyone else, please, remain seated while
4 the jury is excused.

5 (Whereupon, the jury retired to the jury room at
6 1:45 p.m.)

7 The Court: All right, any post trial motions at
8 this time?

9 Ms. Williams: Yes, sir, we would renew our, our
10 motion and ask that we did at the close of the State's
11 case, Your Honor, we would ask that the judge step in as
12 the thirteenth juror and we would ask that the charges
13 against Mr. Chestnut be dismissed based on those prior
14 reasonings.

15 The Court: All right, your motion is noted, I'm
16 going to deny it. I think there was sufficient evidence to
17 support the jury's verdict in this case. Anything else at
18 this time?

19 Ms. Williams: Nothing from the defense, Your
20 Honor.

21 The Court: All right, and you still have some
22 time limitations to make some post trial motions if you
23 choose to. I don't know if there's any others or not.

24 Ms. Williams: Thank you.

25 The Court: All right, any reason not to go

1 ahead and impose sentence at this time?

2 Mr. Hucks: None, Your Honor, I have a certified
3 copies of the defendant's record and a sentencing sheet
4 here for Your Honor.

5 The Court: All right, go ahead and hand up the
6 sentencing sheet. All right, Mr. Chestnut, if you'd,
7 please, stand?

8 The Court: All right, Ms. Williams, anything in
9 mitigation?

10 Ms. Williams: Your Honor, the Judge was here
11 throughout the trial of this case, Your Honor, Antoine is
12 here now. He, he was here in Loris when he was found. He
13 tells me that the reason he wasn't here for trial was as he
14 didn't really want to run, he just needed to, to be able to
15 take care of some things on his first child. We would ask,
16 Your Honor, to be as lenient as you can be given the
17 situation. Is there anything you want to say?

18 The Court: All right, Mr. Chestnut, I'll hear
19 from you or anybody that wants to speak on your behalf.
20 You don't have to speak if you don't want to, I just give
21 the opportunity to if you want to say something.

22 Defendant Chestnut: Yes, sir, I just, I just
23 ask that you be, just be lenient and, and give me the
24 minimum. I wasn't running, trying to run or anything, Your
25 Honor. Like I previously told you, I think I told you

1 about my son, I was just trying to just get everything
2 straightened out with him. He's doing a little better now
3 and I just ask for the mercy of the court, Your Honor.

4 The Court: Thank you, sir. All right, prior
5 criminal record?

6 Mr. Hucks: Yes, Your Honor, I have a certified
7 convictions, would you like me to pass them up to make them
8 part of the Court's record or is that required?

9 The Court: No, you can just read them to me and
10 tell me what they are.

11 Mr. Hucks: Yes, Your Honor, he has a 1997
12 possession of marijuana over an ounce. He has, let me get
13 the date right, he has a conviction on August 14th of 2003
14 for distribution of powder cocaine. And he has a 2006
15 conviction of PWID crack first offense. Those would be his
16 prior drug offenses, Your Honor.

17 The Court: All right, any other criminal
18 record?

19 Mr. Hucks: A simple possession from 2008.

20 The Court: Simple possession?

21 Mr. Hucks: Of marijuana.

22 The Court: Marijuana?

23 Mr. Hucks: Yes, sir, Your Honor.

24 The Court: Okay.

25 The Court: All right, Mr. Chestnut, the jury

1 has found you guilty. The sentence of the Court is that
2 you be confined to the State Department of Corrections for
3 25 years and pay a fine of \$50,000. You'll be given credit
4 for any time served thus far. That's the mandatory minimum
5 sentence that can be imposed for trafficking third offense.
6 All right, yes, sir?

7 Defendant Chestnut: Trafficking third?

8 The Court: Yes, in other words since it's your
9 third drug offense, it doesn't mean that it's third
10 trafficking offense, it means that it is your third drug
11 possession offense and it's a trafficking offense so the
12 two prior distributions count as a first and a second and
13 then this is a third offense and it's a trafficking. It
14 carries a mandatory minimum sentence of twenty-five years
15 and a \$50,000 fine. All right, thank you, sir. All right,
16 anything else?

17 Mr. Hucks: Nothing from the State, Your Honor.

18 The Court: Anything from the defense?

19 Ms. Williams: No, sir.

20 The Court: All right, Court is adjourned.

21 End of requested transcript - - - -
22
23
24
25

CERTIFICATE OF REPORTER

I, the undersigned Brenda R. Babb, official court reporter the South Carolina Court Administration, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina.

I do further certify that I am neither kin, counsel nor interest to any party hereto.

January 20, 2012

Brenda R. Babb

Brenda R. Babb, CVR
OFFICIAL REPORTER

WITNESSES

David Crocker Horry County Police Department

The State of South Carolina

County of Horry

J. Scott Hicks

10H01054

COURT OF GENERAL SESSIONS

June, 2011 TERM

ARREST WARRANT NUMBER

2011GS2602215

CDR: 0452 44-53-0375(C)(1)(c)

DOA: 5/15/2010

THE STATE

VS.

Antoine F Chestnut
B/M
270 Ivystone Dr Unit D
Myrtle Beach, SC 29588-1244
DOB: 1977-04-09
SSN: 247538018

ACTION OF GRAND JURY

TRUE BILL

Brian Lima

Foreperson of Grand Jury

JUN 30 2011

Date:

ATTORNEY: Williams, Brana J.

VERDICT

Guilty

Indictment for

TRAFFICKING COCAINE BASE

ORIGINAL

Foreperson of Petit Jury *Jay B.*

Date: 10/7/11

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on June 30, 2011, the Grand Jurors of Horry County present upon their oath:


TRAFFICKING COCAINE BASE
MORE THAN 10 GRAMS, LESS THAN 28 GRAMS

CDR: 0452 44-53-0375(C) (1) (c)

That Antoine F Chestnut did in Horry County on or about May 7, 2010, knowingly, sell, deliver, purchase, or bring into this state; or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this state, or was in actual or constructive possession or attempted to become in actual or constructive possession of a quantity of Cocaine Base in an amount of more than ten grams but less than twenty-eight grams, same being a controlled substance all within the meaning of Section 44-53-110, et seq.

S. C. Code of Laws, 1976, as amended, such possession not having been authorized and in violation of Section 44-53-375(C)(1), S. C. Code of Laws, 1976, as amended, for the crime of trafficking.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry
STATE VS.

INDICTMENT/CASE#: 2011GS2602215

Antoine F Chestnut

A/W#: 2011GS2602215

AKA: _____

Date of Offense: 5/7/2010

Race: BLACK Sex: M Age: 34

S.C. Code §: 44-53-0375(C)(1)(c)

DOB: 04-09-1977 SS#: 247-53-8018

CDR Code #: 0452

Address: 1320 Turkey Ridge Road Apt B

City, State, Zip: Surfside Beach, SC 29575

DL#: 011248649 SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Drugs / Trafficking in ice, crack or crack - 10 g or more, but less than 28 g - 3rd or sub. offense (Fcl., 25Y to 30Y)

CONVICTED OF or PLEADS:

in violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0452
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: _____ SCB76948
Hucks, J. Scott SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center.
for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ 50,000.00; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 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.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-26-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED
 Set by SCDPPPS Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling

Recipient: _____ Random Drug/Alcohol testing

*Fine: \$ 50,000
§ 14-1-206 (Assessments 107.5 %) \$ 53,150
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
§ 56-5-2995 (DUI Assessment) \$12 \$ _____
§ 56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforc. Funding) \$25 \$ 35.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 100.00
§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3,119.40
TOTAL \$ 107,099.40

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 11/07/10
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

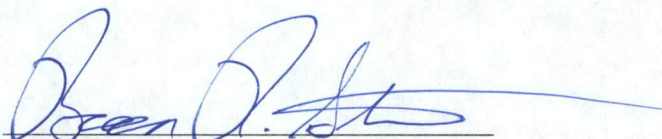
Clerk of Court/ Deputy Clerk Melanie Huggins Ward
Court Reporter: Brenda Bahu
SCCA/217 (03/2011)

Presiding Judge Maryann T. Culbertson
Judge Code: 2148
Sentence Date: Oct. 7, 2011

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 12th day of September 12, 2012



Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL