

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

William P. Keesley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICHARD JONES,

APPELLANT

APPELLATE CASE NO. 2012-212542

RECORD ON APPEAL

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Appellate Defender

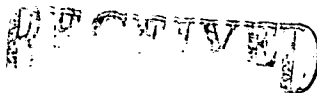
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FEB 04 2013
SC Court of Appeals

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7	Plaintiff.	)	
8	vs.	)	Transcript of Record
9		)	
10	Richard Freeland Jones,	)	
	Defendant.	)	
11			
12			
13	July 11-13, 2012		
14	Lexington, South Carolina		
15			
16	<u>B E F O R E:</u>		
17	The Honorable William P. Keesley, Judge and a jury.		
18			
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JURY VOIR DIRE

THE COURT: All right. Ladies and gentlemen of the jury, we brought you back in today to possibly serve as jurors on a second case.

Call your case, Solicitor.

MR. ROSS: Thank you, Your Honor, may it please the Court?

THE COURT: Yes.

MR. ROSS: The State calls Richard Jones to trial. This is Indictment 2011-GS-32-628, an indictment for manufacturing methamphetamine.

THE COURT: Ladies and gentlemen of the jury panel, please give me your attention. We're about to select a jury to try a case that's captioned the State versus Richard Freeland Jones. Mr. Jones is charged in an indictment with the offense of manufacturing methamphetamine.

The indictment alleges that Richard Freeland Jones did, in Lexington County, South Carolina, on or about November 19, 2010, knowingly, intentionally, willfully, and unlawfully manufacture or otherwise aid, abet, attempt or conspire to manufacture a quantity of methamphetamine, a controlled substance under the provisions of Sections 44-53-110 and subsequent sections; and in violation of Section 44-53-375, subsection B of the Code of Laws of

1 South Carolina, 1976, as amended.

2 Upon his arraignment on this charge Mr. Jones has
3 entered a plea of not guilty. He is presumed to be
4 innocent. The State has the entire burden of proof in the
5 case and has to prove every essential element of the
6 offense charged against Mr. Jones beyond a reasonable
7 doubt. The indictment is not evidence of anything. An
8 indictment is the charging paper. It is the formal means
9 by which someone is charged and brought to trial. You may
10 not give an indictment any evidentiary value.

11 Now, we'll go through the same process as we did on
12 Monday. Remember that you're under oath. Remember that if
13 you have any doubt about whether any of these questions
14 apply to you, you should discuss it with me and let me
15 resolve the doubt. Remember that if you ever prefer to
16 discuss anything more privately, you may come down front
17 and we'll talk about it over here on the side.

18 All right. Is Richard Freeland Jones in the
19 courtroom?

20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** I need you to stand, please; and turn
22 and face the jury.

23 (WHEREUPON the defendant complies.)

24 **THE COURT:** Thank you, sir, you be seated.

25 Is there any member of the jury panel who is

1 related by blood or marriage or connected by employment
2 with the defendant in this case, Richard Freeland Jones?
3 If so, please stand.

4 (WHEREUPON there was no response from the jury
5 venire.)

6 THE COURT: Mr. Jones will be represented by
7 Mr. Eric Drylie and Ms. Beth Fullwood.

8 (WHEREUPON the attorneys stood and faced the jury
9 venire.)

10 THE COURT: Thank you, folks.

11 The following persons have been identified as
12 potential witnesses in the case. This is a rather long
13 list. If any of these people are here at this time, I need
14 that person to stand as his or her name is called. If
15 anyone stands I'll direct the jury's attention to that
16 person.

17 Detective Travis Bass of the Lexington County
18 Sheriff's Department is over here to my right.

19 (WHEREUPON the witness stood.)

20 THE COURT: Thank you.

21 Agent Frank Finch of the Lexington County Sheriff's
22 Department; Lieutenant Thomas Hamilton, of the Lexington
23 County Sheriff's Department. He's here at the counsel
24 table.

25 (WHEREUPON the witness stood.)

1 THE COURT: Thank you.

2 Beth Harmon, Lexington County Sheriff's Department;
3 Chris Harris; Emily Homer, with the Lexington County
4 Sheriff's Department; Agent Ray Hill of -- formerly of
5 Lexington County Sheriff's Department, now retired.

6 Can you face that way?

7 (WHEREUPON the witness stood.)

8 THE COURT: Thank you, sir.

9 Candy Kyzer, of the Lexington County Sheriff's
10 Department; Deputy Brandon Marthers, M-a-r-t-h-e-r-s,
11 Lexington County Sheriff's Department.

12 (WHEREUPON the witness stood.)

13 THE COURT: Thank you, sir.

14 Scott Peacock; Investigator Mike Phipps, from the
15 Lexington County Sheriff's Department; Gary Vogler,
16 V-o-g-l-e-r; Agent Dennis Tracy, of the Lexington County
17 Sheriff's Department; Chief Eddie Turner of the Lexington
18 County Fire Service. He's over here to my right.

19 (WHEREUPON the witness stood.)

20 THE COURT: Thank you, sir.

21 Ben Walker; Terrell Watson; Patrick Wicker; Lee
22 Connelly; Jill Smith, to my right.

23 (WHEREUPON the witness stood.)

24 THE COURT: Thank you.

25 And Harold Taylor.

1 Are any of you related by blood or marriage or
2 connected by employment with any of the potential witnesses
3 in the case? If so, please stand.

4 (WHEREUPON there was no response from the jury
5 venire.)

6 THE COURT: The State will be represented by
7 Mr. Michael Ross, who is with the Solicitor's Office of the
8 11th Judicial Circuit.

9 (WHEREUPON Mr. Ross stood and faced the jury
10 venire.)

11 THE COURT: Thank you, sir.

12 Do any of you know anything at all about this
13 matter? Do any of you have any knowledge whatsoever about
14 the underlying factual allegations? Have you heard, seen,
15 or read anything about this through any media outlet; have
16 you overheard any conversations about it? Do you know
17 anything whatsoever about this case, this matter? If so,
18 please stand.

19 (WHEREUPON there was no response from the jury
20 venire.)

21 THE COURT: Now, I've asked you if you are related
22 by blood or marriage or connected by employment with anyone
23 who's a potential witness or with the defendant. What I
24 need for you to do now is if you have any connection of any
25 kind with any of the people involved in the case, the

1 attorneys, the law enforcement agencies, the sheriff's
2 department, the Lexington County Fire Service, the
3 Solicitor's Office, if you've got any connection of any
4 kind with any people or any entity involved in this case
5 you need to disclose that to us. That would include such
6 things as being a friend, a neighbor, attending the same
7 church or civic clubs, ever having been represented by one
8 of these attorneys or anyone with whom they're affiliated,
9 ever been on the opposite side of a case involving one of
10 these attorneys or anyone with whom they're affiliated; any
11 connection at all you need to tell us about it. If so,
12 please stand.

13 (WHEREUPON some jurors stood.)

14 THE COURT: On the aisle, your name, sir?

15 THE JUROR: Can I approach?

16 THE COURT: Sure.

17 What's your name, ma'am?

18 THE JUROR: Loretta Anne Reynolds.

19 THE COURT: Ms. Reynolds is Juror No. 163.

20 And what's your situation?

21 THE JUROR: I just know Eddie Turner. Not
22 personally, but I just know of him.

23 THE COURT: All right. You know of Chief Turner?

24 THE JUROR: Yes.

25 THE COURT: Is there anything at all about your

1 relationship with him, your knowledge of him, that would
2 affect in any way your ability to be a fair and impartial
3 juror in the case?

4 THE JUROR: No, sir.

5 THE COURT: Do you have any doubt in your mind?

6 THE JUROR: No, sir.

7 THE COURT: Would you have any concern about what
8 he may think of your decision?

9 THE JUROR: No, sir.

10 THE COURT: All right. Thank you, ma'am.

11 Ms. Reynolds, 163, she's eligible to serve.

12 Yes, ma'am, what's your name?

13 THE JUROR: Robyn Northcutt, I'm No. 149.

14 THE COURT: Ms. Northcutt's 149.

15 What's your situation?

16 THE JUROR: My husband works part time for
17 Lexington County Fire Service.

18 THE COURT: Would he be supervised by the chief?

19 THE JUROR: Yes.

20 THE COURT: I'm going to set you aside on this
21 case, Ms. Northcutt. Just stay with us for further
22 instructions.

23 Okay. 149 is set aside on the second case.

24 Your name, sir?

25 THE JUROR: John Geanangel, 75.

1 THE COURT: Mr. Geanangel is Juror No. 75.

2 What's your situation?

3 THE JUROR: I'm personal friends with Ms. Beth
4 Fullwood. We're in a small horticulture group together.

5 THE COURT: Is there anything about your
6 relationship or experience with Ms. Fullwood that would
7 affect your ability to be a fair and impartial juror in the
8 case?

9 THE JUROR: No, sir.

10 THE COURT: Can you decide the case without regard
11 to what she may think of your decision?

12 THE JUROR: Yes, sir.

13 THE COURT: Do you have any doubt in your mind
14 about your ability to be fair and impartial?

15 THE JUROR: No, sir.

16 THE COURT: Thank you, sir.

17 Mr. Geanangel, Juror No. 75, he's eligible to
18 serve.

19 All right. The lawyers may join me on the side.
20 If Mr. Jones wants to join us, he's welcome too.

21 (WHEREUPON there was a bench conference out of the
22 hearing of the jury venire, on the record.)

23 THE BAILIFF: Juror No. 160, Your Honor.

24 THE COURT: Mr. Rauch?

25 THE JUROR: Yes, sir.

1 THE COURT: What's your situation?

2 THE JUROR: You called the name of a potential -- a
3 witness for the prosecution, I believe --

4 THE COURT: I don't -- go ahead.

5 THE JUROR: That could potentially be -- if it's
6 Scott or Scotty that once resided or still resides on
7 Idlewood Circle. It could be a neighbor of mine that's a
8 youth.

9 THE COURT: Do y'all know?

10 MR. ROSS: It is Idlewood.

11 THE COURT: Okay. That's who it is. Would that
12 affect your ability to be fair and impartial?

13 THE JUROR: Yes, sir..

14 THE COURT: Okay. I'll set you aside on this case.
15 Don't discuss any of that with your fellow jurors, please.

16 THE JUROR: Yes, sir.

17 THE COURT: Thank you.

18 160, Mr. Rauch, is set aside on the second trial.

19 (WHEREUPON the bench conference ended.)

20 THE COURT: Is there anything at all about the
21 nature of the allegations themselves, that is the
22 allegation that Mr. Jones was engaged in manufacturing
23 methamphetamine, that would in any way affect your ability
24 to be a fair and impartial juror in this case? If so,
25 please stand.

1 (WHEREUPON a juror stood.)

2 THE COURT: What's your name please?

3 THE JUROR: Laura Shaleuly.

4 THE COURT: Say it again for me, please.

5 THE JUROR: Laura Shaleuly, 178.

6 THE COURT: 178, Ms. Shaleuly, you're set aside on
7 the second trial. Thank you. Just stay with us, please.

8 Have any of you or any of your immediate family
9 members or close personal friends ever been employed in any
10 capacity for a law enforcement agency or a prosecutor's
11 office at any level: Federal, state, local, or military?
12 If so, please stand.

13 (WHEREUPON some jurors stood.)

14 THE COURT: I realize we may have gone over this in
15 another case, but we've got to do it again.

16 In the center, your name, please?

17 THE JUROR: Brenda Hutto. My son-in-law works for
18 the federal jail.

19 THE COURT: Ms. Hutto is Juror No. 98. Her
20 son-in-law works at the federal prison in Edgefield.

21 Is there anything about that that affects your
22 ability to be a fair and impartial juror in the case?

23 THE JUROR: No, sir.

24 THE COURT: Any doubt in your mind?

25 THE JUROR: No, sir.

1 THE COURT: 98 is eligible to serve.

2 Yes, ma'am, on the aisle?

3 THE JUROR: 204, Ruth Treaster, my son is Benjamin
4 Treaster, he's a deputy for Lexington County Sheriff's
5 Department.

6 THE COURT: Ms. Treaster is Juror No. 204, her son
7 is a deputy. She's set aside on this trial. She has a son
8 who is employed by the prosecuting law enforcement agency.

9 THE JUROR: No. 42 Barbara Crist.

10 THE COURT: Ms. Crist, Juror No. 42, your nephew
11 is -- you don't know if he's a deputy or...

12 THE JUROR: He works for the Sheriff's Department
13 of Lexington County.

14 THE COURT: Ms. Crist is Juror No. 42. Her nephew
15 is employed with the Lexington County Sheriff's Department.
16 She's set aside on the second case.

17 Thank you, ma'am.

18 All right. Now, closest to the wall.

19 THE JUROR: Robin Ellis, No. 57. I worked as a
20 dispatcher at Aiken Public Safety.

21 THE COURT: Anything about that that affects your
22 ability to be a fair and impartial juror in the case?

23 THE JUROR: No, sir.

24 THE COURT: Any doubt in your mind?

25 THE JUROR: None at all.

1 **THE COURT:** Thank you, sir.

2 Mr. Ellis is Juror No. 57, eligible to serve.

3 Yes, sir?

4 **THE JUROR:** Glenn Forde, No. 66. My son was a
5 former officer for West Columbia. Now, he's down in
6 Florida.

7 **THE COURT:** Is he working in law enforcement in
8 Florida?

9 **THE JUROR:** Yes, sir.

10 **THE COURT:** Anything at all about your relationship
11 with your son or experiences that affects your ability to
12 be a fair and impartial juror in this case?

13 **THE JUROR:** No, sir.

14 **THE COURT:** Any doubt in your mind?

15 **THE JUROR:** No, sir.

16 **THE COURT:** Thanks very much.

17 Mr. Forde is Juror No. 66. He's eligible to serve.
18 On the aisle?

19 **THE JUROR:** I'm Juror Number 199, Ronnie Thompkins.
20 My nephew-in-law is a police officer with the Myrtle Beach
21 Police Department.

22 **THE COURT:** 199, Mr. Thompkins. Myrtle Beach?

23 **THE JUROR:** Yes, sir.

24 **THE COURT:** Anything at all about your relationship
25 with him or your experiences that affects your ability to

1 be a fair and impartial juror in this case?

2 THE JUROR: No, sir.

3 THE COURT: Any doubt in your mind?

4 THE JUROR: No, sir.

5 THE COURT: Mr. Thompkins is 199. He's eligible to
6 serve.

7 Yes, sir?

8 THE JUROR: 175, Melvin Searles. My wife worked
9 for Judge Wilson in family court twenty years ago.

10 THE COURT: Mr. Searles is Juror No. 175. His wife
11 was a staff member of Circuit Court Judge Wilson twenty
12 years ago.

13 Anything about that experience that affects your
14 ability to be a fair and impartial juror in the case?

15 THE JUROR: No, sir.

16 THE COURT: Any doubt in your mind?

17 THE JUROR: No, sir.

18 THE COURT: Thank you. 175, Mr. Searles, is
19 eligible to serve.

20 Yes, sir?

21 THE JUROR: My stepbrother is a lieutenant.

22 THE COURT: I need your name.

23 THE JUROR: 32, Barry Clonts.

24 THE COURT: Mr. Clonts is Juror No. 32.

25 Your stepbrother is from Cayce Public Safety?

1 THE JUROR: Yes, sir.

2 THE COURT: Anything about that that affects your
3 ability to be a fair and impartial juror in this case?

4 THE JUROR: No, sir.

5 THE COURT: Any doubt in your mind?

6 THE JUROR: No, sir.

7 THE COURT: Thank you very much.

8 Mr. Clonts, Juror No. 32, he's eligible to serve.

9 Yes, sir?

10 THE JUROR: Gary Bagwell, Juror No. 4. My father
11 was a police officer before I was born in D.C.

12 THE COURT: Anything about your relationship with
13 him or experiences that affects your ability to be a fair
14 and impartial juror in this case?

15 THE JUROR: No, sir.

16 THE COURT: Any doubt in your mind?

17 THE JUROR: No, sir.

18 THE COURT: Thank you.

19 Mr. Bagwell is Juror No. 4. He's eligible to
20 serve.

21 Are any of you members of or financial contributors
22 to any organization that has as one of its primary purposes
23 the promotion of law enforcement, drug awareness, or
24 victim's rights? That would include organizations such as
25 Mothers Against Drunk Driving, Students Against Drunk

1 Driving, Citizens Against Violent Crime, any DARE program,
2 any shelter for abused persons, anything like that. If any
3 of you have any connection either by being a member of,
4 financial contributor to it, or if anybody very close to
5 you has such an association, please let us know about it.

6 (WHEREUPON there was no response from the jury
7 venire.)

8 THE COURT: Have any of you or anyone very close to
9 you, to the best of your knowledge, ever sought assistance
10 from or worked in any capacity at any center dealing with
11 prevention or treatment of substance abuse? If so, please
12 stand.

13 (WHEREUPON there was no response from the jury
14 venire.)

15 THE COURT: Have any of you or anyone very close to
16 you ever been adversely affected by use of drugs or by drug
17 abuse? If so, please stand, we'll talk about it down
18 front.

19 (WHEREUPON some jurors stood.)

20 THE COURT: Form a line right there for me, please.
21 The lawyers and the defendant may join me on the
22 side if you want.

23 (WHEREUPON a bench conference was held out of the
24 hearing of the jury venire and on the record.)

25 THE COURT: Yes, sir?

1 THE BAILIFF: Juror No. 58, Your Honor.

2 THE COURT: Mr. Erickson?

3 THE JUROR: That's right. My ex-wife, as a result,
4 I have full custody of my children; I think was arrested by
5 one of these officers for trafficking in Lexington County.

6 THE COURT: Would that affect your ability to be
7 fair and impartial as a juror in the case?

8 THE JUROR: I believe so.

9 THE COURT: Thank you. Don't discuss that with
10 your fellow jurors, please.

11 Mr. Erickson is Juror No. 58. He's set aside on
12 this trial.

13 Yes, sir?

14 THE BAILIFF: Juror No. 225, Your Honor.

15 THE COURT: Ms. Zanca?

16 THE JUROR: Yes, sir.

17 THE COURT: What's your situation?

18 THE JUROR: My brother-in-law was arrested for
19 alcohol abuse and I believe it was heroin. It was an
20 injection of something.

21 THE COURT: Okay. Is there anything at all about
22 that experience or your relationship with him that affects
23 your ability to be fair and impartial in this case?

24 THE JUROR: No, sir.

25 THE COURT: Any doubt in your mind?

1 THE JUROR: No, sir.

2 THE COURT: Thank you very much.

3 Ms. Zanca is 225, she's eligible to serve.

4 Yes, ma'am?

5 THE BAILIFF: Juror No. 5.

6 THE COURT: Ms. Baker-Marsh?

7 THE JUROR: Yes.

8 THE COURT: What's your situation?

9 THE JUROR: My husband had some issues back in the
10 '80s.

11 THE COURT: Okay. And is there anything at all
12 about that experience or your relationship with him that
13 affects your ability to be a fair and impartial juror in
14 this case?

15 THE JUROR: No, sir.

16 THE COURT: Any doubt in your mind?

17 THE JUROR: No, sir.

18 THE COURT: Thank you, ma'am.

19 Ms. Baker-Marsh is Juror No. 5. She's eligible to
20 serve.

21 Yes, ma'am?

22 THE BAILIFF: Juror No. 161, Your Honor.

23 THE COURT: Ms. Ravenell.

24 THE JUROR: Yes.

25 THE COURT: What's your situation?

1 **THE JUROR:** My daughter had to go through substance
2 abuse treatment through LRADAC last year.

3 **THE COURT:** Anything to do with methamphetamine?

4 **THE JUROR:** No, sir.

5 **THE COURT:** Anything at all about that experience
6 or your relationship with your daughter that affects your
7 ability to be fair and impartial in this case?

8 **THE JUROR:** No, sir.

9 **THE COURT:** Any doubt in your mind?

10 **THE JUROR:** No.

11 **THE COURT:** Thank you very much.

12 Ms. Ravenell is Juror No. 161. She's eligible to
13 serve.

14 Yes, sir?

15 **THE BAILIFF:** Juror No. 38, Your Honor.

16 **THE COURT:** Mr. Cordes?

17 **THE JUROR:** Yes, sir.

18 **THE COURT:** What's your situation?

19 **THE JUROR:** I'm a human resources director for a
20 company. It's our responsibility to enforce our drug
21 policy and rehabilitate or suspend employees as a result of
22 that.

23 **THE COURT:** Okay. Anything at all about your
24 employment, your experiences, that affects your ability to
25 be fair and impartial as a juror in this case?

1 THE JUROR: No, sir.

2 THE COURT: Any doubt in your mind?

3 THE JUROR: No, sir.

4 THE COURT: Thank you, sir.

5 Mr. Cordes is Juror No. 38. He's eligible to
6 serve.

7 Yes, ma'am?

8 THE BAILIFF: Juror No. 72, Your Honor..

9 THE JUROR: I don't know if it applies if it has to
10 do with alcohol.

11 THE COURT: Yes, ma'am.

12 THE JUROR: My husband had a drunk driving offense
13 twenty years ago.

14 THE COURT: Okay. Was he required to get
15 treatment?

16 THE JUROR: No.

17 THE COURT: Anything at all about that experience
18 or your relationship with him that affects your ability to
19 be fair and impartial?

20 THE JUROR: No.

21 THE COURT: Any doubt in your mind?

22 THE JUROR: None.

23 THE COURT: Thank you.

24 Ms. Furr is Juror No. 72. She's eligible to serve.

25 Yes, ma'am?

1 THE BAILIFF: Juror No. 70, Your Honor.

2 THE COURT: Ms. Frederick?

3 THE JUROR: Uh-huh. My sister-in-law was convicted
4 of manufacturing and selling marijuana and manufacturing
5 coke and her children were taken away from DEA. I
6 personally bailed her out. My husband and I attended all
7 of her drug classes and everything.

8 THE COURT: Okay. Was that in Lexington County?

9 THE JUROR: No, that was in San Diego, California.

10 THE COURT: Okay. Is there anything about your
11 relationship with her or your experiences that affects your
12 ability to be fair and impartial in this case?

13 THE JUROR: No.

14 THE COURT: Any doubt in your mind?

15 THE JUROR: No.

16 THE COURT: Thanks very much.

17 Ms. Frederick is Juror No. 70. She's eligible to
18 serve.

19 Yes, ma'am?

20 THE BAILIFF: Juror No. 180, Your Honor.

21 THE COURT: Ms. Shirley?

22 THE JUROR: Yes.

23 THE COURT: What's your situation?

24 THE JUROR: Your Honor, I have a niece that's
25 always had a drug problem and drinking problem.

1 THE COURT: Do you know if any of it involves
2 methamphetamine?

3 THE JUROR: I do not.

4 THE COURT: Okay.

5 THE JUROR: It's been kept very private.

6 THE COURT: Anything at all about that relationship
7 or your experiences that affects your ability to be fair
8 and impartial in this case?

9 THE JUROR: No, it wouldn't.

10 THE COURT: I'm sorry?

11 THE JUROR: No, it would not.

12 THE COURT: Any doubt in your mind?

13 THE JUROR: No.

14 THE COURT: Thanks very much.

15 Ms. Shirley is 180. She's eligible to serve.

16 (WHEREUPON the bench conference ended.)

17 THE COURT: All right. Have any of you or has
18 anyone close to you to the best of your knowledge ever been
19 the victim of or accused of committing a crime where drugs
20 or alcohol were involved or that involved any type of
21 criminal domestic violence? If so, please stand.

22 (WHEREUPON some jurors stood.)

23 THE COURT: Come down front.

24 (WHEREUPON a bench conference was held out of the
25 hearing of the jury venire, on the record.)

1 THE BAILIFF: Juror No. 60, Your Honor.

2 THE COURT: Mr. Fabrizio?

3 THE JUROR: Yes, sir.

4 THE COURT: What's your situation?

5 THE JUROR: I was charged with possession of
6 marijuana last year, but I got cleared.

7 THE COURT: How did you get cleared?

8 THE JUROR: I worked with the drug task force.

9 THE COURT: Was this in Lexington County?

10 THE JUROR: This was in Beaufort County.

11 THE COURT: Okay. So they dropped the charge?

12 THE JUROR: Yes, sir.

13 THE COURT: Anything about your experience that
14 affects your ability to be a fair and impartial juror in
15 the case?

16 THE JUROR: No, sir.

17 THE COURT: Any doubt in your mind?

18 THE JUROR: No, sir.

19 THE COURT: Thank you.

20 Mr. Fabrizio is Juror No. 60. He's eligible to
21 serve.

22 Yes, ma'am?

23 THE BAILIFF: Juror No. 98, Your Honor.

24 THE COURT: Okay. Ms. Hutto, what's your
25 situation?

1 THE JUROR: My youngest brother, he's been in and
2 out of trouble, all different kind of things.

3 THE COURT: I think you told me before he was
4 charged with theft in Richland County?

5 THE JUROR: Yes.

6 THE COURT: Is there anything at all about his
7 experience that was related to alcohol or drugs?

8 THE JUROR: Probably. I think so.

9 THE COURT: Okay. Do you know if he was ever
10 charged with any drug offenses.

11 THE JUROR: I don't know that.

12 THE COURT: Okay. Anything about your relationship
13 with him or those experiences that affect your ability to
14 be fair and impartial as a juror?

15 THE JUROR: No, sir.

16 THE COURT: Any doubt in your mind?

17 THE JUROR: No, sir.

18 THE COURT: Thank you.

19 Juror No. 98, Ms. Hutto, is eligible to serve.

20 Yes, ma'am?

21 THE BAILIFF: Juror No. 68, Your Honor.

22 THE COURT: Ms. Fox?

23 THE JUROR: During my divorce my husband was
24 accused of criminal domestic violence and he did serve
25 community service for that.

1 THE COURT: Okay. Were you the victim?

2 THE JUROR: Yes.

3 THE COURT: Anything about that experience that
4 affects your ability to be fair and impartial in this case?

5 THE JUROR: Absolutely not.

6 THE COURT: Any doubt in your mind?

7 THE JUROR: No.

8 THE COURT: Thank you.

9 Ms. Fox is Juror No. 68 and eligible to serve.
10 Yes, ma'am?

11 THE BAILIFF: Juror No. 25, Your Honor.

12 THE COURT: 25?

13 THE CLERK: 225.

14 THE JUROR: My brother-in-law --

15 THE COURT: Wait a minute. I've got to get to you.

16 Ms. Zanca. Go ahead.

17 THE JUROR: My brother-in-law, he was arrested for
18 the trespassing and domestic violence.

19 THE COURT: Same brother-in-law?

20 THE JUROR: Same brother-in-law. He's been treated
21 and rehabilitated but...

22 THE COURT: Okay. To the best of your knowledge is
23 there anything about your relationship with him or that
24 experience that affects your ability to be fair and
25 impartial?

1 THE JUROR: No, sir.

2 THE COURT: Any doubt in your mind?

3 THE JUROR: No, sir.

4 THE COURT: Thank you.

5 Ms. Zanca is Juror No. 225, she's eligible to
6 serve.

7 Yes, ma'am?

8 THE BAILIFF: Juror No. 70, Your Honor.

9 THE COURT: Ms. Frederick, what's your situation.

10 THE JUROR: And this was for the theft, right? And
11 domestic violence?

12 THE COURT: Anything like that.

13 THE JUROR: Both my sister-in-laws, because of
14 their drug habits, would steal from people, family,
15 everybody. My sister-in-law the one that had the children
16 taken away was physically abused by her then boyfriend, at
17 the time, because of the burns, the cigarettes, and
18 punched -- and everything that you can imagine, related to
19 the addiction.

20 THE COURT: To the best of your knowledge is there
21 anything about that experience or your relationship with
22 her that affects your ability to be fair and impartial in
23 this case?

24 THE JUROR: It doesn't.

25 THE COURT: Any doubt in your mind?

1 THE JUROR: No.

2 THE COURT: Thank you.

3 Ms. Frederick is Juror No. 70 and eligible to
4 serve.

5 Yes, ma'am?

6 THE BAILIFF: Juror No. 161, Your Honor.

7 THE COURT: Okay. Ms. Ravenell, what's your
8 situation?

9 THE JUROR: My daughter was arrested for open
10 container and had to do the LRADAC treatment center.

11 THE COURT: Anything about your daughter's
12 situation or your experience with her that affects your
13 ability to be fair and impartial in this case?

14 THE JUROR: No, sir.

15 THE COURT: Any doubt in your mind?

16 THE JUROR: No.

17 THE COURT: Thank you.

18 Ms. Ravenell is 161. She's eligible to serve.

19 (WHEREUPON the bench conference ended.)

20 THE COURT: Have any of you formed or expressed
21 any opinions about the case? If so, please stand.

22 (WHEREUPON there was no response from the jury
23 venire.)

24 THE COURT: Are any of you aware of any interest,
25 bias, or prejudice that you might have for or against the

1 State; for or against the defendant, Mr. Jones; for or
2 against anyone or any entity involved in this case? If so,
3 please stand.

4 (WHEREUPON there was no response from the jury
5 venire.)

6 THE COURT: Can each of you give both the State of
7 South Carolina and the defendant, Richard Freeland Jones, a
8 fair and impartial trial? If you know of any reason why
9 you cannot, please stand now.

10 (WHEREUPON there was no response from the jury
11 venire.)

12 THE COURT: All right. I have the proposed voir
13 dire; and I think I've covered one, two, three, five, six,
14 seven -- I think I covered nine. It seems to be redundant
15 of another question. Ten and eleven -- I'm not going to
16 ask ten, eleven, twelve, thirteen, fourteen or four.

17 Anything further from the State?

18 MR. ROSS: No, Your Honor.

19 THE COURT: From the defense? Any other questions?

20 MR. DRYLIE: No, Your Honor.

21 THE COURT: Do you want to take exception to my not
22 asking those questions?

23 MS. FULLWOOD: Yes.

24 MR. DRYLIE: Yes, Your Honor.

25 THE COURT: All right. Make this a Court's

1 Exhibit, please.

2 (WHEREUPON Court's Exhibit No. 1 was marked for
3 identification.)

4 THE COURT: All right. The written voir dire is
5 now a Court's Exhibit to preserve your objection.

6 Strikes five and five?

7 MR. ROSS: Yes, Your Honor.

8 THE COURT: All right. Ladies and gentlemen, I
9 think you know the drill now. If you hear your name
10 called, gather your personal belongings and come down front
11 to the podium down there, turn around, face the direction
12 you came from, and await further instructions from the
13 clerk.

14 All right. Strikes are five and five. Madame
15 Clerk, the jury panel is qualified, please give us a jury.

16 JURY SELECTION

17 THE CLERK: Make sure you bring your personal
18 property with you when you come down to the front, please.

19 Proceed, Your Honor?

20 THE COURT: Yes, ma'am.

21 THE CLERK: 147, Howard Nelson.

22 (WHEREUPON, Howard Nelson, a white male, was called
23 forward.)

24 THE CLERK: What say you for the State?

25 MR. ROSS: Please present Mr. Nelson.

1 THE CLERK: What say for the defense?

2 MR. DRYLIE: Please present Mr. Nelson.

3 THE CLERK: Have a seat in the jury box, sir.

4 No. 199, Marian Thompsons.

5 (WHEREUPON, Marion Thompsons, a white male, was
6 called forward.)

7 THE CLERK: What say you for the State?

8 MR. ROSS: Please present Mr. Thompsons.

9 THE CLERK: What say you for the defense?

10 MR. DRYLIE: Please excuse the juror.

11 THE CLERK: Return to your seat, please, sir.

12 No. 10, Betty Beard.

13 (WHEREUPON, Betty Beard, a white female, was called
14 forward.)

15 THE CLERK: What say for the State?

16 MR. ROSS: Please present Ms. Beard.

17 THE CLERK: What say for the defense?

18 MR. DRYLIE: Please present Ms. Beard.

19 THE CLERK: Have a seat in the jury box, ma'am.

20 No. 13, Tamara Bradfield.

21 (WHEREUPON, Tamara Bradfield, a white female, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MR. ROSS: Please present Ms. Bradfield.

25 THE CLERK: What say for the defense?

1 MR. DRYLIE: Please present Ms. Bradfield.

2 THE CLERK: Have a seat in the jury box, ma'am.

3 89, Sandra Hazzard.

4 (WHEREUPON, Sandra Hazzard, a white female, was
5 called forward.)

6 THE CLERK: What say for the State?

7 MR. ROSS: Please present Ms. Hazzard.

8 THE CLERK: What say for the defense?

9 MR. DRYLIE: Please present Ms. Hazzard.

10 THE CLERK: Have a seat in the jury box, ma'am.

11 225, Mary Zanca.

12 (WHEREUPON, Mary Zanca, a white female, was called
13 forward.)

14 THE CLERK: What say for the State?

15 MR. ROSS: Please excuse Ms. Zanca.

16 THE CLERK: Return to your seat, please, ma'am.

17 75, John Geanangel.

18 (WHEREUPON, John Geanangel, a white male, was
19 called forward.)

20 THE CLERK: What say for the State?

21 MR. ROSS: Please excuse Mr. Geanangel.

22 THE CLERK: Return to your seat, please, sir.

23 57, Robin Ellis.

24 (WHEREUPON, Robin Ellis, a white male, was called
25 forward.)

1 THE CLERK: What say for the State?

2 MR. ROSS: Please present Mr. Ellis.

3 THE CLERK: What say for the defense?

4 MR. DRYLIE: Please excuse Mr. Ellis.

5 THE CLERK: Return to your seat, please, sir.

6 No. 8, Jean Barton.

7 (WHEREUPON, Jean Barton, a white female, was called
8 forward.)

9 THE CLERK: What say for the State?

10 MR. ROSS: Please present Ms. Barton.

11 THE CLERK: What say for the defense?

12 MR. DRYLIE: Please present Ms. Barton.

13 THE CLERK: Have a seat in the jury box, ma'am.

14 No. 70, Tanya Frederick.

15 (WHEREUPON, Tanya Frederick, a white female, was
16 called forward.)

17 THE CLERK: What say for the State?

18 MR. ROSS: Please excuse Ms. Frederick.

19 THE CLERK: Return to your seat, please, ma'am.

20 No. 175, Melvin Searles.

21 (WHEREUPON, Melvin Searles, a black male, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MR. ROSS: Please present Mr. Searles.

25 THE CLERK: What say for the defense?

1 MR. DRYLIE: Please present Mr. Searles.

2 THE CLERK: Have a seat in the jury box, sir.
3 167, William Riddle.

4 (WHEREUPON, William Riddle, a white male, was
5 called forward.)

6 THE CLERK: What say for the State?

7 MR. ROSS: Please present Mr. Riddle.

8 THE CLERK: What say for the defense?

9 MR. DRYLIE: Please excuse Mr. Riddle.

10 THE CLERK: Return to your seat, please, sir.
11 98, Brenda Hutto.

12 (WHEREUPON, Brenda Hutto, a white female, was
13 called forward.)

14 THE CLERK: What say for the State?

15 MR. ROSS: Please present Ms. Hutto.

16 THE CLERK: What say for the defense?

17 MR. DRYLIE: Please present Ms. Hutto.

18 THE CLERK: Have a seat in the jury box, ma'am.
19 No. 190, Carly Sprott. Is if Sprott of Sprout?

20 THE JUROR: Sprott.

21 (WHEREUPON, Carly Sprott, a white female, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MR. ROSS: Please present Ms. Sprott.

25 THE CLERK: What say for the defense?

1 MR. DRYLIE: Please present Ms. Sprott.

2 THE CLERK: Have a seat in the jury box, ma'am.

3 No. 32, Barry Clonts.

4 (WHEREUPON, Barry Clonts, a white male, was called
5 forward.)

6 THE CLERK: What say for the State?

7 MR. ROSS: Please present Mr. Clonts.

8 THE CLERK: What say for the defense?

9 MR. DRYLIE: Please present Mr. Clonts.

10 THE CLERK: Have a seat in the your jury box, sir.

11 72, Sheryl Furr.

12 (WHEREUPON, Sheryl Furr, a white female, was called
13 forward.)

14 THE CLERK: What say for the State?

15 MR. ROSS: Please present Ms. Furr.

16 THE CLERK: What say for the defense?

17 MR. DRYLIE: Please present Ms. Furr.

18 THE CLERK: Have a seat in the jury box, ma'am.

19 153, Timothy Oxley.

20 (WHEREUPON, Timothy Oxley, a white male, was called
21 forward.)

22 THE CLERK: What say for the State?

23 MR. ROSS: Please present Mr. Oxley.

24 THE CLERK: What say for the defense?

25 MR. DRYLIE: Please present Mr. Oxley.

1 THE CLERK: Have a seat in the jury box, sir.

2 161, Ellen Ravenell.

3 (WHEREUPON, Ellen Ravenell, a black female, was
4 called forward.)

5 THE CLERK: What say for the State?

6 MR. ROSS: Please excuse Ms. Ravenell.

7 THE CLERK: Return to your seat, please, ma'am.

8 81, Sylvia Golston.

9 (WHEREUPON, Sylvia Golston, a black female, was
10 called forward.)

11 THE CLERK: What say for the State?

12 MR. ROSS: Please excuse Ms. Golston.

13 THE CLERK: Return to your seat, please, ma'am.

14 61, George Faller.

15 (WHEREUPON, George Faller, a white male, was called
16 forward.)

17 THE CLERK: What say for the State?

18 MR. ROSS: Please present Mr. Faller.

19 THE CLERK: What say for the defense?

20 MR. DRYLIE: Please excuse Mr. Faller.

21 THE CLERK: Return to your seat, please, sir.

22 No. 4, Gary Bagwell.

23 (WHEREUPON, Gary Bagwell, a white male, was called
24 forward.)

25 THE CLERK: What say for the State?

1 MR. ROSS: Please present Mr. Bagwell.

2 THE CLERK: What say for the defense?

3 MR. DRYLIE: Please present Mr. Bagwell.

4 THE CLERK: Have a seat in the jury box, sir.

5 Alternates, Your Honor?

6 THE COURT: Draw an alternate. Strikes are one for
7 the state, two for the defense.

8 THE CLERK: 164, Deirdre Rhodes.

9 (WHEREUPON, Deirdre Rhodes, a black female, was
10 called forward.)

11 THE CLERK: What say for the State?

12 MR. ROSS: Please present Ms. Rhodes.

13 THE CLERK: What say for the defense?

14 MR. DRYLIE: Please present Ms. Rhodes.

15 THE CLERK: Have a seat in the jury box, ma'am.

16 That's the alternate, Your Honor.

17 THE COURT: Are there any matters to take up
18 including composition of the jury panel prior to the jury
19 being sworn from the State?

20 MR. ROSS: No, Your Honor.

21 THE COURT: From the defense?

22 MR. DRYLIE: Yes, Your Honor, we have a matter of
23 law.

24 THE COURT: Okay. Ladies and gentlemen, I'm going
25 to need you folks in the jury box to step into the jury

1 room in a moment. Do not discuss this case in any way.
2 Don't talk about the people involved, the type of case it's
3 alleged to be. Don't talk about the case in any manner
4 whatsoever. I'll get to you as quickly as I can.

5 Follow the bailiff please.

6 (WHEREUPON the jury left the courtroom at 10:11
7 a.m.)

8 THE COURT: All right. Ladies and gentlemen, if
9 you were not selected on this jury, once again, I have an
10 issue that I have to address outside your presence and need
11 you to wait out in the lobby there. Don't discuss the
12 case, don't talk about it in any way. The folks that I set
13 aside on this trial, will y'all raise your hands?

14 One, two, three, four, five, six -- is that what
15 y'all got?

16 THE CLERK: Yes, sir, it is.

17 THE COURT: You folks can leave. Just call tonight
18 after six, all right? You'll probably be turned loose
19 after this, but I don't know for sure; but you six folks
20 that were set aside on the trial, you can leave and go; but
21 the rest of you I need to wait. Thank you.

22 (WHEREUPON the remaining jury panel left the
23 courtroom at 10:12 a.m.)

24 THE COURT: What's your motion?

25 ///

BATSON MOTION

1
2 MR. DRYLIE: Your Honor, we'd make a Batson motion
3 specifically with regards to Jurors 161 and 81, both of
4 whom were African-American that the State struck.

5 THE COURT: All right. Can you give me a racially
6 neutral reason, Solicitor, for the exercise of the strike
7 for Juror No. 161, Ms. Ravenell?

8 MR. ROSS: Yes, Your Honor. She came down to the
9 front and indicated both today and on Monday during jury
10 qualification that, first she had an ATM card stolen by her
11 daughter's boyfriend. She said she did not report this
12 crime to the authorities, and this morning she mentioned
13 that her daughter had received drug treatment from LRADAC.
14 It's the State's position that Ms. Ravenell is likely not
15 inclined to believe the testimony of our narcotics officers
16 and our other law enforcement personnel based on that she
17 appears to believe that it's better to handle crimes in
18 house, so to speak; and she also, as indicated, has a
19 daughter that's been -- or has received treatment for an
20 addiction, and I believe because of that she would also be
21 less inclined to believe the testimony of our narcotics
22 officers and probably be less inclined to believe that
23 criminal prosecution is the way to handle drug problems in
24 our society.

25 With regard to Juror No --

1 **THE COURT:** -- 81 Sylvia Golston.

2 **MR. ROSS:** Yes, sir. With regard to her, she
3 indicated on Monday that she is a relative of Benny Golston
4 who was prosecuted for criminal domestic violence of a high
5 and aggravated nature in Lexington County by a fellow
6 Solicitor who was actually here in court on Monday. Your
7 Honor, that case was actually heard by -- I want to say the
8 Court of Appeals recently, and that's a published decision;
9 and given that Mr. Golston is still in prison serving time
10 for an offense that our office prosecuted, I don't think
11 the State could get a fair hearing from Juror No. 81.

12 I would also draw the Court's attention to Juror
13 No. 164 and 175, both of whom were African American and
14 both of whom the State put on the jury.

15 **THE COURT:** Is there any response?

16 **MR. DRYLIE:** Yes, Your Honor. Both Jurors, No. 4
17 and 164 reported that their family members had substance
18 abuse problems -- and 98.

19 **THE COURT:** Wait a minute.

20 **MR. DRYLIE:** I apologize, Your Honor it's 4 and 98.

21 **THE COURT:** Juror No. 4 is Gary M. Bagwell, he's a
22 white male, he's in graphic design. The only thing I got
23 was his father was a police officer in the District of
24 Columbia; and by that time the State had exercised all its
25 strikes anyway. Who was the other one?

1 MR. DRYLIE: Juror No. 98, Your Honor.

2 THE COURT: Well, Juror No. 98, Ms. Hutto, is a
3 white female, she works in food service at a school. She
4 had reported that -- two things: That her son works for
5 the federal prison in Edgefield and that her brother had
6 been in and out of trouble all of his life. I asked her --
7 my recollection is I asked her if it was -- any of it was
8 possibly related to drugs and she said something like
9 probably. The impression I got was she didn't really know.
10 Anything else?

11 MR. DRYLIE: No, Your Honor.

12 THE COURT: Do you have anything else, Solicitor?

13 MR. ROSS: Your Honor, I would draw the Court's
14 attention to Juror No. 225, I believe that was Ms. Zanca.
15 Your Honor, the State struck her because she said she had a
16 brother-in-law that had a heroin addiction. She is a white
17 female and I struck her for the same reasons that I struck
18 those African-Americans.

19 With regard to Juror No. 4, I don't have any record
20 of any notes on my jury sheet that he had any connection to
21 narcotics.

22 THE COURT: All right. To run through this
23 quickly, Howard L. Nelson was the first juror that came up.
24 He works in yard supply. He's Juror No. 147. He was
25 seated on the jury.

1 Marion R. Thompkins is Juror No. 199 is the second
2 juror that came up, a white male, was struck by the
3 defense. He's a retired principal. He has a relationship
4 with someone in the Myrtle Beach Police Department.

5 Juror No. 10, Betty J. Beard was the third juror
6 who came up. She was seated on the jury. She's a retired
7 hospital worker, white female. She didn't respond to any
8 voir dire.

9 The next juror that came up, Juror No. 13, white
10 female, Tamara E. Bradfield, she works at Kay Jewelers.
11 She was seated on the jury. I don't have any responses
12 from her to voir dire.

13 Sandra L. Hazzard was the next juror that was
14 called up, Juror No. 89. She works in pathology at the
15 Lexington Medical Center. She was seated on the jury. I
16 don't have any responses from her on any voir dire.

17 Ms. Zanca is Juror No. 225, Mary T. Zanca, white
18 female. She's a personal trainer. She indicated that her
19 brother-in-law was arrested on alcohol charges, and she
20 thought heroin. She knew that he injected drugs -- and
21 also criminal domestic violence. She was struck by the
22 State.

23 Mr. Geanangel is Juror No. 75, John C Geanangel,
24 white male, he was struck by the State. He's a teacher.
25 He's indicated he's personal friends with Ms. Fullwood.

1 The next juror was Juror No. 57, Robin Ellis, a
2 white male. He works for South Carolina Emergency
3 Management. He indicated in response to voir dire that he
4 had worked as a dispatcher in the past. He was struck by
5 the defense.

6 Jean R. Barton, Juror No. 8, was the next juror.
7 It's a white female. She's a CPA. She was seated on the
8 jury. But she's an accounting technician at a CPA firm, I
9 guess. I don't see any response to voir dire from her.

10 Tanya M. Frederick, Juror No. 70, was the next
11 juror who came up. She was an executive assistant. Her
12 sister-in-law has addiction issues. She was the third
13 strike by the State. She also indicated that her
14 sister-in-law would steal and was abused by her boyfriend;
15 and she discussed how the children were taken away, if this
16 is what I recall correctly, that they were involved in
17 that. All of that occurred in California.

18 Melvin Searles, Juror No. 175, a black male. He
19 was seated on the jury. He's retired from the School For
20 The Deaf and Blind. His only response was that his wife
21 formerly was a staff member of Judge Joe Wilson's chambers.

22 Juror No. 167, William H. Riddle, white male, he's
23 an engineer with SCE&G. He was struck by the defense.

24 Brenda Hutto, Juror No. 98, white female, was
25 seated on the jury. She's works in food service with the

1 school. She indicated her son works for the federal prison
2 in Edgefield; and she's the one whose brother had been in
3 and out of trouble. She was seated on the jury.

4 Juror No. 190, Ms. Sprott, is a massage therapist.
5 She was seated on the jury. I don't see any responses to
6 voir dire from her.

7 Juror No. 32, Barry C. Clonts, white male, was
8 seated on the jury. He's self employed in air quality. He
9 has a connection to the Cayce Department of Public Safety.

10 Sheryl Furr, Juror No. 72, a white female, was the
11 next juror drawn up. She was seated on the jury. She
12 works for Michelin. She did not respond today. Yesterday,
13 and I note that the attorneys from both sides in this case
14 were involved in the selection on Monday -- I should say
15 Monday, not yesterday. She indicated she was a victim of
16 an armed robbery twenty years ago as a bank teller. She
17 also -- I'm getting my notes mixed up. Bear with me just a
18 minute.

19 Y'all, excuse me. I need to take this call.

20 We're at ease.

21 (WHEREUPON there was a brief recess.)

22 THE COURT: Let's see where we were. Okay.

23 Furr -- my notes on this piece of paper, it's not much
24 space for me to write -- did she mention a DUI her husband
25 or was that the person above her?

1 MR. ROSS: Your Honor, I believe that's the case.
2 On my notes it says she was a bank teller. She was robbed
3 at some point. You set her aside on the initial case on
4 Monday; and I believe today she said her husband had a DUI
5 from twenty years ago.

6 THE COURT: Okay. She had indicated that her
7 husband had a DUI, but I think I asked her if he had to
8 undergo any treatment and she said no.

9 MR. ROSS: I believe that is the case, Your Honor.

10 THE COURT: All right. I got the impression that
11 he's not an addict or at least in her estimation he didn't
12 have any kind of problem that required any treatment
13 because she responded immediately he did not have to have
14 any treatment.

15 Oxley, Timothy R. Oxley, Jr., Juror No. 153, is a
16 white male. He works at Chik-Fil-A. He was seated as the
17 eleventh juror. I don't recall any voir dire responses
18 from him.

19 Ellen V. Ravenell, Juror No. 161, black female, she
20 works for the City of West Columbia in the Permits
21 Department. Her daughter has addiction issues. She was
22 struck by the State as a fourth strike.

23 Sylvia J. Golston, Juror No. 81, she's listed on
24 this sheet as Hispanic, but she's a black female. She's a
25 teacher and assistant -- a teacher's assistant and a coach.

1 Yesterday -- Monday, excuse me, she did tell us about being
2 related to a defendant who had been prosecuted by
3 Mr. Wedekind. Quite frankly, I think she should have
4 responded to voir dire that I gave today because I asked if
5 anybody had been involved in any way on the opposite side
6 of a case. I also asked about criminal domestic violence,
7 if anybody close to them had ever been involved in criminal
8 domestic violence. She didn't respond to either one of
9 those. I didn't worry too much about it because I knew
10 that both sides knew what she said on Monday. She was the
11 fifth strike of the State.

12 Mr. Faller, Juror No. 61, is a white male. He's a
13 teacher. I don't recall any responses today, but on Monday
14 he responded that he had served in the Marines with the
15 officer involved in the first case and talked about the
16 officer being an excellent Marine. He was struck by the
17 defense.

18 And then the last juror seated, Mr. Bagwell, Gary
19 M. Bagwell, Juror No. 4, white male, he works in graphic
20 design. His father -- I think he was the one whose father
21 was a policeman in District of Columbia. I think he said
22 before the juror was born.

23 The alternate was a black female, Deirdre M.
24 Rhodes, 164. She's -- I wasn't sure -- I had a hard time
25 hearing her on Monday, but I think she said she was a

1 systems manager. She was seated as the alternate.

2 Do y'all have anything else you need to put on the
3 record?

4 MR. ROSS: Your Honor, I mentioned Juror No. 225,
5 the white female that was struck because she has a relative
6 with addiction issues. There was also a second one that I
7 had struck, Juror No. 70, a white female. She indicated
8 she has relatives with addiction problems as well.

9 THE COURT: Anything else?

10 MR. DRYLIE: No, Your Honor.

11 THE COURT: All right. The Court does not find any
12 violation of Batson or its progeny. The State's reasons
13 that were advanced were racially neutral. There's been no
14 showing at all that any of the preemptory challenges were
15 exercised in a manner that was racially discriminatory.

16 Juror No. 161, Ms. Ravenell, has a daughter who has
17 addiction issues. Two similarly situated jurors who were
18 white were also struck. Ms. Golston was involved in a
19 rather high-profile case that was prosecuted by the
20 solicitor's office and she -- her brother's been prosecuted
21 by the solicitor's office; and as I said, I was concerned
22 because she did not respond to the voir dire.

23 I don't see any showing at all of any type of
24 racial discrimination or any type of discrimination. So
25 the motion is denied.

1 Bring those folks back in for me please.

2 How long will this take to try? Two days?

3 MR. ROSS: Probably two days, sir.

4 THE COURT: Y'all agree?

5 MR. DRYLIE: I think so, Your Honor.

6 THE COURT: Let me see the lawyers up here.

7 (WHEREUPON there was a bench conference off the
8 record.)

9 (WHEREUPON the jury venire entered the courtroom at
10 10:34 a.m.)

11 THE COURT: All right. Ladies and gentlemen, if
12 you were not selected on this jury --

13 Do y'all want to keep them on standby or turn them
14 loose?

15 MR. ROSS: I think we can turn them loose, Your
16 Honor.

17 THE COURT: If you're not selected on this jury
18 you're through. You're free at last. You'll have an
19 exemption from jury service for year 2012, 2013, and 2014
20 at this level of court. They will mail your little checks
21 to you. I call it Happy Meal money, but you'll get it. It
22 won't be much and it takes about ten days for the paperwork
23 to get processed or the electronic stuff to get processed
24 to go through the administration building and to get to you
25 is what I'm told. So in about ten days you should get an

1 envelope with a little check in it and a document saying
2 what days you were actually up here.

3 Most employers are fine waiting for the ten days to
4 pass, but if you have a boss who won't wait and you need
5 that slip, just check with the clerk's office downstairs.
6 They'll get you what you need.

7 Folks, I want to thank you very, very much for your
8 participation. I know it wasn't voluntary, but I hope you
9 understand how important it is, and I thank you.

10 Now, you can stay and watch if you want to stay and
11 watch, but you're free to go. Thank you.

12 (WHEREUPON the remaining jury venire was excused at
13 10:36.)

14 THE COURT: Lawrence, can you bring them back up --
15 get them to bring them back up?

16 THE OFFICER: Yes, sir.

17 THE COURT: All right. I understand there are some
18 pretrial issues that will probably take between thirty
19 minutes to an hour. Are your witnesses here that you will
20 need for the Denno hearing?

21 MR. ROSS: Yes, sir, Your Honor.

22 (WHEREUPON the jury entered the courtroom at 10:42
23 a.m.)

24 THE COURT: All right. Ladies and gentlemen, what
25 I'm trying to do is to dovetail this case in behind the

1 case ahead of you. We have not finished that case yet,
2 that's why you had to go down to the third floor. The jury
3 on that next case is waiting. We're at the last stage of
4 the case; and here's what's going to happen: As soon as
5 you leave I'm going to bring them in and we're going to do
6 the closing arguments in that case; and then I'll tell them
7 the law; and then the jury will be deliberating; and we'll
8 plan to start with you folks as soon as I can after lunch.

9 I need you back here at 2:30. I know that's an
10 extended break, but you just kind of have to let me make
11 these judgment calls. I think this is the best way to run
12 court from my experiences is try to bring you folks in
13 earlier than them. So that's what we're going to do.

14 We'll go -- the case is expected to take a couple
15 of days. Now, whether that means you get it on Thursday or
16 whether you get it on Friday morning, I don't know, but for
17 planning purposes that's what's expected. If anything
18 changes in that regard I'll let you know.

19 Now, when you come back you don't come to the
20 courtroom, you come around to the side. The bailiff will
21 show you where to report when you leave. You just come to
22 these glass doors here on the fourth floor; and most likely
23 you're going to be in this jury room back here. I suspect
24 we'll take the other jury downstairs to the third floor
25 when they start deliberating, so just come to these glass

1 doors over here. It's a secured area, so they'll have to
2 let you in; and you'll be escorted back to this jury room
3 here on the fourth floor.

4 I have to give you some instructions before I let
5 you go. Do not discuss this case in any way among
6 yourselves; don't talk about the people involved in it, the
7 type of case it's alleged to be, nothing at all related to
8 the case; don't discuss this case with family members or
9 friends or anybody else until the case is completely over
10 and you've been discharged from your jury duty. It's okay
11 for you to tell a friend, a spouse, someone, that you're on
12 a jury. You have to be able to do that, I understand; but
13 you cannot tell them what kind of case it is or who's in it
14 or anything like that.

15 If anybody does attempt to contact you and discuss
16 the case with you, please report that to me so that I can
17 deal with it. I don't expect media coverage of the trial,
18 but if there is any, get away from it and report to me at
19 the first opportunity what you may have seen, heard or read
20 through the media.

21 You are not to do any independent investigation.
22 And what I mean by that is that you're not to try to go
23 find things on your own. We're going to ask you to use
24 your common sense, but when you take your oath -- when you
25 come back after lunch, you'll take an oath as a trial juror

1 and in that oath, you're going to be promising us that
2 you'll decide the case based on the evidence and the law.
3 I'll tell you where those things come from, but right now
4 you'll just need to understand those things come to you in
5 the courtroom. So don't go on the internet and start
6 looking up the law; don't try to do any kind of word
7 searches or anything like that; don't look up definitions;
8 just don't do that. I'll explain the process to you when
9 you come back. All those things will be covered in the
10 process with all the safeguards that are required.

11 Now, the Chief Justice has indicated a couple of
12 years ago that we needed to give a specific instruction
13 about the things I just talked to you about. And I have to
14 read this to you at some point. Some counties, they print
15 it out and give it to all the jurors when they're selected.
16 The reason the chief did this is primarily because of the
17 advent of smart phones and the ability to access so much
18 information. There have been problems in other states with
19 jurors doing independent research. In the old days when I
20 gave that instruction, I would say like -- if we were doing
21 a civil case and it was a wreck and there was a question of
22 who ran the red light, I'd tell the jurors, Don't go out to
23 the intersection and look around. All right?

24 There are provisions to let a jury to go out to the
25 intersection and look around, if it's needed, but if it's

1 not needed, we don't do it because the jury doesn't know if
2 the intersection has changed, if they've modified the light
3 since the wreck. If anything like that's happened, we'll
4 cover all those kinds of issues in that civil jury trial.
5 I've had situations where people would find a legal
6 dictionary and look up a term.

7 Now, I understood why they did it, but that's my
8 job. It's my job to tell you what the law is, and the law
9 has to come from me, and if I have thirteen people out
10 looking up things, it's improper and it actually -- it
11 causes a whole lot of problems. So just resist those
12 temptations. Don't do it.

13 Now, there's a more sinister aspect to it than that
14 that we haven't encountered in South Carolina that I know
15 about, but in some other states, in some of those high
16 profile cases where if you get on a jury you become an
17 instant celebrity, there have been problems with Twitter
18 and social media where somebody would just, you know, to
19 give you an example, for your purposes: If you walk out
20 the door and you pick up your smart phone and you start
21 saying, I'm on this jury; Oh, happy day. You're commenting
22 the same as if you went out there to a throng of people and
23 made those comments; or the one I usually use is, That
24 judge is an idiot. You can call me an idiot at the end of
25 trial, but don't do it until the trial is over. Don't use

1 social media to tweet things about the case or about your
2 involvement on a jury or anything like that.

3 Now, I'm going to read this to you because I have
4 to read it to you one time. I'm going to read it again,
5 and I'll explain these things in a little more Edgefield
6 County type language when you come back, more down to
7 earth.

8 All right. You're not to discuss the case with
9 others, including other jurors, except as authorized by
10 law. You're not to read or listen to any news reports
11 about the case. You're not to use a computer, a cell
12 phone, or any other electronic device with communication
13 capabilities while attending the trial or during
14 deliberations. You may use such devices during lunch
15 breaks or extended breaks, but not to obtain or disclose
16 information that's prohibited.

17 You're not to use a cell phone, a computer, or any
18 other electronic device with communication capabilities, or
19 any other method, to obtain or disclose information about a
20 case when you're not in court; and information about the
21 case includes, but is not limited to the following types of
22 things: Information about a party, a witness, an attorney,
23 or a court officer -- that's why you can't talk about me
24 until the case is over -- any news accounts of the case,
25 any information collected through juror research on any

1 topics raised or testimony offered by a witness, any
2 information collected through juror research on any other
3 topic that a juror might think would be helpful in deciding
4 the case. So use your common sense. Don't do those kinds
5 of things.

6 Ms. Barton, you're the foreman of the jury. When
7 you come back in be the last person in. Sit in the seat to
8 your left throughout the trial.

9 Ms. Rhodes, you're the alternate. I need you to
10 stay in that seat or this one over here throughout the
11 trial, please. All right.

12 The rest of you folks can sit anywhere in the jury
13 box you like. I don't think you all were here when I gave
14 these instructions to the other jury. If you already heard
15 it, I'm sorry. We had an incident in the old courthouse
16 where a lady broke her ankle. I get nervous when I see
17 jurors walking across one another. Please don't do that.
18 If you have a favorite chair, space yourself out here and
19 slip in to the proper slot to get your favorite chair.

20 All right. I'll shut up and let you go. I need
21 you back here at 2:30 in the jury room. Please be on time
22 because we can't do anything until you're here. If you
23 have a true emergency that arises that prevents you from
24 being here, please have somebody call us. If you're not
25 here at 2:30 I send people to start finding you. All

1 right. Thank you.

2 Don't discuss the case.

3 (WHEREUPON the jury left the courtroom at 10:51
4 a.m.)

5 THE COURT: Is Mr. Jones in jail or is he on bond?

6 MS. FULLWOOD: He's on bond, Your Honor.

7 THE COURT: All right. Mr. Jones, I need to talk
8 to you a minute so make sure you -- you can sit. That's
9 fine, thank you. We've started the trial, we've drawn the
10 jury and I intend to go forward with the case whether
11 you're here or not. You understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, I have to make decisions
14 throughout the trial as to whether to take somebody into
15 custody who's on trial or let them stay out. I'm going to
16 let you stay out during the lunch break. I need you back
17 here no later than 2:30. If the lawyers want -- no, I'm
18 sorry. I want y'all here at 1:30. I apologize. 1:30.
19 The jury's coming at 2:30.

20 If you -- if you're not here when you're supposed
21 to be, I'll issue a bench warrant for your immediate
22 arrest. If you're picked up and they can get you up here,
23 they'll bring you to court during the trial, if not we're
24 going to continue with the trial anyway and at some point
25 in time if the jury decides against you, then I would

1 sentence you, seal the sentence, the bench warrant would
2 stay active until they picked you up; then they'd bring you
3 in front of a circuit judge, the sentence would be unsealed
4 and read to you. Do you understand the process?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Now, if you have some true
7 emergency that arises that prevents you from being here,
8 please have somebody call and let us know what's going on.
9 I'm not telling you I'll stop the trial, but at least it'll
10 give me an opportunity to consider whether to wait on you
11 or things like that. All right?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And like I said, if your lawyer tells
14 you to be here at a different time, sooner time, you be
15 here when they tell you, no later than 1:30 today. All
16 right?

17 All right. We're at ease.

18 Now, when you all leave be careful that you don't
19 have any contact with the jurors. Make sure that you stay
20 out of the elevators that they're in and the common areas
21 as best you can. If you go to a restaurant be careful to
22 look around to make sure there's no jurors within earshot
23 of you. If they are, don't talk about the case.

24 All right. Thank you very much; 1:30, folks.

25 (WHEREUPON this case was in recess for lunch.)

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 THE COURT: All right. Are y'all ready to do the
2 Denno hearing?

3 MR. ROSS: Yes, Your Honor.

4 THE COURT: Go ahead. Call your first witness.

5 JACKSON V DENNO HEARING

6 MR. ROSS: The State calls Lieutenant Thomas
7 Hamilton to the stand.

8 THE COURT: Come around to the clerk, please.

9 THOMAS W. HAMILTON,
10 having been duly sworn, testified as follows:

11 THE CLERK: Have a seat, please. Once you're
12 seated, state your full name, spelling your last.

13 THE WITNESS: I am Thomas W. Hamilton,
14 H-A-M-I-L-T-O-N.

15 DIRECT EXAMINATION - IN CAMERA

16 BY MR. ROSS:

17 Q Lieutenant Hamilton, how are you this afternoon?

18 A Doing well, sir.

19 Q Can you tell me where you're employed?

20 A I'm employed by the Lexington County Sheriff's
21 Department, sir.

22 Q And how long have you been employed there?

23 A I have been there since 1999, sir.

24 Q Okay. What are your present job duties?

25 A I am assigned as the commander over the narcotics

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 unit, which is the Lexington County Multi-Agency Narcotics
2 Enforcement Team.

3 Q And how many narcotic agents do you supervise?

4 A Fourteen, sir.

5 Q And can you briefly tell me about your experience
6 in the area of narcotics, specifically formal training you
7 may have received, as well as training in the field.

8 A I started in narcotics as an agent in the mid '90s.
9 I've been to numerous classes to include drug
10 investigations, DEA classes, basic agent -- DEA classes,
11 also narcotics commander school, as well as numerous
12 courses as far as methamphetamine and production and
13 dismantling of labs.

14 Q Okay. And were you employed as the chief of the
15 unit on November 19th of 2010?

16 A Yes, I was.

17 Q And did you respond to a call at
18 in the Oak Grove, West Columbia area of the county?

19 A Yes, sir.

20 Q And can you tell me what happened when you got
21 there?

22 A Once I arrived on scene I pulled up into the edge
23 of the -- I guess you would call property, exited my
24 vehicle where I saw numerous other -- both fire service and
25 law enforcement, sheriff's department personnel there. I

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 immediately noticed upon exiting my vehicle a smell that I
2 am trained on and familiar with from the production of
3 methamphetamine. I was advised of certain facts that were
4 reported to have occurred prior to my getting there.

5 Q What facts were those?

6 (WHEREUPON there was a pause in the proceedings.)

7 THE COURT: He said something about smells he had
8 noticed at the scene.

9 BY MR. ROSS:

10 Q What were you advised of when you got on the scene,
11 Lieutenant?

12 A I was advised an explosion had occurred at this
13 location, which was a shop next to a single-wide trailer;
14 and that reportedly people had fled out of the shop.

15 Q Okay. Were there any other narcotics officers on
16 the scene when you got there?

17 A Yes, sir. Agent Bass was there at the location at
18 the time.

19 Q Okay. And was he the on-call narcotics officer
20 that day?

21 A Yes, sir, he was.

22 Q Okay. And what did you do after you had assessed
23 the situation at that point?

24 A We did a what we call a protective sweep of the
25 location where the reported explosion had occurred.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 Q Okay. And where was that?

2 A That was in the shed, shop whichever it is.

3 Q How far is the shop from the residence at this
4 property?

5 A Probably somewhere in the area of twenty yards
6 maybe.

7 Q Okay. What happened after you did the protective
8 sweep?

9 A We walked up towards the residence and knocked on
10 the door.

11 Q Okay. And did you receive an answer?

12 A No, sir.

13 Q Did you obtain a search warrant for that residence?

14 A Yes, sir, we did.

15 Q And who did that?

16 A Agent Hill and Agent Bass were working on the
17 search warrant. Agent Hill, I believe was the one who went
18 and actually signed the search warrant in front of the
19 magistrate.

20 Q Okay. What happened after you got the search
21 warrant in hand?

22 A We went back up to the front door, knocked and
23 announced our presence. Nobody answered the door. The
24 door was secured. We forced entry into the door.

25 Q Okay. And what did you do when you forced entry?

1 What happened next?

2 A There was four of us. Deputy Marthers was with us,
3 as well as Agent Bass and Agent Hill. We then went into
4 the residence to secure the residence and to see if there
5 was any people inside; and basically to secure the
6 residence for beginning of the search warrant, sir.

7 Q Okay. And did you find anybody there?

8 A Yes, sir, I did.

9 Q And who did you find?

10 A I found Mr. Jones there, the defendant.

11 Q And where was he?

12 A He was in a -- what I believe to be a bedroom.

13 Q Okay.

14 A It was on the back left as you're facing the
15 trailer.

16 Q Okay.

17 A He was underneath a blanket, afghan-type thing,
18 with a small dog on top of him.

19 Q Okay. What did you do once you saw Mr. Jones?

20 A Well, at first when we went in we did not see him.
21 He was covered from head to toe inside -- underneath the
22 blanket.

23 Q Okay.

24 A There was no bed in this room. He was in, I guess
25 you would say, a central area of this room.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 Q Okay.

2 A When I noticed the lump underneath the afghan, I
3 asked the persons underneath to show me their hands.

4 Q Okay. And what happened then?

5 A He came out from underneath there.

6 Q Was he armed at that point?

7 A No, sir, he was not.

8 Q And what did you do after he showed you his hands?

9 A We pulled the afghan off of him.

10 Q That was the blanket you said?

11 A Blanket, afghan-type thing. I then noted some
12 burns on the defendant --

13 Q Okay.

14 A -- and called for -- we had the fire service
15 already on scene and one of the people from the fire
16 service I knew as a paramedic, called for him to come in as
17 well as to contact EMS to the scene.

18 Q Okay. And did you ask him any questions once you
19 found him underneath that blanket?

20 A Yes, sir.

21 Q And what questions did you ask him?

22 A I asked him what happened.

23 Q And what did he say?

24 A He stated that they were working on a car starter
25 when it exploded.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 Q All right. And then what did you say?

2 A I told Mr. Jones that we were narcotics agents and
3 was familiar with meth labs and the smells, and it was not
4 a car.

5 Q Okay. Was he under arrest at the time you asked
6 him this question?

7 A No, sir.

8 Q Did he appear to understand your question?

9 A Yes, sir.

10 Q Did he appear to be of sound mind?

11 A Yes, sir.

12 Q Did he appear to know who he was?

13 A Yes, sir.

14 Q Did he appear to know where he was?

15 A Yes, sir.

16 Q Now, you said he had some burns on him?

17 A Yes, sir.

18 Q Did he appear to be in pain?

19 A He was making no noise whatsoever when we made
20 entry or when we were doing the sweep of the house. He was
21 quite quiet while he was trying to hide.

22 Q Okay. In your layman's opinion would you say that
23 any pain he may have been experiencing affected his ability
24 to understand your questions or respond accordingly?

25 MR DRYLIE: Objection.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 THE COURT: What's your objection?

2 MR. DRYLIE: I don't think he can get -- I
3 understand that he asked for a layman's opinion, but I mean
4 that's sort of a medical opinion that any pain that
5 Mr. Jones sustained from the burns was affecting his
6 judgment at that time.

7 THE COURT: Do you wish to be heard?

8 MR. ROSS: Your Honor, I'd site State versus Crawly
9 349 South Carolina 459, in which a law enforcement officer
10 was allowed to give layman's testimony on a subject's state
11 during questioning. The allegation was that the subject
12 was coming off of drug withdrawals and I think this would
13 be a similar type situation. I think he can give a
14 layman's perspective.

15 THE COURT: I don't think it opened the door for
16 him to -- I don't disagree that he can give a layman's
17 perspective of whether the person appeared to understand.
18 I don't know, though, that you can start having him say
19 that this affected him or that affected him. The objection
20 is sustained. Go ahead.

21 MR. ROSS: Yes, Your Honor.

22 BY MR. ROSS:

23 Q Did he appear to understand the question,
24 Lieutenant Hamilton?

25 A Yes, sir.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

- 1 Q Did he appear to understand where he was?
- 2 A Yes, sir.
- 3 Q Did he have any difficulty speaking with you?
- 4 A No, sir.
- 5 Q Was he speech slurred in any way?
- 6 A No, sir.
- 7 Q Did he have any problems communicating with you at
- 8 the time?
- 9 A No, sir.
- 10 Q Was he in handcuffs at the time?
- 11 A No, sir.
- 12 Q Was he ever placed in handcuffs on November 19th,
- 13 2010?
- 14 A No, sir.
- 15 Q Was he ever arrested on November 19th, 2010?
- 16 A No, sir.
- 17 Q Did he appear to be intoxicated?
- 18 A No, sir.
- 19 Q And I believe you covered his first statement after
- 20 you said what happened --
- 21 A Yes, sir.
- 22 Q -- and then you asked him a second question. What
- 23 did he say after that second question? After you said you
- 24 were a narcotics officer.
- 25 A He stated, Scotty was running towards me with

Thomas W. Hamilton - Cross-Examination In Camera by Mr. Drylie

1 something in his hand and it exploded.

2 Q Did you ask him any questions after that?

3 A No, sir.

4 Q All right. Who was with you when you executed the
5 search warrant?

6 A Inside the residence the first four people that
7 came in were Deputy Marthers, Agent Bass, and Agent Hill
8 and myself.

9 Q Okay. And did y'all split up sectors of the house
10 to search?

11 A Yes, sir.

12 Q And how did y'all split up those duties?

13 A Agent Bass came with myself towards the left-hand
14 side of the trailer as you were facing it; and Deputy
15 Marthers and Agent Hill went towards the right.

16 Q Okay.

17 MR. ROSS: No further questions for this witness,
18 Your Honor, as it relates to the Denno hearing.

19 THE COURT: Cross.

20 CROSS-EXAMINATION IN CAMERA

21 BY MR. DRYLIE:

22 Q Good afternoon, Lieutenant Hamilton?

23 A Good afternoon, sir.

24 Q Just got a couple questions for you. You stated
25 you're a commander of the Narcotics Division?

Thomas W. Hamilton - Cross-Examination In Camera by Mr. Drylie

1 A Yes, sir.

2 Q And you supervise fourteen other officers?

3 A Yes, sir.

4 Q Do you supervise their entire case load?

5 A I review their case load along with their sergeant.

6 I also have a sergeant that works with me that does the --

7 he goes through their paperwork and manages their cases on

8 a normal day-to-day basis.

9 Q So about how many cases do you see each year?

10 A As of 2011 I believe it was somewhere around two

11 hundred.

12 Q Now, when you arrived at the residence to execute

13 the search warrant and you entered the residence, did you

14 have your guns out?

15 A Yes, sir.

16 Q So when you went back into the room where you found

17 the defendant Mr. Jones, your guns were drawn?

18 A Yes, sir.

19 Q And there were four of you entered into the

20 residence, correct?

21 A That is correct, sir.

22 Q Agent Bass was there?

23 A Was with me on that side of the residence, yes,

24 sir.

25 Q And then Agent Hill and Deputy Marthers were on the

Thomas W. Hamilton - Cross-Examination In Camera by Mr. Drylie

1 other side?

2 A Yes, sir.

3 Q And you said, Show me your hands?

4 A Yes, sir.

5 Q While your guns are still out?

6 A Yes, sir.

7 MR. DRYLIE: Beg the Court's indulgence for a
8 moment.

9 THE COURT: Yes, sir.

10 (WHEREUPON there was a pause in the proceedings.)

11 BY MR. DRYLIE:

12 Q Lieutenant Hamilton, how much time elapsed from the
13 time that your officers first responded to the call until
14 you were able to obtain the search warrant?

15 A I believe the initial response was at 1730, if I am
16 correct. The execution of the search warrant was
17 approximately 8 or 2012 hours.

18 Q And about how long were you in the residence?

19 A Upon a -- total time that whole evening?

20 Q Once you executed the search warrant, about how
21 long were you inside the residence? Until --

22 A We probably spent a couple hours there that
23 evening, sir. Inside searching and everything.

24 Q Now, Mr. Jones, he wasn't taken to jail that night,
25 correct?

Thomas W. Hamilton - Cross-Examination In Camera by Mr. Drylie

1 A No, sir --

2 Q But --

3 A -- he went with EMS.

4 Q -- he was taken to the hospital, correct?

5 A He was transported by EMS from the scene.

6 Q Was he free to leave at that time?

7 A He was never handcuffed nor did we tell him he's
8 under arrest. As far as being free to leave with somebody
9 with burns like that, that would be up to EMS's protocol as
10 far as refusal of treatment.

11 Q So you're saying if he started to walk away from
12 you guys you wouldn't have stopped him?

13 A We would have probably detained him, but once
14 again, he was not going to be going to jail that night.

15 Q So you were probably detaining him?

16 MR. ROSS: Objection, Your Honor. I object to the
17 form of the question. Probably detaining? That's
18 speculative.

19 THE COURT: Rephrase your question.

20 BY MR. DRYLIE:

21 Q So if he had tried to leave would you have stopped
22 him?

23 A If he had tried to leave, yes, sir. Part of our
24 job is not only as law enforcement, but if somebody needs
25 medical attention we are bound to give it to them. Same

Thomas W. Hamilton - Redirect Examination In Camera by Mr. Ross

1 thing with EDP's, emotionally disturbed people and things
2 of that nature.

3 MR. DRYLIE: One more second, Your Honor.

4 THE COURT: Yes, sir.

5 (WHEREUPON there was a pause in the proceedings.)

6 BY MR. DRYLIE:

7 Q Now, at this point was Mr. Jones a suspect in the
8 meth lab explosion?

9 A Because of the burns? I believe so; but once again
10 we did not have all the facts with all the items that were
11 found in the search warrant and things.

12 MR. DRYLIE: Thank you. No further questions.

13 THE COURT: Redirect?

14 MR. ROSS: Yes, Your Honor.

15 REDIRECT EXAMINATION - IN CAMERA

16 BY MR. ROSS:

17 Q Now, you testified that your weapons were -- your
18 weapon was drawn when you entered that home?

19 A Yes, sir.

20 Q Did you put your weapon in your holster at any
21 point?

22 A Yes, sir.

23 Q And when did that occur?

24 A After we found that it was only one suspect in
25 there and that he was unarmed and didn't have any weapons

Thomas W. Hamilton - Redirect Examination In Camera by Mr. Ross

1 near him or around him.

2 Q Okay. Was your weapon in your holster when you had
3 this conversation with the defendant?

4 A Yes, sir.

5 Q Okay. The public defender asked you on cross
6 whether or not the defendant was free to go and you said
7 you would probably have detained him if he had tried to
8 escape. Did you communicate that to the defendant?

9 A No, sir.

10 Q Did you tell him that he was not free to go?

11 A No, sir.

12 Q Did you tell him that he would have been detained
13 had he attempted to escape?

14 A No, sir.

15 Q Okay. When was he ultimately arrested for this
16 charge?

17 A In January of 2011.

18 Q Okay.

19 MR. ROSS: Your Honor, that's all the questions I
20 have for Lieutenant Hamilton.

21 THE COURT: Recross?

22 MR. DRYLIE: No, Your Honor.

23 THE COURT: Thank you, sir. You may step down.
24 Do you have another witness?

25 MR. ROSS: Yes, Your Honor. The State calls Deputy

Brandon Marthers - Direct Examination In Camera by Mr. Ross

1 Brandon Marthers to the stand.

2 THE COURT: Come around, please.

3 BRANDON MARTHERS,

4 having been duly sworn, testified as follows:

5 THE CLERK: Have a seat, sir. Once you're seated,
6 speak up loud and clear, state your full name, spelling
7 your last.

8 THE WITNESS: My name is Brandon W. Marthers,
9 M-A-R-T-H-E-R-S.

10 DIRECT EXAMINATION IN CAMERA

11 BY MR. ROSS:

12 Q Deputy Marthers, you're employed with the sheriff's
13 department; is that right?

14 A Yes, sir.

15 Q And what were your job duties on November 19th,
16 2010?

17 A I was a road patrol deputy that initially responded
18 to Chief Turner's call regarding an incident on Delree
19 Street.

20 Q Okay. And you said you were a road patrol deputy.
21 What types of cases are you involved with and such?

22 A We are practically involved with every case that
23 the department comes across. We're the first initial
24 responding officer to any call for service.

25 Q Okay. And you responded to on

Brandon Marthers - Direct Examination In Camera by Mr. Ross

1 November 19th, 2010?

2 A Yes, sir.

3 Q And what were you responding to?

4 A There was a report of an explosion, possibly some
5 type of meth lab.

6 Q Okay. And what happened when you got there?

7 A On scene I met with Chief Turner with Fire Service,
8 who advised that he was driving down Augusta Road and
9 noticed a low-lying smoke going across the road, which he
10 advised me was consistent of a chemical-type fire.
11 Whenever I stepped out and met with the chief I also
12 noticed the chemical-type smell that smelled similar to
13 ether, which based off of my training and basic
14 information, I could gather that it was consistent with a
15 meth lab. So based off the information the chief told me,
16 the odors that I smelled, I contacted the on-call narcotics
17 officer.

18 Q And who was that?

19 A Detective Travis Bass.

20 Q And did he arrive on the scene?

21 A Yes, sir, he did.

22 Q And what happened when he arrived on the scene?

23 A When he arrived on the scene I informed him of the
24 information that I received and he also spoke with Chief
25 Turner.

Brandon Marthers - Direct Examination In Camera by Mr. Ross

1 Q Okay.

2 A And at that point Lieutenant Hamilton arrived; soon
3 after Detective Hill. At that point the scene was turned
4 over to the narcotics officers.

5 Q Okay. Did you assist in the execution of a search
6 warrant that was obtained?

7 A Yes, sir, I did.

8 Q And can you tell me about your role in that search
9 warrant?

10 A When we entered the residence I proceeded to the
11 right-hand portion of it with Detective Hill to secure
12 that, if anybody was there or to search for anybody in need
13 of help on that side.

14 Q Okay. Was there anybody there on that side of the
15 house?

16 A No, sir.

17 Q Okay. And did you -- what did you do next at that
18 point?

19 A At that point we heard Detective Bass and
20 Lieutenant Hamilton calling out to an individual to show
21 them his hands. We proceeded to that side of the residence
22 to assist them.

23 Q Okay. And did you overhear a conversation between
24 Lieutenant Hamilton and the defendant, Richard Jones, at
25 that point?

Brandon Marthers - Direct Examination In Camera by Mr. Ross

1 A Yes, sir.

2 Q And what did you hear?

3 A During that conversation Mr. Jones stated that he
4 was going out to the workshop of the garage-type building
5 and whenever he was entering it he saw his friend, Scotty,
6 he was identified as Scott Peacock, running towards him
7 with something in his hand; and as Mr. Jones was turning,
8 whatever was in Mr. Peacock's hand exploded.

9 Q And were you a participant in this conversation
10 between Lieutenant Hamilton and the defendant?

11 A No, sir.

12 Q You just overheard what was said?

13 A Yes, sir.

14 Q How did the defendant appear when he was making
15 these statements?

16 A Calm. He didn't seem to be in any duress, but you
17 could tell that he had burns on his hands and arms.

18 Q Okay. Was he placed in cuffs?

19 A No, sir.

20 Q Was he placed under arrest?

21 A No, sir.

22 Q Did he appear to understand where he was?

23 A Yes, sir.

24 Q Did he appear to understand who he was?

25 A Yes, sir.

Brandon Marthers - Cross-Examination In Camera by Mr. Drylie

1 Q Did he appear to understand Lieutenant Hamilton's
2 questions?

3 A Yes, sir.

4 Q Did you notice any difficulty with the defendant to
5 communicate at all between himself and Lieutenant Hamilton?

6 A I did not.

7 Q Did he appear to be under the influence of any
8 alcohol or drugs?

9 A No, sir.

10 Q Were there any threats made?

11 A No, sir.

12 Q Were there any promises of leniency?

13 A No, sir.

14 Q Was there any coercion that -- did Lieutenant
15 Hamilton force him to say anything?

16 A No, sir.

17 Q Thank you, Deputy. If you could, please answer any
18 questions Mr. Drylie has for you.

19 THE COURT: Cross.

20 CROSS-EXAMINATION IN CAMERA

21 BY MR. DRYLIE:

22 Q Good afternoon, Deputy Marthers.

23 A Good afternoon.

24 Q I just have a couple of questions for you. First
25 when you entered the residence was your gun drawn?

Brandon Marthers - Redirect Examination by Mr. Ross

1 A Yes, sir.

2 Q And when you overheard the conversation was your
3 gun drawn?

4 A Until we realized the scene was secured, yes, sir.

5 Q Okay. Now, you say you overheard the conversation.
6 Were you in the same room?

7 A Yes.

8 Q You were -- so you could see everything clearly?

9 A For the most part I had the individual standing in
10 front of me.

11 Q Who was standing in front of you?

12 A Lieutenant Hamilton and Detective Bass.

13 MR. DRYLIE: Thank you.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION IN CAMERA

16 BY MR. ROSS:

17 Q You said you holstered your weapon after you
18 realized the search was clear?

19 A Yes, sir.

20 Q And was that before or after you entered into the
21 side of the house?

22 A Once we entered into the left portion of the house
23 where Lieutenant Hamilton was, our guns were initially
24 drawn; however, once we realized it was secured we
25 immediately holstered.

Brandon Marthers - Redirect Examination by Mr. Ross

1 Q All right.

2 MR. ROSS: Nothing further, Your Honor.

3 THE COURT: Recross?

4 MR. DRYLIE: No, Your Honor.

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

6 Any other witnesses for the State.

7 MR. ROSS: No, Your Honor. These are the only
8 statements we intend to offer at this point.

9 THE COURT: Does the defense have any witnesses?

10 MR. DRYLIE: No, Your Honor.

11 THE COURT: What's your argument or motion?

12 MR. ROSS: Your Honor, we would offer these
13 statements into evidence under Jackson v. Denno. I believe
14 they were freely and voluntarily made. Miranda was not
15 given, but Miranda did not have to be given. Our argument
16 is that this was questioning as a result of a Terry
17 detention not as a custodial interview. We do have several
18 cases on point that we can cite Your Honor. With regard
19 first to the voluntariness; and then second with regard to
20 the Miranda issue, depending on the questions, sir, that
21 you have.

22 THE COURT: What's the defense's position?

23 MR. DRYLIE: Your Honor, we believe that the
24 statements were involuntary. This doesn't seem to be a
25 Terry detention. They were inside the house. Furthermore,

1 although Mr. Jones may not have been placed under arrest at
2 that moment, he was not free to leave. He was going to the
3 hospital and they were not going to let him leave at any
4 point during that. Furthermore, there were four officers
5 that entered the house, all with guns drawn at the time;
6 and although he was not placed in handcuffs at that moment,
7 at least when he made the statements, according to the
8 officers, at least two of the officers still had their guns
9 drawn; and were, according to the testimony of Deputy
10 Marthers, still in the same room.

11 MR. ROSS: And, Your Honor, I can give you some of
12 the case law if you like.

13 THE COURT: It's up to you.

14 MR. ROSS: Your Honor, we would cite first,
15 Berkemeier versus McCarty, which stands for the general
16 proposition that a Terry detention does not require a
17 Miranda to be given. I'm sure Your Honor is aware of the
18 facts of that case. It was issued in 1984 by the Supreme
19 Court. It was a DUI stop. The suspect gave some
20 incriminating statements at the scene after he did some
21 field sobriety tests. The U.S. Supreme Court held that
22 this was analogous to a Terry stop and as such did not
23 require Miranda.

24 Our state courts have applied this in several
25 situations; the most applicable in this case is State

1 versus Corley, which was originally decided by the Court of
2 Appeals 383 South Carolina 232. It was affirmed by the
3 Supreme Court at 708 S.E.2d 217. In this case there was a
4 crack house under surveillance. The defendant walked to
5 the house and was there for about two minutes and then
6 returned. He was pulled for a traffic violation and gave
7 some false information to the police as far as where he had
8 been. At that point the police asked him if he had any
9 drugs in the car and he said yes, that he did. The Court
10 in that case applied Berkemeier to the facts of the case
11 and held that it was a Terry stop that did not require
12 Miranda.

13 The Court said that where you have reasonable
14 suspicion to believe that the defendant was involved in
15 criminal activity the law enforcement could ask a moderate
16 amount of investigative questions. They even said, and I
17 quote, Even drawing weapons, handcuffing a suspect, placing
18 a suspect in a patrol car, does not necessarily transfer a
19 lawful stop into a custodial arrest.

20 Well, that's what we have here, Your Honor.
21 Initially the defendant was hiding underneath a blanket and
22 I think given the totality of the circumstances in that
23 situation Lieutenant Hamilton was reasonable in drawing his
24 weapon and asking him to show his hands. Once that threat
25 subsided he holstered his weapon; and that's when the

1 conversation occurred. That's also when the other officers
2 on the scene, Deputy Marthers, holstered his weapon.

3 The second case from the State's perspective is
4 State versus Eisler. This was a felony DUI case that can
5 be found at 327 South Carolina 121; it's from 1997 that
6 involved a felony DUI suspect who had fled the scene.
7 Highway Patrol saw him at a convenience store making a
8 phone call and asked him to return to the scene, at which
9 point he gave some incriminating statements during that
10 drive back to the scene; and the Court in that case said
11 that the defendant was not in custody even though he was in
12 the patrol car. They also noticed that the fact that an
13 investigation has focused on a suspect does not trigger
14 Miranda warnings.

15 Defense counsel elicited testimony to the effect
16 that he was a suspect in a possible violation of the meth
17 statute; well, that fact alone does not transfer the
18 following conversation into a custodial interrogation. The
19 Court also noted that -- in Eisler they noted that the
20 police did not have enough information to arrest anyone at
21 the point that he was taken into the patrol car; didn't
22 know that -- whether he was intoxicated, whether or not
23 he'd gone to the phone to place a call to police. They
24 said as such he was not in custody.

25 Well, in our case we also have some of those

1 factors involved. They didn't know -- the police didn't
2 know who the owner of the house was; they really hadn't had
3 a whole opportunity to assess the extent of his injuries;
4 they had not heard his inconsistent statements; they had
5 not executed the search warrant; and they were there with
6 EMS; and their primary purpose was still -- they were still
7 in the emergency-response mode, Your Honor. The defendant
8 was not arrested until January.

9 Finally, Your Honor, my research did take me to the
10 application of these cases in the environment of executing
11 a search warrant. It is U.S. v. Hargrove. It's from the
12 federal court system 625 Federal Third 170. It's from the
13 Fourth Circuit from 2010.

14 Your Honor, this was a child pornography case. The
15 FBI obtained a search warrant from the defendant's
16 residence. A team of about ten to fifteen armed FBI agents
17 went into a suspects -- went into the suspects house at 6
18 a.m. They had their weapons drawn and they secured the
19 house. After that they spoke with the suspect in his
20 kitchen; and the Fourth Circuit noted that any interview
21 with law enforcement will have a coercive aspect simply
22 because law enforcement can charge you with a crime, but
23 only custodial interviews require Miranda.

24 Your Honor, the Court in that case said the
25 officers had the authority to pat down the defendant and

1 secure the home pursuant to the search warrant. That's
2 what Lieutenant Hamilton did in this case; and the Court
3 said that the initial entry in securing the home did not
4 rise to the level of placing the defendant in custody.

5 Your Honor, that's exactly what we have here in
6 this case. It was securing the home for a search warrant.
7 They were responding to an explosion that had all the
8 indications of a meth lab; and simply securing the scene
9 and asking questions does not amount to placing somebody in
10 custody. Sure there were coercive aspects to this. There
11 are coercive aspects for any encounter with law
12 enforcement, but this was not a custodial interrogation as
13 required under Miranda.

14 THE COURT: In the federal case did they ask
15 questions?

16 MR. ROSS: Yes, they sat him down and actually had
17 an interview with the suspect. So there was an extended
18 interview, I believe at least 15 minutes, maybe an hour.
19 I'll have to review the case again, but there was an
20 extensive back and forth between the FBI agents and the
21 suspect; which, Your Honor, I think that kind of reinforces
22 the custodial nature of this case. This was a brief
23 what-happened response during the initial securing of the
24 scene. It was not an extended interview. Two questions
25 were asked; and I think that would bear on the aspect of

1 whether or not the defendant was in custody given the
2 length of the questioning.

3 THE COURT: What two questions?

4 MR. ROSS: What happened, and then he said, A car
5 starter exploded.

6 THE COURT: All right.

7 MR. ROSS: And then Lieutenant Hamilton said, Look,
8 we're narcotics officers, we're familiar with meth labs;
9 and then he said, Scotty was running at him and had
10 something in his hand that exploded; and that was the
11 extent of the conversation, Your Honor.

12 THE COURT: Okay. I didn't understand the second
13 one to be a question, but it can be the functional
14 equivalent, I guess in an argument.

15 What's the defense's position?

16 MR. DRYLIE: Your Honor, first we don't believe
17 that this is a Terry stop and that Miranda was required due
18 to the fact that they did execute -- they did enter the
19 home in order to execute the search warrant. We elicited
20 testimony that there were four officers who entered the
21 home, two of them still had their guns drawn at that point;
22 which seems to place the defendant in custody and he had
23 not been given his Miranda warnings. Furthermore, Mr. Ross
24 stated they didn't know who the owner of the home was at
25 that time. It looks like from the original incident report

1 that at 5:30 the responding officer had a conversation with
2 one of the neighbors who said that Richard Jones was the
3 owner of the home. So it seems they knew who the owner of
4 the home was when they went in at eight o'clock that night.
5 We argue that Miranda was required and the statements were
6 involuntary.

7 THE COURT: Do you have a copy of the federal case?

8 MR. ROSS: Yes, Your Honor.

9 THE COURT: I'm not saying Terry is or is not
10 applicable, I've just not known it to occur inside
11 somebody's house.

12 Can y'all get the lawyers in here on this other
13 case? The jury's got a question.

14 Do you have the case?

15 MR. ROSS: If -- Your Honor, I just have this one
16 copy.

17 THE COURT: I'll give it back to you, just let me
18 see it.

19 MR. ROSS: I didn't know if you wanted the defense
20 to have a copy.

21 MS. FULLWOOD: Your Honor, can we have the cite of
22 that case again?

23 THE COURT: 625 Federal 3rd, 170.

24 MS. FULLWOOD: Thank you, Your Honor.

25 (WHEREUPON there was a pause in the proceedings.)

1 **THE COURT:** I'm going to need to take this question
2 from the other jury.

3 (WHEREUPON there was a pause in the proceedings.)

4 (WHEREUPON State's Exhibit No.'s 1 through 4 marked
5 for identification.)

6 **THE COURT:** All right. During the testimony of
7 Lieutenant Hamilton I was trying to write down what he
8 said. He was asked on cross-examination about when the
9 initial response was and when the search warrant was
10 executed. I think he wrote down -- I mean, I think I wrote
11 down what he said about the initial response. He said it
12 in military time 1730 hours, if I heard him correctly. I
13 could not understand what he said about the search warrant.

14 When was -- how much time elapsed between the
15 initial response, if that time is correct, and search
16 warrant being executed?

17 **MR. ROSS:** Your Honor, they knocked on the door, I
18 believe he testified, at 2012 which would have been 8:12
19 p.m. The initial response was right around 5:30. So in
20 between that initial response to the search warrant that
21 would be two-and-a-half hours, roughly.

22 **THE COURT:** All right. Did anybody testify about
23 whether the shed was in flames or what the condition of the
24 shed was or how close it was to the house or anything like
25 that?

1 **MR. ROSS:** Lieutenant Hamilton testified to the
2 location. It was right beside the residence, the shed is.
3 Your Honor, I was planning on calling Chief Turner, Deputy
4 Marthers, Detective Bass, and Lieutenant Hamilton during an
5 anticipated motion to suppress the evidence seized after
6 the search warrant was obtained. I anticipate they'll make
7 that motion and maybe during that questioning that -- the
8 factual frame work can kind of be expounded upon, Your
9 Honor, as far as the initial response and the decision to
10 enter the garage as part of the protective sweep.

11 **THE COURT:** Do y'all have anything else?

12 **MR. DRYLIE:** Not at this time, Your Honor.

13 Your Honor?

14 **THE COURT:** Yes?

15 **MR. DRYLIE:** Just to let you know we're not making
16 a Fourth Amendment objection to the entry of the shed or
17 the search warrant; so if you need that information that --
18 Solicitor Ross can call his people.

19 **THE COURT:** Well, I don't profess to be an expert
20 in search and seizure or any of these things. I read this
21 case from the Fourth Circuit Court of Appeals, the Hargrove
22 case. Of course, one of the main distinguishing factors
23 and one of the things they keep coming back to in that case
24 is that the officers there told Mr. Hargrove that he was
25 free to leave. They told him he was not under arrest and

1 they told him he was free to leave.

2 I've never really -- again I don't profess to be an
3 expert. I never really heard a Terry analysis applied when
4 a search warrant is being executed in someone's home. I
5 know that officers who enter into a residence, or any other
6 structure for that matter, but if they enter into a
7 residence they have a right and are perfectly authorized to
8 secure the premises and to make sure that there's no
9 threats to their personal safety; and they also have the
10 abilities to take steps to prevent evidence from being
11 destroyed or taken away.

12 It's been a long time since I was in law school,
13 but I remember very vividly my first year of law school
14 when some of the students in there, including myself, were
15 struggling with the rules; and one of the students kept
16 asking questions about why does the constitution protect
17 this but doesn't protect that; and the difference was, it
18 was a house.

19 In one instance it was in somebody's home and
20 somewhere else it was out on the street -- some other
21 incident it was out on the street. And I remember the
22 professor just got to the point of exasperation and just
23 yelled out because it's a "GD" house. It's different in
24 somebody's house.

25 MS. FULLWOOD: Did Your Honor have Professor

1 Wedlock as your procedure teacher.

2 THE COURT: I don't know who I had. Yeah, I had
3 Professor Wedlock.

4 MR. ROSS: Your Honor, may I --

5 THE COURT: But they did have the right to go in
6 there and do effectively the same things that Terry would
7 allow inside the home. I just never heard it apply to a
8 Terry analysis and maybe I'm just completely wrong there.
9 They have a right for their own protection -- and I'll give
10 you a chance to talk in a minute.

11 The next thing is that when officers arrive on the
12 scene, I think the rules are different when you're -- when
13 you're out on a highway than when you're in a home. I
14 don't -- just talking off the top of my head without making
15 a ruling right now, I don't really see a problem with
16 asking somebody what happened, which was the question that
17 Lieutenant Hamilton said was posed, What happened. I wish
18 I had more detail about what the specific situation was at
19 that point in time because I think that analysis is
20 different if you've got a flaming inferno next to a house
21 going on as opposed to you got the fire contained and
22 everything's settled down.

23 I think you have to know whether there were any
24 kind of -- for lack of a better term -- exigent
25 circumstances that were going on, but the simple question

1 of what happened is hard for me to see how that really is
2 violative of anybody's rights. At that point then the
3 response was not in the form of a question as I understood
4 the testimony. The response from Lieutenant Hamilton was
5 we're trained law enforcement officers and it wasn't a car.

6 Now, the question then becomes whether that is the
7 functional equivalent of a question; whether it's given
8 under certain circumstances, as I understand the law, that
9 a reasonable person would understand it to be calling for a
10 response.

11 All right. Now what do y'all want to tell me?

12 MR. ROSS: Your Honor, the distinction between a
13 house and a highway, I think that's probably more relevant
14 with regard to searches and seizure and reasonable
15 expectation of privacy. I know that there is a greater
16 sense of privacy that society recognizes as reasonable in
17 the home versus out on the highway, or out in a car which
18 leads to the Carroll Doctrine and the presumption that you
19 need a warrant to enter a home. I don't know if the
20 distinction between highway and home is really as critical
21 in determining whether or not somebody's in custody. If
22 anything, the fact that somebody's in their home would lead
23 a reasonable person to not believe they're in custody.

24 THE COURT: Well, there's discussion of that in the
25 Hargrove case, but as a general rule when somebody's in his

1 home, it's not as coercive a setting as if the person were
2 in a -- at a jail or law enforcement facility or somewhere
3 else.

4 Did y'all have anything you want to add?

5 MR. DRYLIE: Yes, Your Honor.

6 MR. ROSS: And with regard to the exigent
7 circumstances, Your Honor, we'd be happy to provide
8 testimony from those officers regarding the exigent
9 circumstances.

10 THE COURT: Well, again you hit on a very good
11 point. This analysis is -- a lot of what I'm talking about
12 is usually search and seizure discussions. The ruling of
13 the Court is that the State has established by the
14 requisite degree of proof that the defendant was not in
15 custody or the functional equivalent of custody so that
16 Miranda warnings were not required. The first question,
17 the Court believes, was an appropriate question similar to
18 those that are allowed in routine traffic stops. It's just
19 a question about what happened, trying to assess the
20 situation; somebody's underneath a blanket next door to a
21 structure that exploded. The second, while it may
22 certainly be interpreted as being something that rises to
23 the level of a question, it really was nothing more than a
24 statement that basically we don't believe this had anything
25 to do with a car.

1 The statements will be admissible if a proper
2 foundation is made.

3 Anything else?

4 MR. ROSS: Nothing in regards to Denno, Your Honor.

5 THE COURT: Y'all need to tell me how long we're
6 going to be with these motions because we're running late;
7 and I know it's not your fault, but I need to tell this
8 jury something either we're going to finish the motions
9 today and start tomorrow, or we're going to tell them how
10 long we're going to be.

11 MR. DRYLIE: First, for the record, Your Honor, we
12 take the position that the second statement was the
13 functional equivalent of putting the defendant in custody
14 just for the record.

15 THE COURT: All right. Well, the evidence that was
16 presented -- there was no evidence from the defense. The
17 evidence presented from the State was that while there were
18 weapons drawn initially, those were done because they were
19 executing a search warrant. It was a protective sweep; the
20 defendant didn't give an explanation as to why he was under
21 a blanket or afghan. He was presumably unable to see
22 anything that happened until he came out from that is the
23 only evidence that I have; and they said -- the officer
24 said, and I find him to be credible; that they holstered
25 their weapons as soon as they learned that the scene was

1 secured, that -- the situation in Hargrove was, I think,
2 much more egregious than what could possibly be envisioned
3 to this evidence before us here.

4 Here, we also have this EMS issue. I don't know
5 the extent of the burns, I don't know the extent of the
6 injury, but EMS was called in; and as to whether he could
7 leave or not, my understanding of the situation was that he
8 was not ever told that he could not leave, that there were
9 emergency medical officials there treating; and that a
10 reasonable person under those circumstances would
11 understand that he most likely was going to be taken for
12 treatment. There's no indication that a reasonable person
13 under the circumstances would believe that he was going to
14 be taken into custody; and more to the point, had been
15 taken into the functional equivalent of custody.

16 So I note your position, I just disagree with it.
17 Anything else?

18 **MR. ROSS:** Nothing with respect to Denno.

19 **THE COURT:** All right. What motions do you have?

20 **MR. DRYLIE:** We have -- Your Honor, we have several
21 motions in limine just relate to some of the witnesses and
22 some of the character evidence that they've offered up
23 against Mr. Richard Jones. We also have a motion in limine
24 not to refer to any of the red stains that appear in some
25 of the pictures as blood. There was no presumptive testing

1 done on that.

2 And also specifically to one of the witnesses,
3 Scott Peacock. At one point he had stated that he had
4 bought methamphetamines from the defendant, Mr. Jones. He
5 then later backed off that statement. We take 404(b) and
6 Lyle analysis and we want to make sure there's no testimony
7 related to Mr. Peacock having bought any drugs from
8 Mr. Richard Jones.

9 THE COURT: So how long do you think this will
10 take?

11 MR. ROSS: Your Honor, I can make it quick on the
12 Peacock issue. We don't intend to offer prior bad acts
13 during our case in chief, but we would reserve the right to
14 readdress the issue should the defense put up evidence in
15 this case.

16 THE COURT: All right. How long will this take?

17 MS. FULLWOOD: If I may, Your Honor?

18 THE COURT: Sure.

19 MS. FULLWOOD: It might just take a few minutes.
20 If the prosecutor is telling us that none of its witnesses
21 in its case in chief are going to be proffering any
22 character sort of evidence about Mr. Jones, then that
23 leaves us simply to the motion in limine that apparently
24 there were some spots or stains or drops of a red
25 substance, I think in the shed, and I believe in the house.

1 No presumptive testing was done. There's no analysis as to
2 what the substance actually was. We noticed in his diagram
3 of the house it labels some things, this is where blood was
4 found; but you know I don't believe there's anybody who is
5 qualified to actually offer expert opinion testimony that
6 the substance was, in fact, blood; and that being the case
7 no one should be able to say it was blood.

8 **THE COURT:** Do you intend to go into any issues of
9 character.

10 **MR. ROSS:** That's a pretty broad area of the law.
11 I think Ms. Fullwood's referring to a statement that a
12 third party gave to the effect that he had purchased drugs
13 from the defendant. We don't intend to offer that into
14 evidence during our case in chief. As far as any other
15 character evidence, if they can be a little more specific,
16 I can give you a more definite rule, definite statement,
17 Your Honor, but I don't intend to elicit testimony
18 regarding purchases from the defendant.

19 **MS. FULLWOOD:** It's basically several of these
20 witnesses that have said things like, He's an unpleasant
21 person; He's a paranoid person; He drinks a lot; they smell
22 things around that property; He plays his music loud; He's
23 loud; He is kind of wild. Things of that nature that we
24 would ask to be excluded from evidence.

25 **MR. ROSS:** Your Honor, I don't intend to offer

1 that. I don't think it's relevant to the issue of whether
2 or not he was cooking methamphetamine.

3 THE COURT: What about the blood.

4 MR. ROSS: The blood stains, Your Honor, I don't
5 think we need an expert to say, Yes, that's a blood drop.
6 I think a layman -- a law enforcement officer can testify
7 that it appeared to be blood. There were blood stains
8 leading from the garage to the home and we would offer the
9 officers who observed it and we would ask them questions as
10 to what it appeared to be. I don't think we need -- they
11 need to be qualified as an expert and I don't think there
12 needs to be definitive sampling on that. I think that
13 would go to the weight of their testimony, not the
14 admissibility.

15 THE COURT: Was the defendant bleeding?

16 MR. ROSS: Yes, Your Honor, he had some burn --
17 pretty significant burns; and there were blood drops
18 running from the garage up to his home; and there was
19 one -- a couple drops, I believe, on the stairs leading up
20 to his home, Your Honor. So we would contend that it's a
21 blood trail from the point of origin of the fire to his
22 home where he was ultimately found.

23 THE COURT: Are there photographs of it?

24 MR. ROSS: Yes, Your Honor, there are.

25 (WHEREUPON Mr. Ross hands documents to the judge.)

1 **THE COURT:** All right. Tell the jury that I'll be
2 with them in about fifteen minutes.

3 **MR. ROSS:** Your Honor, there's also some blood
4 soaked clothes as well that I had in a separate stack of
5 photos and I will show the defense and then pass it up
6 also, Your Honor.

7 **THE COURT:** Do y'all have anything else?

8 **MS. FULLWOOD:** On this point?

9 **THE COURT:** Yes.

10 **MS. FULLWOOD:** I would simply point out as Your
11 Honor well knows from being a circuit judge this long there
12 are a number of substances that can appear to be blood or
13 some different bodily fluid, once tested they are not; and
14 a layman -- I don't care what their occupation is -- really
15 isn't qualified to say a certain substance is blood. I
16 don't think they should be allowed to say that unless there
17 has been some testimony.

18 **THE COURT:** Anything else?

19 **MR. ROSS:** Your Honor, I would say given the
20 totality of the circumstances, an explosion occurring, the
21 evidence will show they were running from the garage to the
22 home. I think a layman can draw a pretty sound conclusion.
23 It doesn't need any type of chemical analysis, as well as
24 the --

25 **THE COURT:** When you say they, who is they?

1 MR. ROSS: They will be Detective Bass and
2 Lieutenant Hamilton.

3 THE COURT: I thought you said they were running
4 from --

5 MR. ROSS: Oh, they as in the defendant and two
6 other individuals.

7 THE COURT: Who are they? The other people?

8 MR. ROSS: One of them was identified later, or
9 believed to be Scott Peacock. The other one is unknown.

10 THE COURT: Is Scott Peacock around?

11 MR. ROSS: Scott Peacock's on subpoena, Your Honor.
12 I don't believe he's in the courtroom right now or in the
13 courthouse now.

14 THE COURT: All right. In limine rulings are
15 preliminary rulings they're not based on knowing the case.
16 I don't pretend to know the case like you know it. I know
17 absolutely nothing about it except what has been said here
18 in the courtroom thus far, and I've only heard from one
19 side, even in that limited amount of time. I agree they
20 can't say it's blood. I don't know if they're prohibited
21 from saying that it appeared to be blood; and then I think
22 the Solicitor's argument about it going to the weight of
23 the evidence would kick in because they'd be subject to
24 cross-examination about whether any of the substance was
25 ever tested, whether it was determined to be blood, whether

1 they did any DNA, whether they tried to do blood-type
2 testing. So as an in limine matter I'm not excluding it.
3 It may be a different ruling when it comes up into
4 evidence.

5 Any other motions?

6 MR. DRYLIE: No, sir, Your Honor.

7 MR. ROSS: Your Honor, I do have a brief motion.

8 THE COURT: What is it?

9 MR. ROSS: One of the officers involved in this
10 case is Agent Ray Hill, Your Honor. He took photographs he
11 took these photographs that we intend to present during the
12 course of this trial. Since this case occurred, Ray
13 retired from the police force. He runs his own business
14 now, and he has a concealed weapons permit class that he
15 runs at his -- at a firing range that he owns. He picked
16 up a perjury charge related to verifying the customers that
17 he trained at the firing range. He -- SLED was involved
18 because they regulate the concealed weapons class, and they
19 charged him with perjury because there was a discrepancy:
20 Did they go five hours; did they go eight hours. He
21 certified that they went eight hours. He since went into
22 PTI and his charge has been cleared through PTI. I do not
23 intend to offer him as a witness, and I would ask that any
24 reference to that fact not be allowed because it would tend
25 to confuse the jury, as well as inflame the jury as well,

1 Your Honor. I don't think it's relevant to Mr. Jones's
2 case.

3 THE COURT: Do y'all intend to go into that? How
4 would you go into it?

5 MS. FULLWOOD: I thought I heard the Solicitor say
6 he was not going to offer that witness's testimony. Did I
7 hear that correctly?

8 THE COURT: That's what I heard.

9 MR. ROSS: That is correct, Your Honor.

10 MS. FULLWOOD: Well, if they're not going offer --
11 I think if he were to testify it would be something we
12 could cross-examine him on, but if they're not -- that
13 would be the only time I think we could bring it up would
14 be my thought.

15 THE COURT: Well, he hasn't been convicted of
16 anything. I don't know how you're going to get into it,
17 but if he doesn't testify I don't know how we even reach
18 that point.

19 MS. FULLWOOD: Right.

20 THE COURT: How are the photographs going to come
21 in?

22 MR. ROSS: Through other officers that observed the
23 scene, Your Honor; and if that's the defense's position
24 then I would withdraw that motion to be addressed in the
25 event that it comes up.

1 THE COURT: All right. What other motions do you
2 have?

3 MR. ROSS: Nothing from the State, sir.

4 MR. DRYLIE: Nothing from the defense, Your Honor.

5 THE COURT: Are y'all ready?

6 MR. ROSS: Yes, Your Honor.

7 THE COURT: Let's take a couple minutes and then
8 we'll get started. Very short.

9 (WHEREUPON there was a brief recess.)

10 THE COURT: On that Denno matter I don't know if I
11 specifically said anything about the argument that it was
12 involuntary. The Court finds that the evidence establishes
13 that the by the requisite degree of proof that the
14 statements made were the product of the defendant's own
15 free will. They were freely and voluntarily made, not the
16 product of any kind of compulsion, duress, undue influence,
17 threat, promise, reward, or anything of the sort.

18 All right. Bring the jury in.

19 (WHEREUPON the jury entered the courtroom at 3:31
20 p.m.)

21 THE COURT: Madame foreman, ladies and gentlemen of
22 the jury, I want to apologize to you for the length of time
23 you had to wait. I can assure you that I know how to tell
24 time; and I can promise you that it drives me crazy when a
25 jury's waiting on us. I do the best I can to anticipate

1 how long things will take. We have worked as hard as we
2 can work. We stopped to eat for 15 minutes; we brought our
3 food in. We've been working. We had two situations where
4 we had technical problems that -- with computers -- that we
5 didn't anticipate and that slowed us down and the other
6 case has caused us to have some delays. The jury had some
7 questions. We had to bring them up and address those
8 questions; but we're ready to go now.

9 So I'm sorry for the length of your wait. The
10 first thing I have to do is have you placed under the oath
11 of a trial jury. I need you to stand, please and raise
12 your right hand.

13 (WHEREUPON the jury was duly sworn by the Clerk of
14 Court at 3:34 p.m.)

15 **OPENING REMARKS BY THE COURT**

16 **THE COURT:** All right. Ladies and gentlemen, I'm
17 going to begin by explaining to you in broad terms how the
18 case will begin. I won't go through the whole thing. I'll
19 tell you how we'll get started and then I'm going to give
20 you some instructions you have to follow throughout the
21 trial. The first thing that's going to happen in the case
22 is that you're going to hear the opening statements of the
23 attorneys. In opening statements the attorneys are not
24 permitted to engage in what we refer to as argument. An
25 opening statement can be an introduction, an outline, an

1 overview, but it cannot extend into what we discuss as
2 argument.

3 When the opening statements are finished, then I'll
4 call upon the solicitor to present his case. The State has
5 the burden of proof. The State has to prove every
6 essential element of the offense charged beyond a
7 reasonable doubt. So I'll recognize the State to present
8 evidence in an attempt to meet that burden. When the State
9 finishes with its case in chief, the solicitor will inform
10 me that the State rests and at that point, regardless of
11 whether you've been in the courtroom for an hour, or you've
12 been in the courtroom for a minute, I have to send you out
13 of the courtroom and I have to discuss legal issues with
14 the attorneys.

15 When you come back after that point I'll tell you
16 where we go from there; but those are the landmarks you can
17 look for as we get started.

18 Now, it's really important that you understand some
19 things. That oath that you just took was one in which you
20 promised us that you're going to decide this case based on
21 the evidence and the law. So you need to know where that
22 comes from. The evidence comes from the sworn testimony of
23 the witnesses. Evidence also can come in the form of
24 exhibits. An exhibit can be anything tangible that's
25 marked in the record. It can be a photograph, a map,

1 anything tangible. If something is an exhibit you have it
2 with you in the jury room when you decide the case. So
3 evidence comes from testimony and exhibits. What the
4 lawyers say is not evidence.

5 Now, I want you to pay attention to what they say.
6 They facilitate the introduction of the evidence, but what
7 comes out of their mouths is not evidence. There's one
8 exception to that rule and if it comes up in this case I'll
9 tell you about it, otherwise I won't burden you with it.

10 The law comes from me. It's my job to decide what
11 law applies to a case and to tell the jury the law at the
12 end of the trial. So you know where the evidence and the
13 law comes from now.

14 It's also very important that you understand there
15 are two judges in this courtroom. I'm the judge of the
16 law. As I just told you, I'll tell you the law at the end
17 of the trial. It's also my job to preside over the trial
18 to maintain order and to rule on legal issues as they
19 arise. You're the other judge. You're the only judge of
20 the facts. Only you are going to get to decide such things
21 as whether evidence is believable or not. Only you get to
22 decide what weight, if any, to put on evidence. Those
23 things are entirely your prerogative and I'm not going to
24 invade your province. I'm the judge of the law; you're the
25 judges of the facts.

1 Now, while you've promised us that you're going to
2 decide this case based on the evidence and the law and you
3 must do that, I'm not telling you to leave your common
4 sense at home. We want you to use your common sense. We
5 want you to use your sense of logic and reason and your
6 good judgment; and it just makes good common sense that you
7 keep an open mind about the case and you don't make up your
8 mine until you've heard all the evidence and you know what
9 law applies. So that's why we have that rule that I told
10 you about earlier. It's hard to follow, but you must
11 follow it; and that rule is you are not to discuss this
12 case in any way among yourselves until I tell you to. When
13 we're all through and I turn the case over to you to decide
14 we wait on you; but don't discuss the case until then.
15 Don't discuss the case with family members, friends,
16 anybody else until you've been discharged from this jury.
17 If anybody attempts to contact you and discuss the case
18 with you report it to me so I can deal with it. If there's
19 media coverage of the trial, get away from it and report to
20 me at the first opportunity what you saw, heard, or read
21 through the media. Don't do any independent investigation.
22 I've been over that with you. I won't go over it again.

23 And the last thing, folks, is to thank you. And
24 I'm not going to sit up here and repeatedly say it, but I
25 know you've got other places to be and other things to do

1 and the only promise I can make to you is that if you're
2 waiting on us, we're working, just like I told you we were
3 doing before. There's going to be hurry up and wait,
4 you've already experienced it; but I can promise you, we
5 won't be goofing off while you're waiting on us. If you're
6 waiting, we're working. So thank you.

7 All right. To honor my commitment to you, I'll be
8 quiet now. I invite your attention to the opening
9 statements.

10 Solicitor, are you ready.

11 MR. ROSS: Thank you, Your Honor. May it please
12 the Court?

13 THE COURT: Yes, sir.

14 **OPENING STATEMENTS**

15 MR. ROSS: If you play with fire, you're going to
16 get burned. Richard Jones, this defendant on trial today
17 learned that lesson the hard way back on November 19th,
18 2010. He was playing with fire in his garage. That fire
19 was a meth lab and it blew up in his face. The facts
20 you're going to hear are very simple and straightforward.

21 Mr. Jones lives off Highway 1 on Delree Street,
22 which is over in Oak Grove, West Columbia area. He's got a
23 small trailer on his property and right beside it, he's got
24 a free-standing work shed or work garage. Beside his
25 property are two small businesses. They're called Image,

1 Inc. and the Gutterman; and all of this is visible from
2 Highway 1.

3 Well, the workday at those businesses came to a
4 screeching halt on November 19th, 2010. An explosion
5 rattled those buildings as if a freight train was rolling
6 through. Several employees rushed out to see what happened
7 and they saw the defendant running from that garage into
8 his trailer. And they also saw two other people running
9 from the garage to a car. From the garage a large smoke
10 cloud started to appear and it slowly drifted over to
11 Highway 1; and that caught the attention of Chief Eddie
12 Turner with the fire department. He just happened to be
13 driving home from work on Highway 1 when that explosion
14 occurred; and it only took him about a minute to drive over
15 to Richard Jones' property. And when he got out of his car
16 he immediately knew what he was dealing with.

17 He smelled a chemical odor that is unique to the
18 production of methamphetamine; and he saw the door to the
19 trailer was wide open. So he walked up to see what was
20 going on, make sure nobody was injured; but before he got
21 to that door it slowly closed right in front of him. He
22 knocked anyway, said Hey, this is the fire department; and
23 Richard Jones didn't answer the door. So the chief backed
24 up. He called the police because he knew he had a crime
25 scene on his hands. And a responding deputy arrived very

1 shortly to help secure the scene; and ultimately two
2 narcotics officers were called. They also knew what they
3 were dealing with.

4 They immediately smelled that chemical smell from a
5 meth lab. So they immediately took action. They went into
6 that garage to make sure nobody else was inside, injured or
7 dead. Once they cleared the garage, they went and obtained
8 a search warrant. When they had that search warrant in
9 hand, they went up to the residence. They knocked on the
10 door, said, This is the police. But again Richard Jones
11 wasn't answering that door. So they forcibly went inside.
12 One team went to the right; one team went to the left.

13 The folks that went to the left initially didn't
14 see anybody, but then they found Richard Jones hiding
15 underneath a blanket. They asked him, Hey, what happened.
16 And he said, We were working on a car starter when it
17 exploded. Well, Lieutenant Hamilton's been around the
18 block a few times. He said, Look, we're narcotics
19 officers. We're familiar with meth labs. We know what's
20 going on. What happened? And then he said he was going
21 out to his garage, turned the corner and saw Scotty with
22 something in his hands and before he could get out it
23 exploded.

24 Well, at that point EMS was there. They took over
25 and they sent the defendant to the hospital, and they

1 ultimately went down to Augusta to the Augusta burn center
2 and he received treatment down there for burns to his body.
3 And once he went to the hospital, the officers focused
4 their attention on searching that residence and searching
5 the garage. And they weren't surprised with what they
6 found. Their sense of smell was not lying to them. They
7 found the ingredients and the tools that you would need to
8 make methamphetamine in your garage.

9 Ladies and gentlemen during the course of this
10 trial you're going to learn more about making
11 methamphetamine than you ever wanted to know. And the
12 people that are going to teach you are these narcotics
13 officers that deal with the drug everyday on the streets
14 and they're going to tell you that just a couple of years
15 ago if you wanted to make meth in your home you would need
16 something akin to a high school chemistry set. Well, those
17 days are long gone.

18 The evidence is going to show that nowadays all you
19 really need to make meth is a Coke bottle. You take this
20 Coke bottle, you open it up and you put crushed Sudafed
21 pills in the Coke bottle. You know, the Sudafed that's
22 over-the-counter that you have to sign for? Well, there's
23 a reason you've got to sign for it nowadays. That's
24 because it's a base ingredient to make methamphetamine.
25 You take the crushed Sudafed and you add chemical products

1 that you can get at Wal-Mart; and you add starter fluid,
2 which has ether; and you add ammonium nitrate that you can
3 get from cold packs that you put on a sports injury; you
4 add lye which you can get from drain opener; you add
5 lithium battery strips. You put all this stuff in a Coke
6 bottle and you shake it up and there's going to be several
7 chemical reactions going on inside this little bottle; and
8 a pressure will build. To relieve the pressure you open
9 the cap. You put the cap back on and you shake it some
10 more, and you vent it. You shake it and you vent it; and
11 in act an hour, you're going to have methamphetamine in a
12 liquid solution in this bottle. That's called shake and
13 bake on the streets, the process of shaking it and then
14 baking the methamphetamine.

15 This is an easy way to do it. It's convenient, but
16 it's also very dangerous. The evidence is going to show
17 that if you have a bunch of volatile chemical reactions
18 going on in this Coke bottle, that could easily cause an
19 explosion. And the evidence will show that's exactly what
20 happened to Mr. Jones on November 19th, 2010.

21 When you hear this evidence -- when you hear from
22 the witnesses, the officers that seized all this evidence,
23 and you compare it with how you actually go about cooking
24 the drug, which they will teach you how to do, you compare
25 what was found with how you do it, at this end of this

1 trial you're going to know what the chief knew. You're
2 going to know what those police officers knew. You're
3 going to know what Richard Jones knows. That was no car
4 starter accident. The evidence will be clear and our case
5 will be simple. If you are burned in a meth lab explosion
6 on your property, you're involved.

7 Now, before we call our first witness to the stand,
8 before we introduce the evidence that we intend to
9 introduce, let me tell you about the law that's going to
10 apply in this case. Judge Keesley will charge you with the
11 law at the end of the case as well, but let me give you a
12 brief preview. He's charged with manufacturing
13 methamphetamine.

14 Now, the manufacturing statute prohibits
15 manufacturing methamphetamine, as well as aiding, abetting,
16 assisting and conspiring to manufacture the drug; and that
17 distinction is going to be relevant in this case because
18 the evidence will show that Richard Jones was not alone in
19 that garage. Two other folks were with him. And I
20 anticipate the defense will latch on to that. I anticipate
21 they may say those other guys are guilty. And, you know
22 what? They're probably right. The evidence will show that
23 those other guys probably are guilty; but Mr. Jones is the
24 one on trial today. That's what y'all are here to decide:
25 His guilt or his innocence; and like I said before, this is

1 going to be a simple case.

2 If you're injured in a meth lab explosion on your
3 property, you're involved, and you're guilty under that
4 statute. After you hear this evidence, you too, will be
5 firmly convinced that Richard Jones is guilty as charged.

6 **THE COURT:** Thank you, Solicitor.

7 All right. Mr. Drylie, you're recognized for your
8 opening statement.

9 **MR. DRYLIE:** Good afternoon, ladies and gentlemen.
10 Thank y'all for being here today. I'm going to start off
11 by introducing myself. My name's Eric Drylie. This is my
12 co-counsel, Elizabeth Fullwood. And most importantly, this
13 is Mr. Richard Jones and it's been a pleasure to get to
14 know him over these last few weeks and to represent him.
15 November 19th, 2010 started off as a normal day for
16 Mr. Jones. He was cleaning up around his house. He was
17 getting ready for his girlfriend to come over for dinner
18 that night. Around four o'clock in the afternoon one of
19 Richard's friends comes by. His name is Scott Peacock.
20 The reason he came by was some months earlier Scott had
21 left a truck on Richard's property. He had it there for
22 six or seven months because it needed a new transmission
23 and Mr. Jones, he had all the tools that were needed to fix
24 this truck.

25 Scott comes by that afternoon with a man that

1 Richard doesn't know. It's the third man that you heard
2 Mr. Ross allude to that no one really knows him. They come
3 by and they're supposed to be working on the truck.
4 Richard comes out to meet them. It's four o'clock and
5 Scott simply says, I'm going to work on the truck. Richard
6 goes back about his business. He goes back into his house.
7 He's continuing to fix up, get something ready for dinner
8 that night.

9 Later on that afternoon he looks out his window and
10 he notices something extremely odd. He doesn't see anyone
11 working on the truck. He doesn't see the hood up, he
12 doesn't see anyone under the truck, and he's wondering
13 what's going on. He then begins to walk over to the shed
14 to investigate. As he enters the shed he doesn't see him
15 in the first room, but that wasn't surprising. The first
16 room is kind of a sewing room, and the second room is where
17 all the tools are. And that's where Richard expected to
18 find Scott. He looks back in there and he doesn't see
19 Scott.

20 He opens the door to the third room; and that's
21 when he sees Scott running at him with a bottle. Suddenly
22 it explodes and Mr. Jones is badly injured. He goes back
23 to his house. He attempts to wash it off, and later on
24 when the police do show up, at that point he's so injured,
25 he's physically unable to answer the door.

1 Now, I want to talk to you about this explosion for
2 a minute. Mr. Jones ended up spending four days in the
3 hospital after this bottle explosion. Mr. Peacock, Scott
4 Peacock, was in the hospital for three months. Use your
5 common sense. Who was actually doing something with
6 methamphetamines that afternoon? Obviously, if you're in
7 the hospital for three months as opposed to four days --

8 MR. ROSS: Objection, argumentative.

9 THE COURT: Rephrase your statement, please.

10 MR. DRYLIE: Mr. Peacock spent substantial more
11 time in the hospital than Mr. Jones. This was because he
12 was probably closer to the explosion.

13 Mr. Jones eventually did turn himself into the
14 police on this warrant, but he has maintained the whole
15 time that he had no knowledge that they were cooking
16 methamphetamines on his property. As Mr. Ross alluded to,
17 the judge is going to charge you with the law, way better
18 than I ever could, at the conclusion of the case; and the
19 most important thing that he's going to tell you is that for
20 Mr. Jones to be guilty he must have had knowledge of what
21 was going on on his property. Mr. Ross told you that if
22 you play with fire you're going to get burned, but you
23 can't control what people are doing around you.

24 Mr. Jones is guilty of nothing more than being a
25 good friend. He was allowing his friend to work on his

1 truck over at his house; and perhaps he was a little too
2 trusting of Mr. Peacock; and in the end he did end up
3 getting burned because he ended up having to be here today,
4 but he had no knowledge -- he never had any knowledge that
5 they were cooking methamphetamines on his property.

6 Thank you.

7 **THE COURT:** Thank you very much.

8 Ladies and gentlemen, I'm sorry, but I need to
9 address this question from the other jury. Don't discuss
10 the case. I need you to step into the jury room. I'll get
11 you back out here as quickly as I can.

12 (WHEREUPON the jury left the courtroom at 3:56
13 p.m.)

14 (WHEREUPON this case was in recess.)

15 **THE COURT:** State ready?

16 **MR. ROSS:** State's ready, sir.

17 **THE COURT:** Defense ready?

18 **MR. DRYLIE:** The defense is ready Your Honor.

19 **THE COURT:** Bring the jury in please.

20 (WHEREUPON the jury entered the courtroom at 4:11
21 p.m.)

22 **THE COURT:** All right. Solicitor, call your first
23 witness, please.

24 **MR. ROSS:** Thank you Your Honor.

25 The State calls Chris Harris to the stand.

Chris Harris - Direct Examination by Mr. Ross

1 THE COURT: Mr. Harris, I need you to come up here
2 to the clerk.

3 CHRIS HARRIS,
4 having been duly sworn, testified as follows:

5 THE CLERK: Have a seat, please, sir. Once you're
6 seated speak up loud and clear, stating your full name,
7 spelling your last on the record.

8 MR. ROSS: State your full name.

9 THE WITNESS: Chris Harris, C-H-R-I-S, H-A-R-R-I-S.

10 DIRECT EXAMINATION

11 BY MR. ROSS:

12 Q Mr. Harris, how are you this afternoon?

13 A Doing pretty good. A little uncomfortable, but
14 doing well.

15 Q You're the owner of Image, Inc. Company; is that
16 correct?

17 A Yes, sir, that's correct.

18 Q And where is that business located?

19 A It's in West Columbia,
20 adjacent to Ermine Drive and Highway No. 1.

21 Q All right. And Richard Jones lives next door; is
22 that right?

23 A Yes, sir, that's correct.

24 Q How long have you been the owner of Image Inc.
25 Company?

Chris Harris - Direct Examination by Mr. Ross

1 A October 1st will be twelve years.

2 Q Okay. And you've been working continuously in that
3 capacity since then?

4 A No, sir, this is our third location and we've been
5 in this location -- July 4th has been ten years.

6 Q Okay. Have you known Mr. Jones since you moved to
7 that location?

8 A Yes, sir, sure have.

9 Q And you've known him to live there?

10 A For the majority of time, yes, sir.

11 Q And what is your basis for knowledge of knowing
12 him?

13 A His mother and father are -- his mother is my
14 landlord. We rent the premise from them.

15 Q So you rent your business from his mom?

16 A Yes, sir, that's correct.

17 Q And where does his mama live?

18 A I believe it's in Cayce.

19 Q So she doesn't live next door?

20 A No, sir.

21 Q But Mr. Jones does?

22 A Yes, sir.

23 Q Okay. Mr. Harris, I'm going to show you an aerial
24 photograph marked State's No. 1, and I would ask you if you
25 could please take a look at that and tell me if that

Chris Harris - Direct Examination by Mr. Ross

1 accurately reflects the location of your business and its
2 surroundings.

3 A It does, yeah.

4 Q Is this an accurate reflection of Delree Street?

5 A Right. Yes, sir.

6 Q And does this accurately reflect where Mr. Jones's
7 trailer is?

8 A That's a correct visual, yes.

9 Q And does it accurately reflect where Mr. Jones's
10 garage is?

11 A It does.

12 Q And does it accurately reflect where Highway 1 is?

13 A Yes.

14 Q And finally, does it reflect where the Gutterman
15 Business is?

16 A It does.

17 Q And what type of business is the Gutterman?

18 A They install commercial or residential gutters on
19 homes for water drainage.

20 Q Okay.

21 MR. ROSS: Your Honor, at this time I'd move to
22 have State's No. 1 into evidence.

23 THE COURT: Any objection?

24 MR. DRYLIE: Without objection.

25 THE COURT: Mark it in evidence please.

Chris Harris - Direct Examination by Mr. Ross

1 (WHEREUPON State's Exhibit No. 1 was entered into
2 evidence.)

3 MR. ROSS: May I publish it to the jury as well,
4 sir?

5 THE COURT: Yes, sir, you may show it to the jury.

6 BY MR. ROSS:

7 Q Mr. Harris, with the Court's permission, if you
8 would step down please?

9 THE COURT: Mr. Harris, I would prefer that you
10 stand on the other side so that you're facing the court
11 reporter.

12 THE WITNESS: Yes, sir.

13 THE COURT: And you have to be careful that you
14 don't turn so that you block the jurors from seeing the
15 exhibit.

16 (WHEREUPON the witness leaves the witness stand.)

17 BY MR. ROSS:

18 Q So let me ask you, sir, your business is right
19 here; is that right?

20 A That's right.

21 Q And Mr. Jones' --

22 THE COURT: I think you've got some jurors blocked.

23 BY MR. ROSS:

24 Q Mr. Jones' property is right here; is that right?

25 A That's correct.

Chris Harris - Direct Examination by Mr. Ross

- 1 Q And this is his residence?
- 2 A Uh-huh; yes, sir.
- 3 Q And what is this? Is this his garage?
- 4 A Working quarters, garage; right.
- 5 Q And what street is this?
- 6 A That is Delree Street.
- 7 Q And what building is this here?
- 8 A That is the Gutterman.
- 9 Q That's the gutter installing business?
- 10 A That's correct.
- 11 Q And this is the highway; is that right?
- 12 A Highway No. 1.
- 13 Q Now, if I were heading towards Columbia would I be
- 14 in this lane of traffic or this lane of traffic?
- 15 A Far right lane, closest to my building, the
- 16 railroad tracks.
- 17 Q So this lane of traffic goes to Columbia?
- 18 A Uh-huh.
- 19 Q And if I went to Lexington that would be this lane;
- 20 is that right?
- 21 A That's right.
- 22 Q If you could please have a seat.
- 23 (WHEREUPON the Witness resumes the witness stand.)
- 24 BY MR. ROSS:
- 25 Q Now, Mr. Harris, do you remember the day that

Chris Harris - Direct Examination by Mr. Ross

1 Richard Jones' garage exploded?

2 A Yes, sir, I sure do.

3 Q Have there been more than one explosion over there?

4 A To my knowledge, no.

5 Q Okay. If I were to tell you that that occurred on
6 November 19th, 2010, would you say that's about right?

7 A Absolutely. Yes, sir.

8 Q All right. And tell me what happened that day.

9 Tell me what you saw and what you heard regarding the
10 explosion.

11 A Well, basically I did not hear the explosion as my
12 employees did. When I was -- I was coincidentally leaving
13 to go to my distributor to get the products we use day in
14 and day out, which is T-shirt garments we print on, I was
15 driving down Delree, I guess it's east, heading towards my
16 distributor. And as I was pausing there were three
17 individuals coming from the working quarters and one of
18 them happened to be Mr. Jones, who is the one I could pick
19 out that I knew immediately.

20 Q And how did he appear?

21 A Frantic, running, in a rush.

22 Q And where was he running to?

23 A I guess back home to his residence.

24 Q Okay. What did you do? Did you keep on going by?

25 A Yeah. Yeah, because when I was coming out there

Chris Harris - Direct Examination by Mr. Ross

1 was smoke pouring profusely out of the top of the eave of
2 the roof; and I noticed this when I was getting in my
3 truck; and then when I turned Delree that's when I saw the
4 three guys running.

5 Q So you saw three guys running from the building and
6 one of which was Mr. Jones?

7 A Yes, sir.

8 Q And during the years that you've been owner of this
9 company at Delree Street, have you had the opportunity to
10 see Mr. Jones before?

11 A Oh, absolutely yes, sir.

12 Q Was there any mistake as to who you had seen
13 running that day?

14 A None. None whatsoever. None at all.

15 Q Now, you said you were on a delivery; and let me
16 ask you, you don't have to step down, but if you could
17 please, say which way you were going. You said you're
18 coming out and you're going on Delree Street. Were you
19 going this way or this way?

20 A Down towards Wattling Road, which is east; is that
21 correct? Is that the right direction?

22 Q I'm directionally challenged..

23 A Going down this way. Going back towards this
24 property.

25 Q Okay. So you were going this way?

Chris Harris - Cross-Examination by Mr. Drylie

1 A Right.

2 Q And you were driving by his property?

3 A Yes, sir.

4 Q Okay. Is Mr. Jones in the courtroom today?

5 A Yes, sir.

6 Q Can you point him out to me, please?

7 A He's to my left in the blue shirt. (Indicating).

8 Q Is that the defendant you're pointing out?

9 A Yes, sir, that's correct.

10 Q And that's the individual you saw running from the

11 garage; is that correct?

12 A Yes, sir.

13 Q And that's the individual that lives at that

14 property; is that correct?

15 A That's correct.

16 MR. ROSS: No further questions for this witness.

17 If you could please answer any questions Mr. Drylie

18 has for you.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. DRYLIE:

22 Q Good afternoon, Mr. Harris. How are you doing?

23 A I'm great, thanks.

24 Q I just have a couple questions for you real quick.

25 So you didn't see the explosion?

Chris Harris - Cross-Examination by Mr. Drylie

1 A No, sir.

2 Q And you didn't hear it?

3 A I didn't hear it, no.

4 Q Okay. And you have no idea what Mr. Jones was
5 doing before that do you?

6 A I'd seen him in and out of the yard throughout the
7 day, but no.

8 Q Okay. Did you see the two other gentlemen leave
9 that afternoon?

10 A Right. As I just explained, I saw two individuals
11 when I was driving down the road.

12 Q I'm sorry. I probably phrased that poorly. Did
13 you actually see them get in a truck and leave?

14 A I didn't. When I -- as I was passing, which is
15 doing 25, 30 miles per hour down the road -- you don't get
16 a chance -- I'd never seen the individuals before, but I
17 did see Mr. Jones.

18 Q Okay. Now, do cars ever park in front of
19 Mr. Jones' house and go over to your business?

20 A No, not in front of his house.

21 Q To the side, sort of? Or...

22 A We have a parking lot up front; so if you're coming
23 to do business with me, you're going to park in the front;
24 you're not going to park in the back. If we're doing
25 deliveries, people come behind our building, not in front

Chris Harris - Redirect Examination by Mr. Ross

1 of his residence. There's a good bit of grass and area
2 which is in between the buildings. So they would have to
3 be visiting him and not us does. That make sense?

4 Q Yes, sir.

5 MR. DRYLIE: Beg the Court's indulgence for just a
6 second.

7 THE COURT: Yes, sir.

8 (WHEREUPON there was a pause in the proceedings.)

9 MR. DRYLIE: No further questions, Your Honor.

10 THE COURT: Redirect?

11 MR. ROSS: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. ROSS:

14 Q Mr. Harris, I forgot to ask you a few things on
15 direct. Did you ever come back to the scene after you made
16 the delivery?

17 A I did, yes, sir.

18 MR. DRYLIE: Objection, Your Honor. That's outside
19 the scope of redirect.

20 THE COURT: Do you want to be heard?

21 MR. ROSS: Yes, Your Honor.

22 THE COURT: What do you want to tell me?

23 MR. ROSS: I don't think the rules of evidence
24 limit redirect examination in that way.

25 THE COURT: Yes, sir? Go ahead.

Chris Harris - Redirect Examination by Mr. Ross

1 MR. DRYLIE: 611(d): A witness may be reexamined
2 as to the same matters to which he testified only in the
3 discretion of the Court. Without exception he may be
4 reexamined as to a new matter brought up through cross.

5 THE COURT: Objection's sustained. Doesn't prevent
6 you from calling him later.

7 BY MR. ROSS:

8 Q You were asked on cross about the parking area. If
9 you could, please, come down and point that parking area
10 out.

11 A (Witness leaves the witness stand.) This is the
12 front view, aerial view of our building. So when you come
13 to do business with my company you're going to park right
14 here. You're not going to park back here. That has
15 nothing to do with us. You're going to pick up an order,
16 sometimes you'd pick up right here, so you can enter the
17 parking lot from this side, but right here on the other
18 side, there's another drop-off point right here, which is
19 right behind our building; and this is our storage shed.
20 So you have potentially two spots -- three spots, but 99
21 percent of the time, people pick up right here; and the
22 other one percent go back here and UPS is right here.

23 Q Now, this truck -- have you seen this truck before?

24 THE COURT: If he's going to keep talking, y'all
25 switch places. He's facing away from us, it's hard to

Chris Harris - Redirect Examination by Mr. Ross

1 hear.

2 MR. ROSS: Okay.

3 THE WITNESS: What's the question again?

4 BY MR. ROSS:

5 Q Have you seen this truck before?

6 A I think that's the Ford truck that's been there
7 since I've been in that facility.

8 Q Whose truck is that?

9 A Belongs to the Jones.

10 MR. ROSS: That's all the questions I have, Your
11 Honor.

12 THE COURT: Recross?

13 MR. DRYLIE: Just briefly for a second, Your Honor.

14 THE COURT: Do you want him on the stand?

15 MR. DRYLIE: Yes, sir.

16 THE COURT: Will you please resume the stand, Mr.
17 Harris?

18 (WHEREUPON the witness resumes the witness stand.)

19 **RECROSS-EXAMINATION**

20 BY MR. DRYLIE:

21 Q Do you have any personal knowledge that the Jones's
22 own that truck?

23 A I do.

24 Q You do. How so?

25 A His father used to drive it.

Benjamin Walker - Direct Examination by Mr. Ross

1 Q Okay.

2 MR. DRYLIE: Nothing further.

3 THE COURT: Anything else of this witness?

4 REDIRECT EXAMINATION

5 BY MR. ROSS:

6 Q Is his father alive or dead?

7 A He is no longer with us.

8 MR. ROSS: Nothing further, Your Honor.

9 THE COURT: Anything else of this witness?

10 MR. DRYLIE: No, sir.

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

12 Call your next witness, please.

13 MR. ROSS: The State calls Ben Walker to the stand
14 please.

15 THE COURT: Come around, sir.

16 BENJAMIN WALKER,

17 having been duly sworn, testified as follows:

18 THE CLERK: Once you're seated, speak up loud and
19 clear, stating your full name, spelling your last.

20 THE WITNESS: My name is Benjamin Walker

21 B-E-N-J-A-M-I-N W-A-L-K-E-R.

22 DIRECT EXAMINATION

23 BY MR. ROSS:

24 Q Mr. Walker, you work at Image, Inc.; is that
25 correct?

Benjamin Walker - Direct Examination by Mr. Ross

- 1 A I do.
- 2 Q Tell me what you do for them.
- 3 A Everything. I just help run the business for
- 4 Chris.
- 5 Q Okay. So you're the second in command; is that
- 6 right?
- 7 A That's right.
- 8 Q Who lives neck door to Image, Inc.?
- 9 A Richard Jones.
- 10 Q And does he live right here (indicating)?
- 11 A Absolutely.
- 12 Q All right. Have you known him to live there for
- 13 your five years of working at the business?
- 14 A I have.
- 15 Q All right. I'm going to ask you some questions
- 16 about the explosion that occurred at Mr. Jones's garage do
- 17 you remember that day?
- 18 A I do.
- 19 Q Have there been any other explosions at that
- 20 property?
- 21 A Not that I'm aware of.
- 22 Q Okay. If I were to tell you that it occurred on
- 23 November 19th, 2010, would that sound about right?
- 24 A Yes.
- 25 Q Were you working that day?

Benjamin Walker - Direct Examination by Mr. Ross

- 1 A Yeah.
- 2 Q Did you hear the explosion?
- 3 A I did.
- 4 Q What did it sound like?
- 5 A Just loud -- loud enough to shake the building.
- 6 Q Okay. So you were inside the building or outside
- 7 the building?
- 8 A I was inside the building.
- 9 Q So it shook the building you were inside?
- 10 A That's right.
- 11 Q Okay. What did you do next?
- 12 A I got out of my chair and went immediately out the
- 13 back door to check on another employee that was actually
- 14 out working in the shed; and, of course, saw the smoke
- 15 coming out and the men running from the building.
- 16 Q Okay. How long did it take you to get outside?
- 17 A Maybe ten, fifteen seconds.
- 18 Q Okay. And you said you saw individuals running
- 19 from the garage?
- 20 A Yes, there were three men.
- 21 Q And where were they running to?
- 22 A Two men got into a truck and left; and then Richard
- 23 ran into his house.
- 24 Q So you saw Richard running into his house?
- 25 A That's right.

Benjamin Walker - Direct Examination by Mr. Ross

1 Q Did you see those other two individuals running
2 into that house?

3 A No.

4 Q So they got into the car?

5 A Yes.

6 Q They didn't go to the house?

7 A Not that I --

8 MR. DRYLIE: Objection.

9 THE COURT: Hold on. Yes?

10 MR. ROSS: He's leading Your Honor.

11 THE COURT: Sustained.

12 BY MR. ROSS:

13 Q Where did they go?

14 A I saw them get into a truck and leave.

15 Q Okay. What happened next?

16 A Very quickly the fire marshal showed up; and, you
17 know, shortly after that the police.

18 Q Okay. And what happened when they got there?

19 A They did their thing, you know. Some of the police
20 went to the house, and, you know, eventually into the shed;
21 but for the most part we didn't stay out very long. I
22 didn't watch much of what happened after seeing that.

23 Q If you could, please step down and show me exactly
24 your approach on Exhibit 1, please; and if you could, stand
25 where I'm standing and...

Benjamin Walker - Direct Examination by Mr. Ross

- 1 A (Witness leaves the witness stand.)
- 2 Q You said you exited Image, Inc. Where were you
- 3 located?
- 4 A There's a door right here. So I came out this way
- 5 and around.
- 6 Q Okay. And you said you saw individuals running
- 7 from the garage. Can you please point where you saw them
- 8 running from and then where they're running to?
- 9 A There was a truck that was parked here. Two
- 10 individuals ran to the truck and they drove off; and I
- 11 believe -- I couldn't tell you which way they went; but
- 12 Mr. Jones ran into -- well, in his house, which is right
- 13 there.
- 14 Q Is this his house here (indicating)?
- 15 A From that view it's kind of -- yeah, uh-huh.
- 16 Q Okay. And his trailer is what you saw him running
- 17 to?
- 18 A Yes.
- 19 Q He didn't go far?
- 20 A No.
- 21 Q You can, please have a seat.
- 22 A Sure. (Witness resumes the witness stand.)
- 23 Q Is Richard Jones in court today?
- 24 A Yes.
- 25 Q Could you point him out to me, please.

Benjamin Walker - Cross-Examination by Mr. Drylie

1 A Blue shirt, yellow tie.

2 Q And that's the defendant you're pointing out?

3 A Yes, sir.

4 Q And that's the individual who lives next door to
5 Image, Inc.?

6 A Yes, sir.

7 MR. ROSS: Your Honor, we'd ask that the record
8 reflect that the witness has identified the defendant.

9 THE COURT: It's so noted.

10 MR. ROSS: Nothing further, sir. If you could,
11 please, answer any questions Mr. Drylie has for you.

12 THE WITNESS: Absolutely.

13 THE COURT: Anything? Cross?

14 CROSS-EXAMINATION

15 BY MR. DRYLIE:

16 Q Good afternoon. I just have a quick question for
17 you. You didn't actually see the explosion, did you?

18 A No, just the smoke.

19 MR. DRYLIE: Nothing further, Your Honor.

20 THE COURT: Redirect?

21 MR. ROSS: No, sir.

22 THE COURT: Thank you, sir you may step down.
23 Call your next witness.

24 MR. ROSS: State calls Patrick Wicker to the stand.

25 THE COURT: Come around, please.

Patrick Wicker - Direct Examination by Mr. Ross

1 PATRICK WICKER,

2 having been duly sworn, testified as follows:

3 THE CLERK: Have a seat, please, sir. Once you're
4 seated, state your full name, spelling your last on the
5 record.

6 THE WITNESS: My name is Patrick Wicker. It's
7 P-A-T-R-I-C-K W-I-C-K-E-R, just like baskets.

8 DIRECT EXAMINATION

9 BY MR. ROSS:

10 Q Mr. Wicker, how are you doing this afternoon?

11 A Fantastic.

12 Q Now, you were an employee at Image, Inc. on
13 November 19th, 2010; is that correct?

14 A Yes.

15 Q What kind of work did you do for them?

16 A I was the art director.

17 Q So what does that mean?

18 A That means I draw the pictures that go on the stuff
19 that they print.

20 Q Are you still employed there?

21 A I'm not.

22 Q Where are you employed?

23 A I'm self-employed.

24 Q What kind -- what do you do?

25 A I do the same kind of work.

Patrick Wicker - Direct Examination by Mr. Ross

1 Q You went into business for yourself?

2 A Yes, graphic design.

3 Q Who lives next door to Image, Inc.?

4 A Richard does.

5 Q And how long have you known Richard Jones?

6 A I guess for the better part of seven years.

7 Q Okay. Do you remember the day that an explosion
8 occurred at his garage?

9 A Oh, yes.

10 Q Can you tell me what you saw, what you heard, what
11 you smelled that day? Tell me what happened.

12 A Sure. I was at my desk, which is on the other side
13 of the building. We all heard a rather large kaboom. The
14 building rattled some. Ben, who you saw earlier, hopped
15 out of his desk and ran out. I followed shortly
16 thereafter. I'd say I was probably ten or fifteen seconds
17 behind Ben.

18 Q Okay.

19 A And I -- you know, when we came out, I just -- I
20 saw a big cloud of smoke drifting out of the vent ridge of
21 the roof of the shop and going across --

22 Q That's Richard Jones's shop?

23 A Yes, sir.

24 Q Okay. And where was it heading to?

25 A It went across the property, kind of eerily, about

Patrick Wicker - Direct Examination by Mr. Ross

1 twenty feet in the air and it stringed and went across US 1
2 into the woods.

3 Q Okay. Did you approach that building?

4 A We did.

5 Q What did you see?

6 A Well, we saw a lot of smoke; and the door, I
7 believe, was about a third of the way up.

8 Q Which door?

9 A The bay door on the shop.

10 Q Okay.

11 A We peered in a little bit, but it was very
12 difficult to see anything in there; and we -- well I had a
13 very strong smell of ether.

14 Q Have you smelled ether before?

15 A Yes.

16 Q And in what capacity have you smelled ether?

17 A I used to restore cars for a hobby and used ether
18 as a starting fluid to start old motors and -- it's very
19 combustible, so when you spray it into a carburetor the
20 vapors go into the cylinder heads and when you fire it off,
21 it starts the engine quicker than the old gasoline will.

22 Q Now, when you've used ether in the past, have you
23 sprayed the ether?

24 A Yes.

25 Q Have you aware of ever puncturing the bottom of an

Patrick Wicker - Direct Examination by Mr. Ross

1 ether can?

2 MR. DRYLIE: Objection.

3 THE COURT: Yes, sir, what's your objection.

4 MR. DRYLIE: He's leading and it's speculation,
5 sir.

6 THE COURT: Leading and what?

7 MR. DRYLIE: Leading and it's speculation.

8 MR. ROSS: I'll rephrase, Your Honor.

9 THE COURT: All right. Rephrase if you'd like. Go
10 ahead.

11 BY MR. ROSS:

12 Q Have you ever personally punctured the bottom of an
13 ether container to work on a car?

14 A No, that's ridiculous.

15 Q Why is it ridiculous?

16 A Because it's really dangerous.

17 Q Okay.

18 A It says so on the can.

19 Q You said you heard a boom?

20 A Uh-huh.

21 Q Can you describe that a little bit more?

22 A It was kind of a low thud. I don't know. I'm not
23 very familiar with explosions, but it was --

24 Q Was it loud or was it faint?

25 A Oh, it was pretty loud; and like I say it rattled

Patrick Wicker - Direct Examination by Mr. Ross

1 the building. We have trains that go past there pretty
2 regularly and it shook the building kind of like when a
3 train goes by.

4 Q And you said you left the building several seconds
5 behind Mr. Walker?

6 A I did.

7 Q Okay. Did you see anybody coming into or out of
8 the garage?

9 A I did not.

10 Q And just to be clear, the smoke that you saw -- can
11 you see this exhibit, sir?

12 A Yes, I can.

13 Q The smoke, did it come from this building here
14 (indicating)? And, if you need to step down...

15 A Yeah, it -- here I'll step down.

16 (Witness leaves the witness stand.)

17 Q You want to use the --

18 A Sure. It came from the ridge vent of the shop
19 here, which is where the overlapping roof panels come
20 together; and it drifted consistently, so not like a
21 regular fire that go's from here up in the air, but it
22 drifted straight across the road from here, all the way
23 across the road and into the woods here across US 1.

24 Q Okay. Now, this truck right here, whose truck is
25 that?

Patrick Wicker - Direct Examination by Mr. Ross

1 A That was Richard Jones, Sr.'s truck when he passed
2 away. It's been on the property ever since, for years.

3 Q Okay. All right. If you could please take the
4 stand again.

5 A Certainly. (Witness resumes the witness stand.)

6 Q When you smelled that ether smell, how far away
7 from his garage were you?

8 A Thirty to forty feet.

9 Q Okay. And had the fire chief arrived at that
10 point?

11 A Yes.

12 Q Is Richard Jones in the courtroom today?

13 A Yes, sir.

14 Q Can you point him out for me, please.

15 A He's right here (indicating), blue tie -- I mean
16 blue shirt, yellow tie.

17 Q Is that the defendant you're pointing at?

18 A Yes, sir.

19 MR. ROSS: Thank you. No further questions. If
20 you would, please, answer anything the public defender has
21 for you.

22 THE WITNESS: Certainly.

23 THE COURT: Cross.

24 MR. DRYLIE: No questions, Your Honor.

25 THE COURT: Thank you, sir, you may step down.

Gary Vogler - Direct Examination by Mr. Ross

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MR. ROSS: State calls Gary Vogler to the stand.

4 THE COURT: Come around, please.

5 GARY VOGLER,

6 having been duly sworn, testified as follows:

7 THE CLERK: Have a seat, please, sir. Once you're
8 seated, state your full name, spelling your last on the
9 record, please.

10 THE WITNESS: My name is Gary Vogler, G-A-R-Y V, as
11 in victor, O-G-L-E-R.

12 DIRECT EXAMINATION

13 BY MR. ROSS:

14 Q Mr. Vogler, how are you this afternoon?

15 A Very well, sir.

16 Q You work at the Gutterman?

17 A I do.

18 Q What do you do for them?

19 A Sales and sort of the de facto technical guy.

20 Q Okay. Does the Gutterman have a video surveillance
21 system?

22 A We do.

23 Q And how many cameras does it have?

24 A Six.

25 Q Are you trained in retrieving video surveillance

Gary Vogler - Direct Examination by Mr. Ross

1 from that business?

2 A Yes.

3 Q I'm going show you what's been marked as State's
4 No. 2.

5 (WHEREUPON State's Exhibit No. 2 was marked for
6 identification.)

7 BY MR. ROSS:

8 Q Is State's No. 2 an accurate reflection of the
9 front of the Gutterman's business?

10 A That is our business.

11 Q And does it contain one of the video surveillance
12 systems that y'all have installed?

13 A It does. In this corner.

14 MR. ROSS: Your Honor, at this time I'd move to
15 admit State's No. 2 into evidence and to publish to the
16 jury.

17 THE COURT: Any objection?

18 MS. FULLWOOD: No objection, Your Honor.

19 THE COURT: Mark that into evidence, please, ma'am.

20 (WHEREUPON State's Exhibit No. 2 was entered into
21 evidence.)

22 (WHEREUPON the attorneys were pulling the
23 projection screen down.)

24 BY MR. ROSS:

25 Q All right, sir. You said this is the front of the

Gary Vogler - Direct Examination by Mr. Ross

1 your business; is that correct?

2 A Yes, sir.

3 Q What is this item here in the corner?

4 A That is a video camera.

5 Q Okay. And where does that video camera project to?

6 A That line of sight from that camera is across the
7 parking lot, basically in the direction that I'm sitting.

8 Q Okay. I'm going to show you State's No. 1; and I'm
9 going to ask that you tell the jury exactly where that
10 surveillance system captures. And if you could, please,
11 with the Court's permission step down?

12 THE COURT: Sure.

13 (WHEREUPON the witness leaves the witness stand.)

14 MR. ROSS: Stand over here.

15 BY MR. ROSS:

16 Q So that camera would that be --

17 A It's on this corner.

18 Q Okay. And where is it facing? Where is the line
19 of sight?

20 A The line of sight runs across our parking lot in
21 this direction (indicating).

22 Q So it would capture this building here?

23 MS. FULLWOOD: Objection. Leading, Your Honor.

24 THE COURT: Sustained.

25 ///

Gary Vogler - Direct Examination by Mr. Ross

1 BY MR. ROSS:

2 Q Would this building be in the line of sight?

3 A That is correct.

4 Q Please have a seat.

5 A (Witness resumes the witness stand.)

6 Q Do you recall the explosion that occurred across
7 the street at that garage?

8 A I was not there.

9 Q Okay. Do you recall when it happened?

10 A It was November of 2010, close to Thanksgiving.

11 Q Okay. If I were to say November 19th, 2010, would
12 that sound right to you?

13 A Yes, sir.

14 Q Were there any other explosions in that building?

15 A Not that I'm aware of.

16 Q Okay. Were you asked to retrieve the video
17 surveillance from that building?

18 A I was.

19 Q And did you do so?

20 A Yes, sir.

21 Q Who asked you to do it?

22 A It was a sheriff's deputy from Lexington County.

23 Q And when did he ask you to do that?

24 A The following morning.

25 Q The morning following the explosion?

Gary Vogler - Direct Examination by Mr. Ross

1 A The explosion, right.

2 Q And did you review the surveillance?

3 A Yes.

4 Q And what did you see?

5 MS. FULLWOOD: Objection, Your Honor. The video
6 would speak for itself and it would be for the jury to
7 ultimately decide what the video depicts.

8 THE COURT: Do you have the video?

9 MR. ROSS: Yes, Your Honor, I do.

10 THE COURT: Sustained.

11 BY MR. ROSS:

12 Q Did you review the video with the police?

13 A I did.

14 Q And did you give the police a copy of the video?

15 A Yes, sir.

16 (WHEREUPON State's Exhibit No. 3 was marked for
17 identification.)

18 BY MR. ROSS:

19 Q Take a look at State's No. 3. Do you recognize
20 that disk?

21 A That's a copy that I made for the law enforcement.

22 Q And whose signature is at the bottom of this disk?

23 A That would be me.

24 Q And State's No. 3 is an accurate copy of what you
25 gave law enforcement?

Gary Vogler - Direct Examination by Mr. Ross

1 A It's an exact copy.

2 Q And it accurately -- it's an accurate copy of the
3 shed across the street the day of the explosion?

4 A That is correct.

5 MR. ROSS: Your Honor, at this time, I'd move for
6 No. 3 to be admitted into evidence.

7 MS. FULLWOOD: No objection, Your Honor.

8 THE COURT: Mark it in evidence please.

9 (WHEREUPON State's Exhibit No. 3 was entered into
10 evidence.)

11 MR. ROSS: And I request publishing it to the jury
12 sir.

13 THE COURT: Yes, sir.

14 (WHEREUPON State's Exhibit No. 3 was played for the
15 jury.)

16 (WHEREUPON the following questions were asked while
17 the video was playing for the jury.)

18 BY MR. ROSS:

19 Q Mr. Vogler, let me ask you is this the building
20 across the street?

21 A It is.

22 Q Whose cars are these?

23 A Those are Gutterman vehicles. The car in the
24 center is my secretary.

25 Q What street is this?

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Gary Vogler - Direct Examination by Mr. Ross

1 A It's Delree Street.

2 Q And what street is this?

3 A It's US Highway 1.

4 Q All right. What does that appear to be right
5 there?

6 A Smoke.

7 Q Who is that?

8 A The gentleman's name is Harold Dean Taylor. He's
9 an employee of the Gutterman.

10 Q What does that appear to be there? That moving?

11 A It appears to be somebody running out of the
12 building.

13 Q And what does that appear to be right there?

14 A A vehicle.

15 (WHEREUPON the video ended.)

16 MR. ROSS: Thank you, Mr. Vogler, if you would
17 please answer any questions Drylie has for you.

18 THE COURT: Any questions of the witness?

19 MS. FULLWOOD: No questions, Your Honor.

20 THE COURT: Thank you, sir. You may step down.
21 How long is your next witness?

22 MR. ROSS: Probably thirty minutes, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, I'm
24 going to send you into the jury room. I'm going to make a
25 decision as to whether we break for the day now or come

1 back do a little bit more. The jury downstairs has a
2 verdict, so I'll have to take that verdict. I've got to
3 make a calculation as to how long all this will take. I
4 may bring you back in and let you go for the day. We may
5 take the verdict and go from there. I guess I need to know
6 what the verdict is.

7 All right. Just follow the bailiff. Don't discuss
8 the case.

9 (WHEREUPON the jury left the courtroom at 4:48
10 p.m.)

11 THE COURT: All right. I've been informed this is
12 a good stopping point. Are y'all okay with stopping for
13 the day right now?

14 MR. ROSS: Yes, sir.

15 MS. FULLWOOD: Yes, sir.

16 THE COURT: Bring the jury in for me.

17 (WHEREUPON the jury entered the courtroom at 5:04
18 p.m.)

19 THE COURT: All right. Madame foreman, the
20 lawyers -- and the members of the jury -- the lawyers have
21 advised me this is a good stopping point. So we'll just
22 break for the day. I need you back here tomorrow at 9:30
23 in the jury room. Please remember all those admonitions
24 that I gave you earlier and remember if you have something
25 that prevents you from being here or you're running late

1 please let us know and please try to be on time.

2 All right. Thank you very much. Follow the
3 bailiff.

4 (WHEREUPON the jury left the courtroom at 5:05
5 p.m.)

6 THE COURT: All right. Mr. Jones, how long have
7 you been out on bond.

8 THE DEFENDANT: Two years.

9 THE COURT: Two years?

10 THE DEFENDANT: (Witness nodded head.)

11 THE COURT: Why were you late?

12 THE DEFENDANT: I wasn't. I was downstairs on the
13 third floor.

14 THE COURT: Why did you go to third floor?

15 THE DEFENDANT: Because I thought that's where my
16 lawyer told me to go because the jurors were coming in the
17 back door of the Solicitor's office.

18 THE COURT: All right. I need you in this
19 courtroom tomorrow no later than 9:30. If they tell you to
20 be here sooner, you be here sooner. All right? This
21 courtroom.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I was just about to sign a bench
24 warrant to have you locked up.

25 All right you remember what I told you about the

1 case is going to continue?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And that's even more true now because
4 I've sworn that jury and jeopardy has attached, so I've got
5 to keep going.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Y'all be careful as you
8 leave that you don't have contact with a juror.

9 MS. FULLWOOD: Sir?

10 THE COURT: I said, be careful as you leave that
11 you don't have contact with jurors.

12 MS. FULLWOOD: Yes, sir.

13 THE COURT: 9:30 a.m. thank you the.

14 (WHEREUPON court was in recess until the following
15 morning.)

16 (WHEREUPON the following proceedings were held on
17 July 12, 2012.)

18 (WHEREUPON State's Exhibit No.'s 5 through 39 were
19 marked for identification.)

20 THE COURT: State ready for the jury?

21 MR. ROSS: Yes, Your Honor.

22 THE COURT: Defense?

23 MR. DRYLIE: Yes, Your Honor.

24 THE COURT: Bring the jury in please.

25 (WHEREUPON the jury entered the courtroom at 9:31

Edward Turner - Direct Examination by Mr. Ross

1 a.m.)

2 THE COURT: All right. Call your next witness.

3 MR. ROSS: The State calls Chief Turner to the
4 stand.

5 THE COURT: Come around, please.

6 EDWARD TURNER,

7 having been duly sworn, testified as follows:

8 THE CLERK: Once you're seated, sir, state your
9 full name, spelling your last on the record.

10 THE WITNESS: Joel Edward, Eddie Turner,
11 T-U-R-N-E-R.

12 DIRECT EXAMINATION

13 BY MR. ROSS:

14 Q Chief Turner, how are you this morning?

15 A Fine. Thank you, sir.

16 Q Can you tell me when you were first employed by the
17 fire department?

18 A I started out with Lexington County Fire Service in
19 1977 as a volunteer and it became a career in 1986 and have
20 been there since then.

21 Q What types of positions have you held in fire
22 service?

23 A I've been from firefighter all the way up to
24 station chief and currently serve as the administrative
25 chief for the entire fire service.

Edward Turner - Direct Examination by Mr. Ross

1 Q So you've been employed as a full-time employee
2 with them since the '80s; is that right?

3 A '86, yes, sir.

4 Q Okay. What were -- what was your job position on
5 November 19th, 2010?

6 A I was operations chief for the south region of
7 Lexington County Fire Service.

8 Q So what does that mean?

9 A That means I was responsible for 12 fire stations
10 that covered the lower half of Lexington County.

11 Q And did you respond to a call at
12

13 A I did.

14 Q And what county is Delree Street in?

15 A It's in Lexington County.

16 Q All right. Is there a garage or shed on that
17 property?

18 A That's correct.

19 Q What county is that in?

20 A That's in Lexington County.

21 Q South Carolina?

22 A Yes, sir.

23 Q And is there a residence or a trailer on that
24 property?

25 A Yes, sir, there is.

Edward Turner - Direct Examination by Mr. Ross

1 Q What county is that in?

2 A Lexington County.

3 Q South Carolina?

4 A Yes, sir.

5 Q Okay. Tell me how you came to respond to a fire at
6 that location?

7 A At approximately 5:30 that afternoon I was on
8 Highway 1, Augusta Highway, headed toward West Columbia and
9 I was sitting at the traffic light at that intersection at
10 Ermine Road. I looked to my right and when I looked to my
11 right, I witnessed smoke coming out of the building, the
12 garage, at this particular address and coming up and
13 drifting towards No. 1 across No. 1.

14 Q Okay. And what did you do then?

15 A I made a right turn on to Ermine, made a left turn
16 on to Delree and as I'm going towards the structure, the
17 garage, the smoke is continuing to rise up and drift away.
18 I'm not quite sure what I've got at that point in time.
19 I'm starting to do my scene size up as I'm arriving and I
20 couldn't tell exactly where the smoke was coming from
21 because it was laying over the top of the whole building
22 and the mobile home at that point in time. As I started
23 past, I still wasn't quite sure whether it was in that
24 structure or behind it. I passed it, did not see anything
25 behind it, and turned around and came back.

Edward Turner - Direct Examination by Mr. Ross

1 Q So when you said you passed it, you were in your
2 vehicle?

3 A Yes, sir.

4 Q Okay. And as you were passing in your vehicle did
5 you see anything else out of the ordinary?

6 A Out of the corner and my peripheral vision, as I
7 was passing I glimpsed some people going away from the
8 building.

9 Q Okay. And that was as you were passing the shed?

10 A Passing the shed, that's correct.

11 Q Okay. And what happened next?

12 A As I went past, I turned around and came back. As
13 I came back then I pulled down off of Delree in front of
14 the shed, parallel to the shed at that point in time.

15 Q And did you get out of your car?

16 A Yes, sir, as soon as I -- yes, sir, I did exit my
17 car.

18 Q And what happened when you exited your car?

19 A As soon as I exited my car and stepped out, at that
20 point in time I smelled a strong chemical odor similar to
21 ether; and at that point in time I backed my car back up
22 closer to Delree to be up wind of the product.

23 Q Now, what did you think that smell was?

24 A Typically ether is a recognizing factor for a meth
25 lab.

Edward Turner - Direct Examination by Mr. Ross

1 Q Okay. And is that -- did you base that on your
2 training that you received?

3 A Yes, sir. My training both through fire service
4 and through law enforcement.

5 Q Okay. So after you smell that meth lab smell, what
6 did you do?

7 A When I backed up at that point in time the
8 personnel from Image, Inc. were over there. I instructed
9 them to come back up towards Delree, the paved portion or
10 the pavement there right above the garage to get out of the
11 vapor, to get above the vapor.

12 Q So there were onlookers rushing to the scene?

13 A Yes, sir, the people from Image, Inc.

14 Q Did they follow your instructions?

15 A Yes, they did.

16 Q And what happened next?

17 A I talked to them and found out what was going on
18 with them, very quickly found out that they had told me
19 that -- one of the people from Image, Inc. said that two
20 people had --

21 MR. DRYLIE: Objection. Hearsay, Your Honor.

22 THE COURT: Do you wish to be heard?

23 MR. ROSS: Effect on the listener, Your Honor.

24 This was what his response to the situation was. Not
25 offered for the truth of the matter.

Edward Turner - Direct Examination by Mr. Ross

1 THE COURT: Overruled -- I mean, I'm sorry,
2 sustained. It's hearsay.

3 MR. ROSS: Yes, Your Honor.

4 BY MR. ROSS:

5 Q Without telling me, Chief Turner, anything those
6 individuals said, what did you do next?

7 A I immediately called for law enforcement; and then
8 as part of my risk analysis in trying to determine what the
9 situation was and what type of life hazards I had, I had to
10 talk to the witnesses and determine the risk and what type
11 of life hazard I possibly had.

12 Q So what did you do?

13 A I did talk to the personnel from Image, Inc.

14 Q Okay.

15 A They did tell me that they had --

16 MR. DRYLIE: Objection, Your Honor.

17 THE COURT: Don't say what they said. It's
18 hearsay.

19 BY MR. ROSS:

20 Q Without saying anything that the Image, Inc. folks
21 told you, what did you do after you spoke with all those
22 onlookers on the scene. What action did you take?

23 A As I said I had called for law enforcement back up.

24 Q Okay.

25 A I evaluated what was told to me.

Edward Turner - Direct Examination by Mr. Ross

1 Q Okay.

2 A I made a decision at that point in time to check
3 the mobile home based on what had been told to me to see if
4 I had someone there that may be injured.

5 Q Was this before or after you backed your car up to
6 the street?

7 A It was after.

8 Q Okay. So did you walk up to the mobile home?

9 A Yes, I did.

10 Q Tell me what happened then.

11 A I walked up to the mobile home and as I started up
12 the steps of the mobile home, the door was partially open;
13 and as I started up to steps the door slowly closed and the
14 door -- the door was opened to the inside slowly closed to
15 the outside; and then as it closed, it closed completely,
16 enough that I could hear the latch close when the door
17 closed.

18 Q Now when you said the door was partially open, how
19 open are you talking about?

20 A I'd say a foot or so.

21 Q Okay. What happened after the door closed?

22 A I went on up into the porch. I knocked on the
23 door, identified myself as Eddie Turner, Lexington County
24 Fire Service -- knocked, no response, knocked again, no
25 response; and I backed back down and went back to my

Edward Turner - Direct Examination by Mr. Ross

1 vehicle.

2 Q Okay. Did you enter the residence?

3 A No, sir.

4 Q Did you enter the garage?

5 A No, sir.

6 Q Why didn't you do either of those two?

7 A I did not enter the garage because at that point in
8 time, based on my training, the smoke had started to
9 dissipate. It did not appear to be anything that I needed
10 to check at that point in time; also concerned -- our
11 number one concern is our safety as a first responder. I
12 knew I had a potential crime scene and I didn't want to
13 take a chance at doing that {verbatim}; plus I had no
14 indication that there was anybody else there that needed my
15 assistance.

16 Q Were you armed?

17 A No, sir.

18 Q What is your SOP or standard operating procedure or
19 guidance in how to respond in a situation like that?

20 A In those cases, once he do a risk analysis and a
21 scene size up, our number one priority is the safety is our
22 first responders; and by that being the case, then we will
23 stand by. If there's no immediate life threat, we will
24 stand by until scene is secured by law enforcement.

25 Q Okay. Was there smoke still coming from the

Edward Turner - Direct Examination by Mr. Ross

1 building?

2 A The smoke had decreased coming from the building at
3 that point in time.

4 Q Okay. And did law enforcement arrive?

5 A Yes, sir, they did.

6 Q How long did that take?

7 A Approximately ten minutes or so.

8 Q Okay. And do you remember the deputy that came to
9 the scene?

10 A Yes, sir.

11 Q Is it this individual right here?

12 A That's correct.

13 Q Okay. What happened when he got there?

14 A As soon as he got there I relayed to him the
15 situation. I told him what I had, what had been done at
16 this point in time, and worked with him to gather a little
17 more information from the personnel that was there.

18 Q Okay. Did fire trucks eventually come to the
19 scene?

20 A Yes, sir, they did after that point.

21 Q Did other law enforcement officers come to the
22 scene?

23 A Yes, sir, they did.

24 Q So it wasn't just Deputy Marthers here that was on
25 the scene was it?

Edward Turner - Direct Examination by Mr. Ross

1 A No, sir.

2 Q Okay. How long did it take for the narcotics
3 officers to arrive at the scene?

4 A I would say thirty, forty-five minutes or so.

5 Q Okay. Were you there when they got there?

6 A I was.

7 Q Did you witness the actions that they took?

8 A I was there long enough to see them do their
9 initial sweep.

10 Q Okay.

11 A And I was there up until the point when Lieutenant
12 Hamilton arrived and they started processing and getting
13 the information together to gather a search warrant.

14 Q Okay. Did you render an opinion as far as the
15 cause of this explosion?

16 A Not by entering the inside, no, sir.

17 Q And who did render an opinion?

18 A Lieutenant Hamilton.

19 Q Okay. And is that pursuant to y'all's SOP or
20 guidance?

21 A That's correct.

22 Q Are you supposed to render an opinion in those
23 situations?

24 A I render an opinion on fire investigation, but not
25 in this situation here.

Edward Turner - Direct Examination by Mr. Ross

1 Q Okay. Is that a law enforcement matter at that
2 point?

3 A Yes, sir, it is.

4 Q Let me show you Exhibit 1. Now, you've already
5 testified as to your actions that day, how you responded to
6 the scene. If you could, just point out on this exhibit
7 what you've already told the jury. Exactly how you
8 approached and how you responded.

9 And I'm going to ask that you stand where I'm
10 standing.

11 A (Witness leaves the witness stand.)

12 Q Okay. So you said you were at an intersection.
13 Does Exhibit 1 show the intersection you were at?

14 A It shows the intersection is down here
15 (indicating).

16 Q Okay. So this street would actually come out to
17 right around this area?

18 A That's correct.

19 Q Okay. And that's where you saw the smoke?

20 A I was sitting at that intersection looking back
21 across there and saw the smoke across here, drifting over.

22 Q Okay. And what did you do when you saw the smoke
23 drift over? What street did you take?

24 A I made a right off of No. 1 and turned right across
25 the railroad tracks on Ermine and made a left on to Delree.

Edward Turner - Direct Examination by Mr. Ross

1 Q So you're coming up this way (indicating)?

2 A That's correct.

3 Q All right. And you mentioned that as you were
4 passing by you saw an individual running around. What area
5 was he running around?

6 A I saw him coming out of this area running -- just
7 caught a glance out of my peripheral vision as he was
8 running past.

9 Q And where was the vehicle when you saw that?

10 A Right here (indicating).

11 Q You were about 90 degrees?

12 A Yes, sir.

13 Q Okay. And you said you then pulled up. Where did
14 you originally pull up on this photograph?

15 A I passed the building. There's a driveway pass
16 this tree line. I turned, go back out, came down here,
17 turned into the driveway and pulled along in here.

18 Q And that's when you first got out of the car?

19 A That's correct.

20 Q Is that where you first smelled that smell?

21 A Uh-huh.

22 Q Okay. And where did you pull your car after that?

23 A I backed back up and parked right in here
24 (indicating).

25 Q Here?

Edward Turner - Direct Examination by Mr. Ross

1 A Yes, sir.

2 Q Okay. And is that when you walked up to the
3 residence at that point?

4 A Once I got the folks -- the people from Image, Inc.
5 back from being down wind and got them up here they told me
6 that there possibly.

7 MR. DRYLIE: Objection, hearsay.

8 THE COURT: Don't say what they said.

9 THE WITNESS: With concern of possibly being a
10 person -- any time we have bypassers, our number one
11 concern, the first responders -- when it appeared there may
12 be another person or persons involved, I came down and went
13 into the property here to the mobile home.

14 BY MR. ROSS:

15 Q And that's where you saw the door open?

16 A Yes, sir.

17 Q And you knocked on that door?

18 A Twice.

19 MR. DRYLIE: Objection, leading, Your Honor.

20 MR. ROSS: What did you do --

21 THE COURT: Hold on just a second. It's leading.
22 Don't lead.

23 THE WITNESS: When I got up on -- when started up
24 on to -- there's a set of steps going up on the porch of
25 the mobile home. As I started the steps then I could hear

Edward Turner - Direct Examination by Mr. Ross

1 and see the door start to close and the door closed all the
2 way. I continued on up to the porch; knocked, identified
3 myself twice; no response; backed back out and went back to
4 my vehicle.

5 BY MR. ROSS:

6 Q Okay. And at that point is when police came?

7 A I'm waiting on them at that point in time.

8 Q All right. And where was the perimeter as far as
9 what area do you not want these onlookers coming up into?

10 A Down wind. I pushed the onlookers on to -- I want
11 to make sure I'm keeping the personnel from Image, Inc. up
12 wind from any vapors or anything that could have -- or any
13 potential problems that I could have -- down wind.

14 Q Okay. So your main concern then is the inhalation
15 of that vapor?

16 A Or anything that could be happening in that
17 building.

18 Q Now, are you trained to respond to a meth lab?

19 A I'm trained as initial response for any type of
20 emergency and to notify -- to identify the risk and react
21 to those risks.

22 Q All right. Are you trained to dismantle a meth
23 lab?

24 A No, I'm not.

25 Q Okay. Is it your job to go into that house or that

Edward Turner - Direct Examination by Mr. Ross

1 garage?

2 A If there's no risk that I identified, no risk and
3 no life-safety hazard; it's not my job to go into that
4 building.

5 Q If you would, please have a seat.

6 A (Witness resumes the witness stand.)

7 Q You said it wasn't your job to go into that
8 building. Whose job was it?

9 A It was the job of narcotics.

10 MR. ROSS: No further questions. If you would
11 please answer any questions Mr. Drylie has for you.

12 THE COURT: Cross?

13 MR. DRYLIE: No questions, Your Honor.

14 THE COURT: Thank you, sir. You may step down.
15 Call your next witness.

16 MR. ROSS: State calls Deputy Brandon Marthers to
17 stand.

18 THE COURT: Come around, please.

19 BRANDON MARTHERS,
20 having been duly sworn, testified as follows:

21 THE CLERK: Have an a seat. Once you're seated,
22 state your full name, spelling your last for the record.

23 THE WITNESS: Brandon W. Marthers M-A-R-T-H-E-R-S.

24 ///

25 ///

Brandon Marthers - Direct Examination by Mr. Ross

DIRECT EXAMINATION

BY MR. ROSS:

Q Deputy Marthers, how are you this morning?

A Well, sir.

Q You're a first responder; is that right?

A Yes, sir, I am.

Q And you were the first deputy to respond to the scene of this case; is that right?

A Yes, I was.

Q Now, before we get to the -- what you saw and observed when you got on the scene -- can you please tell me about your experience with law enforcement?

A I've been with Lexington County Sheriff's Department since August of 2008. Prior to that I obtained a four-year degree from the University of South Carolina in criminal justice.

Q Okay. That's a Bachelor of Science?

A Yes, sir.

Q Okay. What were your job duties on November 19th, 2010?

A I was a road patrol deputy, assigned to the north region area of Lexington County Sheriff's Department.

Q What type of cases do you respond to?

A Pretty much every case that the sheriff's department gets. We're the initial response unit.

Brandon Marthers - Direct Examination by Mr. Ross

1 Q So if somebody calls 9-1-1 you're the first on the
2 scene?

3 A The majority of the time.

4 Q Okay. Tell me what happened on November 19th,
5 2010.

6 A On November 19th, 2010, around six p.m. I responded
7 to the Delree Street in reference to an explosion, possible
8 meth lab. When I arrived I met with Chief Turner from the
9 fire service, who advised -- who was sitting semi to the
10 roadside; and once I arrived on scene I started to approach
11 him. As I was walking over to Chief Turner to speak to
12 him, I immediately noticed an ether-type smell in the air.
13 Recognizing the smell, I kind of kept my distance from the
14 area that it seemed to be coming from.

15 Q Let me interrupt you. You said you recognized that
16 smell. What did you recognize that smell as?

17 A In situations that we've been involved with, meth
18 labs, ether has typically been a primary agreement that and
19 that's typically the smell that you identify the most.

20 Q So when you smelled that smell did you believe
21 there was a meth lab there?

22 A That's the first thing I thought, yes, sir.

23 Q Okay. What happened next?

24 A Once I obtained the information that Chief Turner
25 advised me, I immediately notified my supervisor, who

Brandon Marthers - Direct Examination by Mr. Ross

1 notified the on-call narcotics officers.

2 Q Did you approach the residence at

3 ?

4 A Once narcotics was advised of the situation I did
5 try to make contact with the resident.

6 Q So this was after narcotics had arrived?

7 A No, sir, they were being advised to come.

8 Q Okay. And were you able to make contact?

9 A No, sir. I attempted several times.

10 Q Okay. Did you attempt to enter the garage on that
11 property?

12 A No, sir, I did not.

13 Q And why not?

14 A Based off the level of training that I've received,
15 I knew I wasn't equipped to enter that residence or the
16 workshop area; and there was no immediate indicators that
17 there was a person of -- any type of danger or any kind of
18 threat to another to enter that and risk our safety as
19 well.

20 Q Are you a certified meth technician?

21 A No, I am not.

22 Q Are you trained to dismantle a meth lab?

23 A No, I am not.

24 Q Are you trained to respond to an exploding meth
25 lab?

Brandon Marthers - Direct Examination by Mr. Ross

1 A For an initial response, yes; however, anything
2 past that, potentially, no.

3 Q Did you have any gas masks to put on?

4 A Nothing for the meth lab, no, sir.

5 Q So it's my understanding that you assisted in
6 securing the scene for law enforcement, for the narcotics
7 officers initially; is that right?

8 A Yes, sir.

9 Q Did you see any vehicles on the property?

10 A I did observe a couple of vehicles in the front of
11 the property.

12 Q And did you run a license plate number on any of
13 those vehicles?

14 A One of the vehicles that was parked out front, I
15 did find a South Carolina tag to, which I ran; and it was
16 registered to a Scott Peacock.

17 Q Did you pass that information up the chain?

18 A I did notify another deputy who was assigned the
19 area I was working to perform a welfare check at that
20 address. To see if Mr. Peacock was okay, knew the location
21 of his vehicle, anything of the sort; and that deputy did
22 so.

23 Q Were you able to determine where he went?

24 A Eventually received information that he was
25 transported to Lexington Medical Center.

Brandon Marthers - Direct Examination by Mr. Ross

1 Q Okay. Now, let me ask you a question about
2 jurisdiction. This garage that you responded to on
3 , is that in Lexington County, South Carolina?

4 A Yes, sir, West Columbia area.

5 Q And the residence, the trailer on that property at
6 , is that in Lexington County, South
7 Carolina?

8 A Yes, sir.

9 Q How long did it take for the narcotics officers to
10 arrive?

11 A Once they were advised to respond to the scene,
12 anywhere from thirty, maybe forty minutes.

13 Q Okay. And who was the first narcotics officer to
14 arrive?

15 A The first detective on the scene was Detective
16 Travis Bass.

17 Q And that's this gentleman right here?

18 A Yes, sir.

19 Q What did he do when he got there?

20 A When he got there he met with me, as well as Chief
21 Turner. We advised him of the situation and from there he
22 began to make phone calls to his other personnel.

23 Q Okay. Now, is Detective Bass a certified
24 technician?

25 A To the best of my knowledge, yes, sir.

Brandon Marthers - Direct Examination by Mr. Ross

1 Q Did -- was he able to contact other narcotics
2 officers to arrive?

3 A Yes, sir.

4 Q And did they arrive on the scene?

5 A Yes, sir.

6 Q And what happened when they arrived?

7 A When they arrived, they processed the information
8 they needed to obtain a search warrant; and a search
9 warrant was obtained.

10 Q Okay. Did they enter the garage prior to obtaining
11 the search warrant?

12 A To execute a protective sweep, yes, sir.

13 Q Did you participate in that?

14 A I did not.

15 Q Okay. You said a search warrant was obtained?

16 A Yes, sir.

17 Q Did you assist in the execution of that search
18 warrant?

19 A I did.

20 Q And what time was that?

21 A The search warrant was executed approximately 8:12
22 p.m. that night.

23 Q Okay. And tell me how -- tell me about your
24 participation in that. How did that go down?

25 A With the search warrant we entered as four people,

Brandon Marthers - Direct Examination by Mr. Ross

1 two officers for each side of the residence. Lieutenant
2 Hamilton and Detective Bass went to the left-portion of the
3 residence and Detective Hill and myself entered to the
4 right-portion of the residence.

5 Q So you went to the right, they went to the left.
6 Did you see any individuals on the right?

7 A No, sir.

8 Q What happened next?

9 A Once we finished the clearing of the right side of
10 the residence we heard Detective Bass and Lieutenant
11 Hamilton making contact or advising some individual to show
12 them their hands. At that --

13 MR. DRYLIE: Objection, Your Honor.

14 THE COURT: Hold on just a moment.

15 Yes?

16 MR. DRYLIE: It's hearsay.

17 THE COURT: What part of it's hearsay?

18 MR. DRYLIE: He said that he heard Detective
19 Hamilton advising some individual to show him his hands.

20 MR. ROSS: Not offered for the truth of the matter
21 asserted, Your Honor.

22 THE COURT: What else would it be offered for.

23 MR. ROSS: To show the response of the defendant.

24 THE COURT: No, I don't think -- I don't think it
25 fits within 801 definitions of not being hearsay. The

Brandon Marthers - Direct Examination by Mr. Ross

1 question is whether it falls under one of the exceptions.

2 MR. ROSS: Present sense impression, Your Honor.

3 THE COURT: Objection's sustained.

4 Disregard the response of the witness, ladies and
5 gentlemen.

6 Rephrase your question.

7 BY MR. ROSS:

8 Q You heard Lieutenant Hamilton's voice. Did you
9 respond to where he was at that point?

10 A Yes, sir, we did.

11 Q And how long did it take you to respond to that
12 location?

13 A Matter of seconds.

14 Q All right. And what did you see when you got
15 there?

16 A When we got there I saw Detective Bass and
17 Lieutenant Hamilton speaking to an individual?

18 Q And who was he speaking to?

19 A Mr. Jones, the defendant.

20 Q And describe Mr. Jones's physical condition at that
21 point.

22 A At that point he was wearing T-shirt and boxers.
23 It was clear that he had burns across his hands and some on
24 his face.

25 Q Okay. And what did you hear Mr. Jones say?

Brandon Marthers - Direct Examination by Mr. Ross

1 A While we were speaking to him, at one point he said
2 that --

3 MR. DRYLIE: Objection, Your Honor.

4 THE COURT: Yes?

5 MR. DRYLIE: Subject to our previous objection in
6 our pretrial motion we'd like it noted for the record.

7 THE COURT: All right. Subject to previous
8 objections.

9 You may proceed, sir.

10 THE WITNESS: Mr. Jones stated that he was going
11 out to the workshop area of the garage and when he was
12 going out there he saw Scotty running towards him with
13 something in his hand; and as Mr. Jones was starting to
14 turn, whatever Scotty was holding blew up.

15 BY MR. ROSS:

16 Q So his statement is he was just walking out there
17 to the garage and just when he got to the garage that's
18 when he saw this Scotty fellow?

19 MR. DRYLIE: Objection, Your Honor. He's leading.

20 THE COURT: Sustained.

21 BY MR. ROSS:

22 Q Was it your impression that the -- based on his
23 statement that the time when he saw Scotty was immediately
24 after he entered the garage?

25 A Yes, sir.

Brandon Marthers - Direct Examination by Mr. Ross

1 Q Okay. And based on your statement or you're -- the
2 statements of the defendant, that's when the item exploded?

3 MR. DRYLIE: Objection, Your Honor he keeps doing
4 it.

5 THE COURT: Still leading.

6 BY MR. ROSS:

7 Q Tell me the timeframe from -- based on your
8 impression of his statement -- from the point that he walks
9 out to the garage to the point that the item explodes?

10 A From the impression that I received it was just a
11 matter of seconds from the time where he entered,
12 recognized Scotty running toward him, to the point where he
13 realized he needed to flee.

14 Q Now, let me back up a second. When y'all executed
15 that search warrant, did you knock on the door?

16 A Yes, sir.

17 Q And was there any response?

18 A None.

19 Q Is Mr. Jones in court today?

20 A Yes, sir, he is.

21 Q Could you point him out to me, please.

22 A He's sitting over at the table wearing a gray shirt
23 and I believe a black tie.

24 Q That's the individual you saw in that residence?

25 A Yes, sir.

Brandon Marthers - Direct Examination by Mr. Ross

1 Q And that's the individual that spoke about Scotty
2 with something in his hand?

3 A Yes, sir.

4 MR. ROSS: Beg the Court's indulgence, Your Honor.

5 THE COURT: Yes, sir.

6 (WHEREUPON there was a pause in the proceedings.)

7 BY MR. ROSS:

8 Q You said you got to scene at what time again?

9 A A little after six o'clock.

10 Q And did you stay there until the search was over?

11 A I stayed there -- I was probably the last unit to
12 leave.

13 Q And what time was that?

14 A Well after nine o'clock.

15 Q And had the defendant already left the scene at
16 that point?

17 A Yes, sir.

18 Q Where did he go?

19 A He was transported by EMS to Lexington Medical
20 Center.

21 Q So from the point you first got on to the scene to
22 the point that he had left the scene did anyone else enter
23 or exit the residence?

24 A Nobody but law enforcement.

25 Q Did anyone else attempt to enter the residence

Brandon Marthers - Cross-Examination by Mr. Drylie

1 other than law enforcement?

2 A No, sir.

3 Q Did you see any of his family members?

4 A No, sir.

5 Q Did you see any of his girlfriends?

6 A No, sir.

7 MR. ROSS: Thank you, deputy. If you could please
8 answer any questions that Mr. Drylie has for you.

9 THE COURT: Cross.

10 CROSS-EXAMINATION

11 BY MR. DRYLIE:

12 Q Good morning, Deputy Marthers. How are you?

13 A Well.

14 Q I just have a couple questions for you. You stated
15 you were one of first -- you were the first responder that
16 day; correct?

17 A From law enforcement, yes, sir.

18 Q And you stated you ran a -- the tags on the vehicle
19 that was at this residence?

20 A I did.

21 Q And that came back to Scott Peacock, right?

22 A Correct.

23 Q Can I ask you to step down for a moment?

24 A (Witness leaves the witness stand.)

25 Q Now, the vehicle that you were in, it wasn't this

Brandon Marthers - Cross-Examination by Mr. Drylie

1 truck, correct?

2 A No, sir.

3 Q There was another truck there?

4 A That's correct.

5 Q And where was that truck parked?

6 A Right along this area right here.

7 Q So right around -- right here (indicating)?

8 A In that general area.

9 Q So it could have been here?

10 A Yes, sir.

11 Q Or it could have been here?

12 A Correct.

13 Q Here's closer to the garage?

14 A Correct. (Witness resumes the witness stand.)

15 Q Now, you stated you heard Lieutenant Hamilton

16 talking to Mr. Jones, correct?

17 A Correct.

18 Q And you were there in a matter of seconds after you

19 heard that, correct?

20 A Correct.

21 Q Just a couple more questions for you. You stated

22 you were one of the last people to leave the scene?

23 A Correct.

24 Q Did you help process the scene?

25 A I did not.

Brandon Marthers - Cross-Examination by Mr. Drylie

1 Q You did not process. So you don't know about any
2 fingerprints or anything?

3 A No.

4 MR. DRYLIE: Beg the Court's indulgence for a
5 second.

6 THE COURT: Yes, sir.

7 (WHEREUPON there was a pause in the proceedings.)

8 MR. DRYLIE: No further questions, Your Honor.

9 THE COURT: Thank you.

10 Redirect?

11 MR. ROSS: No redirect, sir.

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

13 Call your next witness.

14 MR. ROSS: Beg the Court's indulgence, Your Honor.

15 THE COURT: Yes, sir.

16 (WHEREUPON there was a pause in the proceedings.)

17 MR. ROSS: The State calls Detective Bass to the
18 stand.

19 THE COURT: Come around, please.

20 TRAVIS BASS,

21 having been duly sworn, testified as follows:

22 THE CLERK: Have a seat, please, sir. Once you're
23 seated, state your full name, spelling your last on the
24 record.

25 THE WITNESS: Detective Kenneth Travis Bass,

Travis Bass - Direct Examination by Mr. Ross

1 B-A-S-S.

2 DIRECT EXAMINATION

3 BY MR. ROSS:

4 Q Detective Bass, how are you this morning?

5 A Good, sir.

6 Q You were the on-call narcotics agent on November
7 19th, 2010; is that right?

8 A Yes, sir.

9 Q Before we get into what you did that day, could you
10 please tell me about your experience in law enforcement.

11 A I've been employed with the Lexington County
12 Sheriff's Office since '96; where I worked two years in the
13 jail, I worked there until approximately 2000, then I went
14 to work for the Swansea Police Department for about three
15 years, at which time I was employed by them and assigned to
16 the Lexington County Multi-Agency Narcotics Enforcement
17 Team for about three years; then I actually came back to
18 work for the sheriff's office and have been employed since
19 then.

20 Q All right. How many years in narcotics do you
21 have?

22 A Seven years.

23 Q Tell me about the cases that you've investigated as
24 a narcotics officer.

25 A I've investigated cases involving --

Travis Bass - Direct Examination by Mr. Ross

1 MR. DRYLIE: Objection, Your Honor. It's
2 irrelevant.

3 THE COURT: Overruled.

4 BY MR. ROSS:

5 Q Tell me about the cases you've investigated as a
6 narcotics officer.

7 A Investigated cases pertaining to marijuana cases,
8 crack cocaine, prostitutions, meth labs -- anything that
9 deals with any type of illegal narcotics.

10 Q Tell me about your formal training with respect to
11 meth labs.

12 A I've had on-the-job training for meth labs, as well
13 as in 2005 I went to Meridian, Mississippi and had a two
14 week class of meth training involved with the chemical
15 process for cooking it, as far as breaking it down, the
16 safety precautions that need to be taken, the hazards.

17 Q And who teaches that course?

18 A It's RCTA.

19 Q And what does that stand for?

20 A Regional Counter Drug Training Association.

21 Q Okay. And what types of students come to these
22 courses?

23 A Students nationwide that are in law enforcement and
24 also the military.

25 Q Okay. Are you a certified meth technician?

Travis Bass - Direct Examination by Mr. Ross

- 1 A Yes, sir.
- 2 Q Were you certified on the day in question, November
- 3 19th, 2010?
- 4 A I was.
- 5 Q How many meth labs have you responded to over the
- 6 course of your career?
- 7 A I would have to say over a hundred.
- 8 Q Okay. And that's all here in Lexington County?
- 9 A Yes, sir.
- 10 Q All right. Tell me what happened on November 19th,
- 11 2010?
- 12 A I was on-call; received a phone call from our
- 13 dispatchers that there was a possible meth lab that I
- 14 needed to respond to.
- 15 Q Okay. And how long did it take you to respond?
- 16 A Probably thirty, forty-five minutes at the most. I
- 17 live in Red Bank, so I had to get over to West Columbia. I
- 18 was actually off duty at the time, so I was home, had to
- 19 get changed.
- 20 Q Okay. So you had to dress up?
- 21 A Yes, sir.
- 22 Q And you had to drive from where to where?
- 23 A Red Bank over off Longs Pond over to Delree Street,
- 24 which is in Oak Grove.
- 25 Q And what county is Delree Street in?

Travis Bass - Direct Examination by Mr. Ross

1 A In Lexington, South Carolina.

2 Q , is that also in Lexington
3 County?

4 A Yes, sir.

5 Q What happened when you got there?

6 A I noticed that Chief Turner with Fire Service,
7 along with Deputy Marthers were there at the scene. I made
8 contact with them. As I was talking with them I detected
9 an odor that I associated with a chemical smell commonly
10 associated with a meth lab.

11 Q Have you smelled that smell before?

12 A Yes, I have.

13 Q And have you ever smelled that outside the presence
14 of a meth lab?

15 A No, sir.

16 Q So what happened when you got there and you smelled
17 the smell? What happened next?

18 A Was advised that the fire service had been on scene
19 because of -- they saw some smoke coming from a shed at
20 this residence. After I detected a chemical odor, I
21 contacted my partner to respond to give me assistance.
22 Also contacted Lieutenant Hamilton to advise him of the
23 situation since he was my supervisor at the time.

24 Q Okay. And did these individuals show up at the
25 scene?

Travis Bass - Direct Examination by Mr. Ross

1 A They did.

2 Q Okay. What happened when they got there?

3 A Lieutenant Hamilton arrived on scene first. We
4 assessed the situation. There was no more smoke emitting
5 from the -- or there was little smoke emitting from the
6 shed. We then proceeded to go inside to secure the shed to
7 make sure that there was no one else in need of assistance,
8 make sure there was no more --

9 Q Let me interrupt you. Why did you do that? Why
10 did you enter the shed at that point?

11 A One, to make sure that there was nobody in there
12 that needed any assistance from us, any medical
13 assistance -- to make sure that there was no one hurt or
14 injured or dead inside.

15 Q Okay. And why didn't you do that prior to the
16 arrival of Lieutenant Hamilton?

17 A Due to the fact that I determined that this was a
18 possible meth lab. Deputy Marthers nor Chief Turner had
19 the training or experience that I had along with other
20 narcotics agents. I wasn't going inside that shed without
21 someone who had the training with me.

22 Q Okay. And what happened when you got in the shed
23 with Lieutenant Hamilton?

24 A We go inside the shed -- as you entered in, there
25 was a roll-up door that had some miscellaneous tools, car

Travis Bass - Direct Examination by Mr. Ross

1 parts, things like that in there. To the right there was
2 a -- there was another room; entered in through there.
3 There's several tool boxes, stand up tool boxes that are in
4 there that seemed to be knocked over, looking around to
5 make sure that there's nothing else in there, nobody in
6 that room. I did observe some ether cans on the floor. Go
7 flu the next doorway into a bigger room. As we made our
8 way to the left, saw a blender lying on the floor next to a
9 doorway there. Entered into the last room in the back and
10 inside that room there was several cold packs. One was on
11 a little sink counter, one was also inside a cooler.

12 Also noted that there was a Pyrex measuring cup
13 that had some type of white residue inside it. We did not
14 locate any persons inside that building that needed any
15 kind of assistance. From that point we backed out of the
16 residence or the shed.

17 Q What did you do next?

18 A Due to my training and experience and talking with
19 Lieutenant Hamilton, I determined that we needed to obtain
20 a search warrant because of the items that we located
21 inside the shed; and also with the chemical smell they
22 detected when I first got there.

23 Q Were y'all able to get a search warrant?

24 A Yes, sir.

25 Q How long did that process take?

Travis Bass - Direct Examination by Mr. Ross

1 A I began typing the search warrant inside my vehicle
2 on my laptop with a printer. Probably took me fifteen,
3 maybe twenty minutes to type it up completely.

4 Q Who was with you when you were typing this up?

5 A Lieutenant Ray -- or Agent Ray Hill had arrived on
6 scene and he was standing there with me while I was typing
7 it up.

8 Q And tell me who Agent Hill is again?

9 A Agent Hill was my partner at the time.

10 Q Okay. And were y'all discussing the details of the
11 case to put in the search warrant?

12 A Yes, sir.

13 Q Okay. Who actually went to the judge to get the
14 search warrant?

15 A Agent Hill.

16 Q And once he came back what did y'all do?

17 A Whenever he arrived back on scene and advised us
18 that the warrant had been signed, we then proceeded to go
19 to the front door of the residence; knocked on the door.
20 Lieutenant Hamilton actually knocked on the door I believe
21 two or three times, announced that the sheriff's office was
22 there. We got no response. Since we had the search
23 warrant for the entire property, which included the shed
24 and the house, we made entry into the house.

25 Q And what happened when you made entry?

Travis Bass - Direct Examination by Mr. Ross

1 A Lieutenant Hamilton and myself went to the left
2 side of the residence. Agent Hill and Brandon Marthers
3 went to the right side. As we entered into the house, it's
4 a -- you had the kitchen and living room right there
5 together. It's an open area. You could see that there was
6 nobody in there. Lieutenant Hamilton and myself went on to
7 the left, went down a little small hallway. There was a
8 bathroom to the left side of the hallway. No one was in
9 there. It appeared that the shower had just been used
10 recently because there was fresh water on the walls and on
11 the floor.

12 Right past the doorway to the bathroom there was a
13 back room. The room appeared to have no bedding, no
14 dressers. It was just an open area that had some boxes,
15 looked like some clothes, like blankets and things along
16 the side of the wall.

17 Q Did you initially see anybody in that room?

18 A No, sir, I did not.

19 Q So after not having seen -- after not seeing
20 anybody, what did you do?

21 A I did not see anyone. I went to turn around to go
22 back out of the room and at that time I heard Detective
23 Hamilton advise, Show me your hands.

24 MR. DRYLIE: Objection, hearsay.

25 THE COURT: Do you wish to be heard?

Travis Bass - Direct Examination by Mr. Ross

1 MR. ROSS: No, Your Honor.

2 After you heard that --

3 THE COURT: Disregard the statement as to what
4 Lieutenant Hamilton said.

5 Go ahead.

6 BY MR. ROSS:

7 Q After you heard that, what happened? Did you turn
8 around?

9 A I turned around, yes, sir.

10 Q And what did you see?

11 A I saw at the back of the room there was a pile of
12 what looked like clothes or blankets of some sort. I
13 observed an individual sitting up and pulling the blanket
14 off of himself.

15 Q Now, when you first walked into that room, did you
16 see that same pile of clothes?

17 A I did.

18 Q Did you see that same blanket?

19 A Yes, sir.

20 Q And did you see any individual?

21 A No, sir. The only thing I saw was a dog hanging
22 around it.

23 Q Okay. Did EMS come to the scene?

24 A EMS did arrive, yes, sir.

25 Q And how long did it take for them to get to the

Travis Bass - Direct Examination by Mr. Ross

1 scene?

2 A I don't know.

3 Q Okay. Did y'all execute the search? Did y'all
4 look for items at that point?

5 A We did, but it was after we actually made contact
6 with the individual underneath the blanket.

7 Q Okay. And who was that individual?

8 A Mr. Jones.

9 Q Is he in court today?

10 A He is, sir.

11 Q Can you point him out for me. Please.

12 A The defendant over in the bluish, gray colored
13 shirt with the dark-colored tie.

14 Q Okay. And once you identified him, what did you
15 do?

16 A I was still standing in the room. Lieutenant
17 Hamilton was actually talking with him.

18 Q Okay. After he finished talking to him, what
19 happened?

20 A One of the fire personnel actually came inside at
21 the request of Lieutenant Hamilton to render aid to him due
22 to some injuries that he had -- that we had observed on
23 his -- on his body.

24 Q Okay. And what happened next?

25 A After EMS arrived he was subsequently transported

Travis Bass - Direct Examination by Mr. Ross

1 out of the residence by EMS to the hospital.

2 Q Okay. And which hospital did he go to?

3 A I believe he went to Lexington Medical Center.

4 Q Did you follow up as far as where he went after
5 Lexington Medical Center?

6 A I was advised that he was transport to the Augusta
7 Burn Center.

8 Q And is that Augusta, Georgia?

9 A Yes, sir.

10 Q All right. And once he left the scene, what did
11 y'all do?

12 A After there was no one else on scene except for law
13 enforcement and fire personnel, we executed the search
14 warrant inside the residence and the shed.

15 Q And what did you find?

16 A Inside the residence we located in the kitchen up
17 underneath the sink, there was a drain opener bottle.
18 There was a homemade fan that we found inside the
19 residence, along with a light bulb, a standard light bulb,
20 that had been converted into what I know to be a homemade
21 smoking device.

22 Q Okay.

23 A There was also a pile of clothes in a corner of the
24 living room next to a bar where that separates the kitchen
25 and the living room -- a pair of pants and a shirt that

Travis Bass - Direct Examination by Mr. Ross

1 appeared to, what I know from experience to have blood on
2 it.

3 Q Okay. Did you search the garage?

4 A We did, sir.

5 Q And what did you find in the garage?

6 A As I stated earlier when you go in the first room
7 off the roll-up doors, there was several either cans that
8 were on the floor. I believe there was five to six cans.
9 I don't remember exactly off the top of my head. Some of
10 those cans, after we got in there and looked at them to
11 confirm what we saw originally, they had -- the bottom of
12 the can had been punched. They had holes in it.

13 Again off of that room, located a blender. The
14 blender was a white blender and again on the blender there
15 was a spot that in my training and experience appeared to
16 be some type of, possibly blood on it. The next room off
17 to the left of that was like a small bathroom that had a
18 sink and a shower in it. I think there was a some type of
19 little dresser back behind the door and also a counter
20 there. On the counter was a glass Pyrex measuring cup that
21 contained some type of white residue that in my training
22 and experience would be consistent with meth residue.

23 MR. DRYLIE: Objection.

24 THE COURT: Yes?

25 MR. DRYLIE: He can't give an opinion as to what

Travis Bass - Direct Examination by Mr. Ross

1 was in that Pyrex cup.

2 THE COURT: Ladies and gentlemen, disregard the
3 statement of the witness as to what the residue was.

4 Go ahead.

5 BY MR. ROSS:

6 Q What else did you find?

7 A Also in that room there was a -- there was two
8 empty cold packs. One was on the sink. The packaging for
9 the cold pack was there, and then the white -- the little
10 pack that contains the water was actually out of it; and
11 then inside a cooler, a little small Playmate cooler or
12 something to that effect, there was another package of a
13 cold pack down inside that.

14 Q Okay. Did you seize any items to turn into
15 evidence?

16 A Yes, sir. Prior to entering in the residence,
17 Lieutenant Hamilton and I -- he pointed out to me noted
18 that there was a Coke bottle. Where he pointed it out to
19 me -- I observed it. There was a Coke bottle that had been
20 burned. The side of it was actually busted open. Inside
21 it there was a white, powder substance.

22 Q Where was that Coke bottle?

23 A It was actually sitting on the front porch next to
24 the door. There's a little table. It was sitting on that.

25 Q You say on the front porch. Are we talking about

Travis Bass - Direct Examination by Mr. Ross

1 the garage or the residence? The trailer?

2 A To the residence, sir.

3 Q Okay. What did you do with that item?

4 A We ended up -- Lieutenant Hamilton ended up seizing
5 that item and gave it to me after we had conducted our
6 entire search warrant. I took possession of the substance
7 inside that bottle along with the Pyrex dish that was in
8 the shed in the back room.

9 Q You said you took possession of the substance in
10 the bottle. Can you tell me how you took possession of it?

11 A When Lieutenant Hamilton gave it to me, I actually
12 took it and emptied the contents of that bottle inside a
13 Ziploc, a clear Ziploc evidence bag that we had.

14 Q And what did you do with that bag?

15 A I took that bag, along with the Pyrex dish, and put
16 it in one of our BEST Kits.

17 Q Best Kit? What is a Best Kit?

18 A Best Kit it's a bag that we put any evidence that
19 we have that needs to be tested by a chemist, put it inside
20 that and sealed it up.

21 Q Okay. If I were to try to open a Best Kit bag
22 would that be visible?

23 A Once it's sealed it has tamper resistant tape on
24 top of it. It's usually like a bluish green color. If you
25 try to open it up, it will distort the glue, the color on

Travis Bass - Direct Examination by Mr. Ross

1 it, however it actually works.

2 Q And do Best Kits have numbers?

3 A They do, sir.

4 Q And what is the purpose of the numbers on the Best
5 Kit?

6 A It's a control number that each bag is assigned.
7 Each one is different.

8 Q All right. Did this bag have a number?

9 A It did, sir.

10 Q And what was its number?

11 A C, Charlie, 020670.

12 Q Okay. Did you seal that Best Kit?

13 A I did, sir.

14 Q And what did you do with it after you sealed it?

15 A Once it was sealed it was turned into the Lexington
16 County Sheriff's Department evidence room.

17 Q All right. So from the point that you received the
18 Coke bottle with the white powdery substance in it to the
19 point that you placed it in that Best Kit, was it in your
20 care, custody, and control the whole time?

21 A It was not in my actual hands the whole time. If
22 it was not in my hands it was inside my work vehicle and if
23 I was not there with it, it was locked up and I had the
24 keys.

25 Q Okay. Did anyone else have access to that vehicle?

Travis Bass - Direct Examination by Mr. Ross

1 A No, sir.

2 Q All right. From the point that you first received
3 it from Lieutenant Hamilton to the point that you turned --
4 to the point that you placed it in the Best Kit did -- was
5 it in the same condition from point A to point B?

6 A Yes, sir.

7 Q All right. Did anyone else tamper or manipulate
8 that evidence in any way?

9 A No, sir.

10 Q Did you alter or manipulate the evidence in any
11 way?

12 A No, sir.

13 Q Now from the point that you sealed the Best Kit to
14 the point that you turned it into evidence, was the powdery
15 substance in the same condition from the point that you
16 sealed the Best Kit to the point that you put it into
17 evidence?

18 A Yes, sir.

19 Q Was it in your care, custody, and control the whole
20 time?

21 A Again, if it was not in my hands, specifically, it
22 was any my vehicle locked up, yes.

23 Q Let me ask you about that measuring dish. What did
24 you do with the measuring dish?

25 A The same as with the powdery substance. If it was

Travis Bass - Direct Examination by Mr. Ross

1 not in my hands the whole time, it was inside my vehicle
2 locked up and was also placed into the Best Kit.

3 Q So let me ask you this, was the powdery substance,
4 was it in the same condition from the point that you took
5 possession from Lieutenant Hamilton to the point that you
6 turned it into evidence?

7 A Yes, sir.

8 Q And the measuring cup was it in the same condition
9 as when you took possession as to when you put it into
10 evidence?

11 A Yes, sir.

12 THE COURT: Let me know when you get to a good
13 stopping point.

14 MR. ROSS: This is probably a good stopping point,
15 Your Honor.

16 THE COURT: All right. Ladies and gentlemen,
17 you've been out here almost an hour. We'll take a ten
18 minute break and we'll get you back out here. Don't
19 discuss the case.

20 (WHEREUPON the jury left the courtroom at 10:24
21 a.m.)

22 THE COURT: Mr. Bass, during the break you may step
23 down if you like, but you're not permitted to discuss your
24 testimony with anyone.

25 THE WITNESS: Yes, sir.

Travis Bass - Direct Examination by Mr. Ross

1 THE COURT: Thank you.

2 We're at ease for ten minutes:

3 (WHEREUPON there was a brief recess.)

4 THE COURT: State ready?

5 MR. ROSS: Your Honor, we're waiting for our
6 witness to get back. There he is.

7 Yes, Your Honor.

8 THE COURT: Defense ready?

9 MR. DRYLIE: Yes, Your Honor.

10 THE COURT: Bring in the jury.

11 (WHEREUPON the jury entered the courtroom at 10:34
12 a.m.)

13 THE COURT: You may continue, Solicitor.

14 MR. ROSS: Thank you, Your Honor.

15 (WHEREUPON State's Exhibit No. 4 was marked for
16 identification.)

17 BY MR. ROSS:

18 Q Detective Bass, I'm going to show you what's been
19 marked as State's No. 4.

20 MR. DRYLIE: We have a matter of law we need to
21 take up with that exhibit.

22 THE COURT: Okay. Ladies and gentlemen, I have to
23 ask you to step back in the jury room and not to discuss
24 the case.

25 (WHEREUPON the jury left the courtroom at 10:36

Travis Bass - Direct Examination - In Camera by Mr. Ross

1 a.m.)

2 THE COURT: Yes, sir?

3 MR. DRYLIE: Pursuant to our pretrial motion
4 there's a -- this is an exhibit of the house and the tool
5 shed; and one of the labels that he has on the exhibit is
6 labeled as a blood drop and I don't think it's proper to
7 label it as an actual blood drop when no presumptive
8 testing was done. They can't say for sure that it's blood.
9 It doesn't say blender, it just says blender with blood
10 drop.

11 THE COURT: It says what now?

12 MR. DRYLIE: It says, blender with blood drop.

13 MR. ROSS: Your Honor, I can show you the exhibit
14 or I can ask Detective Bass some questions to lay a factual
15 basis for that.

16 This is what they're objecting to (indicating).

17 THE COURT: All right. Make your proffer.

18 DIRECT EXAMINATION - IN CAMERA

19 BY MR. ROSS:

20 Q Detective Bass, I'm showing you what's been marked
21 as State's Exhibit 4. Do you recognize this?

22 A Yes, sir.

23 Q Did you assist in the -- in preparing a layout of
24 the garage and the residence at ?

25 A Assist with the sketch?

Travis Bass - Direct Examination - In Camera by Mr. Ross

1 Q Yes.

2 A Yes, sir.

3 Q Is this an accurate reflection of the layout of the
4 residence and the garage?

5 A Yes, sir.

6 Q Now, all these labels, do they accurately reflect
7 the location of the items that you seized that day that
8 you've already testified to?

9 A Yes, sir.

10 Q Now, this marker here where it says blender with
11 blood drop, what did you see -- describe the blender that
12 you saw that day?

13 A It was basically just the bottom portion of a
14 blender. It was white and had one spot on it that through
15 my training and experience in law enforcement appeared to
16 be blood.

17 Q Have you seen blood before in your life?

18 A Yes, sir.

19 Q Have you seen red paint before in your life?

20 A Yes, sir.

21 Q Have you seen ketchup in your life?

22 A Yes, sir.

23 Q Have you seen Tobasco Sauce in your life?

24 A Yes, sir.

25 Q What did that red drop appear to be?

Travis Bass - Direct Examination - In Camera by Mr. Ross

1 A It appeared to be blood.

2 Q It didn't appear to be ketchup?

3 A No, sir.

4 Q Did it appear to be Tobasco sauce?

5 A No, sir.

6 Q Did it appear to be red paint?

7 A No, sir.

8 Q Did you see any other drops that day that did

9 appear to be red paint?

10 A Yes.

11 Q Okay. And how long have you been in law

12 enforcement?

13 A Since -- actually law enforcement not county jail

14 time, since '98.

15 Q Okay. And during that time have you had the

16 occasion to see blood before?

17 A Yes, sir.

18 Q And that red drop, did it appear to be blood?

19 A Yes, it did.

20 Q Okay.

21 MR. ROSS: Nothing further. I have nothing else

22 right now.

23 THE COURT: Cross. Do you wish to make any

24 cross-examination in the proffer?

25 ///

Travis Bass - Redirect Examination - In Camera by Mr. Ross

CROSS-EXAMINATION IN CAMERA

BY MR. DRYLIE:

Q Did you seize the blender?

A Did not seize it for evidence purposes, no, sir.

Q And so you never did any presumptive testing on the blender?

A No, sir.

Q So there was no testing done on the drop on the blender?

A No, sir.

Q And you never seized it -- so at that time you had no evidentiary value?

A For the blender?

Q Yes.

A No, sir.

Q Okay.

MR. DRYLIE: Nothing further.

THE COURT: Redirect in the proffer?

REDIRECT EXAMINATION - IN CAMERA

BY MR. ROSS:

Q Did you take photographs of that blender?

A We did, sir.

Q Did that photograph accurately reflect what you saw?

A Yes.

1 Q And what you saw, you believed to be blood?

2 A Correct.

3 MR. ROSS: Nothing further, Your Honor.

4 THE COURT: Recross?

5 MR. DRYLIE: No, sir.

6 THE COURT: Anything else, gentlemen?

7 MR. ROSS: Your Honor, I don't think we need an
8 expert opinion or a lab test for him to testify that it
9 appeared to be blood.

10 MR. DRYLIE: Your Honor?

11 THE COURT: Yes, sir?

12 MR. DRYLIE: He's not testifying that it appeared
13 to be blood, he's testifying that it is blood. I think the
14 labeling of it -- you know, it's prejudicial to say that
15 there was actually blood on the blender when they never
16 seized it, they never tested it, they never did any
17 presumptive testing on it to prove that it actually was
18 blood; and it goes more to what the jury's going to see
19 because in the diagram it doesn't say a blender with what
20 appeared to be a blood drop. It says a blender with blood
21 drop.

22 THE COURT: Anything else?

23 MR. DRYLIE: No, Your Honor.

24 THE COURT: Objection sustained. Based on the
25 reasons given, but also Rule 403 that -- the pretrial

1 ruling of the Court I haven't changed, but that exhibit
2 doesn't say what he believes, it says it's blood.

3 MR. ROSS: Your Honor, may I offer a redacted
4 version of this exhibit with --

5 THE COURT: Sure.

6 MR. ROSS: -- the word scratched out, the blood
7 drop.

8 THE COURT: I don't know about scratching it out,
9 but you can redact it. I'll give you a few minutes if you
10 need.

11 All right. Detective Bass, the same rules apply.
12 All right?

13 THE WITNESS: Yes, sir.

14 THE COURT: We're at ease. Let me know when you're
15 ready.

16 MR. ROSS: Just to try and understand the Court's
17 guidance, is a blacked out with a magic marker, is that not
18 going to suffice, Your Honor?

19 THE COURT: I don't have a problem with it. Y'all
20 can talk. I don't know if you can take scissors and cut it
21 off or -- I don't know what's on there. I can't see it.

22 (WHEREUPON there was a pause in the proceedings.)

23 THE COURT: We're at ease.

24 (WHEREUPON there was a brief recess.)

25 MR. ROSS: State's ready Your Honor.

Travis Bass - Direct Examination by Mr. Ross

1 THE COURT: Defense ready?

2 MR. DRYLIE: Defense is ready.

3 THE COURT: Bring them in, please.

4 (WHEREUPON the jury entered the courtroom at 10:47
5 a.m.)

6 THE COURT: All right. You may continue,
7 Solicitor.

8 MR. ROSS: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. ROSS:

11 Q Detective Bass, I'm going to show you what's been
12 marked as State's No. 4?

13 THE COURT: Is it in evidence.

14 MR. ROSS: It is not, Your Honor. It's marked for
15 ID purposes.

16 THE COURT: Okay.

17 BY MR. ROSS:

18 Q Do you recognize this exhibit?

19 A Yes, sir.

20 Q Is that an accurate reflection of the layout of the
21 garage at ?

22 A Yes, sir.

23 Q Is it an accurate reflection of the layout of the
24 residence at ?

25 A Yes, sir.

Travis Bass - Direct Examination by Mr. Ross

1 Q Now, on all these labels do they accurately reflect
2 the location of the items that you saw at
3 Street?

4 A Yes, sir.

5 MR. ROSS: Your Honor, at this point I'd move for
6 Exhibit 4 to go into evidence.

7 THE COURT: Is there any objection?

8 MR. DRYLIE: Without any objection.

9 THE COURT: Mark it in evidence, please, ma'am.

10 (WHEREUPON State's Exhibit No. 4 was entered into
11 evidence.)

12 MR. ROSS: And, Your Honor, may I publish to the
13 jury?

14 THE COURT: Certainly.

15 BY MR. ROSS:

16 Q Detective Bass, if you could, please, step down and
17 show the jury exactly where on this layout you first
18 proceeded with the protective sweep and how everything kind
19 of played out after that; and if you would, stand here,
20 please.

21 A (Witness leaves the witness stand.)

22 Q So you said you first came to the scene and you and
23 Lieutenant Hamilton did a protective sweep. Tell me how
24 you entered.

25 A We were parked back over in this general area,

Travis Bass - Direct Examination by Mr. Ross

1 which would have been somewhere in the driveway. We
2 actually entered into the garage area underneath this
3 awning. This is the area that has the tools, car parts,
4 things like that in it with the roll-up door. Entered into
5 this next little room here, which is where the stand-up
6 tool boxes were along with, as it says, some ether cans
7 were.

8 The next room was basically just a big room. I
9 don't remember exactly what all was in there. There was a
10 blender in this general area right here next to this door.
11 In this back room here is where there's a sink and a
12 shower. There was a counter of some sort, wooden counter,
13 here and some type of wooden dresser in this area. There
14 was a empty cold pack on the corner of the sink here and
15 also in the --

16 Q Cooler?

17 A -- cooler, yes, sir, that was on the floor right in
18 front of the sink.

19 Q And then did y'all exit the building at that point?

20 A After the protective sweep, yes, sir. The way we
21 went in we came back out.

22 Q Okay. And after you got the search warrant could
23 you please explain your manner of entry into the residence?

24 A Again I typed the search warrant inside my vehicle
25 parked over here (indicating). Once the search warrant was

Travis Bass - Direct Examination by Mr. Ross

1 signed by the judge and back on scene, we proceeded to
2 go -- I think there's a gate right along this general area;
3 went through the gate up these steps, which is the side of
4 the awning, onto the front porch. This little corner right
5 here is where the table was, where the plastic bottle that
6 had the white residue inside it. It was actually sitting
7 here that Lieutenant Hamilton noted.

8 Opened the front -- standing at the front door,
9 Lieutenant Hamilton, as I said, knocked two or three times,
10 announced that it was the sheriff's office. No one
11 answered. There was a small dog door that was actually
12 right beside it. Once we entered in -- when nobody
13 answered door, we entered in. Like I said this is the
14 living room/kitchen area right through here. Lieutenant
15 Hamilton and myself went through the living room down this
16 hallway. The bath is right there; and into the back room
17 where we subsequently ended up finding the defendant,
18 Mr. Jones.

19 Q Okay. And that's where the blanket was and the
20 clothes?

21 A Yes, sir. It was roughly, if I remember right,
22 right in this general area right through here.

23 Q Now, this little box here, what is -- does the
24 shading indicate on that box?

25 A If I -- as you look at the outside of the house, it

Travis Bass - Direct Examination by Mr. Ross

1 appears that there's some type of little doorway on the
2 outside, possibly the water heater is where that may be in
3 this general area because the bath does not go to that --
4 it's not that big of a bathroom.

5 Q And these rectangles here, what do they indicate?

6 A This is the kitchen. This is the sink. This
7 counter space and I believe that may be oven. I'm not a
8 hundred percent sure about it, but I think the oven was in
9 this general area as well.

10 Q And where were the clothes?

11 A The clothes were actually right in this general
12 corner right here.. I know the area doesn't go that far,
13 but right in here.

14 Q If you would please have a seat.

15 A (Witness resumes the witness stand.)

16 Q Detective Bass, were photographs taken of the crime
17 scene?

18 A Yes, sir, both inside the shed and the residence.

19 Q Okay. And who took those photographs?

20 A Agent Hill did.

21 (WHEREUPON there was a pause in the proceedings
22 while the attorneys conferred.)

23 MS. FULLWOOD: May we approach, Your Honor.

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the

Travis Bass - Direct Examination by Mr. Ross

1 record, in the presence of the jury, but out of the hearing
2 of the jury.)

3 BY MR. ROSS:

4 Q I'm handing you what's been marked for ID purposes
5 as State's 5 through 13. Could you please take a second
6 and review these photographs?

7 A (Witness reviewing photographs.)

8 Q Do they accurately reflect what you saw at
9 on November 19th, 2010?

10 A Yes, sir.

11 MR. ROSS: Your Honor, at this point we'd offer
12 them into evidence.

13 MR. DRYLIE: Your Honor, we make this subject to
14 our previous objection.

15 THE COURT: It's not a sufficient foundation at
16 this point.

17 BY MR. ROSS:

18 Q I'm going to show you State's No. 5 could you
19 please tell me what that is a photograph of?

20 A This is actually the steps going to the front
21 porch. It's actually the top step and the front porch.
22 There's a red spot somewhere in the center of the picture
23 that appeared to be blood.

24 MR. DRYLIE: Your Honor, we'd make this subject to
25 our previous objection.

Travis Bass - Direct Examination by Mr. Ross

1 THE COURT: All right. Overruled.

2 BY MR. ROSS:

3 Q So this is the front porch of the residence?

4 A Yes, sir.

5 Q And what color is this spot here?

6 A Red.

7 MR. ROSS: Your Honor, at this point we'd offer No.
8 5 into evidence.

9 THE COURT: Subject to previous objection.
10 Mark it in the record.

11 (WHEREUPON State's Exhibit No. 5 was entered into
12 evidence.)

13 BY MR. ROSS:

14 Q Let me ask you the same questions with regard to 6,
15 what is that a photograph of?

16 A It's a further out version of the previous picture.

17 Q Okay. That's of the front porch?

18 A Yes, sir.

19 Q And what color is that red little spot there on the
20 front porch?

21 A Red.

22 Q And what did that appear to you to be?

23 A It appeared to be blood.

24 Q Did it appear to be ketchup?

25 A No, sir.

Travis Bass - Direct Examination by Mr. Ross

1 Q How about Tobasco Sauce?

2 A No, sir.

3 Q Have you seen red paint before?

4 A Yes, sir.

5 Q Did it appear to be red paint?

6 A No, sir.

7 MR. ROSS: Your Honor, I'd offer No. 6 into
8 evidence.

9 THE COURT: Subject to previous objection.
10 Mark it in the record.

11 MR. ROSS: Your Honor, has it been admitted?

12 THE COURT: It is now. They were talking. I don't
13 think they were paying attention to me.

14 Subject to previous objection.

15 MR. DRYLIE: Yes, Your Honor.

16 THE COURT: Mark it in the record.

17 (WHEREUPON State's Exhibit No. 6 was entered into
18 evidence.)

19 BY MR. ROSS:

20 Q Now, I'm handing you State's No. 7. What is that a
21 photograph of?

22 A This picture was underneath the awning of the shed.
23 It's on the concrete pavement area up underneath there.

24 There's a red spot on the ground that appeared to be blood.

25 Q Okay.

Travis Bass - Direct Examination by Mr. Ross

1 MR. ROSS: Your Honor, I'd offer No. 7 into
2 evidence.

3 THE COURT: Subject to previous objection.

4 MR. DRYLIE: Yes. Your Honor.

5 THE COURT: Mark it into evidence.

6 (WHEREUPON State's Exhibit No. 7 was entered into
7 evidence.)

8 BY MR. ROSS:

9 Q No. 8?

10 A No. 8 is the same picture as 7 it's just -- I did
11 not have a ruler to measure, so I had on a blue pair of
12 gloves and was pointing at it.

13 Q So this hand, is that your hand?

14 A Yes, sir, it is.

15 Q All right.

16 MR. ROSS: And, Your Honor, we'd offer 8 into
17 evidence.

18 THE COURT: Subject to previous objections.

19 MR. DRYLIE: Yes, Your Honor.

20 THE COURT: Mark in evidence.

21 (WHEREUPON State's Exhibit No. 8 was entered into
22 evidence.)

23 BY MR. ROSS:

24 Q I'm going to show you now 9 and 10. Could you
25 please take a look at these two photos.

Travis Bass - Direct Examination by Mr. Ross

1 A Yes, sir.

2 Q Tell me what they are.

3 A Again this is underneath the -- in the shed area.

4 There's a -- in No. 9 there's several different red spots.

5 In 10 the one that I'm actually pointing at, is what I --

6 what appeared to me to be blood. The other red spots in

7 there did not appear to be blood. It appeared to be paint

8 or some other kind of chemical that was used some time

9 during -- before this actually -- this incident took place.

10 Q So this hand in No. 10, whose hand is that?

11 A That is my hand.

12 Q All right.

13 MR. ROSS: Your Honor, we'd off 9 and 10 into
14 evidence.

15 THE COURT: Subject to previous objections.

16 MR. DRYLIE: Yes, sir.

17 THE COURT: Mark it in evidence.

18 (WHEREUPON State's Exhibit No.'s 9 and 10 were
19 entered into evidence.)

20 BY MR. ROSS:

21 Q Now, I'm going to show you No. 11. What is that a
22 photograph of?

23 A Again, this is underneath the shed -- or in the

24 shed area. There's a spot in the middle of it that --

25 there's a red spot that appears to be blood.

Travis Bass - Direct Examination by Mr. Ross

1 Q Okay.

2 MR. ROSS: Your Honor, we'd offer No. 11 into
3 evidence.

4 THE COURT: Where did he say that was?

5 MR. ROSS: 11.

6 THE COURT: Where did he say it was?

7 BY MR. ROSS:

8 Q Where was this, Detective Bass?

9 A In the shed.

10 Q Okay.

11 MR. ROSS: We would offer it in evidence, Your
12 Honor.

13 THE COURT: Subject to previous objection.

14 MR. DRYLIE: Yes. Your Honor.

15 THE COURT: Mark it in evidence.

16 (WHEREUPON State's Exhibit No. 11 was entered into
17 evidence.)

18 BY MR. ROSS:

19 Q How about No. 12? Can you tell me what that's a
20 photograph of?

21 A The actual item itself, I don't know. I'm assuming
22 some kind of car part, but there is some type of a bracket
23 or spring with it and some type of clamp; but there
24 appeared to be a drop of blood on this metal pipe and also
25 inside the spring, just up underneath it.

Travis Bass - Direct Examination by Mr. Ross

1 Q All right.

2 MR. ROSS: Your Honor, we'd offer No. 12 into
3 evidence.

4 THE COURT: Subject to previous objections.

5 MR. DRYLIE: Yes, Your Honor.

6 THE COURT: Mark it in evidence.

7 (WHEREUPON State's Exhibit No. 12 was entered into
8 evidence.)

9 BY MR. ROSS:

10 Q And finally, if you could, please, take a look at
11 No. 13?

12 A No. 13 is the base of the blender that was in
13 the -- not the very back room where the sink and the shower
14 were but the one beside it, right there by the doorway; and
15 it's got a red spot on it that appears to be blood.

16 MR. ROSS: Your Honor, we'd offer No. 13 into
17 evidence now.

18 THE COURT: Subject to previous objections.

19 MR. DRYLIE: Yes, Your Honor.

20 THE COURT: Mark it into evidence.

21 (WHEREUPON State's Exhibit No. 13 was entered into
22 evidence.)

23 BY MR. ROSS:

24 Q Detective Bass, I'm going to show you what's been
25 marked as State's No.'s 14 and 15. Can you look at these

Travis Bass - Direct Examination by Mr. Ross

1 two photographs, please?

2 A (Witness complies.) Yes, sir.

3 Q Do these photographs accurately reflect the shed as
4 it appeared on November 19th, 2010?

5 A Yes, sir.

6 MR. ROSS: Your Honor, we'd offer these two items
7 into evidence now.

8 THE COURT: Any objection to this?

9 MR. DRYLIE: No, Your Honor.

10 THE COURT: Mark it in evidence please.

11 (WHEREUPON State's Exhibits No.'s 14 and 15 were
12 entered into evidence.)

13 BY MR. ROSS:

14 Q Now, I'm going to show you State's 16 through 21.
15 If you could please review those photographs?

16 A (Witness complies.)

17 Q Have you had a chance to review them?

18 A Yes, sir.

19 Q Do they accurately reflect how the defendant
20 appeared on November 19th, 2010?

21 A Yes, sir.

22 MR. ROSS: Your Honor, we'd offer 16 through 21
23 into evidence now.

24 THE COURT: Any objection to these.

25 MR. DRYLIE: No objection, Your Honor.

Travis Bass - Direct Examination by Mr. Ross

1 THE COURT: Mark those into evidence, please.

2 (WHEREUPON State's Exhibits No.'s 16 through 21
3 were entered into evidence.)

4 BY MR. ROSS:

5 Q Now I'm going to show you State's 22 and 23. If
6 you could please review these.

7 A Yes, sir.

8 Q Do these accurately reflect the clothes you saw on
9 the floor on November 19th, 2010?

10 A Yes, sir.

11 MR. ROSS: Your Honor, we'd offer 22 and 23 into
12 evidence now.

13 THE COURT: Any objection?

14 MR. DRYLIE: Just subject to our previous
15 objection, Your Honor.

16 THE COURT: Subject to previous objection. Mark it
17 into evidence.

18 (WHEREUPON State's Exhibits No.'s 22 and 23 were
19 entered into evidence.)

20 (WHEREUPON there was a pause in the proceedings.)

21 BY MR. ROSS:

22 Q Detective Bass, I'm showing you State's 24 through
23 39 could you please take a moment and review these
24 photographs.

25 A (Witness complies.)

Travis Bass - Direct Examination by Mr. Ross

1 Q Have you had a chance to review them?

2 A Yes, sir.

3 Q Do they accurately reflect what you saw at the
4 crime scene on November 19th, 2010?

5 A Yes, sir.

6 MR. ROSS: Your Honor, we'd offer 24 through 39
7 into evidence at this point.

8 MR. DRYLIE: No objection, Your Honor.

9 THE COURT: Mark those in evidence, please.

10 (WHEREUPON State's Exhibits No.'s 24 through 39
11 were entered into evidence.)

12 MR. ROSS: Your Honor, I'd ask to publish all these
13 to the jury.

14 THE COURT: Yes, sir.

15 BY MR. ROSS:

16 Q Detective Bass, can you tell me what State's Number
17 6 is a photograph of?

18 A The white square parts are actually the front
19 porch. If you we are were to flip the picture the other
20 way around, it's upside down.

21 (WHEREUPON the picture was turned the correct way.

22 THE WITNESS: Yes, sir. That would be the -- where
23 your fingers are, that's the -- where the steps would be
24 and then onto the front porch.

25 ///

Travis Bass - Direct Examination by Mr. Ross

1 BY MR. ROSS:

2 Q So if I'm walking up to the front porch I would
3 walk on it this way -- if that's the front porch --

4 A This is the steps, so you'd walk on to the front
5 porch like this (indicating).

6 Q Okay. Now does the projector actually capture the
7 correct color on this photo?

8 A No, sir, it does not. If I can look at the photo?

9 Q (Hands photograph to witness.)

10 A Okay.

11 Q I'm going to show you State's No. 7 and what is --
12 does the projector accurately capture the color on this
13 photograph?

14 A The color, no, sir, it doesn't; but where you were
15 pointing from what I remember from the picture that would
16 be the red spot that appeared to be blood --

17 Q Okay.

18 A -- underneath the awning in the shed.

19 Q Now, where were these red spots that appeared to be
20 blood where -- if we were to look at State's No. 4 where
21 were they?

22 A This particular picture here was in this general
23 area right here underneath the awning.

24 Q Okay. And the photograph we just saw a picture of
25 where was it?

Travis Bass - Direct Examination by Mr. Ross

1 A Where the awning to the residence is. As I stated
2 before the steps were right here. It was right at the top
3 step where the flooring of the front porch would meet.

4 Q Okay. So where did -- did you see any other red
5 drops in this area?

6 A Actually between the shed and the house, no, sir, I
7 did not see any between there. It was basically as you
8 come out of the door about where this doorway is here, from
9 here to the end of the pavement, and then again on the
10 front porch here.

11 Q Okay. And photographs were taken of those; is that
12 correct?

13 A Yes, sir.

14 Q What is State's No. 13 a photograph of?

15 A That's the base of the white blender that is in
16 the -- not the very back room, the last room of the shed
17 that we went into, but the bigger of the rooms. And the
18 spot right above the blender right here on the side of the
19 blender, that's the red spot that appeared to be blood.

20 Q Okay. Now, I'm starting to sound like a broken
21 record but does the projector accurately capture the color
22 of that red spot?

23 A The projector does not.

24 Q I'm going to show State's 14 what is that a
25 photograph of?

Travis Bass - Direct Examination by Mr. Ross

1 A That's actually one of the windows in the shed.
2 It's the blinds of the windows; I mean there's no glass in
3 the window.

4 Q Now, the walls that you see on the side is that
5 the -- are those interior walls or exterior walls?

6 A I believe they're exterior walls. It's looking
7 from the outside trying to look inside the window.

8 Q Okay. Now, look at State's 15. What is that a
9 photograph of?

10 A The same area. The outside looking in. It's
11 just -- it's another window right beside it. Right here is
12 the first window, then this is the other one.

13 Q So again referring to State's No. 4, could you
14 please point out where this is a photograph of; if you have
15 the laser.

16 A It should be right in this general area right
17 through here. This wall, I believe, divides the two
18 windows.

19 Q Okay. I'm going to show you State's 16. What is
20 that a photograph of?

21 A The defendant with his injuries.

22 Q What does this appear to be right here?

23 A It appears to be some type of a burn.

24 Q And how about in this area here; and in this area
25 here (indicating)?

Travis Bass - Direct Examination by Mr. Ross

1 A Across his nose there appeared to be some type of a
2 burn; and also right around his neck, the collar area.

3 Q I'm going to show you 17. Tell me what that
4 photograph is of?

5 A Appears to be injuries to his hands and arms. His
6 hands were kind of puffy and swollen.

7 Q Okay. What about this dog right here? Whose dog
8 is that?

9 A I believe it's Mr. Jones's. That was the dog that
10 was inside the house.

11 Q And what is this a photograph of?

12 A The palm of Mr. Jones's left hand.

13 Q Okay.

14 A You can actually see on his forearm where he had
15 some injuries.

16 Q And 19?

17 A Again it's of his left hand. The area around
18 his -- the back side of his hand was a little puffy and
19 swollen. There's actually some skin that appeared to be
20 hanging off of his arm right here.

21 Q Here's 21. What does that appear to be to you?

22 A On the back side of his neck it appeared to be some
23 type of a burn.

24 Q And now I'm going to show you 22. What's that?

25 A Those were the clothes that we found in the corner

Travis Bass - Direct Examination by Mr. Ross

1 where the counter is between the living room and the
2 kitchen; and the dark spots here, the entire shirt there,
3 appeared to be wet; but it had some -- a couple dark spots
4 that appeared, in my experience, to be blood.

5 Q All right. And again on the actual photograph,
6 does the projector actually -- does the projector
7 actually -- accurately capture the color on this
8 photograph?

9 A No, sir, it does not.

10 Q All right. 23?

11 A There's the same shirt and also a pair of pants.

12 Q Now, I'm going to go through 24 through 39. Tell
13 me about 24?

14 A This is the table that is actually outside the
15 front door of the residence on the front porch.

16 Q Okay.

17 A This area right here is actually where the front
18 door would be. On the table right here (indicating) is the
19 plastic Coke bottle that had the white residue inside it.

20 Q All right. Now 25?

21 A It's of the same picture as before, just a close up
22 version.

23 Q Now, what is this stuff right here?

24 A That is the white powder substance inside the Coke
25 bottle.

Travis Bass - Direct Examination by Mr. Ross

1 Q And that's what you collected?

2 A Yes, sir.

3 Q And did you turn that into evidence?

4 A Yes, I did.

5 Q Same picture?

6 A Same picture, yes, sir.

7 Q Now, when you turned this white powdery substance
8 into evidence, was it in the same condition when you turned
9 it in as when you first picked it up?

10 A Yes, it was.

11 Q Was it within your care, custody, and control the
12 whole time?

13 A Yes, sir.

14 Q Tell me about the significance of this bottle to a
15 meth case?

16 A The particular method that was being used with the
17 Coke bottle is what is referred to as the one-pot cook or a
18 shake and bake. Individuals who are actually manufacturing
19 methamphetamine will put all the necessary items, the
20 ingredients, inside this bottle. If it gets to the point
21 where it is not vented like it needs to be, it can explode;
22 and that is -- appeared what has happened.

23 Q Now, was the bottle found at the garage or at the
24 residence?

25 A The bottle was actually found at the front door of

Travis Bass - Direct Examination by Mr. Ross

1 the residence.

2 Q Okay. I'm going to show you 27. What is that?

3 A There was actually two cans of starter fluid
4 that -- those were actually inside the shed.

5 Q Okay. And now 28?

6 A There's two more cans of starter fluid. It's kind
7 of hard to see it in the picture here, but right here, the
8 spot right here on this can, there's a hole punched; and
9 this spot right here, there's another hole in that can.

10 Q Okay. How about 29?

11 A That is also another can inside the garage -- of
12 ether; and I believe this spot right here is where there's
13 another hole punched in that can.

14 Q Let me ask you what is the relevance of the starter
15 fluid cans to this meth investigation?

16 A Starter fluid contains ether. Ether is one of the
17 ingredients that is used to make methamphetamine.
18 Individuals who are cooking meth need the liquid form of
19 the ether. They in turn will get the can, turn it upside
20 down, get all the aerosol out of it. Then they will end up
21 taking a knife, a screwdriver, a can opener, whatever they
22 can get and punch holes in it, the same as you would do the
23 old cool aid cans to get the liquid out of it.

24 Q Okay. I'm going to show you 30.

25 A This is the very back room of the shed. This is

Travis Bass - Direct Examination by Mr. Ross

1 the actual cold pack right beside it. It's hard to see.

2 There is another clear bag that contains the water that's
3 inside the cold pack.

4 Q How about 31? Does that show that clear bag a
5 little bit better?

6 A A little bit. You can see it right here; and again
7 that's the package that the water bag would come in.

8 Q Okay. Now this cold pack in its form in this
9 photograph, could you use that on a sports injury?

10 A No, sir.

11 Q Why not?

12 A Inside the cold pack contains the water bag along
13 with ammonium nitrate. I don't have a physics degree, so I
14 don't know the chemical composition of how it works; but
15 when you break that bag for a sports injury, some type of
16 chemical reaction occurs and the bag gets cold so you put
17 it on your injury.

18 Q What is the relevance of an open cold pack bag to
19 this methamphetamine investigation?

20 A Individuals who are actually manufacturing
21 methamphetamine will take these cold packs and open them up
22 and remove the ammonium nitrate and remove the out of that
23 cold pack to us to manufacture meth.

24 Q Okay. Now 32, is this the same cold pack?

25 A No, sir, that is a second cold pack.

Travis Bass - Direct Examination by Mr. Ross

1 Q Okay. Does it appear to be opened as well?

2 A It does.

3 Q Okay. Now, I'm going to show you 33 and then 34.

4 What is 33 a photograph of?

5 A This is inside the residence. It's the kitchen
6 area. As you can see the kitchen sink and then up
7 underneath it the doors to the bottom are opened.

8 Q Okay. Now 34?

9 A This is a picture of the -- I believe it's Liquid
10 Lightening, a drain opener that is actually on the -- from
11 the previous picture, the left door up underneath the sink,
12 it's in the corner right there on the bottom.

13 Q Okay. And was this found in the house or the
14 garage?

15 A Inside the residence.

16 Q Okay. And what is the relevance of this chemical
17 product to a methamphetamine investigation?

18 A Drain opener is a sulfuric acid, which is one of
19 the ingredients that's needed to manufacture
20 methamphetamine.

21 Q Now, I'm going to show you 35. What do you see
22 there?

23 A The picture is actually depicting the item right
24 here (indicating) with the cable to it. It is a -- what
25 appeared to be a homemade fan.

Travis Bass - Direct Examination by Mr. Ross

1 Q Okay. Is 36 the same?

2 A This is the same picture as before, yes, sir.

3 Q All right. How is that relevant to this case
4 relevant in this case?

5 A Fans are used to -- if they don't have a box fan or
6 a fan that oscillates back and forth, individuals will make
7 their own fans out of whatever they can to help disperse
8 the fumes from a meth lab.

9 Q Now 37?

10 A This is actually a picture of a light bulb that has
11 had the filament taken out of the inside of it and had been
12 converted, from my training and experience, into a homemade
13 smoking device.

14 Q All right. You say there's no filament. Tell me
15 about this area here. How is that relevant to you?

16 A The bottom section you're pointing to there is what
17 would -- when you screw it into the light socket, it's
18 where the electrical connection would take place.

19 Q So if I tried to plug this light bulb into a socket
20 would it work?

21 A No, sir, you'll be in darkness.

22 Q All right. And you said -- what is this used for
23 again?

24 A Through training and experience, for smoking
25 illegal narcotics.

Travis Bass - Direct Examination by Mr. Ross

1 Q Okay. How would one go about doing that with this
2 light bulb?

3 A They can actually take the whatever type of
4 narcotics they're using at the time, put it inside the
5 glass area in the bulb part, take their lighter, whatever
6 kind of lighter they got, and heat it up, put their mouth
7 on this end of it and inhale the fumes, vapors, whatever it
8 is it actually gives off.

9 Q Now 38?

10 A It's the same picture as before, just on top
11 looking down.

12 Q Now, where was this item found? Was it found in
13 the residence or was it found in the garage?

14 A I believe that was actually found inside the
15 residence. I did not locate that item.

16 Q Okay. And what is this item here right up in the
17 corner that's beside the light bulb?

18 A That is the drain cleaner that was located inside
19 the residence underneath the sink.

20 Q Is the individual that you found in the back room
21 of the trailer at , is he in court today?

22 A I'm sorry?

23 Q The individual that you found underneath that
24 blanket in the back room at Street, do you see
25 him in the courtroom today?

Travis Bass - Cross-Examination by Mr. Drylie

1 A I do, sir.

2 Q Point him out for me please?

3 A The defendant (indicating) wearing the grayish
4 light colored shirt with the dark colored tie.

5 Q Richard Jones?

6 A Yes, sir.

7 MR. ROSS: Nothing further, Your Honor.

8 Sir, if you could please answer any questions Mr.
9 Drylie has.

10 THE WITNESS: Yes, sir.

11 THE COURT: Cross.

12 CROSS-EXAMINATION

13 BY MR. DRYLIE:

14 Q Good morning, Detective Bass?

15 A Good morning.

16 Q How are you doing today?

17 A Good.

18 Q So I just have a few questions for you. First, I
19 want to start off with your search warrant. You had stated
20 that -- and you typed the search warrant, correct?

21 A Yes, sir.

22 Q Okay. You were searching for any and all
23 precursors for the production of methamphetamine, not
24 limited to, but to include pseudoephedrine and alcohol?
25 Did you see any alcohol?

Travis Bass - Cross-Examination by Mr. Drylie

- 1 A No, sir. We did not find any there that I recall.
- 2 Q And hydrous ammonia? Did you see any hydrous
- 3 ammonia?
- 4 A No, sir, I don't recall being any there.
- 5 Q Okay. Ether acids? Did you seize any ether acids?
- 6 A As I recall the search warrant says ether and then
- 7 it has a comma there and says acid.
- 8 Q Did you see ether?
- 9 A The ether cans that were there, yes, sir.
- 10 Q Did you seize them?
- 11 A We took them and destroyed them.
- 12 Q Did you seize any acids?
- 13 A The sulfuric acid bottle, yes, sir, we took it and
- 14 destroyed it.
- 15 MR. DRYLIE: Beg the Court's indulgence for a
- 16 moment, Your Honor.
- 17 THE COURT: Yes, sir.
- 18 (WHEREUPON there was a pause in the proceedings.
- 19 BY MR. DRYLIE:
- 20 Q So the ether, you didn't place it into evidence?
- 21 A No, sir, it was not taken as evidence.
- 22 Q And you didn't place the Drano into evidence?
- 23 A No, sir.
- 24 Q Did you place any lithium into evidence?
- 25 A No lithium was there that we found.

Travis Bass - Cross-Examination by Mr. Drylie

1 (WHEREUPON Defendant's Exhibit No. 1 was marked for
2 identification.)

3 BY MR. DRYLIE:

4 Q I'm going to show you what's been marked as
5 Defendant's Exhibit No. 1 for ID purposes. Do you
6 recognize that?

7 A Yes, sir, it's notes that I took there on the scene
8 that night.

9 Q And that's your handwriting, correct?

10 A Yes, sir.

11 Q And can you tell me what the first line says?

12 A First line on top?

13 Q Yeah.

14 A Three can cans punched ether.

15 Q You testified on direct that it was five or six,
16 but you wrote that night it was three?

17 A I believe I said that there was about five or six
18 cans there.

19 Q And you wrote that night that there was one cold
20 pack correct?

21 A That I saw there to begin with, yes, sir.

22 Q Thank you. You testified that this was a plastic
23 bottle that you found on the porch; is that correct?

24 A Yes, sir.

25 Q Did you seize it and place it in evidence?

Travis Bass - Cross-Examination by Mr. Drylie

1 A The bottle itself, no, sir. The item inside it,
2 yes.

3 Q And did you do any test on the bottle, any
4 fingerprints to determine who had handled it?

5 A I did not, no.

6 Q So you have no way of knowing who handled that
7 bottle?

8 A No, sir.

9 Q And these are the cans of starter fluid, correct?

10 A Those are two cans inside the shed, yes, sir.

11 Q And did you seize those and place those into
12 evidence?

13 A They were not taken into evidence, no, sir.

14 Q And you didn't do any fingerprint testing on them
15 to see who had handled them?

16 A No, sir.

17 Q You have no way of knowing who handled the starter
18 fluid?

19 A No, sir.

20 Q How about this can, sir? Did you seize it or place
21 it in evidence?

22 A It was not taken as evidence, no, sir.

23 Q And you did no fingerprint testing on it?

24 A No, sir.

25 Q No way to tell who handled it?

Travis Bass - Cross-Examination by Mr. Drylie

- 1 A No, sir.
- 2 Q This cold pack, did you seize it and take it into
3 evidence?
- 4 A Not as evidence, no, sir.
- 5 Q And you didn't do any fingerprint testing on it?
- 6 A No, sir.
- 7 Q No way to know who had handled it?
- 8 A No, sir.
- 9 Q Now, this picture of Drano, it was in the house
10 under the sink?
- 11 A It was.
- 12 Q Okay. And did you seize it and place it into
13 evidence?
- 14 A It was not taken as evidence, no.
- 15 Q And did you do any testing on it to see who had
16 handled it?
- 17 A No, sir.
- 18 Q How about this light bulb? Did you seize it and
19 place it into evidence?
- 20 A Not taken as evidence, no.
- 21 Q And you didn't do any testing on it, maybe DNA, to
22 see if someone was smoking on it to see who it was?
- 23 A No, sir.
- 24 Q No fingerprint testing on it or anything?
- 25 A No, sir.

Travis Bass - Cross-Examination by Mr. Drylie

- 1 Q And this cooler was inside the tool shed, correct?
- 2 A Yes.
- 3 Q And you didn't seize it and take it into evidence?
- 4 A The cooler? No, sir.
- 5 Q You didn't do any fingerprint testing to see who
- 6 handled it?
- 7 A The cooler? No, sir.
- 8 Q Or the cold pack inside?
- 9 A No, sir.
- 10 Q Detective Bass, would you mind stepping down for a
- 11 moment?
- 12 A (Witness leaves the witness stand.)
- 13 Q I just want to review a couple things with you real
- 14 quick. You've got a blender in that first room in the tool
- 15 shed, correct?
- 16 A No, sir, it's in the second room here.
- 17 Q Second room here.
- 18 THE COURT: I think you're blocking some of the
- 19 jurors.
- 20 MR. DRYLIE: I apologize, Your Honor.
- 21 BY MR. DRYLIE:
- 22 Q But the cold pock packs were not found in the same
- 23 room as the blender, correct?
- 24 A The cold pocks were located in this room next to
- 25 the blender, yes.

Travis Bass - Cross-Examination by Mr. Drylie

1 Q But not in the same room?

2 A Not in the same room, no, sir.

3 Q The ether cans weren't in the same room as the
4 blender?

5 A No, sir, they were located in this first room here.

6 Q And they weren't in the same room as the cold
7 packs?

8 A No, sir.

9 Q And the Drano was found in a completely separate
10 residence? Or in a completely separate building?

11 A Correct. In the residence underneath the sink.

12 Q Underneath the sink. You can sit back down?

13 A (Witness resumes the witness stand.)

14 MR. DRYLIE: Beg the Court's indulgence for a
15 moment.

16 THE COURT: Yes, sir.

17 (WHEREUPON there was a pause in the proceedings.)

18 MR. DRYLIE: No further questions. Thank you.

19 THE COURT: Redirect?

20 MR. ROSS: No, Your Honor.

21 THE COURT: Thank you, sir. You may step down.
22 Call your next witness.

23 MR. ROSS: State calls Candy Kyzer to the stand.

24 THE COURT: Come around, please.

25 MS. FULLWOOD: Your Honor, can counsel approach?

Candy Kyzer - Direct Examination by Mr. Ross

1 THE COURT: Sure.

2 (WHEREUPON, a bench conference was held off the
3 record, in the presence of the jury, but out of the hearing
4 of the jury.)

5 THE COURT: Come on up, Ms. Kyzer.

6 CANDY KYZER,

7 having been duly sworn, testified as follows:

8 THE CLERK: Have a seat, please ma'am. Once you're
9 seated, state your full name, spelling your last on the
10 record.

11 THE WITNESS: Candy Kyzer, K-Y-Z-E-R.

12 DIRECT EXAMINATION

13 BY MR. ROSS:

14 Q Ms. Kyzer, you're the evidence custodian in
15 Lexington County; is that right?

16 A I'm one of three, yes.

17 Q All right. Did you bring the evidence that was
18 turned in in this case to court today?

19 A I did.

20 Q Do you have it in your hands now?

21 A Yes, I do.

22 Q What is the BEST Kit number on that evidence?

23 A It's BEST Kit Z020670.

24 Q All right. And was that BEST Kit in the same
25 condition as when it was turned over to the chemist when it

Candy Kyzer - Direct Examination by Mr. Ross

1 was first turned in?

2 A It was originally turned in in a sealed packet that
3 had blue markings at the top or all the way around it; so
4 that way you could originally tell if somebody had tampered
5 with it. And then once the chemist gets it, she in turn
6 puts it in a heat-sealed pouch of her own.

7 Q Okay. I see there's a card on that item. Can you
8 tell me what that card is for?

9 A It's our evidence chain of custody card.

10 Q Okay. Let me go ahead and mark this as an exhibit?

11 THE COURT: Any objection?

12 MS. FULLWOOD: No, sir.

13 THE COURT: Mark it into evidence, please.

14 (State's Exhibit No. 40 was marked and entered into
15 evidence.)

16 BY MR. ROSS:

17 Q Now, this card on State's No. 40, does that
18 identify who exactly has handled this exhibit?

19 A It does.

20 Q Okay. And when did you receive the exhibit?

21 A I signed it in on November the 22nd, 2010, at 4:29
22 in the afternoon.

23 Q And when did you sign it back out?

24 A I signed it out to Emily Homer, which is the
25 chemist, on November 23rd, 2010, at 1014.

Candy Kyzer - Direct Examination by Mr. Ross

1 Q Was it within your care, custody, and control the
2 whole time?

3 A It was.

4 Q Now, did you ever receive this item after the
5 chemist was done testing?

6 A I did.

7 Q And is it in the same condition now as when you
8 received it?

9 A Yes.

10 Q All right.

11 MR. ROSS: Your Honor, that's all the questions I
12 have for Ms. Kyzer.

13 THE COURT: Any questions of this witness?

14 MS. FULLWOOD: No, Your Honor.

15 THE COURT: Thank you, ma'am. You may step down.
16 Call your next witness.

17 MR. ROSS: Your Honor, may I approach?

18 THE COURT: Sure.

19 (WHEREUPON, a bench conference was held off the
20 record, in the presence of the jury, but out of the hearing
21 of the jury.)

22 THE COURT: Ladies and gentlemen, I'm going to
23 need, in a few moments, to ask you to step into the jury
24 room while I find out where we are in the trial. If you
25 have taken notes -- it's fine with me if you take notes --

Candy Kyzer - Direct Examination by Mr. Ross

1 but the -- if we allow you to take notes we're supposed to
2 have three rules. So I need to tell you about those. To
3 explain why these rules are in effect, let me just tell you
4 that the judges who do not allow juries to take notes, they
5 tend to do so primarily because they feel that when a juror
6 has written recollection that that juror would be given an
7 undue amount of deference by the other jurors so that the
8 mental recollection would yield to the written
9 recollection. Well, I don't buy into that. I don't
10 believe that at all. It's fine with me if you take notes,
11 perfectly fine. I never have prevented a jury from taking
12 notes, never have understood why any judge would; but --
13 and I think I'm in the majority there by a long shot -- but
14 they do have three rules.

15 The first rule is that during a break you have to
16 leave your notes in your chair. If it's an extended break,
17 we'll take them up, secure them, and give them back to you
18 when you start back. We do not read your notes. We never
19 read your notes. The bailiff will take care of them and
20 you just need to write your name on them or something so we
21 can make sure we get it back to the right person.

22 The second rule is that when you actually go back
23 to deliberate the case you may use the notes then, but you
24 cannot physically show them to another juror. Now, you may
25 look at them and then you may say whatever you like, but

1 you cannot turn it to them and say, Look, I've got it
2 written down right here. You can't show them physically to
3 another juror.

4 And the third rule is that at the end of the trial,
5 there can be no record of your notes. They have to be
6 given to us and either shredded, obliterated, or if they're
7 on something that you need to keep, we have to take a black
8 magic marker and mark through the notes.

9 So with those rules, you're welcome to take notes,
10 just if you have taken them, leave them in your chair and
11 we'll give them back to you after the break. All right.

12 Don't discuss the case. Follow the bailiff,
13 please.

14 (WHEREUPON the jury left the courtroom at 11:44
15 a.m.)

16 THE COURT: All right. What is it that we need to
17 deal with?

18 MR. ROSS: With regard to next witness's testimony
19 or the stipulation?

20 THE COURT: Anything I've got to deal with.

21 MR. ROSS: My next witness is going to be
22 Lieutenant Hamilton. I intend to qualify him as an expert.

23 THE COURT: I can't understand you. You're facing
24 a different way.

25 MR. ROSS: I'm going to qualify Lieutenant Hamilton

1 or attempt to qualify him as an expert in two disciplines.
2 The first is the manufacture, distribution, and disposal of
3 meth and its byproducts; the second discipline is post
4 blast reconstruction. I intend to use a PowerPoint to
5 demonstrate to the jury how you go about making meth
6 pursuant to the shake and bake method, a copy of the
7 PowerPoint I've given to the defense. The reason I'm
8 telling you this in addition to the PowerPoint issue, Your
9 Honor, is recently the Supreme Court came out with a case
10 regarding admissibility of scientific evidence -- or expert
11 testimony in general, not just scientific. It was State
12 versus Tapp, it's in the Advance Sheets from June 6, 2012,
13 Your Honor. I just read it the other day and it
14 essentially stands for the proposition that after a witness
15 is qualified, the reliability of the testimony must be
16 evaluated by the Court.

17 I didn't know if -- since it's only about a month
18 old, Your Honor, I felt the duty to inform the Court of
19 this development in case law and essentially punt to you,
20 sir, as far as how you want to go about handling an expert
21 witness. The Westlaw site for Tapp is 2012 Westlaw
22 2018004.

23 THE COURT: All right. What else do we need to
24 deal with?

25 MR. ROSS: The stipulation, Your Honor.

1 **THE COURT:** How long do you think it would take for
2 me to hear in camera the issue about the qualification of
3 the expert and the opinions of the expert?

4 **MR. ROSS:** Oh, probably thirty minutes, Your Honor.

5 **THE COURT:** And how many more witnesses do you
6 have? I thought --

7 **MR. ROSS:** Two, Your Honor.

8 **THE COURT:** My law clerk had said that you all
9 indicated you would be through by lunch. So I'm trying --

10 **MR. ROSS:** I'm slow, Your Honor. I apologize.

11 **THE COURT:** No, you're not slow. It's just, y'all
12 don't tell me you're going to be through by lunch if you're
13 not. I guess I'll cancel my doctor's appointment because I
14 went ahead and scheduled something at four o'clock based on
15 that representation.

16 All right. Bring the jury back in.

17 (WHEREUPON the jury entered the courtroom at 11:48
18 a.m.)

19 **THE COURT:** All right. Ladies and gentlemen, there
20 are some issues that I need to address at this stage and
21 rather than keep you back there waiting while we're doing
22 that, I'm just going to let you go on for your lunch break.
23 You'll have an extended break. I need you back at two
24 o'clock; and remember all those admonitions and if you're
25 taking notes just leave them there the bailiff will collect

1 them and give them back to you after the lunch break.

2 **THE BAILIFF:** I think they changed their minds,
3 sir. They decided not to. That's what I was told.

4 **THE COURT:** If you've taken notes they've got to be
5 obliterated if you're not going to use them.

6 **THE BAILIFF:** Yeah. I'll take care of that.

7 **THE COURT:** Y'all are welcome to take notes now.

8 **THE JUROR:** No, I wrote it down. I remember.

9 **THE COURT:** Okay. Well, if you change your mind
10 again let us know. Hold on to them until the end of the
11 trial just in case they change their mind and then
12 obliterate them after the trial.

13 **THE BAILIFF:** Okay, sir.

14 **THE COURT:** All right. Folks, y'all are free to go
15 until two o'clock.

16 (WHEREUPON the jury left the courtroom at 11:50
17 a.m.)

18 **THE COURT:** Let's take a ten-minute break. I think
19 what I need to do is hear in camera about qualification of
20 the expert then the opinions that the expert would tender
21 in a proffer and then make the rulings. If y'all have any
22 other input I'll hear you after the break.

23 Ten-minute break. Thank you.

24 (WHEREUPON there was a brief recess.)

25 **THE COURT:** All right. Make your proffer.

1 MR. ROSS: State calls Lieutenant Hamilton to the
2 stand.

3 MS. FULLWOOD: Your Honor, may I put our initial
4 position on the record real briefly?

5 THE COURT: Hold on a second. You're already under
6 oath.

7 THE WITNESS: All right, sir.

8 THE COURT: Have a seat.

9 Go ahead.

10 MS. FULLWOOD: And that would be that expert
11 testimony as to post lab reconstruction comes to us as a
12 surprise. There was nothing in the discovery that let it
13 be known that this type of expert testimony would be
14 offered during the trial of the case. We have not had any
15 opportunity to inspect or look into this matter. There
16 apparently has been no report generated. If there has
17 been, none has been provided to us; and we are in no way in
18 a position to try to contest or meet this evidence or just
19 refute it since it's only now coming to our attention that
20 they are going to offer that type of evidence.

21 THE COURT: Okay. What else?

22 MS. FULLWOOD: That -- I just wanted to put that on
23 the record at this point.

24 THE COURT: Thank you.

25 Go ahead.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

DIRECT EXAMINATION IN CAMERA

BY MR. ROSS:

Q Lieutenant Hamilton, you're the chief of the narcotics unit in Lexington County; is that right?

A Yes, sir.

Q Can you tell me about your experience in narcotics, please.

A As I testified to earlier I started in narcotics in the mid '90s as an agent. I worked with the City of Cayce at the time as a narcotics investigator. I then moved to the county in 1999 and was a narcotics investigator. Remained in that position as a narcotics investigator until 2005. During that time I've worked cases with informants. I also worked undercover for a -- approximately a two-year period of time. I did multiple investigations of all types of different narcotics; everything from marijuana to ecstasy to crack cocaine, methamphetamine, heroin, the gamut of illegal drugs as they're found on the streets today. During that time also we here in Lexington County saw methamphetamine on the rise and started having meth labs and received train in that.

Q What training have you -- what formal training have you received in meth labs?

A Back in 2002 I was sent to Quantico, Virginia to the Drug Enforcement Agency, the DEA school for clandestine

1 laboratory. I took the meth lab tech class there, which
2 included the production of methamphetamine, to also include
3 having to do hands-on production of meth in a controlled
4 setting. We also learned about the hazards, chemicals
5 involved; also the proper way of sampling, taking evidence,
6 and disposing of hazards.

7 I am also an instructor with the South Carolina
8 Fire Academy. I have been for numerous years. Part of the
9 courses that I teach with the South Carolina Fire Academy
10 as an adjunct instructor are HAZMAT technician, HAZWOPER,
11 HAZMAT Operations, as well as NBC Terrorism Technician.

12 Q Okay. Now, you said you took the course by the DEA
13 for meth labs. What does DEA stand for?

14 A That is the Drug Enforcement Administration.

15 Q Who else were their teaching at that class?

16 A That class includes state, local law enforcement,
17 as well as the DEA agents who were going to be meth lab
18 techs.

19 Q So these are law enforcement and military from
20 around the country?

21 A These were law enforcement from all of the
22 different agencies that deal with methamphetamine.

23 Q Okay. Did you apply those techniques to this case?

24 A Yes, sir.

25 Q How many meth labs have you been involved with as a

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 narcotics investigator?

2 A I have worked on well over a hundred meth labs in
3 the last ten years.

4 Q Okay. As chief of the narcotics unit how many
5 individuals do you supervise?

6 A Fourteen, sir.

7 Q Okay. Have you been qualified as an expert in the
8 production, distribution, and disposal of methamphetamine
9 and its byproducts in state or federal court before?

10 A Yes, sir, I have been qualified as an expert
11 witness in both state and federal court for
12 methamphetamine.

13 Q When was the most recent time you were qualified as
14 such an expert in state court?

15 A I believe it was in May of this year here in this
16 courtroom.

17 Q Okay. Are you familiar with the shake and bake
18 method of cooking methamphetamine?

19 A Yes, sir, I am.

20 Q Can you tell me how that developed.

21 A The origin of the production method, who actually
22 came up with the recipe, is unknown, sir. But back in 2004
23 is when we first started receiving publication and
24 information about it coming on the scene. It is a
25 derivative of the Nazi or anhydrous ammonium cook method.

1 It is multiple steps from the Nazi Cook, condensed into a
2 one container.

3 Q So it's a streamlined version of an older method;
4 is that correct?

5 A Yes, sir, it is.

6 Q Now, prior to court did you review a PowerPoint
7 presentation describing how to cook methamphetamine by
8 shake and bake?

9 A Yes, sir.

10 Q And is the cover of that PowerPoint presentation on
11 the screen?

12 A Yes, sir, it is.

13 Q All right. Would you like to go through these
14 slides, please?

15 A Yes, sir.

16 Q All right. Tell me about this slide?

17 A It is the introduction. The whole idea behind the
18 production of methamphetamine is a conversion of
19 pseudoephedrine hydrochloride which is the medicine that is
20 commonly found in cold medicine that is controlled and is
21 sold from behind the counter. You have to sign for it,
22 produce a driver's license and this indicates that.

23 Q Okay. Now the second slide.

24 A This talks about a list of items you put into a
25 bottle.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 Q And is this the first item that goes into producing
2 methamphetamine?

3 A Yes, sir.

4 Q And what is the active ingredient of Sudafed?

5 A Pseudoephedrine and hydrochloride.

6 Q Okay. And how does that relate to making
7 methamphetamine?

8 A Pseudoephedrine and hydrochloride is the chemical
9 compound that is converted into methamphetamine
10 hydrochloride.

11 Q And how is it converted? What is that first step?

12 A The first step is usually the crushing of the pills
13 making them into a powder so that you can have more of a
14 surface space on the chemical -- on the compound.

15 Q And this blender here, how does that fit into this
16 scene?

17 A We have found over the years them to use numerous
18 different items like this coffee grinder or blenders or
19 anything that's rooted say hammer and a piece of board to
20 crush the pills.

21 Q What do we have here in this number two?

22 A This is the solvents that are used, commonly used.
23 One of the solvents that can be used is ether, which is
24 commonly found in starter fluid. The other one shown here
25 it's Coleman camp fuel, which is another hydrocarbon that

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 can be used as the liquid solvent for the reaction.

2 Q So you can use either this or this, you don't have
3 to use both?

4 A No, sir, either one.

5 Q What about number three?

6 A Ammonium nitrate is used in this production method
7 ammonium nitrate, it's commonly found in cold packs. Not
8 all cold packets have ammonium nitrate. Some of them have
9 a different compound, which is urea. Ammonium nitrate is
10 commonly a fertilizer also, but because of regulations that
11 the federal government has put on it, it's hard to buy
12 straight ammonium nitrate because of the concerns of
13 explosives. This is a way they have found to get a hold to
14 ammonium nitrate for this method.

15 Q You personally found these type of cold packs at
16 meth labs before?

17 A Yes, sir.

18 Q Okay. What about this one here?

19 A This is sodium hydroxide or lye. It is a basic
20 substance. It is used in conjunction with ammonium
21 nitrate. The reaction between these two chemicals produces
22 anhydrous ammonium.

23 Q Okay. Does it have to be this particular brand of
24 lye?

25 A No, sir. As long as it is sodium hydroxide.

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 Q All right. Is this the final ingredient?

2 A Yes, sir. This is lithium metal. It is found in
3 lithium batteries.

4 Q Okay. How does -- you just drop the battery in or
5 how do you do that?

6 A No, sir. You cut open the batteries, strip the
7 gray metal that is inside of there and then put that gray
8 metal in there, which is the actual lithium.

9 Q Tell me about this slide?

10 A This is a rendition of what it looks similar to
11 when it is in production. This is a step-by-step
12 how-you-do-it. Once you put all of these items together in
13 your bottle, you then shake them to start the reaction; and
14 then you must vent it. If you do not vent it, it will over
15 pressurize and one of two things will occur when it over
16 pressurizes. Either A, the reaction will stop, or B the
17 container will fail.

18 Q What do you mean container fail?

19 A It will start to distort because of the pressure
20 inside of it and then it will pop.

21 Q Okay. So what is step three? Tell me what's going
22 on here.

23 A The liquid inside of that bottle is where the
24 methamphetamine -- the conversion has occurred already.
25 The methamphetamine is suspended in that ether or other

1 solvent that is used. You strain out the particles, the
2 residue and you control that liquid. You will capture that
3 liquid into another container. Then to get the
4 methamphetamine out of the solvent you need to do another
5 reaction. This reaction involves sulfuric acid and salt.
6 Sulfuric acid and salt, when mixed together, produce
7 hydrochloric acid. This reaction occurs at normal room
8 temperatures. The conversion gives off a gas, which is a
9 hydrogen chloride gas. That is bubbled across the top of
10 the liquid, the ether; and it takes the methamphetamine
11 from straight methamphetamine into methamphetamine
12 hydrochloride. Once it's a salt, it is no longer mixable
13 in a solvent such as ether; and it goes to the bottom.

14 Q Okay.

15 A So you have a white powder at the bottom.

16 Q It's a big picture. This is not the same bottle as
17 that picture?

18 A No, sir.

19 Q Okay. And this tube, you place in what bottle?

20 A In the container that you have put your solvent
21 that has meth in it.

22 Q That one?

23 A No, sir, you would actually strain that out of
24 there.

25 Q Okay. Is that the process that's described here on

1 this slide here?

2 A Yes, sir, it is.

3 Q And you put this tube on top of here after it's
4 been strained and then what is this snowing?

5 A That is actually similar to what it looks like when
6 the methamphetamine comes out of the ether. It'll pop and
7 fall to the bottom. Common street term that they use is
8 called snowing.

9 Q Now, this picture, this is not a meth bottle, is
10 it?

11 A No, sir.

12 Q What is that a picture of?

13 A That is a -- one of the shaking globes, sir.

14 Q Okay. What is this last step here?

15 A Once they have the meth on the bottom of the ether,
16 they will strain it through, usually coffee filters, so
17 they don't loose any product. They then let that product
18 dry and then it's ready for use.

19 Q Okay. I'm going to go through the photographs of
20 what was seized. The first one being the ether can or
21 rather the plastic bottle, Coke bottle. This is No. 26.
22 Can you tell me what the relevance of this item is to a
23 meth investigation?

24 A That appears to be a reaction vessel. The white
25 substance inside of it appears to be the residue that is

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 commonly found in a two-liter shake and bake cook.

2 Q So is that what you believe one would use to make
3 drugs? This little bottle here?

4 A Yes, sir.

5 Q All right. Now, I'm going to show you State's No.
6 29, which is an ether can. Can you take a look at that
7 please.

8 A (Witness complies.)

9 Q What is the relevance of that to the meth
10 investigation?

11 A That starter fluid can contains ethyl ether. It
12 has a punched hole in the bottom of the can.

13 Q What is the relevance of the punched hole?

14 A It is common in the production of methamphetamine
15 for them not to spray it out for a couple of reasons. One
16 is the loss of product when it's aerosolized. It will --
17 they will lose a bunch of the ether to the atmosphere.
18 They will generally punch a hole in the bottom after
19 letting the pressure off of it and then pour that ether
20 into their reaction vessel.

21 Q Have you seen ether cans with punched bottoms at
22 meth lab sites before?

23 A Yes, sir.

24 Q Do you train your agents to look for that
25 indicator, a punched bottom of an ether can?

1 A Yes, sir.

2 Q Now, I'm going to show you State's No. 31. What is
3 that photograph of?

4 A That is a photograph of a cold pack, sir.

5 Q And how is that relevant to this investigation?

6 A As seen in the slides, cold packs contain ammonium
7 nitrate, which are a key ingredient to the production of
8 meth.

9 Q So the contents of this bag could they be used to
10 make meth?

11 A Yes, sir.

12 Q Now, is this cold pack, could you put that on a
13 sports injury as it exists in that photograph?

14 A No, sir. All you have left is the water bag.

15 Q Is that how the bag is used to treat a sports
16 injury?

17 A The way it is normally used is the bag is not
18 opened. All it is is crush. The water mixes with the
19 ammonium nitrate which causes an endothermic reaction
20 making it cold.

21 Q Okay. Now I'm going to show you State's 34. Tell
22 me about that, please.

23 A That is a drain opener product that I know, from my
24 experience, contains sulfuric acids.

25 Q And is that used to make methamphetamine?

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 A Yes, sir, it is.

2 Q That's in that final stage that we just looked at
3 on the slide?

4 A Yes, sir.

5 Q Okay. Now State's 39, what is that a photograph
6 of?

7 A That's a photograph of a light bulb that has been
8 altered, sir.

9 Q And how has it been altered?

10 A The filament, middle portion, has been cut out and
11 removed.

12 Q And how is that relevant to a methamphetamine
13 investigation?

14 A That is how we often find that they use it when
15 they are smoking methamphetamine.

16 Q Okay. Now, the presence of this combination of
17 items that were found on the scene, is that combination
18 consistent with lawful use or illicit manufacturing of
19 methamphetamine?

20 A That is -- this is commonly found as a meth lab in
21 the production of methamphetamines.

22 Q Okay. Now, each one of these items, do they have
23 lawful uses? The ammonium, the ether, all of those things;
24 do they have lawful uses?

25 A Yes, sir.

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1 Q What about this combination makes you believe that
2 this was a meth lab?

3 A Well, first off the ether cans that are punched;
4 the cold packs that are cut open; all those things that you
5 would not do when you have lawful uses; and last, but
6 obviously not least, is the reaction vessel that was
7 located on the front porch.

8 Q Okay. Now, do you have -- everything that was seen
9 that day, did you see every item that you would need to
10 make meth?

11 A No, sir.

12 Q What was missing?

13 A I did not find the sodium hydroxide.

14 Q Which is?

15 A Lye.

16 Q Okay.

17 A And did not find the lithium, the residue of the
18 battery packs.

19 Q Does that change your analysis in any way?

20 A No, sir.

21 Q And why not?

22 A Often times different items are broken down at
23 different places and brought to one location to be put
24 together, sir.

25 Q And has that been your experience?

1 A Oftentimes.

2 Q Okay. How much would it cost to get those
3 remaining items and how long would it take?

4 A Those remaining items, the battery packs, which
5 would be the most expensive item, you're talking about \$10.
6 The lye itself possibly \$5 at most.

7 Q What is the yield of this process? If I were to
8 put Sudafed in a bottle and shake it up, how much meth
9 could I anticipate to get?

10 A The normal boxes of Sudafed are 2.2 grams of
11 pseudoephedrine inside; and the normal production method is
12 at least one box, as many as two. So you would possibly be
13 looking at a yield of one and a half to three grams.

14 Q Okay. Now, if I were to tell you 6 grams of
15 Sudafed were found on the scene, what would be the yield of
16 6 grams of Sudafed?

17 A During this process a 50 to 75 percent yield is
18 normal. So you're looking at three- to four-and-a-half
19 grams of methamphetamine.

20 Q Now, is that -- is three- and four-and-a-half grams
21 of methamphetamine, is that consistent with personal use or
22 distribution?

23 A That's commonly found as distribution, sir.

24 Q And what do you base that on?

25 A The production and distribute statute is part of

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 it; and the other part is the fact that if somebody used
2 that much methamphetamine, you would be looking at possible
3 overdose.

4 Q Okay. I'm going to switch gears and talk about
5 this second discipline, post blast reconstruction. If you
6 could tell me about your formal training in this
7 discipline, sir?

8 A When I left narcotics as an agent back in March of
9 2005, I was moved to Special Operations Bureau of Lexington
10 County Sheriff's Department. I was sent to Huntsville,
11 Alabama to Redstone Arsenal, where I became certified as a
12 bomb technician in April of 2005.

13 Q Who certified you?

14 A This is the FBI, the Federal Bureau of
15 Investigation.

16 Q How long did that take?

17 A The school is seven weeks. During this course you
18 cover not only explosives, render safe operations, as well
19 as post blast and post-blast investigations.

20 Q So when you say post-blast investigations you're
21 trying to put the pieces back after an explosion to figure
22 out what happened?

23 A Yes, sir.

24 Q And who were the students at the school?

25 A In this class you will have state, local law

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 enforcement, as well as FBI agents who are all working on
2 becoming bomb techs.

3 Q And the principals that were taught, are these used
4 throughout the country?

5 A Yes, sir.

6 Q By law enforcement?

7 A Yes, sir. This the FBI bomb school. There's only
8 one in the nation.

9 Q Do you have any other formal training in this
10 discipline?

11 A Yes, sir, numerous courses to include ATF courses,
12 as far as advanced demolitions.

13 Q Tell me about those ATF courses in advanced
14 demolitions.

15 A I've been through multiple ATF courses, advanced
16 demolitions, which is a two week course taught up at Fort
17 AP Hill outside of Washington.

18 Q That's an Army base, right?

19 A Yes, sir. Most of these courses are taught at Army
20 bases because of the need for an explosive range. That was
21 a two week course. I've also been through the ATF HME,
22 which is homemade explosives course, which is taught at
23 Redstone Arsenal in Huntsville, Alabama. I've been through
24 the FBI knife course, which is another homemade explosives
25 course. I've been through Advanced Dismemberment Logic,

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 which was taught at the Criminal Justice Academy by AT
2 Solutions, which is a company based out of Washington, that
3 was sponsored by the FBI. I've also assisted with teaching
4 some post-blast schools that were held here locally. One
5 of those being the FBI Large Vehicle Bomb class that was
6 taught through -- from their building and the demolitions
7 and post-blast hands-on part that was taught was out at
8 Fort Jackson.

9 Q So you've taught over at the FBI's facility?

10 A Yes, sir.

11 Q And you taught over at the Army; is that right?

12 A Yes, sir. I've also assisted with the ATF
13 last-post-blast class that was taught out at the criminal
14 justice academy, for the classroom portion. We use the
15 range out of the -- excuse me, the classroom portion was at
16 the fire academy; the blast range we used was the SLED
17 range which is near the criminal justice academy.

18 Q Okay. And these techniques that you're learning in
19 all these courses, are these techniques used throughout the
20 country?

21 A Yes, they are.

22 Q Do you have any experience in fire fighting?

23 A Yes, sir.

24 Q Tell me about that.

25 A I began as a firefighter back in the mid '90s. I

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 then became a firefighter instructor in the late '90s and
2 became an adjunct instructor, which is a paid instructor,
3 through the fire academy around 2000. I teach basic
4 firefighter courses, as well as the HAZMAT courses that
5 I -- as I explained early.

6 Q Tell me about your field experience with post-blast
7 reconstruction of bombs in general.

8 A I am the bomb squad commander for Lexington
9 County's Bomb Squad. We have an FBI accredited bomb squad.
10 Our number is 483. I've responded to numerous incidents to
11 includes suspicious packages, homemade explosives. I have
12 dismantled homemade explosive labs here in Lexington
13 County, as well as having dealt with explosions that
14 occurred, as well as real, true devices and other
15 explosives.

16 Q Okay. So if there's a bomb in Lexington County,
17 you get the call?

18 A Yes, sir.

19 Q Okay. Let me ask you, did you investigate the
20 scene of this explosion that day?

21 A Yes, sir.

22 Q And tell me about your investigation?

23 A While we were doing our service of the search
24 warrant, I reviewed the state of the shed where things were
25 thrown, the appearance where you see the scorch marks as

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 well as seen in the earlier photos where things had been
2 thrown out.

3 Q Did you reach any conclusions?

4 A Yes, sir.

5 Q And tell me about how you reached these conclusion
6 and what those conclusions were?

7 A First, you obviously look for a location where it
8 started. Generally in a blast -- a blast comes out as a
9 radius. It's a circle pushing out in a wave and a fire
10 ball. You have a pressure wave and a fire that come out
11 from one point center. I determined where that was located
12 in the building.

13 Q And where was it in the building?

14 A It was in the center room where the tools are.

15 Q Now, does Exhibit 4 contain where this blast site
16 was?

17 A Yes, sir.

18 Q And can you point that out, please.

19 A It would be here where the ether cans are stated.

20 Q Now, was the point of the blast the Coke bottle?

21 A That is my opinion, sir.

22 Q Can you expound upon that, please?

23 A Number one, when I arrived on scene I had noticed
24 the smell of ether when exiting my vehicle. Ether, as it
25 says on the cans on the starter fluid, is very dangerous

1 and highly volatile. It has a what we refer to in the
2 HAZMAT world as a wide explosive range. When it is in it's
3 explosive range, if a spark occurs it will high order
4 detonate.

5 Q What does that mean? High order detonate?

6 A High order detonation is an explosion. That's when
7 things go kaboom. You have two different types of burn.
8 You have depflorgation (phonetic), which is a burning,
9 setting something on fire and detonation which is an
10 explosion. It is not instantaneous, but you're talking
11 about milliseconds versus seconds and minutes for burning.

12 Q Okay. So what was the heat source in this case?

13 A In that center room, there was a ballast from a
14 fluorescent light that I observed. It was lying on the
15 floor. On the back of the ballast you can see marks from
16 where the oil had come out of it.

17 Q What do you mean oil come out of it?

18 A Inside of the ballast, inside of there, there is a
19 mineral oil that they're packed in when they're
20 manufactured.

21 Q Okay.

22 A And you can see where that was coming out. That is
23 usually a sign of when a ballast is going bad. When
24 ballasts start going bad they will spark.

25 Q So the florescent light can spark?

Thomas W. Hamilton - Direct Examination In Camera by Mr. Ross

1 A Yes, sir.

2 Q Okay.

3 A That's when you usually see them flicker and things
4 of that nature.

5 Q Now, the florescent light, is this the type of
6 florescent light that would be on the ceiling?

7 A Yes, sir.

8 Q So in laymen's terms tell me what happened.

9 A You can see on the ceiling the outline of the
10 fluorescent light at the center of the -- where the
11 explosion came out of. It's clearly marked in nice, black
12 soot. So it was obviously up when the explosion occurred.
13 When you produce meth and you vent these bottles, when you
14 open the top you allow ether out of there. If it travels
15 up and hits a spark and is inside of that explosive range
16 it will then cause an air-fueled explosion.

17 Q Okay. So the fumes would go out of the bottle up
18 to the fluorescent light --

19 A Yes, sir.

20 Q -- and there was a spark that caused the explosion?

21 A Yes, sir.

22 Q So I guess the origin of the fire -- I'm not a bomb
23 tech, I'm not a fireman. The first place where that fire
24 occurred would that have been up at the ceiling?

25 A Yes, sir.

Thomas W. Hamilton - Cross-Examination In Camera by Ms. Fullwood

1 Q Okay. And then how would it have progressed from
2 there?

3 A It will radiate out in a circle. It will run along
4 the ceiling. It will run down towards, obviously where the
5 ether came from, which is going to be your strongest jet of
6 flame for better words and catching that on fire also.

7 Q So it's going to go out in a circle and there's
8 also going to be fire coming out of the bottle itself?

9 A Yes, sir.

10 Q And that's what you believed happened in this case?

11 A Yes, sir.

12 Q And you applied all the techniques that you learned
13 in all of the courses that you just talked about -- were
14 you applying those techniques to this situation?

15 A Yes, sir.

16 Q Was methamphetamine being produced at the time that
17 the explosion occurred?

18 A In my opinion, yes, sir.

19 MR. ROSS: Your Honor, that's the extent of our
20 proffer for Lieutenant Hamilton.

21 THE COURT: Cross?

22 CROSS-EXAMINATION IN CAMERA

23 BY MS. FULLWOOD:

24 Q Lieutenant Hamilton --

25 A Yes, ma'am.

Thomas W. Hamilton - Cross-Examination In Camera by Ms. Fullwood

1 Q What is your educational background?

2 A My educational background is, I graduated from high
3 school, from Summerville High School. I then attended
4 University of South Carolina. My course of study at the
5 University of South Carolina was Hotel Restaurant and
6 Tourism Administration. I managed a restaurant for a year
7 and found out it was not for me and got into law
8 enforcement.

9 Q Did you get your degree in the Hotel --

10 A No, ma'am. I have a senior standing.

11 Q You have a senior standing?

12 A Yes.

13 Q What does that mean?

14 A I have 93 hours out of the 120-hour course.

15 Q I see. While you were at USC did you take any
16 chemistry courses?

17 A Yes, ma'am and biology.

18 Q Okay. And what level of chemistry did you take?

19 A I believe 101.

20 Q 101. Your freshman year?

21 A Freshman or sophomore.

22 Q Okay. And that, I would imagine like my major in
23 journalism, hotel and hospitality doesn't require much in
24 the way of scientific background courses?

25 A No, ma'am.

1 Q Okay. Okay. When you went to Quantico in '02 --

2 A Yes, ma'am.

3 Q -- how long was that course?

4 A That course is a week-long, 40-hour course.

5 Q Okay. And after that time have you gone to any
6 other courses concerning meth production?

7 A Yes, ma'am. Part of being a meth lab technician is
8 a requirement for every year to do a refresher course.

9 Q All right. How many times have you testified as an
10 expert witness in the field of methamphetamine production?

11 A For methamphetamine production, a minimum of three
12 times that I can recall; possibly a fourth, if I'm
13 recalling -- a minimum of three times.

14 Q A minimum of three times?

15 A Yes, ma'am.

16 Q And you don't remember if there was a fourth time?

17 A There was one in a federal case that I don't know
18 if I was qualified or whether they just stipulated it. I
19 can't --

20 Q Okay.

21 A I can't tell you for certain on that one.

22 Q How many times have you testified as an expert in
23 post-blast reconstruction?

24 A I have never been qualified as an expert witness --
25 I've never had any cases that I'm involved with called to

Thomas W. Hamilton - Cross-Examination In Camera by Ms. Fullwood

1 court.

2 Q Okay. And when you've taken these courses in
3 Huntsville in advanced demolitions is the primary purpose
4 of these courses to teach you how to interpret what happens
5 after the blast or is it part of a curriculum that talks
6 about other things like demolitions, how to disarm bombs,
7 what to do if you think there's a bomb, and other things
8 you need to know when you're dealing with being on a bomb
9 squad?

10 A Part of your duties of being on a bomb squad are
11 post blast.

12 Q Okay.

13 A But as far as the post-blast investigation, you are
14 looking to determine cause and origin as well as,
15 obviously -- normally in post blast, normal post blast is a
16 device that is set off and you obviously want to find out
17 who placed the device.

18 Q I understand. But my question was, was that the
19 sole focus of these courses you attended in Huntsville and
20 whatnot or was talking -- learning about post blast part of
21 a larger curriculum that you were studying at those
22 schools?

23 A Most of those, minus the two post-blast schools
24 I've talked about specifics, the other ones were part of a
25 whole curriculum as part of duties as a bomb tech.

1 Q Okay. And then you're saying you took some shorter
2 courses in post blast?

3 A I have actually instructed with them also.

4 Q Okay. Where?

5 A Both of those were local. One of them was -- the
6 class was actually taught at the FBI building over there
7 off Fernandina. We did demolitions at Fort Jackson because
8 you need an explosive range to blow stuff up before the
9 students pick it up. The other one was taught at the fire
10 academy through the ATF, and we used a demolitions range
11 which is out of the criminal justice academy that SLED
12 uses.

13 Q Okay. And when you did those two courses, is what
14 I'm hearing you say you did is y'all blew something up and
15 then y'all went back in and said, Well, look, you can see
16 this and that and that, that, that?

17 A You look for the indicators, yes.

18 Q But to show the students, you would blow something
19 up and then take them in --

20 A Yes, ma'am.

21 Q -- and say, Look what it caused?

22 A Yes, ma'am.

23 Q Okay. Let -- I'll finish up with manufacturing the
24 meth first; and then we'll talk a little bit more about the
25 post blast, okay? Did you, yourself, personally put

1 together this PowerPoint?

2 A No, ma'am, I did not.

3 Q Okay. Where did you get it from?

4 A Myself and Solicitor Ross put it together,
5 together.

6 Q Okay. Now, you told us that you reconstructed what
7 happened here by investigating the state of the shed?

8 A Some of the items, yes.

9 Q Okay. And you said that basically what you look
10 for is the source or the origin where it first went?

11 A Yes, ma'am.

12 Q And spread out from there?

13 A Yes, ma'am.

14 Q Okay. How is that different than what they do in
15 any arson investigation?

16 A It is similar.

17 Q Okay. So similar to the old arson investigation?

18 A Yes, ma'am. You're looking for --

19 Q Look for the biggest burn mark and then --

20 A Yes, ma'am.

21 Q Okay. Okay.

22 A Your V's and things like that that are seen in
23 arson, are often seen in blast also because of the -- and
24 it depends on what type of explosion you have. Some items
25 when they explode do not produce the same fire balls as

1 others. So some of the arson stuff can't be used. Some of
2 it can be.

3 Q Okay. And you testified, I believe, that you used
4 the techniques you've learned to arrive at your conclusion,
5 right?

6 A Yes, ma'am.

7 Q And can you name to us the techniques that you
8 used. What are the names of the techniques you used?

9 A The names of the techniques?

10 Q Uh-huh.

11 A As far as -- as far as in this case --

12 Q Or in any case.

13 A Well, what -- once again, like I said, depending on
14 what type of explosion you're looking at would depend upon
15 what you have. With this one being an air -- what appeared
16 to be an air-fueled explosion, ether, it is very similar to
17 your arson, like I referred to. You can look at burn
18 patterns. Also the other thing is where, for better word,
19 the fragmentation has ended up. As you saw in some of the
20 photographs how the glass had been blown out, things like
21 that, will point you back to where it occurred. Obviously,
22 if that window had been blown in, the explosion would have
23 occurred outside.

24 You also look at where items had been shoved,
25 pushed over, which is in this case many of the tool boxes

Thomas W. Hamilton - Cross-Examination In Camera by Ms. Fullwood

1 had been pushed in down the walls as the blast wave would
2 have radiated through.

3 Q Okay. Now, did you do this reconstruction as part
4 of your work for the narcotic squad or for the bomb squad?

5 A I responded to this location, number one, because I
6 was called. I'm not -- I don't respond to every meth lab
7 we have by any means.

8 Q What I'm saying is, did you do this reconstruction
9 as a narcotics officer or as a bomb squad officer?

10 A I'm not sure -- I'm not sure what the question is.
11 I am both and am over narcotics.

12 Q Well, let me ask you this: --

13 A Yes, ma'am.

14 Q -- I'm not trying to butt in, but you're acting
15 confused, so maybe -- does either -- well, does the bomb
16 squad, does the narcotics squad, or does the sheriff's
17 department have a protocol, a scientific protocol, that you
18 are required to follow when you undertake to reconstruct
19 what happened at the scene of an explosion?

20 A No, ma'am. There is no policy or procedure in the
21 sheriff's department in reference to that.

22 Q Okay. Are you required to take any measurements in
23 order to be able to do this type of reconstruction?

24 A No, ma'am.

25 Q Do you ever take measurements to do this type of

1 reconstruction?

2 A If you had an epicenter with a part of -- normally
3 you would take measurements if you were doing post blast on
4 a vehicle, or something of that nature, to see where
5 vehicle parts had been thrown to. Measurements would
6 usually come about if you had a device, and IED. If you
7 had pieces from an IED that were thrown out from an
8 epicenter, that would be normal for measurements.

9 Q What's an IED?

10 A Improvised explosive device.

11 Q Okay.

12 A I'm sorry.

13 Q Okay. When were you asked to try to reconstruct
14 what happened at that shed on Delree Street?

15 A I did that night.

16 Q That night?

17 A Yes.

18 Q Did you write a report?

19 A No, ma'am.

20 Q Why not?

21 A I did not have -- it was not, in my opinion,
22 necessary at that point in time. We had photographs of the
23 scene and the items that it was in. As far as preparing to
24 testify for it, that was an oversight on my part.

25 MS. FULLWOOD: Beg the Court's indulgence.

Thomas W. Hamilton - Redirect Examination In Camera by Mr. Ross

1 THE COURT: Yes, ma'am.

2 (WHEREUPON there was a pause in the proceedings.)

3 BY MS. FULLWOOD:

4 Q Mr. Hamilton, you did write two different reports
5 just on other things about this case, correct?

6 A Yes, ma'am, that had come up, as far as his
7 statement and then as Mr. Peacock, as we interviewed him
8 later on down the road also.

9 Q Okay. But even though you say you did the
10 reconstruction that night you never did a report about
11 that?

12 A No, ma'am.

13 MS. FULLWOOD: No further questions.

14 THE COURT: Redirect?

15 MR. ROSS: Briefly, Your Honor.

16 REDIRECT EXAMINATION IN CAMERA

17 BY MR. ROSS:

18 Q A report was done by Chief Turner; is that correct?

19 A That is correct.

20 Q Did you review the surveillance in coming to your
21 conclusions?

22 A Yes, sir.

23 MR. ROSS: There's all I have, Your Honor.

24 THE COURT: Recross?

25 MS. FULLWOOD: No, sir.

1 THE COURT: Thank you sir you may step down.

2 (WHEREUPON there was a pause in the proceedings.)

3 THE COURT: All right. What do y'all want to put
4 on the record?

5 MR. ROSS: Your Honor, I just note the norm case,
6 State versus White, 676 S.E. 2d, 684, from the Supreme
7 Court 2009. There is no appellate guidance to consider for
8 reliability and non-scientific evidence cases. That was a
9 dog-tracking case, Your Honor, in which the Court found the
10 dog tracker was reliable. The Court also noted that the
11 foundational reliability requirement for expert testimony
12 does not limit itself to a one size fits all approach for
13 non-scientific evidence.

14 State versus Council factors for scientific
15 evidence served no useful analytical purpose. With regard
16 to the reliability of the meth testimony, Lieutenant
17 Hamilton has been qualified as an expert several times in
18 this discipline. He testified to his extensive experience
19 both in the field and formal training and he supplemented
20 that formal training with his years in the field of year
21 work.

22 Your Honor I think a military analogy is
23 appropriate with regard to the meth in the testimony. If
24 you were to go to Iraq in the year of 2006 and you needed
25 to speak with an expert that could handle responding to

1 IED -- say you were a diplomat and you needed an expert
2 that could respond to IED's, you would not speak with a
3 general, you would not look at the Army field commander.
4 You would look at a midlevel, non-commissioned officer,
5 like a staff sergeant, that's been out there in the field
6 responding to those. And the reason why you would do that
7 is because the only field man would have caught up with
8 that warfare. Well, shake and bake is similar to that, in
9 that the people that know it best are out in the field
10 dealing with it because it is a relatively new phenomena.

11 With regard to post-blast reconstruction, Your
12 Honor, this is not junk science. Again, I think the
13 standard is -- it's kind of like the old Supreme Court case
14 dealing with pornography. You know junk science when you
15 see it. He applied generally taught principals that are
16 taught to law enforcement throughout the country; he
17 applied those principals to this case; and it's not junk
18 science, Your Honor.

19 I also cite State versus Robinson, 722 S.E.2d 820,
20 that's from the Court of Appeals this year that dealt with
21 this precise situation with regard to a narcotics officer
22 similarly situated with Lieutenant Hamilton who was
23 qualified as an expert after the defense challenged his
24 qualifications, but the Court simply said that his years of
25 experience and involvement in dealing with crack cocaine

1 cases gave him the qualifications necessary to testify to
2 crack packaging, market price, intoxicating dose, different
3 habits between the addict and the dealer. Well, that's
4 exactly the same type of information Lieutenant Hamilton is
5 going to testify to.

6 Finally, Your Honor, State versus Commander is on
7 point as well with regard to his conclusion that meth was
8 being produced. I will leave it at that, sir.

9 THE COURT: There's no chemical analysis of the
10 drug?

11 MR. ROSS: There is. That's -- our second witness
12 is the chemist and she's going to provide traditional, What
13 test did I do? What results were from those tests? And I
14 don't think that's going to be an issue with the defense
15 because this is, you know, your everyday chemist testimony
16 for a drug case, Your Honor.

17 THE COURT: Ms. Fullwood?

18 MS. FULLWOOD: Your Honor, first as to the
19 testimony as how methamphetamine is made. While I disagree
20 and say I think it's -- it is a type of scientific
21 testimony because what we're talking about is how a
22 chemical reaction takes place. I think that it's the sort
23 of thing that could be explained by someone other than a
24 chemist, obviously; and I'm not sure that this person would
25 even need to be qualified as an expert just simply by

1 virtue of the job to tell the jury how meth is made. I
2 really don't have a problem with that aspect of what we're
3 talking about here.

4 What I do take issue with is this post-blast
5 reconstruction; and my first position is what I told you
6 before we started this hearing, it's a surprise. For some
7 reason we -- there's no report of his conclusions, and so
8 we have just been, you know, sideswiped with this. We had
9 no idea that it was coming because if we knew I would be
10 here today with witnesses to tell Your Honor, I think,
11 based upon readings I have done in the past, the cases I
12 have handled in the past -- I mean what this sounds like to
13 me is somebody giving an old-fashion-arson opinion about
14 the origin of a blaze; and it is my understanding that that
15 type of undertaking, the way they used to do it, has been
16 shown to be scientifically reliable.

17 This is junk science. There is no -- they are
18 trying to say that I am using scientific principals to show
19 you how a fire started. However, even though they're
20 trying to say it's scientific, they have no protocol, they
21 take no measurements, they use no mathematical formulas,
22 there are no notes taken in connection with this scientific
23 undertaking, there have been no reports generated as a
24 result of this scientific undertaking. They are basically
25 trying to say I went out there, looked at it, this is what

1 it looks like to me and you can believe me because it's
2 science. Well, it's not science, it's junk science.

3 Under State v Jones, Jones one and Jones two, it
4 should be excluded from evidence because it is not a
5 discrete area of scientific inquiry under Jones and
6 Council; and again, equally, as a reason to suppress this
7 line of testimony is we've been surprised, we haven't had a
8 chance to look into the validity of these procedures that
9 he said he used and to have an independent expert look at
10 whatever evidence there is documented at this point in time
11 to support his conclusions to see if they're valid.

12 THE COURT: Anything else?

13 MR. ROSS: Yes, Your Honor, just briefly. With
14 regard to there not being a report, Chief Turner did
15 provide a report. It was given to the defense. That
16 report actually was generated by the chief, but it
17 contained the lieutenant's findings.

18 THE COURT: What findings?

19 MR. ROSS: The conclusion that the explosion arose
20 from an illicit meth lab. Chief Turner has testified that
21 it wasn't his job -- once it becomes a crime scene it's not
22 his job to fight the fire and get in there and investigate
23 the cause. But a report nonetheless was generated. That
24 report contained law enforcement's conclusions. The report
25 was given to the defense very early on in this case.

1 **THE COURT:** He's going way beyond -- he's saying
2 that it was caused by an electrical spark from a defective
3 florescent device at a particular point in the building.

4 **MS. FULLWOOD:** That information is not in the
5 chief's report.

6 **THE COURT:** Go ahead, Mr. Ross.

7 **MR. ROSS:** That's my position, Your Honor. A
8 report was generated; and with regard to the Jones factors,
9 counsel cited Jones and Council, well in the White case,
10 the Supreme Court said that one size fits all. Jones
11 factors for scientific evidence served no useful analytical
12 purpose when evaluating non-scientific testimony. That's
13 676 S.E. 2d 684.

14 **THE COURT:** What part of this is non-scientific?
15 He's testifying -- first of all Rule 5 deals not just with
16 the reports, but it deals also with results. In the
17 language in Rule 5 deals with results and I'm having a hard
18 time understanding how this could not have been required to
19 be disclosed to the defense. And my feeling at this point
20 is it's precluded because it was not provided to the
21 defense to give them and opportunity to refute it if they
22 could. I'm talking about the post blast, the post whatever
23 y'all have been calling it, post-blast reconstruction.

24 But he's dealing in fields of chemistry, physics
25 electrical engineering, and I don't question that he's been

1 through courses, that he teaches courses, but it seems to
2 me that the term post-blast reconstruction is so -- is very
3 broad. And I haven't heard about any kind of peer review
4 or protocol or -- as the defense pointed out no
5 measurements, no nothing recorded, basically except
6 photographs.

7 Unless you all want to be heard I'm ready to make a
8 ruling on that. I think you had to disclose this
9 information to the defense and give them an opportunity to
10 at least know what the results of this was. I mean, I
11 think, there's nobody in this courtroom that doesn't
12 understand the State's position is that the explosion came
13 from a meth lab; and I'm not saying he can't testify -- I
14 haven't got to the part about the testimony about the meth
15 lab, but I'm unable, based on what's been presented, to
16 make a determination that he is qualified as an expert to
17 give opinions as to the point and origin of an explosion.
18 The cause of it -- I'm particularly troubled by the fact
19 that he saw oil and he just, without doing any kind of
20 experiments on the fixture, he made the conclusion that
21 it's sparking and the ether rose up and sparked an
22 explosion. It might be what happened, but it sounds pretty
23 speculative. If it's not speculative, it's not firmly
24 established in science and I don't think that's
25 non-scientific. You've got non-scientific aspects and

1 scientific aspects, I guess.

2 So the ruling of the Court is, it's precluded
3 because it wasn't disclosed under Rule 5; and secondly,
4 that I'm unable to make a proper vetting that the witness
5 is qualified to render the opinions he was giving as to the
6 source and origin of the cause of the explosion.

7 Now, as to the expert opinion on methamphetamine, I
8 don't have the rule in front of me, but it says scientific
9 or other so it uses the word other. I don't have any
10 problem at all he's qualified to give an explanation to the
11 jury. It would assist the jury to know how methamphetamine
12 is produced, that he's qualified as an expert in that
13 field. He can't talk necessarily about the intricacies of
14 the chemistry, but I don't think that's necessary in that
15 situation. A person can have a recipe and know the
16 recipes, but not necessarily know everything that's
17 involved in the chemical reactions.

18 So I don't have any problem with first making a
19 determination that it would assist the jury. Hopefully the
20 jury doesn't know how to make meth; second, they need to
21 understand it so it's part of their inquiry here; and the
22 witness has testified about his training, his experience on
23 the job, and he can testify. The only concern I had was --
24 with the PowerPoint, and he did testify on
25 cross-examination that he did assist in the preparation of

1 it. I was concerned at first that maybe it was just
2 something that was produced and then he was just called in
3 to explain a PowerPoint that somebody else produced; but he
4 said he assisted in it. I'm not real crazy about the last
5 thing where you've got the poison control symbol up there.
6 I don't know why you wouldn't have a methamphetamine
7 picture there, but that bothers me.

8 MS. FULLWOOD: We didn't like it either, Your
9 Honor, and perhaps they can redact it or find a bottle of
10 meth to put there or something.

11 MR. ROSS: I'll fix it before we play it before the
12 jury, Your Honor.

13 THE COURT: Have I made the necessary rulings on
14 these issues?

15 MR. ROSS: Yes, Your Honor, thank you.

16 THE COURT: Can y'all come up with a written
17 stipulation over lunch?

18 MR. ROSS: Yes, sir.

19 THE COURT: All right, sir, thanks very much. I
20 need y'all back here -- what did I tell the jury? Two
21 o'clock?

22 THE BAILIFF: Yes, sir.

23 THE COURT: Thank you. Two o'clock.

24 (WHEREUPON there was a recess observed for lunch.)

25 THE COURT: All right. With regard to rulings I

1 made prior to the lunch break, the Court finds that the
2 witness is qualified as an expert related to the
3 methamphetamine issues, that the evidence is reliable. The
4 Court finds that the evidence related to post-blast
5 reconstruction is not admissible because it was not
6 provided to the defense prior to the trial. Also as far
7 as -- the record does not give the Court enough information
8 to allow the Court to conclude that the witness can testify
9 as an expert in this field and many of the conclusions that
10 were reached, there's not sufficient evidence to establish
11 reliability.

12 Now, that doesn't mean he cannot testify to what he
13 observed. For example, glass is blown out, not in; that
14 soot is above the light, things like that. I mean, I
15 really don't know that the jury -- I don't know that that's
16 a critical issue. But in any event I wanted to explain
17 that.

18 Did you come up with a stipulation.

19 MR. ROSS: Yes, Your Honor, I have. I've gotten it
20 written out and I've shown the defense counsel. I
21 apologize for the shabbiness of this piece of paper.

22 THE COURT: As long as I can read it that's fine.

23 All right. Are you ready for the jury?

24 MR. ROSS: Yes, Your Honor, and after that
25 stipulation is read I intend to introduce the BEST kit into

1 evidence.

2 THE COURT: Okay. Bring in the jury.

3 (WHEREUPON the jury entered the courtroom at 2:06
4 p.m.)

5 THE COURT: All right. Ladies and gentlemen,
6 before we go to the next witness I need to read to you a
7 stipulation. I told you in my opening remarks to you that
8 what the lawyer's say is not evidence. That there was one
9 exception to that rule and if we came upon it I would tell
10 you about it. Well, we have it. It's called a stipulation
11 and a stipulation, basically, is where both sides, through
12 the attorneys, mutually and specifically agree, that some
13 issue of fact is a given; and you take it as a given. So
14 there's no dispute about it. You take it as a given. And
15 I'm going to read to you what the attorneys have
16 stipulated.

17 The defense and the State stipulate that the items
18 seized by law enforcement at on
19 October -- I'm sorry -- on November 19th, 2010, were
20 properly stored and handled, pending chemical analysis and
21 pending trial. In other words, the items seized by law
22 enforcement are the same that were tested by the chemist
23 and introduced into evidence. Okay. So there's a
24 stipulation that they were properly stored, handled, and
25 that they're the same items that were taken from the scene

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1 were items tested by the chemist.

2 And you want to offer that into evidence now?

3 MR. ROSS: Yes, Your Honor. We'd offer the BEST
4 kit into evidence, specifically, that is Exhibit 40.

5 THE COURT: All right. Anything else that needs to
6 go on the record?

7 MR. DRYLIE: No objection, Your Honor.

8 THE COURT: All right. It's marked into evidence
9 thank you.

10 (WHEREUPON State's Exhibit No. 40 was marked and
11 entered into evidence.)

12 (WHEREUPON the stipulation was marked as Court's
13 Exhibit No. 2.)

14 THE COURT: All right. So 40 is in evidence.

15 MR. ROSS: State calls Lieutenant Hamilton.

16 THOMAS W. HAMILTON,

17 having been duly sworn, testified as follows:

18 THE CLERK: Have a seat, sir. Once you're seated,
19 state your full name, spelling your last for the record.

20 THE WITNESS: My name is Thomas Hamilton,
21 H-A-M-I-L-T-O-N.

22 DIRECT EXAMINATION

23 BY MR. ROSS:

24 Q Lieutenant, you're the chief of the Narcotics Unit;
25 is that correct?

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1 A Yes, sir.

2 Q And you responded to the scene in this case; is
3 that true as well?

4 A Yes, sir.

5 Q Before we get to what you did in this case, can
6 you, please tell me about your training with regards to
7 narcotics, and methamphetamine in particular.

8 A I started in narcotics back in the mid '90s as a
9 narcotics agent. I started with the City of Cayce at the
10 time. I left City of Cayce and came to Lexington County
11 Sheriff's Department in '99 as a narcotics agent. I worked
12 as an agent from that point in time up until March of 2005.
13 During that time I worked cases; used informants; I did
14 search warrants; I also did approximately two years of
15 undercover work during that time.

16 I investigated cases dealing with a narcotics
17 nature on all drugs, whether it be heroin, methamphetamine,
18 cocaine, crack, or any of the GHB, gammahydroxybutyrate,
19 ecstasy and any type of drug that we find commonly
20 throughout this area.

21 Q Have you attended any formal course work in
22 methamphetamine?

23 A In 2002 I was sent to Quantico, Virginia that -- to
24 the DEA, which is the Drug Enforcement Agency, Clandestine
25 Lab, became a meth lab tech during this course. This

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1 course involves the production of, to include a hands-on
2 production of making meth yourself in a controlled
3 environment, plus dealing with the hazards, clean-up, and
4 things of that nature.

5 Q Are you a certified meth technician?

6 A Yes, sir, I am.

7 Q So you're saying the DEA actually taught you how to
8 make methamphetamine?

9 A Yes, sir, they did.

10 Q Okay. How many agents do you supervise as chief of
11 the narcotics unit?

12 A I have fourteen agents that work for me.

13 Q And how many meth labs have you -- how many meth
14 lab cases have you been involved with personally?

15 A In the last ten years I've worked on well over a
16 hundred meth labs.

17 Q All right. And have you been qualified as an
18 expert in methamphetamine production, distribution, and the
19 disposal of its waste?

20 A Yes, sir. I have been qualified both here in this
21 courtroom, in state court, as well as in federal court.

22 Q When was the most recent time you were qualified?

23 A Last time I was qualified was May of this year.

24 Q All right.

25 MR. ROSS: Your Honor, at this point we would ask

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1 that Lieutenant Hamilton be qualified as an expert in
2 methamphetamine production, distribution, and the disposal
3 of its waste.

4 THE COURT: Is there any voir dire?

5 MR. DRYLIE: No, Your Honor, no objection.

6 THE COURT: All right. He is so recognized. You
7 may continue.

8 BY MR. ROSS:

9 Q Are you familiar with the shake and bake method of
10 producing methamphetamine?

11 A Yes, sir, I am familiar with that production
12 method.

13 Q How does that differ from other methods? How did
14 it come about?

15 A We first heard about the shake and bake, or also
16 known as a two-liter or one-pop method, back in 2004. We
17 received information where it was being seen in other parts
18 of this country. Here, locally, Lexington County, it
19 really became prevalent within the last three years to the
20 point that's all we see. It is a derivative of another
21 production methods that we've seen here for ten years. The
22 other method is called the Nazi or anhydrous ammonium of or
23 Burge method. This method is a boiled down, condensed
24 version of that. It would be done on a smaller scale with
25 less steps.

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1 Q Prior to court today did you assist in the
2 production of a PowerPoint demonstration that shows you how
3 to do or make meth according to shake and bake?

4 A Yes, sir, I did.

5 MR. ROSS: Your Honor, at this time I'd ask to pull
6 this PowerPoint presentation up and let Lieutenant Hamilton
7 discuss the PowerPoint?

8 THE COURT: Yes, sir.

9 BY MR. ROSS:

10 Q All right, sir. We have the title slide here. Let
11 me move on to the first slide. Can you please just go over
12 this slide and explain to the jury what we're talking about
13 here.

14 A The -- one of the key ingredients in the production
15 of meth, something that is converted into methamphetamine,
16 is pseudoephedrine hydrochloride. That's the thing that
17 you find in your cold pills that you have to buy from
18 behind the counter. If you're familiar with cold medicine
19 you have to go up to the pharmacist, show your ID, sign for
20 it. That is the -- really truly thing that is converted.
21 It is changed. And it is not a controlled substance, but a
22 regulated substance now. There are several reactions that
23 occur in this process in the conversion.

24 Q So basically, you put all these items in a plastic
25 bottle; is that what you're saying?

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1 A Yes, sir.

2 Q Let me move to the next slide. Discuss what is
3 this first item is.

4 A This is what I was talking about. This is the cold
5 medicine. It contains pseudoephedrine hydrochloride. The
6 medicine that you find that is out in the racks, not behind
7 the counter contain something different now. Years ago the
8 cold medicine that was sitting out was containing
9 pseudoephedrine. Now it contains fentamlyn (phonetic).
10 This second item is a grinder. What we often find in meth
11 labs is a grinder a -- this is a coffee grinder. We've
12 also seen where they've used blenders, other things to
13 crush up these pills. They want them crushed so that it
14 has more surface area. If they throw the whole pills in
15 there they will get a very low yield pseudoephedrine to
16 methamphetamine.

17 Q Now, do you have to use this particular brand, this
18 Sudafed brand, or can you use others?

19 A Any cold medicine that contains the pseudoephedrine
20 can be used. Oftentimes we will see them use the store
21 brand because it's cheaper. Years ago they would shoplift
22 this stuff when it was out. Now that it's behind the
23 counter they have to buy it. So they will oftentimes go
24 with the Walgreen brand or Wal-Mart brand or wherever
25 they're purchasing at the time.

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1 Q Do you have to sign for this particular product?

2 A You do now, sir.

3 Q Okay. And is the active ingredient listed on this
4 slide?

5 A That is pseudoephedrine hydrochloride.

6 Q That's listed right there?

7 A Yes, sir.

8 Q What is this second ingredient?

9 A The second ingredient is a salt. Normally, what
10 we'll find is they'll use starter fluid, which contains
11 ethyl ether or they will use Coleman fuel, which is another
12 solvent that they've hydrocarboned, oil-based fire.

13 Q Now, can you use either starter fuel or just like
14 Coleman fuel?

15 A Yes, sir. Both of them are enter-changeable.
16 Either one can be used. There are a number of other
17 solvents that can be used, but in most case this is what
18 they know.

19 Q Is that what you typically see on the street,
20 either one of these two products?

21 A Yes, sir, it is.

22 Q Tell me about the third ingredient.

23 A Ammonium nitrate which is commonly found in cold
24 packs. We're talking about cold packs, we're talking about
25 the -- you crush them they have a reaction, they turn cold

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1 and you put it on an injury to a muscle or something like
2 that. The -- one of the two things inside a cold pack is
3 ammonium nitrate. Most of them have that. Some of the
4 cold packs have a different powder in them which is urea.
5 Ammonium nitrate used to be purchased and found in meth
6 labs when they would buy the fertilizers. Normal
7 fertilizer, a number of years ago, was ammonium nitrate.
8 It has since been more regulated to get away from ammonium
9 nitrate because of its use as a part of a binary explosive.

10 Q And what is a binary explosive?

11 A A binary explosive is two items, a fuel and an
12 oxidizer that are put together to make an explosive.
13 Ammonium nitrate is commonly put with diesel fuel to make
14 AMFO or ammonium nitrate fuel oil or ammonium nitrate
15 aluminum powder.

16 Q Okay. Let's move to the fourth ingredient here.

17 A This is sodium hydroxide or commonly referred to as
18 lye. It is a alkaline or basic substance. It is -- it's
19 legal use is as a drain cleaner. In this situation the
20 ammonium nitrate and the lye mixed together produce
21 anhydrous ammonium in a chemical reaction.

22 Q Now, do you have to use this particular brand?

23 A No, sir. Any brand that contains sodium hydroxide,
24 a Red Devil Lye is probably the most commonly known.

25 Q I'm going to flip back. Again, do you have to use

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 this particular brand of cold packs?

2 A No, sir, just as long as the cold pack you have has
3 got ammonium nitrate.

4 Q Tell me about the fifth ingredient?

5 A That is lithium. Lithium batteries contain strips
6 of lithium. It is a gray metal inside. They have to cu
7 open these battery casings and then pull out the interior
8 of them. This interior has got a white plastic. Inside
9 that white plastic is gray metal, which is lithium metal.

10 Q So you don't just put the battery itself in the
11 mix?

12 A No, sir.

13 Q All right. Tell me about this slide, please.

14 A That is a picture of a two-liter bottle that
15 contains ingredients that look similar to the production of
16 methamphetamine. This is what we refer to as the reaction
17 vessel or the two-liter cook. Inside of this during the
18 reaction, methamphetamine is produced. There are multiple
19 reactions going on inside there. It's often found
20 bubbling, boiling from these reactions; and the gas is
21 produced.

22 The reason we talk about shake and vent, what they
23 have to do is they'll shake the bottle to keep all the
24 ammonium nitrate and the sodium hydroxide mixing together
25 so it keeps reacting. And they have to vent it. If they

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 don't open the top and vent some of the pressure out, one
2 of two things occurs. Either A, the reaction will just
3 stop because of the pressure it will keep further reaction
4 from happening; or the other thing that can occur is the
5 container to fail. When the container fails it's basically
6 the plastic starts bubbling out from the pressure and all
7 of a sudden pops.

8 Q Now, this shaking and baking, is that dangerous?

9 A Yes, sir, it is very dangerous. You're doing
10 chemical reactions in an uncontrolled atmosphere.

11 Q How long does it take to get methamphetamine in a
12 liquid solution here by shaking and baking?

13 A The normal time is forty-five minutes to an hour
14 for it to become a finished -- and all the pseudoephedrine
15 converted that you're going to be able to convert.

16 Q All right. And what do you do after that
17 forty-five minutes to an hour?

18 A You will then pour out that liquid, the solvent,
19 out of that container. You pour that out usually into
20 another container, like a mason jar, or normally we find
21 them using glass-type ware in this stage, but they could
22 also use plastic, but normally it's glass because the next
23 step.

24 The sludge residue is not something that we use or
25 keep. They often times after the production throw that

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 away because the methamphetamine is in that solvent, in
2 that liquid right then. It will be kind of a cloudy
3 liquid, have like a white powder inside the liquid.

4 Q Would it appear like that?

5 A Yes, sir.

6 Q All right. Are we ready for step three?

7 A Yes, sir.

8 Q A lot going on here. Why don't you tell me about
9 it.

10 A Because the methamphetamines in a solvent, ether or
11 Coleman fuel, it's not really usable or at least it's not
12 advised to use. I guess you could drink it, but that would
13 be extremely hazardous, I am sure. What they have to do is
14 get the meth out of the liquid. So they will do another
15 chemical reaction. If you take sulfuric acid, which is
16 normally found in drain cleaner, and you add salt to that,
17 salt and sulfuric acid are not compatible chemicals, there
18 is a reaction that occurs and produces hydrochloric acid,
19 HCL. That usually comes off as a gas.

20 If you look at the twenty ounce bottle there that
21 has a tube coming out of it, that shows what it looks like.
22 A tube coming out of the bottle and an acid gas would be
23 coming out of that tube. They will put that across the
24 ether or solvent that had the meth in it and all of a
25 sudden the meth will pop out of the ether and float to the

1 bottom.

2 Q All right. Let me interrupt you. This bottle
3 here, is it the same as that one there?

4 A No, sir. This one actually has the meth in the
5 liquid. That other bottle is nothing more than acids.

6 Q So this bottle, what chemical product is in it?

7 A You have sulfuric acid mixed with salt to produce
8 hydrochloric acid.

9 Q And sulfuric acid, is that a picture of something
10 with sulfuric acid on this photo -- on this slide?

11 A Yes, sir. The first picture to the left is the
12 drain cleaners that contains sulfuric acid.

13 Q Do you have to use both of these?

14 A No, sir.

15 Q Do you have to use these particular brands?

16 A No, sir.

17 Q All right. Are we ready for step four?

18 A Yes, sir.

19 Q Please describe this slide.

20 A Once you add the acid to the solvent with the meth
21 in it, it will pop out. Much like a snow globe does, it'll
22 pop out like little pieces of snow and filter down to the
23 bottom. Street terminology in this oftentimes they call it
24 snowing.

25 Q How do you go about doing this? Can you explain, I

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 guess, the nuts and bolts of this plus this equals this?

2 How do you add the HCL gas to the meth oil?

3 A That tube coming out of that bottle. Obviously,
4 that's not real hydrochloric acid in there, would actually
5 be boiling. There would be kind of a white smoke cloud
6 coming out and coming out of that tube. You would take
7 that tube and put it on top of the ether and let that go
8 into the ether; and then you would have the meth coming out
9 of the solvent.

10 Q Okay. So this product here, these little flakes,
11 what are they or what do they represent?

12 A They would represent the meth popping out of the
13 ether and floating to the bottom like a snow globe does.

14 Q Okay. Tell me about the final product here.

15 A Once they have gotten the meth no longer mixed into
16 the ether, they will strain that meth out. Oftentimes they
17 will use coffee filters at this stage because it's a nice
18 tight filter and they won't lose any of their product. So
19 they pour the liquid through coffee filters. On that
20 coffee filter, it will collect the meth. They will then
21 let that sit out and dry. They can air dry it at that
22 point in time. During some investigations we have found
23 through interviews that some people use hair dryers,
24 blowers, things like that.

25 Q And again the final product is methamphetamine?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A Methamphetamine, ready to use.

2 Q All right. I want to change gears to what you did
3 in this particular case.

4 You testified that you responded to the scene at
5 on November 19th, 2010. Can you please
6 tell me how that came about.

7 A I was home at my residence and received a phone
8 call in reference to something they needed me to respond
9 to. I was told that my two on-call narcs had already been
10 called. I responded also and headed that way.

11 Q Okay. And how long did it take you to get there?

12 A It took me approximately an hour.

13 Q Okay. And why did it take so long?

14 A I live a good ways out, sir.

15 Q Okay. What happened when you got there?

16 A When I arrived on the scene I pulled up where the
17 other vehicles were from law enforcement and fire service.
18 As I exited my vehicle one of the first things that struck
19 me was the smell that I am used to smelling from the
20 production of methamphetamine.

21 Q How many meth labs have you been to?

22 A Well over a hundred, sir.

23 Q And the smell that you experienced on this
24 particular day, was it consistent with the smell you had
25 experienced previously in those one hundred labs?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A Yes, sir.

2 Q Okay. So what happened after you smelled the meth
3 lab smell?

4 A I made contact with Agent Bass who came up to my
5 truck.

6 Q All right. What happened next?

7 A I determined from the information I received that a
8 protective sweep of the garage area needed to be done.

9 Q When you say a protective sweep, can you tell me
10 what that means?

11 A Basically there's a couple of different reasons for
12 a protective sweep. Number one, it's to see if there's
13 somebody in there injured, needing assistance. The other
14 reasons are there could be something going on that could be
15 a danger to us, whether it be a smoldering fire or anything
16 of that nature. It could be something that would harm us
17 being at that location; and lastly would be the destruction
18 of evidence. If somebody's in there pouring chemicals down
19 the drain or something of that nature.

20 Q Now, was there a fire investigator present at the
21 scene?

22 A Yes, sir.

23 Q And who was that?

24 A Chief Turner from the fire service was on scene.

25 Q Is he trained to respond to meth labs?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A No, sir. He is trained in HAZMAT and at times we
2 will use the fire service to back us up as safeties and
3 such if the environment is such that we need extra man
4 power besides what we have for meth lab tech.

5 Q How about a road deputy like Deputy Marthers, is he
6 trained to respond to meth labs?

7 A No, sir, only in an initial response and to see the
8 indicators to know to call us.

9 Q Okay. And did you see anything when you did that
10 protective sweep?

11 A Yes, sir.

12 Q What did you see?

13 A We noticed a number of -- number of items when we
14 went through. We observed ether cans with punched bottoms,
15 cold packs, a glass measuring cup, and some other items
16 that appeared to be from the production of methamphetamine.

17 Q Okay. And did you -- during this protective sweep
18 did you handle any of these items?

19 A No, sir.

20 Q All right. How long did that protective sweep
21 last?

22 A Just a couple of minutes long enough to sweep
23 through and once again make sure that nobody was in there
24 down, or hiding for that matter; and made sure that there
25 was not an ongoing fire or other type of dangerous incident

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 occurring that could turn catastrophic.

2 Q Okay. Is -- are you trained or have you received
3 training to be aware of secondary blasts?

4 A Yes, sir.

5 Q Okay. Was that a consideration as well?

6 A Yes, sir. There was a point that a possibility
7 that an incident occurred that could be from a nature like
8 that and that is something that I am trained to deal with.

9 Q Okay. What happened after the protective sweep was
10 over?

11 A After the protective sweep information was relayed
12 as to whether a trailer next door was occupied or not. I
13 determined that we would go ahead and knock on that door
14 just to see if somebody would answer it and could provide
15 further information. Myself and Agent Bass went up to the
16 door and knocked on the door, identified ourselves, and
17 nobody came to the door.

18 Q All right. And what happened next?

19 A I then directed Agent Bass and Agent Hill to get a
20 search warrant for the whole location to go forth as an
21 investigation.

22 Q And how long did it take you to get a search
23 warrant?

24 A And I don't recall exact times, but it was
25 approximately an hour or so.

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 Q Okay. And after you got that search warrant, what
2 did you do?

3 A The search warrant was served on the location.

4 Q And how was it served?

5 A I took Agent Bass, Agent Hill, Deputy Marthers with
6 me to the front door of the residence. We knocked on the
7 door a number of times, identified ourselves, stated why we
8 were there -- for a search warrant. Still received nobody
9 coming to the door.

10 Q Okay. Then what did you do?

11 A We forcibly breached the door. I did. Once inside
12 we split up into two-person teams to do an initial sweep
13 and location to find out if somebody was in there.

14 Q And did you find anybody?

15 A Yes, sir. Myself and Agent Bass went to the
16 left-hand side as you're facing the trailer from the front
17 door, the left-hand side down that way; and ended up in a
18 back what appeared to be or would normally be a bedroom.

19 Q And how did you find that person?

20 A I noticed a pile of what appeared to be like an
21 afghan or blanket on the floor. Next to that was a -- and
22 there was something underneath it. There was a dog
23 standing next to it, which in my past experience has been
24 that somebody's hiding underneath there and the dog is
25 pointing at them.

Thomas W. Hamilton - Direct Examination by Mr. Ross

- 1 Q So the dog ratted him out?
- 2 A Yes, sir.
- 3 Q Did Agent Bass originally see this individual
- 4 hiding underneath the clothes?
- 5 A No, sir.
- 6 Q And how do you know that?
- 7 A He was turning as if going back out of the room.
- 8 Q So when you saw that individual did Agent Bass have
- 9 his back turned?
- 10 A He was turning, sir. I can't tell you exactly
- 11 because most of my attention was focused on that pile.
- 12 Q Okay. And once you saw the pile, saw somebody
- 13 underneath it, what did you do?
- 14 A I spoke to the pile and told the pile to show me
- 15 their hands.
- 16 Q Did the pile show you his hands?
- 17 A Yes, sir, it did.
- 18 Q And what happened next?
- 19 A I told him to come to a seated position, which he
- 20 did, and took the blanket off.
- 21 Q Okay. And how did he appear at that point?
- 22 A He appeared -- he appeared fairly calm. He did
- 23 have a number of what appeared to be burns and things on
- 24 him.
- 25 Q Okay. Did you talk to him at that point?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A Yes, sir, I did. I asked the person what happened.

2 Q And what did he say?

3 MR. DRYLIE: Objection, Your Honor, subject to the
4 pretrial.

5 THE COURT: Subject to previous objection, it's
6 overruled.

7 Go ahead.

8 THE WITNESS: He stated they were working on a car
9 starter when it exploded.

10 BY MR. ROSS:

11 Q And how did you respond to that?

12 A At that time I stated we were narcotics agents, we
13 were familiar with meth labs, and there was no car
14 explosion.

15 Q And did that individual say anything in return?

16 A Yes, sir.

17 Q And what did he say?

18 A He said Scotty was running towards me with
19 something in his hand and it exploded.

20 Q All right. I'm going to show you Exhibit 4 and if
21 you could, please, step down and describe your manner of
22 entry into the shed first for the protective sweep, and
23 then into the residence.

24 A (Witness leaves the witness stand.)

25 Q First the protective sweep?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A The protective sweep. Upon arrival, we parked
2 right over here. This bay door was open most of the way
3 up. We went in here. This is filled with all kind of
4 items. Came in through here, down through this room, and
5 then into the bathroom, and then proceeded back out the
6 same way.

7 Q Okay. And now for the search warrant.

8 A We came over here. This is the front door. Came
9 in through this point right here, myself, Agent Bass went
10 this way past the bathroom into this what would normally be
11 a bedroom and found the pile of blankets right in this
12 area.

13 Q And that's where you found the individual?

14 A Yes, sir.

15 Q If you could please have a seat.

16 A (Witness resumes the witness stand.)

17 Q Is the individual that you found in that room in
18 the courtroom today?

19 A Yes, sir.

20 Q Could you point him out for me please?

21 A That is the defendant, Mr. Jones (indicating).

22 Q That's the same individual that you were speaking
23 to in that room as well?

24 A Yes, sir.

25 Q Now, after you had this conversation with

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 Mr. Jones, what happened next?

2 A Because of his injuries one of the -- the captain
3 of the fire service that responded, I called for him to
4 come in. I'm familiar with him, having worked with him in
5 the past, I knew him to be a paramedic, to start rendering
6 aid to the defendant. I also directed Deputy Marthers to
7 call EMS immediately and have them come on scene.

8 Q Okay. Now, did the defendant appear to understand
9 where he was?

10 A Yes, sir.

11 Q Did he appear to understand your questions?

12 A Yes, sir.

13 Q Did he appear to know where he was?

14 A Yes, sir.

15 Q Did he have any difficulty communicating with you
16 when you spoke with him?

17 A No, sir.

18 Q Did you offer any promises of leniency for these --
19 to speak with him?

20 A No, sir.

21 Q Did you coerce him in any way?

22 A No, sir.

23 Q Did you threaten him?

24 A No, sir.

25 Q What happened after EMS began treating Mr. Jones?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A After Mr. Jones began treatment with EMS, we
2 assisted with loading -- or I assisted with loading him on
3 a stretcher walk him to it, get him on it; and then he was
4 loaded in the back of the EMS unit and transported from
5 that scene.

6 Q When did y'all search the residence and the shed?

7 A After he was already transported from the scene to
8 be given medical care.

9 Q Okay. And what was found during that search?

10 A There were a number of different items found. As I
11 said earlier, in our sweep we observed ether cans. We
12 found more ether cans. We found the cold packs. We found
13 the bottle of sulfuric acid underneath the sink in the
14 residence. The main thing we found was what I believed to
15 be the reaction vessel that was on the front porch, on the
16 table next to the door.

17 Q Who found that?

18 A I did, sir.

19 Q And what did you do with it when you found it?

20 A I left it in place to be photograph.

21 Q Okay. And did anyone seize that item?

22 A Yes, sir.

23 Q And who was that?

24 A That would be Agent Bass.

25 Q Okay. Was it in the same condition when he seized

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 it as when you first saw it?

2 A Yes, sir.

3 Q All right. I'm going to go through some of these
4 photographs; and again, it may be best if you step down.

5 A (Witness leaves the witness stand.)

6 Q We kind of struck out with the projector, we'll
7 just do this the old-fashioned way.

8 If you could please tell me what is this in Exhibit
9 No. 25?

10 A This is the bottle that I observed next to the
11 front door on the table with the white-in-color substance
12 in the bottle and the burn marks on it.

13 Q Okay. Now, this white-in-color substance, can you
14 elaborate -- what is that?

15 A That appears to be the same items that are streamed
16 out when you pour off...

17 Q This bottle itself, how is that relevant to this
18 meth investigation?

19 A There were things inside the shed where it appeared
20 there had been a fire of some sort. This is obviously
21 burned. You can see the char marks on it. It appears to
22 have been part of that fire, involved in that fire.

23 Q Is this the same type of reaction vessel you've
24 seen on those other meth lab that is you've been involved
25 with?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A Yes, sir. The two-liter-bottle cooks this is
2 similar in nature to all of those.

3 Q And this white powdery substance, is that similar
4 in nature to the other meth labs you've been on?

5 A Yes, sir.

6 Q Okay. Let's move on to some of these other
7 photographs this is State's No. 28. Tell the jury
8 what's -- and you may want to scoot up a little bit. Can
9 you tell the jury what this is a photograph of?

10 A These are ether cans.

11 Q And how are they relevant to this methamphetamine
12 case?

13 A As we showed ether is a key component as a solvent
14 in the production of meth.

15 Q What is this right here on the ether can?

16 A That is a hole that's been punched in the bottom of
17 the ether can.

18 Q How is that relevant to a meth case?

19 A The normal use for starter fluid is you spray it
20 out. Most of the time what we find in production of meth
21 for a couple of reasons, they will not spray it out into a
22 container. Number one, they would loss a little bit of it
23 because it would go into the air. The second reason is it
24 takes too long. So they will punch a hole in the bottom of
25 it and pour it out into the container.

Thomas W. Hamilton - Direct Examination by Mr. Ross

- 1 Q And do you train your agents to look for these
2 indicators?
- 3 A Yes, sir.
- 4 Q All right, sir. What is this a photograph of?
- 5 A That is ether cans also.
- 6 Q Additional ones?
- 7 A Yes, sir.
- 8 Q How about this one here?
- 9 A That is another ether can, sir.
- 10 Q And does there appear to be a puncture wound on it?
- 11 A Yes, sir.
- 12 Q Can you point that out, please?
- 13 A It's right here, just where the -- near the bottom
14 right of the bottom where it's crimped together.
- 15 Q All right. This is State's No. 30. Please tell me
16 what this is a photograph of.
- 17 A In the shed this is that bathroom area. This is a
18 cold pack right there.
- 19 Q All right. And how is that relevant to a
20 methamphetamine case?
- 21 A This is a cold pack that contained ammonium
22 nitrate.
- 23 Q Was this consistent with some of the other meth
24 labs you've seen?
- 25 A Yes, sir.

Thomas W. Hamilton - Direct Examination by Mr. Ross

- 1 Q Is this the same cold pack on 31?
- 2 A Yes, sir, it is.
- 3 Q Now, if I wanted to put this cold pack on my
- 4 shoulder for a bruise, could I do that?
- 5 A No, sir.
- 6 Q And why not?
- 7 A It has been cut out. The powder ammonium nitrate
- 8 has been removed. The water pack is sitting right here.
- 9 Q Now, is that consistent with other meth labs you've
- 10 been involved with?
- 11 A Yes, sir, it is.
- 12 Q Finally this is State's 32. What is that a
- 13 photograph of?
- 14 A That's another cold pack.
- 15 Q Let me show you State's No. 34. Tell me about that
- 16 please?
- 17 A That is a liquid drain opener. That product right
- 18 there I'm familiar, with contains sulfuric acid.
- 19 Q How is that used in the meth process?
- 20 A In the find stage of meth lab, you process this
- 21 plus salt and it produces your hydrochloric acid.
- 22 Q Is that consistent with other meth labs you found?
- 23 A Yes, sir.
- 24 Q Here's No. 13. Tell me about this one.
- 25 A That is a blender, sir.

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 Q And how is this used in the meth process?

2 A Okay. When they crush up the pills to get them
3 into a powder.

4 Q What about State's 35?

5 A That is a fan that we located inside the trailer.

6 Q And how is that relevant to a meth case?

7 A During the production of meth, there are gases that
8 are produced. They are not good nor good for you. Even
9 the people who are making this understand that because when
10 they start tearing up and choking and coughing, it's bad.
11 They will often use fans like that to vent that enclosed
12 area to get the bad fumes out, hopefully having not
13 damaging themselves.

14 Q I'm going to show you 38. Tell me what this is a
15 photograph of.

16 A That is a light bulb that has been altered.

17 Q How has it been altered?

18 A Somebody has cut the bottom of it out and pulled
19 the filament out of that light bulb.

20 Q Can I plug this into my socket and get light?

21 A No, sir.

22 Q Tell me about this photograph.

23 A The same light bulb, sir.

24 Q Why would somebody cut it out and cut out the
25 filament and cut out this little bottom?

Thomas W. Hamilton - Direct Examination by Mr. Ross

1 A That is where we commonly see people using meth.
2 The light bulb as a smoking device, I've seen numerous
3 times with the use, enjoyment, of methamphetamine; but no
4 other drugs.

5 Q Lieutenant, I believe that's all on the
6 photographs.

7 I'd like for you to talk about --

8 A (Witness resumes the witness stand.)

9 THE COURT: Is this a good stopping point?

10 MR. ROSS: Yes, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, we'll
12 take a ten minute break. Don't discuss the case.

13 (WHEREUPON the jury left the courtroom at 2:48
14 p.m.)

15 THE COURT: All right. Lieutenant, you're not
16 permitted to talk about your testimony with anyone during
17 the break.

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Thank you.

20 We're at ease for ten minutes.

21 (WHEREUPON a brief recess was observed.)

22 THE COURT: Ready, Mr. Ross?

23 MR. ROSS: Yes, Your Honor.

24 THE COURT: Defense ready?

25 MR. DRYLIE: Yes, sir.

Thomas W. Hamilton - Cross-Examination by Mr. Drylie

1 THE COURT: Okay. Bring them in.

2 (WHEREUPON the jury entered the courtroom at 2:58
3 p.m.)

4 THE COURT: All right. You may continue,
5 Solicitor.

6 BY MR. ROSS:

7 Q Lieutenant, all these items that we just talked
8 about do they have lawful, legal uses?

9 A Yes, sir, they do.

10 Q Let me ask you this question: Does the combination
11 of the items found, is that combination consistent with
12 lawful, legal use? Or is that consistent with an illegal
13 meth lab?

14 A No, sir, it does not appear to be lawful. As I
15 stated earlier, punched out ether cans are not something we
16 find in any place besides meth labs. A vessel, such as the
17 one found burnt on the front porch of the defendant's
18 house, is -- that is not something you find in somebody's
19 normal house.

20 MR. ROSS: That's all the questions I have for you.
21 If you could please answer anything Mr. Drylie has.

22 THE COURT: Cross-Examination.

23 CROSS-EXAMINATION

24 BY MR. DRYLIE:

25 Q Good afternoon.

Thomas W. Hamilton - Redirect Examination by Mr. Ross

1 A Good afternoon.

2 Q How are you?

3 A Doing well, sir.

4 Q Quick couple of questions. You didn't find any
5 lye, did you?

6 A Any what, sir?

7 Q Any lye?

8 A Any sodium hydroxide? No, sir, I did not find a
9 container of that.

10 Q And you didn't find any lithium strips at the
11 residence?

12 A No, sir, I didn't find any lithium battery casings
13 or anything of that nature.

14 MR. DRYLIE: No further questions.

15 THE COURT: Redirect.

16 REDIRECT EXAMINATION

17 BY MR. ROSS:

18 Q The fact that you didn't find any of these items
19 does that change your analysis in this case?

20 A No, sir. Oftentimes what we find is that people
21 will do different steps of the production at different
22 locations. And the reason is to try and limit their time
23 at one place doing one thing. They're criminals and they
24 are generally trying to avoid law enforcement, which is why
25 they do that. So oftentimes we'll find pieces here and

Emily Homer - Direct Examination by Mr. Ross

1 pieces there versus at one location..

2 MR. ROSS: Thank you, Lieutenant.

3 THE COURT: Recross?

4 MR. DRYLIE: No, Your Honor.

5 THE COURT: Thank you, sir. You may step down.
6 Call your next witness, please.

7 MR. ROSS: The State calls Emily Homer to the
8 stand.

9 EMILY HOMER,
10 having been duly sworn, testified as follows:

11 THE CLERK: Have a seat please, ma'am. Once you're
12 seated, state your full name, spelling your last.

13 THE WITNESS: Emily Homer, H-O-M-E-R.

14 DIRECT EXAMINATION

15 BY MR. ROSS:

16 Q Ms. Homer, how are you this afternoon?

17 A Good. How are you?

18 Q Doing great. Thanks. You're the chemist at the
19 sheriff's department; is that right?

20 A Yes, sir.

21 Q And you tested the drugs in this case; is that
22 right?

23 A Yes.

24 Q Before we get to the tests that you performed, can
25 you tell me about your educational qualifications and

Emily Homer - Direct Examination by Mr. Ross

1 experience in drug analysis?

2 A I have a Bachelors in Chemistry from USC and a
3 Masters in Organic Chemistry from USC; and I've been
4 trained at SLED to analyze for controlled drugs substances;
5 and I've also been trained by the DEA and I'm also a
6 certified law enforcement officer.

7 Q How long have you been a chemist with the sheriff's
8 department?

9 A This November will be seven years.

10 Q And tell me about your job duties as such.

11 A For -- I analyze unknown substances and look for
12 controlled substances, scheduled one through five
13 controlled drugs and...

14 Q So what types of drugs? You said one through five.
15 From a layman's perspective, what types of drugs do you
16 test for?

17 A The DEA has organic drugs scheduled in five
18 different schedules related to its abuse and medicinal
19 purposes. So something Schedule I has high-abuse
20 potential, low-medicinal purpose. Schedule V has
21 lowest-abuse potential and has pharmaceutical purposes.

22 Q Okay. Are you trained to test for methamphetamine?

23 A Yes.

24 Q Are you trained to test for pseudoephedrine?

25 A I don't actually -- it depends on -- I look for

Emily Homer - Direct Examination by Mr. Ross

1 control drugs. Sudafed is not specifically a scheduled
2 drug. You can get it over-the-counter, but I do specific
3 tests to look for, in this case, pseudoephedrine and
4 ephedrine.

5 Q Okay. Have you been qualified in chemical analysis
6 in State Circuit Court before?

7 A Yes.

8 Q Have you been qualified in federal court before?

9 A Yes.

10 Q How many times?

11 A Eighteen times total, once federal.

12 MR. ROSS: And Your Honor, at this point we would
13 offer Ms. Homer as an expert in chemical analysis.

14 THE COURT: Any voir dire?

15 MR. DRYLIE: No, Your Honor. No objection.

16 THE COURT: She is so recognized. You may
17 continue.

18 BY MR. ROSS:

19 Q Did you receive items to test in this case.

20 A Yes.

21 Q And what did you receive?

22 A Four BEST kits 6020670. I got a glass -- Item one
23 was glass measuring cup and Item two was a Ziploc bag that
24 contained powder substance.

25 Q Now, the measuring cup, did that contain any

Emily Homer - Direct Examination by Mr. Ross

1 illicit substances?

2 A No. No controlled substances found.

3 Q Now, the bag with the powder, what test did you run
4 on it?

5 A You want me to go in detail of all -- this bag had
6 ephedrine and pseudoephedrine in it. The --

7 Q What test did you perform to come to that
8 conclusion?

9 A I did presumptive screening and confirmatory
10 screening.

11 Q Now, you said you found Sudafed and ephedrine; is
12 that correct?

13 A Yes.

14 Q Let me ask you this question: Would you -- if you
15 were to have ground up Sudafed and you were to add say
16 ether from starter fluid, would you expect some of it to
17 convert to the ephedrine?

18 MR. DRYLIE: Objection to leading.

19 BY MR. ROSS:

20 Q What would you expect to find?

21 THE COURT: Overruled. Go ahead.

22 THE WITNESS: Do you want me to explain
23 pseudoephedrine and ephedrine?

24 BY MR. ROSS:

25 Q Please.

Emily Homer - Direct Examination by Mr. Ross

1 A Okay. So most organic compounds have what's called
2 a stereo center if they have four different groups. The
3 main thing when I say organic is it has to be carbon
4 containing. And all living -- all drugs, living things,
5 all contain this magical atom carbon. Okay. Carbon's able
6 to bind to -- as long as it doesn't have a charge, a
7 positive/negative charge, it's got probably four different
8 substances off -- of four different structures off of that.
9 Because it's got four it can actually have different
10 rotation in space. Just like your looking at your hands,
11 okay. Your right hand probably looks a lot like your left
12 hand, right? Most people have thumbs or five fingers,
13 right? But when you put your right hand up to a mirror
14 you're going to see a reflection which is more than likely
15 your left hand type of reflection, but it's not the same
16 hand. Okay.

17 So the precursor for methamphetamine, the ephedrine
18 pseudoephedrine, actually has two different stereo centers
19 and it can create two different stereo isomers or actually
20 four different, but I grouped it to go to two different
21 sterile isomers as ephedrine and pseudoephedrine. Okay.
22 The methamphetamine, the ones that we usually hear about
23 that are -- cause reactions in the body, the usual
24 stereochemistry, the active stereochemistry that's going to
25 cause these particular reactions is called the de-isomer of

Emily Homer - Direct Examination by Mr. Ross

1 methamphetamine.

2 Both ephedrine and pseudoephedrine will make
3 methamphetamine, but pseudoephedrine, which is why it's
4 more controlled, will make D-methamphetamine which has the
5 particular undesirable reactions in the body that...

6 Q So you said you have pseudoephedrine and ephedrine
7 and their difference is that they're mirror images; is that
8 right?

9 A They are stereoisomers, yes.

10 Q Okay. And did you do a report in this case?

11 A Yes.

12 Q And is that your regular business practice to
13 generate a report in cases where you test for drugs?

14 A Yes.

15 Q And are you the evidence -- are you the custodian
16 of these records?

17 A Yes.

18 Q Do you keep a copy for yourself?

19 A Uh-huh.

20 Q Did you bring a copy in court?

21 A I did.

22 Q May I see it please?

23 A (The witness hands report to the attorney.)

24 (WHEREUPON State's Exhibit No. 41 was marked for
25 identification.)

Emily Homer - Direct Examination by Mr. Ross

1 BY MR. ROSS:

2 Q Ms. Homer, I'm going to show you what's been marked
3 as State's No. 41. Is this a report that you generated in
4 this case?

5 A Yes.

6 MR. ROSS: Your Honor, at this point, we'd move to
7 have 41 moved into evidence.

8 THE COURT: Any objection?

9 MR. DRYLIE: No objection.

10 THE COURT: Without objection. Mark it in
11 evidence.

12 (WHEREUPON State's Exhibit No. 41 was entered into
13 evidence.)

14 MR. ROSS: No further questions. If you would,
15 please, answer anything Mr. Drylie has.

16 MR. DRYLIE: No questions, Your Honor.

17 THE COURT: Thank you, ma'am. You may step down.
18 Do you have any further witnesses?

19 MR. ROSS: No, Your Honor, the State rests.

20 THE COURT: All right. Ladies and gentlemen, if
21 you recall I told you that at this point I have to discuss
22 legal issues with the attorneys. This usually takes about
23 twenty minutes. I'll try to keep it as short as I can. I
24 need you to step in the jury room don't discuss the case.

25 (WHEREUPON the jury left the courtroom at 3:11

1 p.m.)

2 THE COURT: Are there any motions?

3 MR. ROSS: None from the State, sir.

4 MR. DRYLIE: Yes, Your Honor.

5 THE COURT: Go ahead.

6 MID-TRIAL MOTIONS

7 MR. DRYLIE: Your Honor, looking at all the
8 evidence in the light most favorable to the State, we'd
9 move for a directed verdict right now. They've established
10 that there was an explosion at this residence. They
11 haven't established that Mr. Jones had any knowledge over
12 what was going on at the household. They haven't been able
13 to establish that he handled any of the components that
14 were there. The only thing that was taken into evidence
15 was a small amount of Sudafed and a glass measuring cup
16 that has no illicit substance whatsoever.

17 Furthermore, under the statute, the definition for
18 manufacture means the production, preparation, propagation,
19 compounding, conversion or the processing of a controlled
20 substance either directly or indirectly by extraction of
21 substances of natural origin by independently by mixing
22 chemicals or by a combination of extraction of chemical
23 synthesis. That includes any packaging or repackaging of
24 the substance in the container, except that this term does
25 not include the preparation or of the compounding of the

1 controlled substance by an individual for his own use for
2 the preparation, compounding, packaging or labelling of a
3 controlled substance.

4 And here they haven't offered any evidence that
5 there were baggies, that there were scales, a large amount
6 of money. It doesn't seem, from the evidence that's been
7 offered, that this drug was used to manufacture anything
8 other than personal use; and they haven't shown that my
9 client had any knowledge that it was there.

10 THE COURT: All right. There's sufficient evidence
11 to go to the jury. Your motion is respectfully denied.

12 Do you have anything else?

13 MS. FULLWOOD: Your Honor, at this time would you
14 like to go over with Mr. Jones his rights and --

15 THE COURT: Yes, ma'am.

16 MS. FULLWOOD: -- determine what parts, if any, of
17 his prior report will be admissible against him if he
18 chooses to testify.

19 THE COURT: Yes, ma'am.

20 All right. Mr. Jones, give me your attention,
21 please. I need to go over some things with you and I have
22 to do this with everyone who's on trial, whether they're on
23 trial for murder or some traffic offense. I need your
24 responses under oath.

25 ///

1 RICHARD FREELAND JONES;

2 having been duly sworn, testified as follows:

3 **THE COURT:** We've reached the stage of the trial
4 where the State has rested. And the next thing that will
5 happen is that we will give the defense an opportunity to
6 present evidence for the jury to consider. You understand
7 where we were in the trial?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** Now, if you want to call witnesses, you
10 may do so; if you want to testify yourself, you certainly
11 may do so; but if you choose not to testify, I'm going to
12 tell that jury that they cannot hold your silence against
13 you in any way at all that they're not to discuss it in
14 their deliberations, that they're not to let it enter their
15 minds in making the decision of whether you're guilty or
16 not guilty. You understand all that?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** This decision about whether you testify
19 or not is your decision to make and yours alone. Do you
20 understand that?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** Now, you have an absolute right to
23 remain silent and nobody can force you to testify. Do you
24 understand?

25 **THE DEFENDANT:** Yes, sir.

1 **THE COURT:** I expect that you might confer with
2 family members or friends or anyone whose opinion you value
3 on important decisions including your attorneys, but
4 ultimately the decision is yours to make and yours alone.
5 Do you understand that?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** All right. What prior record does he
8 have that you would intend to use for impeachment purposes?

9 **MR. ROSS:** Your Honor, he's got a -- in 2003 he's
10 got two counts of DUI fourth; 2008 he's got a threatening
11 the life of a person -- threatening the life of a public
12 official and a CDV third. We would intend to use all of
13 those, Your Honor. With regard to the threatening the life
14 of a public official, Judge, I'm prepared to argue that
15 under the Colf decision, C-O-L-F. If, Your Honor, is --
16 cares to hear that argument.

17 **THE COURT:** Tell me whatever you want to tell me.

18 **MR. ROSS:** Your Honor, I think threatening a public
19 official -- I think the impeachment value of that is great.
20 Simply because that's an attack on authority. That's an
21 attack on the State. If somebody's going to commit such a
22 crime, then they are less likely to respect the authority
23 of the Court. They're less likely to respect an oath that
24 is given to them; and they're less likely to testify
25 truthfully, to be quite frank with Your Honor. In this

1 case credibility will be an issue. They've made
2 knowledge -- the central issue in this case and if he's
3 going to get up on the stand and say he doesn't know what
4 happened, then I think his prior record, the jury should be
5 allowed to hear. I think that would help the jury in
6 deciding whether or not to believe him.

7 It is not a similar crime for the one with which
8 he's charged, as well, Your Honor; so we don't have any
9 unfair bleeding over of one offense carrying over into the
10 next. I mean if he had a prior conviction for meth I would
11 understand, Your Honor, but because this has no relation to
12 drugs it's central to credibility and it deals with
13 credibility, Your Honor.

14 THE COURT: Does the defense wish to be heard on
15 anything?

16 MS. FULLWOOD: We just ask that Your Honor not
17 allow him to be impeached with any of these convictions on
18 the basis that the probative value of allowing that kind of
19 impeachment is outweighed by its prejudicial effect.
20 Credibility is key here. He's the only witness we're going
21 to call, if we call any at all, and his credibility is
22 crucial; and I believe our courts have held that in these
23 types of situations where the defendant's credibility is so
24 key that it's often error under the balancing test of
25 609(a) to allow them to be impeached in that manner.

1 **THE COURT:** Rule 609 subsection A of the South
2 Carolina Rules of Evidence provides the rules by which
3 someone is to be evaluated concerning whether they can be
4 impeached by a prior criminal record. The rule is
5 different for an accused than for any other witness and it
6 provides that where an accused is involved as the potential
7 witness the Court has to make a finding that the probative
8 value of admitting the evidence of the conviction outweighs
9 it's prejudicial effect to the accused. He's got a 2003
10 DUI fourth; 2008 threatening the life of a public official
11 and criminal domestic violence third offense. The Court is
12 unable to find that the probative value outweighs its
13 prejudice effect.

14 The end result of that, Mr. Jones, is if you take
15 the witness stand I am not going to let the State ask you
16 about those prior convictions. You understand?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** The only way that's going to come in is
19 if you open the door in some fashion and if you don't
20 understand this concept you can certainly talk to your
21 lawyers. If you want more information you may certainly
22 ask them; but to give you an example of what I mean by
23 that, I have had situations where I have ruled that the
24 State could not ask about prior convictions and then had a
25 defendant take the stand and say such things as, I don't

1 know I've never been arrested, when they had been arrested.
2 They've not only been arrested, they've been convicted,
3 sometimes multiple times. Well, that's just a flat out lie
4 and that opens the door for the State to ask about the
5 impeachment because the witness's credibility is always an
6 issue whether it's an accused or any other witness.

7 So, Mr. Jones, if your side offers no evidence at
8 all, that is neither you testifying or anybody else
9 testifies on your behalf or no exhibits are admitted on
10 your behalf, then your lawyer gets to make the last
11 argument to the jury; otherwise, the State gets to make the
12 last argument. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Has anybody exercised any type of undue
15 influence over you to get you to choose to testify or not
16 testify?

17 THE DEFENDANT: No, sir.

18 THE COURT: Today are you under the influence of
19 any kind of medication, alcohol or any substance that
20 adversely affects your thinking?

21 THE DEFENDANT: No, sir.

22 THE COURT: So you're clearheaded now and you know
23 what you're doing.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So whatever decision you've made is

1 your own decision made of your own free will?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Jones, I'm going to make some
4 findings right now and I'm going to hold to those findings.
5 So if anybody does attempt to improperly influence you, you
6 must let me know immediately. You understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The findings are that you understand
9 that you have a right to testify, you have a right not to
10 testify. You understand that you have an absolute right to
11 maintain your silence and if you choose not to testify I'm
12 going to tell that jury they cannot hold your silence
13 against you in any way at all. You understand that if your
14 side offers no evidence that your lawyer gets to make the
15 last argument to the jury. You understand that the
16 decision about whether you testify or not is your decision
17 and yours alone and you understand that if you take the
18 witness stand I'm not going to allow the State to bring up
19 your prior criminal record unless the door is open in some
20 way by you for that to be done.

21 And I'm going to make a finding that you made your
22 decision freely, knowingly, voluntarily, and intelligently;
23 and again I'm going to hold that finding unless something
24 comes up. I'm going to give you an opportunity to confer
25 with your attorneys and then y'all can let me know if

1 you're ready and whether you wish to offer any evidence.

2 We'll be at ease.

3 (WHEREUPON there was a brief recess.)

4 THE COURT: Does the defense wish to offer
5 evidence?

6 MR. DRYLIE: Yes, Your Honor?

7 THE COURT: Are you ready to proceed.

8 MR. DRYLIE: Yes, Your Honor.

9 THE COURT: Is the State ready?

10 MR. ROSS: The State's ready, sir.

11 THE COURT: Bring them in.

12 (WHEREUPON the jury entered the courtroom at 3:33
13 p.m.)

14 THE COURT: All right. Ladies and gentlemen, the
15 next stage of the trial is that the defense is given the
16 opportunity to present evidence for you to consider. This
17 does not change the burden of proof. The burden remains
18 entirely upon the State to prove the guilt of the defendant
19 beyond a reasonable doubt, but the defense is given an
20 opportunity to present evidence for you to consider in
21 deciding whether the State has met its burden or failed to
22 meet its burden.

23 All right. Call your first witness.

24 MR. DRYLIE: The defense calls Richard Jones to the
25 stand.

Richard Jones - Direct Examination by Mr. Drylie

1 THE COURT: Come around please.

2 RICHARD JONES,

3 having been duly sworn, testified as follows:

4 THE CLERK: Have a seat, please, sir. Once you're
5 seated, state your full name, spelling your last on the
6 record, sir.

7 THE WITNESS: Richard Jones J-O-N-E-S.

8 DIRECT EXAMINATION

9 BY MR. DRYLIE:

10 Q How are you doing this afternoon, Mr. Jones?

11 A Okay.

12 Q How old are you?

13 A 42.

14 Q And where do you live?

15 A

16 Q And is that the same address where this incident
17 occurred?

18 A Yes, sir.

19 Q And who owns that property?

20 A My family, my mother.

21 Q And how long have you known Mr. Scott Peacock?

22 A Twenty years.

23 Q Were you friends with him?

24 A Yes, sir.

25 Q How did you know him?

Richard Jones - Direct Examination by Mr. Drylie

1 A Growing up. They all come down there work on
2 motors and motorcycles and everything because I had all the
3 stuff to work with.

4 Q Now, did Mr. Peacock ever leave a car on your
5 property?

6 A Yes, sir.

7 Q Why did he leave his car on your property?

8 A Because the transmission went out on it and he
9 couldn't leave it at his house because he lives in a
10 subdivision and you can't leave a vehicle in your front
11 yard unless it's insured and tagged.

12 Q All right. Do you remember how long he had that
13 vehicle on your property?

14 A Yes, sir, it was at least eight months or over.

15 Q Now, on November 19th, 2010, do you remember what
16 you were doing that afternoon?

17 A Yes, sir. I was just cleaning up and -- inside the
18 house, cleaning up getting ready for my girlfriend to come
19 over that night.

20 Q What time was she coming over?

21 A She's got a hard job. She could show up between 7,
22 8, 8:30, 9. She has her own home she could go there first.

23 Q Now, that afternoon did anyone else come to your
24 house?

25 A Yes, sir.

Richard Jones - Direct Examination by Mr. Drylie

1 Q Who came over?

2 A Scotty Peacock and he had somebody with him that
3 I've seen before, but I've never really met. He introduced
4 me. We shook hands, but I don't remember his name.

5 Q How did they get to your house?

6 A In his friend's truck.

7 Q Do you know why they came over that afternoon?

8 A Yes. I'd been getting on Scotty for a while to get
9 the truck out of my yard because my mom wanted it moved.

10 Q Okay. And what did they do when they got there?

11 A He come -- I already seen them when they pulled up.
12 He come, talked to me and introduced me to his friend and
13 we shook hands. He told me he was going to work on the
14 truck. I told him go for it; and he went towards the
15 garage. I went back doing what I was doing.

16 Q I'm going to ask you to step down for a moment.

17 A Yes, sir. (Witness leaves the witness stand.)

18 Q Now, where did Scotty park the truck that he left
19 on your property?

20 A Would be right here (indicating).

21 Q So were you able to see that truck from inside your
22 residence?

23 A Yeah. It's kind of an angle, but if I look real
24 hard or step out just a step I could see. But mainly what
25 I was trying to see was under the truck more than I was if

Richard Jones - Direct Examination by Mr. Drylie

1 you were at the truck, and I didn't see anybody around it.

2 (WHEREUPON THE witness resumes the witness stand.)

3 BY MR. DRYLIE:

4 Q So do you remember what time he came over that
5 afternoon?

6 A Somewhere around four.

7 Q And what time did you decide to walk over to the
8 shed?

9 A I can't remember exactly how long. I know that I
10 kept looking out trying to see if they were working on the
11 truck because I didn't see anybody around it; and after a
12 while I decided to go see what was going on.

13 Q Did you smell anything as you were walking over
14 there?

15 A No, sir.

16 Q Did you notice anything strange?

17 A When I got there I did because they wasn't in the
18 first room where they were supposed to be.

19 Q Let's step down one more time.

20 A Okay. (Witness leaves the witness stand.)

21 Q Now, explain to us how you went from the residence
22 to the tool shed that afternoon.

23 A If you leave my house right here, you can walk
24 straight. Right there (indicating) there's a gate right
25 there.

Richard Jones - Direct Examination by Mr. Drylie

1 THE COURT: I didn't understand what he said.

2 BY MR. DRYLIE:

3 Q You need to speak up.

4 A You come out my front door you can walk down my
5 steps on the my porch and you can walk straight to the
6 garage and there's a wooden gate there I made to go in
7 between so my dog wouldn't get out and you'd be standing
8 right there at the garage door at that office.

9 Q Okay. Now, where did you expect to see them that
10 afternoon?

11 A In this room right here.

12 Q What's in that room?

13 A It's a metal bench with some lights on it to use
14 because pretty much I figured they'd be working on a
15 starter.

16 Q And where did you actually find them that
17 afternoon?

18 A When I opened the door.

19 Q What did you see when you open that door?

20 A Scotty Peacock running at me this way (indicating).

21 Q Was he holding anything this his hands?

22 A He was holding a two liter bottle in the fork of
23 his fingers about this high (indicating).

24 (WHEREUPON the witness resumes the witness stand.)

25 ///

Richard Jones - Direct Examination by Mr. Drylie

1 BY MR. DRYLIE:

2 Q Do you remember what you did next?

3 A What I did next?

4 Q Uh-huh.

5 A Well, what happened was when I seen the bottle in
6 his hand I seen a spark come from the top of the bottle and
7 when that happened I seen another spark; and it exploded
8 and I don't know how, I can't remember, but I had to be
9 able to get my arms up because it blew all the skin off my
10 arms, the side of my ears, the top of my head, everywhere I
11 didn't have my arms. As y'all seen the video there's some
12 time elapse there that I don't know what happened because
13 when I come out of that office I thought I came out
14 instantly.

15 Q And where did you go when you came out of the tool
16 shed?

17 A I went straight to the shower.

18 Q Did anyone follow you?

19 A When I was in the shower Scotty and his friend came
20 in all the way into the back where the shower was. I
21 didn't have the curtain drawn or nothing I was just pulling
22 skin off my arms; and he asked me if I was all right, and I
23 said no.

24 Q Can you show the jury where you were burned?

25 A It tore all the skin off both sides of my arms,

Richard Jones - Direct Examination by Mr. Drylie

1 side of my ears, top of my head, neck. It got me.

2 Q Did you see where Scotty was burned?

3 A Yeah, to a point. It looked like somebody had sun
4 burned him instantly and Scotty's a light-skin fellow.

5 He's got red hair, he's got light skin, and it just didn't
6 look like him; and it looked like it kind of scabbed over
7 all at the same time; and he told me to get out the water,
8 and I told him no. Asked me if I want today go to the
9 hospital and I said no and they left.

10 Q Now, why didn't you want to go to the hospital with
11 Scotty?

12 A Well, I don't know exactly what I was thinking at
13 the moment, but I knew I wasn't supposed to leave with who
14 just blue my arms off.

15 Q Now, did the police come by your house later that
16 night?

17 A Sure they were there when I left on the gurney.

18 Q Did you hear them knock on the door?

19 A Sure.

20 Q Why didn't you answer?

21 A When I got out the shower I was froze up. I
22 couldn't move. I couldn't put anything on me, couldn't put
23 nothing on my arms. Everything stuck to me.

24 Q You did -- did you end up going to the hospital
25 that night?

Richard Jones - Direct Examination by Mr. Drylie

1 A Yes, sir.

2 Q About how long were you in the hospital?

3 A I was there four days.

4 Q Did you ever see Scotty after this?

5 A Yes, sir, I seen him in February. He pulled in my
6 front yard. Dale, a boy I know down the street that works
7 on vehicles too, pulled in my front yard, and Scotty popped
8 up from under the dash and said are you all right.

9 MR. ROSS: Objection, hearsay.

10 THE COURT: You can't say what he said. It's
11 hearsay.

12 What's your next question?

13 BY MR. DRYLIE:

14 Q Do you know where Scotty was between November and
15 February?

16 A Yes, he was in the hospital.

17 Q Now, I'm going go through some of the pictures that
18 we've seen with you. You want to step down one more time?

19 A Yes, sir. (Witness leaves the witness stand.)

20 Q Can you tell us what this is?

21 A It's a blower to an inboard -- outboard boat.

22 Q Why was it in your house?

23 A Because I was taking everything off the boat to
24 sell the engine because the transom was busted on the boat.
25 It's no good.

Richard Jones - Direct Examination by Mr. Drylie

- 1 Q What's that?
- 2 A That's the same fan. It's a blower.
- 3 Q Can you tell us where this was?
- 4 A It's probably in the garage in the office.
- 5 Q Do you know why there was a blender there?
- 6 A My daddy kept everything. We keep all gas engines,
7 motors, I'll keep them for parts, and if it's an electric
8 motor, we'll keep that too.
- 9 Q Where is this in your house?
- 10 A It's under my sink, kitchen.
- 11 Q And can you tell the jury what that is?
- 12 A It's Drano.
- 13 Q And what do you use it for?
- 14 A You put it in your drain to unclog your pipes.
- 15 Q Do you recognize this cooler?
- 16 A Yes. Only after I came back from the hospital.
- 17 Q Did you have this cooler --
- 18 A It's not mine.
- 19 Q -- in your office?
- 20 A No, sir.
- 21 Q And you never used it before?
- 22 A No, sir. It wasn't there. Nobody's been in that
23 room for over two something years since my daddy died,
24 except me.
- 25 Q Now, where is this?

Richard Jones - Direct Examination by Mr. Drylie

- 1 A That's in the back room of the garage.
- 2 Q And do you recognize this?
- 3 A Yes, that's a wrapper for a cold pack.
- 4 Q Do you know why it was there?
- 5 A I do now and it was there when I got home too.
- 6 Q Did you put that there?
- 7 A No, sir.
- 8 Q Did you have any knowledge that that was there?
- 9 A No, sir.
- 10 Q We've heard a lot about cans with punched holes in
- 11 the bottom. Can you tell us something about that?
- 12 A Yes, sir, we'd been punching holes in the bottom of
- 13 cans for about ten years now. My daddy, if you want to
- 14 know the truth, would get mad if they got one caught in the
- 15 burn brow and they blow up and he was around it, he would
- 16 get on you pretty good.
- 17 Q So are there a lot of cans on your property?
- 18 A Yes, sir.
- 19 Q A lot of aerosol cans?
- 20 A Spray cans, starter fluid, you name it.
- 21 Q How many of them do you punch holes in the bottom?
- 22 A Every one of them.
- 23 Q And when did you punch the hole in the bottom?
- 24 A As soon as they're empty.
- 25 Q And once again the reason for this is?

Richard Jones - Direct Examination by Mr. Drylie

1 A So they wouldn't blow up if you put it in a fire.

2 Q You can sit back down?

3 (WHEREUPON the witness resumes the witness stand.)

4 BY MR. DRYLIE:

5 Q Now, on November 19th, 2010, did you give Scott
6 Peacock and his friend permission to be in the room in the
7 third room in your shed?

8 A No, sir, he knew better.

9 Q Why did you believe they were over at your house
10 that day?

11 A To get his truck out of my yard. I gave him the
12 transmission to put in it so he could get it out my yard.

13 Q Before you went into the shed did you know what
14 they were doing back there?

15 A No, sir.

16 Q Did you give them permission to use your shed to
17 make methamphetamine?

18 A No, sir.

19 Q Did you give them any materials to be used in
20 making methamphetamine?

21 A No, sir.

22 Q Did you have knowledge before entering the shed
23 that they were doing anything other than working on Scott's
24 truck?

25 A No, sir.

Richard Jones - Direct Examination by Mr. Drylie

1 MR. DRYLIE: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 (WHEREUPON there was a pause in the proceedings.)

4 BY MR. DRYLIE:

5 Q Now, when the police showed up at your house that
6 night, how were you feeling?

7 A I really don't remember much after I got out of the
8 shower. My whole body just stiffened up and I was laying
9 on the bedroom floor, and yes my dog was there pointing at
10 me. He was actually worried, but him pointing at me didn't
11 bother me one way or the other. I just wanted them to come
12 get me.

13 Q Were you in pain that night?

14 A Absolutely.

15 Q And do you remember speaking with the police
16 officers?

17 A I really don't remember anything other than when
18 they come in there they come in there so hard that it threw
19 my system into -- I don't know.

20 Q Do you remember what you said to them that evening?

21 A Sir?

22 Q Do you remember what you said to the police
23 officers that evening?

24 A No, sir. It comes and goes. It's parts and
25 pieces. The only thing I can really remember, and truth is

Richard Jones - Cross-Examination by Mr. Ross

1 I couldn't -- I think I heard Scotty's name come over the
2 radio and I think I mentioned his name, but as far as me --
3 what I actually told him, I don't know.

4 MR. DRYLIE: Please answer any questions that
5 Mr. Ross has for you.

6 THE COURT: Cross.

7 CROSS-EXAMINATION

8 BY MR. ROSS:

9 Q Mr. Jones, let's start with some of the things we
10 can agree upon. That's your house, right?

11 A Yes, sir.

12 Q You live there, right?

13 A Yes, sir.

14 Q You've lived there for years, right?

15 A Off and on.

16 Q Your daddy lived there, right?

17 A No, sir.

18 Q Where did he live?

19 A With my mother.

20 Q Okay. But you lived there?

21 A I have.

22 Q And your mom owns the place, right?

23 A Yes, sir.

24 Q But she don't live there, does she?

25 A No, sir.

Richard Jones - Cross-Examination by Mr. Ross

- 1 Q Okay. That's your trailer?
- 2 A No, sir.
- 3 Q You live there though, right?
- 4 A Yes, sir.
- 5 Q And the garage, you've been out there before too,
- 6 right?
- 7 A Yes, sir I built it.
- 8 Q That's right beside the trailer, isn't it?
- 9 A Yes, sir.
- 10 Q Wouldn't take long to walk out to the garage, would
- 11 it?
- 12 A No, sir.
- 13 Q And you testified earlier that when you -- you
- 14 remember this Scotty fellow coming to your house at four;
- 15 is that right?
- 16 A Yes, sir.
- 17 Q And there was somebody with him; is that correct?
- 18 A Yes, sir.
- 19 Q You didn't know who that person was though, right?
- 20 A I was told. I don't remember his name. I just
- 21 shook his hand, and at the time I didn't need to remember
- 22 his name.
- 23 Q You were told who he was at the time, right?
- 24 A Yes, sir.
- 25 Q And he was one of Scotty's friends, right?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A Yes, sir.
- 2 Q And when you shook his hand, did you reach in like
3 this? Did you reach in and get a good hand shake
4 (indicating)?
- 5 A Regular hand shake just like that.
- 6 Q Okay. Did you look in his eyes?
- 7 A Yes, sir.
- 8 Q Did you get a good look at him?
- 9 A Yes.
- 10 Q And this was one of Scotty's friends, right?
- 11 A Yes, sir.
- 12 Q But you don't know who that person is, do you?
- 13 A No, sir, but I've seen him before.
- 14 Q Oh, you've seen him before?
- 15 A Yes, sir.
- 16 Q And since the date of this arrest, you haven't
17 tried to find out who that person is?
- 18 A No, sir.
- 19 Q Okay. That occurred in November 2010, right?
- 20 A Uh-huh.
- 21 Q And right now it's, where are we right now? July
22 2012?
- 23 A Yes, sir.
- 24 Q So in a year and a half, you haven't tried to
25 figure out who that person was?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A No, I figured you'd ask Scotty.
- 2 Q Oh, Okay. Now, you said you'd known Scotty for
3 years, right?
- 4 A Yes, sir.
- 5 Q Twenty years; is that right?
- 6 A Yes, sir.
- 7 Q Now, he lives on Idlewood; is that correct?
- 8 A I think so.
- 9 Q And Idlewood, that's only a mile or two from your
10 house, right?
- 11 A Probably about four blocks.
- 12 Q All right. Four blocks away from Mr. Peacock; is
13 that right?
- 14 A About that.
- 15 Q Okay. So you could walk over to your house, right?
- 16 A Sure.
- 17 Q He could walk over to your house?
- 18 A Yes, sir.
- 19 Q And he's been over to your trailer before in the
20 past hasn't he?
- 21 A Yes, sir.
- 22 Q He's friends with you, right?
- 23 A Yes, sir.
- 24 Q It's not unusual for him to be there, is it?
- 25 A No, sir.

Richard Jones - Cross-Examination by Mr. Ross

- 1 Q Okay. In fact, you'd invited him there that day,
2 right?
- 3 A No, sir.
- 4 Q He just showed up?
- 5 A He was supposed to show up as many times as he
6 could to get the truck out of that yard.
- 7 Q And that truck had been there for eight months?
- 8 A My mother just told me to get it moved.
- 9 Q And it hadn't been fixed in eight months?
- 10 A No.
- 11 Q Okay.
- 12 A He couldn't afford to get a transmission.
- 13 Q All right. Now, you told me or you told Mr. Drylie
14 that this is an accurate reflection of your house, right?
- 15 A Yes, sir.
- 16 Q And I believe you testified you went from the
17 trailer right to the garage, right? You went from here to
18 here, right?
- 19 A From where that says awning to over there, yes,
20 sir.
- 21 Q Point A?
- 22 A Right there, yes, sir.
- 23 Q Point B?
- 24 A Garage door.
- 25 Q Okay. Only take you a few seconds to walk from

Richard Jones - Cross-Examination by Mr. Ross

1 point A to point B, right?

2 A Yes, sir.

3 Q What is the distance from point A to point B?

4 Estimate that for me, please.

5 A Between the buildings?

6 Q Yeah.

7 A Or from door to door?

8 Q Yeah between the buildings.

9 A Ten feet.

10 Q All right. So ten feet, that would be right here

11 to here?

12 A Yes, sir.

13 Q Here to here?

14 A Yeah.

15 Q So if I were to walk at a regular pace from point A

16 to point B that'd only take me a second or two, right?

17 A If you could put a door anywhere you wanted.

18 Q Okay. And you walked from point A to point B, and

19 then you went into that shed 'is that correct?

20 A I walked from my front door to the garage.

21 Q Okay. And then you were looking to see what these

22 folks were up to, right?

23 A I looked in the first room or the garage door.

24 Q Okay. And you came around. You said you came

25 around this way?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A After I went in the first room, yes, sir.
- 2 Q All right. And then you turned the corner?
- 3 A No, sir. I didn't get past that doorway right
- 4 there.
- 5 Q So you got here (indicating)?
- 6 A No, sir.
- 7 Q You got here (indicating)?
- 8 A No, sir.
- 9 Q Where did you -- where? Here?
- 10 A No, sir.
- 11 Q Come down and point out to where you got.
- 12 A In the doorway.
- 13 Q Here (indicating)?
- 14 A Yes, sir.
- 15 Q All right, sir. So that's where you were?
- 16 A Yes, sir.
- 17 Q And that's where you saw Scotty, right?
- 18 A That's when I saw Scotty.
- 19 Q Okay. And he was coming from up here, right?
- 20 A He was coming from there, yes.
- 21 Q And you said he had something in his hand, correct?
- 22 A Yes, sir.
- 23 Q And there was a Coke bottle, right?
- 24 A Yes, sir.
- 25 Q I'm sure it probably looked like the Coke bottle in

Richard Jones - Cross-Examination by Mr. Ross

1 that picture. Did it? You've seen that exhibit haven't
2 you?

3 A I've seen the Coke bottle in the picture.

4 Q Okay. And he had it down here, you testified to,
5 right?

6 A About waist high.

7 Q And that's something you never seen before, right?

8 A No, sir.

9 Q And I'm sure that's kind of distressing to see
10 somebody running at you with a little bottle at you like
11 that, right?

12 A Only when it ticked, sparked.

13 Q So it sparked?

14 A Yes, sir.

15 Q And you saw that, right?

16 A Yes, sir.

17 Q And when it sparked, I'm sure -- I know I'd be a
18 little bit scared if it sparked. I'm sure you were scared
19 to, right?

20 A Yes, sir.

21 Q And at that point you turned and you ran?

22 A No.

23 Q What did you do?

24 A (Indicating).

25 Q You did this (indicating)?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A Yes, sir.
- 2 Q And then that's when it went boom?
- 3 A That's when it went boom.
- 4 Q Okay. And then you left the shed, correct?
- 5 A Yes, sir.
- 6 Q And you went from the shed to the residence, right?
- 7 A Yes, sir.
- 8 Q And you never touched that bottle, right?
- 9 A No, sir.
- 10 Q You sure about that?
- 11 A Positive.
- 12 Q You never touched that bottle?
- 13 A Positive.
- 14 Q And you certainly didn't put that bottle up here
- 15 where it was found, did you?
- 16 A No, sir.
- 17 Q Scotty did that didn't he?
- 18 A I would imagine it was stuck to his hand.
- 19 Q Okay. Because you would think it would stick to
- 20 his hand right? It was sparking, wasn't it?
- 21 A After you seen my garage you would.
- 22 Q Oh, heck, yeah. And when you first put your arms
- 23 up like that (indicating), you were scared. You were
- 24 tensed up, I'm sure, right?
- 25 A When I seen that spark the second time, I dove for

Richard Jones - Cross-Examination by Mr. Ross

- 1 cover.
- 2 Q But again you never touched that bottle?
- 3 A No, sir.
- 4 Q Okay. But you go into the house, right?
- 5 A Yes, sir.
- 6 Q And I'm sure by this point you're in pain; is that
- 7 correct?
- 8 A Yes, sir.
- 9 Q You had those burns on your body, right?
- 10 A Yes, sir. I was peeling my skin off.
- 11 Q That didn't feel good, did it?
- 12 A Not at all.
- 13 Q I'm sure that left a mark in your memory, right?
- 14 A More than you'll know.
- 15 Q That's not something you'd forget, would you?
- 16 A Never.
- 17 Q That pain you felt that day, you're not going to
- 18 forget that pain?
- 19 A No.
- 20 Q And that's when those other two people came in your
- 21 trailer, right?
- 22 A Yes, sir.
- 23 Q You said they came in the back door?
- 24 A No, sir.
- 25 Q What door did they come in?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A The same one I'd come in.
- 2 Q The front door?
- 3 A Yes, sir. That's the only one open.
- 4 Q And you saw them come in the front door?
- 5 A No, sir, I was in the shower.
- 6 Q Okay. So how do you know which door they come in?
- 7 A Because it's the only door you can come in.
- 8 Q You can't come in the back door?
- 9 A No, sir.
- 10 Q So if you want to get in your residence you got to
- 11 go to the front door?
- 12 A Yes, sir.
- 13 Q Okay. And they came in the front door; you were in
- 14 the shower, and then they left to go to the hospital,
- 15 right?
- 16 A He asked me if I was all right.
- 17 Q Scotty did?
- 18 A Yes, sir.
- 19 Q And what did you say?
- 20 A No.
- 21 Q What did he say?
- 22 A His friend said, I got to take Scotty to the
- 23 hospital.
- 24 Q Okay.
- 25 A Do you want to go.

Richard Jones - Cross-Examination by Mr. Ross

- 1 Q And you said no?
- 2 A I said no.
- 3 Q But you were in pain, right?
- 4 A Yes, sir.
- 5 Q That was a pain you will never forget, right?
- 6 A Yes, sir.
- 7 Q Scorched in your memory, correct?
- 8 A Yes, sir.
- 9 Q And you decided you didn't need to go to the
- 10 hospital?
- 11 A No. I knew I needed to go to the hospital.
- 12 Q But you didn't go?
- 13 A Not with them.
- 14 Q Okay. Because you knew something was up, right?
- 15 A Yeah, he just blew me up.
- 16 Q You knew that wasn't an accident, right?
- 17 A It don't seem like it would have been.
- 18 Q It sure don't does it?
- 19 So after they left the -- they left to go to the
- 20 hospital. You're still in the shower?
- 21 A I presume.
- 22 Q And you said you did hear a door -- a knock on the
- 23 door, right?
- 24 A Yes.
- 25 Q And you didn't answer it, did you?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A No, I couldn't get up.
- 2 Q You were incapacitated?
- 3 A After I got out the shower I froze up.
- 4 Q And you froze up in that pile of clothes?
- 5 A No, sir, I froze up on the floor with a blanket and
- 6 I couldn't put a blanket over me. It would have stuck to
- 7 my head or my arms.
- 8 Q The blanket would have stuck to your head or arms.
- 9 A Everything I touched.
- 10 Q Everything you touched stuck to you?
- 11 A Sir?
- 12 Q Everything that you touched stuck to you; is that
- 13 what you testified to?
- 14 A Yes, sir.
- 15 Q You got a phone in this trailer?
- 16 A No, sir.
- 17 Q You got a cell phone?
- 18 A No, sir.
- 19 Q You couldn't have called the police if you wanted
- 20 to, could you have?
- 21 A Sure. You can plug into a regular land line and
- 22 use the phone.
- 23 Q Okay. You didn't call 9-1-1, did you?
- 24 A No, sir.
- 25 Q You stayed in that trailer, right?

Richard Jones - Cross-Examination by Mr. Ross

1 A Yes, sir.

2 Q Now, there was some period of time that elapsed
3 from the point that you first ran into the trailer to the
4 point that the police came inside your trailer, right?

5 A Yes, sir.

6 Q Probably a couple hours, right?

7 A It seemed that way.

8 Q Okay. And all during those couple hours, you
9 didn't plug in that land line, call 9-1-1?

10 A I couldn't move.

11 Q You didn't call the police?

12 A I couldn't move.

13 Q You didn't call the fire department because you
14 couldn't move, right?

15 A No, sir.

16 Q And you were -- when Scotty and this other fellow
17 came into your house you did speak to him. You testified
18 to that earlier, right? You spoke to him, right?

19 A I was standing in the shower.

20 Q And you could communicate to them, right?

21 A Shock hadn't set in, yeah.

22 Q Okay. So by the time somebody's knocking on your
23 door, you couldn't say, Help?

24 A Wasn't nobody knocking on my door after I got out
25 the shower and laid down.

Richard Jones - Cross-Examination by Mr. Ross

1 Q But you testified that you did hear somebody
2 knocking at your door?

3 A It could have been ten minutes or fifty minutes; I
4 don't know.

5 Q Okay. Did you have say, Help?

6 A No. The calmer I stayed the better I felt --

7 Q Okay.

8 A -- is what it seemed like. I'm trying to tell you
9 I don't remember.

10 Q Okay. Well, you just testified that you will never
11 forget that pain though, right?

12 A Well, if you've ever been hurt, you come in and
13 out.

14 Q So you remember some things but other things you
15 don't remember; is that correct?

16 A Yes, sir.

17 Q Okay. Were you ever read your Miranda rights?

18 A No, sir.

19 Q Not at all?

20 A Not that I know of.

21 Q Okay. Even after this -- so you don't remember
22 being read your Miranda rights that evening, correct?

23 A No, sir. When the police come in they could have,
24 I wouldn't have known.

25 Q Okay. And they certainly didn't read it to you

Richard Jones - Cross-Examination by Mr. Ross

1 afterwards because you were in the hospital, right? You
2 didn't go to the police station?

3 A I woke up in Augusta.

4 Q Okay. Since then you still weren't read your
5 Miranda rights?

6 A No, sir.

7 Q When you got arrested you just booked in, you
8 weren't --

9 A I turned myself in.

10 Q And you weren't Mirandized, right?

11 A No, sir.

12 MR. ROSS: Your Honor may I approach.

13 THE COURT: Me or him?

14 MR. ROSS: You.

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.)

18 THE COURT: If you want to put it on the record
19 I'll let you put it on the record.

20 MR. ROSS: That's okay, Your Honor.

21 THE COURT: Okay.

22 BY MR. ROSS:

23 Q You know those folks from Image, Inc., right.

24 A Yes, sir.

25 Q They work there everyday, right?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A Yes, sir.
- 2 Q Chris Harris, you know him?
- 3 A Yes, sir.
- 4 Q Ben Walker, the second guy, you know him, right?
- 5 A No, sir.
- 6 Q Don't know him?
- 7 A I know him by face only.
- 8 Q Okay. Patrick Wicker, you know him, right?
- 9 A By face only.
- 10 Q The art director?
- 11 A He used to talk to my daddy some.
- 12 Q Okay. You know those folks from Gutterman?
- 13 A By face only.
- 14 Q Okay. You wouldn't be afraid of them, would you?
- 15 A No, sir.
- 16 Q So if they were outside of your house -- I mean you
- 17 could report that you were injured to them, couldn't you?
- 18 A You couldn't yell and report you were injured to
- 19 them from my house.
- 20 Q If you knew they were out there, you wouldn't have
- 21 any compulsion to try and get in touch with them, would
- 22 you?
- 23 A No, sir.
- 24 Q Okay. You don't remember the statements you gave
- 25 to Lieutenant Hamilton, do you?

Richard Jones - Cross-Examination by Mr. Ross

1 A All I remember him is coming in the room. Seemed
2 like to me it was fifteen or twenty people in. After that
3 I don't remember anything until the lady stabbing me in the
4 neck on the way to the hospital.

5 Q Okay.

6 MR. ROSS: Beg the Court's indulgence, Your Honor.

7 THE COURT: Yes, sir.

8 (WHEREUPON there was a pause in the proceedings.)

9 BY MR. ROSS:

10 Q You've seen these either cans before, right?

11 A Yes, sir.

12 Q These are your ether cans, aren't they?

13 A Yes, sir.

14 Q And you punched the hole in the bottom of these
15 ether cans, right?

16 A Somebody did. Me or somebody that knows me.

17 Q You or somebody that knows you?

18 A Any of my friends would have.

19 Q Okay. Your daddy taught you how to do that, right?

20 A He demanded it.

21 Q He demanded it?

22 A You ever had an aerosol can go off?

23 Q Negative.

24 A Well, my daddy didn't like it.

25 Q Okay. But you've seen these before, haven't you?

Richard Jones - Cross-Examination by Mr. Ross

- 1 A Yes.
- 2 Q It doesn't come as a shock to you?
- 3 A They're still there.
- 4 Q You've never seen this light bulb before, have you?
- 5 A No, sir.
- 6 Q Never seen this before in your life?
- 7 A No, sir.
- 8 Q Certainly never seen this in your residence, right?
- 9 A No, it wasn't there.
- 10 Q Okay. When you came back you didn't see it, did
- 11 you?
- 12 A No, sir.
- 13 Q Okay. You saw those photographs that were admitted
- 14 in evidence that show your burns. That was -- those were
- 15 your burns, right?
- 16 A Yes, sir.
- 17 Q That's how you looked that day, right?
- 18 A Yes, sir.
- 19 Q Okay. That's yours too, right? This drain opener?
- 20 A Yes, it's under my sink. It's still under my sink..
- 21 Q Still there? Okay. And that's the same drain
- 22 opener, right? In this photo?
- 23 A Yes, sir.
- 24 Q The light bulb's right beside that drain opener,
- 25 right?

Richard Jones - Cross-Examination by Mr. Ross

1 A In the picture it is.

2 Q Okay. But you've never seen that light before have
3 you?

4 A No, sir.

5 Q Okay.

6 MR. ROSS: Nothing further. Please answer anything
7 Mr. Drylie has.

8 THE COURT: Redirect?

9 MR. DRYLIE: No, Your Honor.

10 THE COURT: Thank you, sir you may step down.
11 Any other evidence from the defense?

12 MS. FULLWOOD: Your Honor, the defense rests.

13 THE COURT: Thank you.

14 Any reply?

15 MR. ROSS: Beg the Court's indulgence, Your Honor.

16 THE COURT: Yes, sir.

17 (WHEREUPON there was a pause in the proceedings.

18 MR. ROSS: Briefly a few questions, Your Honor.

19 THE COURT: All right. Call your witness.

20 MR. ROSS: The State calls Lieutenant Hamilton to
21 the stand.

22 THE COURT: You're still under oath. Just have a
23 seat up here for me.

24 ///

25 ///

Thomas Hamilton - Direct Examination by Mr. Ross

DIRECT EXAMINATION

BY MR. ROSS:

Q Lieutenant Hamilton, did you just hear the testimony about the starter fluid cans?

A Yes, sir, I did.

Q Have you ever come across starter fluid cans in your life with a punched hole and it not be connected to a meth lab?

A No, sir. That would be a bad choice on the part of a person.

Q Why is that? Why would it be a bad choice?

A Like it says on the can, it clearly states, extremely flammable. Punching that hole could very well have caused an explosion.

MR. ROSS: Thank you, Lieutenant.

THE COURT: Cross.

MR. DRYLIE: Nothing, Your Honor.

THE COURT: Thank you, sir. You may step down. Any further evidence in reply?

MR. ROSS: No, sir.

THE COURT: All right. Ladies and gentlemen you now have all the evidence you're going to have to decide this case and there are two stages that remain, the closing arguments and the charge. The instructions that we're given by the Chief Justice are pretty clear that we're not

1 supposed to embark upon those two stages after four o'clock
2 absent some emergency or exigent circumstances. What
3 happens now is that I have to meet with the lawyers again
4 for one of those sessions where we talk about the law.
5 This one's a little bit longer, so even if I kept going we
6 wouldn't start that until close to five and -- meaning you
7 wouldn't get the case until well after six most likely; so
8 what we will plan to do is, I'll plan to stay here and work
9 with them, get everything ironed out, and I need you here
10 at 9:30 in the morning. You'll hear the closing arguments
11 and then you'll hear the charge and you should get the case
12 in the morning.

13 I hope you have a pleasant evening. Remember all
14 those admonitions I need you in the jury room at 9:30.
15 Thank you.

16 (WHEREUPON the jury left the courtroom at 4:16
17 p.m.)

18 THE COURT: Are there any motions?

19 POST-TRIAL MOTIONS

20 MS. FULLWOOD: Your Honor, we would renew our
21 motion for a directed verdict on the same grounds as we
22 gave when we moved at the end of the State's case.

23 THE COURT: All right. They are jury issues and
24 the motion's respectfully denied.

25 I'm going to print out for you what I've got as a

1 draft of the charge right now. I really haven't had a
2 chance to proofread. Hopefully I haven't got too much in
3 here that's inapplicable. I had told the Solicitor's
4 office that I would sentence the man who testified on
5 behalf of the State in the earlier trial so they're here.
6 I'll get my law clerk to print this out and hand it to the
7 attorneys and then you all be reading over it please while
8 we're going through this sentencing.

9 We're at ease on this case.

10 (WHEREUPON this case was at ease.)

11 JURY CHARGE CONFERENCE

12 THE COURT: Did y'all have any comments about the
13 proposed charge?

14 MR. ROSS: Yes, Your Honor, I have two comments.
15 First is on page 8, the definition of manufacture. Do you
16 intend to read the footnote into the record?

17 THE COURT: No.

18 MR. ROSS: You don't intend to read that to the
19 jury?

20 THE COURT: I did not.

21 MR. ROSS: Okay.

22 THE COURT: Why? Do you want me to or not?

23 MR. ROSS: No, sir, I do not.

24 THE COURT: I just -- I put the footnote so that --
25 usually I just cut and paste these things. Some cases are

1 different. I try to just cut out all that legalese
2 language and make it shorter and I think everything's in
3 the -- the definition I give is in the full definition.

4 All right. What else?

5 MR. ROSS: I'd ask for a charge of Section 37(d).
6 That's 44-53-375(d). It reads possession of equipment or
7 paraphernalia used in the manufacture of methamphetamine is
8 prima facie evidence of attempt to manufacture. I'm not
9 asking for the language of prima facie; I think that's --
10 the appellate courts have addressed that and ruled that's
11 unconstitutional burden shifting. I would ask that the
12 language be modified consistent with the statutory
13 threshold charge for a PWID with regards to intent to
14 distribute versus intent to manufacture. Specifically, I
15 would ask for language to the effect that possession of
16 equipment and paraphernalia used in the manufacturing of
17 methamphetamines gives rise to a permissive inference of a
18 violation of the law. The resulting implication only
19 permits rather than requires the jury to infer a violation
20 of the section; and, Your Honor, there's an additional
21 legalese after that, but the case I'm reading from is State
22 versus Andrews which is 479 S.E.2d 808.

23 THE COURT: I gave that some thought and in years
24 past I probably would have charged that. I think that's a
25 charge on the facts and there was the -- I can't think of

1 the name of the case right now -- a case that I got
2 reversed on in Newberry where I charged what's always been
3 charged and the Supreme Court wrote a very nice opinion
4 telling me that I gave a textbook charge, but they decided
5 it was wrong that -- about the -- having a weapon and the
6 inference that arises; and I think that's just going to get
7 extended over the years. I said that that trial, I think
8 that's the charge on the facts in this case, but it's
9 always been charged so I charged it. So I note your
10 exception and I decline to charge it.

11 Anything else?

12 MR. ROSS: Nothing from the State, Your Honor.

13 THE COURT: Defense have any comment on the charge.

14 MS. FULLWOOD: Yes, sir. A few things.

15 THE COURT: All right.

16 MS. FULLWOOD: First of all, we'd ask that Your
17 Honor omit the language in this charge concerning -- well,
18 defining conspire and conspiracy. I think that if Your
19 Honor charges that it's going to tend to confuse the issue.
20 In this case there's no evidence that is sufficient to give
21 rise to an inference of conspiracy; so I think between the
22 fact of a lack of sufficient evidence of -- but there's
23 evidence that two other people were present, could confuse
24 the jury into believing that they could find that a
25 conspiracy is present in this case.

1 **THE COURT:** All right. I note your position, but I
2 disagree. It doesn't even have to be words spoken; it can
3 be a tacit understanding. Conspiracy is one of those
4 things that rarely can be proven directly unless you've got
5 wiretaps. So I note your position, but I think the charge
6 goes at length to explain the State's got to prove that
7 there was an actual conspiracy and merely being present
8 with other people is not enough.

9 What else do you have?

10 **MS. FULLWOOD:** On the topic of mere presence, Your
11 Honor, we have a request to charge on mere presence. It's
12 similar to Your Honor's, but we'd ask that you incorporate
13 the language in our charge along with your charge.

14 **THE COURT:** Okay. I don't know if I'll charge this
15 verbatim. I'll flesh it out a little bit. I don't have a
16 problem fleshing it out a little bit.

17 What else?

18 **MS. FULLWOOD:** Okay. We request a charge on simple
19 possession; that being because, first, the language in the
20 statute relating to the fact that manufacturing controlled
21 substances for personal use is not manufacturing under the
22 statute and the fact that there's testimony that this is
23 small-batch-meth cooking, a small amount of meth and the
24 jury could find from all the evidence that this had simply
25 been made for personal use.

1 **THE COURT:** But personal use and manufacturing is
2 by a practitioner. It's not by some general member of the
3 public. You've got to read subsection 1 and subsection 2.

4 **MS. FULLWOOD:** Yes, sir.

5 **THE COURT:** I don't think this is a simple
6 possession charge case. I think it's manufacturing or
7 nothing. Either he was doing it or nothing. Either he was
8 doing it, manufacturing it, participating in it by aiding,
9 abetting, or assisting -- or conspiring, excuse me, or he
10 wasn't doing anything wrong. Now, if they would have had
11 some drugs in that glass light bulb it may be a different
12 argument.

13 Anything else?

14 **MS. FULLWOOD:** I would simply point out that there
15 was that glass light bulb, and I think, if I recall if
16 testimony correctly, found in the house not where the
17 manufacturing was supposedly taking place. So that would
18 give rise to that it was maybe being used rather than...

19 **THE COURT:** I don't question that if they think he
20 was involved in the meth that he was using meth. The thing
21 is, there were no -- there was no residue in it. If there
22 were residue in it that's what would trigger the simple
23 possession not the apparatus itself but the residue. All
24 right. I'm comfortable with what I'm doing. If I'm wrong
25 the Supreme Court will point it out to me.

1 All right. I'll need y'all here -- what did I tell
2 the jury? 9:30?

3 MS. FULLWOOD: Yes, sir.

4 MR. ROSS: Yes, Your Honor.

5 THE COURT: Mr. Jones, I'm taking you into custody
6 tonight.

7 Go ahead. Show out.

8 THE DEFENDANT: No, sir.

9 THE COURT: 9:30 in the morning. If he's going to
10 show out again -- y'all better talk to him.

11 MS. FULLWOOD: Yes, sir.

12 (WHEREUPON the proceedings were concluded for July
13 12, 2012.)

14 (WHEREUPON the following proceedings were held on
15 July 13, 2012:)

16 THE COURT: All right. I understand that Mr. Jones
17 had suffered a fall downstairs and that he's been checked
18 out. Are we ready to proceed?

19 MS. FULLWOOD: Yes, Your Honor.

20 MR. ROSS: The State's ready.

21 THE COURT: Do you want to open and close.

22 MR. ROSS: I'll waive the opening on the law, sir.

23 THE COURT: All right. Mr. Drylie are you going to
24 do the closing argument?

25 MR. DRYLIE: Yes, sir.

1 THE COURT: Are you ready?

2 MR. DRYLIE: Yes, sir.

3 THE COURT: Okay. Bring the jury in.

4 (WHEREUPON the jury entered the courtroom at 9:45
5 a.m.)

6 THE COURT: All right. Ladies and gentlemen, the
7 next stage, as I told you yesterday, is the closing
8 arguments of the attorneys. Now, in these closing
9 arguments the attorneys are permitted to use the arc of
10 evidence to attempt to get you to see things as they would
11 like you to see them on behalf of their respective
12 positions. Again that doesn't change the burden of proof.
13 The burden of proof remains with the State throughout the
14 trial.

15 Now, the way this will work is the defense attorney
16 will make the closing argument for the defense and since
17 the State has the burden of proof the State gets to go last
18 and the Solicitor will make his closing argument. I always
19 take a brief break between the time that they finish and
20 when I start. Sometimes we take a break between the two
21 closing arguments. I just play it by ear. But I invite
22 your close attention.

23 Mr. Drylie, you're recognized for your closing
24 argument.

25 ///

CLOSING ARGUMENTS

1
2 MR. DRYLIE: Good morning. The Solicitor told you
3 at the beginning of this case that if you play with fire
4 you're going to get burned; but you can't help avoiding a
5 blaze if you don't know it's there. Knowledge has been key
6 throughout this case.

7 After Mr. Ross and I are done talking the judge is
8 going to charge you with the law; and throughout his
9 instructions you're going to hear the word knowledge used
10 repeatedly. He's going to tell you that mere presence at a
11 crime scene is not enough to prove guilt. In order to find
12 Mr. Jones guilty, the State is going to have to prove
13 beyond a reasonable doubt that Mr. Jones had knowledge of
14 what was going on at his property. The judge is also going
15 to charge you on the law of conspiracy. In order to find
16 Mr. Jones guilty of a conspiracy to manufacture meth, not
17 only are you going to have to find that he had knowledge,
18 but the instruction uses the word a guilty knowledge and an
19 agreement with the other men that were there.

20 Now, if there was a conspiracy where are the
21 co-conspirators. Mr. Ross never brought them into court
22 this week; you never heard from them. I want you to think
23 about something: Why did the State never call Scott
24 Peacock to the stand? They had him under subpoena. He was
25 here; yet you never heard from him. If there was a

1 conspiracy, if he said Mr. Jones was complicit, don't you
2 think you would have heard from him at some point this
3 week?

4 Now, at the beginning of the case the Solicitor
5 told you that you're going to hear about the evidence
6 seized from Mr. Jones's property and you did; it's all
7 right here in this bag. That is the only thing that the
8 State has seized from the property. The glass measuring
9 cup, no fingerprints on it. Nothing to say that Mr. Jones
10 had handled it and some Sudafed, 6.10 grams of crushed up
11 Sudafed. How easily that could fit in your pocket.

12 Now, you we saw a bunch of pictures this week let's
13 walk through that evidence together. First we see a
14 plastic bottle that's been burned, but they can't tell you
15 who touched it. They never fingerprinted. It they don't
16 know who held it; and it was never seized from the property
17 for us to see to put into evidence.

18 We go into a garage and there's cans of starter
19 fluid. Now, Mr. Jones is somewhat of a mechanic. He likes
20 to work on cars. You heard him testify to that. Starter
21 fluid in a garage, it's not odd. Now, I understand the
22 starter fluid -- some of the cans had punched holes in the
23 bottom; and Mr. Jones told you why that is. The Joneses
24 are simple folks. They burn their trash in a barrel. If
25 you have an aerosol can and it's pressurized and you throw

1 it into a barrel and the pressure builds, it's going to
2 pop. That experience happened to Mr. Jones's father and
3 ever since then, he's been having them punch holes in the
4 bottoms of their cans before they burn them. It was a
5 routine and a habit that he had done for over ten years
6 simply because his father told him.

7 You saw a picture of a cooler with a cold pack in
8 it. Again I have the same questions: Who handled that
9 cooler? We don't know. It was never fingerprinted; no one
10 could ever tell us who brought that cooler there. You
11 heard Mr. Jones say that Mr. Peacock had come over that
12 afternoon to work on a truck; and you know most people when
13 they come over and work on a truck, then they bring a
14 cooler full of sodas or a cooler full of beer.
15 Unfortunately for Mr. Jones, it seems that this cooler that
16 he didn't own, that he didn't know was there, contained the
17 stuff to make methamphetamine; and you heard from Officer
18 Hamilton this week, all you really need is a Coke bottle
19 and a couple other chemicals to put together. This isn't
20 fifteen to twenty years ago where someone could claim that
21 someone was making methamphetamine on their property and
22 they didn't know about it, because the smell would have
23 driven them away. If you have a Coke bottle and you just
24 shake it up, eventually you let it out.

25 I understand that this is a dangerous process, but

1 it's how people are doing it these days. And the police
2 have a term for this. It's a mobile meth lab. You see
3 them all the time. You can have them in trunks of cars,
4 you can have them anywhere. People have even been known to
5 make meth while they were driving.

6 You saw the picture of the base of a blender and I
7 believe it's the State's position that they were using this
8 blending to somehow grind up these Sudafed pills. What can
9 you do with the base of a blender? There was no testimony
10 that the container part was there, the top that you would
11 need to put on to grind something up. There's no testimony
12 that the remnants were there; and again, they never took
13 the blender into evidence. If they really thought it was
14 important, why didn't they seize it so we can see it here
15 today. No one knows who touched it, and we never know
16 where the remnants of the top were or if the top was even
17 there. And by the top, I'm not talking about the lid, but
18 the actual container part.

19 Drano under the sink in that house. I'm glad we
20 can't all be convicted of that. You also heard Officer
21 Hamilton -- you also heard Officer Hamilton testify about
22 two ingredients that were not there that are needed to make
23 meth. Those two ingredients are lye and lithium strips.
24 Now, my question for you and the reason I bring this up is,
25 Where did they go. Mr. Jones was there from the time of

1 the explosion until it ended. Two people left the property
2 that day. Did they take it with them in the truck? It
3 would have been nice if we had -- if someone had followed
4 up on the truck and we had known. I'm not pointing this
5 out to say that methamphetamines weren't being made on that
6 property that day. I'm pointing it out to tell you that
7 Mr. Jones did not know about it.

8 Officer Hamilton testified about the process of
9 making meth, and he state that it takes about forty-five
10 minutes, which is completely in line with what Mr. Jones
11 told you. He was cleaning up around his house. His
12 friends come over. Around an hour later, he doesn't see
13 them working and he walks into the garage. Forty-five
14 minutes. They got there and what did they start doing?
15 They were taking advantage of Mr. Jones's kindness.

16 Now, you saw pictures of what appeared to be blood,
17 great. You know, police officers travel around and they
18 have this presumptive kit where you can test something for
19 blood and it lights up if it is blood. They didn't do it.
20 Even more so, they never tested it for DNA. They can't
21 tell you whose blood it is. Nothing. We don't know if
22 it's Scott Peacock's blood. We don't even know if it is
23 blood. They never did any of these things.

24 The judge is going to charge you about reasonable
25 doubt; and here, doubt abounds. The investigation that

1 wasn't done. They can't tell you who handled the items.
2 The only evidence they seized is right there in that bag;
3 and even more, not one witness has gotten up here to
4 contradict Mr. Jones's version of events, about what
5 happened before there was the explosion that afternoon.
6 Where is Scott Peacock?

7 Now, when the police arrived Officer Hamilton
8 testified that Mr. Jones originally stated that they were
9 working on a starter and it blew up. He then stated that
10 he saw Scotty running at him with a bottle. I want you to
11 think about Mr. Jones's condition at this point. He was
12 scared. He had just been blown up in an explosion. He was
13 confused and disoriented. He even testified he doesn't
14 really remember what happened. I also want to point out
15 and I want you to understand, that I'm not calling Officer
16 Hamilton a liar, but there were three people in that room
17 and only one person heard the statement. Only one person
18 testified to it.

19 Now, let's talk about the explosion again for a
20 minute. You heard Mr. Jones state that he was in the
21 hospital for four days. He also stated that Mr. Peacock
22 was in the hospital for three months. And he was.
23 Mr. Ross won't get up here and tell you anything different.
24 Let's think about this using our common sense. If
25 someone's running at me with a bottle forked between their

It seems apparent that someone was making methamphetamines at _____ on November 19th, 2010, and that this caused the explosion; however, Mr. Jones has maintained the entire time that he is unaware

1 of what his friends were doing and the State has not
2 presented evidence that he knew what they were doing out in
3 that tool shed.

4 Scott Peacock was making meth at that property and
5 Mr. Jones didn't know about it. In fact, that day
6 Mr. Jones was just trying to do something that we've all
7 tried to do since we were children. The Bible tells us to
8 treat our neighbor as we would want to be treated. He was
9 treating Scott Peacock as his neighbor. He had allowed him
10 to store his truck there for eight months. He allowed him
11 to use his tools to work on it. He even let him use a
12 transmission so he could hopefully get the truck up and
13 running. Mr. Jones was treating Scott Peacock as his
14 neighbor and his friend took advantage of him.

15 I want to thank you for your service this week and
16 I want to ask you to return a verdict of not guilty because
17 the State has not proven beyond a reasonable doubt that
18 Mr. Jones knew what was going on at his property that day.

19 Thank you.

20 THE COURT: Thank you, Mr. Drylie.

21 Solicitor, you're recognized for your closing
22 argument.

23 MR. ROSS: Yes, Your Honor, may it please the
24 Court?

25 THE COURT: Yes, sir.

1 MR. ROSS: Actions speak louder than words.

2 Richard Jones got up on this stand yesterday and a lot of
3 words came out of his mouth; but his actions on November
4 19th, 2010, speak louder than those words.

5 Mr. Drylie asked you can we prove knowledge. We
6 can't jump inside somebody's head. You can't jump inside
7 somebody's head. The way you prove knowledge is you judge
8 their actions. Mr. Jones wants you to think he's a victim
9 in this case, that he's a good, Christian man just helping
10 out his neighbor fixing his car. Think about his
11 testimony. He wants you to believe that there were these
12 friends of his that came over to his property to work on a
13 car and he had no idea they were cooking meth out in his
14 garage; and he walks out there at the precise moment in
15 time where this bubbling meth bottle happens to explode at
16 the precise moment in time. That's got to be a
17 one-in-a-million type chance of something like that
18 happening. What do you think the chances of that actually
19 going down are? Without taking in regard anything else he
20 said, just that first statement he made. That's got to be
21 n a one-in-a-million chance for you to walk out in your
22 garage and a meth lab explode in your face.

23 Well, is this that one-in-a-million case? Ask
24 yourself that, ladies and gentlemen. Is this
25 a-one-in-a-million-case? And to answer that, consider his

1 actions after the explosion. If he's a victim, if this is
2 that one-in-a-million case, what would you expect him to
3 do? Would you expect him to call 9-1-1? Call the fire
4 department? Would you expect him to call a friend? Plug
5 in that phone of his? Maybe call his girlfriend that was
6 on her way over for supper that night. Yell out for help.
7 Answer the door when Chief Turner comes up and knocks.
8 Would you expect him to answer the door when the police
9 knocks? When this gentleman knocks? Would you expect him
10 to answer the door when the narcotics officers knock? Does
11 he answer the door for three hours after this explosion?

12 If you are that seriously injured and you are the
13 victim of some sort of crime, you're going to immediately
14 go to the hospital. You're going to immediately call for
15 help. You're going to immediately answer that door. Think
16 of the commotion that was going on outside for those
17 several hours after this meth lab explodes in a garage.
18 This is right after work. You saw the explosion on the
19 projector. It was like something out of the movies. I bet
20 that got a lot of people's attention over there on Delree
21 Street. Image, Inc. employees run out. Neighbors come
22 out. Fire engines come out. Police. Narcotics officers.
23 This is right at Highway 1 during rush-hour traffic. Think
24 about the commotion going on there. Think about the people
25 stopping to look at that train wreck.

1 He doesn't come out of his house when all this is
2 going down? Why didn't he come out of his house? Well,
3 the answer is simple because he knew his garage just
4 exploded from a meth lab. I mean that's common sense. You
5 can't twist around the facts to suit your purpose like he
6 tried to do. Facts are stubborn things. Those were the
7 words of John Adams, one of our founding fathers during the
8 case after the Boston Massacre. Facts are stubborn things.
9 And what he mean by that was no matter how you try and
10 twist the facts, no matter how articulate your lawyer is,
11 no matter what sort of spin you try and put on the facts,
12 facts are like this jury box they ain't going to budge.
13 That's not something you can talk your way out of. That's
14 not something you can get on the stand, try and talk your
15 way out of getting in trouble over this.

16 So he doesn't answer the door. Where is he? Where
17 is he? He's hiding underneath a blanket. They asked for
18 knowledge? What do you think he was thinking when he was
19 hiding underneath that blanket? What was going on through
20 his head? A couple hours go by. He's burned. He's hiding
21 underneath a blanket he's quiet as a mouse. So quiet that
22 that first trained narcotics officer comes in to clear the
23 room, looks around, doesn't see anything and he turns his
24 back, and thankfully he's got backup because he didn't see
25 anybody there, he's so quiet.

1 Oh, but once they find him, once they say, Show me
2 your hands, oh, he's talkative at that point. He knows how
3 to talk. He's talking about car starters. He's talking
4 about Scotty. Something explodes. You have nothing to
5 hide, why are you hiding? That's what it boils down to.
6 Why are you hiding if you have nothing to hide?

7 Now, he got up on that stand and there were so many
8 inconsistencies in his testimony. I try and memorize a
9 closing argument, but I had to write all this stuff down.
10 He said he walked directly out there to the garage and he
11 had to say that, because that's the only way the whole
12 story about accidentally walking in on an exploding meth lab
13 makes sense. You saw the video. Did you see anybody
14 walking out to that garage? Look at that video. Oh, you
15 can see people coming out afterwards. There's an
16 explosion. You see people running out of that garage. Do
17 you see anybody going in? Why don't you see anybody going
18 in? Because he was there the whole time.

19 Think about what those other eyewitnesses said; the
20 folks from the business next door. One of them was driving
21 by and they saw Richard Jones run into his house. They saw
22 the two other folks get in the car. The other employee, he
23 hears the boom; he goes outside. He sees Richard Jones run
24 to his house. He sees the other two folks get into the
25 car. You can even see that on the video. You can see

1 those guys getting in their car.

2 He's going to have you believe -- and that's what
3 he testified to -- that these two other individuals run out
4 of -- first off Scott Peacock is holding this exploding
5 Coke bottle, running at him because it's sparking or doing
6 whatever, running at him; explosion; big boom. He's going
7 to have you believe they run out to the car, get out of the
8 car and then run all the way around his property and enter
9 through the back door. Y'all take a look at this. Look at
10 all this open area. You come out of a garage, get into the
11 car, get out of the car, come around, and then go in the
12 back door; and this fellow is holding this Coke bottle with
13 his little two fingers the whole way, picking up,
14 essentially an explosive device and he's going to hold on
15 to this to the car, all the way around, through these
16 woods, in the back door.

17 MS. FULLWOOD: Your Honor, I object. There's no
18 testimony about someone coming through the back door.

19 MR. ROSS: That's what he testified to, Your Honor.

20 MS. FULLWOOD: He said it was blocked or locked, is
21 my recollection.

22 THE COURT: Ladies and gentlemen, step in the jury
23 room. Don't discuss the case.

24 (WHEREUPON the jury left the courtroom is 10:11
25 a.m.)

1 THE COURT: All right. My standard response to
2 these types of objections is, I cannot make any comment on
3 the facts, but he said that you cannot get in his back
4 door.

5 MR. ROSS: Okay. I'll move on, Your Honor.

6 THE COURT: So it's outside the scope of the
7 evidence. So I have to sustain the objection; but I didn't
8 want to say that in front of the jury.

9 All right. Bring them in.

10 (WHEREUPON the jury entered the courtroom at 10:12
11 a.m.)

12 THE COURT: All right. You may continue,
13 Solicitor.

14 MR. ROSS: What did those witnesses see? They saw
15 him -- those two other individuals get into that car and
16 drive away. What did Mr. Jones want you to believe? They
17 wanted -- he wanted you to believe that they come inside,
18 they ask him, Do you want to go to the hospital. He's in
19 the shower. I guess they just slide the curtain back and
20 say, Hey, you want to go to the hospital? He's like, No
21 I'm not going to go. Why would he not want to go? Why
22 would he not want to go to the hospital with them? Because
23 he knows he's involved with a meth lab explosion.

24 But what else did these individuals apparently
25 leave behind? I guess they left that coke bottle on the

1 front step. What else did they leave behind? I guess they
2 left this sucker behind too. Oops, they dropped off their
3 smoking pipe. You think this is for, you know, plug this
4 one in? This is a smoking device found in his house. How
5 do you think that got there?

6 What are some of the other inconsistencies in his
7 testimony? He said that Scott Peacock is somebody that
8 he's known for twenty years. Said he's friends with him.
9 He said that Peacock brought over somebody else that he'd
10 never seen before; and that person came over to him shook
11 his hand. He got a good look at him and this stranger
12 blows up his garage. You don't think in the intervening
13 year and a half --

14 MS. FULLWOOD: Objection, burden shifting.

15 MR. ROSS: Your Honor, I'm not shifting any burden.
16 I think it'll be evident with what my next statement was
17 going to be.

18 THE COURT: You cannot make any comment which in
19 any way implies that the defense has to prove anything.

20 MR. ROSS: He doesn't know who that person is? You
21 don't think he knows who that person is? Is that
22 believable to you? Does that fit with your common sense?

23 He also talked about punched ether cans. These
24 cans here. Now, the defendant admitted all these cans
25 belong to him. He said something about his daddy taught

1 him to punch holes in ether cans. Ask yourself why did he
2 admit to that. There's an old saying in the law, Admit to
3 what you have to and deny everything else you can. He had
4 to admit to that. Why? Look at how many ether cans are
5 here. Did Scott Peacock bring all these cans with him?
6 Look at the age on some of these cans. Were all of them
7 brought there that day?

8 What else did you learn about ether cans during
9 this trial? You heard from Lieutenant Hamilton. He's been
10 to hundreds of meth labs. He sees these ether cans all the
11 time with a punched hole in the bottom. He testified that
12 those are consistent with a meth lab; those are the prime
13 indicators of a meth lab; and the reason if that's so you
14 don't need to have a narcotics officer tell you this, does
15 it make sense to punch a hole in the bottom to that ether
16 can? Does that make sense? It's written on the ether can
17 not to do that.

18 You remember one of the last witnesses we had on
19 Wednesday, Patrick Wicker, he was the employee at Image,
20 Inc. He was the art director. He had a beard. Came in
21 with a nice suit on. He testified that he works on cars
22 too. It's a hobby of his. Out of the blue a random person
23 that works on cars is asked, do you punch holes in ether
24 cans or the starter fluid. Did you see his response? Did
25 you see how dumbfounded he was? Because that's absolutely

1 silly. It's absolutely silly.

2 Do you think Mr. Jones is a victim here? That he
3 just happened to walk in when a meth lab exploded? He just
4 happened to have a daddy that taught him to punch holes at
5 the bottom of his ether can? He just happened to have some
6 bad friends that left behind a Coke bottle? He just
7 happened to have some bad friend that is left behind that
8 little glass? What do you think? Is he the unluckiest man
9 in the world?

10 We can prove knowledge all day long. We can prove
11 knowledge by his actions. It doesn't matter what he says
12 on the stand, those words, you have to judge those words by
13 his actions; and if we prove knowledge, we prove the case.

14 I told you at the beginning of the trial there are
15 two ways to be guilty of manufacturing meth. You can be
16 the guy shaking the bottle or you can be aiding, abetting,
17 or assisting that individual. This is the law that applies
18 in this case I'm a bit old fashioned. I think if you want
19 to know if there's a violation of the law, you've got to
20 look to the actual words. Here the actual words, and Judge
21 Keesley is going to repeat this during the jury charge, a
22 person who manufacturers or otherwise aids, abets,
23 attempts, or conspires to manufacture.

24 We've proved knowledge. He knows what's going on
25 in that garage and if he knows what's going on, he is

1 providing, at a minimum, save haven for these folks to make
2 meth. He is aiding those people; he's abetting those
3 people; he is conspiring with those people; by giving them
4 safe haven to come to his house, this fellow that lives
5 down the street, to walk over and to come to his house to
6 make drugs. At the minimum, we've proven the case.

7 Now, the last element is easy: That what was
8 cooked was actually methamphetamine. You heard about the
9 bottle. You saw the process on the PowerPoint. You don't
10 need to be a scientist to understand. You put Sudafed in
11 the bottle, you add a couple other things and shake it up.
12 It's more difficult to bake a cake than it is to bake
13 methamphetamine.

14 Now, they want to say we haven't proven that
15 methamphetamine was being made that day. What is Sudafed
16 doing in a coke bottle if they're not cooking meth? My
17 grandpa used to put peanut in his Pepsi Cola, but I have
18 never heard of Sudafed in Coca-Cola. Maybe this is some
19 new homemade cure for a cold. What do y'all think?
20 Sudafed in a coke bottle? Is that the new way to clear up
21 your allergies?

22 What about the cold packs? Y'all have seen them.
23 They were cut open. You're going to look at that picture
24 when you go back in the jury room. What do you think those
25 cold packs were for? Do you think he's training for a

1 marathon? Do you think he pulled a hamstring and, you
2 know, he needed to ice down? Well, if that's the case, why
3 was it split open to remove that ammonium nitrate from the
4 cold pack?

5 Now, I've already told you that to prove knowledge,
6 you prove this element here. But ask yourself this
7 question. Just ponder this when thinking about who was the
8 one handling the Coke bottle? You're shaking and baking
9 this sucker and it catches on fire. When you handle a
10 bottle of Coke, what do you do? Hold it with this hand,
11 open it with this hand. You do it everyday. Put the cap
12 back on, shake it some more. This hand is down by the
13 side. If this catches on fire, would you not expect for
14 this hand to be burned and this hand not to be burned.
15 What do the pictures show? This hand is burned. The other
16 one's not so burned. Look at the photos when you get back
17 in the jury box. Look at the photos of his hands. Who do
18 you think was shaking that bottle? And we can't prove he
19 didn't know what was going on? Use your common sense on
20 that one, folks.

21 Now, before I sit down, a couple more things about
22 the law. Judge Keesley's going to go over this as well.
23 He's the judge in this court. He's the judge of the law.
24 You're the judge of the facts; and he's going to talk to
25 you about the presumption of innocence and reasonable doubt

1 in this case. The presumption of innocence, everybody
2 knows that. In America every defendant is presumed to be
3 innocent at the start of a trial. Everybody that walks
4 through that door and comes in for trial is presumed
5 innocent. And we wouldn't have it any other way; but the
6 evidence in this case shatters that presumption. Nothing
7 he can say when he gets up on the stand can get him out of
8 this trouble. Nothing he can say can contradict the
9 evidence. The evidence are the facts. The facts don't
10 budge.

11 You're also going to hear about reasonable doubt.
12 Nobody can be convicted unless you're convinced beyond a
13 reasonable doubt that he's guilty. The public defender
14 talked about this. The judge is going to talk about this.
15 And I'm sure you've heard that term in the movies, on TV.
16 Well, what does reasonable doubt really mean? These aren't
17 magic words that can't be understood. Reasonable doubt
18 simply means are you firmly convinced that this individual
19 is guilty. Are you firmly convinced that this guy is
20 guilty? Are you firmly convinced that he knew what was
21 going on? And if you consider all the evidence in this
22 case, that will not be a hard decision.

23 Now, before I sit down let me thank you for your
24 service today. This case lasted longer than anybody
25 expected. I'm sure each and every one of you had better

1 things you could be doing, could be with your family, could
2 be with your friends, could be at work; but you came in and
3 you sat on the jury and you should be commended for that.
4 There was a whole line of folks that were able to get
5 excuses, and y'all didn't. And that's important. It's
6 important that you served because nothing the police ever
7 do can come to fruition unless twelve honest citizens come
8 forward and are willing to stand in judgment of somebody
9 else. And that's not an easy thing to do, to stand in
10 judgment of somebody else. It's not easy, but it's
11 necessary. It is necessary to hold people accountable for
12 their actions this.

13 This is a serious crime. This case is about
14 holding Richard Jones accountable for his actions; and
15 that's a necessary thing. So now there's only one thing
16 left to do, find him guilty as charged.

17 THE COURT: Thank you, Solicitor.

18 All right. Ladies and gentlemen I'm going to send
19 you back to the jury room. As soon as I get things set up
20 out here, I'll bring you back out and tell you the law.
21 Don't discuss the case.

22 (WHEREUPON the jury left the courtroom at 10:28
23 a.m.)

24 THE COURT: All right. We're at ease for a few
25 minutes.

1 (WHEREUPON there was a brief recess.)

2 THE COURT: During the charge, please stay still
3 and stay quiet. Don't do anything to distract the jury.
4 Bring the jury in.

5 (WHEREUPON the jury entered the courtroom at 10:36
6 a.m.)

7 JURY CHARGE

8 THE COURT: Members of the jury, all the evidence
9 has been presented, you've heard the arguments of Counsel
10 and now it's time for me to instruct you on the law that
11 applies to the case. Please continue to pay close
12 attention during this next stage.

13 Now, first you need to understand some basic ground
14 rules. You the jury members are the sole judges of the
15 facts. You decide all the issues of fact. You alone
16 determine the truth of the evidence, its effect, its value,
17 and its weight. You alone judge the credibility of
18 witnesses. In other words, whether or not a witness's
19 testimony is believable.

20 Now, in that regard you may believe all that a
21 witness said or none of it. You may believe part of what a
22 witness said and not believe the balance. You may believe
23 one witness against many, or many against one. You may
24 consider any interest, bias, or prejudice that you feel
25 that a witness has in the case. You may consider the

1 demeanor and the appearance of the witness and the
2 opportunity for knowledge that the witness had. You may
3 consider whether a witness has been consistent or
4 inconsistent. You may consider the lack of evidence
5 presented by the State. But you're not exercise these
6 considerations arbitrarily. What you want you to do is use
7 your common sense. Use your sense of logic and reason and
8 your good judgment.

9 Now, it just makes good common sense -- I need to
10 tell you before I go do into that, that it's not proper for
11 me to give you a charge on the facts of the case. I'm not
12 permitted to discuss the facts with you; I'm not even
13 permitted to convey an impression as to what, if any,
14 personal opinions that I may have about a case as it goes
15 along. So if during any stage of the trial you developed
16 an impression that I've got a personal opinion about the
17 fact, you must remove that belief totally from your mind.
18 You're the sole judges of the facts. I am the judge of the
19 law that applies to the case and under your oath, you must
20 accept and apply the law as I give it to you. That means
21 you have to abandon any conflicts, ideas you may have as to
22 what the law is or what it should be. I give you the law,
23 you apply it to facts as you determine them to be, and in
24 that way you reach your verdict.

25 It's also my job to decide what evidence is

1 admissible. If I ruled something inadmissible or told you
2 to disregard something, you're not to consider those things
3 in arriving at your verdict. Base your verdict on the
4 competent evidence before you. Consider the testimony of
5 the witnesses and the exhibits that have been admitted in
6 the trial.

7 Now, there are two types of evidence that are
8 generally presented in a trial. There's direct evidence
9 and there's circumstantial evidence. Direct evidence is
10 evidence of direct perception, including the testimony of a
11 person who asserts or claims to have actual knowledge of a
12 fact, like an eyewitness. Circumstantial evidence is proof
13 of a chain. It's proof of a chain of facts and
14 circumstances indicating the existence of a fact.

15 Now, the law makes absolutely no distinction
16 between the weight or value to be given to either direct
17 evidence or to circumstantial evidence; nor is a greater
18 degree of certainty required of circumstantial evidence
19 than of direct evidence. What you need to do is to weigh
20 all the evidence in the case; and after weighing all the
21 evidence if you're not convinced of the guilt of the
22 defendant beyond a reasonable doubt, you must find him not
23 guilty.

24 I need to explain to you that the rules of evidence
25 allow for expert -- for opinion testimony to be given under

1 certain circumstances. And one area where that's allowed
2 is where somebody by virtue of education, training, or
3 experience is qualified as an expert witness and allowed to
4 render opinions. Now, the mere fact that a witness is
5 allowed to give opinions under our rules does not require
6 you to accept the opinions given if you choose not to do
7 so. You may accept or reject the testimony of an expert
8 witness just as you may any other witness in whole or in
9 part.

10 There's been testimony in this trial about
11 statements that were allegedly made by the defendant. In
12 evaluating these alleged statements, you first need to
13 determine if the State has proven that the defendant, in
14 fact, made the statement. If not, then you cannot consider
15 that alleged statement in any way against the defendant.
16 If you find that the defendant made the statement, the next
17 thing you have to determine is whether the defendant made
18 the statement voluntarily. The State must prove that the
19 statement was the expression of the defendant's own free
20 will and was not improperly influenced by compulsion,
21 duress, force, or fear, or by the promise of some reward or
22 hope of reward. If the statement was coerced and not given
23 freely and voluntarily, then you may not consider it
24 against the defendant.

25 Now, Mr. Jones is presumed to be innocent. This is

1 no mere legal theory. It is a fundamental and substantial
2 right to which everyone is entitled. It's been described
3 as being like a robe of righteousness that's placed around
4 an accused; and it remains with him through every stage of
5 the trial; and it continues to exist after you go back to
6 your jury room to deliberate, so that he is presumed to be
7 innocent unless and until you, the jury, determine that the
8 State has proven him guilty beyond a reasonable doubt.

9 A defendant is not required to prove his innocence.
10 He is not required to prove anything. The burden is on the
11 State to prove the guilt of the defendant beyond a
12 reasonable doubt; and it's required that every essential
13 element of the offense charged be proven by the State
14 beyond a reasonable doubt. Now, that doesn't mean that the
15 State has to prove the guilt of the defendant beyond all
16 doubt or beyond every doubt. The appropriate standard is
17 proof beyond a reasonable doubt.

18 Now, some of you may have served as jurors in civil
19 court, and if you've ever served in civil court you know
20 that the burden of proof there is that the party with the
21 burden has to prove things are more likely than not, that
22 it's probable. We call that the greater weight or the
23 preponderance of the evidence. But we're not in civil
24 court, we're in criminal court; and in criminal court the
25 standard is much higher, and the proof required is much

1 stronger. The standard of proof required in criminal cases
2 such as this one, is proof beyond a reasonable doubt.

3 So what do I mean by that term? Proof beyond a
4 reasonable doubt is proof that leaves you firmly convinced
5 of the defendant's guilt. There are few things in the
6 world that we know with absolute certainty and the law does
7 not require proof that overcomes every possible doubt. If
8 based on your consideration of the evidence you are firmly
9 convinced that the defendant is guilty, then you are to
10 find him guilty. On the other hand, if you think there is
11 a real possibility that he is not guilty, then you must
12 give him the benefit of the doubt and find him not guilty.
13 There's no obligation on the part of the defense to raise
14 any doubt or any other possibility. The defendant is
15 presumed to be innocent and the State has the entire burden
16 of proof and the State has to prove to you that the
17 defendant is guilty to the exclusion of any other real
18 possibility.

19 All right. Now, let's turn to the specific charge
20 that's alleged in this case. As you know, Mr. Jones is
21 charged with manufacturing methamphetamine. The State
22 alleges in the indictment that Mr. Jones did, in Lexington
23 County, on or about November 19th, 2010, knowingly
24 intentionally, willfully, and unlawfully manufacture or
25 otherwise aid, abet, attempt, or conspire to manufacture

1 methamphetamine.

2 Now, except for licensed pharmaceutical companies
3 or pharmacies, it is unlawful in this state to manufacture
4 a controlled substance; or to aid, abet, attempt, or
5 conspire to manufacture a controlled substance.

6 I need to remind you that the indictment has no
7 evidentiary value and you are not to give it any.

8 Now, to prove any defendant guilty of a crime, the
9 State has to prove beyond a reasonable doubt that the
10 defendant acted with criminal intent. Now, the criminal
11 intent required on a manufacturing methamphetamine charge
12 is that the defendant must have acted knowingly. To act
13 knowingly means to act with knowledge, to act consciously,
14 not accidentally. It is an intentional act, a willful act.
15 The State has to prove to you that the defendant knowingly
16 and intentionally engaged in the unlawful manufacturing of
17 methamphetamine either by being actively engaged in the
18 manufacturing process itself or by aiding, abetting,
19 attempting, or conspiring to manufacture methamphetamine.
20 He must have done so willfully. So he must have acted
21 willfully to engage in the illegal conduct intending the
22 result.

23 Now, intent is a mental state and it may be shown
24 by acts and by conduct of the defendant and other
25 circumstances from which you may naturally and reasonably

1 infer intent; but the State has to prove intent, the
2 necessary criminal intent, beyond a reasonable doubt.

3 Now, to manufacture something means to produce,
4 prepare, compound, convert, or process a controlled
5 substance naturally or chemically. To aid means to help,
6 to promote the course, or accomplishment of, to give
7 support to, or to give assistance to. To abet means to
8 encourage or to support. And attempt as an attempting to
9 manufacture is an effort to accomplish a crime that does
10 not succeed. An attempt includes a specific intent to do a
11 particular criminal act along with an act falling short of
12 the act intended.

13 To the extent that the State's case involves
14 reliance an attempt to manufacture methamphetamine, the
15 State has to prove to you more than mere preparation and
16 intent. There has to be some overt act committed in the
17 effort to commit the crime.

18 Now, to conspire means to combine with one or more
19 other persons for the purpose of committing an unlawful act
20 or of committing a lawful act by unlawful means. Now, to
21 be a conspirator requires that the defendant must have had
22 a mutual understanding, agreement, or common intention and
23 plan with others to accomplish manufacturing of
24 methamphetamine. Mere passive knowledge of or consent to
25 the criminal conduct of another person is not enough to

1 make a person a conspirator. There has to be guilty
2 knowledge on the part of the defendant and participation;
3 and similarly the mere fact that the defendant may have
4 associated with another person or met with another person
5 and discussed common aims and interests does not
6 necessarily establish proof of the existence of a
7 conspiracy or that the defendant was involved in a
8 conspiracy.

9 On the other hand, it is not necessary that the
10 agreement be a formal agreement, that the persons hold any
11 kind of meeting and expressly state the terms of the common
12 plan, or that the agreement be stated in words between
13 them. The agreement of a criminal conspiracy may come into
14 being through an implied mutual understanding. The
15 willful, intentional, and knowing adoption by two or more
16 persons of a common plan is sufficient.

17 Now, no overt act needs to be shown to establish
18 conspiracy. A conspiracy may be shown by circumstantial
19 evidence and the conduct of the parties, but again there
20 has to be some act as I mentioned to you a moment ago --
21 bear with me a second -- there has to be some act done in
22 furtherance of the conspiracy in this case if you find that
23 there was any type of conspiracy.

24 So to recap for you, ladies and gentlemen, in order
25 to prove the defendant guilty of manufacturing

1 methamphetamine, the State has to prove certain things to
2 you beyond a reasonable doubt: First, that the substance
3 in question was methamphetamine or that the defendant was
4 engaged in attempting to manufacture methamphetamine.
5 Second necessary thing they have to prove is that the
6 defendant knowingly and intentionally manufactured
7 methamphetamine, either by actually manufacturing the drug
8 or by aiding, abetting, attempting, or conspiring to
9 manufacture the drug. The State has to prove to you that
10 the defendant engaged in this conduct knowingly.

11 The third necessary element that the State has to
12 prove to you beyond a reasonable doubt is that the unlawful
13 conduct occurred in Lexington County, South Carolina.

14 I need to explain to you that mere presence of a
15 controlled substance in proximity to a defendant is not
16 enough to prove that defendant guilty of a crime; likewise,
17 mere presence at the scene of a crime is not sufficient to
18 prove someone guilty of a crime. A defendant's mere
19 association with other persons, or a person or person, who
20 commits a crime does not make that defendant an accomplice
21 or an aider or an abettor. The State has to prove to you
22 that the defendant was knowingly engaged in manufacturing
23 methamphetamine or was aiding, abetting, attempting, or
24 conspiring to manufacture methamphetamine; and the State
25 has to prove every essential element of this offense beyond

1 a reasonable doubt.

2 The last thing I need to tell you about the law is
3 that the defendant is entitled to every reasonable doubt
4 arising in the whole case. If upon any issue of fact
5 essential to a conviction you have a reasonable doubt as to
6 how that issue should be resolved, you must resolve it in
7 favor of the defendant. If upon reviewing the whole case
8 you have a reasonable doubt as to whether the defendant has
9 been proven guilty, then he is entitled to that doubt and a
10 verdict of not guilty.

11 On the other hand, if upon reviewing the entire
12 case you are convinced that the State has proven every
13 essential element of the offense charged against him beyond
14 a reasonable doubt, it's equally your duty to find the
15 defendant guilty.

16 And that's the law. Folks, when you go back to the
17 jury room to decide the case, you're going to have all the
18 exhibits that have been admitted in the trial and you're
19 going to have this verdict form. On this form you're going
20 to tell us your decision in this case. I'm supposed to
21 explain to you that you're not to infer from the order in
22 which I've listed these things on this piece of paper that
23 I'm suggesting one form of verdict over another. You have
24 two possible options. I've got to list one first and one
25 second. The truth is that I did these forms at a computer

1 school for judges, probably around 1995, so I just change
2 the names and case numbers now. So long before I ever knew
3 anything about these folks this form was basically done.

4 The form reads: As to the charge of manufacturing
5 methamphetamine, we the jury unanimously find the
6 defendant, and you're told to check one option. You may
7 find the defendant not guilty or you may find the defendant
8 guilty of manufacturing methamphetamine.

9 Madame Foreman, part of your job is to record the
10 verdict. I think you'll find it self-explanatory, the
11 form. Just check the response chosen by the jury. There's
12 a signature line and I you to sign on that signature line,
13 regardless of which option the jury chooses.

14 Now, folks, how you go about taking your votes, how
15 you go about your deliberations, that's all in your
16 discretion, subject to this requirement: The verdict must
17 be unanimous. All twelve of you must agree in order for
18 the foreman to record your verdict. You cannot do anything
19 to change the requirement of a unanimous verdict. And when
20 you come out and your verdict is published or read, you can
21 be asked individually if it was your verdict and if it's
22 still your verdict. So please understand the verdict must
23 be unanimous. When you've reached your verdict, knock on
24 the door.

25 Now, folks, there's some specific instructions that

1 we're supposed to give every jury, in every case, under
2 certain circumstances. For example, I try to -- as you all
3 know, I tried an armed robbery case before this one. If
4 there was a gun involved, they had special rules about guns
5 and ammunition and things like that. In drug cases I'm
6 supposed to tell you don't open that sealed container. If
7 for some reason there's something in there that you can't
8 quite see, you send a note out to me that you want to do a
9 certain thing and we'll follow the safeguards that are set
10 up by the Chief Justice, but don't open any sealed
11 container that contains alleged drugs, all right.

12 Now, I need the thirteen of you to go back in just
13 a moment, but before you do, I have to explain to you that
14 I probably told you several dozen times now not to discuss
15 the case until I tell you to, and it's not time yet. The
16 law says that I have to go over with the attorneys what I
17 just discussed with you. Now that's just common sense. We
18 don't want you back there deciding the case using the wrong
19 law, so if I said something wrong they have to be given the
20 chance to point it out to me.

21 Now, actually what happened with this is that I
22 printed out my charge. I gave it to the attorneys
23 yesterday afternoon after you left. We went over it, we've
24 already covered these things, and so I don't think this
25 will take long. But I never read the charge verbatim. A

1 lot of it's committed to memory, which is why I stumbled a
2 little bit sometimes. I say things and don't even realize
3 I said them. So I have to give the lawyers a chance to
4 tell me what I may have done wrong. If I agree with them
5 I'll bring you back out and clarify. However, if I'm
6 satisfied with what I told you, this is the signal you need
7 to look for: When the bailiff brings the exhibits and the
8 verdict form in the jury room and brings the alternate out
9 and it's just the twelve of you in that room, the door's
10 shut, you can start talking about the case you don't need
11 to wait another second. But don't talk about the case
12 until that situation exists.

13 Thank you very much for your attention. You may
14 retire to the jury room.

15 (WHEREUPON the jury left the courtroom at 10:57
16 a.m.)

17 THE COURT: All right. Please state for the record
18 exceptions, additions, or objections to the charge. From
19 the State.

20 MR. ROSS: Nothing from the State, sir.

21 THE COURT: From the defense.

22 MS. FULLWOOD: None, Your Honor.

23 THE COURT: Did you want to preserve what you asked
24 for earlier?

25 MS. FULLWOOD: I believe, Your Honor, incorporated

1 the request to charge number one.

2 THE COURT: I meant about -- primarily about the
3 conspiracy issue.

4 MS. FULLWOOD: Yes, I would --

5 THE COURT: Okay.

6 MS. FULLWOOD: -- subject to my request from
7 yesterday.

8 THE COURT: All right. Thank you. Well, folks,
9 it's been a great pleasure being with all of you and I
10 appreciate the respect that everybody's shown the Court.
11 Check the verdict form, check the exhibits. When you're
12 satisfied give those to the bailiff.

13 (WHEREUPON the attorneys were looking over all the
14 exhibits and the verdict form.)

15 THE COURT: Just tell them this television will be
16 available outside the door if they need it. There's not
17 enough room to put it in the jury room and they just knock
18 on the door and y'all can roll it back there.

19 All right. Bring the alternate out when you take
20 the exhibits in.

21 (WHEREUPON the jury commenced deliberations at
22 11:07 a.m.)

23 (WHEREUPON the alternate juror entered the
24 courtroom.)

25 THE COURT: Where Ms. Rhodes, all the other jurors

1 made it through the case fine, so you're discharged from
2 your jury duty. You're through with jury duty. They'll
3 mail a little check to you in about ten days, you should
4 get it. There will be a slip inside there certifying the
5 days you were actually up here if you need to give that to
6 your boss. You're welcome to stay around if you'd like,
7 but you're free to go. I really appreciate your service.
8 The only other thing I want to tell you is I use an
9 alternate in about half the cases, so about half the cases
10 we do we lose a juror along with way. So that's why I had
11 to have you sit over there because once I start the case I
12 have to keep going.

13 So I appreciate your service. As I said, you're
14 welcome to stay if you like, if not I need you to just put
15 your juror button on that table for me and you're free to
16 go.

17 (WHEREUPON the alternate was excused.)

18 (WHEREUPON a recess was observed while the jury
19 continued deliberations.)

20 (WHEREUPON it was reported that the jury had
21 reached a verdict at 11:53 a.m.)

22 THE COURT: I've been informed the jury has a
23 verdict. Obviously, I have no way of knowing what they've
24 decided. When the verdict is read and thereafter, please
25 stay still and stay quiet. Don't show any signs of

1 approval or disapproval with the verdict. Don't shake your
2 head in agreement or disagreement. Don't make any sounds.
3 Please stay still and stay quiet and we'll get through this
4 just fine.

5 Bring the jury in please.

6 (WHEREUPON the jury entered the courtroom at 11:56
7 a.m.)

8 THE COURT: Madame clerk.

9 THE CLERK: Ladies and gentlemen of the jury, have
10 you reached a verdict.

11 THE FOREPERSON: We have.

12 THE COURT: Please pass it to the bailiff.

13 (WHEREUPON the bailiff hands the verdict to the
14 judge.)

15 VERDICT

16 THE CLERK: In the Court of General Sessions, the
17 State versus Richard Freeland Jones, Indictment
18 2011-GS-32-628, We the jury, unanimously find the defendant
19 guilty of manufacturing methamphetamine. Signed by Jean
20 Barton, foreperson.

21 THE COURT: Ladies and gentlemen, if your verdict
22 was accurately stated, that is guilty, please signify by
23 raising your right hand.

24 All twelve hands are raised.

25 Any matters to take up prior to the jury being

1 discharged from the State?

2 MR. ROSS: No, Your Honor.

3 THE COURT: Defense?

4 MS. FULLWOOD: No, Your Honor.

5 THE COURT: Thank you. All right. Ladies and
6 gentlemen, that's going to conclude your jury service. You
7 don't have to come in anymore or call back. You have an
8 exemption now for 2012, 2013 and 2014. You're disqualified
9 for one year since you actually sat on a trial jury, so try
10 to remember when you served. The computers are supposed to
11 be set up to purge you from the list for three years, but
12 it goes in spells. Sometimes we'll have folks that get
13 called back in. They'll mail the little Happy Meal money
14 check to you. You'll get it in about ten days and inside
15 the envelope is a slip saying the days you were actually up
16 here. So you can show that to your employer. If your
17 employer will not wait ten days, just check with the
18 clerk's staff downstairs and they'll get that for you.

19 THE BAILIFF: We've already give them the slips.

20 THE COURT: Okay. Well they're ahead of me then.

21 The bailiff indicated that some of you wanted to
22 stay around. I assume that's for the sentencing. I don't
23 know. I have to cover something with the lawyers outside
24 your presence right now. If you want to come back in and
25 watch the sentencing, you certainly may do so. I'll send

1 for you if any of you are back there. If any of you are
2 just wanting to talk to me, that's fine too, but I do need
3 to explain to you first, I'm not permed to comment on a
4 jury's verdict. No judge can comment on any jury's
5 verdict; and second I used to go back and talk to the
6 jurors after every case at the end of the term, not during
7 the term because we still had the possibility of other
8 cases coming up. They had some issues that arose in some
9 other counties primarily and it put the judges in positions
10 of becoming witnesses. The Chief Justice didn't like that
11 so she told us to stop doing it.

12 Now, most of us hate that that occurred because we
13 really got a lot out of it. While we couldn't talk act the
14 jury's verdict, we could find out from them suggestions
15 they might have as to problems they'd encountered; and
16 usually I was able to explain some legal concepts and
17 everybody left there, me and them, seeming to be better for
18 the conversation. But I can't just have a general
19 conversation with you anymore unless it's on the record.

20 Okay. But if you just want to chitchat about
21 nothing related to this case, that's fine. Now, if you
22 have a real problem you want to address with me just send
23 me a letter, but I cannot do this next part in your
24 presence. You have to either leave or wait in the jury
25 room for me. Thank you.

1 (WHEREUPON the jury left the courtroom at 12:01
2 p.m.)

3 THE COURT: All right. Motions?

4 POST-TRIAL MOTIONS

5 MR. ROSS: Nothing from the State, sir.

6 THE COURT: Yes, ma'am.

7 MS. FULLWOOD: Your Honor, we'd move for a new
8 trial. The grounds for that motion are the exceptions we
9 took and all the objections we made during this trial.

10 THE COURT: All right. The motion's respectfully
11 denied.

12 Do you have the sentencing sheet?

13 MR. ROSS: Yes, Your Honor.

14 THE COURT: Art, if what the jurors wanted to stick
15 around for was the sentencing, you can tell them they can
16 come back in if they want to watch the sentencing.

17 (WHEREUPON there was a pause in the proceedings.)

18 SENTENCING

19 THE COURT: All right. Solicitor, what do you have
20 on sentencing?

21 MR. ROSS: Your Honor, I'll start with his rap
22 sheet.

23 THE COURT: All right.

24 MR. ROSS: Begins in '87 disorderly; '88 possession
25 of marijuana, that was a bail forfeiture; '89 DUI second,

1 DUS; '89 another disorderly, two counts of simple assault,
2 criminal domestic violence; '94 DUI third, open container;
3 '96 DUI fourth, DUS third, leaving the scene of the
4 accident, he got five years probation for that, sir; '96
5 discharge of a firearm in a city; '99 DUS third leaving the
6 scene of the accident; '02 DUS; '03 DUI fourth, two counts,
7 leaving the scene of an accident, DUS; 2008, that's when he
8 starts committing felonies, Your Honor; violation of a
9 court order of protection; 2008 he's also got the
10 threatening the life of a public official conviction, as
11 well as criminal domestic violence third offense. He
12 received two years in prison for that, Your Honor.

13 Your Honor I could go on at length about the
14 dangers of drugs and methamphetamine in particular, but I'm
15 not going to do that because, obviously, you know those
16 dangers better than anyone else in this courtroom. I will
17 point out that this is not the traditional drug case. This
18 is not a routine drug case that you see coming in here in
19 and out. This particular case illustrates the inherent
20 dangers, not only to the users and the makers, but also to
21 the general public when you make methamphetamine.

22 The video here is clear. That was an explosion
23 that looks like -- it looks like Steven Spielberg put that
24 together and when they were out there cooking drugs in this
25 garage, he put the lives of those innocent people working

1 at Image, Inc. in danger, he put the other -- obviously,
2 the co-conspirators lives were in danger; the fire chief
3 that responds, these narcotics officers that respond. This
4 first responder that's there on the scene, Your Honor, all
5 of these people are placed in danger; and I know that's
6 their job, but that was an unwarranted danger that they had
7 to face.

8 Mr. Peacock, he was brought up quite a bit in this
9 case, Your Honor. He went to the Augusta Burn Center. He
10 was there for months. The defendant went to the Augusta
11 Burn Center. They're all receiving extensive medical
12 treatment. I'm not a doctor. I don't pretend to
13 understand the extent of that medical treatment, but I
14 can -- I don't think it's speculative to say that probably
15 hundreds of thousands, maybe a million dollars were spent
16 in treating these people and that is -- those are costs
17 that the State has to bear and in order to prevent those
18 types of dangers, those types of costs to society, I think
19 we have to have a strong mechanism of deterrence. A
20 deterrence in this case is to hold him accountable for
21 that. A deterrence in this case is to send him to prison,
22 Your Honor, and I think that is the right thing to do.

23 THE COURT: Thank you.

24 All right. Mr. Drylie, Ms. Fullwood, do you have
25 anything you want to say?

1 **MR. DRYLIE:** Yes, Your Honor, just real briefly.
2 First we want to point out that Mr. Jones has been out of
3 jail for the majority of time since this happened. He
4 hasn't been in any other trouble. I do want to bring Your
5 Honor's attention to the other people at the scene were
6 never charged. Scott Peacock was never charged with
7 anything. He also has been helping out his mother quite a
8 bit. She's in the courtroom here today, as well as his
9 girlfriend. She does -- he does a lot of maintenance work
10 for her keeping up her property.

11 **THE COURT:** Ms. Fullwood, do you have anything.

12 **MS. FULLWOOD:** Just briefly, Your Honor. We're not
13 in a position of really being able to make any admissions
14 into some of the fact that is were in this case, but I will
15 say this: It's my impression that if Richard was somehow
16 involved in making methamphetamine out there, it was a
17 personal-use type of situation. It wasn't some ongoing
18 enterprise. It was a small batch, and, of course, it's a
19 lot more dangerous than making moonshine, admittedly, but
20 it's something along the level of that rather than
21 something large scale.

22 I will say this also from talking to him and
23 observing him, he is a man that's very close to his family.
24 You know, he lives on that property that was once his
25 father's garage and he now has a mobile home on that

1 property where he lives. His dad died five years ago; and
2 in talking to him, he brought up his father a lot, and it's
3 very obvious -- was very obvious to me that he really loved
4 his dad. He really looked to him and he's still, even now,
5 really misses him. He also seems obviously close to his
6 mother; and I think they mutually depend on each other. He
7 has a girlfriend who's a very nice lady and I think he very
8 deeply cares for her; and it's a shame that we're now in
9 this situation, but he's not the type of person who's some
10 gangster or some sort of person on Breaking Bad or anything
11 like that. He's just a regular guy who lives over in West
12 Columbia.

13 THE COURT: Thank you, ma'am.

14 All right. Mr. Jones, if you wish to appeal
15 anything from this proceeding you have to do it in writing.
16 It's a relatively -- it's a very short timeframe in which
17 you have to file the written notice of appeal. So if you
18 want to appeal anything, I suggest that you tell your
19 attorneys about it right away. You can always -- I mean
20 there's no problem with appealing it. If you change your
21 mind later you can always withdraw it, but you can't do the
22 other way. So I would encourage you to file any appeal.

23 The second thing is if you cannot afford an
24 attorney on the appeal, there's an office of indigent
25 defense that will take over your case and they'll deal with

1 the appeal. Do you understand all that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you want to say anything? Now
4 realize this lady's taking down everything you say. If you
5 make any admissions -- you may want to talk to your lawyer
6 about whatever you want to say.

7 THE DEFENDANT: No, sir.

8 THE COURT: If there's nothing else, the sentence
9 of the Court is that you be committed to the South Carolina
10 Department of Corrections for ten years, plus costs and
11 assessments. Pay your court cost at the rate of \$50 a
12 month beginning 180 days after you're released from maximum
13 incarceration in prison. You're given credit for jail time
14 under Section 24-13-40. That will be calculated and applied
15 by the Department of Corrections.

16 Good luck to you, sir.

17 MS. FULLWOOD: Thank you, Your Honor.

18 MR. ROSS: Thank you, Your Honor.

19

20 * * * * * END OF TRANSCRIPT * * * * *

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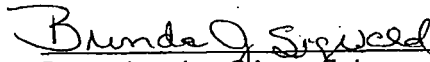
1 STATE OF SOUTH CAROLINA)
2 COUNTY OF AIKEN) CERTIFICATE OF TRANSCRIPTION
3
4
5

6 I, THE UNDERSIGNED, Brenda J. Sigwald, do hereby
7 certify that I transcribed the proceedings in the captioned
8 case that were reported by Stacy Sheppard, Circuit Court
9 Reporter for the State of South Carolina, in the Court of
10 Common Pleas in and for the State of South Carolina on the
11 11th through the 13th days of July, 2012.

12 I FURTHER CERTIFY that the foregoing pages,
13 numbered 1 through 425, constitute a true, accurate and
14 complete transcript of said hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 24th day of November, 2012.
19

20 
21 Brenda J. Sigwald,
22 Court Reporter and
23 Notary Public for the
24 State of South Carolina
25 My commission expires
January 4, 2020

WITNESSES

Lexington County Sheriffs Department

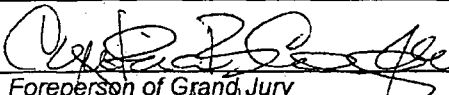
Kenneth T. Bass

Law Enforcement Case #: 10106055

MDR

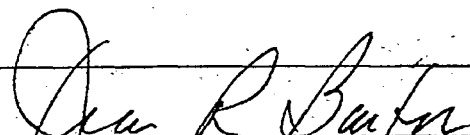
ARREST WARRANT NUMBER

M301801

ACTION OF GRAND JURY**TRUE BILL**
Foreperson of Grand Jury
Date: 11/7/11

VERDICT

GUILTY


Foreperson of Petit Jury
Date: July 13, 2012DOCKET NO. 2011GS3200628

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2011

THE STATE
vs.

Richard Freeland Jones

CDR #: 3014

Indictment for

Manufacturing Methamphetamine

§ 44-53-0375(B)

DONALD V. MYERS, SOLICITOR**A TRUE COPY**
Lex. Co. C.C.P., G.S. & F.C.

NOV 08 2011
JUL 15 2011
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

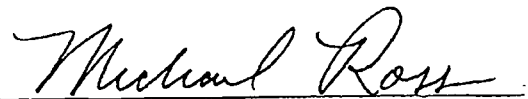
INDICTMENT FOR
Manufacturing Methamphetamine

§ 44-53-0375(B)

At a Court of General Sessions, convened on November 2011, the Grand Jurors of Lexington County present upon their oath:

That **Richard Freeland Jones** did in Lexington County, South Carolina, on or about November 19, 2010 knowingly, intentionally, willfully, and unlawfully manufacture or otherwise aid, abet, attempt, or conspire to manufacture a quantity of methamphetamine, a controlled substance under the provisions of § 44-53-110, et. Seq. and in violation of §44-53-375 (B) Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

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LEFT BLANK**

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."

February 4, 2013

A handwritten signature in black ink, reading "Robert M. Pachak", written over a horizontal line.

Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
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ATTORNEY FOR APPELLANT