

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Robin B. Stilwell, Circuit Court Judge

RECEIVED

AUG 23 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHARLES HAMMONS,

APPELLANT

APPELLATE CASE NO. 2011201887

RECORD ON APPEAL

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INDEX

INDEX.....i

TRIAL TRANSCRIPT (dated October 11, 2011).....1

INDICTMENT .....300

VERDICT .....302

SENTENCE SHEET .....303

STATE’S EXHIBIT #1 DRUG ANALYSIS REPORT.....304

COURT’S EXHIBIT #1 SEARCH WARRANT .....305

CERTIFICATE OF COUNSEL.....315

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	Case No(s).:2011GS2300238
	)	
Plaintiff,	)	
	)	
-VS-	)	
	)	
Charles J. Hammons,	)	
	)	
Defendant.	)	
<hr/>		
State of South Carolina,	)	Case No(s).:2011GS2300239
	)	
Plaintiff,	)	
	)	
-VS-	)	
	)	
Debra S. Newland,	)	
	)	
Defendant.	)	

October 11, 2011  
Greenville, South Carolina

**B E F O R E:**

**HONORABLE ROBIN B. STILWELL, Judge.**

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

**PERRY DELOACH, Esquire**  
Assistant Solicitor

**IVAN TONEY, Esquire**  
Attorney for Defendant Hammons

**ALEX KORNFELD, Esquire**  
Attorney for Defendant Newland

Reported by: Mary DiGirolamo  
Circuit Court Reporter

Transcribed by: Teresa B. Johnson  
Circuit Court Reporter

I N D E XDIRECT CROSS REDIRECT RE CROSS

October 11, 2011

Jury Qualification	9		
Jury Selection	16		
Motions	27		
Kurt Jacobson			
by Mr. Deloach	32		
by Mr. Toney		37	
by Mr. Kornfeld		40	
Motions	45		
Brandon Brown			
by Mr. Deloach	54		
by Mr. Toney		57	
by Mr. Kornfeld		59	
Court Remarks to Jury	69		
Opening Statement			
by Mr. Deloach	81		
by Mr. Kornfeld	83		
by Mr. Toney	85		
Chris Marchi			
by Mr. Deloach	90		
by Mr. Toney		96	
by Mr. Kornfeld		99	
Ruling of the Court	99		

I N D E X (con't)DIRECT   CROSS   REDIRECT   RECROSS

October 11, 2011 (con't)

## Kurt Jacobson

by Mr. Deloach	101		
by Mr. Toney		115	
by Mr. Kornfeld		119	
by Mr. Deloach			122

## Jason Owens

by Mr. Deloach	123		
by Mr. Toney		146	
by Mr. Kornfeld		156	
by Mr. Deloach			162

## Joseph Parrish

by Mr. Deloach	166		
by Mr. Kornfeld		174	
by Mr. Toney		181	
by Mr. Deloach			188
by Mr. Kornfeld			189

## Brandon Brown

by Mr. Deloach	189		
by Mr. Toney		196	
by Mr. Kornfeld		198	

I N D E X (con't)DIRECT   CROSS   REDIRECT   RECROSS

October 11, 2011 (con't)

## James Armstrong

by Mr. Deloach	202		
by Mr. Kornfeld		208	
by Mr. Toney		208	
by Mr. Deloach			212

## Chris Marchi

by Mr. Deloach	213		
by Mr. Kornfeld		217	
by Mr. Toney		218	

Motions 221

Remarks to Defendants 225

## Matthew May

by Mr. Kornfeld	228		
by Mr. Toney	229		

I N D E X (con't)DIRECT CROSS REDIRECT RECROSS

October 12, 2011

Closing Argument	
by Mr. Toney	241
by Mr. Kornfeld	256
by Mr. Deloach	264
Jury Charge	274
Jury Deliberation	288
Verdict	289
Sentencing of the Court	291
Certificate of Reporter	298

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
<b>STATE EXHIBITS</b>			
S-1	Lab Report	8	207
S-2	Photo	8	109
S-3	Photo	8	111
S-4	Photo	8	129
S-5	Photo	8	129
S-6	Photo	8	129
S-7	Photo	8	129
S-8	Photo	8	129
S-9	Photo	8	129
S-10	Photo	8	129
S-11	Photo	8	129
S-12	Photo	8	129
S-13	Photo	8	129
S-14	Photo	8	129
S-15	Photo	8	129
S-16	Photo	8	129
S-17	Photo	8	129
S-18	Photo	8	129
S-19	Photo	8	129
S-20	Photo	8	129
S-21	Photo	8	129
S-22	Envelope from Geico	112	113

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
<b>STATE EXHIBITS (con't)</b>			
S-23	Envelope from Geico	112	113
S-24	Photo	145	145
S-25	Red pills	207	207
S-26	Spoon	205	206
<b>DEFENSE EXHIBITS</b>			
(No exhibits offered.)			
<b>COURT EXHIBITS</b>			
C-1	Search warrant	36	
C-2	Letter	48	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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P R O C E E D I N G S

(WHEREUPON, State's Exhibits 1 through 21 are marked for identification purposes.)

**THE COURT:** All right. Gentlemen, uh, y'all look at the, uh, -- review the, uh, indictments and just make sure that there's nothing on the indictments that you don't want me to publish to the prospective jurors. (Pause.)

Are there any additional witnesses? Any witnesses, Mr. Kornfeld or Mr. Toney, that y'all need to tell me about, that you want me to publish?

**MR. KORNFELD:** Uh, I don't.

**THE COURT:** Any additional witnesses?

**MR. TONEY:** Uh, no. No, sir.

**THE COURT:** Okay.

**MR. TONEY:** Other than possibly our clients obviously.

**THE COURT:** I understand.

**MR. KORNFELD:** Yeah. We'll just make that decision later.

**THE COURT:** Okay.

Mr. Jenkinson, you can bring the jurors in.  
(Pause.)

In case y'all are wondering, I'm not reading the last sentence. I'm just reading the factual

1       allegations. That's it. And I'm going to advise  
2       them that those are simply allegations and not  
3       facts.

4       (WHEREUPON, the jury enters at approximately  
5       9:57 p.m.)

6               **THE COURT:** Good morning, Ladies and  
7       Gentlemen. Welcome up to Courtroom 6. Good to see  
8       you again. Uh, yesterday, I asked you certain  
9       questions that bore upon your qualifications to  
10      serve as jurors in this county and in this state.  
11      Today, I'm going to ask you questions which bear  
12      upon your qualifications and/or the suitability of  
13      you presiding as a juror in this specific case.

14             Now, Ladies and Gentlemen, before I ask you  
15      those questions, I remind you that you remain under  
16      your oath that you took yesterday morning to tell  
17      the truth. Uh, and I also tell you that I am going  
18      to read to you the indictments that the State has  
19      produced in this case.

20             Now, the indictments that I read to you are  
21      simply the charging documents from the State. They  
22      are the allegations made by the State in this case.  
23      When I read these to you, know that I am not  
24      telling you what the law may be and I'm not telling  
25      you what the facts are in this case. All I'm doing

1 is merely reading to you the allegations that the  
2 State has made in this case. The reason I read it  
3 to you is because you need to know what the  
4 allegations are, at least in summary, so you can  
5 answer the questions that I ask you from an  
6 informed and intelligent standpoint.

7 Now, know this as well, when I read these  
8 allegations to you, know that the State has the  
9 burden of proving each and every element of the  
10 offense that they have charged the defendants with.  
11 In each and every criminal proceeding in the United  
12 States of America, when a defendant comes into a  
13 courtroom, that defendant is presumed innocent  
14 until proven guilty beyond a reasonable doubt. The  
15 State has the burden of proving each and every  
16 element of the offense beyond a reasonable doubt.  
17 Until the State has met that burden, as determined  
18 by 12 jurors who've listened to the entire trial,  
19 then the defendants wear a cloak of innocence and  
20 they remain presumed innocent throughout the trial.  
21 I tell you all of that before I read these  
22 allegations so you'll recognize that it's simply  
23 the allegations I read to you so that you can tell  
24 me if you have any prior knowledge or opinion about  
25 the case.

1 Ladies and Gentlemen, the case that is being  
2 called to bar is the State versus Debra Solt  
3 Newland in Indictment number 2011-GS-23-239. She  
4 is charged with Manufacturing Methamphetamine. And  
5 the State versus Charles J. Hammons, Indictment  
6 number 2011-GS-23-238, again, charged with  
7 Manufacturing Methamphetamine. The State would  
8 allege that the defendants did in Greenville County  
9 on or about the 23rd day of June, 2010, knowingly  
10 manufacture methamphetamine or did knowingly  
11 provide financial assistance or otherwise attempt,  
12 aid, abet or conspire to manufacture  
13 methamphetamine or was in knowing or actual  
14 constructive possession of the common ingredients  
15 or supply -- or supplies used in the manufacturing  
16 of methamphetamine.

17 Now, Ladies and Gentlemen, I have read to you  
18 those allegations. So I'll ask you now, is there  
19 anyone among you who has any prior knowledge, any  
20 predisposition or any bias in this case?

21 (No response.)

22 All right. Let the record reflect no  
23 affirmative response.

24 Ladies and Gentlemen, I have read to you the  
25 defendants' names, Mr. Charles J. Hammons and Ms.

1 Debra S. Newland. Is there anyone among you who  
2 has a personal, professional or family relationship  
3 with either of these individuals? (No response.)

4 All right. Let the record reflect no  
5 affirmative response.

6 Ladies and Gentlemen, Mr. Charles Hammons is  
7 represented by Mr. Ivan Toney of the Greenville  
8 County Bar. And Debra Newland is represented by  
9 Mr. Alex Kornfeld. Is there anyone among you who  
10 has a personal or professional or family  
11 relationship with these attorneys? (No response.)

12 Ladies and Gentlemen, the State of South  
13 Carolina is represented by Mr. Perry Deloach,  
14 Assistant Solicitor with the 13th Circuit  
15 Solicitor's Office. Is there anyone among you who  
16 has a personal or professional or family  
17 relationship with Mr. Deloach or with anyone in the  
18 13th Circuit Solicitor's Office? (No response.)

19 Ladies and Gentlemen, I'm going to read to you  
20 a list of prospective and/or potential witnesses  
21 that may testify in this case. Then I'll ask you  
22 the same question as to whether you know any of  
23 them. Those are, as follows: Investigator Kurt  
24 Jacobson, Investigator Jason Owens, Investigator  
25 Chris Marchi, Investigator Joe Parrish,

1 Investigator Matt May, Investigator Brandon Brown,  
2 Investigator Tony Rodgers, James Armstrong and Kara  
3 Bennick. Ladies and Gentlemen, is there anyone  
4 among you who has a personal, professional or  
5 family relationship with any of these individuals?

6 **MR. DELOACH:** Bennick.

7 **THE COURT:** Excuse me?

8 **MR. DELOACH:** Kara Bennick.

9 **THE COURT:** Bennick?

10 **MR. DELOACH:** Yes, sir.

11 **THE COURT:** Okay. B-E-N-N-I-C-K?

12 **MR. DELOACH:** Yes, sir.

13 **THE COURT:** Okay. Just let the record  
14 reflect my mispronunciation of that name is not a  
15 consequence of my inability to read but your  
16 inability to write. Okay. All right.

17 Yes, ma'am.

18 **THE JUROR:** Personal friend with James  
19 Armstrong and I know Chris Marchi.

20 **THE COURT:** Okay. And your name and juror  
21 number?

22 **THE JUROR:** Dawn Edwards.

23 **THE COURT:** Okay.

24 **THE JUROR:** Number 58.

25 **THE COURT:** Okay. Ms. Edwards, knowing those

1 individuals, do you think that you could still be a  
2 fair and impartial juror in the trial of this case  
3 and render a verdict in accordance with the law as  
4 I give it to you?

5 **THE JUROR:** I would like to say yes, but  
6 probably more partial to the prosecution.

7 **THE COURT:** Okay. Thank you for letting me  
8 know. I appreciate that. You may have a seat.

9 All right. Anyone else? (No response.)

10 All right. Is there anyone, uh, among you who  
11 is, uh, employed by law enforcement or who has a  
12 close family member, an immediate family member who  
13 is employed by law enforcement? (No response.)

14 All right. Let the record reflect no  
15 affirmative response.

16 Is there anyone among you who is a contributor  
17 to or a member of an organization which advocates  
18 for criminal prosecution or for victims' rights?  
19 And by way of example, I mean an organization like  
20 SADD, Students Against Drunk Driving, or MADD,  
21 Mothers Against Drunk Driving, or any other like  
22 advocacy group?

23 Yes, ma'am. Name and juror number.

24 **THE JUROR:** Uh, 95. Mothers Against Drunk  
25 Drivers.

1           **THE COURT:** Okay. And do you think, given  
2 that you are a member and/or contributor to that  
3 organization, you can be fair and impartial in this  
4 case?

5           **THE JUROR:** Yes.

6           **THE COURT:** Okay. All right. Thank you for  
7 letting me know. I appreciate it.

8 All right. Anyone else? (No response.)

9 Okay. Any additional questions or voir dire?

10          **MR. DELOACH:** None from the State, Your  
11 Honor.

12          **MR. KORNFELD:** None, Your Honor.

13          **THE COURT:** Okay.

14          **MR. TONEY:** None, sir.

15          **THE COURT:** All right. Good enough.

16 All right. Ladies and Gentlemen, at this  
17 point, we'll proceed to jury selection. What will  
18 happen in jury selection -- I know that you saw the  
19 movie. I'll just remind you of what happens in, uh  
20 -- when we strike jurors. Each side gets five  
21 peremptory challenges. What will happen is the  
22 Clerk of Court will call your name. When she calls  
23 your name, I just want come forward and just stand  
24 in the middle of the courtroom and face the, uh,  
25 the clock. The attorneys will then make peremptory

1 challenges.

2 Uh, you will hear one of several things. If  
3 you hear from each attorney, please present the  
4 jury -- juror or please swear the juror or please  
5 seat the juror from both sides, then you will have  
6 a seat in the jury box. If you hear, please strike  
7 the juror or please excuse the juror from the trial  
8 of this case, then you are welcome to have a seat  
9 back in the pews, and you will have been excused  
10 from the trial in this case.

11 Please don't take any offense, uh, if you are  
12 either stricken or if you are asked to be on the  
13 jury. Attorneys, parties have very wide latitude  
14 and discretion in who they strike and who they keep  
15 on the jury and don't try to devise any particular  
16 reason why they may have stricken you or not. I  
17 would suggest to you that if you try to get into a  
18 lawyer's head, you'll probably be just as crazy as  
19 we are.

20 So, having said that, Madam Clerk.

21 **THE CLERK:** Okay. Juror 112, John Kiser.

22 What says the State?

23 **MR. DELOACH:** Please excuse Mr. Kiser from  
24 the trial of this case.

25 **THE CLERK:** All right. Mr. Kiser, you may

1 be seated. You have been excused from this case.

2 Juror 7, Carol Baehser.

3 What says the State?

4 **MR. DELOACH:** Please excuse Ms. Baehser from  
5 the trial of this case.

6 **THE CLERK:** All right. Ms. Baehser, you may  
7 be seated. You have been excused from this case.

8 And I didn't say this, but please bring your  
9 purse or whatever you have with you so you don't  
10 have to go back and get it.

11 Juror 128, Susan Massey.

12 What says the State?

13 **MR. DELOACH:** Please present Ms. Massey.

14 **THE CLERK:** What says the Defendants?

15 **MR. KORNFELD:** Please excuse the juror.

16 **THE CLERK:** All right. Ma'am, you may be  
17 seated. You have been excused from this case.

18 Juror 107, Patricia Johnson.

19 What says the State?

20 **MR. DELOACH:** Please present Ms. Johnson.

21 **THE CLERK:** What says the Defendant?

22 **MR. KORNFELD:** Please present the juror.

23 **THE CLERK:** Please present him. All right.

24 Please have a seat in the jury box.

25 Juror 88, Elnora Herd.

1           What says the State?

2           **MR. DELOACH:**   Please present Ms. Herd.

3           **THE CLERK:**    What says the Defendant?

4           **MR. KORNFELD:**   Please swear the juror.

5           **THE CLERK:**    All right. Ms. Herd, please have

6           a seat in the juror box.

7           Juror 43, Courtney Crandell.

8           **MR. DELOACH:**    What was that?

9           **THE CLERK:**    43. What says the State?

10          **MR. DELOACH:**    Please present Ms. Crandell.

11          **THE CLERK:**    What says the Defendant?

12          **MR. KORNFELD:**   Please swear the juror.

13          **THE CLERK:**    All right. Ma'am, please have a

14          seat in the jury box.

15          Juror 236, Brandon Candler.

16          What says the State?

17          **MR. DELOACH:**    Please present Mr. Candler.

18          **THE CLERK:**    What says the Defendant?

19          **MR. TONEY:**    May we ask or inquire as to what

20          his occupation is?

21          **THE CLERK:**    Mr. Candler?

22          **THE COURT:**    Yeah. Mr. Candler, what do you

23          do for a living?

24          **THE JUROR:**    Uh, (inaudible)

25          **MR. KORNFELD:**   Please swear the juror.

1           **THE CLERK:** All right. Sir, please have a  
2 seat in the jury box.

3           **THE COURT:** Must have been an acceptable  
4 occupation.

5           **THE CLERK:** Juror 42, Leslie Cook.

6           What says the State?

7           **MR. DELOACH:** Please excuse Ms. Cook from the  
8 trial of this case.

9           **THE CLERK:** All right. Ms. Cook, you may be  
10 excused.

11           Juror 57, Kelly Durfey.

12           What says the State?

13           **MR. DELOACH:** Please present Ms. Durfey.

14           **THE CLERK:** What says the Defendant?

15           **MR. KORNFELD:** Please present the juror.

16           **THE CLERK:** All right. Ma'am, please have a  
17 seat in the jury box.

18           Juror 1, Douglas Allen.

19           What says the State?

20           **MR. DELOACH:** Please present Mr. Allen.

21           **THE CLERK:** What says the Defendant?

22           **MR. KORNFELD:** Please dismiss the juror.

23           **THE CLERK:** All right. Sir, you may be  
24 seated. You have been excused from this case.

25           Juror 117, Roselyne Lawen.

1                   What says the State?

2                   **MR. DELOACH:**   Please present Ms. Lawen.

3                   **THE CLERK:**     What says the Defendant?

4                   **MR. KORNFELD:**   Please dismiss the juror.

5                   **THE CLERK:**     All right.  You may be seated.

6                   You have been excused from this case.

7                   Juror 20, Ricky Bramlett.

8                   What says the State?

9                   **MR. DELOACH:**   Please present Mr. Bramlett.

10                  **THE CLERK:**     What says the Defendant?

11                  **MR. KORNFELD:**   Please swear the juror.

12                  **THE CLERK:**     Sir, please have a seat in the

13                  juror box.

14                  Juror 156, Susan Palmer.

15                  What says the State?

16                  **MR. DELOACH:**   Please present Ms. Palmer.

17                  **THE CLERK:**     What says the Defendants?

18                  **MR. KORNFELD:**   Please dismiss the juror.

19                  **THE CLERK:**     All right.  Ma'am, you may be

20                  seated.  You have been excused from this case.

21                  Juror 70, Ronald Fowler.

22                  What says the State?

23                  **MR. DELOACH:**   Please excuse Mr. Fowler from

24                  the trial of this case.

25                  **THE CLERK:**     Mr. Fowler, you may be seated.

1           You have been excused from this case.

2           Juror 58, Dawn Edwards. Juror 58, Dawn

3           Edwards.

4           What says the State?

5           **MR. DELOACH:** Please present Ms. Edwards.

6           **THE CLERK:** What says the Defendant?

7           **THE CLERK:** I'll entertain a motion with

8           respect to Ms. Edwards based on her question during

9           voir dire.

10          **MR. KORNFELD:** Okay, Your Honor. May we

11          approach the bench?

12          **THE COURT:** You don't have to. Just make

13          your motion.

14          **MR. KORNFELD:** Okay. We ask that she be

15          excused.

16          **THE COURT:** Okay. I'll strike Ms. Edwards

17          for cause based on her responses during voir dire.

18          **THE CLERK:** Thank you. You may be seated.

19          Juror 235, Christian Burton.

20          What says the State?

21          **MR. DELOACH:** Please present Ms. Burton.

22          **THE CLERK:** What says the Defendant?

23          **MR. KORNFELD:** Please swear the juror.

24          **THE CLERK:** Sir, please have a seat in the

25          jury box.

1 Juror 77; Linda Goldsmith.  
2 What says the State?  
3 **MR. DELOACH:** Please present Ms. Goldsmith.  
4 **THE CLERK:** What says the Defendant?  
5 **MR. KORNFELD:** Please swear the juror.  
6 **THE CLERK:** Ma'am, please have a seat in the  
7 jury box.  
8 Juror 240, Scott McGinnis.  
9 What says the State?  
10 **MR. DELOACH:** Please present Mr. McGinnis.  
11 **THE CLERK:** What says the Defendant?  
12 **MR. KORNFELD:** We inquire as to his  
13 occupation.  
14 **THE CLERK:** Self-employed (inaudible).  
15 **MR. KORNFELD:** Please swear the juror.  
16 **THE CLERK:** All right. Mr. McGinnis, please  
17 have a seat in the jury box.  
18 Juror 171, Patrick Pruitt.  
19 What says the State?  
20 **MR. DELOACH:** Please present Mr. Pruitt.  
21 **THE CLERK:** What says the Defendant?  
22 **MR. KORNFELD:** Please swear the juror.  
23 **THE CLERK:** All right. Mr. Pruitt, please  
24 have a seat in the jury box.  
25 Juror 216, William Walker.

1           **THE COURT:**   What y'all need to know about Mr.  
2 Walker is a couple of years ago when I was in high  
3 school at Eastside, he was the Assistant Principal.  
4 So as he walks up here and he sees me in this  
5 dress, he's thinking they're having a snowball  
6 fight in the middle of the day.

7           **THE CLERK:**   What says the State?

8           **MR. DELOACH:**   Please present Mr. Walker.

9           **THE CLERK:**   What says the Defendant?

10          **MR. KORNFELD:**   Please swear the juror.

11          **THE CLERK:**   Juror 213, Loan Tran.

12          What says the State?

13          **MR. DELOACH:**   Please present Ms. Tran.

14          **THE CLERK:**   What says the Defendants?

15          **MR. TONEY:**    Can we approach?

16          **THE COURT:**   Yes, sir.

17          **(WHEREUPON,** a bench conference is held off the  
18 record.)

19          **THE COURT:**   I'll, uh, strike for cause in  
20 this instance. You may sit back down. Okay.

21          **THE CLERK:**   Juror 21, Darlene Brown.

22          What says the State?

23          **MR. DELOACH:**   Please excuse Ms. Brown from  
24 the trial of this case.

25          **THE CLERK:**   Ms. Brown, you may be seated.

1           **THE COURT:**       I believe that's five for the  
2           State, if my count is correct.

3           **MR. DELOACH:**    Yes, sir.

4           **THE CLERK:**    Juror 18, Stephen Bomar.  
5           What says the State?

6           **MR. DELOACH:**    Please present Mr. Bomar.

7           **THE CLERK:**    What says the Defendant?

8           **MR. KORNFELD:**    Please present the juror.

9           **THE CLERK:**    All right. Sir, please have a  
10          seat in the juror box.

11          **THE COURT:**   All right. Gentlemen, that's 12.  
12          We will, uh, pick two alternates. Strikes are one  
13          and two each.

14          **THE CLERK:**    Juror 192, Blake Shusterman.  
15          What says the State?

16          **MR. DELOACH:**    Please present Mr. Shusterman.

17          **THE CLERK:**    What says the Defendants?

18          **MR. KORNFELD:**    Please dismiss the juror.

19          **THE CLERK:**    All right. Sir, you may be  
20          seated. You have been excused from this case.  
21          Juror 67, Rachel Forstot.  
22          What says the State?

23          **MR. DELOACH:**    Please present Ms. Forstot.

24          **THE CLERK:**    What says the Defendant?

25          **MR. KORNFELD:**    Please swear the juror.

1           **THE CLERK:** Ma'am, please have a seat in the  
2 juror box.

3           Juror 185, Editha Roysdon.

4           What says the State?

5           **MR. DELOACH:** Please present Ms. Roysdon.

6           **THE CLERK:** What says the Defendant?

7           **MR. KORNFELD:** Please swear the juror.

8           **THE CLERK:** Ma'am, please have a seat in the  
9 juror box.

10          **THE COURT:** All right. Ladies and Gentlemen,  
11 to the remaining of you, I extend my condolences to  
12 you for not having been selected for this jury, but  
13 I promise you you'll get another chance. So would  
14 you go back downstairs? I don't know what Ms.  
15 Olsen has planned today and I don't know what's  
16 going on in Judge Welmaker's courtroom. But if I  
17 don't see you again, have a good week. Thanks for  
18 coming out this morning.

19          **(WHEREUPON,** the jury exits at approximately  
20 10:24 a.m.)

21          **THE COURT:** All right. Ladies and Gentlemen,  
22 to y'all, I will extend congratulations for having  
23 made the cut. Uh, we are going to start this case  
24 in fairly short order. But before we do, I need to  
25 hear some arguments from counsel regarding evidence

1 that may be presented in this case. As I suggested  
2 to you yesterday, a lot of times, these arguments  
3 take a little bit of time. But ultimately, what  
4 they do is they cause us to proceed more  
5 efficiently so you don't have to listen to evidence  
6 that may have -- may otherwise be irrelevant or  
7 inadmissible.

8 So, if you will, bear with me for a little  
9 bit. Be patient. I hope that this takes about a  
10 half an hour. And then when we come back in, we'll  
11 begin the trial of the case. I'll give you the  
12 opening charge just explaining to you essentially  
13 what your role is, what my role is and the  
14 procedure and the process that we'll follow in this  
15 case so that you'll have some idea of the landscape  
16 of the case prospectively and you won't feel like  
17 you're just being held hostage waiting for me to  
18 release you.

19 So if you will, return to your jury room.  
20 Please do not discuss the case. Mr. Jenkinson will  
21 show you around a little bit and tell you where the  
22 jury room is. And if you need anything, some  
23 snacks, a Coke or anything like that, just ask him.  
24 He'll be happy to provide it to you. All right.  
25 Thank you.

1 (WHEREUPON, the jury exits at approximately  
2 10:26 a.m.)

3 THE COURT: All right, Gentlemen. Motions?

4 MR. TONEY: Before our motions, may I take  
5 five minutes for a break please.

6 THE COURT: Yeah. Hurry up though cause I  
7 told them half an hour. I want to stick to that.  
8 Okay.

9 (WHEREUPON, a recess is taken.)

10 THE COURT: Okay. Motions?

11 MR. TONEY: Judge, we have agreed to  
12 sequester witnesses.

13 THE COURT: Okay. Good enough.

14 MR. DELOACH: I'm not agreeing to that.

15 MR. TONEY: We move to sequester witnesses.

16 THE COURT: You two agreed to sequester  
17 witnesses.

18 MR. DELOACH: These are all law enforcement  
19 officers. They've all done reports. There's no  
20 lay witnesses at trial.

21 MR. TONEY: The truth should stand for itself  
22 if they are telling the same truth.

23 THE COURT: Okay. I'm -- I'm -- I'm going to  
24 grant you order. I'll tell you, going forward, the  
25 only thing I'm concerned with is a fair trial. And

1 from the defense perspective, if they think that  
2 that compromises the fairness of their trial, then  
3 I'm going to defer in that regard.

4 **MR. TONEY:** Thank you, Your Honor.

5 **THE COURT:** So I'm going to issue an order  
6 sequestration. Additional motions?

7 **MR. TONEY:** First, we need to list -- there  
8 are certain items that we agreed would be excluded.  
9 I think we need to put that on the record.

10 **MR. KORNFELD:** Yes, Your Honor. Uh, the  
11 motion to exclude the (inaudible) that's in the  
12 incident report ---

13 **THE COURT:** Yes, sir.

14 **MR. KORNFELD:** --- 7/2/2010. Any mention or  
15 pictures or testimony about that, about a  
16 (inaudible) or any of the contents found inside of  
17 that.

18 **MR. DELOACH:** No objection to that.

19 **THE COURT:** Okay. Good enough.

20 **MR. KORNFELD:** Your Honor, we also have a  
21 motion to exclude any of the controlled buys that  
22 were part of the basis for the search warrant.

23 **MR. DELOACH:** No objection to that.

24 **THE COURT:** All right. Good enough.

25 **MR. KORNFELD:** Okay. Uh, Your Honor, I would

1 just make a motion, uh, 404(b) motion for my  
2 client. I don't know if she's going to testify or  
3 not. Exclude prior bad acts. A 609 motion to  
4 exclude --

5 **THE COURT:** Let's do that at the close of the  
6 State's case.

7 **MR. KORNFELD:** Okay. All right. I'm sorry.

8 **THE COURT:** No, that's okay. That's okay.  
9 You -- you were right to bring it up now. I just  
10 choose to do it later:

11 **MR. KORNFELD:** Okay.

12 **THE COURT:** So you're fine.

13 **MR. KORNFELD:** All right.

14 **THE COURT:** Okay.

15 **MR. TONEY:** We got a motion to suppress the  
16 search.

17 **THE COURT:** Okay. What's the basis for the  
18 suppression?

19 **MR. TONEY:** Well, we have asked for the names  
20 of the confidential informants on which that search  
21 warrant was granted. That has not been disclosed  
22 to us. We believe that we have a right to confront  
23 those witnesses and see if, under the totality of  
24 the circumstances, they are reliable witnesses.  
25 This information was never given to us. We were

1 not given any information as to their history,  
2 their background, their names and search that we  
3 can conduct our own independent investigation as to  
4 whether we believe the Court should consider them  
5 to be reliable confidential informants upon which a  
6 search warrant could be granted. And, uh, since  
7 they have refused to give us that information,  
8 refused to disclose who they are, we believe the  
9 entire search should be thrown out.

10 **MR. DELOACH:** Judge, me and Mr. Kornfeld  
11 argued this motion in front of Judge Miller on the  
12 27th. There was a ruling that the confidential  
13 informants were not to be disclosed. He did not  
14 rule that the search was sufficient, however, the  
15 State took that to mean he did not require the  
16 State to turn over any additional knowledge to the  
17 defense that he believed the search would be valid.  
18 But he did rule that the confidential informant not  
19 be turned over.

20 **MR. KORNFELD:** Your Honor, if I may, I don't  
21 know if I may oppose Mr. Toney, but as long as they  
22 are not bringing in the confidential informant for  
23 any of the controlled buys. I did make a motion to  
24 produce the confidential informant.

25 As far as the search warrant, my argument on

1           that search warrant would be that any actual search  
2           warrant that just said a -- someone in Georgia  
3           prison custody -- and I'm paraphrasing here -- but  
4           notified police officers in Greenville that there  
5           was a -- that these folks were manufacturing  
6           methamphetamine. At that time, they got their CI  
7           to do these controlled buys.

8           The only issue that I would have and the only  
9           ground that I think I would stand on this is in the  
10          search warrant, that part of the search warrant  
11          talked about the confidential informant. There is  
12          no language about the reliability in the past of  
13          that confidential informant where I usually see  
14          known to be reliable or anything like that.  
15          There's no oral testimony about that.

16          So, I guess, first, I would motion to suppress  
17          or to throw the case out. But in the alternative,  
18          if Officer Jacobson would give that oral testimony  
19          to reliability of the confidential information.

20                 **THE COURT:**    Okay.

21                 **MR. TONEY:**    One -- just one point, if I may,  
22                 with response.

23                 **THE COURT:**    Sure.

24                 **MR. TONEY:**    The chances that an inmate in a  
25                 prisoner -- in a prison unit in another state would



1                   **THE WITNESS:** My name is Kurt Jacobson.

2                   **DIRECT EXAMINATION**

3 **BY MR. DELOACH:**

4           **Q** Good morning, Investigator Jacobson. Sorry.

5 Good morning, Investigator Jacobson. How you doing?

6           **A** Fine, sir.

7           **Q** Investigator Jacobson, did you have an occasion

8 to retrieve a search warrant on the premises at 2 --

within Greer, South Carolina?

10          **A** Yes, sir.

11          **Q** And what county is that located in?

12          **A** Greenville County.

13          **Q** And what led you to want to retrieve that

14 search warrant?

15          **A** Uh, we started -- initiated an investigation in

16 reference to, uh, possible, uh, methamphetamines being

17 sold from that location.

18          **Q** How did you initially get that information?

19          **A** I believe we received -- besides, uh, road

20 deputies advising me that there were some problems at the

21 house, also we received an anonymous tip through our tip

22 line. What they were referring to is a Georgia --

23 Georgia police, actually a guy or the gentlemen -- I

24 believe it was a gentleman that advised that, uh, that

25 they were familiar with the people that lived at that

1 house, provided Ms. Newland's and Mr. Hammons' names as  
2 possibly manufacturing meth and also selling  
3 methamphetamines.

4 Q And they provided this address, correct?

5 A Yes.

6 Q Did, at that time, you do any other work at  
7 that residence in order to gain more probable cause for  
8 the search warrant?

9 A Yes, we did, uh, -- besides some surveillance  
10 of that location, we also developed a confidential  
11 informant that was able to, uh, purchase numerous times  
12 out of that residence.

13 Q Did you conduct those searches with the  
14 confidential informant?

15 A Yes.

16 Q And was that confidential informant searched  
17 prior to going in the house?

18 A Yes.

19 Q And was he watched?

20 A Yes.

21 Q And was he searched when he exited the house?

22 A He/she, yes, sir.

23 Q And how many of these buys did he do? Or he or  
24 she do?

25 A Uh, give me one second. (Pause.) Five

1 previous, uh, buys.

2 Q And that was for this location, correct?

3 A Yes, sir.

4 Q Where you received the search warrant for?

5 A Yes, sir.

6 Q In any of these searches that you did on the  
7 CI, did you discover anything?

8 A Not prior to. After the purchase of the  
9 substance, the CI is searched along with any kind of  
10 vehicle they're driving in.

11 Q Okay. Did he, other than the drugs that he  
12 bought, were there any other drugs on his person?

13 A No, sir.

14 Q Okay. After conducting these controlled  
15 purchases, did you apply for a search warrant?

16 A Yes, I did.

17 Q And which judge did you apply for that with?

18 A Give me a second. I believe by the squiggly  
19 lines, that is Judge Garrison's.

20 Q And did you prepare the search warrant?

21 A Yes, I did.

22 Q I want to show you what's been marked as  
23 Court's Exhibit 1. Can you tell me what this is?

24 A That is the search warrant that we served on  
25 the 23rd of June, 2010 for in

1 Greer.

2           **MR. DELOACH:** Your Honor, I would offer this  
3 into evidence as a Court's Exhibit only.

4           **THE COURT:** Okay. Any objection?

5           **MR. TONEY:** No objection.

6           **THE COURT:** All right. Without objection, the  
7 same is entered as Court's Exhibit number 1.

8           **(WHEREUPON, Court's Exhibit 1 is marked for**  
9 **identification purposes.)**

10 **BY MR. DELOACH:**

11           **Q** Now, Investigator Jacobson, looking through  
12 that search warrant, is there a section in that search  
13 warrant in which you outline the grounds for probable  
14 cause?

15           **A** Yes, sir. There is.

16           **Q** And in that section, did you list both this  
17 anonymous tip and these buys that you spoke of  
18 previously?

19           **A** Yes, sir. I did.

20           **Q** And did you present that to the judge?

21           **A** Yes, sir. I did.

22           **Q** Was there anything else in that section, other  
23 than what we've already discussed, that led to probable  
24 cause in this case?

25           **A** No, sir. I believe everything that's listed on

1 the investigation is what I provided the judge when the  
2 search warrant was issued.

3 Q And did you, in fact, initial every page of  
4 this report?

5 A Yes, sir. I did.

6 Q And did the judge?

7 A Yes, sir.

8 Q And did she sign off on that search warrant?

9 A Yes, sir, in two places.

10 Q And do you know what Judge Garrison's position  
11 is?

12 A She's a magistrate for Greenville County.

13 Q And that search warrant was granted, correct?

14 A Yes, sir.

15 Q And at that time, what did y'all do?

16 A At that time, once we, uh, -- we actually  
17 executed that search warrant. The search warrant was  
18 issued on the 18th, but we actually executed the search  
19 warrant on the 23rd.

20 Q That would be five days later?

21 A Yes, sir.

22 Q Okay. No more questions.

23 THE COURT: All right. Any cross-  
24 examinations?

25

**CROSS-EXAMINATION**

1 **BY MR. TONEY:**

2 **Q** The person that did these buys, what kind of  
3 criminal record did the person have?

4 **MR. DELOACH:** Objection, Your Honor.

5 **THE COURT:** Okay. All right. I'm going to  
6 sustain the objection.

7 **BY MR. DELOACH:**

8 **Q** How many buys did this person do?

9 **A** Toward this investigation, sir?

10 **Q** Yes, sir.

11 **A** I believe five.

12 **Q** And on each occasion, you, uh, delivered this  
13 person to their location?

14 **A** Delivered this person?

15 **Q** The person -- you searched the person?

16 **A** Yes, sir. The person was searched prior to  
17 going to the location.

18 **Q** Uh, how much prior? When?

19 **A** Be -- uh, within minutes of actually going  
20 there. The person is kept under constant audio and/or  
21 video surveillance before, during and after.

22 **Q** And -- and did you deliver the person to the  
23 house or did someone else?

24 **A** I put the person at the house if that's what  
25 your question is, sir.

1 Q Okay. And you sent them in with money?

2 A Yes, sir, government funds.

3 Q And you photocopied that money?

4 A No, sir. I recorded serial numbers.

5 Q Serial numbers. And did you search this  
6 individual?

7 A Yes, I did.

8 Q If this individual was a female, did you have a  
9 female officer search this individual?

10 A If a female would have been used, yes, sir, a  
11 female would have searched her.

12 Q And each time, this individual came out with a  
13 white powdery substance that tested positive for  
14 methamphetamine?

15 A Yes, sir.

16 Q And have you logged that methamphetamine into  
17 evidence?

18 A Yes, sir.

19 Q You ever use this confidential informant on  
20 other cases?

21 A Yes, sir.

22 Q How many?

23 A I can't exactly tell you that, sir.

24 Q Approximately how many?

25 A Uh, over 20, sir, probably.

1 Q And what has been the result of those cases?

2 A Uh, multiple, uh, convictions, sir.

3 Q Any nonconvictions?

4 A No, sir.

5 Q Has this informant ever been known to lie to  
6 you or deceive you?

7 A No, sir.

8 MR. KORNFELD: May it please the Court.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. KORNFELD:

12 Q The, uh, informant from Georgia that was  
13 incarcerated, he wasn't anonymous, was he?

14 A I don't know who that person was, sir. It came  
15 in through a tip line.

16 Q Okay. Did you get it from the Georgia Police  
17 Authorities?

18 A It came through our tip line, sir. It was then  
19 provided to me, I believe, by Investigator Marchi.

20 Q Okay. So you would consider him a tipster, is  
21 that correct?

22 A Yes, sir.

23 Q Okay. And then with your confidential  
24 informant, did you drive the confidential informant to  
25 the location to search the home?

1           **A**     To search the home?

2           **Q**     To search the defendant's home? How close in  
3 proximity were you to the confidential informant? Were  
4 you in the house?

5           **A**     No, sir.

6           **Q**     Were you on the property?

7           **A**     No, sir.

8           **Q**     So you didn't actually see any of the  
9 controlled buys?

10          **A**     No, sir.

11          **Q**     You would say that this confidential informant  
12 was an active participant in this case, would you say  
13 that?

14          **A**     The confidential informant was working for the  
15 state, yes, sir.

16          **MR. KORNFIELD:**   Okay. That's the only question  
17 -- that's all the questions I've got.

18          **THE COURT:**    All right. Thank you.

19          All right. Any arguments?

20          **MR. DELOACH:**   Judge, if I may at this time --  
21 can Investigator Jacobson come down?

22          **THE COURT:**    Yes, sir. Yeah. Thanks.

23          **MR. DELOACH:**   I would like to present to you a  
24 memo the State prepared for Judge Miller in regard  
25 to the confidential informant. Judge, it's clear in

1           that memo, the case law was clear that evidence must  
2           be provided to the magistrate to determine probable  
3           cause. It is also clear -- and I have the case law  
4           here, Judge, that a controlled purchase is  
5           substantial probable cause for a search warrant. In  
6           this case, we had five of them.

7           The defense is discussing this tip made by a --  
8           they've referred to this person out of Georgia as a  
9           tipster. The case law's also clear that hearsay may  
10          be used to determine probable cause. It  
11          specifically outlines law enforcement.

12          In this case, Judge, all this information was  
13          presented to a neutral and detached magistrate. She  
14          considered it, made her determination of probable  
15          cause and issued a search warrant. In the case law  
16          in the Supreme Court it's very clear that this court  
17          needs to show deference to that magistrate. The  
18          State believes the search warrant is valid and  
19          should go forward.

20                 **MR. TONEY:** Judge?

21                 **THE COURT:** Yes, sir.

22                 **MR. TONEY:** I mean, we are taking it on faith  
23                 that everything this officer said is correct. We've  
24                 not had the chance to examine, uh, the facts in this  
25                 case because we don't know who this person was, uh,

1 we don't know any of the details of these buys other  
2 than the fact that they happened on certain dates  
3 and this is what this officer says.

4           Whereas the Court will defer to a neutral and  
5 detached magistrate, there's also plenty of case law  
6 that says that magistrates are not supposed to  
7 simply rubber stamp these things. In this case, we  
8 have no evidence that this officer presented any of  
9 the actual details other than the fact of the basic  
10 allegations that he used the informant before. We  
11 have no way of verifying if the results that this  
12 officer stated as obtained by this informant are  
13 correct. We have no way of testing the drugs. We  
14 have no way of testing or determining if what he  
15 said is true, if this was, in fact, a controlled buy  
16 or if at any time they lost control, such as,  
17 whether this individual met up with other  
18 individuals. We have no way of verifying the time  
19 spent in the house. We don't know if this was a  
20 male or female officers, I mean, under -- informant  
21 or if she was properly searched. We just don't  
22 know.

23           We have no effective right of cross-examination  
24 because we don't know who this is. We feel that  
25 we've been denied our basic constitutional rights.

1 We ask that you suppress this entire search.

2 **THE COURT:** Okay. Mr. Kornfeld?

3 **MR. KORNFELD:** Your Honor, I don't want it to  
4 just look like we're litigating whether or not the  
5 confidential informant needs to be produced or not.  
6 That's been done and the answer to that I was told  
7 this today.

8 **THE COURT:** Yes, sir.

9 **MR. KORNFELD:** But the search warrant, the  
10 motion to suppress the search warrant or to throw  
11 the case out, a basic search warrant, was denied. I  
12 think that there are some concerns with the search  
13 warrant. One, we were never given any information  
14 about the tipster, which is their right. They don't  
15 have to do that. But then you look at whether  
16 somebody is an actual active participant in those  
17 things. We never knew the credibility until I went  
18 to the motion hearing on that. We still don't know  
19 the credibility or reliability of that confidential  
20 informant which the search warrant was based. That  
21 is our argument. That's the entire argument.

22 **MR. TONEY:** Judge, I have to say this. I  
23 don't concede anything that he's conceding. I was  
24 not at that motion. I did not agree with that  
25 result. This is my motion.

1           **THE COURT:** I understand.

2           **MR. TONEY:** I believe my client has an  
3 absolute right to cross-examine this officer as to  
4 the details of each incident and to know in advance  
5 this person's record. I don't believe that we -- I  
6 believe that we've been denied our right to confront  
7 witnesses in this case.

8           **THE COURT:** Okay. You are protected on the  
9 record in that regard. With -- with, uh, -- with  
10 regard to the search warrant, I respectfully deny  
11 the defense motion. The relevant case law would  
12 indicate that, uh, that probable cause in this  
13 instance existed. The officer's testimony was  
14 credible that probable cause in this instance was  
15 not only upon a tipster and not only upon the  
16 confidential informant but also on the observations  
17 of other police officers who had observed activity  
18 on or about the residence. Therefore, in the  
19 aggregate, I think that there was sufficient  
20 probable cause upon which the magistrate issued a  
21 search warrant.

22           **MR. DELOACH:** Thanks, Judge.

23           **THE COURT:** Anything else?

24           **MR. KORNFELD:** Your Honor, one more motion.

25           **THE COURT:** Okay.

1           **MR. KORNFELD:** Your Honor, on, uh, -- what day  
2 was it? Recently, I received a letter from Perry  
3 Deloach informing me that some of the evidence that  
4 was picked up at the case, at the site, was picked  
5 up by Agent Brandon May -- Brown. As it turns out,  
6 Agent Brandon Brown, at the time that this took  
7 place, was not meth lab certified. I believe  
8 according to the rules, it needs to be done by  
9 somebody who is meth lab certified. That person in  
10 this case was Agent Joe Parrish.

11           **MR. DELOACH:** Your Honor, he's stating facts  
12 that aren't correct. Joe Parrish was not meth lab  
13 certified. Brandon Brown was.

14           **THE COURT:** Okay.

15           **MR. DELOACH:** That's the reason he took it to  
16 the --

17           **THE COURT:** Okay.

18           **MR. KORNFELD:** It's Agent Brown that was meth  
19 lab cert--

20           **MR. DELOACH:** Correct.

21           **MR. KORNFELD:** Okay, Your Honor. I guess I  
22 misspoke. Agent Brown is meth lab certified. Agent  
23 Parrish is not meth lab certified. In any event,  
24 there are specific items of which I'm still not  
25 clear on, but Perry tells me that they are items

1 JP17, JP30A, which doesn't exist in my discovery,  
2 and JP30B, which also doesn't exist in my discovery.  
3 Okay. When I look at the supplemental report of  
4 Officer Parrish, he states Investigator Brown took  
5 custody of Items JP1, JP2, JP16, JP17, JP30 and  
6 JP31.

7 There's another element to this. I received  
8 this supplemental report on August the 4th and then  
9 a copy again on August the 5th from Solicitor Perry  
10 Deloach. I believe Perry told me that these  
11 incident reports, he did not have them in his  
12 position at the time. Mr. Parrish actually had to  
13 create this supplemental report right before we were  
14 supposed to go to court the first time.

15 At that time, it is in my belief that he could  
16 have come clean and said I wrote my name for someone  
17 else in that -- when he put it in Property and  
18 Evidence. He didn't put I'm writing this on behalf  
19 of Joe Parrish -- on behalf of Brandon Brown. He  
20 just put Brandon Brown's name. To me, that's a  
21 fraud on it because he knew that at some point, this  
22 may come to trial. He was stating that he was  
23 someone else and it wasn't in his signature.

24 For those reasons, I think that these things  
25 need to be excluded from evidence as well as some of

1           these other items need to be excluded from evidence  
2           because there's inconsistencies. The letter I  
3           received and the supplemental report that I received  
4           that was given to me on August 4th and August 5th of  
5           this year right before trial.

6           **MR. TONEY:** Sir, if it's okay with Mr. Deloach  
7           before he responds ---

8           **THE COURT:** Yes, sir.

9           **MR. TONEY:** --- I'd like to join this motion.  
10          I'd like to introduce a copy of the letter that I  
11          received from Mr. Deloach, which is relevant to  
12          this, uh, ---

13          **THE COURT:** Okay. You need to introduce it,  
14          sir?

15          **MR. TONEY:** Yes, I do.

16          **THE COURT:** You need to mark it as a Court's  
17          Exhibit.

18          **MR. TONEY:** Yes, I do.

19          (WHEREUPON, Court's Exhibit 2 is marked for  
20          identification purposes.)

21          **MR. TONEY:** When Your Honor's ready.

22          **THE COURT:** Hold on. (Pause.) Okay?

23          All right. Mr. Toney?

24          **MR. TONEY:** Judge, the letters say, uh, per  
25          our telephone conversation, it's come to my

1 attention Agent Brandon Brown put Agent Joe  
2 Parrish's name on several BEST evidence bags. The  
3 bags are in the Property and Evidence room. Agent  
4 Parrish served as the scribe. The allegation, the  
5 information is disclosed I believe very much  
6 belatedly before trial that the officer, uh, Brandon  
7 Brown, uh, fraudulently put another agent's name on  
8 the BEST evidence bag.

9 We think that is a -- we think that the  
10 allegation that he did it as a scribe is not  
11 accurate. We think that he basically just signed  
12 someone else's name. Just like somebody who writes  
13 a bad check or a fraudulent check and signs someone  
14 else's name to it.

15 The reason for the proper signing of names on  
16 the chain of custody forms is to identify  
17 particularly who the persons are that have  
18 transported this evidence. In this case, it was not  
19 signed as a scribe. There's no other information  
20 that this was their general practice. There's no  
21 letters stating that that would be the case. But  
22 they have simply just signed each other's name.

23 And worse -- at best, it's sloppy. At worse,  
24 it's lying and mislabeling this evidence. And the  
25 reliability is so suspect and the practice is so

1           disreputable that if this evidence is not excluded,  
2           we think that this possibly makes this case -- this  
3           is reversible error for the Court to allow this in.  
4           This would primarily apply to the (inaudible).  
5           There is a picture of the (inaudible). There's  
6           other evidence from which they could make their case  
7           if they wish. They've got some solvents and some --  
8           they claim they've some battery packs or whatever.  
9           But this evidence here, if it's put into evidence,  
10          is fatally flawed and has been terribly compromised.  
11          We do not believe that this should be allowed into  
12          evidence in this case.

13                 **THE COURT:**    Okay.    Good enough.    Thank you.

14                 **MR. DELOACH:**    Judge, I've got to touch on a  
15           lot of stuff.    First and foremost, the word  
16           fraudulent and lying is absolutely improper in this  
17           case.    Brandon Brown is here.    He will testify that  
18           in his practice as a law enforcement officer and it  
19           has been his practice that if he is merely  
20           transporting the evidence because the person who is  
21           the scribe on this report, meaning that is a term --  
22           and if the attorneys would like to go and talk to  
23           the narcotics agents about how they do their  
24           reports, they could.

25                         A scribe is a person who logs the stuff that

1       they find in evidence. That's what we mean by the  
2       term "scribe". The scribe in this case was Joe  
3       Parrish. He is here. He was not meth lab certified  
4       at the time. So that was their policy not to allow  
5       someone who is not meth lab certified to put the  
6       evidence into the evidence room.

7                So he handed the evidence to Brandon Brown, who  
8       is also here, to put it into the evidence room.  
9       Brandon goes down and puts it in. He says that in  
10      my policy, I am the scribe. I am merely  
11      transporting it down there. I put their name on the  
12      back. Joe Parrish will testify he is the one who  
13      did all the work, the collecting, the logging. He  
14      merely transported it from the scene to the evidence  
15      room and put it into evidence. That's it. His  
16      testimony will take a very short period of time,  
17      Brandon Brown's will.

18               As far as the accusation that we did not give  
19      them Items 30A and 30B, if they will look at the  
20      drug lab itself, it says, Item JP17, JP30A and  
21      JP30B. The reason that is is because on the  
22      Property and Evidence sheet, the narcotics agents  
23      labeled it JP30, but it's two bags. So the lab gave  
24      it A and B. That's all there is to that.

25               Uh, in this case, I think it is certainly not

1 fraudulent. That is absurd. This is a case where  
2 the officer is here to testify why he did what he  
3 did. If the attorneys want to argue that as weight  
4 to the jury, they are more than welcome to. But  
5 he's here. He's going to testify. He'll testify  
6 it's his normal procedure. Judge, we'll establish a  
7 chain from beginning to end. That's the State's  
8 motion or the --

9 **THE COURT:** Okay.

10 **MR. TONEY:** Judge, the, uh, the flaws are so  
11 serious that just saying that it's the normal  
12 procedure, that would be like me saying my normal  
13 procedure is to steal or my normal procedure is to  
14 lie or my normal procedure is to rape or kill, so I  
15 should be able to go and do that anytime I want.  
16 The fact is, these forms say received by and then  
17 they sign. And that's what it says.

18 If that's not bad enough, they went and tied it  
19 up later with an incident report where they stated  
20 that these exact same officers that signed are the  
21 ones that transported it. The only reason they gave  
22 us this information was because we're coming up for  
23 trial. That's why it was supplement, why they  
24 didn't give it to start. They waited a year to give  
25 this information.

1           It's bad enough that they've got the wrong  
2           names, but they've also mislabeled it. In this  
3           case, this evidence is so flawed that it does not  
4           have sufficient reliability to show that there was a  
5           chain of custody. This should absolutely be  
6           excluded. I say it's either fraud or its some sort  
7           of gross negligence. But either way, a jury should  
8           never see that.

9           **THE COURT:** All right. Let's put the officer  
10           on the stand. I want to hear his testimony  
11           regarding that particular issue.

12           **MR. DELOACH:** Just put Brandon Brown or both  
13           officers.

14           **THE COURT:** Whatever you think is appropriate.  
15           I want to know how it got from the complaining start  
16           point to the complaining end point.

17           **MR. DELOACH:** Yes, sir.

18           **THE COURT:** And if that requires two officers,  
19           then put both of them up.

20           **MR. DELOACH:** Yes, sir.

21           **THE COURT:** Obviously, all I want to know is  
22           how it was transferred. There's an issue with  
23           respect to execution of a signature on documents. I  
24           want to know what was signed, when it was signed,  
25           why it was signed.

1           **MR. DELOACH:** Yes, sir.

2           **THE COURT:** Okay.

3           **MR. DELOACH:** Your Honor, at this time, the  
4 State calls Brandon Brown to the stand.

5           **THE CLERK:** Sir, please place your left hand  
6 on the Bible and raise your right hand.

7                           **BRANDON BROWN**

8           having first been sworn, testifies as follows:

9           **THE CLERK:** Thank you. Please be seated.  
10          Please state your full name for the record.

11          **THE WITNESS:** Brandon Brown.

12                           **DIRECT EXAMINATION**

13 **BY MR. DELOACH:**

14           **Q** Good morning, Investigator Brown.

15           **A** Morning.

16           **Q** Investigator Brown, do you recall the events  
17 we've been discussing in the courtroom today that  
18 occurred on 6/23/2010?

19           **A** Yes, sir. I do.

20           **Q** Did you have an occasion to work on that case?

21           **A** Yes, sir. I did.

22           **Q** And in your duties in that case, did you take  
23 some evidence from Officer Joe Parrish?

24           **A** Yes, sir. I did.

25           **Q** And do you know which items you took? Was it

1 all the evidence? Was it some of the evidence?

2 A I would have to look at my supplement ---

3 Q Okay.

4 A --- to be able to confirm that. (Reviewing.)

5 I took control of items JP1, JP2, JP31, JP16,  
6 JP17 and JP30.

7 Q Okay. Now, when you took those items from  
8 Officer Parrish or Agent Parrish, why did you do that?

9 A I, at the time, was meth lab technician  
10 certified. Therefore, it is our policy within Greenville  
11 County to not allow someone placing meth lab items into  
12 Property and Evidence. So if there is someone acting as  
13 the scribe, which Investigator Parrish was conducting as,  
14 it is my responsibility as a meth lab technician  
15 certified individual to take possession of those items  
16 and place them into Property and Evidence.

17 Q Now why is it that y'all treat meth lab items  
18 differently than other items?

19 A Because they've very hazardous to, not only  
20 environment, but to the individuals that are handling  
21 them as well. Those items have to be cared for and  
22 packaged in a certain manner.

23 Q Okay. Now when you got to the evidence room,  
24 did you log these items into evidence?

25 A Yes, sir. I do.

1 Q When you logged them into evidence, on the  
2 evidence log, who's name did you put?

3 A On the evidence log, it is my name and my  
4 signature.

5 Q On the actual BEST evidence bag, you took bags,  
6 who's name did you put on there?

7 A I handwrote Investigator Parrish's name. Did  
8 not sign. Handwrote his name because he was the one that  
9 actually took possession of the items on the scene.

10 Q Now, is this a practice that you normally do?

11 A Yes, sir. It is.

12 Q And why is that?

13 A If I'm not the one actually taking original  
14 possession of it, I'm not going to put my name on  
15 something whenever -- that would show two different names  
16 taking possession of it. That would show his name and my  
17 name. That's the purpose of us having a scribe on the  
18 search warrant is that individual who is the scribe is  
19 the primary custody taker of that evidence.

20 Q Did you ever have any intent of misleading  
21 anyone in any way over this?

22 A No, sir. I did not.

23 Q Okay. And did that evidence -- once it was  
24 handed to you by Investigator Parrish, before it was  
25 logged in, did it ever go into anyone else's custody?

1           A     No, sir. It did not.

2           Q     So it was in your sole custody from the time  
3 that you got in front of Investigator Parrish to the time  
4 you logged it in, correct?

5           A     Yes, sir, it was.

6           MR. DELOACH:   Okay. No more questions, Judge.

7           THE COURT:   All right.

8                               **CROSS-EXAMINATION**

9           BY MR. TONEY:

10          Q     You said if I'm not the one taking original  
11 possession of it, I'm not going to put my name on it?

12          A     No, sir. I did not.

13          Q     That's what you just said?

14          A     No, sir. I said that the original person that  
15 takes possession of it, his name goes on a property bag.  
16 That is why I sign the P&E sheet is because I then placed  
17 it into Property and Evidence.

18          Q     So on the sheet that says, uh, Brandon Brown on  
19 the Property report, is that your signature?

20          A     I would have to look at it, sir.

21          Q     Can I see that document?

22          A     Sure.

23          Q     Did you, uh, -- did you sign any of these?

24          A     Yes, sir. That's my signature stating that it  
25 went into Property and Evidence as well as chain of

1 custody.

2 Q Any of these papers contain your signature?

3 A Yes, sir. Same place as taking it into  
4 Property and Evidence and chain of custody.

5 Q So who signed for you?

6 A I'm sorry?

7 Q Who's name did you sign also?

8 A I didn't sign anyone else's name.

9 Q Did anyone sign your name?

10 A No, sir.

11 Q This letter says that Agent Brown, Brandon  
12 Brown put Agent Joe Parrish's name on several BEST  
13 evidence bags?

14 A I did put his name, yes, sir. I did not sign  
15 his name.

16 Q But were you in custody of those bags at all  
17 times?

18 A From the time they were turned over from  
19 Investigator Parrish to me, yes, sir.

20 Q But was there a time when Agent Parrish had  
21 those bags solely and exclusively in his custody?

22 A There could have been a chance while he was a  
23 scribe on the scene, yes, sir.

24 Q Basically he had them for a while, correct?

25 A I can't testify at the time, sir.

1 Q So you don't know who had these bags for sure?

2 A They left Investigator Parrish's possession to  
3 my possession. It went from my possession directly into  
4 Property and Evidence.

5 Q So it did leave Investigator Parrish's  
6 possession?

7 A To me, yes, sir.

8 Q So he had them for a while?

9 A Yes, sir. I can't testify to the time.

10 Q I didn't ask about the time. All I asked was  
11 did he have them in his possession.

12 A Yes, sir. He did.

13 Q And you signed his name to it?

14 A No, sir. I did not.

15 Q He signed -- you put his name on several BEST  
16 bags and signed his name?

17 A I did place his name on the evidence bags. I  
18 did not sign his name.

19 Q But that name does not require a signature, it  
20 just requires a name?

21 A That's correct.

22 MR. KORNFIELD: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. KORNFIELD:

25 Q Investigator Brown, uh, you spoke about what

1 items you actually took. Your incident report also  
2 included JP31. You left that off the list. JP31, can  
3 you explain why you left JP31 off the list?

4 A The items that I named off, to include JP1,  
5 JP2, JP31, JP16, JP17 and JP30 are the items I took  
6 possession of.

7 Q Okay. So JP31 is in there?

8 A Yes, sir.

9 Q Okay. All right. And we can -- you are meth  
10 lab certified. Agent Joe Parrish isn't meth lab  
11 certified?

12 A He is now certified.

13 Q At the ---

14 A The time, he wasn't.

15 Q --- time, he wasn't meth lab certified. Okay.

16 If you are meth lab certified, why would you act as the  
17 scribe?

18 A Because as a meth lab certified individual,  
19 they would rather have us searching location, rather than  
20 writing scribe.

21 Q Can you act as a scribe and be meth lab  
22 certified?

23 A You can, yes, sir.

24 Q You think that would have been the better  
25 practice here?

1           **A**     No, sir. I do not.

2           **Q**     Do you think that there's going to be no  
3 problems -- there's going to be no problem with the chain  
4 of custody if you follow the procedure and you are meth  
5 lab certified and you act as a scribe, is that correct?

6           **A**     Being meth lab certified, we need to be the  
7 ones to actually look at the location and lay hands on  
8 the evidence because of the given hazards of meth labs.

9           **Q**     Would you agree that it would have been better  
10 practice for you to be the scribe on this?

11          **A**     No, sir. I would not.

12          **MR. KORNFELD:**   Okay. No further questions.

13          **THE COURT:**    Okay. Any further questions, Mr.  
14 Deloach?

15          **MR. DELOACH:**   No, sir, Your Honor.

16          **THE COURT:**    Okay. Thank you, Officer. I  
17 appreciate it.

18          **THE WITNESS:**   Thank you, Judge.

19          **MR. DELOACH:**   Just quick argument. The  
20 officer's testified that this was not a fraudulent  
21 act. This was merely his opinion as to the best way  
22 to handle the evidence. He is here to testify as is  
23 Agent Parrish, as is the, uh, lab technician that  
24 tested the evidence. We take the position that the  
25 chain is in tact and the evidence should come in.

1           **THE COURT:** By exception, okay, because y'all  
2 argued this essentially on the front end. So argue  
3 by exception, that is, argue specifically to what  
4 may have been said on the stand. Okay. I'll be  
5 happy to hear from you.

6           **MR. TONEY:** If I could have just a moment to  
7 think about your instructions.

8           **THE COURT:** Okay. Well, this is what I know,  
9 Mr. Toney, is that you take the position that there  
10 was a misrepresentation by law enforcement and that  
11 rises to the level of fraud ---

12           **MR. TONEY:** Or gross negligence.

13           **THE COURT:** --- or gross negligence. And  
14 because that -- because of that, this evidence, the  
15 chain of command -- chain of, excuse me, of custody  
16 is faulty. This evidence is nonreliable and should  
17 not be admitted into evidence and the Court should  
18 exercise its roll as a gatekeeper and disallow it.

19           **MR. TONEY:** It's not just the chain of  
20 custody. It's also the mislabeling of evidence. The  
21 problem comes when you have so many errors, all  
22 combined. This is a little more involved than what  
23 we've discussed before. But, uh, there are so many  
24 errors, there's so much mislabeling and there's  
25 absolutely no testimony as to who was in control,

1           why they didn't sign for this evidence. There's so  
2           many officers on the scene. So much of a  
3           possibility for contamination, uh, that we think  
4           alone the chain of custody would be enough to throw  
5           this out. But with the mislabeling, it has polluted  
6           this entire -- this entire piece of evidence, these  
7           pieces of evidence. And they just have to be thrown  
8           out.

9           **THE COURT:** Okay. Mr. Kornfeld?

10          **MR. KORNFELD:** May it please the Court, Your  
11          Honor. Arguing in the exception, I think Officer  
12          Brown stated on the stand that he didn't know how  
13          long Officer Parrish had it. He didn't know. He  
14          wasn't around. And my argument is that they wrote  
15          this letter because -- it actually would have been  
16          better if he would have followed the rules of the  
17          meth labs.

18          I think the timing of when I actually got this  
19          information, I think it is a letter dated September  
20          30th. I actually got the letter October 2nd, I  
21          believe. The fact that there was a supplemental  
22          report on August 4th and August 5th, the Thursday  
23          and Friday before we were supposed to go to trial, I  
24          believe on Monday. I do have concerns about the  
25          truthfulness and the chain of custody of this. For

1           those reasons, I ask specifically that you exclude  
2           the evidence that has been referenced in Perry's  
3           letter and also the evidence that Mr. Brown speaks  
4           about in his supplemental report.

5           **THE COURT:**   Okay.  All right.  Thank you,  
6           Gentlemen.  I appreciate that.  Uh, after having  
7           heard the testimony, reviewed the letter, uh, I  
8           think that, uh, defense counsel's position is an  
9           advocate's characterization of what happened.  I  
10          think that based on what I hear, the officer simply  
11          labeled a bag and then transported it.  I didn't  
12          hear any evidence that there was a signature on  
13          which the officer expected someone to rely on that  
14          signature.  It sounded like it was simply a  
15          labeling.

16          And inasmuch as this is fungible evidence, I  
17          recognize that the State has the burden of strictly  
18          establishing the chain of custody.  But after the  
19          chain of custody has been established, testimony as  
20          to the care and handling of a piece of evidence of  
21          someone in the chain of custody goes instead to the  
22          weight of the evidence as opposed to the chain of  
23          custody of the evidence.  I acknowledge that some of  
24          the preliminary documents that were provided seem to  
25          suggest that there was a gap in the chain of custody

1 if you looked at it at face value. But upon closer  
2 inspection, I think that gap disappears and  
3 certainly when the officer testifies -- he testifies  
4 as to what exactly happened and the gap essentially  
5 evaporates. Looking at it specifically with respect  
6 to a chain of custody issue, I respectfully deny the  
7 motion.

8 But it sounds like to me that y'all and making  
9 an additional motion, which is a discovery abuse.  
10 Having heard the testimony and having looked at the  
11 letter and the timing of all of these, of all of  
12 this having happened, I don't think it rises to the  
13 level of a discovery abuse.

14 Believe me, I'm very sensitive to defendants'  
15 rights being tampered with by the State. I am a  
16 advocate of due process and of full disclosure. In  
17 these proceedings, my only concern is that everybody  
18 gets a fair trial. In this instance, I will state  
19 again that I think the characterization of the  
20 events in this case by counsel are an advocate's  
21 characterization. I don't think it is nearly as  
22 prejudicial from inception, that is, with regard to  
23 your ability to try the case as you would suggest.  
24 Therefore, I'm going to deny excluding the evidence  
25 based on any perceived discovery abuse. I find that

1           there was not one. Okay.

2           **MR. DELOACH:** Thank you, Your Honor.

3           **THE COURT:** Anything else?

4           **MR. DELOACH:** Judge, the only thing the State  
5 would have is a couple of housecleaning issues.

6           **THE COURT:** Yes, sir.

7           **MR. DELOACH:** The search warrant lists the  
8 buys on it. The State would like for us to come to  
9 an agreement now as to whether or not we're going to  
10 stipulate to the probable cause of the search  
11 warrant so that search warrant does not have to be  
12 given to the jury. I do not believe the defense  
13 wants it to be given to the jury because it's going  
14 to list five different buys that were had at this  
15 house. If they will stipulate to the probable  
16 cause, the State has no reason to bring it in.

17           **THE COURT:** All right. What's your position  
18 on that? And let me tell y'all this, I think as  
19 opposed to a stipulation, that might not be what you  
20 want to do. Probably what you want is a charge from  
21 the court if there's already been a determination as  
22 to probable cause.

23           **MR. TONEY:** Yes.

24           **MR. KORNFELD:** Yes, Your Honor.

25           **THE COURT:** Okay. All right. Fair enough.

1 Good enough.

2 MR. DELOACH: And Judge, there are some  
3 statements that were made in this case we might want  
4 to take up. I don't know if they want a hearing.

5 THE COURT: All right.

6 MR. KORNFELD: We do.

7 THE COURT: All right. Y'all, listen, if  
8 you're going to have an hour and a half of motions  
9 and things to take up before the jury gets out, tell  
10 me that kind of stuff. I got a jury back there who  
11 is just waiting on us. Okay. They're just waiting  
12 on us.

13 MR. TONEY: We apologize.

14 THE COURT: It's very inconsiderate of them  
15 for y'all to take up an hour and a half to two hours  
16 of court time without telling me. That's all you  
17 got to do is tell me. It makes y'all look bad to  
18 the jury. It makes me look bad to the jury. Okay.

19 MR. DELOACH: Yes, sir.

20 THE COURT: All right.

21 MR. TONEY: On behalf of my client, we  
22 apologize for that. We know they are doing this on  
23 a volunteer basis. We're sorry.

24 THE COURT: All right. Uh, how much time do  
25 you anticipate the Jackson v. Deno hearing is going

1 to take?

2 **MR. DELOACH:** Judge, uh, they are short  
3 statements where Miranda was read. I don't believe  
4 it should take long at all.

5 **THE COURT:** What's the defendants' position on  
6 this? And let me ask you this, do you intend to  
7 present those witnesses if the defendants testify in  
8 the defense's case-in-chief?

9 **MR. DELOACH:** Your Honor, we intend to present  
10 all witnesses that were there to read Miranda and  
11 were present for the statements entered.

12 **THE COURT:** The defense's statements? The  
13 defendants' statements?

14 **MR. DELOACH:** Yes, sir. We'll present Agent  
15 Marchi, as well as Agent Jacobson, who were present  
16 during the probable -- during the reading of Miranda  
17 and who heard the statements.

18 **THE COURT:** Okay. All right. Okay. Uh, this  
19 is what I want to do. I want to bring the jury out.  
20 I want to give them an opening charge, opening  
21 statements and then send them to lunch and then  
22 we'll do that. Because at this point, they've been  
23 out for an hour wondering what we're doing. Okay.  
24 All right.

25 If you would, bring the jury in please.

1           And for the record, for both parties, if there  
2           is an issue outstanding right now regarding the  
3           admissibility of those statements, then they are not  
4           to be mentioned in opening arguments.

5           **MR. DELOACH:**    Yes, sir.

6           **MR. KORNFELD:**   May it please the Court, Your  
7           Honor:  As far as motions that he makes, if there's  
8           any objection or anything like that, would we need  
9           to second that motion on the record or can I just --

10          **THE COURT:**    This is what I can tell you ---

11          **MR. KORNFELD:**   Okay.

12          **THE COURT:**    --- that I can't give you advice  
13          regarding how to protect the record for appeal.  But  
14          I can tell you that in a wealth of caution, if I  
15          were you, I'd probably just join in it after he said  
16          it.  You're good.  You're good.  I think it's a  
17          better practice as a trial attorney just to join in  
18          to make sure that you got your basis covered.  But I  
19          wouldn't give you advice in that regard because as a  
20          practicing attorney, I've lost some of those cases.

21          **(WHEREUPON,** the jury enters at approximately  
22          11:27 a.m.)

23          **THE COURT:**    All right, Ladies and Gentlemen.  
24          I apologize to you.  That took longer than I had  
25          anticipated, longer than I wanted it to take.  As I

1 told you yesterday morning, some times when you are  
2 dealing with entirely the human element and you are  
3 very careful about protecting people's rights for  
4 the State and the defendants, it takes a little bit  
5 more time. You can't rush through it. You just  
6 can't. Uh, so I apologize to you that that took a  
7 little bit longer than I anticipated.

8 Uh, but we are ready to get started. What I'm  
9 going to do initially is give you an opening charge,  
10 uh, on the procedure and process that we're going to  
11 follow and also give you an indication of what your  
12 role is as jurors and what my role is as the judge.

13 I'm going restate something to you that I've  
14 already told you this morning, and that is, in each  
15 and every criminal case in the United States of  
16 America, a defendant is presumed innocent until  
17 proven guilty beyond a reasonable doubt. That's not  
18 a mere legal theory. It's the cornerstone of our  
19 criminal justice system. So I restate that to you  
20 so that you'll recognize that as we go through this  
21 trial, the defendants retain that presumption of  
22 innocence until such time as the State meets its  
23 burden of proving each and every element of the  
24 offenses beyond a reasonable doubt.

25 Now, you will determine if the State has met

1 its burden of proof, of proving the defendant guilty  
2 beyond -- defendants guilty beyond a reasonable  
3 doubt.. You will do that in your role as finders of  
4 the fact. You have sole and exclusive authority to  
5 determine what the facts are in this case. You will  
6 look at the evidence that's presented in this case.

7 You will see evidence come in in many different  
8 forms. You will see testimony from witnesses. You  
9 may see actual items that are placed into evidence.  
10 You may have documents that are put into evidence.  
11 There often is audiotape and/or videotape that is  
12 put into evidence. You will see all that evidence.  
13 You will have the opportunity to analyze and reflect  
14 on all that evidence. You will determine, based on  
15 that, what the facts are in this case.

16 After you determine what the facts are in this  
17 case, you will apply to the law as I give it to you  
18 to the facts. Now, I will tell you what the law is  
19 after you have heard all the evidence in this case.  
20 The reason I'll wait til the end is because I don't  
21 know what evidence is going to be put into the  
22 record.

23 Right now, you and I are on the same footing in  
24 this case. I haven't heard any of the witnesses. I  
25 haven't seen any of the documents. I haven't heard

1 any of the evidence. We're going to see it at the  
2 same time. So y'all are going to hear the evidence,  
3 so am I. Then I'm going to give you a law which  
4 addresses the evidence that was put into the record.  
5 Then you will go back and you will make a  
6 determination what the facts are in this case. You  
7 will apply the law as I give it to you to the facts  
8 and determine whether the State has met its burden  
9 of proof.

10 Now, its important for me to note to you that I  
11 do not have any authority, any right to tell you  
12 what the facts are in the case. That's not my job.  
13 My job is the judge of the law which means I'm the  
14 umpire. I'm the objective referee calling balls and  
15 strikes. That's all I do. I don't have a dog in  
16 this fight. It does not matter to me what your  
17 verdict is. The only thing that I'm concerned with  
18 is that both sides get a fair trial. That's all.

19 So if you hear me at any point in time during  
20 this case say something that suggests to you that I  
21 have an opinion on the facts or that I have an  
22 opinion with respect to credibility or that I have  
23 an opinion with respect to what you should decide,  
24 then I charge you now to disregard that. I'm not  
25 allowed to have an opinion in that regard. I only

1 am, as I suggested to you, the objective referee.  
2 And know that I'm going to make decisions based on  
3 the law and not based on the parties.

4 Now, the way this case will proceed is that  
5 initially, after I've finished giving you a charge,  
6 this initial charge, the parties will have the  
7 opportunity to make brief opening statements to you.  
8 Those opening statements are essentially an  
9 introduction of the parties and a brief comment on  
10 the -- of their respective cases. Now, understand  
11 that when the lawyers make opening arguments to you,  
12 those arguments are just that, just arguments,  
13 advocacy for their respective sides. That's not  
14 evidence. The only evidence that you'll receive is  
15 that evidence which is presented in keeping with the  
16 rules on the stand in open court. The attorneys  
17 arguments are just that, and please accept them in  
18 that vein and not as evidence.

19 After the attorneys give an opening argument,  
20 then what will happen is the State will put evidence  
21 into the record. The State goes first because the  
22 State has the burden of proof. They will put  
23 witnesses onto the stand and introduce other types  
24 of evidence. The prosecutor will have the  
25 opportunity to ask questions in direct examination

1 and then defense counsel will have the opportunity  
2 to cross-examine all of the witnesses as well.

3 After the State has put up all of the evidence  
4 that they intend to put up through the introduction  
5 of witness testimony and otherwise, then they will  
6 rest. Then the defense has the opportunity to put  
7 their case on the stand. The defense may or may not  
8 put evidence into the record. That's within their  
9 sole discretion. And they will have the opportunity  
10 to do that.

11 After they have done that, if they elect to do  
12 so, then the State may, under certain circumstances,  
13 have the opportunity to put witnesses on the stand  
14 and put evidence into the record in reply. If the  
15 defense elects not to put any evidence into the  
16 record at that point, then we'll proceed straight to  
17 closing argument and charge.

18 After you've heard all the evidence, we'll go  
19 to closing argument and charge. Closing argument  
20 and charge is just like opening arguments, that is,  
21 it's simply argument, not evidence. You will have  
22 heard the evidence, but the attorneys, in that  
23 event, will have the opportunity to comment on the  
24 evidence that was presented in the case. They can  
25 argue their case to you in closing.

1           After you've heard closing arguments, then I'll  
2           give you the closing charge on the law. I'll tell  
3           you the law that is applicable to the evidence that  
4           was presented in this case. After I've given you a  
5           charge on the law, I'll send you back to the jury  
6           room. You'll have the opportunity then, when I  
7           instruct you to begin your deliberations, to start  
8           your deliberations. You'll decide what the facts  
9           are. And you will decide, uh, -- you'll apply that  
10          to the law and determine whether the State has met  
11          its burden of proof.

12          Now, it's very important for me to tell you not  
13          to begin any deliberations until the very end when I  
14          tell you to begin your deliberations. The reason for  
15          that is very simple. And your common experience and  
16          your common sense tells you what the reason for that  
17          is. That is, if you begin your deliberations before  
18          you heard all the evidence, then you will be making  
19          decisions based on, uh, -- based not on all of the  
20          evidence. You will not be fully informed and you  
21          will not be making an intelligent decision.

22          Therefore, you know that you should wait until you  
23          hear all sides.

24          It's just like you know in your common  
25          experience, if you have children, you might have one

1 child come to you saying little Suzy hit me. And you  
2 get real mad about it and you take it at face value  
3 and you hear the other side of the story and maybe  
4 it's a lot different than what you thought at first  
5 blush. It's the exact same thing in court. You  
6 need to hear everything before you start  
7 deliberating. All right. So don't start talking  
8 about it among yourselves until such time as I tell  
9 you to. Also don't start talking about it with any  
10 other person until I tell you to.

11 We may take breaks for lunch, we may take  
12 breaks for -- we may go past this evening and we may  
13 break for the evening and you go home. And  
14 invariably, a significant other is going to ask you,  
15 or friend, what did you do today, what did you hear.  
16 And they are going to invite you to talk about it.  
17 Well, tell them I can't talk about it yet. And know  
18 that the reason for that is because once you start  
19 explaining what you heard, then you start  
20 deliberating. You start making qual -- you start  
21 making a qualitative analysis of what you heard and  
22 you start judging the credibility of witnesses. And  
23 that's outside the jury room. And if you do that,  
24 then you are making an inappropriate deliberation.  
25 So just wait. Just wait.

1           Also, if -- when we take a break, don't do any  
2           self-help, that is, don't go on the internet and see  
3           if you can find anything in the archives of  
4           Greenville Online that might comment on this case.  
5           I don't know that there is anything, but don't go  
6           out there and try to find out something on your own.  
7           Don't go to the Clerk of Court's office records and  
8           try to find out something on your own and don't be  
9           asking questions.

10           The reason for that is it's very important that  
11           you consider only the evidence that's presented in  
12           this courtroom. Only the evidence that's presented  
13           in this courtroom. You will see as we go along in  
14           this, there will be some arguing about what's  
15           admissible and what's not admissible and what's  
16           relevant and what's not relevant. So it's important  
17           that you consider only what's introduced in the  
18           courtroom.

19           Now, as we go along in this case, counsel will  
20           make objections to the admissibility of certain  
21           pieces of evidence. And they may make motions also  
22           with respect to the process that we're going  
23           through. Know that I'm going to rule on those  
24           motions. I'm going to rule on them and those  
25           motions are going to be very clinical. It's going

1 to be either sustained or overruled based on what I  
2 believe the law to be.

3 Now, if I rule -- when I make those rulings,  
4 I'm ruling against somebody and for somebody else.  
5 But don't take that as a bias or a prejudice from me  
6 as to either party. I truly have no bias or  
7 prejudice. I'm just making a very clinical  
8 determination of whether a piece of evidence is  
9 admissible or whether a motion is appropriate.

10 All right. It is now 11:40 or about. We're  
11 going to hear opening arguments from counsel. Uh,  
12 they should end probably before about 12 o'clock.  
13 Then I'm going to take a break. Okay. I'm going to  
14 take a break for lunch because I've got staff and  
15 courtroom personnel who need to take a break, and  
16 we've been in here arguing a few things. And also I  
17 still need to take up a few matters of law because  
18 I'm not quite done yet. So I'm going to ask y'all  
19 to come back after the break at about an hour and a  
20 half after we come back. Take your lunch. Come  
21 back.

22 Then when we come back, the State will put  
23 their case up. By my count, we're going to have  
24 anywhere between 9 and 11 witnesses. That's my best  
25 guess, 9 and 11 witnesses. That's about it. I

1        don't know exactly how long those witnesses are  
2        going to be. But my guess is we'll come back this  
3        afternoon and we'll hear from a number of the  
4        State's witnesses. Then we'll probably end some  
5        time today at about a normal business day. It's a  
6        bit different for everybody. Society says it's  
7        about 5:00 or 5:30. So that's when we'll try to end  
8        this evening because I know y'all have lives and you  
9        have other commitments. So we'll try to end then.  
10       Then we'll come back promptly at 9:00 tomorrow  
11       morning and we'll start the case again.

12                It is my hope -- it is my hope that we'll  
13        finish this case tomorrow. I think that -- we're  
14        going to see what pace we are going and I'll tell  
15        you this evening where I think we stand. But I'm  
16        hopeful that we can get in all our testimony about  
17        midday tomorrow and maybe go to argument and you can  
18        make a decision tomorrow. Don't know that for sure.  
19        Not in the business of making promises because I'm  
20        often wrong. Ask my wife. She'll tell you. But  
21        that's kind of my anticipation right now. Okay.

22                All right. Also, breaks. We're going to take  
23        breaks about every hour to an hour and a half  
24        because your attention span is only so long. I  
25        recognize that because mine is too. But know that

1 if you need to take a break, just get my attention  
2 or get the bailiff's attention and just let us know  
3 that, hey, I need to take a break. Know that y'all  
4 are the 14 most important people in this courtroom  
5 right now. And it's important that y'all are paying  
6 attention. And if you're thinking, "Boy, I wish  
7 they would just shut up so I could go take a break,  
8 I'm not hearing any of this, I'm tapped out", then I  
9 want you to tell me that so we can take a break.  
10 And then we can come back and you can be refreshed  
11 and you can pay attention to the evidence. So don't  
12 be shy about doing that. Okay.

13 Also, if you need to stand up at any point in  
14 time, you can stand up. You can walk around as long  
15 as you're not getting in the way of another juror,  
16 you're fine to do that. Okay. All right. That  
17 having been said, I'm going to ask the Clerk of  
18 Court to swear you in.

19 **THE CLERK:** All right. Please stand and raise  
20 your right hand for the oath in this case. The  
21 proper response is "I will". You shall well and  
22 truly try the case 2011-GS-23-0238, the State versus  
23 Charles J. Hammons, who is indicted for  
24 Manufacturing Methamphetamine, also case 2011-GS-23-  
25 0239, the State versus Debra Solt Newland also

1 indicted for Manufacturing Methamphetamine and a  
2 true verdict render according to the law and the  
3 evidence so help you God. I will?

4 **(WHEREUPON, each juror responds.)**

5 **THE COURT:** Thank you. Please be seated.

6 **MR. DELOACH:** Well, it's still morning, so  
7 good morning, everyone. Uh, I want to start by  
8 introducing myself. My name is Perry Deloach. I'm  
9 a prosecutor here in Greenville county, a member of  
10 the 13th Circuit.

11 Uh, I want to thank you all for being here. I  
12 know that there is other things you probably rather  
13 be doing. But I can't stress to you enough the  
14 importance of your service here today. I believe  
15 that Winston-Churchill said -- and I say this before  
16 every trial. I know that people that have heard me  
17 try cases before have heard me say it before, and I  
18 do, because I believe it means so much, and that is  
19 that jury service, outside of in the military  
20 serving your country, is the most important service  
21 you can perform for your country. I truly believe  
22 that.

23 Without your being here, not only could we not  
24 try this case, but we couldn't be doing a number of  
25 other things that we do in this courthouse. There's

1 other things going on throughout this courthouse  
2 that your presence alone facilitates. I want to  
3 thank y'all for your service.

4 Ladies and Gentlemen, you are going to hear a  
5 plethora of evidence in this case. I rarely get to  
6 use that word, but I get to use it today, plethora  
7 of evidence. I get to stand in front of a jury and  
8 tell them how much evidence they are going to hear.  
9 I'm not going to get into all the evidence you're  
10 going to hear. But you're going to hear from these  
11 officers here who are going to put several items  
12 consistent with the manufacturing of methamphetamine  
13 in their house and in their sole possession. And  
14 you're going to hear other stuff too that I can't  
15 talk about right now, but you will.

16 At the end of this case, you are going to be  
17 convinced that these two individuals are  
18 manufacturing methamphetamine. There's not going to  
19 be a question in your mind. All I ask for now is  
20 that you listen to the evidence. You listen to the  
21 witnesses. And at the end of this case, I'll be  
22 able to stand in front of you again and talk to you  
23 again in more detail in our closing argument. I  
24 want to thank you again for your time, and I'll talk  
25 to you again at the end of this trial.

1           **MR. KORNFELD:**    May it please the Court?

2           **THE COURT:**    Yes, sir.

3           **MR. KORNFELD:**    Good morning.  My name is Alex  
4           Kornfeld, and I represent Ms. Debra Newland.  I want  
5           to be clear that I don't represent Mr. Hammons, uh,  
6           just Mr. -- Ms. Newland.  Ivan Toney represents Mr.  
7           Hammons.

8                        Uh, as Perry said, we're going to see a lot of  
9           things, but there's also a lot of things that we're  
10          not going to see today.  Uh, I believe that we're  
11          going to see a picture of the house that Ms. Hammons  
12          [sic] and Mr. Newland [sic] lived in.  This house, I  
13          want you to pay close attention to how cluttered  
14          this house is but also where things are in the  
15          house, proximity of things, where the cleaners are,  
16          uh, where the books are located.  I want you to look  
17          at all those things.  Look at the gardening tank  
18          that is outside.  I also want you to embrace that  
19          and pay close attention because that's really  
20          important to us.  That's really important to Ms.  
21          Newland here.

22                       The State is charging Ms. Newland with  
23          manufacturing a methamphetamine.  I think after we  
24          get done with this case, you're going to see that  
25          there's a lot more that's not there than what is

1           there. Uh, you know this reminds me of a story  
2           called Jack and Jill. And Jack's going to college  
3           for the first time. He's getting him an apartment.  
4           And Jack goes out and gets more things that he needs  
5           at the grocery store. He goes back to his apartment  
6           and his girlfriend asks can I come over, can I see  
7           your apartment. And he says, yeah, come on, Jill.  
8           Come on over. Well, he comes over -- she comes over  
9           and she looks in one of the bags and she sees eggs,  
10          she sees flour and she sees sugar. She says, Jack,  
11          you're going to make me a cake finally. I've been  
12          waiting for this day for so long.

13                 And Jack says what are you talking about, Jill.  
14          And Jill says, well, you got the sugar, you got the  
15          flour, you got the eggs. You definitely going to  
16          bake a cake. And Jack says, I don't know how to  
17          break this to you, but that sugar is for my coffee  
18          in the morning. I eat those eggs for breakfast. I  
19          got that flour because it was on sale and mom always  
20          had flour at the house. Did you see the bacon in  
21          there? She says, no, no, I didn't see the bacon.

22                 That cake -- that story, I tell that story  
23          because I believe it's analogous to this case. If  
24          you look at certain things and you don't look at the  
25          aggregate, you don't look at everything, you may

1 believe that there's something in here that isn't.

2 That brings me to my next point. As the judge  
3 says and I'll say it again, the State has the burden  
4 of proof. And it's the highest burden that we have  
5 in the United States. And that burden, as you know,  
6 is beyond a reasonable doubt. That burden doesn't  
7 wave. That burden doesn't sway. The presumption is  
8 the presumption of innocence.

9 Ms. Newland and Mr. Hammons are presumed  
10 innocent beyond a reasonable doubt. The State has  
11 to prove every single element, every single element  
12 of this manufacturing methamphetamine. I think a  
13 lot of times, the average citizen sees on TV so-and-  
14 so is apprehended for whatever crime and the citizen  
15 says I'm really glad that that person's taken off  
16 the street. I'm glad that they were apprehended.  
17 I'm asking you today not to be most people. I'm  
18 asking you to embrace this duty to be a juror, to  
19 look at everything, to scrutinize the evidence and  
20 really give my client her day in court.

21 I believe after you look at all the evidence,  
22 you will see that there isn't enough evidence here  
23 and there's a lot more that isn't here than is here.  
24 I thank you for your time. Again, my name is Alex  
25 Kornfeld.

1           **MR. TONEY:** Ladies and Gentlemen, my name is  
2           Ivan Toney. I'm here representing Mr. Hammons who  
3           is seated here. This is a very important day for  
4           him. He's requested this trial. And he's putting  
5           his life in your hands. And to him, this is the most  
6           important day of his life. And he is trusting that  
7           you will follow this court's instructions and that  
8           you will listen very carefully to all the evidence.

9           Now, he is charged with manufacturing  
10          methamphetamines. Now, in this case, the Solicitor  
11          is basically, I believe, going to tell you that he  
12          never found, they never found any kind of meth lab.  
13          The Solicitor has telegraphed what they intend to do  
14          right from the very start, which is, they intended  
15          to show that there were certain items consistent  
16          with the manufacture of meth.

17          Right from the start, their case is going to be  
18          extremely sketchy. They have a very high burden of  
19          proof. Now, the judge will instruct you as to what  
20          the burden of proof means. Basically, it's a  
21          concept in our jurisprudence where they say we're  
22          going to give these folks every possible benefit of  
23          the doubt because we could be sitting there and if  
24          there's any reasonable explanation we can come up  
25          with, whether it's true or not, it doesn't matter.

1 We're going to give them the benefit of the doubt.

2 It's just like the dialogue between Abraham and  
3 God in the book of Genesis where Abraham was saying,  
4 are you going to destroy the righteous with the  
5 wicked. And the answer given was no. That is part  
6 of our western civilization. We basically took  
7 every precaution and it's our intent to make sure  
8 that nobody is falsely convicted.

9 Now, this Solicitor is going to say that we  
10 found several items consistent with the  
11 manufacturing of the meth lab. And manufacturing of  
12 meth, I'm going to tell you right now to listen  
13 carefully. Just about every single one of these  
14 items, he's going to testify to is in my house and  
15 these items are also in most of your houses. I want  
16 you to listen very carefully to this.

17 I also want you to pay attention to what you  
18 don't see. You're not going to see a laboratory.  
19 You're going to see some pictures of some common  
20 household items in the place where they should be  
21 underneath the sink. And you're going to see maybe  
22 a few other things and that's it. What the  
23 Solicitor's going to try to do is to try to get you  
24 to read the mind of these folks here. And I think  
25 that this is a sketchy proposition from the outset.

1           Now, I don't know how many of you, I don't know  
2           anything about you folks or if any of you have  
3           children. But if any of you had, say, a six-year-  
4           old girl and she came to you and said, mom or dad, I  
5           want to take a kayak and I want to take my kayak and  
6           go across the Atlantic Ocean, without examining any  
7           of the facts, you would say no. The reason for that  
8           is it's a sketchy proposition from the very  
9           beginning. No matter how well-trained that child  
10          was, no matter how sound the kayak was, no matter  
11          how good the weather reports were, you just wouldn't  
12          have any confidence this was going to work.

13                 In this case, this Solicitor, in his opening  
14                 statement, is saying I'm going to show several items  
15                 consistent with such and such. And that's going to  
16                 be their case. And these items were all found in  
17                 their house. I'm going to ask that you consider  
18                 that this could happen to any one of us. I would  
19                 ask that you listen very carefully to this judge's  
20                 instructions on burden of proof and you actually  
21                 follow the law in this case, which is to give my  
22                 client every benefit of the doubt. I thank you very  
23                 much for your kind attention.

24                 **THE COURT:** All right, Ladies and Gentlemen.  
25                 That was fairly short and sweet and I thank you for

1 that. If y'all -- y'all be back at 20 minutes after  
2 1:00, 20 minutes after 1:00 and we'll begin the  
3 introduction of the evidence. Thank you very much.  
4 Have a good lunch and please don't discuss the case.  
5 (WHEREUPON, the jury exits at approximately  
6 11:52 a.m.)

7 THE COURT: Let's take about a five-minute  
8 break and just come back in and start talking about  
9 the statements. Okay?

10 MR. DELOACH: Yes, sir.

11 THE COURT: Okay.

12 (WHEREUPON, a recess is taken.)

13 THE COURT: All right.

14 MR. DELOACH: Judge, I'm assuming you want to  
15 get all the statements out first and then argue them  
16 or you want to argue them one at a time.

17 THE COURT: How many are there? How many are  
18 there?

19 MR. DELOACH: There's going to be five  
20 statements, I believe.

21 THE COURT: Five by the defendants?

22 MR. DELOACH: Mostly by Mr. Hammons, one by  
23 Ms. Newland.

24 THE COURT: Okay. All right. Uh, I just need  
25 to make a threshold determination of voluntariness

1           and if the Miranda rights were met and to what  
2           extent they were actually in custody. So I don't  
3           know who took the statements, but obviously, what we  
4           need to do is establish under what conditions they  
5           were taken. I don't know if that's one officer's or  
6           whether that's two or three officers'. Whatever  
7           that may be.

8           **MR. DELOACH:** Yes, sir. Uh, Your Honor, we  
9           call -- the State calls Chris Marchi to the stand.

10          **THE COURT:** Okay.

11          **THE CLERK:** Sir, please place your left hand  
12          on the Bible and raise your right hand.

13                               **CHRIS MARCHI**

14          having first been sworn, testifies as follows:

15          **THE CLERK:** Thank you. Please be seated.  
16          Please state your full name for the record.

17          **THE WITNESS:** Investigator Chris Marchi.

18                               **DIRECT EXAMINATION**

19          **BY MR. DELOACH:**

20           **Q** Good afternoon, Investigator Marchi. Do you  
21          recall the events of June 23rd, 2010?

22           **A** Yes, sir. I do.

23           **Q** And were you present at the location the search  
24          warrant was issued, the location we've been talking about  
25          so far today in court?

1           **A**    Uh, yes, sir. I was.

2           **Q**    Okay. Is that location in Greenville county?

3           **A**    It is.

4           **Q**    During your actions on the scene there, did you  
5 have an occasion to meet the defendants, Debra Newland  
6 and Charles Hammons?

7           **A**    I did.

8           **Q**    In meeting them, did you read them any Miranda  
9 rights?

10          **A**    I did.

11          **Q**    Were they in custody at that time?

12          **A**    They were.

13          **Q**    Were they under arrest or were they in  
14 investigative detention?

15          **A**    Investigative detention.

16          **Q**    What was the scene like? What kind of day was  
17 it?

18          **A**    It was early evening time, evening time.

19          **Q**    Were they in handcuffs?

20          **A**    They were.

21          **Q**    Okay. What type of search warrant was this?  
22 Was this a no-knock search warrant?

23          **A**    Uh, I believe it was a no-knock.

24          **Q**    So they were in handcuffs. How many officers  
25 were around you when you read the Miranda rights of these

1 individuals?

2       A     Uh, there was Investigator Jacobson. I'm sure  
3 there were one or two others, but close proximity.

4       Q     Okay. Were you dressed in your police uniform?

5       A     Marked "Sheriff's Office", protective gear,  
6 vest.

7       Q     Did you have a sidearm on?

8       A     Correct.

9       Q     Okay. When you read these Miranda rights of  
10 these individuals, how do you go about remembering  
11 Miranda? Do you have it memorized? You have anything  
12 you can refer to?

13       A     I have it memorized over the years, but, uh, I  
14 do keep a card in case a person say they don't understand  
15 or had some difficulty hearing perhaps, I can take this  
16 card and either read along with them or let them read it  
17 first and then I would repeat it.

18       Q     Okay. Could you go ahead and recite the  
19 Miranda and use your card if you need to?

20       A     Yes. This is the card in question. You have  
21 the right to remain silent. Anything you say could be  
22 used against you by court of law. You have a right to an  
23 attorney and to have an attorney present during  
24 questioning. If you can not afford to hire an attorney,  
25 one will be appointed to you by the court. You can

1 answer questions now without an attorney. You can answer  
2 questions now and stop answering questions until you have  
3 an attorney. I end it by saying, do you understand what  
4 I've read to you.

5 Q And did they agree that they understood those  
6 records?

7 A Yes.

8 Q Did they sign consent forms in this case?

9 A No.

10 Q Now you say Investigator Jacobson, you know,  
11 was standing there and there might have been another  
12 officer too?

13 A Well, everyone was on the scene. But as far as  
14 close proximity to hear what I was saying, it would be  
15 Investigator Jacobson.

16 Q So it was just the two of you in close  
17 proximity?

18 A To the best of my knowledge.

19 Q Were they allowed to sit down?

20 A Uh, we have seats for them, yes.

21 Q Are they allowed -- did they ask to smoke a  
22 cigarette or anything like that?

23 A I don't know if they asked, but I wouldn't let  
24 them smoke a cigarette. They're in custody, but also  
25 we're in a meth lab, so it probably was not a good idea

1 for them to smoke.

2 Q All right. How long did your questioning take?

3 A Uh, I would say definitely under 10 minutes,  
4 perhaps a little more.

5 Q Okay. Were you there -- did Investigator  
6 Jacobson also ask them some questions?

7 A Later on, yes.

8 Q Now, when you spoke with these defendants, did  
9 they, in fact, make some statements to you?

10 A They did.

11 Q Okay. Did they seem to be under the influence  
12 of anything?

13 A Uh, no.

14 Q Uh, did they state that -- why don't you go  
15 ahead and just tell us the first statement you recall  
16 them saying.

17 A After I mirandized Mr. Hammons, stated that  
18 they were both addicts and that he had cooked meth two  
19 nights ago and they had planned on -- he had planned on  
20 cooking later on that evening.

21 Q Now, did he say he or they?

22 A Well, he said they were both addicts, referring  
23 to him and the lady. But in response to the cooking  
24 part, he said he.

25 THE COURT: Mr. Deloach?

1           **MR. DELOACH:**    Yes, sir.

2           **THE COURT:**    Let me stop you and say that the  
3           substance of the statements, I really don't need to  
4           know unless there is some purpose that I don't know  
5           about. All I'm going to make is a determination as  
6           to whether the statements were voluntarily given by  
7           a preponderance of the evidence ---

8           **MR. DELOACH:**    Yes, sir.

9           **THE COURT:**    --- and not the weight or the  
10          credibility of the evidence. So the substance  
11          thereof aren't necess -- isn't necessarily important  
12          so much as to whether it was voluntarily made.

13          **MR. DELOACH:**    Yes, sir.

14          **BY MR. DELOACH:**

15           **Q**    You said the entire encounter lasted about 10  
16          minutes?

17           **A**    Yeah, 10 minutes, with me.

18           **Q**    And after that time, where were they placed?

19           **A**    They were kept away from the scene to the front  
20          of the yard. If you're looking at the front door, the  
21          front door being approximately 15-20 feet max.

22           **Q**    Did you ever make any threats to these  
23          individuals?

24           **A**    No.

25           **Q**    Did you ever tell them they had to talk?

1           **A**     No.

2           **Q**     Did you make any type of motions or any type of  
3 gestures towards these individuals while they were  
4 talking?

5           **A**     No.

6           **Q**     Did you ever undo your firearm?

7           **A**     No.

8           **MR. DELOACH:**   No more questions.

9                               **CROSS-EXAMINATION**

10          **BY MR. TONEY:**

11          **Q**     This was a no-knock search?

12          **A**     I'd have to read the warrant to know myself,  
13 but I believe it was.

14          **Q**     And how many officers came in the house?

15          **A**     I don't remember the exact number, but I would  
16 say, uh, typically, when we do an entry, there's going to  
17 be five or six officers. Could be more.

18          **Q**     And they were in custody, correct, by this time  
19 you were talking to them?

20          **A**     They were in investigative detention.

21          **Q**     You admit they were in custody at least?

22          **A**     They were handcuffed and in investigative  
23 detention.

24          **Q**     Were they in custody?

25          **A**     They were handcuffed and in investigative

1 detention.

2 Q I'd ask for a yes or no answer. Were they in  
3 custody?

4 A Your question is not a yes or no question.

5 THE COURT: I'm going to stop you there. I  
6 take judicial notice that on the prevailing  
7 definition under the law, they were in custody. You  
8 can move on.

9 BY MR. TONEY:

10 Q And did any of the officers have guns drawn  
11 when they came in the house?

12 A When we made entry.

13 Q Yes. And, uh, was there any shouting?

14 A There were verbal commands.

15 Q These were loud verbal commands, correct?

16 A Loud enough for people to understand clearly  
17 what's being said, yes.

18 Q And also designed to surprise and shock them  
19 into compliance?

20 A My intention would be, when I go into a house  
21 on a search warrant, to be loud enough so they hear what  
22 I'm saying and understand what I'm saying.

23 Q How many guns were drawn in that house?

24 A I can only speak for myself. I had my sidearm  
25 out.

1           Q     Okay. How many guns, approximately, were drawn  
2 by various officers?

3           A     If you went into the residence on the entry  
4 team, you should have your sidearm out.

5           Q     How many went into the residence on the entry  
6 team?

7           A     I believe I answered that question to begin  
8 with. I don't have an exact number. My recollection is  
9 we had a full entry team.

10          Q     And they all should have had their weapons out?

11          A     It's the policy.

12          Q     And these folks would have -- Mr. Hammons would  
13 have seen these guns, correct?

14          A     Can't speak to what Mr. Hammons would or would  
15 not have seen.

16          Q     He was within the vicinity though?

17          A     He was within the house, yes.

18          Q     And he saw these officers? He was within  
19 visual range?

20          A     He was within visual, yes.

21          Q     And these statements that were made, how were  
22 they elicited by you or Mr. Jacobson?

23          A     How were they elicited by me?

24          Q     Yes.

25          A     Uh, after I mirandized both individuals, I

1 simply asked them are there any sort of drugs, contraband  
2 or weapons. That's typically what I do on all search  
3 warrants. I do a partial interview or full interview. I  
4 start off at least by that question.

5 Q That's all the questions I have.

6 THE COURT: Mr. Kornfeld.

7 MR. KORNFELD: May it please the Court, Your  
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. KORNFELD:

11 Q Uh, Ms. Newland did -- did Ms. Newland state  
12 anything at all to you?

13 A Uh, Mr. Hammons, to me, did the initial  
14 talking. Ms. Newland and may have talked later on, but  
15 nothing as far as I can recall.

16 MR. KORNFELD: Okay. No further questions.

17 THE COURT: All right. Good enough. As to  
18 that statement, the subject statement, I find that  
19 it was voluntary and a threshold by preponderance of  
20 the evidence. I will allow that to be introduced  
21 into evidence and certainly will give the jury a  
22 charge with respect to final determination,  
23 voluntariness.

24 MR. DELOACH: The only other witness that I  
25 would call would be Investigator Jacobson because he

1 was standing with Investigator Marchi. Would it be  
2 proper at this time?

3 **THE COURT:** Well, I've made a determination  
4 based on him, so I think we're good on that. Let me  
5 ask you this. Does that -- I know you said there  
6 were five statements, was that all in one confession  
7 or --

8 **MR. DELOACH:** It was just all complete verbal  
9 statements made on the scene by the individuals to  
10 the officers.

11 **THE COURT:** Okay. One place, one time, one  
12 setting subsequent to Miranda?

13 **MR. DELOACH:** Yes, sir. Within a matter of  
14 about 10 minutes.

15 **THE COURT:** Okay. All right. Good enough.  
16 I'm entirely comfortable with what I've heard. Is  
17 there anything the defense would like to call?

18 **MR. TONEY:** No.

19 **THE COURT:** Okay. Good enough. Thank you.  
20 Officer, thanks. Appreciate it.

21 **MR. DELOACH:** No more.

22 **THE COURT:** Okay. All right, Gentlemen.  
23 Anything else we need to take up before we begin  
24 evidence?

25 **MR. DELOACH:** Nothing from the State, Judge.

1           **THE COURT:** All right. Good enough.

2           Nothing? Okay. Good. We'll come back then at  
3           20 minutes after the hour of 1:00 and begin  
4           testimony. Thanks. Y'all have a good lunch.

5           **MR. DELOACH:** Thank you, Judge.

6           **(WHEREUPON, a lunch recess is taken.)**

7           **(WHEREUPON, the jury enters at approximately**  
8           1:25 p.m.)

9           **THE COURT:** All right. Welcome back, Ladies  
10           and Gentlemen. Trust you had a good lunch. Let's  
11           get started.

12           Mr. Deloach, your case, sir.

13           **MR. DELOACH:** Your Honor, at this time, the  
14           State calls Kurt Jacobson to the stand.

15           **THE CLERK:** Sir, please place your left hand  
16           on the Bible and raise your right hand..

17                                   **KURT JACOBSON**

18           having first been sworn, testifies as follows:

19           **THE CLERK:** Thank you. Please be seated:

20           Please state your full name for the record.

21                                   **DIRECT EXAMINATION**

22           **BY MR. DELOACH:**

23           **Q** Good afternoon, Investigator Jacobson.

24           Investigator Jacobson, where do you work?

25           **A** I work for the Greenville County Sheriff's

1 Office in their Selective Enforcement Division, Vice and  
2 Narcotics.

3 Q Okay. And how long have you been working  
4 there?

5 A I believe a little bit over six years now.

6 Q Prior to working in the Vice and Narcotics  
7 unit, were you in any other unit?

8 A Yes, sir. I was in the uniform patrol  
9 division.

10 Q And how long were you there?

11 A About seven years.

12 Q So total, how many years were you in the  
13 sheriff's office?

14 A Uh, about 13.

15 Q Did you work with any other law enforcement  
16 prior to being at the sheriff's office?

17 A Yes, sir. Many years ago.

18 Q Okay. In your experience as a narcotics agent,  
19 have you ever dealt with methamphetamine or the  
20 manufacturing of methamphetamines?

21 A Yes, sir.

22 Q And how many times have you dealt with those  
23 cases over the years?

24 A Probably over 100 labs, sir.

25 Q Okay. Do you recall the events of June the

1 23rd of 2010?

2 A Yes, sir.

3 Q Did you, accompanied by other agents, go to a  
4 location that night to serve a search warrant?

5 A Yes, sir. We did.

6 Q And what was that location?

7 A in Greer, which is in  
8 Greenville county.

9 Q That is in Greenville county?

10 A Yes, sir.

11 Q When you arrived at that residence, how did  
12 y'all go about entering the residence?

13 A Well, it was a -- considered a no-knock search  
14 warrant. That is a search warrant, instead of announcing  
15 yourself instantly and then waiting for the person to  
16 step out, it is a knock on the door and a knock on the  
17 door is actually a breaching tool.

18 Q Now, this search warrant, did y'all develop  
19 probable cause to get the search warrant, is that  
20 correct?

21 A Yes, sir.

22 Q Now, when you got inside the home, is anybody  
23 in this courtroom, were they present at that home?

24 A Yes, sir.

25 Q And who are they?

1           A     Uh, the defendants, uh, Mr. Hammond and Ms.  
2 Newland.

3           Q     Okay. So these two defendants sitting at the  
4 defense table were present in the home?

5           A     Yes, sir.

6           Q     When you got inside the home, were these  
7 defendants taken into custody?

8           A     They were taken into investigative detention,  
9 yes, sir.

10          Q     Now, what is investigative detention?

11          A     Investigative detention, uh, basically, you're  
12 placing the handcuffs for, uh, safety reasons for the  
13 officers. Basically, then you are detained. Actual  
14 probable cause comes up before actual charges.

15          Q     Do you recall what time of day this was?

16          A     Uh, it was early evening, sir. I believe it  
17 was dark. Uh, maybe 8:00ish.

18          Q     And how many agents were with you during the  
19 execution of the search warrant?

20          A     I believe there were five going on the entry  
21 team. I believe there were two officers on the back  
22 door.

23          Q     Okay. Which team were you on?

24          A     I was on the entry team.

25          Q     All right. Were you at the front, the back,

1 the middle of the stack?

2 A No, sir. I was the last one. Uh, being the  
3 driver, you place everybody there and then you are the  
4 last person in the stack.

5 Q Now with regards to this particular  
6 investigation, would you say you were the lead  
7 investigator?

8 A Yes, sir.

9 Q Okay. I'm going to pull down this here. When  
10 I shine the light up here, I hope it doesn't get in your  
11 eyes. Investigator Jacobson, when you were on the team,  
12 did you and another investigator have an occasion to  
13 speak with these defendants?

14 A Yes, sir. We did.

15 Q And what was that investigator's name?

16 A Investigator, uh, Master Deputy Chris Marchi.

17 Q And while present in front of Investigator  
18 Marchi, did you hear Investigator Marchi recite these  
19 defendants Miranda warnings?

20 A Yes, sir. I did.

21 Q Okay. And did these defendants advise that  
22 they understood those Miranda warnings?

23 A Yes, sir. They did.

24 Q Subsequent to their advisement that they  
25 understood these Miranda warnings, did they give any

1 statements?

2 A Uh, yes, sir.

3 Q Uh, verb --

4 A I'm sorry.

5 Q Verbal statements?

6 A Yes, sir.

7 Q Okay. Which defendant did?

8 A Both of them actually, sir.

9 Q Could you tell us what those defendants, before  
10 we get into that, how many officers were around you?

11 A Uh, right there, would have been myself and  
12 Investigator Marchi.

13 Q So just the two of you?

14 A Yes, sir.

15 Q Now, I know earlier you said there were six  
16 officers that breached the door.

17 A Yes, sir.

18 Q Where were those officers at the time?

19 A At that portion, they were, uh, -- once the,  
20 uh, scene is controlled, basically we have a search team  
21 and most of those officers were inside searching.

22 Q Did y'all make any threats to these defendants  
23 or ask them to make any statements?

24 MR. TONEY: Judge, leading.

25 THE COURT: All right. I'll overrule the

1 objection. You may proceed, sir.

2 **BY MR. DELOACH:**

3 Q Did y'all make any sort of threats or anything  
4 to have these statements made to you?

5 A No, sir.

6 Q How long do you think you were questioning  
7 these defendants before these statements were made?

8 A Probably not more than 10 minutes or so.

9 Q Now, is that total time between you and  
10 Investigator Marchi or is that just the time that you  
11 spent with them?

12 A Uh, Investigator Marchi was with them a little  
13 bit at first. When I went back inside the house to check  
14 to see what was located and determine if we were actually  
15 going to have to bring -- we have a, uh, -- it's called a  
16 methamphetamine mold truck. It is designed to bring  
17 equipment and stuff that we actually have on certain  
18 aspects, more hazardous aspects there to bring the truck  
19 up. So after going inside and determining from other  
20 certified crime lab technicians, we were advised that we  
21 probably weren't going to need a truck. After that time,  
22 I stepped back outside and had a conversation with the  
23 two defendants.

24 Q So how long did you personally speak with them?

25 A Probably no more than about -- yeah, about no

1 more than five or ten minutes at the most.

2 Q Can you make a guess of how long the total time  
3 that these defendants were being questioned was?

4 A I wouldn't figure more than ten minutes actual  
5 total.

6 Q From beginning to end?

7 A Yes, probably, sir.

8 Q And how many questions do you think you asked  
9 her first, asked them first?

10 A I don't know. Three or four maybe.

11 Q Three or four questions.

12 A Yes, sir.

13 Q Did Mr. Hammons, Defendant Hammons make any  
14 statements to you regarding where materials were?

15 A Yes, sir. He did.

16 Q And what was that statement?

17 A He said most of the items to, uh, make meth  
18 would have been found in the front bedroom.

19 Q That's what he said? Those were his words?

20 A Yes, sir.

21 Q And he used the words "make meth"?

22 A Yes, sir.

23 Q Now, did you ask him whether or not he had done  
24 this in the past?

25 A Yes, sir.

1 Q And when I said "done this", did you ask him  
2 whether or not he cooked meth in the past?

3 A Yes, sir. We did.

4 Q And what was his response?

5 A He said a few times.

6 Q Now, I'm going to show you some pictures. You  
7 can tell us what we're looking at.

8 MR. DELOACH: Your Honor, at this time, the  
9 State would offer State's Exhibits 2 and 3 into  
10 evidence.

11 THE COURT: Any objection, sir?

12 MR. TONEY: No objection.

13 MR. KORNFELD: No objection.

14 THE COURT: All right. Without objection, the  
15 same are admitted into evidence, State's Exhibits 2  
16 and 3.

17 (WHEREUPON, State's Exhibits 2 and 3 are admitted  
18 into the record.)

19 BY MR. DELOACH:

20 Q Investigator Jacobson, can you tell us what  
21 those exhibits are?

22 A Yes, sir. It's the, uh, -- it's pictures of  
23 the exterior residence at

24 Q Okay. Now, this thing is very neat. It's a,  
25 uh, laser pointer. All you got to do is press that

1 button there and you can use it. Investigator Jacobson,  
2 can you tell us where you entered the home.

3 A Right through there. That's the front door of  
4 the residence.

5 Q Okay. Now, this front bedroom that Mr. Hammons  
6 was talking about, which bedroom would that be?

7 A It would be on the far side. If you looking at  
8 the front of house, far lefthand side to the house.

9 Q Now, when y'all do these investigations, do  
10 y'all label the rooms?

11 A Yes, sir. We do.

12 Q Do you recall which room that one was labeled?

13 A I would have to look, sir.

14 Q You are welcome to look to refresh your --

15 A Excuse me one second. Front bedroom would have  
16 been Room F, sir.

17 Q Okay. So that's Room F. Now, I'm going to  
18 show you what's been entered as State's Exhibit 2. Tell  
19 me what we're looking directly at now.

20 A That should be the lefthand side of the house.  
21 The front door would be right there. That would be the  
22 room in question.

23 Q Is that Room F?

24 A Yes, sir.

25 Q Thank you, sir. Investigator Jacobson, I'm

1 going to show you what's been marked State's Exhibit 4  
2 for identification. Can you tell me what that picture  
3 is?

4 A Yes, sir. It's a plastic bag containing  
5 several different items in a, looks like a one gallon  
6 canister of solvent.

7 Q Does that picture fairly and accurately  
8 represent the way that picture looked or that scene  
9 looked when you saw it on the scene?

10 A Yes, sir.

11 Q And you did, in fact, find this bag?

12 A Yes, sir. I did. It was a -- the black area  
13 behind it is a grate. The lower area, sir, it's a grate  
14 section in the floor.

15 MR. DELOACH: Your Honor, at this time, the  
16 State would offer State's Exhibit 4 into evidence.

17 THE COURT: Any objections?

18 MR. KORNFELD: No objection, Your Honor.

19 MR. TONEY: None.

20 THE COURT: Without objection, the same is  
21 entered into evidence as State's Exhibit number 4.

22 (WHEREUPON, State's Exhibit 4 is admitted into the  
23 record.)

24 BY MR. DELOACH:

25 Q Using your laser pointer, Investigator

1 Jacobson, if you could, tell us what we're looking at.

2 A That's a grate -- on an air intake inside your  
3 house, your air conditioning system has areas that go out  
4 where your air blowing out. Then there's an suction area  
5 where all your air is drawn into your system. This grate  
6 here is the system. It's the intake grate that sits in  
7 the middle of the hallway in this house.

8 Q Okay. And how about inside the bag?

9 A Inside the bag, uh, those are actually boxes of  
10 Sudafed or Ephedrine. That's what that is. This black  
11 area and this white area along with these portions here,  
12 those are torn lithium batteries. The lithium batteries  
13 are high energy batteries that you buy out the store.  
14 That is the torn open battery.

15 Q Torn open battery?

16 A Yes, sir.

17 Q Okay. How about that can? What is exactly  
18 that substance?

19 A That's toulene. Toulene is a solvent that's  
20 used for many different things. It's also used in the  
21 manufacturing of methamphetamines.

22 (WHEREUPON, State's Exhibits 22 and 23 are marked  
23 for identification purposes.)

24 BY MR. DELOACH:

25 Q Investigator, I'm going to show you what has

1 been previously marked as State's Exhibits 22 and 23 for  
2 identification purposes. Can you tell me what those  
3 items are?

4       **A**     Yes, sir. They are two advertisements for  
5 Geico.

6       **Q**     And who are they addressed to?

7       **A**     One is addressed to Mr. Charles Hammond at  
8                     , Greer, South Carolina, 29651. The  
9 other one is addressed to a Ms. Debra Newland at the same  
10 address.

11               **MR. DELOACH:** Your Honor, at this time, we'd  
12 offer these envelopes into evidence.

13               **THE COURT:** Any objection?

14               **MR. TONEY:** No objection.

15               **MR. KORNFELD:** No objection.

16               **THE COURT:** All right. Without objection, the  
17 same is introduced into evidence.

18               **(WHEREUPON, State's Exhibits 22 and 23 are admitted**  
19 **into the record.)**

20 **BY MR. DELOACH:**

21       **Q**     Briefly, did you find these envelopes?

22       **A**     Yes, sir. I did.

23       **Q**     Okay. And is that address the address that  
24 y'all were searching on that date?

25       **A**     Yes, sir. It is.

1 Q And these were addressed to that address with  
2 these defendants, correct?

3 A Yes, sir. They were found inside the  
4 residence.

5 Q One second, Investigator Jacobson. (Pause.)  
6 Briefly, Investigator Jacobson, will you  
7 explain to us the procedure that your unit, the narcotics  
8 agents, go through when they are investigating a search  
9 warrant or investigating a possible lab. How do y'all go  
10 in the building? Is there some sort of particular way  
11 that y'all go in each room?

12 A Yes, sir, uh, it depends on the information  
13 that we're provided and as to the possibility of there  
14 being an active lab, actually active right there,  
15 basically cooking at the time, or if there's one that may  
16 be there that was previously done.

17 Q How was it determined in this case?

18 A We entered into the residence fast, just for  
19 safety reasons. At that point we were in there, there  
20 were, uh, certain items we observed that were used for  
21 manufacturing meth. But nothing showed us through, uh,  
22 sense of smell -- uh, there would be clouds and stuff in  
23 the room, uh, different items that weren't located in  
24 this one that change how we go in. We find the more  
25 hazardous items. Everybody is removed from the

1 residence. Then we go back and actually get into Hazmat,  
2 Tyvek gear.

3 Q Did y'all have to put on that gear on this  
4 particular occasion?

5 A No, sir. We did not.

6 Q Why is that?

7 A What we found there is not an active cooking  
8 lab. What we found there was all the remnants, actually  
9 all the items there to make meth. It actually hadn't  
10 started yet.

11 Q Okay. Do y'all go into each room by  
12 yourselves?

13 A No, sir.

14 Q How do y'all go in each room?

15 A Uh, when we first enter into the house or  
16 residence, we go in as a team. Okay. Depending on if  
17 you encounter somebody inside. It depends on if you lose  
18 a person of that entry team. But never at any time are  
19 we ever less than two or three guys together at any given  
20 time.

21 Q Was that the case in this lab?

22 A Yes, sir. It was.

23 MR. DELOACH: No more questions, Your Honor.

24 THE COURT: Gentlemen?

25

CROSS-EXAMINATION

1 BY MR. TONEY:

2 Q So you did not find an active meth lab?

3 A No, sir. We did not.

4 Q So your case comes down to, it looks like, an  
5 ingredients case, right? Were there the ingredients to  
6 make meth, correct?

7 A Yes, sir.

8 Q And one of these items was -- what was it,  
9 toluene?

10 A It's toluene, sir.

11 Q Tou -- toluene?

12 A Yes, sir.

13 Q And that's paint thinner, right?

14 A Yes, sir.

15 Q And that's a common item. People buy it,  
16 people who paint, correct?

17 A Yes, sir.

18 Q And, uh, it's legal to buy, correct?

19 A Yes, sir.

20 Q And where do they sell this item?

21 A Uh, you can buy it in many different places,  
22 sir.

23 Q Like hardware stores. Lowes and Home Depot?

24 A Yes, sir.

25 Q And anybody who would paint would need paint

1 thinner, correct? Most likely?

2 A Possibly, sir.

3 Q At least to clean off their brushes or  
4 whatever, right?

5 A Depends on what you're painting, sir.

6 Q And, uh, this is State's Exhibit 4, correct?

7 A Yes, sir.

8 Q How many -- you say there's batteries in there.  
9 How many can you see from this picture?

10 A I can see at least one torn lithium battery for  
11 sure, sir. From being in several different labs, there's  
12 at least, for sure, at least one from this picture.

13 Q How do you know it's torn from this picture?

14 A From my training experience, sir, and being in  
15 over 100 labs, that area right there advises that is an  
16 Energizer lithium battery.

17 Q But you don't know -- you can't tell from this  
18 picture that it's torn, can you?

19 A Yes, sir. I can.

20 Q Okay. So there's one battery in here?

21 A That portion that I can see in that one right  
22 there, yes, sir.

23 Q Okay. And this is what?

24 A I'm sorry. What did you point to, sir?

25 Q This here.

- 1           A     That is a box of Pseudoephedrine.
- 2           Q     A box of Pseudoephedrine. So one box -- one  
3 paint thinner -- one box of paint thinner, one box of  
4 pseudoephedrine and one battery in the picture.
- 5           A     That you can see on that picture, yes, sir.
- 6           Q     You ever buy batteries?
- 7           A     Yes, sir. I do.
- 8           Q     You have any in your house?
- 9           A     Yes, sir. I do.
- 10          Q     Uh, you ever bought paint thinner?
- 11          A     Yes, sir. I do.
- 12          Q     Uh, you have any at your house?
- 13          A     Yes, sir. I do.
- 14          Q     What about nasal decongestant or ephedrine? You  
15 ever had any in your house?
- 16          A     Yes, sir.
- 17          Q     Is there ever been a time when you had all  
18 three items in your house at the same time?
- 19          A     Yes, sir.
- 20          Q     So you are guilty of having your own meth lab  
21 at your house?
- 22          A     No, sir.
- 23          Q     None of these items are illegal, correct?
- 24          A     That is correct, sir.
- 25          Q     You didn't find beakers or anything like that,

1 did you? You didn't find anything like a chemistry set  
2 or anything to that nature, did you?

3 A No, sir.

4 Q Okay. That's all the questions I have for this  
5 witness.

6 MR. KORNFELD: May it please the Court.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. KORNFELD:

10 Q Officer Jacobson, uh, in your incident report,  
11 I read it. Is it your experience that a meth lab has a  
12 distinct smell? Would you say that?

13 A Yes, sir. They do.

14 Q And in your incident report that I read, I  
15 don't see anything about here -- anything in here about  
16 any distinct smell. Is that because there wasn't a  
17 distinct smell?

18 A No, sir. It depends on what method you are  
19 using depends on any odors you can smell.

20 Q Okay. When you went to this house, was there  
21 any distinct smell there that day?

22 A I smelt some solvent, yes, sir.

23 Q Okay. And when you were there, you were able  
24 to see that there was a brown box -- was there a brown  
25 box at the house?

1           A     Brown?

2           Q     Is there any brown box that you saw while you  
3 were in the home?

4           A     What are you referring to? Brown as in  
5 cardboard, brown as in --

6           Q     Like a little wooden box. Did you find a  
7 wooden box while you were in --

8           A     No, sir. I didn't.

9           Q     Did you see a coffee grinder while you were in  
10 the house?

11          A     I mean, another officer did locate these  
12 objects.

13          Q     Did you see, uh, any hydrogen peroxide in the  
14 house?

15          A     Yes, sir.

16          Q     Okay. Do you have hydrogen peroxide in your  
17 own home?

18          A     Yes, sir. I do.

19          Q     Okay. Did you see any Coleman camp fuel?

20          A     Yes, sir.

21          Q     Did you see, uh, any books in the home?

22          A     There were several books in the home.

23          Q     Did Ms. Hammons tell you that she was a  
24 gardener?

25          A     She advised that later on. Yes, sir, she did.

- 1 Q Okay. Did she tell you that that green sprayer  
2 in the back was used for her gardening?
- 3 A Yes, sir. I believe so.
- 4 Q Okay. Did you ever tell Ms. Newland that her  
5 bail would be reduced if she admitted to anything?
- 6 A No, sir.
- 7 Q Never -- never stated anything like that?
- 8 A No, sir.
- 9 Q Did you state that, uh, things would be in her  
10 best interest if she admitted to what you --  
11 manufacturing of methamphetamine?
- 12 A No, sir. I don't believe so.
- 13 Q Did Mr. Hammons tell you anything about his  
14 profession, what he did for a living?
- 15 A No, sir.
- 16 Q Did he ever state that he was a painter or  
17 painted?
- 18 A No.
- 19 Q Okay. How long, uh, did you retain or was Ms.  
20 Hammons -- Ms. Newland and Mr. Hammons detained at the  
21 home before they were transported?
- 22 A I can't give you an actual timeframe, sir.
- 23 Q Would you say it was two hours roughly, an  
24 estimate?
- 25 A That's possible, yes, sir.

1           **MR. KORNFELD:**   Okay.  No further questions,  
2           Your Honor.

3           **THE COURT:**    Yes, sir.

4                               **REDIRECT EXAMINATION**

5           **BY MR. DELOACH:**

6           **Q**    This two-hour time period that they were  
7           detained, was that before or after the questions that you  
8           had asked?

9           **A**    This is way after, sir.

10          **Q**    So long had they been detained when you asked  
11          them those questions and those statements?

12          **A**    Less than 10 or 15 minutes.

13          **Q**    Thank you.  And Mr. Toney, I believe, asked you  
14          whether or not you had batteries in your home, is that  
15          correct?

16          **A**    Yes, sir.

17          **Q**    You said yes, you do.

18          **A**    Yes, sir, I do.

19          **Q**    Do you ever tear any of your batteries open?

20          **A**    No, sir.  I don't.  That's dangerous.

21          **Q**    You know any reason why anybody would tear  
22          their batteries open?

23          **A**    There is no reason to tear a lithium battery  
24          open, sir.  It's dangerous.  The lithium side of those  
25          batteries are both air and water reactive.  They will

1 explode or catch on fire.

2 **MR. DELOACH:** No more questions, Your Honor.

3 **THE COURT:** All right. Any questions? Let's  
4 go to recross.

5 **MR. KORNFELD:** None, Your Honor.

6 **THE COURT:** Okay. Thank you very much.  
7 Thank you. You may step down, sir.

8 **MR. DELOACH:** Your Honor, at this time, the  
9 State calls Jason Owens to the stand.

10 **THE COURT:** All right, sir.

11 **THE CLERK:** Come forward. If you will, please  
12 place your left hand on the Bible and raise your  
13 right hand.

14 **JASON OWENS**

15 having first been sworn, testifies as follows:

16 **THE CLERK:** Thank you. Please be seated.

17 Please state your full name for the record.

18 **THE WITNESS:** Jason Owens.

19 **DIRECT EXAMINATION**

20 **BY MR. DELOACH:**

21 **Q** Good afternoon, Investigator Owens.

22 Investigator Owens, where do you work?

23 **A** Greenville County Sheriff's Office.

24 **Q** How long you been there?

25 **A** Uh, eight years.

1 Q How long?

2 A Eight years.

3 Q And in that eight years, what capacity have you  
4 served?

5 A I served as a Uniform Patrol Deputy for  
6 approximately five years. I've been in Vice and  
7 Narcotics for the past three.

8 Q During your time in the Vice and Narcotics  
9 unit, have you gotten any special training in regards to  
10 manufacturing meth and methamphetamine laboratories?

11 A Yes, I have.

12 Q What type of training have you received?

13 A I attended an 80-hour class in Meridian,  
14 Mississippi at the naval air station for clandestine  
15 manufacturing of methamphetamine, marijuana, LSD and  
16 Ecstasy. I've also been trained in confined space entry,  
17 Hazmat and I was certified as a Clandestine Lab  
18 Technician or Hazmat technician.

19 Q And recently, have you been to any of these  
20 seminars?

21 A Uh, I attend an annual conference. It's a  
22 national methamphetamine and pharmaceutical conference.  
23 It changes cities every year.

24 Q Tell us about this training academy in  
25 Meridian, Mississippi. With regards to methamphetamine

1 laboratories, what do y'all learn there?

2       **A**     We learn the ingredients as far as what goes  
3 into manufacturing meth, the equipment that's used to  
4 manufacture meth, we actually take part in a few steps of  
5 the process. We actually, uh, -- we do part of the  
6 manufacturing process. There's some hands-on involved.

7       **Q**     And in these other courses that you've  
8 mentioned with regard to methamphetamine laboratories,  
9 are y'all also instructed on how to make meth in those  
10 classes?

11       **A**     Absolutely.

12       **Q**     How many methamphetamine laboratories have you  
13 worked?

14       **A**     Over 100.

15       **Q**     And have you ever testified with regards to  
16 methamphetamine?

17       **A**     Uh, yes.

18       **Q**     How many times?

19       **A**     Ballpark, 15 to 20.

20       **Q**     You ever testified as an expert in regards to  
21 methamphetamine?

22       **A**     No, I haven't.

23               **MR. DELOACH:**   Your Honor, at this time, we  
24 would offer Investigator Owens as an expert in  
25 methamphetamine production.

1           **THE COURT:** Any objections or voir dire?

2           **MR. TONEY:** Has he ever been qualified as an  
3 expert before?

4           **THE COURT:** I believe he just asked that and  
5 he responded in the negative.

6           **MR. TONEY:** In the negative?

7           **THE COURT:** Yes, sir.

8           **MR. TONEY:** I object.

9           **THE COURT:** Okay. Any grounds other than the  
10 previous qualification?

11           **MR. KORNFELD:** No, Your Honor.

12           **THE COURT:** Okay. All right. Then over  
13 objection, I'll allow him to testify as an expert  
14 witness.

15           Ladies and Gentlemen, an expert witness is  
16 someone who because of their education and  
17 experience or expertise has, uh, obtained a certain  
18 level of knowledge about a certain subject. The  
19 reason someone would want to have someone qualified  
20 as an expert witness is so they can testify as to  
21 specialized issues. That could be instructive to  
22 your consideration and your analysis of the evidence  
23 in the case.

24           I have qualified this witness as an expert.  
25 Now, understand that just because someone is

1 qualified as an expert witness does not mean that  
2 they are on some elevated status in your  
3 determination. Evidence presented by an expert  
4 witness is the same exact as the evidence presented  
5 by any other witness in court, by anybody else who  
6 comes on the stand and testifies.

7 You put whatever weight you think is  
8 appropriate on an expert witnesses' testimony just  
9 like anybody else's testimony. You may choose to  
10 either believe or not to believe the testimony of an  
11 expert witness. You may decide to give it  
12 particular weight or you may decide that you will  
13 not give it much weight at all. That's all in your  
14 discretion and your determination.

15 All right. Mr. Deloach, you may proceed, sir.

16 **MR. DELOACH:** Thank you, Your Honor.

17 **BY MR. DELOACH:**

18 **Q** Investigator Owens, were you present at the  
19 incident location in question here on June the 23rd,  
20 2010?

21 **A** Yes, sir. I was.

22 **Q** And did you assist in the back of the house as  
23 Investigator Jacobson indicated or did you go in the  
24 front door?

25 **A** I -- I actually breached the front door upon

1 entry.

2 Q So you were the front person?

3 A I was not the first in the residence. I  
4 breached the front door and I was the last in the  
5 residence.

6 Q While inside the home, did you observe these  
7 two defendants taken into custody?

8 A Yes.

9 Q After that was done, did you speak to either  
10 one of these defendants?

11 A No, sir.

12 Q What was your function on that scene?

13 A Primarily the search.

14 Q And did you, in fact, perform the search in the  
15 home?

16 A Yes.

17 Q Did you find any items that you believe as an  
18 expert were consistent with the production of that  
19 evidence?

20 A Yes, sir.

21 Q I'm going to show you what's been previously  
22 marked as State's Exhibit 21, 20, 19, 18, 17 through 5.  
23 State's exhibits. Tell me if you recognize those  
24 pictures and if those pictures fairly and accurately  
25 represent items that you saw in the home when you were

1 searching.

2 A (Reviewing.) Yes, they are.

3 MR. DELOACH: Your Honor, at this time, I  
4 would offer Exhibits 5 through 21 into evidence.

5 THE COURT: Objections?

6 MR. KORNFELD: No objection, Your Honor.

7 MR. TONEY: Let me look at them one more time  
8 please. (Pause.)

9 No objection.

10 THE COURT: All right. Without objection, the  
11 same are admitted as State's exhibits.

12 (WHEREUPON, State's Exhibits 5 through 21 are  
13 admitted into the record.)

14 BY MR. DELOACH:

15 Q Is the laser pointer still up there?  
16 Investigator Owens, this is State's Exhibit 4. This was  
17 brought in through Investigator Jacobson earlier. Can you  
18 tell us what we're looking at?

19 A Yes. The can here is toluene, which is a  
20 solvent. It's like Coleman camp fuel, paint strip --  
21 paint thinner. It's a solvent. It's, uh, -- you want me  
22 to describe what it's used for?

23 Q Actually, if you could, take just a moment and  
24 just take us through a summary of how methamphetamine is  
25 made.

1           A     Okay. Uh, what I'm seeing here, this is the  
2 back of a box of pseudoephedrine. Pseudoephedrine or  
3 ephedrine is the primary ingredient to methamphetamine.  
4 Basically, all methamphetamine is is pseudoephedrine  
5 minus one oxygen molecule. The entire manufacturing  
6 process is simply to remove one molecule from the  
7 pseudoephedrine. That's your methamphetamine. So  
8 without pseudoephedrine, you can not make meth. There's  
9 no way.

10                 Also, another thing I'm seeing here, this --  
11 if you take a lithium battery, which this piece is of a  
12 lithium battery here, all this in this bag, this clear  
13 bag. The white and the black that you see here is part  
14 of the lithium battery. Again, the lithium is highly  
15 reactive to water. So what they are using the lithium  
16 for is a catalyst which basically gets a reaction  
17 started. That's one of the beginning phases of  
18 manufacturing.

19                 What they do is, manufacturers will take a  
20 lithium battery and cut it open and remove -- there's  
21 several pieces. This white piece here is attached to a  
22 strip of lithium. The lithium is removed from this white  
23 paper here and you are left with a single strip of  
24 lithium. The lithium is introduced to a mixture of  
25 solvent, crushed up pseudoephedrine, ammonium nitrate and

1 the lithium is introduced and some water and lye. All  
2 that mixed together will react and, in turn, produce  
3 methamphetamine.

4 Q Okay. And is there any sort of drying process  
5 or anything that takes place?

6 A Yes. In between each process, there is a  
7 filtering process. We'll see some in a minute. Coffee  
8 filters are used. Basically, once the cold medication or  
9 the pseudoephedrine is crushed, it's not all -- it's not  
10 100 percent pseudoephedrine. The pills are removed from  
11 the box, removed from the blister packs, separated and  
12 basically combined into a pile. They are crushed. A  
13 solvent is introduced. Solvents are used throughout the  
14 manufacturing process multiple times. The solvent  
15 separates the pseudoephedrine from the coloring, the  
16 binders and all the added ingredients. You are left with  
17 a gunk at the bottom essentially.

18 So you have the gunk at the bottom and you'll  
19 have a bunch of solvent at the top. What's in that  
20 solvent is 100 percent pseudoephedrine. That's what's  
21 left. The pseudoephedrine is absorbed into the solvent.  
22 So this stuff is separated. The solvent is separated  
23 from the pseu -- from the gunk at the bottom. And it's  
24 dried. Once it's dried, you have 100 percent  
25 pseudoephedrine. That's the primary -- that's the first

1 drying process.

2 Q While we're on it, let's go on into the second  
3 drying process.

4 A Okay. At the end, once your reaction takes  
5 place, what I described a few minutes ago, once your  
6 reaction takes place, you're left with another gunk and  
7 more solvent. Solvent's used in every step. The solvent  
8 will contain methamphetamine toward the end of this  
9 process. And again, the exact same thing is happening.  
10 You're going to dry it off and you're going to -- I'm  
11 sorry. I'm going a little bit too far.

12 There's a gassing process. It's a little  
13 confusing. But the solvent at the end, once you have  
14 enough amphetamine in your solvent, a gas is introduced  
15 called hydrogen chloride gas or HCl gas. And it's simply  
16 created by using sulfuric acid and salt. Two things mix  
17 then you get a gas, hydrogen chloride. That's introduced  
18 to the solvent and the methamphetamine basically forms  
19 out of no where, out of solvent, falls to the bottom.  
20 It's separated and then it's dried. Then you have your  
21 finished product.

22 Q Okay. Now, I'm going to take you through  
23 several more pictures. You just tell us what we're  
24 looking at and how they interact with the process you  
25 just described to us. I want to show you what's been

1 marked -- what's been introduced as State's Exhibit 20.

2       **A**     What we are looking at here is the Coleman camp  
3 fuel. It's a solvent just like the toluene. It serves  
4 that same purpose.

5       **Q**     What is this picture of?

6       **A**     You looking at a type of double A Energizer  
7 lithium batteries minus two and a Dremel tool. The way  
8 they were, this is how they were located. One would  
9 assume that the Dremel tool is used to open the lithium  
10 batteries, to cut them open.

11       **Q**     Just in case some on the jury don't know what a  
12 Dremel tool is, what exactly is it?

13       **A**     It's basically a rotary tool. It's a rotary  
14 cutting tool. It's a multifunction tool. It's a power  
15 tool with, uh, different attachments that can be placed  
16 on the end, blades, grinders, what have you on the end  
17 and use it to cut.

18       **Q**     As an expert in the production of  
19 methamphetamine, is there any reason to cut open a  
20 lithium battery other than to produce methamphetamine?

21       **A**     Absolutely not.

22       **Q**     What are we looking at here?

23       **A**     Drain opener, this, uh, is used in the  
24 beginning process. The Liquid Fire, the hydrogen  
25 chloride gas production. Liquid Fire is a strong acid.

1 It's used in conjunction with salt and it forms the  
2 hydrogen chloride gas.

3 Q Now, briefly, all of these items were found in  
4 which room?

5 A Room F, which was a -- it's kind of a bed -- I  
6 would consider it a bedroom, like it was converted into  
7 some type of workroom.

8 Q And when you found all these items, did you  
9 find these items?

10 A Myself and Investigator Rogers. I located a  
11 majority of them. I found most of them.

12 Q Okay. And were they in a central location when  
13 you found them?

14 A Yes, they were all in this one room.

15 Q Again?

16 A Toulene, solvent.

17 Q If any of these items were not found in Room F,  
18 please let us know.

19 A Okay.

20 Q What are we looking at here?

21 A Can I see the actual picture just real quick?  
22 You can put it back up there. It's just hard for me to  
23 see. Uh, here, mostly trash, paper towels, some filters  
24 mixed in. The main thing I think we were -- that they  
25 were focused on this picture is this and these are empty

1 blister packs.

2           When you buy a box of pseudoephedrine cold  
3 medication, federal regulation stipulate that they have  
4 to be in these blister packs. It supposed -- this was  
5 back in 2003 before they mandated they had to be in these  
6 blister packs. They thought it was going to make it  
7 harder for meth manufacturers to sit there and pop them  
8 out. But all these contained pseudoephedrine. They were  
9 all punched out of these blister packs.

10           Q    And you recall how many tablets there were in  
11 that room?

12           A    I --

13           Q    Is there something I can show you to refresh  
14 your recollection?

15           A    Yes. I can't remember the exact number.

16           Q    What would that be?

17           A    Uh, I believe, uh, Investigator Parrish's  
18 supplement would have it in there. (Reviewing.)

19                    197 pills.

20           Q    197 pseudoephedrine tablets?

21           A    According to this supplement.

22           Q    And that was just hand-counted, correct?

23           A    Yes.

24           Q    So 197?

25           A    Uh, yes.

1 Q Now, in your expert opinion, does a person need  
2 197 pseudoephedrine tablets unless they are making meth?

3 MR. TONEY: Objection.

4 THE COURT: Okay. I'll overrule.

5 BY MR. DELOACH:

6 Q You can answer.

7 A No.

8 Q This is State's Exhibit 11.

9 A These are -- this is just an empty box of  
10 pseudoephedrine cold medication. There's, uh, -- that's  
11 a 96 count box. There's 96 pills in each one of those  
12 boxes.

13 Q Now, can you tell -- look at State's Exhibit  
14 10. Can you tell us what this is?

15 A These are the actual pills that belong in the  
16 box. They were -- this is how we located them. They  
17 were obviously removed from the box, removed from the  
18 blister packs and placed in this bowl and in the drawer.  
19 And also, like I was saying earlier, the coffee filters  
20 are used to separate the solids from the liquids when  
21 transitioned in a manufacturing base. This bag here  
22 contains -- it's kind of hard to see unless you look  
23 right up in here. A lot of little tiny white frills.  
24 This is ammonium nitrate. Basically, if you take, uh, the  
25 instant cold packs you buy from CVS that you pop, all

1 those are is they are full of these, ammonium nitrate,  
2 the tiny white pills and a little bag of water. When  
3 water mixes with this ammonium nitrate, it becomes very  
4 cold. That's what causes the pack to get cold. The  
5 ammonium nitrate is used to produce ammonia. And ammonia  
6 is part of the manufacturing process.

7 Q Now, what would they do with the pills and why  
8 are they separated like that again?

9 A The pills are all pulled out of the blister  
10 packs. They are crushed. They are basically -- if you  
11 take a jar and you take all these pills and crush them up  
12 and put them in a jar and then pour solvent in the jar,  
13 the solvent is going to pull the pseudoephedrine out of  
14 the pills and separate it from the binder and the color  
15 and all that and then once the pseudoephedrine is pulled  
16 out and is in the -- is suspended in the solvent, it gets  
17 the -- dry it out. And the solvent is allowed to  
18 evaporate.

19 Q This is Exhibit 21.

20 A This is the Coleman camp fuel, one gallon of  
21 Coleman camp fuel.

22 Q This is State's Exhibit 5.

23 A The Dremel tool that I was talking about  
24 earlier and the lithium batteries. I think this more of  
25 an overall shot. Can I see that picture?

1 Q Yes.

2 A Okay. All right. It's more of an overall shot.  
3 of the room, I believe. But the batteries that you saw  
4 earlier and the Dremel tool is here. This is half of the  
5 room, but there is your sulfuric acid and the lye. It  
6 was -- it kind of got cut out of the picture. The  
7 sulfuric acid bottle is here. That's the only thing I  
8 can see in that.

9 Q This is State's Exhibit 7.

10 A This is a separate bedroom. This is not the  
11 room that I searched, but I did see this room. I think  
12 the focal point of this picture is this box here. Is  
13 there a closeup of that?

14 Q There is.

15 A I couldn't remember.

16 Q This is State's Exhibit 8.

17 A Something that we commonly see from both  
18 manufacturers and users. Like I was saying earlier,  
19 these are coffee filters here. These are used coffee  
20 filters. People went -- once the solvent or any  
21 substance that could contain methamphetamine is drained  
22 through these, they capture the meth. And you have your  
23 solid. You have basically a coffee filter full of meth.  
24 They will scrap that meth off, but these coffee  
25 filters still contain methamphetamine. They can

1 reintroduce these used coffee filters to another solvent.  
2 There's different ways of doing it. But in essence, they  
3 are saved so that they can get more meth out of them.  
4 They just get every bit they can.

5 Q This is State's Exhibit 17.

6 A Uh, looks like a CD, but it's actually a  
7 digital scale.

8 Q Okay. And let me show you State's Exhibit 19.

9 A This is opened up. This is what was covering  
10 it. It looks like a CD. But once you open it up, it's a  
11 digital scale.

12 Q Okay. What are digital scales used for in the  
13 manufacturing of meth?

14 A Primarily weighing a potential buy.

15 Q Okay. And what will they do with it after they  
16 weigh it?

17 A If I'm weighing a finished product, I'm looking  
18 to sell it.

19 Q This is State's Exhibit 13.

20 A This was in a drawer in the room that I  
21 searched. The trash can with the lithium batteries and  
22 all the paper towels that I pointed earlier is right  
23 here. This is a bag, a ziplock bag containing a  
24 painter's mask or gas mask, the filters. Meth  
25 manufacturing processes a lot of these hazardous fumes.

1 When we work these labs, we wear what is called level D  
2 protective gear. We wear a Tyvek suit or a suit that  
3 does not allow for chemicals or vapors to enter and  
4 contact our skin. We are covered from head to toe with  
5 booties and gloves, two or three layers of gloves. We  
6 wear air packs, the big tanks on the back with the face.  
7 You know, we're running on air. We're not breathing this  
8 stuff in. It could harm us and it could harm anyone else  
9 that does deal with this stuff.

10 So these guys will sometimes, not all the  
11 times, sometimes we'll use these painters masks to help  
12 filter it out and also some, uh, (inaudible) tubes.  
13 That's commonly used when they create their hydrogen  
14 chloride gas. To get that finished product, they'll run  
15 that gas through the tubes. It helps direct the gas and  
16 it also helps control the flow of gas, like tie in a knot  
17 and pinch it off. The ACL gas is another dangerous gas.  
18 They use that tube so they can cut it off so that it's  
19 not just constantly.

20 Q Now, Investigator Jacobson testified earlier  
21 that y'all did not go in Hazmat suits in this case, is  
22 that right?

23 A Correct.

24 Q And why was that?

25 A We saw no evidence of an active lab at the

1 time.

2 Q Tell us the difference between an active lab  
3 and the procedure y'all take and an inactive lab and the  
4 procedures you take.

5 A With an inactive lab, basically to be  
6 considered an active lab means they are currently cooking  
7 or have recently cooked and we find reaction vessels. A  
8 majority of the labs that we locate are what we call one  
9 potter, shake-and-bake lab. And it's basically the  
10 entire process broken down into one step. It may be like  
11 a two-liter bottle. All the reaction -- every step is  
12 knocked out -- knocked down to one. That's what I would  
13 call a reaction vessel or a gas generator that contained  
14 sulfuric acid and salt. That's a reaction vessel.

15 If we observe any of those, we consider that an  
16 active or recently active lab. If we notice that, we  
17 immediately suit up and what I was explaining earlier,  
18 the level of these suits. We go on air. We use APRs or  
19 gas masks or similar to those, but we take a lot of  
20 precautions. We evacuate. No one goes in or out except  
21 for technicians, certified guys.

22 An inactive lab or a boxed, dismantled lab,  
23 which I would consider this a boxed, dismantled, ready to  
24 cook but not active lab. We had no evidence -- we have  
25 no evidence of a cook going on at the time. So we'll

1 search it just like any other search warrant.

2 Q Is it possible for there still to be chemicals  
3 in the air?

4 A Yes, if they have cooked in the residence, that  
5 is a possibility.

6 Q Did y'all accept that at this time on this  
7 case?

8 A Yes.

9 Q Now, I'm going to hand you an envelope. Inside  
10 this envelope are three different items. I don't want  
11 you to pull these items out. I just would like for you  
12 to look at them and see if you can tell me what those  
13 items are.

14 A You said don't pull them out?

15 Q Correct.

16 A Uh, I've got a bag containing pseudoephedrine  
17 pills.

18 Q Don't say what they are. Just tell us if you  
19 know what they are.

20 A Oh, yes, I do.

21 Q Did you find those items?

22 A Uh, yes, I did.

23 Q When you found those items, what did you do  
24 with them?

25 A Uh, I called -- we have someone that's

1 designated to photograph all of the items that are  
2 located in the house. If I find something, I call for  
3 them. They come in with a camera. They photograph each  
4 item as they are located. Each item is then collected  
5 and taken to a prescribed or essentially collection point  
6 in the residence, wherever we're searching. It's  
7 documented and packaged.

8 Q Did you take those items to the scribe?

9 A Yes.

10 Q Were those items in your exclusive control  
11 before they went to the scribe?

12 A Yes.

13 Q And who was the scribe on this case?

14 A Uh, Investigator Parrish.

15 Q One last picture. This is item number 18. Can  
16 you tell us what we're looking at here?

17 A Here, we have multiple syringes which are  
18 commonly used for the injection of methamphetamine  
19 directly into the blood system. There's several ways to  
20 ingest meth. The primary is, uh, snorting, smoking and  
21 injecting. In this case, these are some needles used for  
22 injecting. This is a spoon with a little piece of a  
23 cotton swab, which indicates to me that this is used to  
24 -- meth is placed in here and heated up, pulled into the  
25 syringe and then injected.

1           Q     Now, with regards to those items that are in  
2 that bag, just to reiterate, you did take those directly  
3 to Investigator Parrish?

4           A     Yes.

5           Q     And no one else had control of them prior to  
6 giving them to Investigator Parrish?

7           A     No, sir.

8           Q     Investigator Owens, what is a compressor?

9           A     A compressor?

10          Q     Yes, as it pertains to meth labs. How do you  
11 make one?

12          A     I'm not familiar.

13          Q     Is there some type of device or a compressor  
14 that's used in the process? Maybe I'm unclear.

15          A     Not that I know of, unless the terminology is  
16 different. I'm not familiar with that term.

17          Q     What's a reaction vessel?

18          A     Uh, it could be several things. I would say  
19 basically a container that a reaction occurs in or that  
20 the chemicals are placed in. It could be -- are you  
21 referring to a generator?

22          Q     Okay. A generator. That's correct.

23          A     Okay. A generator is, uh, called a gas  
24 generator but it produces hydrogen chloride gas. It  
25 contains sulfuric acid and salt. And when they -- when

1 the two, when the sulfuric acid and salt combines, they  
2 react and form a gas, which is hydrogen chloride gas.

3 Q Okay. And what type of items can be used to  
4 produce that, what type of containers?

5 A Basically any container can be used for that.

6 (WHEREUPON, State's Exhibit 24 is marked for  
7 identification purposes.)

8 BY MR. DELOACH:

9 Q I'm going to show you what's been marked as  
10 State's Exhibit 24. Can you tell me what we're looking  
11 at here?

12 A Uh, it's a pesticide sprayer.

13 MR. DELOACH: Okay. Your Honor, at this time,  
14 I'd like to introduce this into evidence.

15 THE COURT: Any objections?

16 MR. KORNFELD: No, Your Honor.

17 MR. TONEY: None.

18 THE COURT: All right. The same is admitted  
19 into evidence as State's Exhibit. Go ahead.

20 (WHEREUPON, State's Exhibit 24 is admitted into the  
21 record.)

22 BY MR. DELOACH:

23 Q What can a pesticide sprayer be used for in  
24 this process?

25 A I've seen pesticide sprayers used as hydrogen

1 chloride gassing (inaudible)

2 Q Gassing (inaudible)?

3 A Yes, sir.

4 Q Would you point out the, uh, pesticide sprayer?

5 A I've seen them used a lot in the past couple of  
6 years mainly because as I was talking about earlier, the  
7 gas that's built into -- it can be pressurized and the  
8 gas can be controlled. It can be cut off and cut on.

9 Q Now, if these -- if another item was used,  
10 would other tubing be needed?

11 A Yes.

12 Q And in this drawer, what did we see?

13 A Uh, tubing.

14 Q And that would be another type of container  
15 used in the process?

16 A Right.

17 MR. DELOACH: No more questions, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MR. TONEY:**

20 Q Do you have batteries in your house?

21 A In my house?

22 Q Yeah.

23 A Yes, sir.

24 Q Uh, what about nasal decongestant?

25 A No, sir.

1 Q You ever use nasal decongestant?

2 A I don't use pseudoephedrine.

3 Q You ever had any kind of pseudoephedrine? You  
4 ever used it ever?

5 A Yes. Absolutely.

6 Q Okay. You ever had it in your house?

7 A Uh, in the past, yes.

8 Q Okay. You ever used, uh, -- you ever painted  
9 anything in your house?

10 A Yes.

11 Q Have you bought paint and paint thinner?

12 A No paint thinner, but paint, yes.

13 Q Paint thinner is very common, correct? People  
14 buy it all the time, correct?

15 A Oh, absolutely, yes.

16 Q And they sell it by the millions, right?

17 A I would assume. I don't know.

18 Q You ever drunk coffee?

19 A Uh-huh.

20 Q Yes?

21 A Yes.

22 Q You ever made coffee?

23 A Yes.

24 Q You ever bought coffee filters?

25 A Yes.

- 1 Q You have any in your house right now?
- 2 A I do not.
- 3 Q But you have in the past?
- 4 A Yes.
- 5 Q Uh, you ever cleaned up using lye?
- 6 A No.
- 7 Q But it's a common household item, right?
- 8 A Not in my house.
- 9 Q Yeah, but Ingles sells it, right?
- 10 A Ingles?
- 11 Q BiLo?
- 12 A Yes, sir.
- 13 Q Even convenient stores, correct?
- 14 A Yes.
- 15 Q Uh, hardware stores?
- 16 A I guess so.
- 17 Q Matter of fact, lye has been used for three or
- 18 four thousand years, correct, ---
- 19 A Yes, sir.
- 20 Q --- as a household item? Now, this, uh,
- 21 pesticide sprayer -- is this the pesticide sprayer?
- 22 A Yes.
- 23 Q What's it next to? What are these things here?
- 24 A Pots.
- 25 Q And there's plants in them, correct?

1           A     Yes.

2           Q     This is where they keep the gardening things,  
3 right?

4           A     Yes.

5           Q     And what was in the pesticide sprayer?

6           A     I did not examine the contents.

7           Q     Would it surprise you if there was pesticide in  
8 the pesticide sprayer?

9           A     It would not surprise me.

10          Q     You ever used pesticides in your entire life?

11          A     Yes, sir.

12          Q     Uh, many times or a few times?

13          A     A few times.

14          Q     What about bug spray? You ever used that?

15          A     Absolutely.

16          Q     You say this was not an active lab?

17          A     No, sir.

18          Q     Active means cooked or recently cooked, that's  
19 what you said?

20          A     Currently cooking or recently cooked.

21          Q     So at most, this is about a lab that was some  
22 time in the past, correct? Some time in the past?

23          A     I believe I stated it appeared they were  
24 going --

25          Q     It wasn't current. It was in the past,

1 correct?

2       A     It was not current cooking, no.

3       Q     And you said this was a boxed or disassembled  
4 lab, correct?

5       A     Yes.

6       Q     In other words, the items weren't all together.  
7 They were here and there, correct?

8       A     Uh, not necessarily.

9       Q     The items weren't all together, were they?

10      A     They were centralized.

11      Q     But there were some here and some there, right?

12      A     Are you referring in reference to the house or  
13 the room?

14      Q     The house.

15      A     No, they were centralized.

16      Q     Some of the items, like the pesticide, was with  
17 the garden.

18      A     I believe that was the only significant item  
19 that was located outside that room.

20      Q     All right. And this was like the tool room or  
21 something like that?

22      A     I wouldn't be able to tell you. It appeared to  
23 be some type of workroom or something.

24      Q     Workroom. And do people have -- do a lot of  
25 people have Dremel drills in their workrooms?

- 1           **A**     Sure.
- 2           **Q**     Isn't that -- if you had a Dremel drill, isn't  
3 that where you keep it?
- 4           **A**     In?
- 5           **Q**     In your workroom?
- 6           **A**     Oh, sure.
- 7           **Q**     Do you have a Dremel?
- 8           **A**     Yes.
- 9           **Q**     Where do you keep it?
- 10          **A**     In my garage.
- 11          **Q**     Which is like your workroom, right?
- 12          **A**     Sure.
- 13          **Q**     That's where you keep the paint thinner too,  
14 right?
- 15          **A**     I don't have a paint thinner.
- 16          **Q**     Would you keep it next to -- pesticides or any  
17 chemicals, you keep them in the garage, right?
- 18          **A**     Yes, sir.
- 19          **Q**     So you have batteries and you use paint thinner  
20 and you have coffee filters. You never bought lye  
21 though, correct?
- 22          **A**     No.
- 23          **Q**     You ever bought sulfuric acid?
- 24          **A**     No.
- 25          **Q**     Which is used to clean out driveways, correct?

1           A     Or drains.

2           Q     Or drains. And that's another common item?

3           A     Sure.

4           Q     Does that mean that you have a meth lab in your  
5 house?

6           A     No.

7           Q     Do you know how many recipes there are for  
8 methamphetamines?

9           A     There are several.

10          Q     Is it fair to say there's hundreds of thousands  
11 of different combinations and recipes?

12          A     No, it would not be fair.

13          Q     Is it fair to say you could make it out of  
14 possibly thousands of items?

15          A     Not necessarily.

16          Q     Hundreds at least?

17          A     Dozens.

18          Q     Dozens? There are at least 48 different  
19 manufacturing processes, correct, that can be used to  
20 make meth.

21          A     Primarily -- what we primarily see, there's  
22 three to four different processes.

23          Q     But there's actually 48 different manufacturing  
24 processes, correct?

25          A     If -- I can't testify to that.

1 Q But you know there's at least more than 20 or  
2 30, correct?

3 A I can't testify to that.

4 Q There's lots.

5 A I can testify to what I've seen. And I've seen  
6 three to four different processes.

7 Q So you don't know about anything other than  
8 what you've seen?

9 A I know of different manufacturing processes  
10 that I've been taught.

11 Q But you're saying that's more than three or  
12 four you've seen, correct?

13 A What's more than three or four?

14 Q The processes you've been taught are more than  
15 the ones you've seen?

16 A Yes, sir.

17 Q And you've been taught about how many  
18 processes?

19 A I would say four to five.

20 Q Okay.

21 A Which are the primary processes.

22 Q And how many non-primary processes are there?

23 A I don't understand the --

24 Q How many processes are you aware of  
25 manufacturing -- how many ways to make meth are there?

1           A     I'm aware of four.

2           Q     Okay. The fact that these items are in a home  
3 does not necessarily mean that meth is being manufactured  
4 in that home or has been manufactured, correct?

5           A     It's not always the case, no.

6           Q     Every one of these items can be found item in a  
7 Home Depot or pharmacy, correct?

8           A     Yes.

9           Q     Every one of these items with the exception of  
10 possibly nasal decongestant can be found in Home Depot,  
11 correct?

12          A     Yes, sir.

13          Q     But Home Depot doesn't manufacture meth, does  
14 it?

15          A     No.

16          Q     You say this is a boxed or disassembled lab.  
17 That's what you said, right?

18          A     That's what we would refer to it as.

19          Q     So disassembled means.

20          A     They are not currently --

21          Q     But it also means whatever was assembled has  
22 been taken apart and disassembled.

23          A     Not necessarily.

24          Q     So the word disassembled doesn't mean that it's  
25 been unassembled.

1           **A**     The term I used was dismantled.

2           **Q**     Actually you said disassembled. I'm just  
3 refreshing your recollection.

4           **A**     I'm pretty sure I said dismantled.

5           **Q**     Okay. Maybe I copied it down wrong. Something  
6 that's mantled, that means it's put together and  
7 something that's dismantled, that means it's taken apart,  
8 correct?

9           **A**     Sure.

10          **Q**     So whatever here is not in a form that can be  
11 used unless it's reassembled, correct?

12          **A**     Right.

13          **Q**     And you don't know -- assuming that there was  
14 some kind of meth lab some time in the past, you don't  
15 know when that was, do you?

16          **A**     I can't say.

17          **Q**     You don't know if it was six months before,  
18 three weeks before a year before, do you?

19          **A**     (Shakes head.)

20          **Q**     Is that a no?

21          **A**     No, sir.

22          **Q**     Could be two years before, correct?

23          **A**     I was making an assumption that there was one  
24 there in the past.

25          **Q**     Okay. But it was in the past, wasn't it?

1           A     What was?

2           Q     The meth lab -- there -- this -- there was not  
3 meth lab when you came in. There was no active meth lab.

4           A     There was no active meth lab.

5           Q     There was a disassembled or dismantled lab at  
6 most, correct?

7           A     Yes.

8           Q     No active cooking.

9           A     Correct.

10           MR. DELOACH: No questions for this witness.

11                                   **CROSS-EXAMINATION**

12           BY MR. KORNFELD:

13           Q     Officer Owens, what time did you arrive on the  
14 scene?

15           A     Uh, it was early evening. I'd have to -- 7:00,  
16 8:00, 9:00.

17           Q     Okay. Would 10:20 sound right?

18           A     Uh, I thought it was earlier. Okay.

19           Q     What time did you get there do you think?

20           A     It was -- it -- according to the supplement,  
21 10:20 in the p.m. It was dark.

22           Q     Okay. And you saw Ms. Newland at the house, is  
23 that true?

24           A     Yes.

25           Q     Did Ms. Newland look substantially similar then

1 as she does today?

2 A I can't remember exactly how she did look ---

3 Q Okay..

4 A --- in relation to today.

5 Q Okay. Would you say that this house is about

6 -- the house in question is about 1000 square feet?

7 A Oh, I couldn't even begin to say that. I don't  
8 know.

9 Q Would you say that the house is a smaller  
10 house?

11 A I would say it's a small -- yeah. I'd say it's  
12 a smaller house.

13 Q Looking at the pictures, and I could bring them  
14 to you if you'd like, would you say that this house is  
15 cluttered?

16 A In parts, yes.

17 Q Was it lived in?

18 A Yes.

19 Q Okay. Uh, did you move any of the evidence at  
20 all in any of these pictures, uh, specifically the  
21 picture of what appears to be a trash can, uh, -- the  
22 trash can, the picture of the paint thinner, were any of  
23 those items moved for the picture?

24 A If there was a trash can, the only way they  
25 would be moved is if during the search we located

1 something.

2 Q Okay.

3 A Once we locate an item, we leave it as it's  
4 found and a photograph is taken.

5 Q Okay.

6 A So I can't say whether or not it was moved or  
7 not. That, in itself, probably was not moved, but the  
8 items around it may have been in order to observe it.

9 Q Okay. Here, the picture shows that the paint  
10 thinner is laying down, correct? Does it appear that  
11 way?

12 A That's what it looks like, yes.

13 Q But here, the picture of the paint thinner is  
14 standing up. Is that right? Does it appear that it's --

15 A It appears like it's standing.

16 Q So it was moved at some point, right?

17 A It -- yeah. If that's the same can of paint  
18 thinner, I believe there were multiple cans.

19 Q Okay. In the background of this, there's a  
20 picture of what I'll say is an air conditioning unit or  
21 something. And in here, there's no picture of that, is  
22 there? It's not in the same --

23 A Yeah, that's probably the same can.

24 Q So at least those items were used. At least  
25 the paint thinner or the trash can was used for the

1 picture.

2       **A**     I'm sure the paint thinner was probably moved.

3       **Q**     Okay. Okay. And then another thing, you say  
4 all the items were found in Room F. But that brown box  
5 wasn't found in Room F, was it?

6       **A**     The --

7       **Q**     This box right here.

8       **A**     No, that was not found in Room F.

9       **Q**     Where was it found?

10      **A**     Another bedroom. I can't remember the label,  
11 what it was labeled as.

12      **Q**     Room D. Would that sound right?

13      **A**     I can't remember.

14      **Q**     Okay.

15      **A**     It was a bedroom.

16      **Q**     Okay. Okay. Now, you say that the -- people  
17 crush pills up when they are making meth, is that right?

18      **A**     Yeah, sometimes. It just depends on the  
19 preference.

20      **Q**     But that picture there, those pills weren't  
21 crush up, were they?

22      **A**     No.

23      **Q**     They were in tact?

24      **A**     Yes.

25      **Q**     Do people ever use a painter mask that paint?

1           A     Sure.

2           Q     And, uh, the day that you went to the incident,  
3 y'all decided not to wear full suits. Y'all made that  
4 determination?

5           A     Yes.

6           Q     And that is presumably because you didn't feel  
7 that you were at harm going in that house?

8           A     No.

9           Q     No, you weren't in harm or no, you were in  
10 harm? Did you feel that you were in harm or not?

11          A     No.

12          Q     Okay. You say you found the syringes, do  
13 people use syringes to inject insulin that have diabetes?

14          A     Yes.

15          Q     Okay. And as far as Drano and these -- people  
16 use these to clean their tanks or their sinks if they get  
17 clogged or any other drains?

18          A     Yes, sir.

19          Q     Are you aware that at this house, this house  
20 has a septic tank?

21          A     I wouldn't know.

22          Q     Uh, did you notice if anything was clogged up?  
23 Do septic tanks clog more often than a city sewer line?

24          A     I wouldn't know.

25          Q     Okay. What color was the room painted, Room F?

1           **A**     That, I do not remember.

2           **Q**     Okay. The -- you submitted a supplemental  
3 report, these two right here. These are your  
4 supplemental reports, correct?

5           **A**     This is not mine.. This is Investigator  
6 Parrish. This one is mine.

7           **Q**     Okay. When did you write your supplemental  
8 report, Mr. Owens?

9           **A**     I write mine after we did search warrants.

10          **Q**     Did you ever write one later on?

11          **A**     On this?

12          **Q**     Yes.

13          **A**     I believe this is one of those cases where they  
14 could not locate my report.

15          **Q**     Okay. Did you write one maybe a month ago?

16          **A**     I believe it was maybe a little longer than  
17 that.

18          **Q**     Maybe a little more a month, maybe a little  
19 less.

20          **A**     Give or take, yes.

21          **Q**     Is it safe to say you can't remember everything  
22 that happened a year ago or over a year ago now, June  
23 23rd, the night of June 23rd, the morning of June 24th of  
24 2010?

25          **A**     What was the question?

1 Q Can you say honestly that you remember  
2 everything that's in this report, that you put in this  
3 report that happened on June 23rd, June 24th of 2010,  
4 over a year ago?

5 A Uh, by memory, I wrote it.

6 Q Okay. But you saying you don't remember what  
7 color the walls on the rooms are?

8 A I do not remember the color.

9 Q But you -- Okay. Okay. Uh, no further  
10 questions.

11 MR. DELOACH: Just a couple of redirect, Your  
12 Honor.

13 THE COURT: All right, sir.

14 REDIRECT EXAMINATION

15 BY MR. DELOACH:

16 Q Uh, Investigator Owens, there was a question by  
17 Mr. Toney over and over again about it being in the past  
18 and this lab. Did you not state on direct that you  
19 observed this as a planned cook?

20 A Yes, I did.

21 Q Explain what you meant by that.

22 A It appeared they were preparing to cook.

23 Q Okay. And what made you believe that?

24 A The fact that the pills were in tact, they were  
25 removed from the blister pack. They were placed in a

1 central location in a bowl together. The number of pills  
2 and just the placement of all the items in that central  
3 location in that room.

4 Q Okay. Now, Mr. Toney also brought up the fact  
5 that everything can be found in a Home Depot or a CVS.

6 A Yes.

7 Q Is that not kind of, as an expert, one of the  
8 calling cards of --

9 A That --

10 Q Is it not kind of one of the calling cards of  
11 methamphetamine that everything that can be used to make  
12 it can be found?

13 A Yes. Yes.

14 Q And Mr. Toney also brought up some facts that  
15 you have a battery in your house, do you have  
16 pseudoephedrine in your house. Do you pop all over your  
17 pseudoephedrine out of the blister packs, 192 of them  
18 into a bowl before you use them?

19 A No, I do not.

20 Q Do you cut your lithium batteries open with a  
21 Dremel tool at your house?

22 A No, sir.

23 Q Okay. In your expert opinion of Mr. Owens,  
24 were they planning to produce methamphetamine in that  
25 house?

1           **MR. TONEY:**    Objection.

2           **THE COURT:**   All right. I'm going to sustain

3           the objection.

4           **MR. DELOACH:**   No more questions.

5           **THE COURT:**    All right. Any recross?

6           **MR. TONEY:**    None.

7           **THE COURT:**    Okay.

8           **MR. KORNFELD:**   None, Your Honor.

9           **THE COURT:**    All right. Okay. All right.

10          Officer, thank you. You may step down. Thank

11          you for being here, sir. I appreciate it.

12          **THE WITNESS:**   Thank you.

13          **MR. DELOACH:**   Your Honor, at this time, the

14          State calls Joe Parrish to the stand.

15          **THE COURT:**    Let's hold up real quick.

16          We've been at it about an hour and a half.

17          Y'all need to take a break? Yeah. I knew you did.

18          I felt it through your body language. All right.

19          Let's take a short break, 5 or 10 minutes. We'll

20          come back in and continue.

21          (WHEREUPON, the jury exits at approximately

22          2:47 p.m.)

23          (WHEREUPON, a short recess is taken.)

24          **THE COURT:**    Take your seats, Ladies and

25          Gentlemen. All right. Before we stood down, you

1 wanted to take up the issue of the custody of the  
2 defendants?

3 MR. KORNFELD: Yes, sir.

4 THE COURT: Okay. Let's do this. Let's, uh,  
5 hear the remainder of the testimony today. And then  
6 when we release the jury for the day, we'll talk  
7 about that. Okay.

8 MR. KORNFELD: Yes, sir.

9 THE COURT: And Mr. Toney, I've been advised  
10 that you have some phones that were going off?

11 MR. TONEY: They were on vibrate and I turned  
12 it off vibrate.

13 THE COURT: Okay.

14 MR. TONEY: It's just on silent now.

15 THE COURT: Okay.

16 MR. TONEY: Beg your pardon.

17 THE COURT: No, that's alright. That's  
18 alright.

19 MR. TONEY: But I did take care of that.

20 THE COURT: Okay.

21 MR. TONEY: Thank you.

22 THE COURT: Y'all ready for the jury?

23 MR. DELOACH: Yes, sir.

24 THE COURT: Okay. Will you bring them in  
25 please.

1           **(WHEREUPON, the jury enters at approximately**  
2 3:02 p.m.)

3           **THE COURT:** All right, Ladies and Gentlemen.  
4 Welcome back.

5           All right, Mr. Deloach.

6           **MR. DELOACH:** Your Honor, at this time, the  
7 State calls Investigator Joe Parrish to the stand.

8           **THE CLERK:** Sir, please come forward. Please  
9 place your left hand on the Bible and raise your  
10 right hand.

11           **THE WITNESS:** Yes, ma'am.

12                           **JOSEPH PARRISH**

13 having first been sworn, testifies as follows:

14           **THE CLERK:** Thank you. Please be seated.  
15 Please state your full name for the record.

16           **THE WITNESS:** Joseph Parrish.

17                           **DIRECT EXAMINATION**

18 **BY MR. DELOACH:**

19           **Q** Good afternoon, Investigator Parrish.

20           **A** Good afternoon.

21           **Q** Investigator Parrish, where do you work?

22           **A** I work with the Greenville County Sheriff's  
23 Office.

24           **Q** And how long have you been there?

25           **A** Been with the Sheriff's Office a little over

1 four years now.

2 Q And in what capacity do you work there?

3 A I'm currently an investigator with the  
4 narcotics unit.

5 Q Have you always been in narcotics?

6 A No, I have not.

7 Q Where did you start?

8 A Uh, I started as a patrol officer. My law  
9 enforcement career actually began in 1992 and it's  
10 brought me here to Greenville. I began in Washington,  
11 D.C. I worked with the capital police up there.

12 Q Okay. And how long had you worked up there?

13 A I worked with the capital police for six years.  
14 Prior to that, I was with the military police in the  
15 Army.

16 Q So total, how long you been in law enforcement?

17 A 19 years.

18 Q Investigator Parrish, how many -- in your  
19 course of law enforcement, how many methamphetamine labs  
20 have you worked?

21 A It's been well over 50.

22 Q Now, did you -- did you have occasion to work  
23 on a case at \_\_\_\_\_ in Greer on June the  
24 23rd of 2010?

25 A Yes, I did.

1           Q     And did you see the defendants, Debra Newland  
2 and Charles Hammons, at that residence on that day?

3           A     Yes, sir.

4           Q     Now, what -- in what capacity did you work at  
5 that scene?

6           A     My specific duties, I was there to assist with  
7 the execution of the search warrant. During execution,  
8 as we approached the house and made entry into the  
9 residence, my duties consisted of providing security in  
10 the -- outside in the yard. Once the scene was secure,  
11 my duties was to basically compile a list of the items of  
12 evidence we seized. That list was transcribed onto the  
13 search warrant.

14          Q     Okay. And what did they call that person who  
15 does that in your line of work?

16          A     It's called a scribe.

17          Q     Okay. So you served as a scribe on this case?

18          A     Yes, sir.

19          Q     Now, during your acts as a scribe, did you  
20 collect a large list of evidence?

21          A     I did, sir.

22          Q     Do you recall all the evidence that you took  
23 into custody on that day?

24          A     Not from memory.

25          Q     Okay. If you were to look at your report,

1 would that refresh your recollection?

2           **A**    Yes, sir. It would.

3           **Q**    Do you have that report with you?

4           **A**    I do, sir.

5           **Q**    Okay. What items were brought to you as the  
6 scribe on your report?

7           **A**    Uh, first item listed is one brown box, wood  
8 construction. It contained assorted coffee filters with  
9 a white residue. These items were found in Room D which  
10 was the left rear bedroom by Investigator Brown.

11          **Q**    Okay.

12          **A**    Second item was a handwritten letter. Two  
13 loose leaf notebook pages found in Room D by Investigator  
14 Brown. One clear plastic bag containing split lithium  
15 batteries found in Room E, which was the hallway, by  
16 Investigator Jacobson. The fourth item was a plastic bag  
17 containing two Wal-Phed pseudoephedrine boxes with empty  
18 blister packs. They were 96 count per box, 30 milligram  
19 pills. They were found by Investigator Jacobson in the  
20 hallway.

21                   One "Mr. Coffee" coffee grinder was found in  
22 Room F, which was the front right bedroom, by  
23 Investigator Owens. One empty Publix box of  
24 pseudoephedrine. It was a 96 count, 300 milligram pills.  
25 It was found in the front right bedroom by Investigator

1 Owens. A digital scale found by Investigator Owens in  
2 the front right bedroom. A 16-ounce bottle of hydrogen  
3 peroxide found by Investigator Owens. One liter plastic  
4 bottle with a black rubber sleeve found in the front  
5 right bedroom by Investigator Owens. A clear plastic bag  
6 containing white pills found in Room F by Investigator  
7 Owens.

8 Assorted coffee filters found in the front  
9 right bedroom by Investigator Owens. Eight empty blister  
10 packs, 24-count, 30 milligram pills found by Investigator  
11 Owens. One 32-ounce can of toluene that was also found  
12 by Investigator Owens. Plastic tubing found by  
13 Investigator Owens. Three Niosh painters mask, 31 -- I'm  
14 sorry. It's a loaded syringe that contained unknown  
15 substance. One silver in color metal spoon with a right  
16 rif -- white residue. Box filled with 30, uh, 38 --

17 Q Who found that?

18 A All these -- I'm sorry. Just to clarify.  
19 From, uh, Item JP4 through the rest of the items I was  
20 reading are all by -- found by Investigator Owens ---

21 Q Okay.

22 A --- in that front right bedroom which was  
23 listed as front white bedroom by Investigator Owens.

24 Q Is that Room F?

25 A Yes, Room F. A box of syringes that was also

1 removed by Investigator Owens. Two one gallon cans of  
2 Coleman camp fuel found in Room F. That was the, uh,  
3 front bedroom. A green camp stove found by Investigator  
4 Owens in the front bedroom. One bottle of Liquid Fire  
5 found in the front bedroom by Investigator Owens. Two  
6 lithium batteries found by Investigator Owens in the  
7 front bedroom. An assortment of stirring utensils also  
8 found by Investigator Owens in that front bedroom. A  
9 pack of glue sticks found by Investigator Owens.

10 One hot plate found by Investigator Owens. One  
11 compressor found in front bedroom by Investigator Owens  
12 and 197, uh, 30 milligram red pills found by Investigator  
13 Owens in the front bedroom. Found some miscellaneous  
14 paperwork, a propane tank that contained bluing in the  
15 back yard and green sprayer.

16 Q Okay. Now, these items that were found and the  
17 officers that you listed that found them, did they bring  
18 them directly to you?

19 A Yes, they did, sir.

20 Q Okay. And what did you do when you took those  
21 items into your custody?

22 A I, uh, -- essentially I found an area in the  
23 house, I believe was in the dining room and dining room  
24 table that I used --

25 THE COURT: Mr. Deloach, I'm going to stop

1           you. I don't know if you have witnesses, but  
2           there's an order of sequestration. (Pause.)

3 **BY MR. DELOACH:**

4           **Q**     Continue.

5           **A**     I have various packaging materials that I had  
6           with me as well. So as items were brought to me, I  
7           packaged those items. I labeled each of the packaging  
8           with the item number that I gave with a particular item.  
9           And I made an itemized list of all the items we seized,  
10          all the items of evidence.

11          **Q**     Okay. Now, were those items turned into the  
12          evidence locker room at the law enforcement center?

13          **A**     From the scene, from that area where I was --  
14          had done the scribe, all that evidence was turned over to  
15          Investigator Brown.

16          **Q**     Now, was all that evidence turned over or was  
17          some evidence --

18          **A**     Not all the evidence was turned over. There  
19          was -- a substantial amount of evidence was actually  
20          turned over to the hazardous waste recovery unit,  
21          disposal unit that we contract with who deal with meth  
22          labs.

23          **Q**     Okay. I want to show you what's been -- I'm  
24          going to ask you to look in this envelope. Do not open  
25          it up and do not tell us what's in it. Just tell us if

1 you recognize the items in that brown envelope.

2 A Yes, I do.

3 Q And those items were brought to you by who?

4 A Those items were brought to me, uh, while I was  
5 doing the scribe. I believe all three items were  
6 actually brought to me by Investigator Owens.

7 Q Okay. And did you give those items to someone  
8 else, uh, -- or do you take those items to the evidence  
9 locker yourself or did someone else?

10 A No, someone else did.

11 Q Okay. And who was that person?

12 A That was Investigator Brown.

13 Q And prior to your giving them to Investigator  
14 Brown, did anyone else have possession over those items?

15 A No, they went directly from my control to  
16 Investigator Brown's control.

17 Q Did anyone else have any type of control of  
18 those items other than yourself prior to -- after they  
19 were delivered to you by Investigator Owens and prior to  
20 you giving them to Investigator Brown?

21 A No, sir.

22 Q Okay. One second. (Pause.)

23 Now, why didn't you take those items to the  
24 evidence room yourself?

25 A Because it has the nature of methamphetamine

1 labs and some of the differing chemicals that are used,  
2 it's a requirement that whoever is going to handle that  
3 evidence and place it into an evidence locker have some  
4 knowledge of meth labs, specifically that they've gone  
5 through a technician's course on how to properly process  
6 evidence from a meth lab. At the time of this search  
7 warrant, I was not, uh, trained as a meth lab technician  
8 and Investigator Brown was. Once I had completed my  
9 duties as scribe on scene, evidence was turned over to  
10 Investigator Brown who was meth lab trained to go ahead  
11 and place those items into evidence.

12 Q Was it your intention for him to do anything  
13 other than take those things to the evidence locker?

14 A No, sir.

15 MR. DELOACH: No more questions, Your Honor.

16 THE COURT: Gentlemen, cross-examination.

17 CROSS-EXAMINATION

18 BY MR. KORNFIELD:

19 Q Officer Parrish, uh, is this house smaller than  
20 1000 square feet or larger than 1000 square feet?

21 A I have no idea.

22 Q Was it a small house?

23 A I mean, for the area that we were in, in the  
24 northern part of the county, it was about average size  
25 for that area in the county.

1           Q     But you can't say whether it was 1000 square  
2 feet, 800 square feet or 5000 square feet?

3           A     I feel safe guessing it wasn't 5000 square  
4 feet.

5           Q     And you are the scribe on this case, is that  
6 correct?

7           A     Yes, sir.

8           Q     Okay. And you filed, you filed a supplemental  
9 report yourself, is that correct?

10          A     Yes, I did.

11          Q     And when did you actually write that report  
12 out?

13          A     On the 24th of June, 2010, the day after we  
14 served the warrant.

15          Q     Did you ever make any other supplemental  
16 reports? Write any other supplemental reports?

17          A     Yes.

18          Q     What day did you do those?

19          A     Same day.

20          Q     Did you do those all the way back in June 24th,  
21 2010?

22          A     That's correct, sir.

23          Q     Okay. You stated, uh, uh, there was a syringe  
24 that you found with an unknown subject. Is that correct?

25          A     Yes, sir.

1 Q Did you ever test that syringe, what was in the  
2 syringe?

3 A I did not test it. It was placed into Property  
4 and Evidence by Investigator Brown.

5 Q Okay. Also, with reference to JP4, I believe  
6 you said that JP4 was found in Room F. But according to  
7 your report, JP4 was actually found in the hallway, which  
8 y'all, uh, gave the letter E, is that correct?

9 A I'd have to again review my report and see what  
10 it says.

11 Q Well, here, it's right there. JP -- I'm sorry.  
12 Where did you find JP4?

13 A As it says here, states, uh, JP4 was a plastic  
14 bag containing, uh, pseudoephedrine boxes. It was found  
15 in Room E, which is a hallway by Investigator Jacobson.

16 Q Okay. So not in Room F?

17 A We read from the report just a few minutes ago.

18 Q Okay. I'm just asking because before you said  
19 Room F.

20 A When did I say Room F?

21 Q When Perry was asking you questions, Mr.  
22 Deloach.

23 A Oh, okay. If I did, then I read it wrong off  
24 the supplemental report that was identical to the one you  
25 just showed me.

1 Q Okay.

2 A I apologize.

3 Q No. Thank you. No. Now, on the BEST evidence  
4 bags that were taken, did you put your name on the BEST  
5 evidence bags?

6 A The BEST evidence bags.

7 Q Did you put your names on any of the bags that  
8 you acted as a scribe? Did you put your name on any of  
9 the bags, any of the items that you found here that you  
10 were the scribe for?

11 A Yeah, the items are marked with the Item number  
12 on the outside of each bag.

13 Q Okay. Was there anybody's name on any of the  
14 bags put on the outside of those bags?

15 A On the outside of the bags?

16 Q Right.

17 A I don't believe so, no, sir.

18 Q To your knowledge, nobody put Joe Parrish on it  
19 or any initials or wrote anybody's name on it?

20 A Not on the outside. Now, once Investigator  
21 Brown took those -- that evidence and went to Property  
22 and Evidence, I believe he additionally marked those bags  
23 on the inside of it prior to it being sealed.

24 Q So he marked, you don't know if he marked your  
25 name on it or not.

1           **A**     I wasn't with Investigator Brown when he went  
2 to Property and Evidence, no, sir.

3           **Q**     Okay. Okay. As far as the, uh, supplemental  
4 report goes, you never made a supplemental report  
5 approximately a month ago?

6           **A**     No, sir.

7           **Q**     Okay. Your supplemental report, when did you  
8 give that supplemental report to the state or Mr.  
9 DeLoach?

10          **A**     I don't know when Mr. DeLoach received that  
11 supplemental report. I provided the case agent,  
12 Investigator Jacobson, with my supplemental report as  
13 soon as it was completed.

14          **Q**     So some time last year would be safe to say?

15          **A**     Within, you know, days of it being completed, I  
16 would have turned it over to Investigator Jacobson.

17          **Q**     Okay. Okay. Thank you. Did you take pictures  
18 of the evidence?

19          **A**     I began taking photographs of the outside of  
20 the residence. Obviously, I can't recall if I continued  
21 taking pictures. Normally, once I start scribing the  
22 evidence that's being brought to me, I can't take  
23 pictures. I don't know who finished the pictures.

24          **Q**     Okay. But you were at the same place when the  
25 pictures were being taken?

1           **A**    Oh, yes. All the evidence was photographed.

2           Yes, sir.

3           **Q**    Okay. Were any of the pieces of evidence moved  
4           so that you can get them into the picture?

5           **A**    Not that -- to my knowledge. All the evidence  
6           is -- once it's found, we take a picture of it and then  
7           we bring it and scribe the documents.

8           **Q**    So you didn't see any of the, any of the  
9           evidence moved to be closer in proximity at all?

10          **A**    Can you rephrase that question, sir?

11          **Q**    Did you put any of the pieces of evidence  
12          together? Like, did you move a paint thinner or see  
13          anybody move paint thinner?

14          **A**    Are you saying did we stage the evidence?

15          **Q**    I'm not saying staging. I'm saying did you put  
16          the evidence together so that you can get it in one  
17          picture?

18          **A**    No, sir. I mean, the evidence is taken -- the  
19          picture of the evidence is taken where it's found.

20          **Q**    Okay. So this is how this evidence was found  
21          to your knowledge.

22          **A**    To my knowledge, yes, sir.

23          **Q**    So would it -- would it be shocking to you if  
24          that same paint thinner is set here and looks like it's  
25          against the wall. There's baseboard right there. This

1 trash can or whatever it is in view.

2 A It's two different cans.

3 Q It's two different cans?

4 A I --

5 Q Did you put two different cans in your report  
6 when you were the scribe?

7 A I'd have to look at my report.

8 Q Well, I've got your report. Look at it. Were  
9 there two cans of paint thinner on your report that you  
10 found?

11 A I think it's important -- you say that I found.  
12 I think it's important that you understand that I didn't  
13 -- I don't find the items. I'm in a stationary location  
14 in the house. The items are brought to me. So it's very  
15 possible that as items were being brought to me that I  
16 listed one can as being found, when in actuality, there  
17 were two cans found.

18 Q So you can't say for certain that there's one  
19 can or two cans?

20 A I can say for certain that there's at least one  
21 can found of the Sudafed that's in the bag. The other  
22 can that we have a picture of near a wall, I would say  
23 the picture suggests there are two cans. I might have  
24 made a mistake when I put one can instead of two.

25 Q Okay. Nobody else said anything about two cans

1 in their reports.

2       **A**    I can't speak to others' reports, sir. I'm  
3 sorry.

4       **Q**    Okay. And you didn't move these?

5       **A**    No, sir.

6       **Q**    Okay. Let me be clear on this. At the time of  
7 this incident, were you meth lab certified?

8       **A**    No, sir.

9               **MR. KORNFELD:** No further questions, Your  
10 Honor.

11              **THE COURT:** Mr. Toney?

12              **MR. DELOACH:** One question on re-- oh, I'm  
13 sorry.

14                                   **CROSS-EXAMINATION**

15 **BY MR. TONEY:**

16       **Q**    So you, uh, -- was there one can or two cans of  
17 paint thinner?

18       **A**    Apparently, I wrote there was one can. The  
19 picture suggests there's two cans.

20       **Q**    So your report was wrong?

21       **A**    A particular portion, yes. I made a  
22 typographical error when I typed one, instead of two.  
23 Yes, sir. That's correct.

24       **Q**    How many other mistakes did you make in this  
25 report?

1           **A**     In the report, it doesn't look like I made any  
2 mistakes.

3           **Q**     You didn't count the cans correctly?

4           **A**     At some point, the cans were being brought to  
5 me. It could be either I was told one can or I thought I  
6 heard one can before. As I typed my report, I typed one  
7 instead of two.

8           **Q**     So this isn't what you saw, this is what you  
9 were told and you were hearing it as you were typing the  
10 report?

11          **A**     No, as I said, as I -- I'm stationery and all  
12 the evidence is brought to me. So I don't actually go  
13 and collect the evidence. The individual who finds the  
14 evidence has a photograph and they bring that evidence to  
15 me so I can document it.

16          **Q**     What you just said is this is what you were  
17 told and this is what you heard. That's what you just  
18 said a minute ago, a minute and 30 seconds.

19          **A**     Yes. As I'm writing my evidence down, people  
20 bring their evidence to me and tell me what they found  
21 and where they found it. I would document it and then  
22 collect that evidence so it would either be -- go to a  
23 meth lab where it's going to be disposed of or we  
24 determine that it's evidence we can place in P&E.

25          **Q**     Is it possible that it was only one can and not

- 1 two?
- 2 A Not based on the pictures I just saw, sir.
- 3 Q Okay. And these items, uh, it was paint  
4 thinner, that's one of the items?
- 5 A That's toluene, yes, sir.
- 6 Q You ever done any painting?
- 7 A Have I ever done any painting?
- 8 Q Yeah.
- 9 A I have, sir.
- 10 Q You ever brought paint thinner?
- 11 A I have, sir.
- 12 Q You ever have any in your house?
- 13 A I usually keep it outside in the garage.
- 14 Q Okay. And the paint thinner here, where was  
15 it, in the garage portion or in the workroom portion?
- 16 A In the bedroom.
- 17 Q Okay. This was a cluttered house, so it was  
18 small, correct?
- 19 A It was cluttered, yes, sir.
- 20 Q And small?
- 21 A Small, I'm not going to say small. I grew up  
22 in a house not much bigger than that.
- 23 Q I understand.
- 24 A We had plenty of room.
- 25 Q The, uh, -- there was a Dremel drill in this

1 house?

2 A I have no idea, sir.

3 Q Uh, coffee filters?

4 A Yes, sir.

5 Q Do you drink coffee?

6 A I do, sir.

7 Q Do you ever drink it at home?

8 A Yes, sir.

9 Q Do you make it?

10 A Yes, sir.

11 Q You have coffee filters in your house?

12 A I do, sir.

13 Q What about Sudafed. You ever had that?

14 A I don't recall ever taking Sudafed, sir.

15 Q Never? Anyone in your family ever taken

16 Sudafed?

17 A Uh, my wife would buy Zyrtec. I don't know if  
18 that had pseudoephedrine in it or not.

19 Q What about batteries? Do y'all have things  
20 that you use batteries for in your house?

21 A Yes, sir.

22 Q You buy batteries like everybody else, right?  
23 Maybe not every day but every now and then, right?

24 A Yes, sir.

25 Q And, uh, you ever go camping?

- 1           A     Uh, not often.
- 2           Q     But you've been, right?
- 3           A     Once or twice, yes, sir.
- 4           Q     You ever had a camping stove when you went  
5 camping?
- 6           A     No, I do not, sir.
- 7           Q     But other people did when you were there,  
8 correct?
- 9           A     No, all we had was a little grill.
- 10          Q     But you never been camping where anyone had a  
11 camping stove?
- 12          A     Not anyone I've been with, no, sir.
- 13          Q     Okay. An assortment of stirring utensils.  
14 That could be spoons or sticks or anything, correct?
- 15          A     That's exactly what it was, sir.
- 16          Q     Is it a fair statement to say that -- let's say  
17 there's 100 people in this building right now, 200  
18 people. Probably every one of them lives in their house  
19 where there's spoons?
- 20          A     Yes, sir.
- 21          Q     Okay. Matter of fact, if you ever went into a  
22 house that didn't have spoons, would you be shocked?
- 23          A     I don't know if I would be shocked. But I  
24 would expect to see spoons in the kitchen.
- 25          Q     Okay. And that doesn't mean that they are meth

1 labs, correct, if there are spoons in the house, correct?

2       **A**     If there are spoons in the house, no, that  
3 doesn't mean it's a meth lab.

4       **Q**     The syringe, was it tested?

5       **A**     I don't know, sir.

6       **Q**     You don't know what was in that syringe,  
7 correct?

8       **A**     It was a dark, brownish looking of some sort.  
9 I don't know what it was.

10       **Q**     Could be -- could be anything in there,  
11 correct?

12       **A**     Yes, sir.

13       **Q**     Could be diabetes medicine, right?

14       **A**     I have no idea, sir.

15       **Q**     Could be antibiotics, right?

16       **A**     Again, I can't even begin to guess what could  
17 be.

18       **Q**     Could be bleach or paint, right?

19       **A**     Don't know.

20       **Q**     You don't know, right?

21       **A**     That's correct.

22       **Q**     As far as evidentiary value to prove anything,  
23 that syringe proves nothing, correct?

24       **A**     By itself. But with everything else, it does  
25 have some evidentiary value with all the other items.

1 collected.

2 Q This is not an active meth lab, correct?

3 A No, it was not active.

4 Q And active means either one of two things,  
5 cooked or recently cooked, correct?

6 A It means that the cooking is in progress.

7 Q If I told you that some of the other officers  
8 have said cooked means -- it means cooked or recently  
9 cooked, would you disagree with that.

10 A Recently cooked, you would still have active  
11 ingredients at the site.

12 Q So this was not an active meth lab?

13 A No, sir.

14 Q Is this what's called a boxed or dismantled or  
15 disassembled?

16 A Boxed, stored.

17 Q Stored. So the items are not currently in use,  
18 not active.

19 A Not active.

20 Q Okay. The pesticide sprayer, there is one,  
21 correct?

22 A Yes, sir. There was one.

23 Q And lots and lots of people have pesticide  
24 sprayers, correct?

25 A Yes, sir.

1           Q     Or they have, uh, the thing that I use at my  
2 house to get the weeds up. I put weed killer on them.  
3 They have those, correct, that's like a pesticide  
4 sprayer.

5           A     I know.

6           Q     Those are real common, correct?

7           A     Yes, sir.

8           Q     You wouldn't think evil of anyone for having a  
9 weed killer or pesticide sprayer in the house, would you?

10          A     No.

11                **MR. TONEY:** That's all the questions I have  
12 for this witness.

13                **MR. DELOACH:** Just one on redirect, Your  
14 Honor.

15                **THE COURT:** All right.

16                                **REDIRECT EXAMINATION**

17 **BY MR. DELOACH:**

18           Q     Investigator Parrish, you didn't search Room F,  
19 did you?

20           A     I'm sorry, sir.

21           Q     You did not search Room F, did you?

22           A     No, I did not, sir.

23           Q     Who searched Room F?

24           A     Uh, Investigator Owens.

25                **MR. DELOACH:** Okay. No more questions.

1           **THE COURT:** All right. Any recross within the  
2 scope of that redirect?

3           **MR. TONEY:** No, Your Honor.

4           **THE COURT:** Okay. Mr. Kornfeld?

5                                   **RECROSS-EXAMINATION**

6 **BY MR. KORNFELD:**

7           **Q** Just one question. Uh, a discrepancy about  
8 what color was the liquid that was in the syringe?

9           **MR. DELOACH:** Objection, Your Honor.

10           **THE COURT:** Sustained.

11           All right. Uh, you may step down, sir.

12           **THE WITNESS:** Thank you, sir.

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

14           **MR. DELOACH:** Your Honor, at this time, the  
15 State would call Mr. Brandon Brown.

16           **THE CLERK:** Sir, please come forward. Place  
17 your left hand on the Bible and raise your right  
18 hand.

19                                   **BRANDON BROWN**

20           having first been sworn, testifies as follows:

21           **THE CLERK:** Thank you. Please be seated.

22           Please state your full name for the record.

23           **THE WITNESS:** Brandon Brown.

24                                   **DIRECT EXAMINATION**

25 **BY MR. DELOACH:**

1           Q     Good afternoon, Investigator Brown. How are  
2 you doing?

3           A     Good. You, sir?

4           Q     Doing well. Investigator Bound -- Investigator  
5 Brown, where do you work?

6           A     For the Greenville County Sheriff's Office.

7           Q     And how long have you been there?

8           A     I been there just over nine years.

9           Q     And in what capacity do you work at the  
10 Sheriff's Office?

11          A     I am the Master Deputy in the Vice and  
12 Narcotics unit with the Greenville County Sheriff's  
13 Office.

14          Q     And have you always held that position?

15          A     No, sir. I have not.

16          Q     Prior to that, where have you worked?

17          A     I spent my first three years in Uniform Patrol  
18 where most deputies do start out in Greenville County.  
19 Moved from there over to a School Resource Officer spot  
20 while working gangs as well and have been working in  
21 narcotics for five years and gangs for six now.

22          Q     Okay. Investigator Brown, are you meth lab  
23 certified?

24          A     Yes, sir. I am.

25          Q     Did you have an occasion to be involved in a

1 search warrant that occurred in Greer at  
2 in Greer on June the 23rd, 2010?

3 A Yes, sir. I did.

4 Q And what was your function at that search  
5 warrant?

6 A My primary function was an entry operator  
7 during the execution of the search warrant. Once the  
8 search warrant was executed and the house was deemed  
9 safe, I then assisted with the search of the property.

10 Q And did you find items in the home?

11 A I would have to look at the search warrant  
12 scribe to be able to confirm that, sir.

13 Q Did you give -- uh, were you the scribe on this  
14 search warrant?

15 A No, sir. I was not.

16 Q Who was the search warrant scribe?

17 A Investigator Parrish was the scribe for that.

18 Q And as -- serving as the search warrant scribe,  
19 what are his functions?

20 A I'm sorry. Rephrase your question?

21 Q Serving as a scribe, what are his functions?

22 A His primary functions as a scribe of the search  
23 warrant is he will be sitting in a centrally located area  
24 of the residence. As items are located, they are then  
25 photographed by someone within our unit. The items have

1 been recovered and then taken to the scribe so that he  
2 can properly document who actually found the item, where  
3 it was found and make sure it goes on both documentation  
4 of Property and Evidence sheets as well as the scribe  
5 paper, which is a page within the search warrant.

6 Q Okay. Now, I'm going to show you an envelope.  
7 If you could, look inside this envelope. Without telling  
8 us what's in it or showing it to us, tell me if you  
9 recognize those items.

10 A The first item is marked --

11 Q No, don't tell us what it is. Just tell us if  
12 you recognize it.

13 A Yes, sir. I do.

14 Q Now, are those items that you found at the  
15 search warrant, during execution of search warrant?

16 A I would have to look at the scribe list to be  
17 able to confirm that. (Reviewing.)

18 These are items I took possession of, yes, sir.

19 Q Okay. Are those items that you discovered at  
20 home or items you took possession of later?

21 A Give me just one moment please.

22 Q Yes, sir.

23 A (Reviewing.) Item listed JP30 is located by  
24 Investigator Owens. JP17 was also located by  
25 Investigator Owens. JP16 was also located by

1 Investigator Owens inside the residence.

2 Q So you would say you did not find those items  
3 in the residence?

4 A That's correct, sir.

5 Q But did they come in your possession at some  
6 point?

7 A Yes, sir. They did.

8 Q Okay. Who gave them to you?

9 A Investigator Parrish.

10 Q Why did Investigator Parrish give those items  
11 to you?

12 A It is our policy, based on the mere hazard of  
13 any kind of meth lab that anyone that is not a lab  
14 technician certified, they can not place items into  
15 Property and Evidence. At this current time, there was  
16 only a handful of us inside the unit that were meth techs  
17 or certified methamphetamine lab technicians. And any  
18 time an item comes up that is involved in that lab, we  
19 have to take possession of it to put it in Property and  
20 Evidence.

21 Q Okay. Did you, in fact, take those items from  
22 Investigator Parrish and take them to the evidence room  
23 at the law enforcement center?

24 A Yes, sir. I did.

25 Q From the time that you took them from

1 Investigator Parrish to the time that you logged them  
2 into evidence, did anyone else have custody of those  
3 items?

4 A From the time I took possession from  
5 Investigator Parrish?

6 Q Right.

7 A No, sir. I was the only person in our unit to  
8 have possession of those items.

9 Q On those items, whose name appears next to --  
10 and while you are there, why don't you explain to us what  
11 type of bag that is, not showing the items to the jury,  
12 what type of bag is that that's inside the outer bag.  
13 Inside of which bag did you put the items in when you got  
14 to the evidence room?

15 A To answer your first question, the name inside  
16 the heat seal is Investigator J. Parrish. The items that  
17 are inside of the outer heat seal portion are items  
18 commonly found in manufacturing methamphetamine and use  
19 of methamphetamine.

20 Q Now, did -- when you put those items into the  
21 evidence room, did you put Investigator Parrish's name on  
22 there or did he?

23 A I did.

24 Q Can you tell us why you did that?

25 A Yes, sir. With Investigator Parrish being the

1 actual scribe of the search warrant, whenever the items  
2 are passed from one of the search investigators, which I  
3 was one of the search investigators along with several  
4 other individuals in the unit, those items are then given  
5 to Investigator Parrish to write down the list on the  
6 scribe as I described earlier. Because he is not a meth  
7 tech, I had to take possession of them. These are not  
8 items I found, therefore, I did not put my name. I put  
9 the investigator's name who was on the scribe.

10 Q Now, are there any other documents that you  
11 signed at the evidence room?

12 A Yes, sir. I believe there were two Property  
13 and Evidence sheets where I documented these items into  
14 Property and Evidence, which I both printed and signed my  
15 name.

16 Q Okay. And on those items, you signed your name  
17 on the Property and Evidence logs, however you put  
18 Investigator Parrish's name on the bag, correct?

19 A Yes, I did.

20 Q And that was the reason you just articulated,  
21 correct?

22 A Yes, sir.

23 Q When you take those items to the evidence room,  
24 what type of process do you go through at the evidence  
25 room before you put the person's name on it? In this

1 case, you put Joe Parrish's name. What do y'all do with  
2 the items in the bags?

3 A Once there's a name labeled on the inside of  
4 the bag, it is then heat sealed and then placed into --  
5 we got two different storage devices. We've got one that  
6 is an actual locker and one that is just a drop box that  
7 goes into a secure location that no one from that point  
8 can touch other than the Property and Evidence  
9 technicians that work down there.

10 Q Okay. And in this case, were those items heat  
11 sealed in those evidence bags?

12 A Yes, sir. They were.

13 Q Okay. And on that BEST evidence bag, again,  
14 what name is put on it?

15 A Investigator Joe Parrish.

16 Q And you put that name on there, correct?

17 A Yes, sir. I did.

18 Q After placing those items into evidence, have  
19 you had anything to do with them?

20 A No, sir. I have not.

21 Q Okay. If you could, put those items back in  
22 the bag and answer any questions defense may have.

23 **CROSS-EXAMINATION**

24 **BY MR. TONEY:**

25 Q Now, you put someone else's name on the bag

1 here?

2 A Yes, sir. I did.

3 Q You didn't sign your own name?

4 A I did sign my own name.

5 Q But you also put down someone else's name on  
6 the bag?

7 A I wrote the person's name on the bag, yes, sir.

8 Q And it's not -- it's only one name on that bag,  
9 and that's Joe Parrish.

10 A On that bag, yes, sir.

11 Q And what's your name?

12 A Investigator Brown.

13 Q Okay. And this was meant to document who had  
14 this, correct?

15 A Who took possession of it, sir.

16 Q But you had possession of it for a while,  
17 correct?

18 A I did.

19 Q And you didn't put your name on here?

20 A That was what the P&E sheet's for, sir.

21 Q But you signed someone else's name on this?

22 A No, sir. I did not.

23 Q Why couldn't he sign his own name?

24 A There's not a name signed on there. It's just  
25 written.

1 Q Now, you were not a meth tech at the time?

2 A That's incorrect, sir. I was a meth tech at  
3 the time.

4 Q You were a meth tech. So why did you sign  
5 someone else's name or why did you write someone else's  
6 name on the bag?

7 A The items were taken possession from  
8 Investigator who is not a meth tech at the time. Those  
9 items were then passed on to myself who was a meth tech.  
10 And it's in our policy that a meth tech must place those  
11 items into Property and Evidence. That is why my name is  
12 signed on the Property and Evidence sheet.

13 Q But the purpose of who signs and who puts whose  
14 name on the bag is to show who had custody and control of  
15 the item last, correct?

16 A No, sir, who took possession of the items.

17 Q Who took possession of the items. And you took  
18 possession of them after Joe Parrish took possession of  
19 them?

20 A I transported them to Property and Evidence.

21 Q So when you transported them, you took  
22 possession of them?

23 A Yes, sir.

24 Q Okay. That's all the questions I have.

25 MR. KORNFELD: May it please the Court.



1 going to put his name on that bag?

2       **A**     No, sir.

3       **Q**     Okay. What time did you arrive on the scene?

4       **A**     I would have to look at see what the time --  
5 what the call log stated.

6       **Q**     So you can't remember? You can't recollect at  
7 all?

8       **A**     I was the first one actually in the door. I  
9 was the point man on the entry team. So during the  
10 execution of the search warrant, I would have been the  
11 very first one in the house.

12       **Q**     Okay. But you don't know what time that was?

13       **A**     I have a supplement. You can give that to me  
14 and see if that's on there.

15       **Q**     That's the only one I got here, Investigator  
16 Brown. I don't see one. That's why I was asking.

17       **A**     No, sir. There's not a time on there.

18       **Q**     Okay. That's fair enough. Do you know what  
19 the appropriate square footage of this house was?

20       **A**     No, sir. I don't.

21       **Q**     Would you consider it a small house?

22       **A**     By what standards?

23       **Q**     Do you know how big 1000 square feet is  
24 approximately?

25       **A**     I do.

1 Q Was it about 1000 feet or less?

2 A I would have to see pictures of it.

3 Q Okay. How long did you stay at the residence?

4 A I would have been the last one to leave with

5 the evidence until it was turned over to me on the scene.

6 by Investigator Parrish.

7 Q Okay. How long was that?

8 A By the time we finished.

9 Q Would you say it was more or less than four

10 hours?

11 A Once again, sir, I'd have to see the call logs.

12 MR. KORNFIELD: Okay. No further questions.

13 MR. DELOACH: No further ---

14 THE COURT: Any questions?

15 MR. DELOACH: --- redirect, Your Honor.

16 THE COURT: Okay. Thank you, sir. Appreciate

17 you being here.

18 THE WITNESS: Thank you.

19 THE COURT: All right. Your next witness,

20 sir.

21 MR. DELOACH: Your Honor, at this time, the

22 State calls James Armstrong to the stand.

23 THE CLERK: Sir, please place your left hand

24 on the Bible and raise your right hand.

25 JAMES ARMSTRONG



1 State would offer Investigator Armstrong -- Mr.  
2 Armstrong as an expert in drug identification.

3 THE COURT: All right. Any objections or voir  
4 dire?

5 MR. KORNFELD: None from me, Your Honor.

6 MR. TONEY: No, Your Honor.

7 THE COURT: Okay. All right. And he's so  
8 qualified. Ladies and Gentlemen, you remember my  
9 charge to you earlier about an expert witness. A  
10 person is qualified as an expert witness because of  
11 his education, experience or expertise in a certain  
12 area. You place whatever weight on an expert  
13 witness' testimony as you feel is appropriate, just  
14 like any other piece of evidence that you receive in  
15 this case.

16 Go ahead, Mr. Deloach.

17 MR. DELOACH: Thank you, Your Honor.

18 BY MR. DELOACH:

19 Q Investigator, or Mr. Armstrong, if you could,  
20 open up that envelope that's on the table. Please tell  
21 us what you're looking at.

22 A Can I remove the items?

23 Q Yes.

24 A Two heat sealed packages of, one, the item  
25 number JP30 and another is JP17.

1 Q Okay. Inside JP17, what exactly is in that  
2 bag?

3 A Inside JP17 is a spoon with a little residue.

4 Q Okay. Did you have an occasion to test that  
5 spoon?

6 A Yes, sir. I did.

7 Q When you received that item, was it in a heat  
8 sealed bag?

9 A Yes, sir. It was.

10 Q How do you know it was?

11 A The inner bag in which the spoon was placed,  
12 were it was placed inside has my initials and a date  
13 where I had opened it. If it had not been sealed at the  
14 time, my initials and date would not be there to confirm  
15 that I actually opened up the sealed bag.

16 Q Explain the process to us of how you come into  
17 a piece of evidence from the evidence room.

18 A In order to receive the evidence, I must go  
19 from my office down to the basement of the Law  
20 Enforcement Center to the Property and Evidence room and  
21 ask the evidence technicians to retrieve items for me to  
22 test. They keep the items sealed in a, basically like a  
23 vault type system with a safe type door on it. There's  
24 limited access to that room. Then they bring me a box,  
25 place it in front of me. Then I retrieve the items from

1 the box that I wish to test. Then I sign it out by the  
2 Property and Evidence sheet and take it back to my office  
3 for testing.

4 Q Okay. While it's in your possession, does  
5 anyone else have control over that item?

6 A No, sir. They do not.

7 MR. DELOACH: Your Honor, at this time, I  
8 would offer the item of JP17 and its contents into  
9 evidence.

10 THE COURT: All right. Any objection?

11 MR. TONEY: No objection, Your Honor.

12 MR. KORNFELD: None.

13 THE COURT: All right. Without objection,  
14 the same is admitted into evidence as a State's  
15 exhibit.

16 BY MR. DELOACH:

17 Q Mr. Armstrong, could you please tell us --

18 MR. DELOACH: One second, Your Honor. I  
19 believe I forgot to do something.

20 (WHEREUPON, State's Exhibit 26 is marked for  
21 identification purposes.)

22 MR. DELOACH: If I could, Your Honor, do this  
23 on the record one more time to clarify. At this  
24 time, the State moves State's Exhibit 26 into  
25 evidence.

1           **THE COURT:**   Okay.  I believe that was without  
2           objection, sir.  The same is moved into evidence.

3           **(WHEREUPON, State's Exhibit 26 is admitted into the**  
4           **record.)**

5           **BY MR. DELOACH:**

6           **Q**     Mr. Armstrong, can you tell us what State's  
7           Exhibit 26 is and what it contains?

8           **A**     26 was the spoon with cotton and residue.

9           **Q**     Okay.  I'm going to show you now what's been  
10          previously marked State's Exhibit 1 for identification.

11          **A**     Yes, sir.

12          **Q**     Can you tell us what that is?

13          **A**     Yes, this is a copy of my lab report relating  
14          to this item.

15          **Q**     Okay.  How do you know that's what it was?

16          **A**     I have the agency name, the case number which  
17          is referenced to this case, the item number and I also  
18          have my signature and the date that I generated the  
19          report.

20          **Q**     Okay.  And what names are on that case?

21          **A**     I have an Officer Brown and myself.

22                 **MR. DELOACH:**   And at this time, the State  
23          would offer that report into evidence.

24                 **THE COURT:**   Any objection?

25                 **MR. KORNFELD:**   None, Your Honor.

1           **MR. TONEY:**    No.

2           **THE COURT:**   All right.  Without objection, the  
3           same is entered into evidence as a State's Exhibit.

4           **(WHEREUPON, State's Exhibit 1 is admitted into the**  
5           **record.)**

6           **BY MR. DELOACH:**

7           **Q**    Is that report indicate what item was tested on  
8           that spoon?

9           **A**    Yes, sir.  The item tested was a spoon with  
10          residue.

11          **Q**    And what did the test turn out that that was?

12          **A**    I found that the residue and cotton contained  
13          methamphetamine.

14          **MR. DELOACH:**   Okay.  Now I'm going to show you  
15          what has been marked State's Exhibit 25.  At this  
16          time, the State would move State's Exhibit 25 into  
17          evidence.

18          **THE COURT:**    Objection?

19          **MR. TONEY:**    No objection.

20          **MR. KORNFELD:**   No objection, Your Honor.

21          **THE COURT:**    All right.  Without objection, the  
22          same is admitted into evidence.

23          **(WHEREUPON, State's Exhibit 25 is marked for**  
24          **identification and admitted into the record.)**

25          **BY MR. DELOACH:**

1 Q Can you tell us what State's Exhibit 25 is.

2 A State's Exhibit 25 is classified as my item  
3 number JP30A and JP30B. They are, uh, JP30A is 96 red  
4 tablets. JP30B is also 96 red tablets.

5 Q And what did those test for?

6 A Indicated those to be pseudoephedrine.

7 MR. DELOACH: No more questions, Judge.

8 THE COURT: Cross-examination, Gentlemen?

9 MR. KORNFELD: May it please the Court?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. KORNFELD:

13 Q The spoon with the residue, what was the weight  
14 on it?

15 A No weight.

16 Q It had no weight?

17 A That's correct.

18 Q Doesn't everything have a weight?

19 A Well, it was below my measurable limit.

20 Q Okay. Could you see it?

21 A Yes, sir.

22 Q May I see it?

23 A Yes, sir.

24 MR. KORNFELD: I've got no further questions,  
25 Your Honor.

1                   **THE COURT:**   Okay.  Mr. Toney.

2                                   **CROSS-EXAMINATION**

3   **BY MR. TONEY:**

4           **Q**     So whatever's on there is less than a  
5 thousandth of a gram?

6           **A**     Yes, sir.

7           **Q**     And it's such a low amount that could not even  
8 be measured?

9           **A**     It may be able to be measured.  But my scales  
10 are not to a spot where I can actually detect anything  
11 less than a thousandths of a gram.

12          **Q**     How much less than a thousandth of a gram was  
13 it?  Was it a millionth of a gram?

14          **A**     My scales won't go that far down.

15          **Q**     Could it have been a -- it doesn't go -- but it  
16 was less than a thousandth of a gram, correct?

17          **A**     That's as low as my scale can actually detect.

18          **Q**     But it was somewhere less than a thousandth of  
19 a gram?

20          **A**     Yes.

21          **Q**     So could it have been one millionth of a gram?

22          **A**     It's possible.

23          **Q**     A picogram is one millionth of a gram, correct?

24          **A**     I believe so.

25          **Q**     Could it have been a picogram?

1           A    That is possible.

2           Q    So we're possibly talking about a billionth of  
3 a gram of something?

4           A    Yes, sir.

5           Q    If I were to also test that billionth of a  
6 gram, would I have been able to test it?

7           A    Yes, sir.

8           Q    Even after it's already been tested?

9           A    Yes, sir.

10          Q    Ever had false positives on a test ever in your  
11 career?

12          A    I have not on -- using the instrumentation. No,  
13 sir.

14          Q    You have them in your career?

15          A    Only on chemical spot test, yes, sir.

16          Q    So you have had them?

17          A    Only on chemical spot tests, yes.

18          Q    The smaller the amount tested, the greater the  
19 chances of false positives, correct?

20          A    I assume there is more possibility, yes, sir.

21          Q    So if you have, you know, a bushel of something  
22 versus what you can hold in one hand, you are less  
23 certain you have a small amount than a big amount,  
24 correct?

25          A    That is one possibility, yes, sir.

1           Q    And if you have a billionth of a gram of  
2 something, which could be what's here, you don't know  
3 what it is necessarily for sure, do you?

4           A    I know for certain that this spoon contained  
5 methamphetamine.

6           Q    What are spoons used for in the drug world?

7           A    I'm not 100 percent positive. I would assume  
8 maybe --

9           **MR. DELOACH:**   Objection, Your Honor. I don't  
10 want him to answer if he doesn't know.

11           **THE COURT:**   All right. Well, I'll let him  
12 answer the question. I'll overrule the objection.  
13 You may answer it.

14           **THE WITNESS:**   I would assume maybe to dissolve  
15 some of the drug into -- if we can put it to a  
16 solution and actually draw it up into a syringe.

17 **BY MR. TONEY:**

18           Q    Do drug users use spoons ever?

19           A    Yes.

20           Q    Not just drug manufacturers?

21           A    Drug users and manufacturers alike, I would  
22 believe.

23           Q    So a spoon with a gram doesn't prove that  
24 someone manufactured anything, does it?

25           A    Not by itself.

1           Q     You would actually expect spoons with a  
2 substantial amount of meth on them if you found an active  
3 meth lab, wouldn't you?

4           A     That's a possibility, yes, sir.

5           Q     And the presence of no more than possibly a  
6 billionth of a gram would prove that there is not an  
7 active meth lab, correct?

8           A     I can't say that.

9           MR. TONEY:     That's all the questions I have  
10 for this witness.

11           MR. DELOACH:     Redirect?

12           MR. DELOACH:     Just one, Your Honor.

13                               **REDIRECT EXAMINATION**

14           **BY MR. DELOACH:**

15           Q     You said that you had gotten some false test  
16 from chemical spot testing, not from instrumentation,  
17 correct?

18           A     That's correct.

19           Q     What did you do then?

20           A     I did a chemical spot test to give me an  
21 indication first, then I did an instrumental analysis.

22           Q     So you did both?

23           A     Yes, sir.

24           Q     They both came out positive for  
25 methamphetamine?

1           **A**     Yes, sir. They did.

2           **MR. DELOACH:**   No more questions.

3           **THE COURT:**   Any recross limited to the scope  
4 of redirect?

5           **MR. TONEY:**   No, sir.

6           **MR. KORNFELD:**   No, Your Honor.

7           **THE COURT:**   Thank you. I appreciate you being  
8 here.

9           **MR. DELOACH:**   Your Honor, can this witness be  
10 excused?

11          **THE COURT:**   Absolutely.

12          **MR. DELOACH:**   Your Honor, at this time, the  
13 State calls Investigator Chris Marchi to the stand.

14          **THE CLERK:**   Sir, if you would, please come  
15 forward. Please place your left hand on the Bible  
16 and raise your right hand.

17                           **CHRIS MARCHI**

18          having first been sworn, testifies as follows:

19          **THE CLERK:**   Thank you. Please be seated.  
20 Please state your full name for the record.

21          **THE WITNESS:**   Investigator Chris Marchi.

22                           **DIRECT EXAMINATION**

23 **BY MR. DELOACH:**

24           **Q**     Good afternoon, Investigator Marchi. How you  
25 doing?

1           **A**     I'm alright.

2           **Q**     Investigator Marchi, where do you work?

3           **A**     I work for the Greenville County Sheriff's  
4 office.

5           **Q**     And how long have you worked there?

6           **A**     Going on 21 years.

7           **Q**     How long have you been with Vice and Narcotics  
8 Unit?

9           **A**     Since 1999.

10          **Q**     What position do you hold there?

11          **A**     Uh, investigator.

12          **Q**     And has that always been your position?

13          **A**     Yes.

14          **Q**     In the Greenville County Sheriff's Office?

15          **A**     No, I worked uniform patrol for about seven  
16 years. I worked about three and a half in the warrant  
17 division of the sheriff's office.

18          **Q**     And how many years total in law enforcement  
19 have you been working?

20          **A**     Uh, not counting my overseas time, about 20.

21          **Q**     And overseas, did you serve as military police?

22          **A**     No, I was a Brigade Intel Officer.

23          **Q**     In your experience as a law enforcement  
24 officer, how many times have you had to read your Miranda  
25 warnings to defendants?

1           **A**     Uh, in 20 years time, hundreds to thousands.

2           **Q**     And what exactly do you say when you read your  
3 Miranda warnings to defendants?

4           **A**     Uh, it's pretty much set. It's not much  
5 variation on wordage. Basically, you say that you have  
6 the right to remain silent. Anything you say can be used  
7 against you in the court of law. You have the right to  
8 an attorney and have the attorney present while you are  
9 being questioned. If you can't afford to hire an  
10 attorney, one will be appointed for you free of charge by  
11 the State. You can now answer questions that we have.  
12 You can stop answering questions any time you desire  
13 until you get an attorney. I always finish up by saying  
14 do you understand what I've told you?

15          **Q**     And did you read those rights to these two  
16 defendants on June the 23rd, 2010 at the incident  
17 location?

18          **A**     I did.

19          **Q**     When you read them to them, how many officers  
20 were around?

21          **A**     Everyone was in the general vicinity, but close  
22 proximity, Investigator Jacobson.

23          **Q**     So just the two of you?

24          **A**     In close proximity, yes.

25          **Q**     Did you ever threaten these two defendants in

1 any way?

2 A No, I did not.

3 Q Did you intimidate them in any way?

4 A No, I did not.

5 Q How long do you think you were asking them  
6 questions total?

7 A Uh, my interview was relatively short. I would  
8 say at least under 10 minutes.

9 Q Under 10 minutes?

10 A Yes.

11 Q And how many questions total do you think you  
12 asked them?

13 A Uh, I asked one general question which  
14 typically is how I start off, uh, really any interview.  
15 I will start off by saying are there drugs in the house,  
16 are there contraband or are there weapons, something  
17 that's going to be either illegal or it's going to hurt me.  
18 I kind of step back and then I listen as to what the  
19 individual says.

20 Q Before you tell us what they said, uh, I just  
21 want to be clear. How long have been in custody at this  
22 time?

23 A Uh, I would say -- I would say at least five  
24 minutes or ten minutes.

25 Q Okay. Did y'all allow them to sit down?

1           **A**     Yes.

2           **Q**     Okay. And you say it was one question,  
3 correct?

4           **A**     Correct.

5           **Q**     Now, tell us what was said by the defendants?

6           **A**     Uh, the gentleman, Mr. Hammons, in my case, he  
7 did the talking. He said that they were both addicts and  
8 that he had cooked two nights ago, but had planned on  
9 cooking tonight.

10          **Q**     Okay. Was that meth?

11          **A**     He never said the words. Yes, I'm sorry. He  
12 did say the word "meth".

13          **Q**     Okay. So he had cooked meth two nights ago and  
14 planned on cooking meth that night.

15                   **MR. DELOACH:**   No more questions, Your Honor.

16                   **THE COURT:**   Cross-examination, Gentlemen.

17                   **MR. KORNFELD:**   May it please the Court.

18                                   **CROSS-EXAMINATION**

19 **BY MR. KORNFELD:**

20          **Q**     Investigator, uh, did you take any pictures at  
21 that house?

22          **A**     I don't believe I did.

23          **Q**     Okay. You found any weapons in the home?

24          **A**     Uh, I wasn't primarily searching. My task  
25 after entry was personal security. So no, I don't think

1 I -- I may have done some later, if my name is on the  
2 sheet. It was after, in the latter part of the  
3 investigation.

4 Q Okay. Ms. Hammons cooperative with you?

5 A I would say both were cooperative to me.

6 Q Okay. How long do you think you were on site  
7 that night?

8 A I believe I was probably the last one, myself  
9 and another investigator to leave because I'm meth lab  
10 certified. And when the cleanup crew comes in, a person  
11 -- an officer that's meth lab certified has to sign the  
12 paperwork for disposal. So I was about the last one to  
13 leave.

14 Q Do you know approximately the time you got  
15 there and the time you left?

16 A It was, uh, probably early evening when we got  
17 there. I'm going to say sometime after 11:00, almost  
18 close to midnight when we left.

19 MR. KORNFELD: Okay. No further questions,  
20 Judge.

21 THE COURT: Okay. Mr. Toney.

22 CROSS-EXAMINATION

23 BY MR. TONEY:

24 Q Do you get written statements from people?

25 A Yes.

1           Q     That's what you prefer, correct, a written  
2 statement?

3           A     I'm not going to say I prefer it. Obviously,  
4 certain situations, we can do that. Other situations in  
5 the field, it may not necessarily be so easy.

6           Q     Did you get a tape recording of these supposed  
7 statements that were made?

8           A     No, I had no equipment.

9           Q     Did you get a written statement?

10          A     No, I did not get a written statement.

11          Q     Does the sheriff's office not have a form for  
12 people to give written statements?

13          A     They do.

14          Q     And did you have any with you?

15          A     There were probably some in one of the  
16 vehicles.

17          Q     Cause everybody has them, right? Pretty much.  
18 And nobody got a written statement?

19          A     Well, I did not get a written statement from  
20 them.

21          Q     And you were one of the last people there?

22          A     I was one of the last people on the scene. I  
23 wasn't the last one to deal with the persons.

24          Q     So you have no written statement from either  
25 one, either one of these people really?

1           **A**     I do not, no.

2           **MR. TONEY:**   That's all the questions I have  
3           for this witness.

4           **THE COURT:**   Any redirect, sir?

5           **MR. DELOACH:**   Nothing on redirect, Your Honor.

6           **THE COURT:**   Okay. Thank you, Officer.

7           Appreciate you being here, sir.

8           **MR. DELOACH:**   Your Honor, at this time, the  
9           State has got no more questions for any of its  
10          witnesses. However, we do have two witnesses  
11          available that the defense would like to ask  
12          questions of and we'll proffer them to the defense.  
13          Investigator Matt May is present as well as  
14          Investigator Tony Rogers. We do not have any  
15          questions for them.

16          **THE COURT:**   Okay. Good enough.

17          All right. So, do you rest?

18          **MR. DELOACH:**   Your Honor, at this time,  
19          provided there are no questions from the defense, we  
20          rest.

21          **THE COURT:**   Well, they are available for them  
22          to call in their case-in-chief.

23          **MR. DELOACH:**   Correct. At this time, the  
24          State would rest.

25          **THE COURT:**   Okay. All right. Good enough.

1 All right. Ladies and Gentlemen, the State has  
2 rested. That means the State has put up all the  
3 testimony and evidence they intend to put up at this  
4 point. So, uh, I'm going to ask you to go back to  
5 your jury room. I need to take up a few matters of  
6 law. It shouldn't take us very long. We may come  
7 back in and resume testimony today. We may come  
8 back tomorrow morning. I don't know yet because I  
9 need to talk to the attorneys first and see what  
10 matters of law we need to take up and how this case  
11 is going to proceed from here because I truly don't  
12 know right at this second. Okay. Please don't  
13 discuss the case.

14 (WHEREUPON, the jury exits at approximately  
15 4:10 p.m.)

16 THE COURT: All right, Gentlemen. Motions?

17 MR. TONEY: Move for directed verdict.

18 THE COURT: Okay. Mr. Kornfeld.

19 MR. KORNFELD: Your Honor, I second that  
20 motion.

21 THE COURT: You're welcome to argue it if  
22 you'd like to. It's your record.

23 MR. KORNFELD: I'll argue after he argues.

24 THE COURT: Okay. Good enough. Good enough.

25 MR. TONEY: Your Honor, all they -- they came

1 in with a meth lab type case. But essentially, they  
2 come in and they say it's not an active meth lab  
3 case. It was something in the past. And they don't  
4 put a date or a time on when this meth lab occurred.  
5 They say its disassembled or dismantled or boxed and  
6 the items are segregated around. They are even in,  
7 really in any central location although one of the  
8 officers testified that some of the items were  
9 given. All of the testimony is that these are  
10 common items that can be found in any household. I  
11 understand that's the kind of case they made. But  
12 the best case is to find an active lab. The next  
13 best thing that requires a lot of inferences is to  
14 find the items together. A weaker case would be to  
15 find them around.

16 In this case, there's no indication as to when  
17 there was a meth lab or when they were  
18 manufacturing. They could have been ten years  
19 earlier, could have been a year earlier. The only  
20 items they all testified that they had -- most of  
21 them testified they had all or most of these items  
22 in their own home. I just think there's not enough  
23 evidence to go to the jury.

24 **THE COURT:** Thank you.

25 Mr. Kornfeld.

1           **MR. KORNFELD:** May it please the Court, Your  
2 Honor.

3           **THE COURT:** Yes, sir.

4           **MR. KORNFELD:** Here, uh, according to the  
5 statute, they have to attempt to manufacture  
6 methamphetamine. Here, there's a lot of household  
7 items, but there's no smoking gun that shows all  
8 these items together. There's no picture where they  
9 say here's the lab setup. Here's where the meth is  
10 come out or made. The State says that they have  
11 met, but there's no weight of it. To me, it doesn't  
12 rise to the level of manufacturing methamphetamine.  
13 For those reasons, I ask -- I also move for a  
14 directed verdict.

15           **THE COURT:** All right. Thank you, Mr.  
16 Kornfeld.

17           Would you like to respond, Mr. Deloach?

18           **MR. DELOACH:** Your Honor, I think the State's  
19 been clear we have three different statements from  
20 these defendants that they were cooking meth, that  
21 they planned on cooking meth. And an expert  
22 testified that these are the common ingredients that  
23 are used in the making of methamphetamine and an  
24 item with actual meth on the scene.

25           And to Mr. Kornfeld's point, the State -- the

1 statute only requires that they -- or was in  
2 knowingly or actual constructive possession of the  
3 common ingredients and supplies used in  
4 manufacturing methamphetamine. So directly to his  
5 point, he's just incorrect. A charge can be made  
6 merely on the fact that they were in constructive or  
7 actual possession of the ingredients used. That's  
8 in the statute. But despite that, Your Honor, we  
9 believe the State has certainly met its burden in  
10 the light most favorable to the State.

11 **THE COURT:** All right. Under the law,  
12 certainly I'm required to review the evidence in the  
13 light most favorable to the nonmoving party and not  
14 to determine the weight or sufficiency of the  
15 evidence but merely whether any evidence exist upon  
16 which a jury could find that the State has met its  
17 burden of proof. In the aggregate, I think there is  
18 evidence that exists which force the charges.  
19 Therefore, I respectfully deny your motion for  
20 directed verdict. All right. Anything else?

21 **MR. TONEY:** Nothing further.

22 **THE COURT:** Okay.

23 **MR. KORNFELD:** Nothing further, Your Honor.

24 **THE COURT:** Okay. Uh, do, uh, -- do you  
25 intend to have your clients testify?

1           **MR. TONEY:** We need to talk to our clients  
2 about that.

3           **THE COURT:** Okay. Let's take a short break.  
4 Then we'll come back in, uh, five or ten minutes.  
5 And if you need me to make an advisement of rights  
6 on the record, then I'll be more than happy to do  
7 that. Let me know. Okay. We'll be in recess for  
8 five or ten minutes. Okay.

9           **(WHEREUPON, a recess is taken.)**

10           **THE COURT:** All right. Gentlemen, you've had  
11 the opportunity to discuss with your clients their  
12 intentions regarding testifying?

13           **MR. TONEY:** We have. They've decided not to  
14 testify, but we'd like you to advise them of their  
15 rights on the record and make sure that the record  
16 is well protected.

17           **THE COURT:** All right. Mr. Kornfeld?

18           **MR. KORNFELD:** I'd also like you to advise  
19 them as well, Your Honor.

20           **THE COURT:** Okay.

21           **MR. KORNFELD:** Your Honor, I do believe that  
22 we will call the two officers.

23           **THE COURT:** Okay.

24           **MR. KORNFELD:** I'll just tell you now in case  
25 they were leaving.

1           **THE COURT:**    Good enough.   All right.

2           Mr. Hammons and Ms. Newland, uh, your attorneys  
3           have asked me to advise you of your rights with  
4           respect to testifying. Under our Constitution, each  
5           and every citizen in the United States has a right  
6           against self-incrimination, that is, a right to  
7           remain silent, which means that you are not  
8           compelled to do or say or prove anything to this  
9           jury. You may remain silent throughout the trial  
10          and require the State to meet its burden of proving  
11          each and every element beyond a reasonable doubt.

12          However, you do have the right in your  
13          discretion to take the stand and waive that right to  
14          remain silent and to tell the jury your side of the  
15          story, put evidence that you believe is favorable to  
16          you into the record and let the jury hear, again,  
17          your side of the story. Knowing, of course, that if  
18          you do testify, then the State would have the  
19          opportunity to cross-examine you. When they cross-  
20          examine you, they could potentially introduce  
21          evidence intended to impeach your credibility.

22          Also, I would tell you that if you elect not to  
23          testify, that is your constitutional right and I  
24          will instruct the jury that not only is that your  
25          constitutional right, but that they can not hold it

1           against you in any way, shape or form and, as a  
2           matter of fact, they can not even discuss it in the  
3           jury room because a person exercise -- it can not be  
4           held against a person that they are choosing to  
5           exercise their constitutional rights. Each of you  
6           understand that?

7           **MR. HAMMONS:** Yes, sir.

8           **MS. NEWLAND:** Yes, sir.

9           **THE COURT:** Okay. Good enough. And it's my  
10          understanding from your counsel that each of you  
11          elect not to present testimony in this case, is that  
12          correct?

13          **MR. HAMMONS:** Yes.

14          **MS. NEWLAND:** Yes.

15          **THE COURT:** All right. Let the record reflect  
16          that each defendant has acknowledged in the  
17          affirmative that they do not wish to, uh, testify.  
18          Okay.

19          So you do intend to call Officers May and  
20          Rogers, is that correct?

21          **MR. TONEY:** Yes, sir.

22          **THE COURT:** All right. Good enough. Let's  
23          bring the jury back in.

24          **MR. DELOACH:** Your Honor, with the exception  
25          of Officers May and Rogers, can the rest of the

1 officers be dismissed?

2 **THE COURT:** Yes, absolutely.

3 (WHEREUPON, the jury enters at approximately  
4 4:29 p.m.)

5 **THE COURT:** All right. Ladies and Gentlemen,  
6 the State has rested and the defense has indicated  
7 to me that they intend to call two witnesses to the  
8 stand. I don't know which of you intends to do  
9 that, but I'll defer to you in that regard.

10 **MR. KORNFELD:** Your Honor, I call Officer May  
11 to the stand.

12 **THE COURT:** All right, sir.

13 **THE CLERK:** Sir, if you will, please place  
14 your left hand on the Bible. Raise your right hand.

15 **MATTHEW MAY**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Thank you. Please be seated.

18 **MR. KORNFELD:** Please the Court?

19 **THE COURT:** Yes, sir.

20 **THE CLERK:** Please state your full name for  
21 the record.

22 **THE WITNESS:** Matthew May.

23 **DIRECT EXAMINATION**

24 **BY MR. KORNFELD:**

25 **Q** Officer May, uh, did you take the pictures at

1 the incident location?

2 A Yes, sir.

3 Q Uh, did you move any of the items?

4 A No, sir.

5 Q Can you explain the difference between these  
6 two items and the fact that there's one paint thinner can  
7 here? It appears the same paint thinner can right here  
8 that's moved and definitely not in the same position?

9 A I can't explain on this particular  
10 circumstance.

11 Q Okay. Did you take all the pictures?

12 A I do not recall. Sometimes when it's a  
13 situation, if there's a time where I have to sit the  
14 camera down, somebody could have possibly picked it up to  
15 take pictures.

16 Q Did you move any items at all?

17 A No, sir.

18 MR. KORNFELD: Okay. No further questions,  
19 Your Honor.

20 THE COURT: Mr. Toney?

21 MR. TONEY: One second, please.

22 CROSS-EXAMINATION

23 BY MR. TONEY:

24 Q The pictures show a can of paint thinner which  
25 has been -- it looks up here to be exactly the same can,

1 correct?

2       **A**    Yes, sir.

3       **Q**    But it's positioned in two different ways,  
4 correct?

5       **A**    Yes, sir.

6       **Q**    Has, uh, Officer Parrish had occasion to tell  
7 you that he made a mistake in his report as to this case?

8       **A**    No, sir.

9       **Q**    Have you heard him say that?

10      **A**    No, sir.

11      **Q**    How do you account for the fact the can was  
12 moved?

13      **A**    I can't say on this particular circumstance.  
14 But generally, what happens, if you have something that  
15 has print on it, a receipt or something and it's out of  
16 focus and the placement picture -- what we will do is  
17 take a placement picture. And then whoever has found the  
18 item will move the item so we can -- it's legible in the  
19 picture and not out of focus.

20      **Q**    So the general policy is you take one picture  
21 to show placement and then another picture to show better  
22 focus, correct?

23      **A**    Yes, sir.

24      **Q**    But you could have taken a good picture without  
25 changing a location, correct?

1           **A**     Possible.

2           **Q**     So how many -- if that's the general policy,  
3 then how many other items were moved?

4           **A**     I couldn't tell you.

5           **Q**     It could be most of them or some of them?

6           **A**     I really wouldn't have a guess on that because  
7 when you have that many items, if somebody finds it,  
8 you're called to take a photograph so you are going room  
9 to room. I wasn't standing around watching when they  
10 found items. They just called for a photograph.

11          **Q**     Okay. All the items could have been moved for  
12 all you know or none of them, right?

13          **A**     Is that a question?

14          **Q**     Yeah.

15          **A**     I --

16          **Q**     In other words, you don't -- let me rephrase  
17 it. You don't know which items were moved and which  
18 weren't?

19          **A**     No.

20          **Q**     But it is the policy to move them on occasion?

21          **A**     I wouldn't say it's a policy. It's just  
22 practice. If you are using digital photography,  
23 sometimes they could be in focus or they could be out of  
24 focus.

25                   **MR. TONEY:**   Okay. That's all the questions I

1           have.

2           **MR. DELOACH:**   Nothing, Your Honor.

3           **THE COURT:**   All right.

4           Thank you, sir. Appreciate you being here.

5           **MR. DELOACH:**   Can this officer be excused,

6           Your Honor?

7           **THE COURT:**   Uh, no, have no problem with that.

8           You may be excused, sir. Thank you. I appreciate

9           it.

10          Next witness, sir.

11          **MR. KORNFELD:**   Your Honor, we're not going to

12          call anymore witnesses.

13          **THE COURT:**   Okay. At this point, do you rest,

14          sir? Has the defense rested?

15          **MR. KORNFELD:**   Yes, Your Honor. The defense

16          rest.

17          **THE COURT:**   Okay. Good enough.

18          All right. Anything in reply from the State?

19          **MR. DELOACH:**   Nothing in reply, Your Honor.

20          **THE COURT:**   All right, Ladies and Gentlemen.

21          It would appear that you have received all the

22          evidence that you will receive in this case. The

23          next thing that we'll go to is argument and charge.

24          But it's too late in the day for us to go to

25          argument and charge. By the time you get the case,

1           it would be probably close to 5:30. Then you would  
2           have the task of deliberating. And I don't want to  
3           keep y'all that late.

4           So what we'll do is we'll take a break and  
5           we'll come back tomorrow. We'll start at nine  
6           o'clock. We'll go straight into argument and  
7           charge. You should have the case, that is, you  
8           should begin your deliberations, I anticipate,  
9           somewhere around 10:30 if my guess is right.

10          So y'all go home and have a good evening.  
11          Please don't discuss the case. Somebody's going to  
12          ask you, I know they are. Some of us have spouses  
13          that are a little bit more persistent than others.  
14          Just tell them, hey, I can't do it. I can't talk to  
15          you about it. And, uh, you tell them that when the  
16          case is over, you'll have the opportunity to talk to  
17          them as much as they want to and as much as you want  
18          to, more importantly. So y'all have a great  
19          evening. I'll see y'all tomorrow morning.

20          (WHEREUPON, the jury exits at approximately  
21          4:37 p.m.)

22          **THE COURT:** All right. Gentlemen, anything in  
23          addition we need to put on the record this  
24          afternoon?

25          **MR. DELOACH:** Nothing from the State, Your

1 Honor.

2 MR. TONEY: Nothing further.

3 MR. KORNFELD: Nothing further, Your Honor.

4 THE COURT: Okay.

5 MR. DELOACH: Just one thing quickly, Your  
6 Honor. The State will have closing.

7 THE COURT: You're right. You're right. The  
8 order of closing arguments.

9 MR. KORNFELD: Can I just ask for  
10 clarification?

11 THE COURT: Sure.

12 MR. KORNFELD: I really don't know the answer.

13 THE COURT: Okay.

14 MR. KORNFELD: Ivan submitted that into  
15 evidence. I didn't. Does that mean that I get to  
16 reserve my closing argument for last?

17 THE COURT: You just called a witness.

18 MR. KORNFELD: Oh, yeah, you're right. Sorry.

19 THE COURT: That's okay. That's okay. That's  
20 okay. I'm probably thinking about those things more  
21 than y'all. Y'all are thinking about your case.  
22 I'm thinking about procedure.

23 MR. KORNFELD: Sorry.

24 THE COURT: Okay. Let me ask you this, any  
25 requests for charge?

1           **MR. DELOACH:**   Nothing from the State, Judge.

2           **THE COURT:**   Okay. Let's do this. Let's go  
3 back in my chambers for just a few minutes and just  
4 talk out loud about charge. Okay. And I can tell  
5 you what I intend to charge as I sit here right now  
6 and you can give me your requests for charge as  
7 well. To the extent that there are any exceptions,  
8 then we can put it on the record tomorrow morning.  
9 But for the immediate time being today, I'm going to  
10 release the court personnel.

11           Now, Mr. Deloach, I think you had a question  
12 about the defendants' bond?

13           **MR. DELOACH:**   Yes, Your Honor. It's the  
14 State's position, Your Honor, that the bonding  
15 company has gone off the bond at the start of this  
16 trial. They should be held in custody. It's the  
17 officers' position that they do, in fact, be held in  
18 custody, just protect the -- this trial has gone on  
19 all day long and we just want it to be able to  
20 continue to go tomorrow. That is the State's  
21 position, Judge.

22           **THE COURT:**   Have -- have the, uh, defendants  
23 been out on bond for the entirety of --

24           **MR. TONEY:**   They've not missed any court  
25 dates. I had someone run on a case 15 years ago.

1 I'm kind of squirrely about it. I think the better  
2 practice is for judges just to use their judgement.  
3 In this case, my gentleman's been on probation for  
4 about a year and a half. He's passed all his drug  
5 tests. He's very responsible.

6 **THE COURT:** Probation for what?

7 **MR. TONEY:** For a traffic offense.

8 **THE COURT:** Trafficking offense?

9 **MR. TONEY:** Traffic.

10 **THE COURT:** Traffic.

11 **MR. TONEY:** Not trafficking.

12 **THE COURT:** Traffic.

13 **MR. TONEY:** A driving offense, Habitual  
14 Traffic Offender.

15 **THE COURT:** I understand.

16 **MR. TONEY:** He's a real good client. I think  
17 he's very responsible and I think he'll show up  
18 tomorrow.

19 **THE COURT:** Tell me this, property, connection  
20 to the community, kids, significant others.

21 **MS. NEWLAND:** Yes, I have kids.

22 **THE COURT:** What's the business?

23 **MS. NEWLAND:** Business is just like a little  
24 antique store.

25 **MR. KORNFELD:** Her daughter has been here for

1 the trial.

2 MS. NEWLAND: She was here until she had to  
3 pick up my granddaughter.

4 THE COURT: You have an outstanding rental  
5 agreement for your business?

6 MS. NEWLAND: What?

7 THE COURT: Outstanding rental agreement where  
8 you rent space?

9 MS. NEWLAND: Uh, well, yeah.

10 THE COURT: Okay.

11 MS. NEWLAND: I mean --

12 THE COURT: How long they lived in Greenville?

13 MS. NEWLAND: Six years. No, we lived at that  
14 address for six years. I've lived in Greenville  
15 almost 30 years.

16 MR. HAMMONS: I been here all my life.

17 THE COURT: All right. I'm going to release  
18 y'all for this evening. But understand that, you  
19 know, there's always a concern or a fear that there  
20 will be a flight. Know that if there is a flight,  
21 that is, if you don't show up tomorrow -- and I'm  
22 not suggesting that you are, okay, I'm just telling  
23 you on the record to protect all of us, okay.

24 If you do elect not to show up tomorrow, then  
25 we'll proceed with the trial of this case. We won't

1 stop it. And it will go to the jury and the jury  
2 will make a decision. Then I'll proceed to  
3 sentencing as well at that time. The sentence will  
4 be sealed.

5 Then there will be -- there would be a warrant  
6 put out for your arrest. And when -- I will say  
7 when -- you are ultimately arrested, then you will  
8 come back to court, not only for sentencing on these  
9 charges, but also for contempt of court. All right?  
10 Okay. All right. Then I'll allow you to maintain  
11 or stay out on bond.

12 **MS. NEWLAND:** Thank you, sir.

13 **MR. HAMMONS:** Thank you, Your Honor.

14 **THE COURT:** Good enough. All right. If y'all  
15 come back, I'm going to release the court personnel,  
16 and we'll talk about charge.

17 **(WHEREUPON, the Court recesses for the day.)**

1           (WHEREUPON, the Court resumes on the 12th day of  
2 October, 2011 at approximately 9:20 a.m.)

3           **THE COURT:** Mr. Toney, I think you have on  
4 your counsel table a verdict form. I want you to  
5 take a look at that and tell me if you have any  
6 exceptions to it. I don't anticipate that you will.  
7 It's very, very simple.

8           **MR. TONEY:** I have no objection to this, Your  
9 Honor.

10          **THE COURT:** All right. Sir, will you bring it  
11 back to me please.

12          **MR. TONEY:** Yes, sir. I will.

13          **THE COURT:** All right. Gentlemen, are we  
14 ready for the jury?

15          **MR. DELOACH:** Ready for the State, Your Honor.

16          **MR. TONEY:** Ready, Your Honor.

17          **THE COURT:** All right. Bring the jury in.

18          (WHEREUPON, the jury enters at approximately  
19 9:22 a.m.)

20          **THE COURT:** All right. Good morning, Ladies  
21 and Gentlemen. I hope everybody had a good evening.  
22 Uh, we're going to argument and charge now. What  
23 I'll remind you of is that argument of counsel is  
24 just that, argument, advocacy for their respective  
25 clients. You've already heard all the evidence that

1           you will receive in this case and argument from  
2           counsel is not evidence. So please listen to it in  
3           the context in which it is offered to you.

4           Now, as a matter of housekeeping, Mr. Walker,  
5           I've appointed you as foreman of the jury. I know  
6           that you know how to manage people and because you  
7           were always fair to me before you gave me detention.  
8           So I know you can be fair. And so the duties of the  
9           foreman are fairly ill-defined and that is that you  
10          are responsible for insuring that everybody has the  
11          opportunity to be heard and that everybody has a  
12          voice in the jury room. But beyond that, I can't  
13          tell you anything else about what you're supposed to  
14          do because I can't invade into your providence, that  
15          is, into the jury. It's against the law for me to  
16          even come into the jury room while y'all are  
17          deliberating. I can't tell you how to do it other  
18          than just to say make sure everybody has the  
19          opportunity to be heard.

20          I'm going to give you the jury verdicts after  
21          I've delivered the charge. You will sign the jury  
22          verdicts after the jury has come to a unanimous  
23          determination in the case. If, during your  
24          deliberations, you have any questions, and I hope  
25          that you don't, but if you do, then you can write

1           them down and just let the bailiff know that y'all  
2           have a question. They'll send it to me. And I'll,  
3           to the extent that I'm capable, will try to respond  
4           to it. All right.

5           Without further ado, then Mr. Toney.

6           **MR. TONEY:**    May I approach?

7           **THE COURT:**    Sure.

8           **THE BAILIFF:**   Do you need something on it?

9           **MR. TONEY:**    Yes, a board.

10          **THE COURT:**    Okay. Are you arguing first?

11          **MR. TONEY:**    Yes.

12          **THE COURT:**    Okay. Go ahead and start your  
13          argument.

14          **MR. TONEY:**    Okay.

15          **THE COURT:**    And will you see if you can find  
16          something for him to write on?

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

18          **THE COURT:**    Okay.

19          **MR. TONEY:**    Ladies and Gentlemen of the jury,  
20          thank you for your kind attention. Uh, this is an  
21          important trial. It's important to the State. It's  
22          important for the defense, but it's especially  
23          important to my client. This is his life here.  
24          He's here discussing this with you and he's asked  
25          for this trial.

1           We've let the state put up their witnesses and  
2           you've had a chance to examine them. Now is the  
3           time when you take all this raw data and you,  
4           basically, you collate it. You process it. You have  
5           to figure out what does all this data and all this  
6           information actually mean with respect to the law in  
7           this case.

8           The judge is going to instruct you on the law.  
9           But basically, my client is charged with  
10          manufacturing methamphetamines. Now, the, uh, the  
11          fact is that the Solicitor's office and the police  
12          came in here with a charge of manufacturing  
13          methamphetamines and they did not find any  
14          methamphetamines being manufactured. That is the  
15          bottom line in this case. And -- but they are going  
16          to say, well, yeah, but we found, uh, something to  
17          do with a meth lab. But then their testimony is  
18          going to say, well, not only did we not find  
19          methamphetamines being manufactured, but we did not  
20          find, uh, an active meth lab.

21          My notes say that one of these officers said,  
22          well, an active meth lab would be defined as  
23          something where there's cooking going on or cooking  
24          has occurred in the recent past. It was some  
25          statement to that effect. Recently occurred. And

1           they have admitted that it's not active and that  
2           nothing has recently occurred. They never found  
3           anything recent.

4           So they didn't find a meth lab. They didn't  
5           find any methamphetamines being manufactured. What  
6           they say was, oh, something occurred, uh, but not  
7           recently. And the way they define this is they say,  
8           well, we've got these household items and we think  
9           that if you put them all together that this shows a  
10          certain intent. The bottom line is the State is  
11          asking you to define intent. And believe me, this  
12          whole case is about intent.

13          And I'm going to say just like I started this  
14          case about the child that, you know, the child comes  
15          and says, I'm six years old and I want to go and  
16          take a kayak across the Atlantic. And you say, no,  
17          that's not happening, because you know you can't do  
18          it. If you think about this, and you think about  
19          what the State is trying to prove, from the outset,  
20          you realize it's impossible or perhaps almost  
21          impossible, I think it's an impossible burden.

22          They are asking you to read someone's mind.  
23          They are asking you to make a determination of guilt  
24          beyond a reasonable doubt based on what you think is  
25          in their mind. In a sense, they are asking you to

1 speculate. And I'm telling every one of you here  
2 right now, you don't know what's in Mr. Hammond's  
3 mind. You don't know. You don't know what's in  
4 your heart.

5 Some people come across as bad and yet they  
6 have beautiful hearts and beautiful insides. And  
7 yet, every now and again, you get somebody like, who  
8 is the guy, Stanley Rader [sic], the, uh, BTK  
9 Killer. He was the head deacon in the church for 30  
10 years. He worked for their county government. He  
11 was a health inspector. Yet, he had this horrible,  
12 secret life going on.

13 People are entitled to be judged on their  
14 actions and they should not be judged on their  
15 intent. We have never lived in the kind of country  
16 where people are judged based on thought crimes.  
17 This is the United States of America. Now, there  
18 were attempts to do this. The Soviet Union tried  
19 this for many years. And when people didn't have  
20 the right attitude to feelings, their standard  
21 punishment was they would send them off to, uh,  
22 psychological rehabilitation.

23 Now, America is somewhat going in that  
24 direction right now, but I don't agree with it. I  
25 think the consciousness and the interior of your

1 mind is so sacred and so private that not even God  
2 will interfere with it. Nobody will tell you what  
3 to think. Nobody can tell you what to think.

4 In this case, I'm going to suggest to you,  
5 quite forcefully, I hope, that the requirement that  
6 they are wanting you to do is they are wanting you  
7 to speculate on what was in their heart. And I'm  
8 going to ask you to make your decision based on the  
9 fact that they can't prove intent.

10 I wrote this word just because lots of facts  
11 and lots of confusion -- I know y'all are going to  
12 sort it out, but I want my main points to be up  
13 here. This is the charge. The charge is  
14 Manufacturing Methamphetamines. He said I could  
15 borrow a pen. He's afraid that maybe I intended on  
16 stealing a pen, but I promise you it's not in my  
17 heart. I would ask that you don't speculate that  
18 way.

19 This is the charge here, Manufacturing Meth.  
20 The State has admitted -- the State admits -- this  
21 is what they admit. They did not find a meth lab.  
22 So right there, that there is enough for you to go  
23 back and say they are charged with manufacturing  
24 meth and we admit we didn't find a meth lab. Now,  
25 if you really want to go into what intent is in this

1 case, which I'm asking, I'm saying you shouldn't  
2 because you don't know from the facts in this case.  
3 There's not enough to show intent. But if you  
4 really want to look at intent, one of those officers  
5 asked, well, why didn't you wear a Hazmat suit, a  
6 hazard material suit. And the answer was because  
7 they did not expect to find anything hazardous in  
8 there. When they went in there, they didn't even --  
9 based on their information, they believed they were  
10 going to find a meth lab. And you know what? They  
11 were correct and I applaud them. They showed good  
12 judgement. They believed and they were convinced  
13 there wasn't going to be hazardous materials in  
14 there and they were right.

15 Not only did they not find a meth lab, they  
16 also admit that they did not find an active meth  
17 lab. And they defined an active meth lab as  
18 ongoing. The definition of one of those is cooking,  
19 recently cooked or about to cook. So they come in  
20 and they find no meth lab. They've got no case...

21 So they say, well, maybe we can charge him  
22 anyways. They say, well, we didn't find -- we  
23 didn't find something recent. They didn't find an  
24 active meth lab. What they do say, they say, we  
25 found a dismantled meth lab. There's some argument

1           about whether it was disassembled or dismantled, but  
2           they say they have the component parts to a meth  
3           lab.

4           Now, the testimony of the officers is that  
5           there is, uh, different ways to make meth. It's a  
6           chemical process. They say there's three primary  
7           ones and there is maybe -- I thought maybe something  
8           to effect that it may be four more or something like  
9           that. You can use your own common sense and  
10          experience and your own general knowledge, which is  
11          why you are here, which is why this system is not  
12          left to experts. The system is left to lay people  
13          of good character and good standing. And you can  
14          draw the conclusion that there's actually hundreds  
15          or even thousands of different ways to make meth.

16          So what they are left with are some chemicals  
17          or materials. And these chemicals are not -- they  
18          have disassembled -- this is their whole case now.  
19          They have the parts. This is their case. The  
20          problem is the parts are not in one location. As a  
21          matter of fact, the parts are scattered around and  
22          placed in the places where they are supposed to be.

23          Low and behold, there is pesticides. Oh, that  
24          could be used in making meth. Well, did you test  
25          what was in that pesticide then? No, we didn't test

1           it. We don't know what's in there. All the cops  
2           said, yeah, we've all got pesticide in our house.  
3           I've got pesticide in my house. I'll bet y'all  
4           mostly have pesticide in your house or half of you  
5           or most of you.

6           And then there's paint thinner. The paint  
7           thinner is right up there where the paint thinner is  
8           supposed to be. It's around all the tools and all  
9           the equipment and where all the -- where people  
10          keep, keep their garden stuff. That's where the --  
11          paint thinner is used by -- everybody in this room  
12          at one time has probably used paint thinner. Some  
13          of those officers said we have paint thinner. Okay.

14          They find they say were torn lithium batteries.  
15          Okay. Right now, I'm going to tell you right now,  
16          the testimony was one battery. Okay. I'm not sure,  
17          but you can go back there right now and you could  
18          say based on Exhibit 4, we've got reasonable doubt.  
19          They only found one lithium battery. I don't know  
20          what kind of catalyst it takes to cause chemical  
21          reactions. But one battery is not enough to cause  
22          any kind of chemical reaction. If you don't believe  
23          me, go take a battery and stick it to your tongue.  
24          You're not even going to get hardly a charge.

25          So the fact that they find one battery in the

1 trash is, in a sense, proof that there is not enough  
2 to make a catalyst. That's like me saying I got a  
3 bunch of wood over here, but I don't have no  
4 matches. So I got a fire. The answer is I don't  
5 have a fire unless I have a match.

6 They've got pseudoephedrine. I'm going to tell  
7 you right now, I have got some of that in my  
8 cupboard to the left of my sink. And everybody in  
9 this room has used ephedrine or all that stuff.  
10 This is not an illegal substance.

11 They might try to say that this house was  
12 stuffed with stuff together. This house is tiny.  
13 It's like a little mill house or even less. It's  
14 1000 square feet. And it's got a lot of little, you  
15 know -- some people might call it a little junkie.  
16 I would say that it's probably not junkie. It's got  
17 a lot of little collectibles in it.

18 They also found a Dremel tool. This Dremel  
19 tool is something that has been sold by the 10s of  
20 millions all across the United States. I remember  
21 when I got my Dremel for Christmas. I think it was  
22 10/2004. I used it to strip paint off the front  
23 door because I didn't want to buy a new one. So I  
24 used the Dremel to get the paint off that was in the  
25 grooves, rather than using a big sander on the

1           grooves on the door. Then I repainted it and saved  
2           200 bucks.

3                   Now, this here is calculated or spaced by these  
4           cops to make it look like a drug scene. But one  
5           thing we need to remember is this right here is a  
6           piece of cotton. That's all it is. Now, if they  
7           wanted to absolutely prove that there was something  
8           going on with these syringes, you know, they have  
9           the duty to prove their case. They had a forensic  
10          guy here. They actually had a whole forensic team.  
11          And they could have tested those syringes. And  
12          whatever they looked for, they did not find anything  
13          or anything that gave them an indication that  
14          anything was in those syringes.

15                   You know, you are not -- I do not believe you  
16          are permitted to speculate as to what those syringes  
17          are for. I know that they are sold without a  
18          prescription in pharmacies all across this country.  
19          People have diabetes. People have different reasons  
20          for medicine. One thing I would notice is it says  
21          right here on the box; "Insulin syringes". Bear  
22          with me just a second.

23                   There's a lot of confusion in that crime scene,  
24          so-called crime scene. The officers in this case --  
25          and you're going to hear from Mr. Kornfeld on this

1           -- throughout the times as to when they went in and  
2           when they got out, and when they did pictures, they  
3           messed up their reports. They mislabeled things.  
4           They actually signed the other's names to different  
5           documents. It is a complete mess. They had too  
6           many people in there or they had not enough people.  
7           I don't know if they had not enough people knowing  
8           what they were doing. Some were certified. Some  
9           weren't.

10           It seems like, you know, when I asked them if  
11           they moved things, they said, well, it's our policy  
12           to move things on certain occasions. Then they  
13           said, well, we'll just take pictures of them. But  
14           one of those investigators clearly testified that it  
15           was not just that he moved certain things, but that  
16           it was their policy to move things to get a better  
17           camera angle. So I'm going to tell you right now,  
18           this is something they admitted. You don't have to  
19           take my word for it. You can go back there and  
20           remember this.

21           They not only said they moved items, they  
22           actually said it was their policy to move items. I  
23           want you to focus on that. They said if you place  
24           things next to each other, it makes it look like  
25           one thing is here and one thing is there and you can

1 stage things. Just like a camera, you can take a  
2 camera and you can focus on any parts. And you can  
3 make some people appear bigger or smaller.

4 And really what you have here is a junkie,  
5 cluttered house with some tools and regular stuff  
6 that you buy in a hardware store. They've got a  
7 campfire stove. They've got some trash. They've  
8 got some nasal decongestant. They've got paint  
9 thinner somewhere. They've got a ton of other  
10 things in this house. I don't think they took a  
11 complete inventory of everything in that house.  
12 That house is filled with stuff.

13 There was something about drain opener or  
14 Liquid Fire. You know, whatever this stuff is, it's  
15 right where it's supposed to be. It's on the  
16 cabinet with all the hazardous stuff, which is where  
17 everybody keeps all their stuff. Uh, you know, I  
18 got a little boy. I make sure that my hazardous  
19 stuff is above the washing machine. Apparently,  
20 they've got their stuff on a shelf. I do have some  
21 cleaning stuff underneath the sink in the, uh, in  
22 the kitchen. I don't have anything that, you know,  
23 if he drank it, he would die. I think it would  
24 probably make him sick. The hazardous stuff is up  
25 high. This is what they did with all their stuff.

1           Now, they're going to say something about,  
2           well, we found some meth. But the meth that they  
3           found, they didn't bring into court cause it had no  
4           weight. I asked them what does no weight mean.  
5           They said no weight could mean even a picogram. It  
6           could be one-billionth of a gram of meth. I don't  
7           know if that's a -- if that's possible to make a  
8           positive test or not. But I believe -- I'm sorry.  
9           I tried to -- it's on vibrate. I tried to take the  
10          battery out and I couldn't earlier. I just couldn't  
11          get the back off.

12          But respectfully, I did look up the weight of a  
13          grain of sand this morning on the internet. It came  
14          out to one microgram. A microgram is one-millionth  
15          of a gram. A billionth of a gram would be 1/1000ths  
16          of a size of a grain of sand. So I don't know what  
17          they found. I don't know what that shows.

18          You could say I'm not going to give any weight  
19          to that because it has no weight. Or you might say  
20          to yourself, well, that must mean that someone in  
21          that house used meth, that does not mean that  
22          somebody was manufacturing meth, that means someone  
23          was a drug user. Or you could say that somewhere on  
24          there, at that time, there was something on that  
25          spoon. We don't know what it was used for, who's

1 spoon it was. We don't know. Or you may say that's  
2 such a small amount that it is unreliable and it is  
3 not fitting that we, uh, speculate as to what that  
4 might mean because the evidence is so slight that we  
5 don't have enough there to fairly judge someone.

6 Now, the judge is going to ask you at the end  
7 of this case to place weight as to what -- it's up  
8 to you to weigh the evidence. Now, they said that  
9 that has no weight. So I would suggest that you  
10 give it no weight in your deliberations.

11 There is a matter of fundamental fairness in  
12 this case. All the items here are the legal items.  
13 Every one of these things could be found at Home  
14 Depot or maybe at your local Kangaroo Mart or  
15 whatever. And the officers admitted that they have  
16 these items in their house. Well, how come they are  
17 not on trial? How come they are not being charged?  
18 It's not fair.

19 I'm sorry that the officers didn't find a meth  
20 lab. I know that they have difficult jobs. Their  
21 job is to go in there and find meth labs.  
22 Unfortunately, when they entered this house with a  
23 no-knock search warrant, they came up empty. They  
24 did not find a meth lab. But the next best thing,  
25 hopefully, we find an active meth lab where it could

1           have been cooked in the last few days. They've  
2           already admitted they didn't find that either.

3           So what they tried to do is they've tried to  
4           take a bunch of stuff and put it together. What they  
5           have taken is they have taken zero plus zero plus  
6           zero plus zero plus zero plus zero and,  
7           unfortunately, it still equals zero. You can't take  
8           a zouszer (phonetically) and make it into a silver  
9           purse. And you can't take a load of crap and turn  
10          it into a new shiny element. And they just didn't  
11          prove their case.

12          When you go back there, the judge is going to  
13          instruct you on reasonable doubt. And I'd ask that  
14          you pay real close attention to what this judge is  
15          going to say cause reasonable doubt is that issue of  
16          fairness.

17          Now, I mentioned at the start that in the book  
18          of Genesis, if I can find it. It says Abraham drew  
19          near and said will you also destroy the righteous  
20          with the wicked. Here he mentioned if they are 50  
21          righteous within the city. Wilt thou also destroy  
22          and not spare the place for the 50 righteous that  
23          are in the city. That be far from you to do after  
24          this manner, to slay the righteous with the wicked.  
25          And the LORD said, if I find in Sodom fifty

1           righteous within the city, then I will spare all the  
2           place.

3           And the basic principle is, in this country, we  
4           don't destroy the righteous with the wicked. We  
5           don't -- we give everybody every reasonable benefit  
6           of the doubt. If there's anyway this can be  
7           construed in a reasonable way that it is not a meth  
8           lab, then under our system of fairness, I would  
9           respectfully say the law says in your own heart and  
10          consciences' sake, that you can not find him guilty.  
11          Please consider this very carefully and listen to  
12          Your Honor and listen to the instructions from the  
13          judge. Thank you very much for your kind attention.

14                 **MR. KORNFELD:**    May it please the Court?

15                 **THE COURT:**     Yes, sir.

16                 **MR. KORNFELD:**    Good morning, Ladies and  
17                 Gentlemen of the jury. Again, my name is Alex  
18                 Kornfeld. I represent Ms. Debra Miller.

19                 Uh, at the beginning of the trial, I spoke to  
20                 you about being, uh, firmly convinced beyond a  
21                 reasonable doubt. I ask today if you are firmly  
22                 convinced beyond a reasonable doubt. At the  
23                 beginning of the trial, I also asked you to look at  
24                 the pictures and pay close attention to them. As  
25                 you saw, I noticed that the paint thinner was moved

1           and there may be other things in there that I didn't  
2           know. And I ask you to look at those pictures when  
3           you go into the jury room.

4           Uh, also at the beginning of the trial, I told  
5           you that there was a lot more that's not here than  
6           is here. I still feel that same way. Uh, there are  
7           several household items that almost any American  
8           would have in their home. There's a bug sprayer  
9           with what was probably pesticide in it. And I think  
10          we can say that's pesticide. It wasn't testified.  
11          Nobody testified to that. But it was out by the  
12          garden. And you will see pictures of the garden in  
13          here as well.

14          There's Drano on the shelf. And, uh, they did  
15          live in a little cottage. There were septic tanks  
16          that was part of the, guess you say, the plumbing of  
17          the house. It's not city plumbing or anything.  
18          They also found a painter's mask in a Ziplock bag.  
19          There was a green camp stove and there was some  
20          camping fuel. There was utensils and lots of other  
21          everyday household items. Uh, there are other also  
22          items that weren't put into evidence in this small  
23          house.

24          I believe you will be able to see it was under  
25          1000 square feet. I don't know how big it was.

1           None of the cops knew how big it was or would  
2           testify to how big it was. I believe you could tell  
3           by the pictures that it was a smaller house. There  
4           were books. There were refrigerators. This is  
5           definitely a small lived-in home.

6           Uh, the officers testified that they did find  
7           syringes in the drawer. And, uh, one of the times  
8           they said it was clear. Another time, they said it  
9           was brown. We have those pictures. You can look to  
10          see whether it was clear or whether it was brown.  
11          It was never tested for insulin, but I think you  
12          could see that, if it was insulin.

13          Investigator Jacobson testified. He stated  
14          that he was the last one on the scene. Investigator  
15          Brown also stated that he was the last one on the  
16          scene. He was also here today. Then, Investigator  
17          Marchi said that he and Brown were the last ones to  
18          leave. So if he and Brown were the last ones to  
19          leave, was it he and Brown that were the last ones  
20          to live? Was Investigator Brown and Investigator  
21          Jacobson the last one to leave? They don't know.

22          The only officer that knew when he arrived was  
23          Officer Parrish. Officer Parrish only knew because  
24          kind of request -- refreshed his recollection. He  
25          got there at 10:20. But you also remember that

1           Officer Marchi said that they left at probably about  
2           11:30 give or take. So if we go with the testimony  
3           of the police officers, they got there at about  
4           10:20, but they left at about 11:30. They did all  
5           this prep work. They got all this evidence and put  
6           it in bags, signed off on it. They did all this  
7           about an hour and ten minutes.

8           Investigator Brown took items from what Officer  
9           Parrish seized and put his name on -- put Officer  
10          Parrish's name on it. Now, I want to be clear.  
11          Officer Brown did state that he didn't sign Joe  
12          Parrish's name on it, he just put Joe Parrish's name  
13          on it. Then, when I asked Joe Parrish whether or  
14          not he knew Officer Brown put his name on it, he  
15          said, no, I had no idea. I had no idea he did that.  
16          I asked Officer Brown whether -- if he told Joe  
17          Parrish, hey, I'm going to put your name on these  
18          evidence bags, I'm going to put your name on here so  
19          it's going to come back to you. He never told him  
20          any of that. He just felt like he could go ahead  
21          and put his name on it.

22          He didn't put Officer Brown for Officer  
23          Parrish. He put it as his own name. He put it as  
24          Officer Parrish when he should have put Officer  
25          Brown for Officer Parrish. He also stated that that

1 was his standard practice. Yet, Joe Parrish had no  
2 idea that he put his name on there. He testified to  
3 that.

4 Officer Owens, his ultimate job was to search  
5 the Room F. Yet, he didn't write in his report --  
6 he testified he didn't write his report until  
7 roughly a month ago or, I guess, August 5th is when  
8 I got it. He said a month, about a month before  
9 then. He wasn't exactly sure. Yet, that incident  
10 report is dated 6/24/2010 as if he wrote it back  
11 then. He stated that he remembered everything that  
12 was in that report and recollected it from an entire  
13 year ago. Yet, he doesn't remember what color the  
14 walls were or how big the house was, what Mr.  
15 Newland looked like even.

16 Then Investigator Parrish, the guy with the  
17 facial hair right here, he stated that items were in  
18 Room F, all the items were in Room F that Mr.  
19 Deloach asked him about. But then I asked him if  
20 Room D was actually the hallway. He said, well, no,  
21 I didn't say that. Then I refreshed his  
22 recollection with his incident report. His incident  
23 report confirmed that it wasn't in Room F. It was  
24 actually in the hallway, which they called Room D.

25 Now, none of the officers would testify to the

1 square footage or even to say it was a small house.  
2 You can see from the pictures that it was a small  
3 house. Why wouldn't they testify to that? They  
4 didn't testify to it because it looks better if they  
5 don't know how big the house is, that this house  
6 isn't cluttered and everything's close together.  
7 Nobody knew who moved the paint thinner. I  
8 asked everybody there who moved the paint thinner to  
9 get another picture. They could have just said  
10 yeah, it was moved or I moved it and manded up and  
11 said they did it. Nobody did that. It looks better  
12 if they don't move the paint thinner next to  
13 something else. I don't know what else they moved.  
14 That's the only picture that I can tell in there.  
15 There may be more. I'm asking you to look cause  
16 there's 12 of you and 12 are a lot better than just  
17 me looking.  
18 Nobody knows if there was pesticide in the bug  
19 sprayer. They didn't testify to that. Nobody knew  
20 when they got there and when they left. When we use  
21 different officer's testimony, it was about an hour  
22 and 30 minutes. The police testified to finding a  
23 lot of the household items. They found a lot of  
24 household items that are in almost any house in  
25 America. But again, there's more that's not here

1           than there is here. There's no recipes or data or  
2           any computers picked up, uh, that would tell you  
3           that they had the intent or even the know-how to  
4           make methamphetamine.

5                     Go back to the story I told you at the  
6           beginning about Jack and Jill. Jack is going to  
7           college for the first time. He's getting this  
8           apartment and he goes and he buys grocery,  
9           deodorizer. And Jill is excited to see his new  
10          apartment. She comes over. She looks in one of the  
11         bags and she sees flour, she sees sugar and she sees  
12         eggs.

13                    Jill has been wanting a cake for so long. Jill  
14          says he's finally coming around, he's finally going  
15         to make this cake for me. She blurts out to Jack,  
16         you're going to bake me a cake finally. Jack says,  
17         I'm sorry, Jill. I'm not sure what you mean. What  
18         do you mean? She says you have the ingredients  
19         here. Here's the main ingredients to make this  
20         cake.

21                    He said did you see bacon there. And, uh, and  
22          Jill says no. Jill wanted so badly to see that cake  
23         that Jack was finally going to make that she didn't  
24         look at everything. And Jack says the eggs, I make  
25         the eggs by themselves. The eggs are for breakfast.

1           The bacon is by itself. The sugar is for my coffee.  
2           These are all different. These are all  
3           compartmentalized. They are not the same. I have  
4           no intentions of making a cake.

5           I ask you again to consider all the evidence  
6           that's put in and that you see here. Uh, I'm asking  
7           you here, just because someone's in a house, that  
8           there was no testimony about what Ms. Newland, uh,  
9           was thinking or that she was actively involved or  
10          any direct evidence at all. I would argue that  
11          there's not really any circumstantial evidence  
12          either.

13          Now, again, firmly convinced, beyond a  
14          reasonable doubt. I don't think there's enough  
15          evidence here today. I'm asking you just to look at  
16          these -- we know some of the items were moved. Well,  
17          were any of the other items moved or anything?  
18          Nobody knows. None of the cops said they know.  
19          That's more convenient for their case not to know.

20          Sometimes, you know, justice is done when you  
21          look at a case and you find that there's not enough  
22          evidence. You find that somebody is assumed  
23          innocent until proven guilty. And here, that didn't  
24          happen. That didn't happen at all. With Ms.  
25          Newland, there's no evidence at all. In this case,

1 I ask that you show the State and you be like Jack  
2 and say, look, these are different things within one  
3 grocery bag. I'm asking you to show the State that  
4 there's bacon here, that there's eggs here, that  
5 there's sugar and they are all separate. Even  
6 though you moved some of them together to get a  
7 better picture, that is not enough. Thank you for  
8 your time.

9 MR. DELOACH: May it please the Court?

10 THE COURT: Yes, sir.

11 MR. DELOACH: I'm going to move this. Ladies  
12 and Gentlemen, before I get into the closing I have  
13 prepared today, I want to say a couple of things.  
14 First of all, if I have seen any of you in the  
15 hallway and I came off rude to you in any way,  
16 that's just what we are supposed to do. We can not  
17 give the appearance of impropriety when we see  
18 jurors in the hallway. And I promise if we had met  
19 on a different basis, I would have been much more  
20 polite. That's just what we're not allowed to do.  
21 So if I seen you in the hallway and I appeared rude,  
22 I apologize for that.

23 Also, before I get into the meat of my closing,  
24 I want to talk about some things that Mr. Toney  
25 brought up. Mr. Toney put in a lot of facts and a

1 lot of law. Mr. Toney can not do that. The facts  
2 came from that witness stand and you have it. The  
3 law will come from that man. He will give it to  
4 you. I'm even going to cite my, uh, opinion on the  
5 law as Mr. Kornfeld and Mr. Toney, but that man  
6 gives you the law. I'm sure that he'll tell you  
7 that and that y'all will follow that.

8 Mr. Toney came up and told you that -- and I  
9 believe he misstated the facts. First of all, he  
10 stated that they did not find a lab. That is not  
11 what our expert said. He said they did not find an  
12 active lab. Mr. Toney mischaracterized what an  
13 active lab is. Your expert told you that an active  
14 lab is one that is cooking at that time or has  
15 recently cooked. And then another, Joe Parrish,  
16 came up and -- and this is not Joe Parrish by the  
17 way. This is Kurt Jacobson. Joe Parrish came and  
18 took the stand and told you that the reason that is  
19 is because the chemicals are still fumes. That's  
20 the reason it is still an active lab.

21 He also came up and told you that they did not  
22 find any finished meth. Y'all remember James  
23 Armstrong, expert, certified, deemed an expert by  
24 this judge in drug identification, told you that  
25 they found that this spoon had finished meth on it.

1 He never said it was a picogram. He said it was  
2 less than a thousandth of gram. He said he couldn't  
3 measure it. Why couldn't he measure it? Cause it  
4 was a small amount. It was a small amount, so they  
5 need to cook it again. That's the reason they are  
6 cooking again is to make more meth, not because they  
7 are not producing meth. That's the reason they have  
8 to produce it again, because they are out.

9 Also, Mr. Armstrong told you he's never had a  
10 false positive. Never had a false positive using  
11 instrumentation. He told you not only did he use  
12 his instrumentation but he also used the red dye  
13 test. Never has false positives. Ladies and  
14 Gentlemen, that is methamphetamine and it was in the  
15 home.

16 There were some other things, but I'm not going  
17 to get into it. But these are all smoke and  
18 mirrors, Ladies and Gentlemen. Brandon Brown's  
19 putting, not signing Joe Parrish's name on the  
20 evidence bag. He walked that evidence bag from the  
21 scene to the evidence room. From Jason Owens to Joe  
22 Parrish to Brandon Brown to James Armstrong. Bam,  
23 bam, bam. He put Joe Parrish's name on the bag  
24 because that was his policy. I wasn't the scribe on  
25 the case. I put his name on it to keep it simple.

1 I signed the evidence log in my name. I'm not  
2 trying to defraud anybody or do anything incorrect.  
3 I'm trying to make it correct. I'm trying to make  
4 it easy to understand. Smoke and mirrors, Ladies  
5 and Gentlemen.

6 Who was the first to arrive? Who was the last  
7 to leave? And I'm not going to get into anymore of  
8 that stuff that the defense has brought up. It's  
9 time for me to get into my case. Ladies and  
10 Gentlemen, that is all smoke and mirrors. You need  
11 to look at the facts of this case that the State has  
12 put in. If you do that, Ladies and Gentlemen, you  
13 are going to find out this case is as easy as 1-2-3.

14 You have all the evidence needed to manufacture  
15 meth. You had sole possession of that house by  
16 these two individuals. A small house, 1000 square  
17 feet or less. And finally, you have a confession  
18 that they had cooked meth and they were planning on  
19 cooking meth that night. I believe the statement  
20 was from Mr. Hammons that he had cooked meth and he  
21 had planned on cooking meth that night.

22 Ladies and Gentlemen, the law that you're going  
23 to hear from the judge is going to be, first, he's  
24 going to charge you on reasonable doubt. And it is  
25 a high burden. In this case, the State welcomes

1           that burden. I told y'all at the beginning of this  
2           case, we were going to produce a lot of evidence. I  
3           believe we have. We welcome the burden in this  
4           case.

5           But just as a matter of fact, proof beyond a  
6           reasonable doubt is not proof beyond any possible  
7           doubt. The law does not require -- the judge will  
8           tell you -- and again, listen to his version, not  
9           mine -- but that proof beyond a reasonable doubt is  
10          something that leaves you firmly convinced. There  
11          are very few things in life that anyone can know  
12          with absolute certainty. The law does not require  
13          that. If you are firmly convinced that these two  
14          individuals were guilty of manufacturing meth, you  
15          must find them guilty.

16          The credibility of witnesses, Ladies and  
17          Gentlemen. These are all law officers, every single  
18          one of them. They don't know these people. They  
19          don't have a relationship with these people. What  
20          reason do they have to lie? You watched their, uh,  
21          motions on the stand, the way they testified.  
22          That's up for you to decide. The judge will tell  
23          you you can determine their credibility. You can  
24          believe one witness against others or others against  
25          one, part of one. It's all up to you. What reason

1 do these witnesses have to lie? They are long  
2 serving law enforcement agents. Think about that.

3 Finally, manufacturing meth, Ladies and  
4 Gentlemen. Ladies and Gentlemen, the State has to  
5 prove that these two, beyond any reasonable doubt,  
6 remember the elements, that these two individuals  
7 did attempt, conspire, and/or aid or abet to  
8 manufacture methamphetamine. Also, the judge is  
9 going to charge you that possession of the  
10 ingredients used to make meth is evidence of  
11 manufacturing methamphetamine. If you believe beyond  
12 a reasonable doubt that they attempted, conspired  
13 to, were going to cook methamphetamine, you must  
14 find them guilty. You may use possession of all  
15 these materials as evidence of that.

16 Now, I said earlier, this case is as easy as 1-  
17 2-3. The first one, materials. Ladies and  
18 Gentlemen, you're going to have these pictures back  
19 in the jury room. I'm not going to go through each  
20 and every one of them with you. We've got solvent.  
21 We've got tubing. We've got -- we're not saying  
22 that they definitely used a sprayer to cook the meth  
23 with, but it is used. Jason Owens who is an expert,  
24 who was qualified as an expert says it's commonly  
25 used. It already has the tubing. It's already a

1 container that has tubing. But even if they didn't,  
2 there's the tubing right there in a drawer in a room  
3 with all the other materials.

4 Both attorneys, I believe, tried to make a  
5 point that this was just a room, this was just a  
6 workroom. Ladies and Gentlemen, that's the room in  
7 front of the house. Who uses the front room, the  
8 front, what appears to be a bedroom to me -- y'all  
9 can look at that exhibit -- as a workroom? It was a  
10 workroom that was working to make methamphetamine.

11 Everything was in there. Batteries.  
12 Pseudoephedrine popped out of the blister packs into  
13 a bowl. The batteries cut open to make the reaction  
14 as Jason Owens described to you. The solvent, the  
15 tubing, the containers, hot plates. Everything they  
16 needed was in that room.

17 Now, they told you it was not an active lab.  
18 Later, you heard from Chris on the stand and in a  
19 confession that the defendant said he had cooked a  
20 few nights ago and he planned on cooking that night.  
21 That's why everything was together, Ladies and  
22 Gentlemen. They had planned to cook that night. It  
23 was all there and ready to go.

24 One hundred and ninety-two tablets of  
25 pseudoephedrine in that bowl. Popped out, in a

1 bowl, ready to go, ready to be crushed, ready to be  
2 ground, ready to be put in the solvent, ready to be  
3 dried, ready to be put back in the new solvent,  
4 redried, as you heard the experts testified to. And  
5 then again, you got the finished produce. And they  
6 were out. It's time to cook again. We got residue  
7 here. That's why it was so small. That's why they  
8 were planning to cook that night.

9 Now, the defense attorney's also made the point  
10 that these are all household items. I asked the  
11 expert on the stand, I said, is it true that these  
12 are household items. Yes. Everybody, it's  
13 household items they were using to make meth.  
14 That's what makes meth so dangerous. All you need  
15 is the stuff you can find at Lowes or CVS. So we  
16 probably do all -- some of us have these items. But  
17 we don't have them all packed into one room. We're  
18 not cutting batteries open. We're not popping open  
19 pseudoephedrine tablets and putting them in a bowl.  
20 We are not buying tubing. We're not putting hot  
21 plates and everything else in one room.

22 Use your common sense, Ladies and Gentlemen.  
23 You don't leave that at the door, leave that at home  
24 when you come in here. Use your common sense. What  
25 was going on here? You've seen the evidence.

1       You've heard them testify. You heard the experts  
2       testify that in his opinion, they were going to cook  
3       meth that night. Well, he said -- didn't say that  
4       night. He said they were planning to cook meth. It  
5       wasn't an active lab. It wasn't a previous cook.  
6       It was a planned cook is what he looked at. Planned  
7       cook.

8               Number two -- one is all the materials. Number  
9       two, possession. Full possession, Ladies and  
10       Gentlemen. These are the only two people in the  
11       home. The defense attorneys correctly pointed out  
12       it was a small house, less than 1000 feet. We got  
13       two -- just for your knowledge, two things addressed  
14       to this married couple or to this couple at their  
15       home. They were at the home. They lived there.  
16       They were the sole occupants and the home was less  
17       than 1000 square feet.

18               The judge is going to charge you on mere  
19       presence. Basically, that states, and the judge  
20       will state, just because you were in the present of  
21       a drug, doesn't mean you are guilty of it. The  
22       expert told you this is a volatile, nasty process in  
23       manufacturing methamphetamine. They had to put on  
24       Hazmat suits. They didn't in this case because it  
25       was not an active lab. But it is a volatile

1 process. There is no way, whether you believe Ms.  
2 Newland or Mr. Hammond was doing the actual cooking,  
3 there is no way in that small house that the other  
4 one didn't know it or wasn't participating in it.  
5 They are both guilty of manufacturing  
6 methamphetamine in this case, not just one of them.

7 Finally, Ladies and Gentlemen, number three.  
8 You've got, one, materials. You've got, two, sole  
9 possession of the home. You've got, three,  
10 confession. We heard from these officers. If you  
11 believe this officers, after Miranda, and Chris  
12 Marchi -- I can't remember it. He's been doing it  
13 for 26 years. He recited it to you. No pressure.  
14 Only talked to them for 10 minutes. Only gave them  
15 one or two questions. What did they say to Chris  
16 Marchi? They said -- he cooked meth -- Mr. Hammond  
17 said he cooked meth a couple of nights ago and he  
18 was planning to cook that evening.

19 When Mr. Jacobson asked him, he said had you  
20 cooked meth in the past. He said only a few. And  
21 Mr. Hammond also said most of the items for making  
22 meth are in the front bedroom. He did not say most  
23 of the items are doing something are in front  
24 bedroom. He didn't say he planned on cook --  
25 cooking something. He said he planned on cooking

1 meth. I think you remember I brought that up with  
2 the officer yesterday.

3 Ladies and Gentlemen, this case is solid. This  
4 case will leave you no doubt that these two  
5 individuals, both of them were manufacturing meth in  
6 that home. You don't need to be a dealer. You  
7 don't need to be selling it. You just need to be  
8 cooking it. There's no where in the law that  
9 requires that you sell it. I'm not sure if they did  
10 or not. They did have a scale that we've put into  
11 evidence. A scale. Who knows? It doesn't matter.

12 If they are manufacturing methamphetamine, they  
13 are in violation of the law and they are guilty of  
14 manufacturing methamphetamine. I'm confident that  
15 that's the verdict you're going to come back with.  
16 Thank you.

17 **THE COURT:** All right. Ladies and Gentlemen,  
18 it's my turn to charge you on the law. It's going  
19 to take me about 15 minutes. Does anybody need to  
20 take a short break before we get started?

21 (No response.)

22 Anybody? Don't be shy. (No response.)

23 No? Okay. Good.

24 All right. Ladies and Gentlemen, I told you  
25 when we began the case that you, your duty and your

1           role in this case is as finders, judges of the facts  
2           and mine is as the judge of the law. Which means  
3           that, under your oath, you are required to accept  
4           the law as I charge it to you. Which means that if  
5           you come into this courtroom with any preconceived  
6           notion of what the law is or if -- or of what you  
7           think the law should be, please forget about that.  
8           And you accept the law as I give it to you as you  
9           are required to under your oath.

10           Now, conversely, you are the judges of the  
11           facts, which means, if I have said anything in this  
12           case that gives you the impression that I have an  
13           opinion about what the facts are in this case,  
14           please disregard that because I truly have no  
15           opinion with regard to the facts in this case.

16           Now, I'm going to give you this charge. I'm  
17           going to try not to read much of it. But you will  
18           see at certain points in time, I'm going to revert  
19           to my written charge and read you, uh, some  
20           definitions. And that is because this is an  
21           important case for everybody, both parties, but I  
22           would also submit to you that it's an important case  
23           for you. You will have vested about two days of  
24           your time and your life into this case. And it's  
25           too important for me to just get to a very precise

1 definition of law and just tell you what I think it  
2 is. It is better for me to actually read it as  
3 precisely as I possibly can. So when you see me  
4 reverting to the charge and reading, then you will  
5 know that is what I'm doing.

6 I told you twice at least and I'm going to tell  
7 you a third time that in the United States of  
8 America in the state of South Carolina in the county  
9 of Greenville, each and every criminal defendant is  
10 presumed innocent until proven guilty beyond a  
11 reasonable doubt. The State has the burden of  
12 proving the defendant, uh, guilty beyond a  
13 reasonable doubt and further has the burden of  
14 proving each and every element of the crimes charged  
15 beyond a reasonable doubt.

16 Again, that's not just a legal theory. The  
17 reason I say that to you for the third time now is  
18 to impress upon you that it's not just a legal  
19 theory and it's not just words that are being spewed  
20 out. It's a very important premise. It is the  
21 cornerstone of our criminal justice system.

22 Now, Ladies and Gentlemen, it serves you well  
23 for me to define for you what reasonable doubt is.  
24 I know you've heard that term bandied around the  
25 courtroom over the last day and a half. Uh, and you

1 recognize that in certain cases, certain parties  
2 have burdens of proof. In a civil case, ordinarily,  
3 the burden of proof is by a preponderance of  
4 evidence, which is the greater weight of the  
5 evidence. That's the lowest burden of proof that  
6 anyone can have. You also have in other civil  
7 proceedings a standard of proof which is clear and  
8 convincing evidence, which is higher than the  
9 preponderance of the evidence.

10 In this case, the burden of proof is beyond a  
11 reasonable doubt. It is the highest burden of proof  
12 that a party can have. Proof beyond a reasonable  
13 doubt is proof that leaves you firmly convinced of  
14 the defendant's guilt.

15 Now, certainly there is nothing in this world  
16 that can be proven beyond any possible doubt. The  
17 law doesn't require that the party with a burden of  
18 proof overcome any and all doubts. But after your  
19 review of the evidence and after your determination,  
20 you are firmly convinced of the defendant's guilt,  
21 then under your oath, you must find the defendant  
22 guilty. However, on the other hand, if, after  
23 reviewing the evidence, you find there is a real  
24 possibility that the defendants are not guilty, then  
25 under your oath, you must find the defendants not

1 guilty of the offense.

2 Ladies and Gentlemen, it's your job to review  
3 the evidence in this case. And evidence takes one  
4 of two forms, either direct evidence or  
5 circumstantial evidence. You received some of both  
6 in this case. The law does not prefer direct over  
7 circumstantial evidence or circumstantial over  
8 direct evidence. It will be your job to determine  
9 what is important and what you should put weight on.

10 I'll give you the example, or excuse me, I'll  
11 tell what direct evidence is and what circumstantial  
12 evidence is and then give you an example of the  
13 distinction. Direct evidence is evidence which  
14 immediately proves the fact, that is, say, a witness  
15 who saw something who can immediately establish that  
16 fact to be proven.

17 Circumstantial evidence is, by distinction, a  
18 chain of facts which then prove the main point.  
19 Collateral facts which, in combination, may prove  
20 the main point. Now, by way of illustration, let's  
21 just say it's a January evening and you were going  
22 to bed. When you go to bed, you look out at your  
23 lawn or you look at your parking lot and there is no  
24 precipitation on the ground. You go to sleep. The  
25 next morning, you wake up. You walk past that same

1 window and you see a layer of snow on either your  
2 front lawn or in the parking lot. And you also  
3 happen to see in the snow, footsteps that lead to  
4 your door and then lead away.

5 Now, you got direct evidence that it snowed  
6 that night because you got snow. You can pick it  
7 up. You can feel it. You can taste it. You can  
8 touch it. Do whatever you want to it. That's  
9 direct evidence that it snowed.

10 But you have circumstantial evidence that  
11 somebody, either that morning early or that night,  
12 came to your door and walked away. Now, you don't  
13 see that person. You don't smell them. You can't  
14 touch them, but you have the footsteps there. The  
15 snow had only been there for a finite amount of  
16 time. Therefore, someone must have, in that point  
17 of time, walked to your door and walked away.  
18 That's the circumstantial evidence. Again, there's  
19 no preference placed upon direct or circumstantial  
20 evidence over the other. You determine what  
21 evidence has weight -- you place the weight upon it.

22 Now, you're going to determine in your analysis  
23 of the evidence which witnesses may or may not have  
24 been credible. You're going to look and judge the  
25 credibility of witnesses based on their body

1 language, based on what they said, based on how they  
2 said it, based on whether they had something to gain  
3 or something to lose by and through their testimony.  
4 You will determine what weight to put on that  
5 testimony.

6 Now, understand that you can find that a  
7 portion of a witness' testimony is very credible and  
8 has a lot of importance or you can also find that a  
9 portion doesn't have much credibility and isn't  
10 important in your deliberations. That's entirely up  
11 to you. I wouldn't suggest to you how you should do  
12 that. But know that you can accept some of what a  
13 person says or you can accept all of what a person  
14 says or none of what a person says. It's your  
15 exclusive discretion.

16 Now, Ladies and Gentlemen, it's important to  
17 point out to you that in this case, the defendants  
18 did not testify. Uh, now, it is their  
19 constitutional right not to testify. You may have  
20 heard a million times, just anecdotally, you have  
21 the right to remain silent. Well, that right to  
22 remain silent is guaranteed under our Constitution.

23 So, when a defendant comes in to trial, that  
24 defendant does not have to testify. The defendant  
25 does not have to do, say or prove anything. You

1 can't hold that against the defendant, the fact that  
 2 they didn't testify. You can not hold it against a  
 3 person that they had chosen to exercise a  
 4 constitutional right. As a matter of fact, you may  
 5 not even discuss it in your deliberations in the  
 6 jury room because these defendants have simply  
 7 exercised a constitutional right that we all enjoy.

8 Ladies and Gentlemen, you heard an officer  
 9 recite a statement that was alleged to have been  
 10 made by the defendants into the record. Now, while  
 11 I determine that it is a matter of law the statement  
 12 was admissible, I instruct you that you make the  
 13 ultimate decision of whether or not the defendant  
 14 made the statement. If the defendant did make the  
 15 statement, you must determine whether the statement  
 16 was made by the defendant voluntarily and of his own  
 17 free will. This means that the statement was not  
 18 caused by pressure, force, fear, threats, coercion,  
 19 intimidation or by hope or promise of leniency or an  
 20 award of any kind.

21 In determining whether the statement was  
 22 voluntary, you should consider both characteristics  
 23 of the defendant and the details of the questioning.  
 24 Some of the factors that you must consider are the  
 25 age of the defendant, the defendant's education or

1 lack of education, the defendant's mental ability or  
2 capacity, the defendant's IQ or intelligence, the  
3 defendant's background and environment, the place  
4 and length of detention, the nature of the  
5 questioning, the advice or lack thereof to the  
6 defendant of his or her constitutional rights  
7 including their right to remain silent; their  
8 statement could be used against them in a court of  
9 law; and that he had a right to a lawyer present;  
10 and if he could not afford a lawyer, a lawyer could  
11 be appointed to him at no cost; and that he could  
12 stop making the statement at any time.

13 You must carefully consider all of the  
14 surrounding circumstances before you give any weight  
15 to the alleged statement. The State has the burden  
16 of proving beyond a reasonable doubt that the  
17 alleged statement was voluntary. If you determine  
18 it was, you may give the statement any further  
19 consideration that you deemed proper. You must  
20 decide what weight, if any, should be given to the  
21 alleged statement.

22 Ladies and Gentlemen, each of the defendants in  
23 this case are charged with Manufacturing  
24 Methamphetamine. "Manufacturing" means to produce,  
25 prepare, convert, process, plant, cultivate, grow or

1 harvest a drug naturally or chemically. I'll read  
2 that to you again. "Manufacture" means to produce,  
3 prepare, convert, process, plant, cultivate, grow or  
4 harvest a drug naturally or chemically. Possession  
5 of equipment or paraphernalia used in the  
6 manufacture of methamphetamine is evidence of intent  
7 to manufacture.

8 Ladies and Gentlemen, mere presence at the  
9 scene of a crime is not sufficient to prove somebody  
10 guilty of a crime. A defendant's presence where a  
11 crime is being committed or mere association with a  
12 person who commits a crime does not make a defendant  
13 an accomplice or an aider and abetter of the person  
14 committing the crime. The burden is on the State to  
15 prove every element of the crime charged. So if you  
16 find, after reviewing all the evidence, that the  
17 State has proved the defendant only present at the  
18 scene of a crime and that they have not proved  
19 beyond a reasonable doubt any other participation in  
20 a crime, then you must find the defendant not  
21 guilty.

22 If a crime is committed by two or more people  
23 who are acting together in committing the crime, the  
24 act of one is the act of all. A person who joins  
25 with another to commit an unlawful act is criminally

1 responsible for everything done by the other person  
2 which happens as a probable or natural consequence  
3 of the act done in carrying out the common plan or  
4 purpose.

5 Prior knowledge that a crime is going to be  
6 committed without more is not sufficient to make a  
7 person guilty of that crime. Mere knowledge that  
8 another person is going to commit a crime, even if  
9 the defendant is present when the crime is committed  
10 is not sufficient to convict the defendant as a  
11 principle. Guilt as a principle is shown by actual  
12 or constructive presence at the scene as a result of  
13 prior arrangement. Therefore, a finding of a prior  
14 arranged plan or common scheme is necessary for a  
15 finding of guilt as a principle. The State must  
16 prove beyond a reasonable doubt by competent  
17 evidence the theory of guilt.

18 A principle in a crime is one who either  
19 actually commits the crime, who is present, aiding  
20 abetting or assisting in committing the crime. When  
21 a person doesn't act in the presence of or with the  
22 assistance of another, the act is done by both.  
23 Where two or more persons acting with the common  
24 plan or intent are present at the commission of a  
25 crime, it does not matter who actually commits the

1 crime. If all -- all are guilty.

2 Present at the commission of a crime means to  
3 be sufficiently near to, aid and abet and assist in  
4 the commission of the crime. However, mere presence  
5 at the scene of a crime is not sufficient to convict  
6 one as a principle on the purity of aiding and  
7 abetting.

8 Now, Ladies and Gentlemen, intent is also a  
9 necessary element for there must have been a common  
10 design or intent to have committed the crime.  
11 Criminal intent is a mental state, a conscious  
12 wrongdoing. Intent means intending to do --  
13 intending the result which actually occurs, not  
14 accidentally or involuntarily. Intent may be shown  
15 by acts or conduct of the defendant and other  
16 circumstances from which you may naturally and  
17 reasonably infer. Intent -- the State must prove  
18 all of these elements beyond a reasonable doubt.

19 Now, Ladies and Gentlemen, I'm about to send  
20 you back to the jury room to begin your  
21 deliberations. When I send you to your jury room,  
22 I'm going to send back two forms. I'm sending you  
23 back verdict forms for each of the defendants. The  
24 reason that that is important is because each of  
25 these defendants should be treated separately and

1 distinctly. And the State has the burden of proving  
2 its case independently as to each defendant. So you  
3 will have two separate verdict forms. What that  
4 suggests to you is that the verdict for each of the  
5 defendants does not have to be the same.

6 You could, just by way of example, find one  
7 guilty and find one not guilty. You could find both  
8 not guilty. You could find both guilty. It is  
9 entirely up to you. You will treat them separately  
10 and distinctly and apply the law and the evidence to  
11 each individual defendant and come to different  
12 determinations as to each defendant.

13 Now, your verdict in this case must be  
14 unanimous. That means, all of you must agree, 12 to  
15 0, not 11 to 1 or 10 to 2 or any combination of  
16 numbers that may equal 12. It must be a unanimous  
17 verdict. It can not be the product of passion or  
18 sympathy or bias or prejudice. It must be based on  
19 the evidence that was received in the courtroom and  
20 the law that was given to you in court.

21 So at this point, I'm going to ask you to go  
22 back to your jury room. Don't begin deliberations  
23 yet. What is going to happen is I'm going to ask  
24 the attorneys if they take any exceptions to the law  
25 that I have given you or if they want me to give you

1 additional law that I may have missed out. So -- or  
2 may have left out. Excuse me.

3 So what I'm going to do is I'm going to ask you  
4 to go back there and don't discuss the case. I will  
5 send the bailiff back with these verdict forms. I  
6 will send all of the evidence back to you as well.  
7 And when you have received that and a message from  
8 the bailiff to begin your deliberations, you will  
9 know that it's time to begin your deliberations.  
10 And it shouldn't be long. All right. Thank you  
11 very much.

12 **(WHEREUPON, the jury exits at approximately**  
13 **10:32 a.m.)**

14 **THE COURT:** All right. Gentlemen, exceptions  
15 to charge?

16 **MR. TONEY:** No exception to charge.

17 **MR. DELOACH:** Judge, I have a question.  
18 Certainly with all respect, I just want to be clear.

19 **THE COURT:** Yeah.

20 **MR. DELOACH:** I did not hear Your Honor charge  
21 attempt or conspire to manufacture methamphetamine  
22 in that charge. It is in the statute. I might have  
23 missed it or Your Honor just chose not to charge it.

24 **THE COURT:** I read the salient portions of the  
25 charge. I don't exactly remember what it was that I

1           said, but I think that based on the facts, the law  
2           that I charged was accurate and relevant. Frankly,  
3           I don't want to bring them back out and recharge  
4           them on that law. I don't want to give them any  
5           particular focus on any portion of the charge. If  
6           they have a question, then perhaps we can bring them  
7           out or we will define it in greater detail.

8           **MR. DELOACH:**    Yes, sir.

9           **THE COURT:**    Okay. Anything, Mr. Kornfeld?

10          **MR. KORNFELD:**   Nothing, Your Honor.

11          **THE COURT:**    Okay. Good enough. All right.

12          I'm going to send the verdict forms together with  
13          the evidence back to the jurors. I'm going to  
14          release the alternates. I'm going to ask them to  
15          come to my chambers and I'll release them from  
16          there. So if y'all want to do a quick inventory of  
17          those exhibits, then you can hand them to the  
18          bailiffs and send them back.

19          **(WHEREUPON, jury deliberation begins at**  
20          **approximately 10:35 a.m.)**

21          **(WHEREUPON, the Court resumes at approximately**  
22          **12:25 p.m.)**

23          **THE COURT:**    All right. Gentlemen, I've been  
24          advised that we have a verdict. Are we prepared to  
25          receive the verdict?

1           **MR. TONEY:**    Yes, Your Honor.

2           **MR. DELOACH:**  Yes, Your Honor.

3           **THE COURT:**   All right.

4           **(WHEREUPON,** the jury enters at approximately  
5 12:27 p.m.)

6           **THE COURT:**   All right.  Mr. Walker, has the  
7 jury reached a unanimous verdict, sir?

8           **THE JUROR:**   We have, Your Honor.

9           **THE COURT:**   All right.  Could you pass the  
10 jury verdict to the bailiff please?  You can sit  
11 down, Mr. Walker.

12           **(WHEREUPON,** the verdict form is passed up to the  
13 Court.)

14           **THE JUROR:**    Thank you.

15           **THE COURT:**    Okay.  Madam Clerk, you may publish  
16 the verdict.

17           **THE CLERK:**    All right.  Your Honor, in the  
18 case of 2010-GS-23-0239, the State of South Carolina  
19 versus Debra Newland, we, the jury, with respect to  
20 the charge of Manufacturing Methamphetamine  
21 unanimously find the defendant, Debra Newland,  
22 guilty.  In the case of 2010-GS-23-0238, the State  
23 of South Carolina versus Charles J. Hammons, we, the  
24 jury, with respect to the charge of Manufacturing  
25 Methamphetamine, unanimously find the defendant,

1 Charles J. Hammons, guilty. These are both signed  
2 by our foreman, Mr. Walker.

3 Ladies and Gentlemen of the jury, if you agree  
4 these are the verdicts you reached in your  
5 deliberation room, would you please raise your right  
6 hand.

7 (WHEREUPON, each juror responds.)

8 THE CLERK: Thank you.

9 THE COURT: All right. Anything further from  
10 this jury, Gentlemen?

11 MR. TONEY: Uh, no, Your Honor.

12 MR. KORNFELD: No, Your Honor.

13 THE COURT: Okay. Ladies and Gentlemen, thank  
14 you. I appreciate that. I appreciate your service  
15 this week. At this point, what I'm going to do is  
16 proceed to sentencing. Uh, you are welcome to stay  
17 and to observe sentencing. Uh, and I, uh, want to  
18 have the opportunity as well to thank you more  
19 personally. I'm going to come back to your jury  
20 room and just talk to you very, very briefly. I  
21 don't want to take up anymore of your time. I  
22 really don't. But I do want to give those of you  
23 who have questions the opportunity to ask me any  
24 questions you may have about the conduct of this  
25 trial or jury service in general.

1           So I'm going to, uh, proceed with sentencing.  
2           You welcome to stay and to observe sentencing. If  
3           not, you are welcome to retire to your jury room.  
4           And I'll come back immediately after sentencing and  
5           dismiss you from there. Okay. All right.

6           Can the defendants approach please for  
7           sentencing?

8           **(WHEREUPON, the defendants approach the bench.)**

9           **THE COURT:** All right. Are those the  
10          sentencing sheets?

11          **MR. DELOACH:** Yes, sir.

12          **THE COURT:** I need those. All right. Thank  
13          you very much. Mr. Deloach, I have heard,  
14          obviously, the facts in this case. Is there  
15          anything that the State needs to add for purposes of  
16          sentencing and, also in that vein, I'll be  
17          interested to hear prior record, if any.

18          **MR. DELOACH:** Yes, sir. Just as to prior  
19          record, Judge. Uh, Ms. Newland only has a Simple  
20          Possession of Marijuana in '06 and a Possession of  
21          Drug Paraphernalia in '08. And as to Mr. Hammons,  
22          he has a DUI in 1980; Malicious Damage to Real  
23          Property in 1988; 1997, Criminal Domestic Violence;  
24          1998, Simple Possession of Marijuana; 2008, Driving  
25          under Suspension, Simple Possession of Marijuana,

1           Driving under Suspension third offense, Improper  
2           License, Operating an Uninsured Vehicle, Possession  
3           of Drug Paraphernalia, and he had two failure to  
4           appears, Judge.

5           Judge, the only thing the State would ask is  
6           that, uh, the State originally offered 5 years on  
7           this charge. That charge was lowered to a straight  
8           plea if they chose to plea. The State would merely  
9           ask that Your Honor not give them the benefit of  
10          that offer.

11          **THE COURT:** All right. Good enough. And that  
12          was with respect to each of the defendants?

13          **MR. DELOACH:** Yes, sir.

14          **THE COURT:** Okay. All right. Ms. Newland,  
15          I'll ask you, is that a fair account of your prior  
16          record, ma'am?

17          **MS. NEWLAND:** Uh, I just had the paraphernalia  
18          charge.

19          **THE COURT:** Okay. All right. And Mr.  
20          Hammons, does that sound like a fair and accurate  
21          recitation of your prior record?

22          **MR. HAMMONS:** Yes, sir, it does, Judge.

23          **THE COURT:** All right. Good enough. All  
24          right. I'll defer to the two of you attorneys. I'll  
25          be happy to hear from both of you in whatever turn

1 is appropriate.

2 **MR. KORNFELD:** Sure, Your Honor. May it  
3 please the Court. Ms. Newland is approximately 54  
4 years old. As he said, she doesn't have a very  
5 extensive prior record. Uh, before meeting Mr.  
6 Hammons, Ms. Newland was married, uh, for a very  
7 long time until her husband passed away. She lives  
8 a simple life.

9 Uh, I think she was under the control of her, I  
10 guess not her husband, but live in boyfriend. There  
11 wasn't a whole lot of direct evidence that Ms.  
12 Newland was part of this. With that, I ask for  
13 leniency on this, Your Honor.

14 One thing that I'll say is that she be given  
15 the benefit of the doubt on the plea of 5 years. I  
16 just ask that, you know, you consider the weight of  
17 the evidence more than any offer that the State may  
18 have given to Ms. Newland.

19 **THE COURT:** Okay. All right. Thank you, Mr.  
20 Kornfeld. I appreciate that.

21 Ms. Newland, is there anything you would like  
22 to tell me, ma'am?

23 **MS. NEWLAND:** I'm in shock. Uh, first of all,  
24 I don't think I have a charge of Possession of  
25 Marijuana.

1           **THE COURT:**   Don't worry about that.

2           **MS. NEWLAND:**   There was another charge earlier  
3           that I -- of Arson that they found that was not  
4           supposed to be on my record either.

5           **THE COURT:**   Don't be concerned with that. I'm  
6           not going to take that -- I'm not going to hold that  
7           against you. Okay? That's a misdemeanor offense in  
8           any event. It's not going to affect the way I  
9           sentence you one way or another.

10          **MS. NEWLAND:**   Uh, my landlord is here. He  
11          wanted to say something on my behalf.

12          **THE COURT:**   Okay. All right. Sir?

13          **SPEAKER:**    Yes, sir.

14          **THE COURT:**    Are you her landlord, sir?

15          **SPEAKER:**    Yes, I am.

16          **THE COURT:**    Could you state your name for the  
17          record?

18          **SPEAKER:**    Phillip Hartford.

19          **THE COURT:**    Okay. I'll be happy to hear from  
20          you, sir.

21          **SPEAKER:**    Well, they have lived out there  
22          almost six years. They have been a good friend and  
23          neighbor. And as far as I was concerned, I never  
24          saw any signs of what they had been charged with.  
25          Uh, and I've been there an awful long time.

1           They are very helpful to me in, uh, taking care  
2           of the place and earned much of their rent from  
3           doing work around. And I would, uh, say that, uh, I  
4           would like to, uh, have a method by which they would  
5           not have to go to jail and there could be some way  
6           to where they would be, uh, there at the house and  
7           serve their sentence there.

8           **THE COURT:** Okay. All right. Thank you, sir.  
9           I appreciate you being here.

10          All right. Mr. Toney, I'll be happy to hear  
11          from you.

12          **MR. TONEY:** Judge, I would ask that you  
13          consider three factors in particular. First one is  
14          age. My client is 54 -- 55 -- 56. I think that the  
15          older someone gets, I think it's more hardship on  
16          them in some respects. They are less able to bounce  
17          back. They are, uh, just -- you know, I just think  
18          it's a hardship. Most people get older and their  
19          health is poor.

20          Uh, the other factor I would ask the Court to  
21          respectfully consider is the lack of a, what I would  
22          call, a substantial criminal record. I understand  
23          that all these -- any crime is serious, but  
24          obviously some are most serious, some are serious,  
25          some are more serious than others. He had some

1           misdemeanor charges and, basically, has lived his  
2           life without, you know, much involvement with the  
3           law. And, uh, about a year or two ago, he got a  
4           Habitual Traffic Offender and he got this. This  
5           occurred before he pled guilty to the Habitual  
6           Traffic Offender.

7           He was put on probation on his HTO. He failed  
8           his first drug test. But after that, he's remained  
9           clean. He's been good on probation. That is, in  
10          fact, the third factor that I wish the Court would  
11          consider is, uh, what I would mostly term as  
12          subsequent conduct or, you know, ability to  
13          rehabilitate. And in this case, uh, he has actually  
14          shown and demonstrated an ability to rehabilitate  
15          himself and to follow the rules.

16          Now, unfortunately, you know, here he is. And,  
17          you know, he's been convicted of a serious crime.  
18          It's a very serious matter and we understand that  
19          there's going to be a punishment. However, if you  
20          would take those three factors into consideration,  
21          we would be very appreciative.

22                 **THE COURT:** All right. Thank you very much.

23                 Mr. Hammons, is there anything you'd like to  
24                 tell me, sir?

25                 **MR. HAMMONS:** Uh, no, sir.

1           **THE COURT:**   Okay. All right. It's my  
2           understanding of the law that the penalty is up to  
3           15 years incarceration. Y'all in agreement with  
4           that?

5           **MR. KORNFELD:**   Yes, sir.

6           **MR. TONEY:**       Yes, sir.

7           **MR. DELOACH:**     Yes, sir.

8           **THE COURT:**   All right. The sentence of the  
9           court is, in Mr. Hammons' case, that he be committed  
10          to the South Carolina Department of Corrections for  
11          a period of eight years. Is there any, uh, uh, time  
12          that he's already spent on this charge?

13          **MR. DELOACH:**   One day, Your Honor.

14          **THE COURT:**   One day.

15          For Ms. Newland, the sentence of the Court is  
16          you are committed to the Department of Corrections  
17          for a period of six years provided that upon the  
18          service of two years, the balance is suspended to  
19          probation for three years. Credit for one day.

20          I've distinguished between the two of you, not  
21          only because of conduct and the degree and level of  
22          culpability, but also because of your prior record.  
23          I wish you two luck.

24          **MR. KORNFELD:**   Thank you, Judge.

25          **THE COURT:**   Okay. All right. Ladies and

1           Gentlemen, I'll see you back in the jury room and  
2           I'll dismiss you from there.

3                           **END OF PROCEEDINGS**

4

5

6

7



WITNESSES

Kurt Gcso Jacobsen *W*

Greenville County Sheriffs Office

6/24/2010

ARREST WARRANT NUMBER

1480859

ACTION OF GRAND JURY

*Billy Damm*  
TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-23-  
APW 000238

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2011

10-12-11

THE STATE

vs.

CHARLES J HAMMONS

Indictment for

3198

MANUFACTURING METHAMPHETAMINE

VIOLATION § 44-53-0375

RECEIVED

JAN 27 2011

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

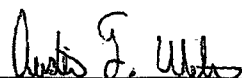
INDICTMENT FOR  
MANUFACTURING METHAMPHETAMINE

At a Court of General Sessions, convened on **MAY 10 2011** the Grand Jurors of Greenville

County present upon their oath:

That CHARLES J HAMMONS did in Greenville County, on or about the 23rd day of June, 2010, knowingly manufacture methamphetamine or did knowingly provide financial assistance or otherwise attempt, aid, abet or conspire to manufacture methamphetamine or was knowingly in actual or constructive possession of the common ingredient(s) and/or supplies used in the manufacturing of methamphetamine. This is in violation of § 44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 vs. )  
 )  
 CHARLES J. HAMMONS, )  
 )  
 Defendant. )

COURT OF GENERAL SESSIONS  
 THIRTEENTH JUDICIAL CIRCUIT  
 CASE NO. 2010-GS-23-0238

**VERDICT**

We, the jury, with respect to the charge of MANUFACTURING  
METHAMPHETAMINE, unanimously find the Defendant CHARLES J. HAMMONS;

NOT GUILTY.  
 GUILTY.

W. Lloyd Wall  
 Foreperson

Greenville, South Carolina  
 Dated: 10/12/2011





# County of Greenville

"...At Your Service"

DEPARTMENT OF PUBLIC SAFETY

Page 1 of 1

## DRUG ANALYSIS REPORT

Department: Greenville Sheriff's Office  
 Officer: Brown, B.  
 Subject: Not Provided

Case Number: 01-2010-058241  
 Report Number: 7  
 Incident Date: 06/23/2010  
 Received From: Property & Evidence  
 Received Date: 08/09/2010

*This is an official report of the Greenville County Department of Public Safety Crime Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no examinations of evidence submitted in this case have been or will be conducted by any other laboratory or agency.*

*James M. Dorriety, Assistant County Administrator  
 Department of Public Safety*

### EXAMINATIONS CONDUCTED

CHEMICAL TEST       MICROSCOPIC       INFRARED SPECTROSCOPY  
 ULTRAVIOLET SPECTROSCOPY       GAS CHROMATOGRAPHY       MASS SPECTROSCOPY

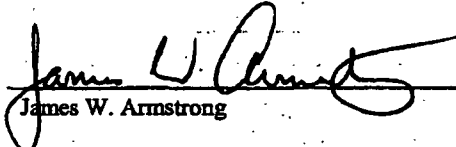
### ITEMS OF EVIDENCE:

**Item JP17:** Spoon with residue and cotton  
 Results: Methamphetamine found, no weight C-II

**Item JP30A:** Ninety-six red tablets  
 Results: Pseudoephedrine indicated N

**Item JP30B:** Ninety-six red tablets  
 Results: Pseudoephedrine indicated N

*I am a Criminalist employed by Greenville County to perform chemical and physical examinations on evidence submitted by law enforcement agencies in criminal cases, and to testify in courts of record in the state of South Carolina on such examinations.*

  
 James W. Armstrong

08/12/2010



2345-305  
600

STATE OF SOUTH CAROLINA

County of

Greenville CS (#01-2010-58241)

---

SEARCH WARRANT

---



Date 06-18-10

Officer Inv. KH Jacobsen

---

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

AFFIDAVIT

Personally appeared before me, one Investigator K H Jacobsen who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

(SEE EXHIBIT A)

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

(SEE EXHIBIT B)

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

(SEE EXHIBIT C)

Sworn to and Subscribed before me this 18 day of June 20 10 (L.S.) Signature of Judge

[Signature] X626/435 Affiant

Address 666 Perimeter Rd Greenville, SC 29605 Phone (864)422-2020

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

ORIGINAL 307

Form Approved by  
S.C. Attorney General  
Section 17-13-160  
March 15, 1918

SEARCH WARRANT

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY  
OF GREENVILLE COUNTY

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED

(SEE EXHIBIT B)

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

(SEE EXHIBIT A)

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

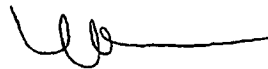
Issuing Magistrate

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

GREENVILLE, S. C.

June 18, 19 2010



Signature of Judge

(L. S.)

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

AFFIDAVIT FOR SEARCH WARRANT

(Exhibit A)

DESCRIPTION OF PROPERTY SOUGHT

Methamphetamine, a schedule II controlled substance, and paraphernalia, including but not limited to, containers of various types commonly associated with the storage of methamphetamine and any and all implements used to administering, ingesting, storing and/or producing methamphetamine.

Any items used in the manufacturing of methamphetamine, included but not limited to, pseudoephedrine, ephedrine, blister packs, mason jars, flask, beakers, rubber tubing, lithium strips and/or lithium batteries, sodium metal, anhydrous ammonia, containers used to store anhydrous ammonia, acetone, camp fuel, denatured alcohol, methanol, ether, sodium hydroxide, hydriotic acid, sulphuric acid, iodine, red phosphorous, match books/boxes, glassware, coffee filters, rubber gloves, self contained breathing apparatus (S.C.B.A.), and other breathing respirators.

Any records, documents, fictitious identifications and other documents which are intended to conceal identity and avoid detection by law enforcement, monies, papers, effects, photographs, video tapes, computer files, and/or paraphernalia related to or associated with unlawful narcotics trafficking, in particular cocaine.

Any and all books, records, receipts, notes, ledgers, formulas, calculations, instructions, or other literature and all other items/ papers relating to the manufacturing, distribution, possession and/or trafficking of controlled substances.

Any and all books, records, receipts, notes, bank statements, ledgers (electronic and magnetic) and other items that show the obtaining, secreting, transfer and/or expenditure of money, any keys, password to safety deposit boxes or safe used to hide assets.

Affiant's Initials:   125  

Judge's Initials:   1001

Any and all surveillance cameras, recorders, tapes, and other equipment, either visual or audio, used to record or document the activities at the location to be searched.

Any and all United States Currency, precious metals, jewelry, other various unexplained assets and/or any financial instruments indicative of the proceeds related to the possession, distribution of, and trafficking of controlled substances.

Any items or documents that tend to identify occupancy, residency, ownership and/or persons in control of the premises to be searched, including utility and communication bills and/or statements, canceled envelopes and keys.

Any records, documents, monies, papers, effects, photographs, video tapes, computer files, and/or paraphernalia related to or associated with unlawful narcotics manufacturing and distribution, any fictitious identifications and other documents which are intended to conceal identity and/or avoid detection by law enforcement.

Any and all books, records, receipts, notes, ledgers, formulas, calculations, instructions, or other literature and all other items/ papers relating to the manufacturing, distribution, possession and/or trafficking of controlled substances.

Any and all books, records, receipts, notes, bank statements, ledgers (electronic and magnetic) and other items that show the obtaining, secreting, transfer and/or expenditure of money.

Any items or documents that tend to identify occupancy, residency, ownership and/or persons in control of the premises to be searched, including utility and communication bills and/or statements, canceled envelopes and keys.

Any firearms and /or weapons that drug traffickers may use to protect and secure the controlled substances and monies. This to include revolvers, automatic pistols, shotguns, rifles or machine guns and all magazines and rounds for the aforementioned weapons.

Affiant's Initials: 125

Judge's Initials: CO

Any and all Computer systems , to include any electronic ,magnetic ,optical or other high speed data processing device performing logical arithmetic or storage functions; data storage facilities such as magnetic tape ,hard disk ,floppy disk or drum CD Rom or scanner; communication facilities directly related to or in conjunction with such devices; devices for printing records of data; and such records or data produced in various forms; manuals documents or instructional material relating any of the above and passwords or notes whether electronic or handwritten related to any of the above mentioned items related to drug trafficking and/or money laundering. These computers may be used to store documents mentioned above; may also contain information related to the use of the Internet in the furtherance of drug trafficking and /or money laundering. Information may also be stored related to drug trafficking, their associates and drug purchasers.

Currently and/or previously used wireless telephones and/or other electronic communications or storage devices. Particularly those wireless telephones and/or electronic communications devices which require the telephone and/or electronic communications device to be purchased. Drug traffickers frequently store digital and voices messages and phone numbers, belonging to drug purchasers, and/or other drug traffickers to facilitate the distribution, sale, trafficking and use of controlled substances.

Affiant's Initials: KS

Judge's Initials: WS

(Exhibit B)

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED

# \_\_\_\_\_, Greer, South Carolina, 29651. It is further described as a white in color single story residence with green shutters, a gray roof, the residence is accessed by a dirt driveway towards the right hand side of the residence that has a metal gate approximately (1/2) half way up the driveway and the property is marked with a green in color mailbox on a wooden post that has the numbers # " \_\_\_\_\_ " on the mailbox.

The property is further described as a parcel of land registered with the Greenville county Register of Deeds as parcel number # (T020010100600).

The directions are as followed, from the intersection of N Rutherford Rd and N Hwy 101 one would turn right, one would travel south on N Hwy 101 approximately 400 yards that turn left into the property. The residence is marked with a green in color mailbox with the numbers # \_\_\_\_\_ and is on the left hand side of the roadway.

Any individuals or vehicle at # \_\_\_\_\_, Greer, SC 29651, any garbage containers, abandoned refuse and/or burn pile, any other structures and/or out buildings, any vehicles and other conveyances associated with # \_\_\_\_\_, Greer, SC 29651 that could conceal or store the items sought in this search warrant.

Affiant's Initials:     KJ    

Judge's Initials:     WJ

(Exhibit C)

**REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

**Facts of this Investigation**

In April 2010, the Greenville County Sheriff's Office initiated a narcotics investigation into the distribution of methamphetamine by a Charles "Jerry" Hammons ( SSN # SCDL # W/M) and a Debra Diane Newland ( SSN # SCDL # W/F) at # , Greer ,SC 29651 which is in Greenville County, SC.

This investigation has revealed the following:

That in November 2007, the Greenville County Sheriff's Office initiated a narcotics investigation into the distribution of methamphetamine by Charles Hammons and Debra Newland at , Greer ,SC. During this investigation this affiant conducted (3) three undercover operations in which and undercover operative under the direct supervision of the Greenville County Sheriff's Office did purchase a quantity of a white substance that tested positive for methamphetamine.

A search warrant was executed at the residence (Greenville County case number # 01-2008-019676) in which several items of drug paraphernalia and controlled substances were located at the residence and both Charles Hammons and Debra Newland were criminally charged.

In March 2010, The Greenville County Sheriff's Office received information from a Law Enforcement agency in Georgia that a person they arrest had provided information that Debra Newland and other persons were manufacturing and distributing methamphetamine from the residence at , Greer ,SC 29651.

In the early part of April 2010, this affiant received information from a confidential informant in which he/she was approached by Charles Hammons and Debra Newland to purchase methamphetamine.

In the middle part of April 2010, this affiant conducted an undercover operation in which an undercover operative under the direct supervision of the Greenville County Sheriff's Office did purchase a quantity of white powdery substance from Charles Hammons and Debra Newland at # , Greer ,SC 29651. This substance did test positive for methamphetamine.

Affiant's Initials: 125

Judge's Initials: [Signature]

ORIGINAL

In later part of April 2010, this affiant conducted another undercover operation in which an undercover operative under the direct supervision of the Greenville County Sheriff's Office did purchase a quantity of white powdery substance from Charles Hammons and Debra Newland at # \_\_\_\_\_, Greer, SC 29651. This substance did test positive for methamphetamine.

In middle part of May 2010, this affiant conducted another undercover operation in which an undercover operative under the direct supervision of the Greenville County Sheriff's Office did purchase a quantity of white powdery substance from Charles Hammons and Debra Newland at \_\_\_\_\_, Greer, SC 29651. This substance did test positive for methamphetamine.

That in the last (72) seventy-two hours, this affiant had an undercover operative under the direct supervision of the Greenville County Sheriff's Office purchase a quantity of white powdery substance using government funds from Charles Hammons at # \_\_\_\_\_. The substance did test positive for methamphetamine.

Through this affiant's training and experience he knows drug traffickers often use firearms and/or other weapons to protect and secure their monies and drug trafficking property. Due to this situation and for the safety of law enforcement and the public the affiant requests that this search warrant be executed under the "no knock" or "unannounced" conditions.

Based on the affiant's training and experience, in conjunction with the aforementioned facts, it is the affiant's belief that the aforementioned items described in exhibit A will be located at # \_\_\_\_\_, Greer, SC 29651.


  
 AFFIANT

 666 Perimeter Rd.  
 Greenville, SC 29605

SWORN TO AND SUBSCRIBED BEFORE ME  
 THIS 18 DAY OF JUNE, 2010


  
 \_\_\_\_\_  
 (SIGNATURE OF JUDGE)

RETURN

I received the attached Search Warrant 6/23, 19 2010, and have executed it as follows:  
On 6/23, 19 2010 at 10:20 o'clock P M, I searched  
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Debra Newland  
Name of person searched or "at the place of search" with.  
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: JP1- One brown box, wood construction, containing assorted coffee filters w/white residue found in room D by Inv. Brown; JP2- Hand written letter on two loose leaf lined note book pages found in room D by Inv. Brown; JP3- One clear plastic bag containing split lithium batteries found in room E by Inv Jacobsen; JP4- Plastic bag containing two Wal-Phed pseudoephedrine boxes, with empty blister packs, 96 count per box 30 mg pills found in room E by Jacobsen; JP5- One "Mr. Coffee" coffee grinder found in room F by Owens; JP6- One empty Publix box pseudoephedrine 96 count 300 mg pills found in room F by Owens; JP7- Digital scale found in room F by Owens; JP8- One 16 oz bottle of hydrogen Peroxide found in room F by Owens; JP9- One 1 lt. plastic bottle with a black rubber sleeve found in room F by Owens; JP10- Clear plastic bag containing white prills found in room F by Owens; JP11- Assorted coffee filters found in room F by Owens; JP12- Eight empty blaster packs, 24 count 30 mg pills found in room F by Owens; JP13- One 32 oz can of Toleune found in room F by Owens; JP14- Plastic tubing found in room F by Owens; JP15- One 3M Niosh painters mask found in room F by Owens; JP16- 31d syringe loaded with an unknown substance found in room F by Owens; JP17- One silver in color metal spoon w/white residue found in room F by Owens; JP18- Box filled with 31g syringes found in room F by Owens; JP19- Two 1 gal. cans Coleman Camp fuel found in room F by Owens; JP20- Green camp stove found in room F by Owens; JP21- One 1qt bottle of Liquid Fire found in room F by Owens; JP22- One 2 lb. bottle of drain cleaner found in room F by Owens; JP23- One propane fuel torch w/ 14 oz propane tank found in room F by Owens; JP24- Two lithium batteries found in room F by Owens; JP25- Assortment of stirring utenzils found in room F by Owens; JP26- Pack of glue sticks found in room F by Owens; JP28- One hot plate found in room F by Owens; JP29- One compressor found in room F by Owens; JP30- 197 30 mg red pills found in room F by Owens; JP31- Misc papers found by Jacobsen; JP32- Propane tank w/bluing in back yard; JP33- green sprayer backyard.

This inventory was made in the presence of Ownen, Parrish, May, Rodgers, Marchi, Brown, Sgt Hall  
AND Jacobsen

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 24th  
day of June, 19 2010  
EMOBurn (L.S.)  
Signature of Judge

[Signature] & 1165/437  
(Signature of Officer Executing Warrant)

## 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."

August 23<sup>rd</sup>, 21013



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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

RECEIVED

AUG 23 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHARLES HAMMONS,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Charles Hammons # , at this 23rd day of August, 2013.

Brandon Hall  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 23rd day of August, 2013.

Lawrence Wood (L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023.