

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Lee S. Alford, Circuit Court Judge

ORIGINAL

RECEIVED

DEC 13 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHRISTOPHER RYAN HOLLIDAY,

APPELLANT

APPELLATE CASE NO. 2012-212010

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

CHRISTINA J. CATOE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED MAY 9, 2012	1
OPENING STATEMENT BY SOLICITOR.....	2
OPENING STATEMENT BY DEFENSE COUNSEL	7
TESTIMONY	
WESLEY WILES	
Direct examination by Solicitor.....	11
Cross examination by Defense counsel.....	33
CATHERINE HOLLY	
Direct examination by Solicitor.....	44
Cross examination by Defense counsel.....	61
MOTIONS FOR DIRECTED VERDICTS BY DEFENSE COUNSEL.....	64
RESPONSE TO DIRECTED VERDICT MOTIONS BY THE SOLICITOR.....	64
RULING ON DIRECTED VERDICT MOTIONS BY THE COURT	67
CLOSING ARGUMENT BY SOLICITOR.....	70
CLOSING ARGUMENT BY DEFENSE COUNSEL	79
JURY CHARGE ON THE LAW	89
VERDICT	97
RENEWED MOTIONS FOR DIRECTED VERDICTS BY DEFENSE COUNSEL	106
RULING ON DIRECTED VERDICT MOTIONS BY THE COURT	106
SENTENCING	112
INDICTMENTS.....	113
CERTIFICATE OF COUNSEL.....	117

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

THE STATE)
-vs-) TRANSCRIPT OF RECORD
CHRISTOPHER RYAN) 2011-GS-46-04344
HOLLIDAY,) 2011-GS-46-03821
MAY 9, 2012
YORK, SOUTH CAROLINA
DEFENDANTS.

B E F O R E:
THE HONORABLE LEE S. ALFORD, JUDGE. ; And a Jury.

A P P E A R A N C E S:
JOHANNA C. VALENZUELA, ASSISTANT SOLICITOR
JENNIFER COLTON, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

PHIL SMITH, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

1 opening statement.

2 MS. VALENZUELA: May it please the court?

3 THE COURT: Solicitor.

4 MS. VALENZUELA: On August 29th, 2011, Catherine
5 Holly was 18 years old. She had just started her freshman
6 year at Winthrop University. It was her first time living
7 away from home. She and her parents had made the decision
8 that she was going to live on campus at one of the dorms,
9 and she had literally started her first semester at college
10 seven days before, on August 22nd.

11 So seven days after she started college, seven
12 days after she had left home for the first time, she is
13 walking back to her dorm from her last class of the day.
14 It's close to five o'clock. Maybe she is thinking about
15 dinner.

16 Now, she turns down Park Avenue, she sees that her
17 Dorm, Lee Wicker Dorm, is located at the end of that road.
18 And across from her dorm is another dorm and that's where
19 the cafeteria is. And she's headed in that direction, and
20 she notices that there is a car parked by the sidewalk. She
21 notices the front windows are rolled down, and she looks
22 over and she sees a grown man reclined back in his driver's
23 seat with his penis fully exposed, and his hand is on his
24 penis and he is actively giving himself sexual stimulation.
25 He's masturbating, with his windows down for anyone to see.

1 An 18 year old Catherine takes a few steps and she
2 thinks did he see me? And she looks back over her shoulder
3 and he is sitting there making eye contact with her and he
4 smiles at her. And Catherine runs to her dorm and she calls
5 the first person that I think most people would call when
6 all they want is a little bit of comfort in that situation;
7 she calls her mom. And then she hangs up and she calls the
8 Winthrop Police Department.

9 And today you are going to hear both from
10 Catherine and from Sergeant Wiles, who is an officer --
11 excuse me, a detective with the Winthrop Police Department.
12 And Sergeant Wiles is going to testify that when they
13 responded out to the scene the defendant was sitting in a
14 car that matched the description that the victim had given,
15 that was in the same location that the victim had indicated
16 that car was in, and that he looked similar to how she had
17 described the man she had seen masturbating moments ago.

18 But to be sure, ladies and gentlemen, they sent
19 one of the officers to go get Catherine, and they asked her
20 "will you get in this patrol car and drive back to the scene
21 of where this just happened to you to confirm that we have
22 the right guy?" She said yes. And she got in the patrol
23 car and she rode back over and she looked at this man one
24 more time and she confirmed the same car, same location.
25 And when she saw that man smile again as she was looking at

1 him in the face, she said that she was sure that that was
2 the same man that she had seen masturbating only a few
3 moments ago in his car on a public street.

4 Now, under the law of South Carolina there are
5 certain elements that the State, that I, have to prove to
6 you beyond a reasonable doubt for you to find this defendant
7 guilty of indecent exposure. I have to prove that he
8 exposed himself.

9 I have to prove that that exposure was indecent.

10 I have to prove that when he exposed himself in an
11 indecent manner, he did so willfully; in other words, he did
12 it intentionally. This was no accident.

13 I have to prove to you that he did it maliciously.
14 That means there was no excuse or justification for him to
15 have his penis in his hand in a public place.

16 And, finally, I need to prove to you that it was a
17 public place; or, that it was in a location when a person
18 standing on a street or sidewalk could see the defendant's
19 actions.

20 This case is not only about indecent exposure,
21 however. We are also here today because the defendant has
22 been charged with possession of marijuana.

23 And so you are going to hear from Sergeant Wiles
24 about how when they responded out there and they had
25 arrested the defendant, they followed procedures, department

1 procedures, on preparing that car to be towed. They did
2 what's called an inventory search of that vehicle. And
3 while they did an inventory search of that vehicle they
4 found a green leafy substance in the center console of that
5 car, and they found some other items that indicated that
6 this is marijuana.

7 You are going to hear from Sergeant Rockholt about
8 how he asked the defendant, after the defendant had been
9 advised of his Miranda Rights, if this green leafy substance
10 was his, and he said yes.

11 You are going to hear how later on that same day
12 when officer -- when Sergeant Rockholt was -- excuse me,
13 Sergeant Wiles was taking down booking information, he was
14 asking the defendant simple straightforward questions and
15 the defendant said to him "I have a problem with marijuana."

16 You are also going to hear from Sergeant Wiles
17 about how he analyzed the green leafy substance. He
18 performed two separate tests on them. He's going to tell
19 you that those tests stated that that green leafy substance
20 was marijuana.

21 Now, the elements I have to prove to you for that
22 charge is that the substance was, in fact, marijuana, and
23 that the defendant had that marijuana in his possession, and
24 that that possession was knowing; that he knew that he had
25 that marijuana in his possession.

1 I don't presume to know what the defense attorney
2 is going to tell you when he comes up here to do his opening
3 argument, but I will say that I have heard enough times to
4 want to address this with you early, that our standard that
5 the State has, our burden is to prove to you each element
6 beyond a reasonable doubt. I am proud to carry that burden.
7 I'm confident that I am going to carry that burden, but
8 beyond a reasonable doubt is not beyond all doubt. There
9 are very few things in this world that are known with a
10 hundred percent certainty.

11 I'm confident that at the end of this process you
12 will go back and after deliberating you will be firmly
13 convinced of the defendant's guilt, that I would have proven
14 my elements beyond a reasonable doubt.

15 Before I sit down I have one thing that I would
16 like to ask. When Catherine takes the stand later on today
17 and you are listening to her tell you what happened to her
18 that day, what she observed, I just hope that you will
19 remember that this is the first time that this girl has had
20 to stand in front of a group of strangers and use this type
21 of terminology, the first time that she's had to say things
22 like this. And just remember that bravery, though she has a
23 lot of that, does not always trump nervousness. Thank you.

24 THE COURT: Counsel?

25 MR. SMITH: If it please the court, Your Honor?

1 THE COURT: Yes, sir.

2 MR. SMITH: My kids like to watch this show, The
3 Mythbusters, on TV. I don't know if any of you have seen
4 it. It used to be much more popular than it is now. It's
5 gotten a little old, but basically what happens on it is
6 they take something somebody said and make a video from the
7 Internet or some kind of myth that people talk about that
8 people believe to be true and they test it. They do
9 scientific testing on it, research, build little models of
10 it, go out in the field and see if it actually works. And I
11 was kind of impressed my kids like a show that has anything
12 to do with science, but I started thinking about it, and our
13 court functions a little bit like that.

14 The judge talked to you about different forms of
15 evidence that you are going to get, but what you just got
16 was an allegation, okay? The State stands up and they say
17 this one thing.

18 Now, as a defense attorney, I get to sort of start
19 testing that, maybe asking some questions about it, but
20 ultimately it is you all who determine was it proven to be
21 true? Does the evidence match up with what somebody said?

22 And in this case it's going to be real clear,
23 because you got two different charges. And I think you are
24 going to see that the way one of the charges is handled is
25 different than the way the other charge is handled, and

1 follow that through this trial. See what evidence gets
2 presented for one and see what evidence gets presented for
3 the other. See what matches up. If this is true, then what
4 else would you expect to happen around it or concerning it
5 with other evidence. Do that for both charges. I think you
6 may figure out that there is different outcomes.

7 Now, the solicitor told you she didn't know what I
8 was going to say about reasonable doubt. I don't have to
9 talk about it. The judge talks about it. The judge tells
10 you that's a cornerstone of our law. It's difficult. Okay,
11 a presumption of innocence. Really? I mean, as you sit
12 there right now do you really presume my client innocent, or
13 do you think well, hold on, he's arrested, Mr. Smith, and
14 he's sitting right there at the table beside you. That's
15 what you can't do under the law. The law requires you to
16 say, no, not only is he not proven guilty, but right now you
17 know he's innocent. That's not easy to do. But because
18 under this system the State has all the resources, the
19 ability to bring charges, law enforcement, all that they put
20 together. To sort of even this up we require them to meet
21 that burden. That's fundamentally important to keep in mind
22 throughout this case. And that burden doesn't change
23 because somebody may have never testified, or because they
24 have testified ten times, or because they are 18, or because
25 they are 49. Those standards remain true always in our

1 courts.

2 So as we go through the case, you will hear the
3 evidence and see what form it takes. The judge told you
4 there can be testimony, but there can also be exhibits. See
5 if it matches up. See if it makes sense. Ultimately I
6 think you will find Mr. Holliday not guilty.

7 THE COURT: Counsel, how long do you think the
8 first witness is going to be, lengthy, or no?

9 MS. VALENZUELA: Your Honor, we expect to be 20 to
10 30 minutes.

11 THE COURT: All right. Then there's cross.
12 Let's do this. Let's go ahead and get some lunch.
13 I think rather than run too late into the lunch hour, we
14 will just go ahead and get some lunch.

15 Mr. Foreman, ladies and gentlemen of the jury, we
16 are going to go ahead -- it's by the courtroom clock about
17 12:30. We will go ahead and get some lunch at this time.

18 I'm going to ask you to be back in the jury room
19 ready to go about 1:30. We are going to try to move this
20 case along. I'll ask you to get some lunch and be -- can
21 everybody get lunch I guess within an hour? I guess you
22 can. Does anybody think they have a problem with that. All
23 right. If you will get lunch and be back in the jury room
24 about 1:30 and we will try to get started. We will get back
25 to the case at that time.

1 Again, I'll remind you not to discuss the case
2 among yourselves or with anyone else on lunch break. Thank
3 you.

4 (The following takes place outside the presence of
5 the jury panel)

6 THE COURT: We will get started at 1:30. We will
7 try to move along with this case. I would like to see us
8 finish today, if there is any possibility.

9 MS. VALENZUELA: Yes, Your Honor.

10 (Whereupon, proceedings were recessed)

11 (Whereupon, proceedings were reconvened)

12 (Marijuana Bag marked as State's Exhibit No. 2 for
13 identification)

14 (Marijuana marked as State's Exhibit No. 3 for
15 identification)

16 (Smoking Pipe marked as State's Exhibit No. 4
17 identification)

18 (Scales marked as State's Exhibit No. 5 for
19 identification)

20 THE COURT: Counsel, any matter we need to take up
21 at this time out of the presence of the jury before we get
22 started?

23 MS. VALENZUELA: No, Your Honor.

24 THE COURT: Defense?

25 MR. SMITH: None, Your Honor.

1 THE COURT: Please bring the jury in, ma'am.

2 THE BAILIFF: Yes, sir.

3 (The following takes place in the presence of the
4 jury panel)

5 THE COURT: Good afternoon, Mr. Foreman, ladies
6 and gentlemen of the jury panel. I hope you enjoyed your
7 lunch. We are now ready to resume with the trial.

8 Counsel, ready to proceed.

9 MS. VALENZUELA: Thank you.

10 May it please the court?

11 THE COURT: Yes.

12 MS. VALENZUELA: Your Honor, the State calls
13 Sergeant Wes Wiles to the stand.

14 SERGEANT WESLEY WILES, having been first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION BY MS. VALENZUELA:

17 Q. Good afternoon, Sergeant Wiles.

18 A. Good afternoon.

19 Q. Can you please state your full name for the record?

20 A. Yes, it's Wesley, W-E-S-L-E-Y, Wiles, W-I-L-E-S.

21 Q. Thank you, Sergeant Wiles.

22 And where do you work?

23 A. Winthrop University Police Department.

24 Q. Have you worked at Winthrop -- I'm sorry.

25 And how long have you been a police officer?

1 A. Coming up on 21 years.

2 Q. Have you been with Winthrop Police Department this
3 entire 21 years?

4 A. I have not.

5 Q. Where else have you worked?

6 A. I started off in my hometown of Greenwood, the
7 Greenwood Police Department, and then I came up and worked
8 for Rock Hill Police Department for several years, and then
9 Winthrop.

10 Q. What are your responsibilities with the Winthrop Police
11 Department?

12 A. Right now I'm a detective, just investigating any major
13 crime that occurs on or around campus involving our
14 students, or events that happen on our campus.

15 Q. Do you serve in any other capacities with the police
16 department?

17 A. Several. I'm the evidence technician. I handle all
18 evidence. I -- the marijuana analysis, I test any drugs, or
19 marijuana specifically. I -- uniforms. I mean, quite a bit
20 of chores. It's a small department.

21 Q. Okay. Well, thanks, Sergeant Wiles.

22 Now, were you required to go through any training to
23 become a police officer?

24 A. Yeah, I went through the police academy down in
25 Columbia.

1 Q. Have you gone through any training after going through
2 the academy?

3 A. Yeah, I have been to quite a few advanced training
4 courses.

5 Q. Great.

6 Let's go back to the afternoon of August 29th, 2011.
7 Were you working then?

8 A. I was.

9 Q. And did you respond out to Park Avenue on Winthrop's
10 campus that afternoon?

11 A. I did.

12 Q. Why did you respond out to Park Avenue?

13 A. We got a call about a suspicious guy in a bluish green
14 Dodge Intrepid parked along the curbside near Lee Wicker
15 Residence Hall and he was reclined in his seat and exposing
16 himself. And that was the call, how it came into us, and
17 the description of what he looked like, and so we responded.

18 Q. What did you find when you arrived out to Park Avenue?

19 A. Saw the bluish green, kind of teal colored, Dodge
20 Intrepid parked exactly where the complainant said it was
21 and observed the defendant to be in a reclined state inside
22 the vehicle.

23 Q. And when you say you responded out, who responded out
24 to that scene?

25 A. Actually Sergeant Howe was driving the car and I was a

1 passenger in his marked unit.

2 And Officer Rockholt also responded, but didn't go
3 directly to the scene, because we got there first and I
4 directed Officer Rockholt to go and get the complainant.

5 Q. And what did officer -- did Officer Rockholt go and get
6 the complainant?

7 A. Yeah, he went to her residence hall, which was Lee
8 Wicker, picked her up and I wanted him to drop her back by
9 where we were at to do a positive identification.

10 Q. And after he drove the victim by to do the positive
11 identification, did you -- what did you do next?

12 A. Well, he drove her back by and she positively
13 identified the defendant as being the person that she saw
14 exposing himself. And at that point I placed him under
15 arrest for indecent exposure and advised him of his rights.

16 Q. And do you see the man in the courtroom today that you
17 placed under arrest that day?

18 A. Yes, the defendant sitting right over there.

19 Q. And what is he wearing, for the record?

20 A. What is he wearing right now? A -- I can't -- the tie,
21 a white shirt.

22 Q. And, to your knowledge, Sergeant Wiles, is the
23 defendant an enrolled student or has he ever been an
24 enrolled student at Winthrop University?

25 A. He is not, nor has he ever been.

1 Q. And, to your knowledge, has he ever been or was he
2 currently employed with Winthrop University?

3 A. He has not, nor has he ever been.

4 Q. Now, how long -- about how long were y'all out at the
5 defendant's car from the time that y'all responded out until
6 you basically left the scene?

7 A. The total --

8 Q. Yes.

9 A. -- scene?

10 Under an hour.

11 Q. Okay. And in that hour did any person ever come up to
12 you inquiring about the defendant or his location?

13 A. No.

14 Q. To your knowledge, did the defendant have any reason to
15 be parked on Winthrop campus that day?

16 A. Not at all.

17 Q. Let's talk a little bit about the location.

18 A. Okay.

19 MS. VALENZUELA: I have just shown defense counsel
20 State's Exhibit 1.

21 May I approach, Your Honor?

22 THE COURT: Yes.

23 BY MS. VALENZUELA:

24 Q. Sergeant Wiles, I'm showing you what's been marked
25 State's Exhibit 1.

1 A. Okay.

2 Q. Do you know what that is?

3 A. It's a map of our -- the main campus. When I say main
4 campus, where the academic and residence halls are. There
5 is a separate campus for the athletic complex, but this is
6 the main campus map that you have here.

7 Q. Does that campus map reflect Park Avenue and the area
8 that we are discussing today?

9 A. It does.

10 MR. SMITH: No objection to the introduction.

11 MS. VALENZUELA: Okay.

12 The State moves to admit that into evidence, Your
13 Honor.

14 THE COURT: Admitted without objection.

15 MS. VALENZUELA: May we publish it?

16 THE COURT: You may publish it, yes, ma'am.

17 MS. VALENZUELA: Your Honor, may I have the
18 witness step down from the witness box?

19 THE COURT: Yes..

20 (Witness off the witness stand)

21 BY MS. VALENZUELA:

22 Q. Sergeant Wiles, I'm going to hand you a pen and --

23 MS. VALENZUELA: Your Honor, may I ask the jury if
24 anybody is having any trouble seeing the --

25 THE COURT: Let me ask you, is anyone having any

1 trouble seeing the diagram that's displayed up here?

2 THE JURY: (No response).

3 THE COURT: Apparently not, counsel.

4 MS. VALENZUELA: Thank you, Your Honor.

5 BY MS. VALENZUELA:

6 Q. Now, Sergeant Rockholt (sic), can you --

7 A. I'm Sergeant Wiles.

8 Q. I mean Sergeant Wiles.

9 Can you please point to Park Avenue, the road that we
10 have been discussing?

11 A. That's it right here.

12 Q. Great.

13 And just to give us some context, what is that main
14 road that's running perpendicular to it? Is that Cherry
15 Road?

16 A. That's Cherry Road, right.

17 Q. And so from the left -- from what we can see from the
18 left side over, is that all Winthrop campus?

19 A. Yes, from the left of Cherry, yes, that's all Winthrop
20 campus.

21 Q. Okay. And so starting on Park Avenue, can you -- using
22 the pen, can you mark about the area where the defendant was
23 parked that day?

24 A. Do you want me to put an "x" on it?

25 Q. That's fine.

1 A. (Witness marking diagram).

2 If you look at 31, on down 31 to Park Avenue is right
3 here.

4 Q. I'm going to give you a highlighter. If you will mark
5 that.

6 A. (Witness marking diagram).

7 Q. Now, the map that is marked with different numbers, you
8 just pointed to the area in front of 31 on Park Avenue.

9 A. Uh-huh.

10 Q. What is building number 1?

11 A. That is -- it's the hotel on campus called the Joynes
12 Inn. It's where, you know, guests come -- they come and
13 stay overnight. It's just like a regular hotel.

14 Q. Okay. Now, what is -- is that number 29?

15 A. Where, right across? Okay, that's Thurmond. It's an
16 academic building.

17 Q. Okay. Great.

18 And what is number 26?

19 A. 26 is Thomson Hall. It's actually -- you have East
20 Thomson on this side. That's the resident hall. And on the
21 other side of the long area is West Thomson. That's also a
22 resident hall. In the middle is the cafeteria, Thomson
23 cafeteria.

24 Q. Great.

25 Now, obviously this -- I should ask, are you familiar

1 with this area in your day to day? Do you often drive out
2 there?

3 A. Yes.

4 Q. Now, the outside of 26, does it indicate that that is
5 the cafeteria on the Park Avenue side?

6 A. Yes, if you enter in on the Park Avenue side, you would
7 enter -- it says East Thomson Hall. And I believe it also
8 says cafeteria as well.

9 Q. Okay, great.

10 Now, number 30, what building is that?

11 A. 30 is Lee Wicker, which would have been the
12 complainant's resident hall. It's right here.

13 Q. So that's a dormitory?

14 A. It is.

15 Q. Okay. And number 31, what building is that?

16 A. That is Phelps Hall, which is also a resident hall. At
17 the time it was under renovation.

18 Q. Okay. So, other than the fact that you just said that
19 31 was under renovation, does this map -- is this a fair and
20 accurate representation of --

21 A. It is.

22 Q. -- this area at the time that this happened?

23 A. It is.

24 Q. Okay. You can go ahead and have a seat.

25 (Witness back on the witness stand)

1 BY MS. VALENZUELA:

2 Q. Sergeant Wiles, I think we covered all the buildings
3 that are lining Park Avenue, but are any of those buildings
4 considered a public non-Winthrop University building?

5 A. Are you talking about to the left of Cherry Road?

6 Q. Right along Park Avenue near those buildings.

7 A. That's all Winthrop's campus.

8 Q. Now, Sergeant Rockholt (sic), after you placed the
9 defendant under arrest for indecent exposure -- excuse me, I
10 keep doing that.

11 Sergeant Wiles, after you placed the defendant under
12 arrest for indecent exposure, what did you do next?

13 A. Well, I read him his Miranda Rights. And at that time
14 we knew we were going to take him to jail for indecent
15 exposure, so we do what's called a tow inventory.

16 Q. Let me stop you just briefly. I want to go into that
17 just a little bit more.

18 A. Okay.

19 Q. So you advised him of his rights. Did he indicate that
20 he had understood his rights at that point?

21 A. Yes.

22 Q. Okay. And at the time that you advised him of his
23 rights, was anybody else on the scene with you?

24 A. Sergeant Howe.

25 Q. Were any other officers on the scene with you?

1 A. No.

2 Q. Now, were you in uniform at the time?

3 A. I was in plainclothes. My normal uniform is
4 plainclothes.

5 Q. As a detective your --

6 A. Right.

7 Q. -- usual uniform is to be in plainclothes?

8 A. Right.

9 Q. And was Sergeant Howe in plainclothes, or was he --

10 A. No, he was in full uniform.

11 Q. Okay. Now, when you placed him under arrest and
12 advised him of his rights, where was the defendant at that
13 time?

14 A. At the rear of his vehicle.

15 Q. And so was that still on Park Avenue?

16 A. Yeah, we were still -- we hadn't moved. We were still
17 on Park Avenue.

18 Q. Now, I think I cut you off. You were saying that once
19 he had been placed under arrest, I think you started talking
20 about his car.

21 A. Right, the car obviously was not going to stay there.
22 As a result of the arrest we were going to tow the vehicle.
23 And what we do is we contact Interstate Towing Services,
24 which is our contract overtime -- I mean not contract
25 overtime, our contract tow service. And before they come

1 there we have what's called a tow inventory list and it's
2 just our policy, our departmental policy, to look on the
3 outside of the vehicle to monitor if there is any damages to
4 the vehicle prior to tow. Also to document what all is
5 inside the vehicle as well prior to the tow.

6 Q. And do you do this in every situation where you are
7 going to have to tow the vehicle?

8 A. Every single one.

9 Q. And did you follow that same practice and procedure
10 this time?

11 A. We did.

12 Q. Were you either present or involved in the entire
13 search of that vehicle?

14 A. I was.

15 Q. Now, was there anything unusual or noteworthy that you
16 found when you did the inventory?

17 A. Well, during the search of the vehicle, the inventory
18 of the vehicle, it's -- we found a little clear baggy of
19 green leafy-type substance in the center console, along with
20 a smoke pipe, like a marijuana smoke pipe. And we also
21 found a set of digital scales that were in the glove box.

22 MS. VALENZUELA: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MS. VALENZUELA:

25 Q. Sergeant Wiles, I'm now handing you what's been labeled

1 State's Exhibit 2 and State's Exhibit 3.

2 A. Okay.

3 Q. Do you recognize these items?

4 A. I do.

5 Q. And what are these items?

6 A. Well, this is the evidence bag that I put the -- the --
7 like the clear baggy of green leafy substance in.

8 Also the scales and the little smoke pipe, which was
9 actually in a little container, like you would put
10 leftover-type food in, one of those type of containers. So
11 that was all put in here.

12 Right now the marijuana is placed in this for court
13 exhibit.

14 Q. Now, when you say this, are you referring to State's
15 Exhibit 2?

16 A. I am.

17 Q. And is it -- so does that hold the green leafy
18 substance?

19 A. It does.

20 Q. And where is it that you found that green leafy
21 substance?

22 A. In the center console of the Dodge Intrepid that the
23 defendant was in.

24 Q. And how do you know that what you are holding is the
25 same green leafy substance that you found that day in his

1 car?

2 A. Because I'm the evidence technician and it never left
3 my sight. I'm the only one that has a -- that has access to
4 the evidence room.

5 I actually took the evidence, I placed it in the locked
6 room, and I actually tested it. It's been within my
7 custodial care the entire time.

8 Q. Okay. I just want to walk through that just a little
9 slower. Did you actually -- were you the one who took that
10 green leafy substance?

11 A. I was?

12 Q. Seized it?

13 A. I was.

14 Q. And then where did you take it? Did it stay in your
15 possession until you got to the evidence locker?

16 A. Right.

17 Q. Okay. And then I think you just said it, but does
18 anyone else in the office have access to that evidence
19 locker?

20 A. Just me.

21 Q. So you are only one with the key?

22 A. Right.

23 Q. And I think you told us because you are the evidence
24 technician --

25 A. I'm the evidence tech, right.

1 Q. -- for the Winthrop Police Department?

2 A. Right.

3 Q. And then did you ever take that green leafy substance
4 out of evidence?

5 A. I did the next day, to test it.

6 As per our policy, we put it into a locked container in
7 the evidence room. And then the only person that would he
8 ever take it out would be me to test it to prove whether or
9 not it, in fact, is marijuana or it is not marijuana.

10 Q. Okay. And then once you tested it, what did you do
11 with the marijuana -- with the material at that point?

12 A. Are you talking about after I tested it?

13 Q. Yes.

14 A. Resealed it, put it in another bag and put it back in
15 our evidence room until today.

16 Q. Okay. And so, to your knowledge, no one else had
17 access to that marijuana, to that evidence?

18 A. No one has access to that.

19 MS. VALENZUELA: Your Honor, at this time the
20 State moves to admit Exhibits 2 and 3 into evidence.

21 MR. SMITH: No objection, Your Honor.

22 THE COURT: Admitted without objection.

23 MS. VALENZUELA: Your Honor, may I approach?

24 THE COURT: You may.

25 BY MS. VALENZUELA:

1 Q. Sergeant Wiles, I'm now handing you what's been labeled
2 State's Exhibit 4.

3 A. Okay.

4 Q. Do you know what that is?

5 A. Do you want me to take it out of here?

6 Q. Yes.

7 A. This is the little container I was just telling you
8 about that has the smoke pipe inside of it.

9 Q. Okay. And where did you locate that pipe?

10 A. This was also in the center console of the Dodge
11 Intrepid that the defendant was in.

12 Q. And did you seize that at the same time that you did
13 the green leafy substance?

14 A. The same time.

15 Q. And did you follow the same procedure?

16 A. The same thing. It was put into the evidence locker,
17 and it has not been taken out until today for court.

18 MR. SMITH: No objection.

19 THE COURT: Pardon me?

20 MR. SMITH: No objection.

21 THE COURT: Admitted without objection, counsel.

22 MS. VALENZUELA: The State moves to admit that
23 into evidence, Your Honor.

24 THE COURT: Admitted into evidence.

25 BY MS. VALENZUELA:

1 Q. I'm now handing you what's been labeled State's Exhibit
2 5.

3 A. The digital scales found in the glove box of the Dodge
4 Intrepid that was occupied by the defendant. It was seized
5 it at the same time and put in the evidence locker. It has
6 not been taken out of the evidence locker until today.

7 Q. Okay.

8 MS. VALENZUELA: Your Honor, the State now moves
9 to admit State's Exhibit 5 into evidence.

10 MR. SMITH: No objection.

11 THE COURT: Admitted without objection.

12 BY MS. VALENZUELA:

13 Q. Sergeant Wiles, at the beginning I started asking you
14 about some of your experience and training. I want to go
15 into that a little bit more.

16 Have you had any specific training on analyzing or
17 identifying marijuana?

18 A. I have. I was certified through SLED to analyze
19 marijuana.

20 Q. Did you receive a certificate from SLED --

21 A. I did.

22 Q. -- acknowledging that fact?

23 A. I did.

24 Q. When you -- let's go deeper into your law enforcement
25 experience. I think you had mentioned that you worked for,

1 was it the Greenwood Police Department?

2 A. I did.

3 Q. And then the Rock Hill Police Department?

4 A. I did.

5 Q. And what kind of -- what were some of your duties with
6 the Winthrop Police Department -- I mean, excuse me, with
7 the Rock Hill Police Department?

8 A. Well, patrol with Rock Hill. I also was on the Drug
9 Enforcement Unit for awhile.

10 Q. Can you explain to the jury what the Drug Enforcement
11 Unit is?

12 A. Well, I mean, it's much different now than it was when
13 I worked there, but just investigate crimes involving drugs.
14 It could be surveillance. It could be doing search
15 warrants. It could be drawing open warrants on people, or
16 investigating, any crime related to narcotics.

17 Q. And did you receive any training throughout your time
18 with the Drug Enforcement Unit?

19 A. Not while -- I mean, prior to that, yes. I had went to
20 narcotics investigations.

21 Q. And is that a class?

22 A. It is.

23 Q. Okay. How long were you with the Drug Enforcement
24 Unit?

25 A. Maybe a year.

1 MS. VALENZUELA: Your Honor, the State --

2 Excuse me, beg the court's indulgence.

3 (Off the record)

4 (Back on the record)

5 MS. VALENZUELA: We would just move to admit this
6 witness as an expert in the analysis and identification of
7 marijuana.

8 MR. SMITH: No objection.

9 THE COURT: All right, without objection he's so
10 qualified, counsel.

11 MS. VALENZUELA: Thank you, Your Honor.

12 BY MS. VALENZUELA:

13 Q. You were telling us that you had checked out that
14 marijuana from the evidence locker one time. And where
15 was -- for what reason did you check that marijuana out of
16 evidence locker?

17 A. To test it. We have to take the marijuana to the City
18 of Rock Hill law center. They have a laboratory there where
19 we test marijuana to see if it actually is marijuana or if
20 it's not.

21 Q. And what process do you use to analyze marijuana?

22 A. There is two different tests we have to do. We do a
23 microscopic test and we do a chemical test.

24 Q. And did you -- are those the tests that you were
25 certified with SLED to do on --

1. A. Yes.

2 Q. -- substances that you think is marijuana?

3 A. Yes.

4 Q. And can you explain to the jury what the microscopic
5 test involves?

6 A. Yeah, there is -- there is three different -- in the
7 microscopic test you actually take a sample of the material
8 from the clear baggy and you put it in a little bowl
9 underneath a -- underneath a reflective microscope and you
10 are looking for three different things. You are looking for
11 cystolithic hair, unicellular hair, and multicellular hair.

12 Multicellular hair is a -- on the leaf -- on the lower
13 lighter side of the leaf, it will be -- it will give off
14 like a glazed appearance or a glistening appearance.

15 And then you have the unicellular hair, which is just
16 simple hair, like a thread-like type of hair that is also on
17 the lower lighter side of the leaf.

18 And then you have this cystolithic -- I'm not
19 pronouncing it right, but it's -- they actually look like
20 bear claws that are on the darker top side of the leaf.

21 And for something to qualify as positive in reflective
22 microscope tests, all three of those have to be present. If
23 two of them are present and one of them is not, you have to
24 give it a negative. All three have to be present.

25 In this case all three were present -- are present and

1 I gave it a positive on the microscopic test.

2 Then after that you take a sample and you put it into a
3 little bowl for a chemical test. What you do is after you
4 put the sample in the -- when I say bowl, it's a small -- we
5 call it a spot well, about that big around. You put the
6 sample from the bag in there, and it's a small sample, and
7 you add a few drops of hydrochloric acid. And when you add
8 the few drops of hydrochloric acid, the material will turn a
9 bluish purple color, which it did.

10 Then you take some chloroform -- you take two few drops
11 of chloroform, add it to it and then an eye will appear.
12 When I say an eye, you have got the outer ring, which is
13 still dark, and then you have the center ring, which is kind
14 of a lighter color. And it has to present an eye to be
15 positive in the chemical test. If the eye does not present
16 itself, you have to mark it as negative.

17 If you have a positive from a microscopic and a
18 negative from the chemical, it's negative. It has to be
19 positive on both ends, and it was positive with the
20 microscopic test and it was also positive with the chemical
21 test, and I certified it as being positive for marijuana.

22 Q. So can you state to a reasonable degree of scientific
23 certainty whether State's Exhibit 2, that green leafy
24 substance, was, in fact, marijuana?

25 A. It's marijuana.

1 Q. There are a couple of procedural things that I need
2 take care of, so these might seem like silly questions, but
3 Winthrop campus, is that located in Rock Hill, South
4 Carolina?

5 A. It is.

6 Q. Is it also located in York County, South Carolina?

7 A. It is.

8 Q. Okay. Earlier when I asked, when you responded out to
9 Park Avenue on August 29th, 2011, do you remember the time
10 that you responded out there?

11 A. We got there at 4:47.

12 Q. Sergeant Rockholt (sic), when you were doing the
13 inventory -- I did it again. I'm so sorry.

14 Sergeant Wiles, when you were doing the inventory of
15 the car and you found the marijuana in the center console,
16 did you ask the defendant about that marijuana?

17 A. Yes, I just asked was that his and he said it was.

18 Q. Now, when you asked him this question, was that after
19 you had already placed him under arrest for indecent
20 exposure and advised him of his Miranda Rights?

21 A. It was.

22 Q. And after he had indicated that he understood his
23 Miranda Rights?

24 A. He did.

25 Q. And so he indicated that that marijuana was his?

1 A. He did.

2 Q. Later when you were following through with that
3 process, did the defendant make any other statements to you
4 about that marijuana?

5 A. Well, after we left the scene, we took him back to our
6 station to do a booking process, basically just to book him
7 into the system and he mentioned that he has a problem with
8 marijuana, and all I said to him was "have you sought any
9 help for it?" That was it.

10 (Off the record)

11 (Back on the record)

12 MS. VALENZUELA: Thank you, Sergeant. Please
13 answer any questions that Mr. Smith may have for you.

14 THE WITNESS: Okay.

15 MR. SMITH: If it please the court, Your Honor?

16 THE COURT: Yes, sir.

17 CROSS EXAMINATION BY MR. SMITH:

18 Q. Sergeant Wiles, how large is the Winthrop Police
19 Department? How many officers?

20 A. We have 17.

21 Q. It's a fairly big-sized department?

22 A. I mean, I wouldn't call it big, but --

23 Q. Okay. And its primary responsibility is Winthrop
24 campus, is that correct?

25 A. Right.

1 Q. And in August of last year, during this time period,
2 classes would have been back in session, is that right?

3 A. During this time, yes, they were.

4 Q. It would have sort of just gotten back into session?

5 A. Yeah.

6 Q. And by back into session, this is actually the end of
7 the summer, so it's the first semester for that year, so
8 this is -- I know summer school goes on, but this is the
9 largest group of students who would be on campus, the first
10 semester?

11 A. Right, this would be considered fall semester and it
12 would have already started at this point.

13 Q. And that would be the largest enrollment session at
14 Winthrop, is that correct?

15 A. Yes, fall and spring are the same.

16 Q. Okay. Assuming everybody makes it through that first
17 semester?

18 A. Right.

19 Q. Now, you were called out to respond to the location on
20 Park Street and you got there quickly, is that right?

21 A. Within two minutes.

22 Q. Okay. Within two minutes?

23 And when you got there, Mr. Holliday was still on Park
24 Street, as you have described, right?

25 A. Right.

1 Q. And he is still in his vehicle?

2 A. Right.

3 Q. Now, you say that he is reclined. Can you describe for
4 the jury how far he was reclined?

5 A. If this is sitting straight up, like this.

6 Q. Okay. But the seat was not touching the rear seat?

7 A. Oh, no.

8 Q. Okay. And when you dealt with Mr. Holliday on the
9 scene, you said that he was compliant with anything that you
10 asked of him, is that right?

11 A. He was.

12 Q. And I believe you described at some point as being sort
13 of matter of fact?

14 A. Right.

15 Q. And ultimately you get him out of his vehicle?

16 A. Uh-huh.

17 Q. Or you asked him to step out and he does that?

18 A. I did.

19 Q. And you had him at the rear of his vehicle while the
20 vehicle is being searched?

21 A. Right.

22 Q. And while the vehicle was being searched, you are
23 looking for anything in the vehicle that you might need to
24 note for the tow inventory or anything that might be illegal
25 or might be relevant to the case that you are making an

1 arrest for, is that right?

2 A. Well, we are looking for anything that's in there. I
3 mean, he had a large amount of clothes in there. We also
4 documented that. I mean, anything that's in there we are
5 going to document.

6 Q. Okay. So the clothes were not taken into evidence, is
7 that correct?

8 A. No.

9 Q. Were there anything, such as pornographic materials, or
10 anything of that nature?

11 A. Not that I recall.

12 Q. And was there any evidence of any sort of bodily fluids
13 or anything that may have occurred in reference to this
14 charge?

15 A. Not that I recall.

16 Q. Okay. And certainly if you had seen that, you would
17 have taken that into evidence and that would be presented
18 here to the jury as part of this case, right?

19 A. If there were bodily fluids?

20 Q. Yes, sir.

21 A. I mean, from what I would have been able to detect in
22 that car, I don't -- there is nothing in there that I would
23 have been able to defect. I mean, it wasn't a jar or
24 anything like that.

25 Q. Okay. But ejaculate on tissues, or paper towels, or

1 something like that?

2 A. Right, I mean -- but I don't -- I don't recall that.

3 Q. Okay. The direction of the vehicle, was it facing --
4 on the map that we saw earlier, was it facing towards Cherry
5 or toward campus?

6 A. Facing towards Cherry Road.

7 Q. And did you -- when you responded or during this hour
8 or period of time, approximately, that you were out there,
9 did you take any pictures of the vehicle?

10 A. No.

11 Q. How about going to the location where the victim said
12 that she first saw the defendant when she saw Mr. Holliday?
13 Did you go there and take a picture, as far as what her
14 sight line would have been, or anything of that nature?

15 A. To where she first -- he was -- he was still parked
16 where she saw him at.

17 Q. Right.

18 And she described seeing different parts of his body,
19 correct?

20 A. Right.

21 Q. And did you go to where she said she saw that and check
22 the sight line to see if she would have been able to see
23 that?

24 A. Well, I was actually physically there. I mean, in my
25 opinion she would have been able to see that.

1 Q. Okay.

2 A. I was physically standing where she would be have been
3 standing.

4 Q. Okay. You spoke with her at the scene?

5 A. No, no, no, no. I'm talking about where she would have
6 been going towards her resident hall.

7 That curbside, that's actually how I initially
8 approached his car, so I would have actually been where she
9 said she was.

10 Q. Okay. But at that point you wouldn't know where she
11 said she was unless you talked to her?

12 A. No, no, I'm saying she -- I knew she was walking
13 towards her resident hall.

14 Q. All right.

15 A. That's how the call came in. She was going towards Lee
16 Wicker. There was only one way to have passed his car going
17 towards Lee Wicker.

18 And what I'm saying is that whenever I approached the
19 defendant in his vehicle, I approached him originally from
20 the passenger side, which would be have the same curb she
21 was using going to her resident hall.

22 Q. Okay. And that sidewalk, how wide is that sidewalk?

23 A. How wide is the sidewalk? Maybe from here to the
24 siding of that. Maybe a little more. I would say that
25 would be a fair -- from where you are at to here.

1 Q. Okay. And would you agree that if I'm on this edge of
2 this sidewalk, I cannot see your feet?

3 A. If you are what?

4 Q. If I'm on this edge of the sidewalk you have just
5 displayed, due to that door I cannot see your feet, is that
6 correct?

7 A. I don't know if you can or not. I mean --

8 Q. But if I get close like this, now you would suspect I
9 can see your feet, correct?

10 A. I would -- I would guess.

11 Q. And the same would apply for lines of sight into a
12 vehicle, depending on which part of the sidewalk a person
13 was on, correct?

14 A. I can't -- I can't say one or the other on that. I
15 mean, I would be able -- I could see in his vehicle from
16 that area.

17 Q. Okay. And did this vehicle have only one seat in the
18 front, or did it have two?

19 A. It had two seats in the front.

20 Q. Okay. And as you walked down, as you say that you were
21 on this sidewalk, did you notice that at times your view of
22 the driver's seat would be blocked by the passenger's seat?

23 A. Coming from the rear.

24 If the front of his vehicle is here and the back of his
25 vehicle is here, if you are back near the rear of the

1 vehicle, of course, it would be blocked by the --

2 Q. And then as you get closer, the front seat no longer
3 blocks the view from the side, correct?

4 A. Uh-huh.

5 Q. But if you get further in front of the vehicle looking
6 back, the lower portion of the seat is going to be blocked
7 by the hood of the vehicle, is that right?

8 A. Possible.

9 Q. But, again, you didn't take any pictures of how that
10 vehicle was oriented or what any lines of sight may have
11 been that day?

12 A. No.

13 Q. Now, the '96 Dodge Intrepid, do you know if that's a
14 midsize or a compact car? Do you know how that's
15 classified?

16 A. I don't know. I would say it's midsize.

17 Q. Would you agree with me that headroom approximately 37
18 and a half inches? Does that sound near correct?

19 A. I -- I don't know what the headroom is.

20 Q. Okay. And you didn't measure that?

21 A. No, I did not.

22 Q. How about Mr. Holliday, you would agree with me that
23 he's a large man?

24 A. He is.

25 Q. And you did the booking process on him, so he's 6'4"

1 tall, thereabouts?

2 A. I don't know what his exact height is, but I have got
3 it on the booking slip.

4 Q. Okay. And did you have him adjust his seat up in the
5 vehicle to see if it's possible for someone his size to
6 actually sit in a totally upright position?

7 A. (Shaking head no).

8 Q. Let me ask about marijuana, in general.

9 You have been in law enforcement over 20 years, so you
10 have had a lot of exposure to marijuana, fair to say?

11 A. Right.

12 Q. And college campuses, it's not unusual for marijuana to
13 be found on or around college campuses as well?

14 A. Right.

15 Q. When searching a vehicle, your training has probably
16 told you to look into the console, because that wouldn't be
17 an unusual place for marijuana to be found?

18 A. Right.

19 Q. And it's not unusual if you find marijuana to find a
20 smoke pipe with it?

21 A. It's not uncommon, no.

22 Q. And you have seen marijuana with pipes a whole lot of
23 times and you have seen marijuana a lot of times, is that
24 right?

25 A. Correct.

1 Q. And in becoming certified to test marijuana, they
2 actually give you marijuana and you have to do a lot of
3 tests on it, is that right?

4 A. They actually give you 50 unknown samples. Some of
5 them are marijuana and some of them are not. And to
6 actually become certified you have to with a 100 percent
7 accuracy test all of them either positive or negative. It
8 has to be accurate.

9 Q. And with all that exposure that you have had, you can
10 get pretty good at telling even before the testing what's
11 marijuana and what's not?

12 A. I mean, there is some things that you would think
13 whenever you are going through the class that you might may
14 assume is marijuana, but once you test it, you find out it's
15 not, so I wouldn't -- I don't -- I don't rely on what I
16 think and what I don't think. I rely on the test.

17 Q. Okay. So even if just looking at it, if it just looks
18 like marijuana, you know due to your training you still got
19 to test it, because it might not be?

20 A. That's right.

21 Q. Okay. And that testing has procedures. There are
22 certain things that you have to follow and certain orders
23 that you have to do this testing in?

24 A. Right.

25 Q. And for testing this marijuana, you mentioned two

1 different tests. You mentioned a microscopic test and a
2 visual test?

3 A. A microscopic --

4 Q. I'm sorry, a microscopic test and a chemical test?

5 A. Right.

6 Q. And in that microscopic test, there is actually three
7 different parts to it of the three different kind of hairs
8 that you have to identify?

9 A. Right.

10 Q. And if two of them are there, but one of them isn't,
11 you have to write that up as a negative?

12 A. Correct.

13 Q. And that's true, even if it passes the chemical test?
14 One negative knocks it out, is that right?

15 A. Right.

16 Q. And then the same with the chemical? There is two
17 parts to it. There is the changing in color and the
18 determination that there is the eye dot in the middle?

19 A. Right.

20 Q. And, again, if it fails one part of that, even it
21 passed all the visual, it gets reported as a negative?

22 A. That's right.

23 Q. So, in effect, there is five different things that you
24 look for; three of them through the microscopic and two of
25 them through the chemical?

1 A. Right.

2 Q. And a no on any of these would lead you to a negative
3 result?

4 A. That's correct.

5 Q. But in this case you did all those tests and all of
6 these things added up to positive on this marijuana?

7 A. Right.

8 MR. SMITH: I have no further questions.

9 MS. VALENZUELA: Your Honor, no further questions
10 for this witness. We ask that he be excused.

11 THE COURT: Thank you, sir. You may stand down.

12 MS. VALENZUELA: Your Honor, the State calls Ms.
13 Catherine Holly to the stand.

14 CATHERINE HOLLY, having been first duly sworn,
15 testified as follows:

16 DIRECT EXAMINATION BY MS. VALENZUELA:

17 Q. Good afternoon, Catherine.

18 A. Good afternoon.

19 Q. Can you please state your full name for the record?

20 A. Catherine D. Holly.

21 Q. Catherine, are you from South Carolina?

22 A. Yes, ma'am.

23 Q. Are you from Rock Hill?

24 A. No, ma'am, I'm from the Upstate of South Carolina.

25 Q. Now, how old are you?

1 A. I'm 19 now.

2 Q. How old were you on August 29th, 2011?

3 A. I was 18.

4 Q. Are you in college right now?

5 A. Yes, ma'am.

6 Q. Are you at college at Winthrop?

7 A. No, ma'am, I'm transferred.

8 Q. Were you attending Winthrop University on August 29th,
9 2011?

10 A. Yes, ma'am.

11 Q. And when had you started that semester?

12 A. I think we moved in the 17th or 19th, and then classes
13 picked up the 22nd.

14 Q. Are you speaking about the month of August of 2011?

15 A. Yes, ma'am, I'm sorry.

16 Q. That's okay.

17 And how long had you been attending Winthrop at that
18 point?

19 A. A week.

20 Q. Was that your freshman year?

21 A. Yes, ma'am.

22 Q. Have you lived away from home before that?

23 A. No, ma'am.

24 Q. And where were you living while you were attending
25 Winthrop University?

1 A. I was at Lee Wicker residence hall.

2 Q. And so is that a dorm on Winthrop campus?

3 A. Yes, ma'am.

4 Q. Do you remember what you were doing around 4:45 the
5 afternoon of August 29th, 2011?

6 A. I was walking back from my computer science class and I
7 witnessed a man in his car masturbating.

8 Q. Well, we are going to get into that.

9 Now, where was the class that you were walking from?

10 A. It was in Sims Science Building.

11 Q. Is that also on campus?

12 A. Yes, ma'am.

13 Q. And, now, I don't know if you told me, but where is Lee
14 Wicker Dorm located?

15 A. It's on Park Avenue.

16 Q. Now, on August 29th, at 4:45, was it still daylight
17 outside?

18 A. Yes, ma'am.

19 Q. Can you tell us what the weather was like?

20 A. It was sunny. It was a nice day.

21 Q. Was it overcast at all?

22 A. No, ma'am.

23 Q. At that time of day was campus busy?

24 A. Well, most classes ended around that time. My class
25 was a 3:30 to 4:45 class, and a lot of people were kind of

1 out and about because the cafeteria opens for dinner at
2 five, and so, yeah, there was a lot of people around.

3 Q. When you turned down specifically Park Avenue on your
4 way to your dorm, did you notice whether that street was
5 busy or not at the time?

6 A. Yes, ma'am, that's the street that has the cafeteria
7 and my residence hall. There is two residence halls right
8 beside it. And, like I said, classes were just getting out,
9 so a lot of people were walking that way.

10 Q. About how many people would you estimate were on Park
11 Avenue at that time?

12 A. Probably 20, 30 people.

13 Q. Now, I think we got into it a little bit earlier, but
14 when you were walking back from class that day to get to
15 your dorm, turned down Park Avenue, it's a little relatively
16 busy, 20, 30 people on it, did you see anything unusual that
17 day?

18 A. Yes, ma'am. I was walking on the sidewalk and I just
19 happened to turn my head and I saw a man masturbating in his
20 car.

21 Q. When you -- when you say that you saw him masturbating,
22 can you be very specific about what you saw that day?

23 A. He had his penis out of his pants and his hand was on
24 his penis and it was moving.

25 Q. So his hand was moving on his penis?

1 A. Yes, ma'am.

2 Q. And you were able to see his penis and you were able to
3 see his hand from where you were standing?

4 A. Yes, ma'am.

5 Q. How was -- how was the defendant sitting in his car at
6 that moment?

7 A. He was reclined back a little and he was kind of
8 looking around at the time.

9 Q. Where was he seated in his car?

10 A. In the driver's seat.

11 Q. Do you remember what that car looked like?

12 A. It was a four-door bluish green teal car and the
13 windows were down.

14 Q. When you say the windows were down, do you mean all
15 four, or --

16 A. I don't remember if the back two were down, but I know
17 definitely that the front two were down.

18 Q. So the front two windows were down and he was reclined
19 in the driver's seat when you saw him?

20 A. Yes, ma'am.

21 Q. Was there anything that was obstructing your view to
22 the defendant's lap from where you were standing when you
23 saw him masturbating?

24 A. No, ma'am.

25 Q. Are you absolutely certain that what he was

1 manipulating in his hand that day was his penis?

2 A. Yes, ma'am.

3 Q. Now, what did you do after you saw him masturbating?

4 A. I started to go back towards my dorm and then I was
5 kind of in a bit of shock and I turned around, because I
6 was -- I didn't know if he saw me or not, and I was kind of
7 concerned that he saw me, and I turned around. And when I
8 looked at him from -- he was behind me and I looked at him
9 through his front windshield, he was smiling, so I knew he
10 saw me at that time.

11 Q. When you said he was smiling, was he looking directly
12 at you?

13 A. Yes, ma'am.

14 Q. And how far of a distance --

15 Let me go back real quick. I should have asked you
16 this before.

17 When you saw him masturbating, how far was the distance
18 from where you were standing to his lap? And use something
19 in this courtroom as a --

20 A. Probably from me to that right there, like the chair
21 and the podium.

22 Q. So -- okay. So from you to where?

23 A. Come a little tiny bit closer. Right there.

24 Q. So this is about the distance that you were standing to
25 where he was sitting while he was masturbating?

1 A. Uh-huh.

2 Q. Okay. And then when you say that you walked a few
3 steps and you turned and looked over your shoulder at him,
4 how far was the distance from where you were standing at
5 that point to where he was sitting or reclining back?

6 A. It wasn't that much further. It was probably from
7 that, the projector --

8 Q. Okay.

9 A. -- but I had a front view shot from him.

10 Q. Okay. Now, you said that it was a bright day, it
11 wasn't overcast, but you looked back at him through his
12 windshield. Was there not a glare?

13 A. No, ma'am.

14 Q. Was there anything in that area that would have
15 prevented a glare?

16 A. He was kind of -- there is big trees on Park Avenue and
17 he was not parked directly in the shade, but under the shade
18 of a tree, and so that's how I know that wasn't a glare.

19 Q. So he was parked under a tree that was providing shade
20 at that moment?

21 A. Yes, ma'am.

22 Q. How far was he parked from where you lived, where your
23 dorm was?

24 A. It didn't take me but a minute to run all the way
25 back -- well, to go to my dorm and get to my room on the

1 third floor and call the police. So fairly close. Very
2 close.

3 Q. And so -- and how close was he to the cafeteria that
4 you mentioned?

5 A. Very close. If you -- on the map, you saw that -- here
6 is Thomson cafeteria, and Lee Wicker is directly in front of
7 it, so they are right beside each other, just opposite sides
8 of the street.

9 Q. Would it help you to have the map to reference?

10 A. Sure.

11 Q. Okay.

12 A. He was parked kind of in the middle of those two
13 buildings.

14 MS. VALENZUELA: Your Honor, may the witness step
15 down?

16 THE COURT: Certainly.

17 (Witness off the witness stand)

18 MS. VALENZUELA: And the witness is referring to
19 State's Exhibit 1.

20 BY MS. VALENZUELA:

21 Q. I'm going to hand you this pen. If you will just use
22 the tip of that at this time to please indicate the areas
23 that you are talking about.

24 A. This is the cafeteria. The entrance to the cafeteria
25 is right there. Here is my dorm, and this is where he was.

1 Q. And then earlier when you were telling us that you were
2 coming back from class, where was your class located?

3 A. My class was right here.

4 Q. Okay. Can you show us the path that you took to get
5 back to your dorm that day?

6 A. I came right down this road, and right here, right back
7 across there and there is the dorm.

8 Q. Now, the officer -- you can take your seat.

9 (Witness back on the witness stand)

10 BY MS. VALENZUELA:

11 Q. Sergeant Wiles earlier indicated that that building,
12 31, was having some renovations done at the time?

13 A. Yes, ma'am.

14 Q. Do you remember that?

15 A. Yes, ma'am. That's why -- he was parked in residence
16 parking and normally in that area there is nothing but a
17 bunch of construction trucks and Winthrop trucks and stuff,
18 and so I thought it was odd that there was a car parked
19 right there, because I never could get a good parking spot
20 like that, and so I looked over at it and that's when I saw
21 it, because it was odd that the car was in that area.

22 Q. When you did walk by that day, were there any
23 construction trucks blocking either the front or the back?

24 A. No. Well, there is -- when you pull into the
25 building -- you can pull like directly to the door. There

1 is cars right there, and there was a construction truck near
2 his, but there weren't any like in front of him.

3 Q. Was that the only construction truck that was on that
4 part of the street?

5 A. No, ma'am, there was I think probably two. I'm not
6 exactly sure.

7 Q. Now, the sidewalk that lines that part of the street,
8 was it blocked in any way by the construction that was going
9 on?

10 A. No, ma'am.

11 Q. Do you know how sometimes whenever they are doing
12 construction, they will put like the orange cones out so
13 that you can still walk around them, but they are still out
14 there?

15 A. Uh-huh.

16 Q. Was there anything like that indicating that you
17 shouldn't use that part of the sidewalk?

18 A. No, they have it -- I don't know what it's called, but
19 the orange -- like net stuff to block it off is directly
20 around the entrance to the building. So you can pull up
21 beside it, but you can't go into the building, so the
22 sidewalk is free to walk on.

23 Q. So if you -- if -- just that to give the jury a frame
24 of reference, if the defendant's car was where the judge is
25 sitting and you were on the sidewalk, where is this orange

1 netting that you are referring to?

2 A. To the right of me.

3 Q. Was it in any way blocking the access to the sidewalk?

4 A. No, he was to the left of me, and that was to the right
5 of me.

6 Q. Were there other people -- when you had mentioned that
7 you saw about 20 or 30 other people on Park Avenue, were
8 there any other people that were using that sidewalk?

9 A. I'm sure there was, but I was walking by myself at the
10 time. Like most of the people were near the cafeteria and
11 on down, and so kind of -- I was actually really shocked
12 that I was the only one that noticed anything, because, like
13 I said, there was a lot of people out there, but they were
14 more migrated in front of the cafeteria, because dinner was
15 about to open.

16 Q. Let's go back to when you turned to look at the
17 defendant to see if he had seen you. You mentioned that he
18 had smiled at you?

19 A. Uh-huh.

20 Q. How did that make you feel at that moment?

21 A. Afraid. I mean, I was really hoping he didn't see me,
22 and that's kind of what initiated me to run and call my mom
23 and the police, because at that point I didn't know if he
24 was plotting something, or what was going on, because, like
25 I said, he was just looking around and people were just

1 walking out freely and he was doing that in his car, so I --
2 I didn't know what was going to happen.

3 Q. When you turned to look at him, was he still looking
4 around, or was he looking straight at you?

5 A. When I first saw him, he wasn't looking directly at me.
6 He was looking around. And then when I turned back to look
7 the second time, he was looking directly at me.

8 Q. And what did you do at this point when he smiled at
9 you?

10 A. I ran to my dorm and I called my mom and she told me to
11 call Officer Scott, who was Lee Wicker's -- like we had
12 designated security cops for each dorm, and he at the
13 beginning gave us all his cell phone number and said "if any
14 of you girls or guys have any problems any day or night, you
15 know you can call me. Call this number directly," and
16 stuff, because he's right around the area, and so I called
17 Officer Scott and he then reported it to the police.

18 Q. When you say Officer Scott, do you mean Officer
19 Rockholt?

20 A. Yes, ma'am.

21 Q. And I am correctly using that name this time?

22 A. Yes, ma'am.

23 Q. Okay. Now, what did you -- did you describe the
24 defendant in any way to Officer Rockholt when you called
25 him?

1 A. Yes, ma'am. I said that he didn't look like a student
2 and was kind of what scared me. He looked much older than
3 me and he looked -- he was a bigger set man, white male,
4 with -- and he had a long brown ponytail at the time.

5 Q. Were you able to describe the vehicle to Officer
6 Rockholt?

7 A. I didn't know the make or the model, but I did know it
8 was a four-door car and it was the teal greenish blue color
9 and that the windows were down and I could tell the exact
10 location of it.

11 Q. And you communicated that to Officer Rockholt?

12 A. Yes, ma'am.

13 Q. What happened next in terms of the Winthrop Police
14 Department?

15 A. He told me to stay put, that he was going to come get
16 me so I could help fill out a police report and I could
17 identify him. And then he escorted me to his car where --
18 and then we did the identification.

19 Q. Okay. When you were -- when he came back to put you in
20 the car, where did you -- where did he have you sit in his
21 car?

22 A. I was in the front passenger's seat.

23 Q. Okay. And then how did he drive out? Did he drive
24 back out onto Park Avenue?

25 A. Yes, ma'am. His car -- the defendant's car was on the

1 this side of the street and we were right here coming back
2 out towards -- heading the other direction on Park Avenue
3 when he stopped for a second and the police officers turned
4 him around and made me identify him, and I knew it was him
5 because he was smiling still and I recognized his smile.

6 Q. Now, earlier you said he stopped for a second, and I
7 just want to be clear. How long did he give you to look at
8 the defendant in order to make that identification?

9 A. Longer than I wanted, because I was kind of like "yup,
10 yup, let's go." I -- I really didn't want him to be able to
11 identify me, or anything, so longer than I would have liked,
12 but at least a good minute we stopped.

13 Q. Now, when he drove back and he asked you to identify
14 this person, was the car parked in the same location where
15 you had seen it earlier?

16 A. Yes, ma'am.

17 Q. Was it the same color -- I mean -- excuse me, was it
18 the same car?

19 A. Yes, ma'am.

20 Q. How did you know that?

21 A. It was parked in the exact same place and it was the
22 exact same color. And -- I mean, I could recognize the
23 make. I just don't know the names off the top of my head.

24 Q. So you didn't communicate the make and model, but you
25 knew that it was the same one --

1 A. Yes, ma'am.

2 Q. -- from what you had seen before?

3 A. Yes, ma'am.

4 Q. Now, how were you able to identify the defendant, and
5 be as specific as possible?

6 A. They had -- they had had him in handcuffs at that point
7 and they turned him around and faced him directly towards
8 me, and that's when I looked at him and he smiled and I
9 confirmed that it was him.

10 Q. Describe him to me as if this was the first time that
11 you were describing somebody.

12 A. Describe him?

13 Q. Who -- yeah, who you saw that day.

14 A. It was a man over six feet, heavier set. He had facial
15 hair, a brown ponytail, and a smile that I could remember.

16 Q. So he had his hair back in a ponytail?

17 A. Yes, ma'am.

18 Q. Did he have his hair in a ponytail when you seen him
19 earlier?

20 A. Yes, ma'am.

21 Q. And had you communicated that to Officer Rockholt as
22 well?

23 A. Yes, ma'am.

24 Q. Do you see the man in the courtroom today that you saw
25 masturbating that day?

1 A. Yes, ma'am, he's in the white shirt.

2 Q. Can you -- is he sitting at the defense counsel's
3 table?

4 A. Yes, ma'am.

5 Q. Does he look similar today than he did on August 29th
6 when you saw him?

7 A. He looks a little nicer today.

8 Q. I just want to make sure that we have covered this, but
9 how many lanes of traffic is Park Avenue?

10 A. Well, two, counting going one way and the other way.

11 Q. So when Officer Rockholt took you to view the
12 identification, can we do that again where you tell me the
13 distance where you were sitting in the car to where the
14 defendant was standing when you identified him?

15 A. My -- he stopped directly in front of the car and kind
16 of brought him out in front of his car, like in the street,
17 and so he was directly in front of me, about the same
18 distance.

19 Q. So back to that table that we were looking at?

20 A. They brought him out specifically like in front of the
21 car for me to identify him.

22 Q. Now, how confident were you at the time that the man
23 that you were -- that they were showing you was the same man
24 that you had seen masturbating earlier?

25 A. A hundred percent.

1 Q. How confident are you that that same man is sitting in
2 here today?

3 A. A hundred percent.

4 Q. Okay. Now, earlier you mentioned that the first person
5 that you called was your mom?

6 A. Yes.

7 Q. Why did you call her?

8 A. Because it was my first week at college away from home
9 and you guys -- well, most people just remember how Cherry
10 Road is, and I was already scared to death living by myself
11 for the first time, and then that happened to me. And I'm
12 just like oh, what else could happen wrong, and it was -- I
13 don't know, it was an emotional time.

14 Q. Okay.

15 MS. VALENZUELA: Beg the court's indulgence.

16 (Off the record)

17 (Back on the record)

18 BY MS. VALENZUELA:

19 Q. Now, Catherine, earlier you said that you were no
20 longer at Winthrop University, but you were still at a
21 university --

22 A. Yes, ma'am.

23 Q. -- is that right?

24 Why are you no longer at Winthrop?

25 MR. SMITH: Objection, relevance.

1 MS. VALENZUELA: Withdrawn.

2 THE COURT: Sustained.

3 BY MS. VALENZUELA:

4 Q. Thank you. Please answer any questions that Mr. Smith
5 may have for you.

6 CROSS EXAMINATION BY MR. SMITH:

7 Q. Ms. Holly, had you already made it to the sidewalk as
8 you were headed toward Cherry when you were walking back
9 from class, or did you come in front of his car across the
10 street?

11 A. No, I came from behind and passed him directly.

12 Q. Okay. And Christopher's car would have been facing
13 towards Cherry, is that right?

14 A. Yes, sir.

15 Q. So you would have been walking up, in effect, on the
16 passenger's side of the vehicle --

17 A. Yes, sir.

18 Q. -- somewhere on the sidewalk?

19 A. Yes, sir.

20 Q. Okay. And during this whole time that you described
21 seeing him, both from the sidewalk and then ultimately the
22 front part of the car, you remain on the sidewalk that whole
23 time?

24 A. Yes, sir.

25 Q. And did you ever stop at any point, or did you keep

1 moving that whole time?

2 A. I stopped in shock for a second and then continued
3 moving.

4 Q. Okay. And you said you got up front and then you
5 looked backward again towards Christopher's vehicle and at
6 that point you looked and saw his face, is that right?

7 A. Yes, sir.

8 Q. And from there you couldn't see his lap, or legs, or
9 anything, because they would have been blocked by the hood,
10 is that right?

11 A. That's correct.

12 Q. And that's when you said that you got sort of startled
13 and I believe you described it as running off at that point?

14 A. I was startled before, but I was extra startled when I
15 knew he knew me.

16 Q. And you picked up your pace a whole lot at that
17 point --

18 A. Yes, sir.

19 Q. -- and ran off towards your dorm.

20 During the time that you were out there, you said his
21 windows were down. Did he ever speak to you, or say
22 anything to you, or anything like that?

23 A. No.

24 Q. And at any point in time make any waving gesture, or
25 call you over, or anything of that nature?

1 A. No, sir.

2 Q. And you would have approached Chris' car from behind,
3 is that right?

4 A. I was directly beside him.

5 Q. Okay. But he would have been sort of up further than
6 you when you were on the sidewalk, so you came from the
7 front or from the rear of the vehicle?

8 A. From the rear.

9 Q. From the rear.

10 And then you would have seen his car before he saw you?

11 A. Correct.

12 Q. And you would have seen him before he saw you, I
13 believe you described?

14 A. I did.

15 MR. SMITH: No further questions, Your Honor.

16 MS. VALENZUELA: Nothing further for this witness,
17 Your Honor.

18 THE COURT: Thank you, ma'am. You may stand down.

19 MS. COLTON: Court's indulgence, Your Honor.

20 THE COURT: Yes.

21 (Off the record)

22 (Back on the record)

23 MS. VALENZUELA: Your Honor, the State rests.

24 That's our last witness.

25 THE COURT: All right.

1 Mr. Foreman, ladies and gentlemen of the jury
2 panel, there is a matter I need to take up with counsel at
3 this time out of your presence. We will take about a ten
4 minute recess. You may refresh yourselves during this
5 break. Please retire to the jury room.

6 (The following takes place outside the presence of
7 the jury panel)

8 THE COURT: All right, I'll hear you with regard
9 to any motions you might wish to make at this time.

10 MR. SMITH: Your Honor, at this time on behalf of
11 Mr. Holliday I would make a motion for a directed verdict,
12 in that the State has not proven its case on either charge,
13 understanding at this point taking the light most favorable
14 to the State that they have not established that he was in
15 possession, nor this was actual willful indecent exposure.

16 THE COURT: Does the State wish to be heard on
17 this?

18 MS. COLTON: Your Honor, with regards to
19 possession of marijuana, the statute says it can either be
20 actual or constructive. It was in his vehicle. He was in
21 possession of the vehicle. There were no other individuals
22 there. It was in the glove compartment. There is no
23 question it's marijuana, as testified to by the officer. I
24 think we have met our burden of proof with regard to the
25 marijuana.

1 With regards to the indecent exposure, the
2 defendant was in a public place, in public view of any
3 individual walking by Winthrop campus.

4 The act in and of itself, masturbation, I would
5 say would be obscene to do in a public place.

6 In any event, clearly he exposed himself in an
7 inappropriate manner. I think in any manner he would have
8 exposed it to would have been obscene at that point, Your
9 Honor.

10 The fact that the maliciousness of it, I think --
11 even though I think this action can be inferred by the fact
12 that he was in a public place, he made eye contact with this
13 young lady on campus and smiled at her, probably recognizing
14 that she had seen it.

15 In the light most favorable to the State all those
16 factors would substantiate this going to the jury.

17 THE COURT: Looking at a motion for directed
18 verdict, the court is required to look at the evidence in
19 the light most favorable to the party against whom the
20 motion is made.

21 In this case, looking at the evidence in the light
22 most favorable to the State, I find there is substantial
23 evidence from which the jury could infer that the State had
24 proven the elements of each of these two offenses beyond a
25 reasonable doubt.

1 With regard to the marijuana, of course, you have,
2 number one, the search warrant had been a legal search; they
3 followed procedures in doing an inventory search and
4 searched the car and found it. It was in a vehicle
5 possessed by him. He was the only one in the vehicle at the
6 time. There is no testimony that he owned the vehicle,
7 necessarily, but he was in the vehicle and had control of
8 the vehicle. The marijuana was in the -- it was in the
9 console, which it's normally kept, the police officer
10 testified, along with a pipe and some scales inside. He
11 admitted that it was his marijuana. After being fully
12 advised of his Miranda Rights he admitted it was his
13 marijuana. So we got -- he admits to possession of it, that
14 it belonged to him, so that's possession.

15 Number two, control over property on which the
16 marijuana was found is constructive possession.

17 So you got constructive and actual possession it
18 appears to me when he admits it's his.

19 Insofar as indecent exposure, the maliciousness of
20 it would be a question for the jury to determine. The court
21 does not weigh the evidence, nor does the court judge the
22 credibility or believability of the witnesses. Those are
23 matters for the jury to determine, but I find there is
24 substantial evidence from which the jury could infer the
25 State had proven the elements of the offenses beyond a

1 reasonable doubt. Therefore, I deny your motion for a
2 directed verdict.

3 Anything else?

4 MR. SMITH: No, sir.

5 MS. VALENZUELA: No, Your Honor.

6 THE COURT: Does the defendant intend to testify
7 or not?

8 MR. SMITH: He indicates he does not wish to.

9 THE COURT: Let's go ahead and question him about
10 that then. It has to be under oath, if you would bring him
11 around.

12 CHRISTOPHER RYAN HOLLIDAY, having been first duly
13 sworn, testified as follows:

14 THE COURT: Sir, for the record you are
15 Christopher Ryan Holliday?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Holliday, we have reached the
18 stage of your trial where you may present your defense.

19 You have the right to testify in your own behalf.
20 However, no one can make you testify.

21 In the event that you have a record for any
22 conviction involving dishonesty, or false statement, or for
23 a crime punishable by imprisonment for more than one year
24 and this court determines that the probative value of
25 admitting this evidence outweighs its prejudicial effect to

1 you, this solicitor would be able to introduce this record
2 for impeachment purposes to attack your credibility.

3 If you elect not to take the stand, I would charge
4 the jury that they are not to give the fact that you did not
5 testify any consideration whatsoever. There is to be
6 absolutely no prejudice to you because you did not testify.

7 It is left entirely up to you whether or not you
8 testify. You may talk with your attorney, family, friends,
9 or anyone else, but the ultimate decision is left entirely
10 up to you.

11 Do you understand it is your decision whether you
12 will or will not testify in your case, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you discussed with your attorney
15 the advantages and disadvantages of testifying in your case?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you wish to testify, sir?

18 THE DEFENDANT: No, sir.

19 THE COURT: Is that your decision, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Thank you.

22 MR. SMITH: Thank you, Your Honor.

23 THE COURT: We will take about a ten minute break,
24 or so.

25 Counsel, let's take about a ten minute break.

1 Then just get with me about the charge, okay? You can come
2 back in chambers and we will discuss the charge.

3 (Whereupon, proceedings were recessed)

4 (Whereupon, proceedings were reconvened)

5 THE COURT: Counsel, if you will come and look at
6 the verdict forms right quick before we get started.

7 (Whereupon, the lawyers approached the bench for
8 an off-the-record discussion)

9 THE COURT: All right, please bring the jury in
10 now.

11 (The following takes place in the presence of the
12 jury panel.)

13 THE COURT: Counsel, I believe the defense has not
14 rested. Do you wish to rest at this time?

15 MR. SMITH: At this time the defense rests.

16 THE COURT: Mr. Foreman, ladies and gentlemen of
17 the jury panel, this concludes all the taking of the
18 testimony and evidence in the case. We have yet remaining
19 final arguments from counsel and my instruction to you with
20 regard to the law that applies to the issues in this case.

21 We are to that part of the trial now where counsel
22 will make their final arguments to you. I ask that you
23 listen attentively now as counsel address you in final
24 argument.

25 Counsel, ready to proceed.

1 MS. VALENZUELA: May it please the court?

2 THE COURT: Solicitor.

3 MS. VALENZUELA: Mr. Smith started off his opening
4 argument by telling you that cute story about his kids
5 watching Mythbusters. I'd go so far to say that he was
6 trying to give you an analogy of what this case was like,
7 and I think we should go along with that analogy.

8 I think that when 18 year old Catherine called the
9 police and told them that she had just seen a man
10 masturbating in public, that at that time we are at the
11 beginning of the episode and we are determining whether it
12 is, in fact, a myth, or fact, or fiction; whether that myth
13 will be confirmed, or whether it would be busted.

14 And through this trial today you have heard
15 testimony from both Catherine and from Sergeant Wiles from
16 the Winthrop Police Department on what happened that day.
17 So let's walk through that. Let's walk through the elements
18 that the State is required to prove beyond a reasonable
19 doubt. These are the same elements that we talked about,
20 that I talked about at the beginning of this trial. And
21 later when you hear the judge charge, he will also talk to
22 you about the law at that point also.

23 Now, for indecent exposure did the defendant
24 expose his person? You heard Catherine, and it was an
25 uncomfortable conversation, but she said to you that she was

1 sure that she saw his penis exposed. He exposed his person
2 at that point. I said "were you sure that you saw it?"

3 "Yes."

4 And then she even told you the distance that she
5 was standing from the point where she saw his penis.

6 Mr. Smith asked Sergeant Wiles a question about
7 where Sergeant Wiles was seated, if he could see his feet.
8 I want to be clear here. The victim did not see the
9 defendant's feet in the car. That is not what had her
10 running to her dorm calling her mom and calling the police.
11 It wasn't that he exposed his feet. It was that exposed his
12 penis, which was located in the center of his body, where he
13 was laid back in the car. That was the part of the body
14 that he exposed to her and that she saw from where she was
15 standing.

16 You heard testimony that it was broad daylight at
17 the time, that there was shade covering that area, and she
18 specifically mentioned the reference point that she had when
19 she saw it.

20 She also went further and to tell you that she
21 remembered seeing his hand moving upon his penis.

22 Was that exposure indecent? Is exposing your
23 penis to someone else and then actively masturbating in
24 front of someone else indecent? Yes. His exposure was
25 indecent.

1 The definition of indecent is it is especially in
2 a -- is it outrageously offensive, especially in a vulgar or
3 sexual way.

4 Now, was it willful and malicious? Earlier when
5 we talked about willful, is it voluntary? Is it
6 intentional?

7 The defendant's actions of resulting with him
8 sitting in his car with his penis out and in his hand would
9 require that he unzip or unbutton his pants; that he take
10 his member out of his pants; that he get to the point where
11 he is physically in a position where he can manipulate his
12 penis. And then further he has to make the decision to not
13 only have his penis out, but to use his hand to actively get
14 give himself sexual gratification. And you heard today from
15 the victim that she saw his penis and she saw him giving
16 himself stimulation.

17 Was it malicious? Was it intentional and
18 deliberate doing a wrongful act committed without just cause
19 or excuse?

20 You saw her sitting there and you heard her
21 testimony when she told you that when she walked forward and
22 she thought did he see me, that she turned around, and
23 whereas before he had been looking around, this time when
24 she turned to look he made eye contact with her. He made
25 eye contact with her and then he smiled at her. Was that

1 malicious? Was he causing injury to her at that point and
2 not in an accidental way?

3 I don't propose to understand the reason why
4 someone would do that in terms of what it brings to
5 themselves, but I do want to make sure that we understand
6 what it does to that person who is exposed to that, and you
7 heard from her today. I think it says a lot that she ran
8 home and she called her mom first thing; that she had been
9 gone from home for seven days, maybe a little bit further
10 from that, because we did hear testimony that she had
11 actually been on campus living in that dorm a few days
12 before the 22nd. So within two weeks she leaves home for
13 the first time, moves into her college dorm, she's going on
14 to experience life for the first time and then she is
15 walking home from her classes one day in broad daylight.
16 It's dinnertime. She sees 20 or 30 people on the street,
17 and what she has to be exposed to is a man who chose to park
18 on this street and roll down his windows and recline his
19 seat, not -- not maybe lean over his steering wheel or go
20 park off somewhere else, but park right there beside the
21 sidewalk and lean his seat back, have his windows rolled
22 down, and at that point he made the decision to pull out his
23 penis and masturbate. That's what she had to see. And you
24 heard her wonder out loud that she didn't know what he was
25 going to do next, what he was planning, because that's what

1 at 18 she's thinking about when she sees this man
2 masturbating in public and she goes to walk and she turns
3 back and he's looking at her and he is smiling directly at
4 her face. That's what she's wondering.

5 Now, was the exposure in a public place or to the
6 view of any person on a street or highway? We know that it
7 was on Winthrop campus. Sergeant Wiles and the victim
8 showed us the map, and that will go back with you.

9 You heard the victim explain that she saw 20 or 30
10 people there, that it was very close to dinnertime when the
11 cafeteria was going to be open; that he was parked on the
12 same street as the cafeteria, another dorm, an inn, and an
13 academic building, and then another dorm that was getting
14 renovations done. It was certainly in a public place where
15 20 or 30 people were constantly walking, and it was
16 certainly in a public place when we know for a fact that one
17 of those young ladies who walks the street of that campus
18 every single day was forced to observe what he chose to do
19 in that particular location, so I would say it was indecent
20 exposure.

21 I would submit to the jury that in terms of
22 indecent exposure, that myth -- well, the analogy can only
23 be covered so far, but I would say that certainly the way
24 that this started, it ended up being fact. And the fact
25 that we have proven by the statements presented to you have

1 proven beyond a reasonable doubt every element of indecent
2 exposure.

3 Now, as I mentioned before, the defendant is also
4 here because he's facing a separate charge of possession of
5 marijuana. And the elements that are required for that is
6 that he had to be in possession of the marijuana; he had to
7 knowingly be in possession of that marijuana; and that item
8 that he had had to actually be confirmed to be marijuana.

9 And you heard the extensive testimony of Sergeant
10 Wiles, who is confirmed to be an expert, telling you that he
11 had provided -- tested not one, but used two different
12 tests, the microscopic and the chemical test, to determine
13 that this green leafy substance that was found in the
14 defendant's vehicle was, in fact, marijuana. He told you
15 that those procedures that he used were the same ones that
16 SLED had taught him and certified him as an analyst for
17 marijuana.

18 Now, was it in the defendant's possession? Well,
19 first of all, let's look at the glaring fact that the
20 defendant says it was his marijuana; that the defendant said
21 that he had a problem with marijuana; that it was in the
22 same car that Sergeant Wiles asked him to step out of; found
23 in the center console; that there was no one else in the
24 vehicle.

25 You will hear from the judge that possession can

1 be either actual or constructive, constructive meaning was
2 he the only one who had dominion and control over the area
3 where that was found.

4 So we know that it was in the car that he was in
5 right beside -- right beside him in the center console;
6 that, in addition, he had the pipe and the scales in the
7 car; and that when the officer said "is this yours," after
8 advising him of his rights, that he said "yes, it's mine."
9 And that later when the officer was just taking down basic
10 information during booking, that he then said at that point
11 "I have a problem with it."

12 Fact? Confirmed.

13 I confused officers names today and I think you
14 heard a nervous witness up there today, but I agree with Mr.
15 Smith that either way, the age and the nervousness of the
16 defendant (sic), should not be what you use to convict the
17 defendant. It should also not be what you use to find him
18 innocent, if that's how you feel he is of these two crimes.
19 But I do ask that you look behind the reason why she may
20 have been nervous when she was up here testifying; that you
21 consider the fact that she did not choose to have a man
22 doing this on her college campus; and that this was the
23 first time that she had to stand in front of a group of
24 strangers and use that terminology and describe the things
25 that she saw.

1 When you go back to the jury deliberation room and
2 you deliberate, that -- that is specifically why that room
3 is called the jury deliberation room. It's for you to sit
4 and think and discuss and consider whether this, in fact,
5 what the right decision is in this case, but that sitting
6 and thinking about something is not to be confused with
7 reasonable doubt. And reasonable doubt will be explained as
8 the kind of doubt that makes a reasonable man hesitate to
9 act. Thinking about something and spending time and making
10 sure that you have it right isn't hesitating to act. It's
11 making sure that you are making the right decision there.

12 I submit that after you think about all the
13 evidence that you have heard today and the testimony that
14 you have heard today, that you will, after discussing it
15 back there, be firmly convinced that the defendant is
16 guilty, not only of possessing marijuana, but also of
17 indecent exposure.

18 I'd like to make one last point. I notice that
19 the defense counsel spent a while like, you know, comparing
20 and contrasting how the marijuana went through several
21 different tests and how it was scientifically proven to be
22 marijuana. And he asked if the officer had, you know, found
23 any napkins or tissues with ejaculate on it, and I worry
24 about not speaking the obvious, but there is not a need to
25 totally complete an act to ejaculation in every single case,

1 so it is very well possible that the victim saw him
2 masturbating and that he did not finish, for whatever
3 reason.

4 Now, photographs were not taken of the angle of
5 where the victim was standing, and you heard Sergeant Wiles,
6 almost confused up here. "I was there. I was standing on
7 the same sidewalk that she was standing. I was looking in
8 the same car that she had been walking by on this sidewalk
9 and I could see down into his car."

10 And you heard the victim with a hundred percent
11 assurance say, you know, "I know that I saw a penis and I
12 know that I saw him moving his hand on it."

13 And then further she gave a very good description
14 of what the -- or she gave a description of what the
15 defendant looked like and then she followed it up by
16 confirming that this was the same person later by giving you
17 a description of what he looked like at the time that she
18 did the drive-by identification, and, once again, she was a
19 hundred percent positive at that point.

20 We don't have cameras everywhere and we cannot
21 treat every single case like CSI, but you heard the
22 testimony today, and when you go back there to deliberate, I
23 hope that you will be thinking about it. Thank you.

24 MR. SMITH: May it please the court?

25 THE COURT: Yes, sir.

1 MR. SMITH: Does it make sense? Is it reasonable?

2 And I think all of you know what Cherry Road is
3 like. Do you remember when Ms. Holly said that from the
4 stand? She looked over and she said "well, I think all of
5 you know what Cherry Road is like and I was nervous about
6 having to live right there at it."

7 It's a nervous 18 year old, scared to be living
8 away from home, living right at Cherry Road, that she thinks
9 means bad things are going to happen to her, so she looks
10 for it and she sees it. That doesn't mean she is coming in
11 and intentionally lying, but if you tell a kid the boogeyman
12 is in the woods, they are going to see it. They are going
13 to see it in the shadows. They are going to see it in the
14 tree line. They are going to be firmly convinced it's the
15 boogeyman, but does that mean it's reasonable?

16 Well, you are going to have two. You are going to
17 have two different verdict forms. The first you are going
18 to have is going to deal with the marijuana charge.

19 And before we even get to the testing, I asked
20 Sergeant Wiles "well, if it's marijuana, is it unusual for
21 it to be in a console?

22 "No.

23 "Is it unusual for it to have a smock pipe in or
24 around it?

25 "No.

1 "Is it unusual for it to be in a baggy?

2 "No."

3 Everything is matching what someone would expect,
4 if it is, in fact, marijuana. That's what you would expect.
5 If you expect somebody to say "hey, I know Christopher
6 Holliday has marijuana in his car," what would you expect?
7 You expect it to be in a console somewhere, in a bag
8 somewhere. Probably a smoke pipe in there, and lo and
9 behold guess what? That's what they find. It's marijuana.
10 Confirmed. Guilty.

11 But what Officer Wiles said -- I said, "you test
12 it. You have been to classes. You have looked at it and
13 you have been exposed to it a lot. Even with all that,
14 can't you just say it's marijuana?"

15 "No. No, you would be surprised. Sometime you
16 think it's something. You still got to test it. You still
17 got to look." Not just test it once. Not just see if it
18 has one of the forms of hair, not just two of the forms of
19 hair, but all three of the forms of hair, and that's not
20 good enough, because something could be wrong. So just like
21 the test they do on Mythbusters, they build a small version
22 to see if it works. Then they go out in the field to see if
23 the real one works. Now they do the second chemical test.
24 Does it fit both of those? Yes. Yes.

25 Everything about that marijuana fits what you

1 would expect it to be, if someone has got marijuana out in
2 their car. He had it. He's got it. He's guilty. That's
3 simple on that indictment. Deliberate, if you want, but I
4 don't think you even need to.

5 But then there is this other charge; indecent
6 exposure. What evidence do we have of this? Well, they say
7 "well, Ms. Holly said it happened." Well, yeah, in every
8 myth somebody says it happened. That's how you start; or
9 they see some video on the Internet and that's what they
10 begin to test, can it work. Somebody just saying it happen.

11 Well, we got to look a little further. The only
12 exhibit that they give you for that is a map.

13 Now, does a map get you to it must be indecent
14 exposure? No.

15 So we got to look at what you would expect. Does
16 it make sense? Is everything else reasonable?

17 Well, let's see. It occurred on this public
18 roadway, on Park Street. I'm going to turn it for a moment
19 into this direction. This is it right here.

20 The busiest time of the school year and what Ms.
21 Holly described as the busiest time of day, when the final
22 classes are letting out and everybody is heading toward the
23 cafeteria. That's when the most people are going to be
24 around. He is a block away from one of the busiest streets
25 in York County. And with all that out there they bring you

1 one witness who supposedly seen it. And if you notice, she
2 even realized something didn't make sense. She said "I was
3 really shocked that I was the only one that noticed it."

4 Now, what is she talking about that she was really
5 shocked? Not there that day. But even by today, because
6 you know what would have been done if they thought this
7 would have been seen if this act would have been out there,
8 they got 17 members of that police force. We got all these
9 people out there walking by, police cars, they are searching
10 the car. They are out there for over an hour. No other
11 witness. Why? Nobody else sees the car. That's
12 ridiculous. Nobody else see Christopher. That's
13 ridiculous. Nobody else mis-saw what Ms. Holly claims to
14 have seen, or thinks she saw.

15 What else makes it not make sense? Well, they are
16 describing to you Christopher as this person who is doing
17 this evil and malicious thing and trying to perpetrate this
18 sexual crime against people. Remember, she said she is
19 walking up past him. He's not popping out flashing anybody,
20 ah-hah. He's laid back in the seat of a car that she's
21 approaching from behind. She sees him first. She looks
22 down and thinks she sees something and moves.

23 And the State can mock me talking about sight
24 lines if they want, but the fact is you can't see in a car
25 through the hood. You can't see in a passenger's seat -- in

1 a driver's seat through the passenger seat. And some
2 people, depending on their height, wouldn't be able to see
3 down to the seat. Is it too much to ask somebody to take a
4 picture so we can see? You are out there an hour with the
5 car, with the defendant. Take a picture. Perform the
6 tests. What are you afraid it will show?

7 Well, what else would you expect? Remember, she
8 says she runs off, scared. Let's think about that for a
9 minute. A busy street, a person out there supposedly
10 maliciously exposing himself to a woman that he now sees run
11 off into a building. What would you expect him to do? He's
12 less than a block from Cherry Road. He would be gone. Why
13 did he not leave? He didn't expose himself.

14 Oh, they want you to believe he's the kind of
15 person who is just out there exposing himself and doesn't
16 care who sees or what goes on. When the police come up,
17 again approach him from that direction, what do they see?
18 Did you hear any testimony that, yeah, his pants were down;
19 yeah, he had his penis out? No. They just there within,
20 what, two minutes? Is that what the officer said? And he
21 is just sitting in the car, no description.

22 If she sees him with his pants down, why don't we
23 have any description of that? Maybe she could say what
24 color his underwear was. The police come back up, they say,
25 "hey, she said you got on this kind of underwear." Take it

1 into evidence and let's look and see. No. Hopefully that's
2 enough. It's her saying it happened. Nothing at all.
3 That's not what criminal court is about. They should have
4 handled both charges the same; done the investigation, done
5 the protocol, done the testing, see if it makes sense.

6 What else would you expect? If he's in the car
7 and is masturbating, you would expect something from that,
8 however crude that may seem to be. Y'all didn't see that.

9 Other than her word, what about this story or what
10 about any evidence backs up the fact that he would have
11 exposed himself? Do you have even one item? No. If she
12 sees it, why not grab somebody and say "hey, come look at
13 what this guy is doing." Nothing. It's not there.

14 He gets out matter-of-factly, complies with the
15 police. They searched, they find marijuana. He says "yeah,
16 that's my marijuana." Why not say "yeah, I exposed myself"?
17 Because he didn't. It just didn't happen.

18 What you have with Ms. Holly is a young girl who
19 is scared. She's away at college. If you look up on the
20 this diagram, her dorm sits right on Cherry Road. In her
21 mind bad things are out there on Cherry Road; older men,
22 bigger men, probably have long hair, maybe beards. That's
23 been in her mind that whole week that she's been there. She
24 talked to you about it. She walks down the street. Chris
25 is there in the car. She sees something that projects it's

1 got to be something bad. "I knew that car shouldn't be
2 there. I knew something bad. There is a guy with a
3 ponytail. Something bad, is going to be something bad. I
4 bet he's doing something awful," and walks away. What could
5 he be doing? It could be a smoke pipe, or they also
6 mentioned there was bunch of other clothes there in the car.
7 Changing clothes, thinking nobody is watching. Somebody
8 looks back and sees him and he smiles. Now they want to
9 turn the smile into something bad.

10 But what everything else points to, be it the lack
11 of other witnesses, be it the fact that he doesn't leave, be
12 it the fact that there is no other evidence, it all points
13 to one conclusion. He didn't indecently expose himself. He
14 didn't do it.

15 Now, they don't call it busted or confirmed, but
16 it's called not guilty, and that's what your true verdict
17 should be.

18 (Whereupon, at 3:35 p.m. the Court charged the
19 Jury Panel with the Court's Jury Charge).

20 THE COURT: Mr. Foreman, ladies and gentlemen of
21 the jury panel, that concludes the final arguments of
22 counsel. It's now time for me to charge or instruct the law
23 to you as it applies to the issues in this case.

24 In this case the State charges the defendant,
25 Christopher Ryan Holliday, with two offenses. They charge

1 him with possession of marijuana and also indecent exposure.

2 To these charges the defendant has pled not
3 guilty, which then places upon the State the burden of
4 proving the defendant guilty. A person charged with
5 committing a criminal offense in South Carolina is never
6 required to prove himself innocent.

7 I charge you that it is a vital important rule of
8 law that a defendant in a criminal trial must always be
9 presumed innocent until his guilt has been proved beyond a
10 reasonable doubt. This presumption of innocence remains
11 with the defendant at all times throughout the trial and is
12 only removed when, and if, the State has proved guilt beyond
13 a reasonable doubt. For it's your solemn duty, ladies and
14 gentlemen, if not clearly convinced of guilt beyond every
15 reasonable doubt to the contrary to find the defendant not
16 guilty.

17 I instruct you now and emphasize to you that the
18 fact the defendant did not testify in his own behalf in this
19 trial is not a factor to be considered by you in any way in
20 your deliberations. You must not consider the fact that the
21 defendant has chosen not to testify when you determine the
22 guilt or innocence of the defendant. It must not be
23 considered by you in any manner whatsoever either against or
24 for the defendant. A defendant has the Constitutional Right
25 to remain silent. The assertion of that Constitutional

1 Right cannot and must not be considered by you in your
2 deliberations. Under your oath then you are to reach no
3 inference, draw no conclusion whatsoever from the fact that
4 the defendant did not testify. The fact that the defendant
5 did not testify should not even be discussed in your jury
6 room. The burden of proof, as I have stated to you, is upon
7 the State. It's not the burden of the accused to prove his
8 innocence. The burden of proof remains upon the State to
9 prove guilt beyond every reasonable doubt.

10 So the State has the burden of proving the
11 defendant guilty beyond a reasonable doubt. What is a
12 reasonable doubt? Some of you may have served as jurors in
13 civil cases where you were told that it is only necessary to
14 prove that a fact is more likely true than not, such as by
15 the greater weight or preponderance of the evidence.
16 However, in criminal cases the State's proof must be more
17 powerful than that. It must be beyond a reasonable doubt.

18 Now, ladies and gentlemen, proof beyond a
19 reasonable doubt is proof that leaves you firmly convinced
20 of the defendant's guilt. There are very few things in this
21 world that we know with absolute certainty. In a criminal
22 case the law does not require proof that overcomes every
23 possible doubt.

24 A reasonable doubt may also be described as the
25 kind of doubt that would cause a reasonable person to

1 hesitate to act. If you have such a doubt as to the guilt
2 of the defendant, then he would be entitled to a verdict of
3 not guilty.

4 A reasonable doubt may arise from evidence which
5 is in the case, or from the absence or lack of evidence in
6 the case.

7 If, based on your consideration of the evidence,
8 you are firmly convinced that the defendant is guilty of the
9 crimes charged, you must find him guilty.

10 If, on the other hand, you think there is a real
11 possibility that he is not guilty, you must give him the
12 benefit of the doubt and find him not guilty.

13 You alone must make the determination of whether
14 or not reasonable doubt exists as to the guilt of the
15 defendant.

16 Mr. Foreman, ladies and gentlemen of the jury
17 panel, there are two types of evidence which are generally
18 presented during a trial; direct evidence and circumstantial
19 evidence.

20 Direct evidence is the testimony of a person who
21 asserts or claims to have actual knowledge of a fact, such
22 as an eyewitness.

23 Circumstantial evidence is proof of a chain of
24 facts and circumstances indicating the existence of a fact.

25 The law makes absolutely no distinction between

1 the weight or value to be given either to direct or
2 circumstantial evidence, nor is a greater degree of
3 certainty required of circumstantial evidence than of direct
4 evidence.

5 You should weigh all the evidence in the case.
6 After weighing all the evidence, if you are not convinced of
7 the guilt of the defendant beyond a reasonable doubt, you
8 must find the defendant not guilty.

9 Now, you have heard the testimony of a witness who
10 has special knowledge, skill, experience, training, or
11 education in a particular field who has given an opinion as
12 to matters in which he is skilled. In determining the
13 weight to be given such opinion, you should consider the
14 qualifications and credibility of the expert witness and the
15 reasons given for his opinion. You are not bound by such
16 opinions. Give them the weight, if any, you deem them
17 entitled.

18 Mr. Foreman, ladies and gentlemen of the jury
19 panel, under the Constitution of South Carolina you are the
20 finders of facts in this case. I do not have the right to
21 pass upon the facts or even to express any opinion I might
22 have as to the facts, nor may I suggest in any way what I
23 may think about the guilt or innocence of the defendant.
24 You should form no opinion in that regard from anything I
25 may have said or any ruling I have made during the course of

1 the trial.

2 As the sole judges of the facts in this case, you
3 are also necessarily the sole judges of the credibility or
4 believability of each of the witnesses that have testified
5 during the course of the trial. There are a number of
6 factors which you may consider in arriving at your
7 assessment as to a particular witness' credibility or
8 believability. Some factors I'm going to list for you, and
9 should you think of other factors that you believe also
10 ought to be considered on the question of credibility, then
11 you should consider those factors as well, but you may
12 consider the demeanor of the witness from the witness stand.
13 What was that witness' manner of appearance? Was the
14 witness straightforward in answering questions or hesitant
15 in responding to questions? Simply put, do you believe the
16 witness was telling the truth or not telling the truth? Do
17 you believe the witness knew of what that witness testified
18 or did not know of what that witness testified?

19 You may consider whether or not the testimony of a
20 witness is consistent or inconsistent for that witness' own
21 testimony or with other testimony or evidence presented
22 during the course of the trial.

23 You may also consider how the witness came to know
24 the facts to which he or she testified.

25 You may consider the opportunity that a witness

1 had to observe or hear, that is, to perceive the existence
2 of a fact by means of their senses.

3 You may also consider whether or not a witness is
4 biased or prejudiced. That simply means do you find that a
5 particular witness had some reason to come into court and
6 testify one way or another to help or hurt one side or the
7 other.

8 You may also consider whether or not the testimony
9 of a witness was strengthened or weakened by other testimony
10 or other evidence presented during the course of the trial.

11 You, as the finders of the facts in this case, and
12 you, as the judges of the credibility or believability of
13 each of the witnesses that have testified, may believe as
14 much or as little of what a witness testifies to as you deem
15 appropriate. You may believe all of what a witness says,
16 you may believe none of what a witness says, or you may
17 believe only part of what a witness says.

18 Mr. Foreman, ladies and gentlemen of the jury
19 panel, the same Constitution that makes you the finders of
20 the facts in this case makes me the sole and only instructor
21 in the law. You must accept as correct as the law that I
22 charge and apply to the law the evidence as you find it and
23 reach your verdict. Put aside any conceptions you may have
24 had as to the law before coming here today and accept the
25 law as I instruct it to be. You, for purposes of your duty

1 as jurors today, should not be concerned about what the law
2 ought to be, but what I charge you the law is now in this
3 state.

4 Mr. Foreman, ladies and gentlemen of the jury
5 panel; I charge you with regard to criminal intent.
6 Criminal intent is a necessary element of each crime that
7 must be proved by the State beyond a reasonable doubt.
8 Criminal intent is always a matter that must be determined
9 by the jury from the circumstances surrounding the
10 situation. There are no way to prove intent to a
11 mathematical certainty. There is no way medical science can
12 dissect a person's brain and determine what he had in mind,
13 so the law says that criminal intent may be inferred from
14 the circumstances shown to have existed. This is how the
15 jury makes a determination of whether or not the element
16 requiring intent was present.

17 Criminal intent is a state of mind, which operated
18 jointly with an act, is the commission of a crime.

19 Criminal intent is a mental state, a conscious
20 wrongdoing. So it is up to you, the jury, to determine what
21 the defendant intended to do, based on the circumstances
22 shown to have existed.

23 I tell you that the State must prove criminal
24 intent beyond a reasonable doubt, just as the State must
25 prove every element beyond a reasonable doubt.

1 It is not necessary to establish intent by direct
2 and positive evidence, but intent may be established by
3 inference, in the same way as any other fact, by taking into
4 consideration the acts of the parties and all of the facts
5 and circumstances of the case.

6 While the State may prove motive, it is
7 unnecessary that the State do so. However, the State must
8 prove intent.

9 Mr. Foreman, ladies and gentlemen of the jury
10 panel, I'm going to charge you now specifically with the law
11 concerning the two charges against the defendant in this
12 case.

13 The defendant is charged with indecent exposure.
14 Section 16-15-130, Subsection (A)(1) of the South Carolina
15 Code of Laws, 1976, as amended, provides as follows:

16 It is unlawful for a person to willfully,
17 maliciously and indecently expose his person in a public
18 place, on property of others, or to the view of any person
19 on a street or highway.

20 Before you can find the defendant guilty of
21 indecent exposure, the State must prove the following four
22 elements beyond a reasonable doubt:

23 First, the defendant exposed his person.

24 Two, that the exposure was indecent.

25 Third, the exposure was willful and malicious.

1 And, fourth, the exposure occurred in a public
2 place, on property of others, or to the view of any person
3 on a street or highway.

4 Indecent exposure involves the exposure of the
5 private parts to public view.

6 A willful act is one that is voluntary and
7 intentional.

8 A malicious act is an intentional wrongful act
9 performed against another without legal justification or
10 excuse.

11 Malicious means the intentional and deliberate
12 doing of a wrongful act intending it to be wrong and
13 committing that act without just cause or excuse. It
14 indicates a heart fatally bent on mischief and denotes a
15 depraved, malicious, wicked spirit.

16 Indecent refers to the state or condition of being
17 outrageously offensive, especially in a vulgar or sexual
18 way.

19 Indecent means offensive, immodest, obscene, and
20 un-seeming.

21 The defendant is also charged in this case with
22 possession of marijuana.

23 To prove that the defendant possessed marijuana in
24 this case, the State must prove beyond a reasonable doubt
25 that the defendant knowingly or intentionally possessed

1 marijuana.

2 Knowingly means with knowledge, consciously, not
3 accidentally.

4 Intentionally means willfully, intending the
5 result which actually occurs, not accidentally or
6 involuntarily.

7 Intent may be shown by acts and conduct of the
8 defendant and any other circumstances from which you may
9 naturally infer intent.

10 To prove possession, the State must prove beyond a
11 reasonable doubt that the defendant had both the power and
12 the intent to control the disposition or use of the
13 marijuana.

14 Possession may be either actual or constructive.

15 Actual possession means that the marijuana was in
16 the actual physical custody of the defendant.

17 Constructive possession means the defendant had
18 dominion and control, or the right to exercise dominion or
19 control, over either the marijuana itself or the property on
20 which the marijuana was found.

21 Mere presence on the scene where the drugs were
22 found is not enough to prove possession.

23 Actual knowledge of the presence of the marijuana
24 is strong evidence of the defendant's intent to control its
25 disposition or use.

1 The defendant's knowledge and possession may be
2 inferred when a substance is found on the property under the
3 defendant's control. However, this inference is simply an
4 evidentiary fact to be taken into consideration by you,
5 along with the other evidence in the case, and to be given
6 the weight you decide it should have.

7 Two or more persons may have joint possession of a
8 drug.

9 Mr. Foreman, ladies and gentlemen of the jury
10 panel, the defendant, Christopher Ryan Holliday, is charged
11 with two offenses in this case. You are to consider each
12 charge separately and consider the evidence separately for
13 each offense. Therefore, if the evidence warrants it, you
14 may convict the defendant on all counts, on one and not the
15 others, and so on, or you can find the defendant not guilty
16 on all counts. You will consider each charge separately and
17 write a verdict of guilty or not guilty for each charge
18 alleged in this case.

19 Mr. Foreman, ladies and gentlemen of the jury
20 panel, nothing that I may have said or done during the
21 course of this trial has been in any way intended to express
22 or suggest a view of the case or an opinion as to the facts,
23 the weight of the evidence, or the credibility of the
24 witnesses. If any of my actions or words have seemed to so
25 indicate, you will disregard such and form your own opinion

1 as to these matters.

2 You have been selected as fair and impartial
3 jurors, sworn to impartially try and determine the facts of
4 this case. And when you comply with your oath to do so, no
5 one will have a right to criticize your verdict and you will
6 have fully discharged your duty as jurors.

7 You ought to decide this case according to the
8 testimony you have heard from the lips of the sworn
9 witnesses, along with other evidence introduced during the
10 course of the trial.

11 I charge you that as jurors you must decide the
12 issues in this proceeding without bias and without prejudice
13 to any party. You cannot allow yourselves to be governed by
14 sympathy, by prejudice, by passion, by public opinion, or
15 any other arbitrary factor. Both the State and the
16 defendant have the right to expect that each of you will
17 carefully and impartially consider all of the evidence in
18 the case and that you will follow the law as I have
19 explained it to you.

20 Mr. Foreman, ladies and gentlemen of the jury,
21 whatever your verdict in this case, it must be unanimous as
22 to each of these two charges.

23 Now, I have prepared for your use in the jury room
24 a verdict form for each of the two charges in this case.
25 And, Mr. Foreman, I have on the verdict form -- I'm going to

1 go over them at this time.

2 As to the indecent exposure charge, the first
3 possible verdict which appears on that verdict form is as
4 follows:

5 We, the jury, find the defendant Christopher Ryan
6 Holliday guilty of indecent exposure.

7 The second possible verdict that appears on the
8 form reads as follows:

9 We, the jury, find the defendant Christopher Ryan
10 Holliday not guilty.

11 Now, as to the verdict form on the possession of
12 marijuana charge, the first possible verdict reads we, the
13 jury, find the defendant Christopher Ryan Holliday guilty of
14 possession of marijuana.

15 The other possible verdict which appears is we,
16 the jury, find the defendant Christopher Ryan Holliday not
17 guilty.

18 Now, in preparing the verdict forms I have to put
19 the possible verdicts on the verdict form in some order. I
20 do it the same way every time, but the order in which the
21 possible verdicts appear on the verdict form means
22 absolutely nothing.

23 Mr. Foreman, what you should do is the jury should
24 deliberate and they should consider each of these charges
25 separately.

1 Once the jury has reached a unanimous verdict on
2 each of these charges, you will simply note the verdict form
3 as to that charge. And you will put a checkmark in the
4 blank beside that particular verdict that the jury has
5 reached unanimously. Then sign your name on the line above
6 the word foreperson's signature. Date it. Once you have
7 done that for each of the two charges in this case, you will
8 simply knock on the door and let the bailiff know that you
9 have reached a verdict and the bailiff will let me know and
10 we will bring you back out to receive those verdicts.

11 Now, Mr. Foreman, I charge you that once you begin
12 your deliberations, that everyone who wishes to be heard in
13 deliberations be allowed to do so. Some order be maintained
14 in those deliberations.

15 And then, finally -- well, if for any reason any
16 members of the jury panel should take a break from
17 deliberations, all should take a break. By that I mean all
18 twelve jurors should be present and deliberating when
19 deliberations are going on.

20 Now, I'm going to ask you, if you will, to retire
21 to the jury room, but do not yet begin your deliberations.
22 I have to give counsel an opportunity to request additional
23 instructions on the law. If additional instructions are
24 requested and I deem them necessary, I will bring you back
25 out into the courtroom and give you those additional

1 instructions. It follows then that we should make sure all
2 instructions are complete before deliberations begin.

3 Please retire to the jury room. Now, you will
4 have the exhibits back in the -- they will be brought back
5 to you by the bailiff.

6 If no additional instructions are necessary, I
7 will send to you by means of the bailiff the verdict forms
8 and exhibits and instructions to begin deliberating. Please
9 don't begin deliberating until you get that instruction.

10 Please retire to the jury room, all except the
11 alternate. Ma'am, I'll ask you at this time not to go into
12 the jury room. Wait just outside the courtroom door for
13 further instructions.

14 (Whereupon, at 3:55 p.m., the jury retired to the
15 jury room, awaiting instructions to begin deliberations)

16 THE COURT: Exceptions or additional requests to
17 charge, from the State?

18 MS. VALENZUELA: Nothing, Your Honor.

19 THE COURT: From the defense?

20 MR. SMITH: Nothing, Your Honor.

21 THE COURT: Counsel, would you please check the
22 exhibits and make sure only those that were actually
23 admitted into evidence go back to the jury room?

24 (Off the record)

25 (Back on the record)

1 THE COURT: Take these exhibits and verdict forms
2 and tell the jury they can begin deliberating. And then
3 after you do that, please bring the alternate in.

4 (Whereupon, at 3:57 p.m., the Jury Panel was
5 instructed to begin deliberations)

6 THE COURT: You can bring the alternate in,
7 please, ma'am.

8 (Whereupon, the alternate juror was brought into
9 the courtroom)

10 THE COURT: Ms. Lynn, you can stand right there,
11 if you will.

12 As it turned out, we made it through the trial
13 without an emergency developing, so it will not be necessary
14 for you to participate in deliberations, and we are going to
15 go ahead and excuse you at this time.

16 I want to take this opportunity to thank you for
17 your service and sacrifices that you have made this week to
18 help make our justice system work. We do not take that for
19 granted. We deeply appreciate it.

20 Tomorrow is a state holiday, which we are required
21 to observe, and then we have Friday, a lot of work to do on
22 Friday, but it will not involve the jury. So this will
23 conclude your service for the week, as well as this case.
24 Thank you very much.

25 You can turn your badge into the bailiff and the

1 bailiff will show you out.

2 (Whereupon, the alternate juror was discharged)

3 THE COURT: All right, we will be at ease.

4 (Whereupon, at 4:00 p.m., proceedings were
5 recessed, pending the verdict of the jury panel)

6 (Whereupon, at 4:38 p.m., proceedings were
7 reconvened)

8 THE COURT: Mr. Foreman, I got your note out that
9 you wish to get a transcript of the police officer's
10 testimony. Of course, we can't print out a transcript this
11 fast, but we can replay the testimony of the police officer
12 and that's what we will do. The court reporter will replay
13 the testimony of the police officer in this case, Sergeant
14 Wiles.

15 (Whereupon, the requested testimony was replayed
16 to the jury panel)

17 (Whereupon, the replaying of testimony was
18 stopped)

19 THE COURT: Ma'am, can I ask you what you are
20 doing on the back row back there?

21 UNKNOWN JUROR: (No response).

22 THE COURT: Can I ask you what you are doing back
23 there? You seem to be doing something with your hands back
24 there.

25 UNKNOWN JUROR: With all due respect, Your

1 Honor --

2 THE COURT: What have you got in your hands?

3 THE WITNESS: It's an umbrella and a bottle of
4 water.

5 THE COURT: Okay. All right, proceed.

6 I just want to make sure you weren't back there
7 making notes and writing. Thank you.

8 (Whereupon, the replaying of testimony continued
9 and concluded)

10 THE COURT: All right, Mr. Foreman, ladies and
11 gentlemen of the jury panel, if you would retire back to the
12 jury room and resume your deliberations.

13 (Whereupon, at 5:15 p.m., the jury panel returned
14 to the jury room to continue deliberations)

15 THE COURT: All right, we will make that a court
16 exhibit, the request for the transcript, or playback.

17 Thank you. We will be at ease.

18 (Jury Note marked as Court's Exhibit No. 1 for
19 identification)

20 (Whereupon, at 5:16 p.m., proceedings were
21 recessed, pending the verdict of the jury panel)

22 (Whereupon, at 5:50 p.m., proceedings were
23 reconvened)

24 THE COURT: All right, counsel, I understand we
25 have a verdict. We'll bring the jury back in and receive

1 that verdict.

2 Please bring the jury in.

3 THE BAILIFF: Yes, sir.

4 (Whereupon, at 5:51 p.m., the jury panel returned
5 to open court to report its verdict)

6 THE COURT: Mr. Foreman, have you and the jury
7 reached a unanimous verdict in this case?

8 JURY FOREMAN: We have, Your Honor.

9 THE COURT: Sir, please hand the verdict forms up
10 to the bailiff, if you would, please.

11 The clerk will please publish the verdicts.

12 THE CLERK: In the State of South Carolina versus
13 Christopher Ryan Holliday with Indictment 2011-GS-46-4344,
14 we, the jury, find the defendant, Christopher Ryan Holliday,
15 guilty of possession of marijuana. Signed by the foreperson
16 this date.

17 Indictment 2011-GS-11-46-3821, we, the jury, find
18 the defendant, Christopher Ryan Holliday, guilty of indecent
19 exposure, signed by the foreperson this day.

20 If this so be your verdict, so say you all by
21 raising your right hand.

22 Let the record show all affirmed.

23 THE COURT: Any questions of the jury panel from
24 the State?

25 MS. VALENZUELA: Nothing, Your Honor.

1 THE COURT: From the defense?

2 Counsel, any questions of the jury panel?

3 MR. SMITH: None, Your Honor.

4 THE COURT: None?

5 MR. SMITH: No.

6 THE COURT: Mr. Foreman, ladies and gentlemen of
7 the jury panel, this will conclude your service on this
8 case. It will also conclude your service for the week.
9 Tomorrow is a state holiday which we observe, and then
10 Friday we have got a lot of work planned for Friday, but it
11 will not involve a jury trial, so this will complete your
12 service this week.

13 I would like to take this opportunity to thank you
14 for your service this week, the sacrifices that you have
15 made this week. We realize you have been away from your
16 jobs, family, and other things, and we deeply appreciate
17 that sacrifice. We do not take that for granted. We simply
18 can't function without jurors, such as yourselves, who are
19 willing to make that sacrifice.

20 Does anybody on the jury panel need anything to
21 take to your employer showing you were required to be here?

22 You do, sir?

23 Anyone else?

24 You do, sir?

25 All right. Someone will wait for you -- one of

1 the clerks will wait for you just outside the door to give
2 you something to take.

3 Again, thank you very much for your service this
4 week and service for the week. You are all free to go at
5 this time, except the foreperson. Sir, I'll get you to come
6 up and sign the indictments for us. We still need to get
7 those signed. Thank you. Come on up, please.

8 (Whereupon, the jury panel was discharged at 5:54
9 p.m.)

10 THE COURT: I'll hear you with regard to any
11 motions you might want to make at this time.

12 MR. SMITH: Your Honor, at this time we would
13 renew the prior motions and ask for a motion notwithstanding
14 the verdict, or for a new trial.

15 Again, renewing my directed verdict motion saying
16 that in the light most favorable to the State the elements
17 of both offenses were not proven beyond a reasonable doubt.

18 THE COURT: Thank you.

19 Does the State wish to be heard?

20 MS. VALENZUELA: No, Your Honor.

21 THE COURT: I will deny your motions for the same
22 reasons I gave earlier, and that is that I find substantial
23 evidence from which the jury could infer the guilt of the
24 defendant on each of these two charges. Therefore, I deny
25 your motion. I think there was very strong evidence of

1 guilt in this case.

2 All right. Do you have your sentencing sheets
3 ready?

4 MS. VALENZUELA: I do, Your Honor.

5 THE COURT: All right, I'll be glad to hear from
6 the State at this time.

7 MS. VALENZUELA: Your Honor, the defendant has a
8 forgery in '08, from Lexington County.

9 Then he also has the conviction for marijuana
10 first back on May of 2010.

11 He has two other convictions for crimes very
12 similar to these. He has another indecent exposure out of
13 North Carolina. The conviction came in October of 2011.
14 The incident report indicates that the actual event happened
15 in May of 2011, so that was approximately -- that was just a
16 few months before he came down and did this event.

17 The other conviction is out of Virginia, and it
18 came -- it was back in November of '98, and it was for
19 peeping into an occupied dwelling.

20 The State would like to ask the court to consider
21 placing the defendant on the sex offender registry based on
22 the facts -- based on these two convictions and based on the
23 facts of recently the fact that he was doing the indecent
24 exposure. The facts of this case mirrored these very
25 similarly, in that he was in his vehicle and exposed himself

1 to a woman who was walking down the street, and we think the
2 community needs to be aware of where he is and the danger
3 that he poses.

4 THE COURT: All right, counsel?

5 MR. SMITH: Thank you, Your Honor.

6 Your Honor, obviously sentencing deals with three
7 different issues; sentencing on two criminal charges and the
8 registry as well. And some ways, even though technically
9 not a punishment, imposition of that can certainly be more
10 of a burden than an active sentencing may be to a defendant.
11 He understands the position that Your Honor is on that
12 charge, given his criminal history. We would ask not to be
13 placed on that, but I have explained to him fully the risks
14 that exists there.

15 Additionally, Your Honor, I can tell you he's been
16 working at Target. He also has a history of doing
17 construction pool installation work.

18 It's difficult as a defense attorneys to be given
19 his keys. He drove up here to give his mom his car, if he's
20 to be incarcerated, Your Honor.

21 Since these arrests, he has a child in Virginia to
22 whom the mother of that child has not been showing up to
23 Family Court for the hearings concerning custody. Her
24 parents have been given custody, as he tells me temporarily
25 at a hearing he recently attended, but they are infirmed and

1 not going to be able to maintain the care of that child.
2 It's his hope he gets back to that area of the country and
3 to deal with maintaining care for his daughter. The next
4 court hearing is scheduled for the middle of August on that.
5 He would ask me to ask the court to consider some type of
6 sentence that would allow him to attend that hearing.

7 Obviously he is disappointed in the verdict of the
8 jury concerning the indecent exposure. He fully expected it
9 concerning the possession of marijuana, but accepts the
10 process and he's here at this point asking for some mercy
11 from the court.

12 THE COURT: Mr. Holliday, anything that you want
13 to say to the court?

14 THE DEFENDANT: No, sir.

15 THE COURT: Is he currently on probation anywhere?
16 How about this charge in North Carolina, indecent exposure?
17 What happened to that?

18 MS. VALENZUELA: According to our information that
19 probation had ended and it was a -- it was a non-supervised
20 probation. I'm sorry, I had it right in front of me, Your
21 Honor.

22 THE COURT: It happened in 2011, and he's already
23 off probation?

24 MS. VALENZUELA: It says unsupervised probation
25 for 12 months, but I know that Ms. Joyner had indicated in

1 her notes, she originally had this case, that he was off
2 probation, but I do not personally know for sure.

3 But, yes, it does say that he received a fine of
4 120, imprisonment for 45 days, and -- which was suspended,
5 and he was placed on unsupervised probation for 12 months.

6 MR. SMITH: He did ask that if he could address
7 the court.

8 THE COURT: Yes, sir.

9 THE DEFENDANT: If I may, the registry is
10 obviously going to hinder everything that I'm trying to do
11 going forward. Doing any time right now is definitely going
12 to put a complete halt to me getting custody of my daughter,
13 so if there is any way at all I could avoid jail time, that
14 way it's most important to me at this time so I can get back
15 to Virginia and be a father.

16 THE COURT: Mr. Holliday, if you really cared
17 about your child, you are not down here doing these kind of
18 things. I don't pretend to understand or know why you were
19 doing these kind of things. I don't understand why you were
20 doing it, but if you are so worried about your child and
21 getting custody of your child, doing what you need to do,
22 you wouldn't have been down here doing that kind of stuff.
23 And you wouldn't be out smoking marijuana all the time and
24 you wouldn't be down here exposing yourself to these college
25 students, little 18 year old college students. I mean, that

1 to me --

2 You're not concerned about your child. You're
3 concerned about trying to stay out of jail and not register,
4 but that ain't going to happen, either one of them. You
5 have already got a sex offender -- you have already got one
6 charge. You have got a peeping tom charge. You have got an
7 indecent exposure they did nothing with you up there, which
8 is unfortunate. Maybe they could have put you on probation
9 and send you to counseling, or something, maybe try to get
10 something done, but now we are in here on another one and
11 this is down here. You have got one in North Carolina. Now
12 you come down to South Carolina and done that here at a
13 major college, out there for everybody to see.

14 I don't pretend to understand it, to be honest
15 with you. I know there is some basis for it, but I just
16 don't understand it, but I know this much. You are more
17 concerned about satisfying your own problems with yourself
18 than you are with dealing with your child. I'm certain of
19 that. So I hate you find yourself in this situation, but I
20 think when you keep picking up these charges, something has
21 to be done.

22 Case number 2011-GS-46-3821, Christopher Ryan
23 Holliday, having been found guilty by a jury of indecent
24 exposure, the sentence of the court is to be committed to
25 the State Department of Corrections for a determinate term

1 of one year.

2 He is given credit for any time he has served on
3 this charge.

4 He is required to register as a sex offender. I
5 think if he's going to continue to commit these kind of
6 crimes, he needs to be on the sex offender registry list.

7 Case number --

8 You should have gotten some help the last time
9 that you were charged with this, Peeping Tom. You could
10 have gotten some help. Apparently he didn't do that.

11 Case number 2011-GS-46-4344, Christopher Ryan
12 Holliday, having pled guilty (sic) to possession of
13 marijuana, second or subsequent offense, the sentence of the
14 court is to be committed to the State Department of
15 Corrections for a determinate term of one year. This
16 sentence to run concurrent.

17 Again, he's given credit for time served.

18 MR. SMITH: Thank you.

19 MS. VALENZUELA: Thank you, Your Honor.

20 (END OF REQUESTED TRANSCRIPT OF RECORD)

21

22

23

24

25

3

WITNESSES

WUPDI Rockholt

jwg

ARREST WARRANT NUMBER

M455060

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

5/9/12

DOCKET NO. 2011-GS-46- 03821

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 10, Term 2011

THE STATE

vs.

CHRISTOPHER RYAN HOLLIDAY

Indictment for
INDECENT EXPOSURE

SC Code: 16-15-130
CDR Code: 0091

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

5/9/12 12:30 PM

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on November 10, 2011, the Grand Jurors of York County present upon their oath:

INDECENT EXPOSURE

The Defendant, Christopher Ryan Holliday, did in York County, South Carolina on or about August 29, 2011, wilfully, maliciously, and indecently expose his person in a public place or property of others or to the view of any person on a street or highway. All in violation of Section 16-15-130 in the Code of Laws of South Carolina, (1976, as amended).

CERTIFIED TRUE COPY
2012 MAY 14 PM 3:46
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

5

WITNESSES

WUPL Wiles

jwg

ARREST WARRANT NUMBER
M455061

ACTION OF GRAND JURY
TRUE BILL

Denise Roberts
Foreperson of Grand Jury

VERDICT

Guilty

David E. Ayres
Foreperson of Petit Jury

Date: 5/9/12

DOCKET NO. 2011-GS-46- 04344

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

December 8, Term 2011

THE STATE

vs.

CHRISTOPHER RYAN HOLLIDAY

Indictment for

POSSESSION OF MARIJUANA 2nd

SC Code: § 44-53-370
CDR Code: 0182

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

RECEIVED TO BY 3:19

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

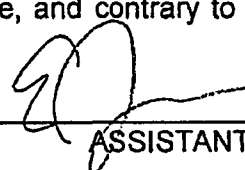
At a Court of General Sessions, convened on December 8, 2011, the Grand Jurors of York County present upon their oath:

POSSESSION OF MARIJUANA 2nd

That on or about August 29, 2011, in York County, South Carolina, the Defendant, Christopher Ryan Holliday did knowingly or intentionally possess a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such possession ~~not~~ being the Defendant's second offense, and such possession not having been authorized by law, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

CERTIFIED TRUE COPY
2012 MAY 14 PM 3:46
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

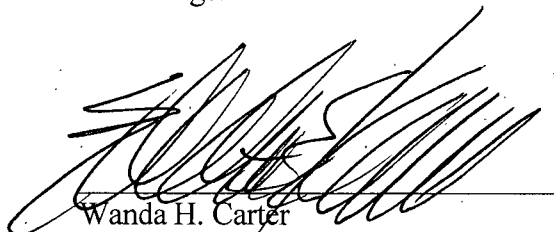


ASSISTANT SOLICITOR

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."

December 13th, 2013



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

DEC 13 2013

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Lee S. Alford, Circuit Court Judge

RECEIVED

DEC 13 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

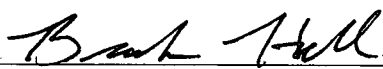
V.

CHRISTOPHER RYAN HOLLIDAY,

APPELLANT

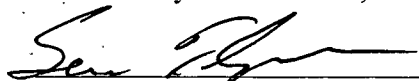
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 13th day of December, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 13th day of December, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022