

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

**RECEIVED**  
MAR 28 2014

**SC Court of Appeals**

Appellate Case No. 2012-212801

The State,.....Respondent.

V.

Loretta Galloway Branyon.....Appellant.

RECORD ON APPEAL

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|                           |   |                           |
|---------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA   | ) |                           |
|                           | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF ANDERSON        | ) |                           |
| State of South Carolina,  | ) |                           |
|                           | ) |                           |
| Plaintiff,                | ) |                           |
|                           | ) |                           |
| vs.                       | ) | Case No. 11-GS-04-0604    |
|                           | ) |                           |
| Loretta Galloway Branyon, | ) |                           |
|                           | ) |                           |
| Defendant.                | ) |                           |

## TRANSCRIPT OF JURY TRIAL

The within jury trial was held in above-captioned action on August 13-14, 2012, before The Honorable R. Lawton McIntosh in the Court of General Sessions, in Anderson, South Carolina; attended by Counsel, as follows:

### APPEARANCES:

Lauren S. Hogan, Assistant Solicitor  
 Al Means  
 SOLICITOR'S OFFICE  
 Anderson, South Carolina  
 Appearing for State of South Carolina

Charles W. Whiten, Jr., Esq.  
 P O Box 716  
 Anderson, South Carolina  
 Appearing for Defendant

## TRANSCRIBED FOR VIVIAN CROSS - COURT REPORTER

**DEBORAH GARRISON**  
*Circuit Court Reporter - 9<sup>th</sup> Judicial Circuit*  
 Post Office Box 901  
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1 (DEFENDANT PRESENT)

2 THE COURT: Ms. Hogan, are you ready  
3 to call your first case?

4 SOLICITOR HOGAN: Yes, sir, Your  
5 Honor. Your Honor, may I approach?

6 THE COURT: Yes, ma'am.

7 (OFF RECORD BENCH CONFERENCE)

8 SOLICITOR HOGAN: Your Honor, if it  
9 pleases the court, the State calls the case  
10 of Indictment 2011-GS-04-604 against Loretta  
11 Galloway Branyon for possession with intent to  
12 distribute methamphetamine.

13 THE COURT: Counsel, does everybody  
14 agree it's five and five strikes?

15 SOLICITOR HOGAN: Yes, sir, Your  
16 Honor.

17 MR. WHITEN: Yes, Your Honor.

18 THE COURT: All right, Ladies and  
19 Gentlemen of the jury, we're about to start  
20 the case of the State versus Loretta Galloway  
21 Branyon, who has been indicted for possession  
22 with intent to distribute methamphetamine.

23 Let me, before we go forward with this,  
24 tell you that the fact that this defendant has  
25 been charged, arrested and indicted is not

1 and out of the courtroom, would you take that  
2 seat?

3 JUROR: Yes, sir.

4 THE COURT: And our alternate, I am  
5 going to ask you, sir, if you would sit in the  
6 back right corner. I am going to ask you to  
7 go ahead and swap now, if you don't mind. I  
8 don't mean to embarrass you, I'm just trying  
9 to -- it helps me to keep up with some  
10 administrative matters. Sir, if you will just  
11 come around.

12 ALTERNATE: (Relocates).

13 THE COURT: All right. Thank you,  
14 sir. That will be the last time that I do  
15 musical chairs with you. Okay?

16 Now, Mr. Clerk, are you ready to  
17 swear the jury?

18 CLERK: I am, Your Honor.

19 THE COURT: Would you please do so?

20 (WHEREUPON JURY SWORN)

21 THE COURT: Ladies and Gentlemen of  
22 the jury, -- first, Madame Forelady, if at any  
23 time I ask you as the jury to come on back out  
24 and you're not ready, just tell the clerk,  
25 'Look we need some more time.' Or, 'we need

1     this', 'we need that.' This is not to be an  
2     endurance contest. We want you to comfortable  
3     so that you can listen to the evidence and  
4     make good decisions. Okay?

5                     JUROR:     Yes, sir.

6                     THE COURT:     I have a tendency -- as  
7     my court reporter can tell you -- to go long.  
8     I get involved and all of a sudden I realize  
9     that I've gone a couple of hours without  
10    letting anyone take a break. If at any time  
11    anyone needs to take a break, raise your hand.  
12    We'll get you in the jury room and you can do  
13    what you need to do.

14                    Also if any of you on the jury panel  
15    cannot hear at any time, raise your hand and  
16    we will make sure that any testimony will be  
17    accessible to you. It is important that you  
18    hear all the testimony that is presented here  
19    in the courtroom today.

20                    With that being said, let me just  
21    give you a few opening remarks before we get  
22    started. I don't know if any of you have ever  
23    sat on a jury before, if you've ever been  
24    involved in any legal matter in a courtroom;  
25    civil court or in this court, criminal court.

1 I would suspect at the same time that  
2 each and every one of you have watched what  
3 purports to be a trial on TV or in movies.  
4 Let me dispel you right now that what you're  
5 about to engage in is totally different from  
6 anything you have ever seen on TV. Trials are  
7 very often extremely slow, they are often very  
8 deliberate, they are very methodical. Trials  
9 are not intended to be, nor are they,  
10 entertainment. They are a search for the  
11 truth, to make sure that justice is done and  
12 that justice is served.

13 Now, the attorneys that you have in  
14 the courtroom, they have by their oath an  
15 obligation to their clients. That means that  
16 they have sworn to be zealous activists for  
17 their clients and they will do that in this  
18 case. But at the same time they are also  
19 officers of this court. What that means is  
20 that you can expect them to be professional,  
21 to be competent and to be ethical to one  
22 another and to the other participants in this  
23 case.

24 Now, you have just taken an oath that  
25 you will be fair and impartial in this matter

1 and apply the facts as you find them to be to  
2 the law as I give it to you at the end of this  
3 case. That means that the parties, the  
4 attorneys and this court have a right to  
5 expect you to be fair, impartial and ethical  
6 in your dealings in this matter.

7 Now, what I'm about to tell you is  
8 just an introduction. It is not the law that  
9 you will apply. I will instruct you on the  
10 law at the end of this case. You will take  
11 that back to the jury room with you, in your  
12 minds, and apply it to the facts as you find  
13 them to be.

14 I noticed that four of you wanted to  
15 take notes during this trial. That is  
16 certainly fine. Let me warn everyone who is  
17 taking notes, and everybody else on the jury,  
18 that when you begin your deliberations, which  
19 will occur at the end of this case, that just  
20 because somebody's notes say one thing but  
21 somebody's memory says something else, the  
22 notes do not necessarily trump somebody's  
23 memory. In other words, just because it is  
24 in your notes, it doesn't prevail over what  
25 happened in the courtroom. That is not

1 something for you all to deliberate about  
2 when you get back into the jury room for  
3 your deliberations.

4 Also in performing your function  
5 as jurors, it's important that you make  
6 credibility assessments as to the credibility  
7 of the witnesses and the evidence. Sometimes  
8 if you're involved, particularly with taking  
9 notes, you may miss the nuance of somebody's  
10 body mechanics or body reaction on the witness  
11 stand. A lot of times the way that they react  
12 on the stand will be important indicators as  
13 to their credibility. I'll tell you a little  
14 bit more about that at the end of this case.  
15 I just want to put that thought/notion in your  
16 mind now so that as we go through the case  
17 you'll try not to get yourself too involved  
18 with the notes and miss some very important  
19 aspects of this case.

20 Again, Ladies and Gentlemen, the fact  
21 that this defendant has been charged, arrested  
22 and indicted is not evidence of guilt. It does  
23 not raise an inference of her guilt nor any  
24 type of presumption of her guilt. It's not in  
25 any sense a matter of her guilt. That is the

1 mechanism the State uses to bring people  
2 before juries such as yourselves for a  
3 determination of guilt or innocence.

4 In fact, in this case the defendant  
5 has pled not guilty. That places the burden  
6 on the State of South Carolina to prove each  
7 and every element of the charge pending  
8 against this defendant beyond a reasonable  
9 doubt. It will be your decision or your  
10 burden at the end of this case to determine  
11 whether or not the State has met its burden  
12 of proof.

13 So the question is, what is a  
14 reasonable doubt? I am going to give you a  
15 very brief charge on what it is. Keep this  
16 in mind as you're going through this case.  
17 A reasonable doubt is a reasonable doubt is  
18 a doubt that would make a conscientious and  
19 reasonable person to hesitate to act. It  
20 is the kind of doubt that would cause a  
21 reasonable person to hesitate to act.

22 Again, the State has the burden of  
23 proving this defendant guilty beyond a  
24 reasonable doubt. Now, some of you may have  
25 served on civil cases in the case where the

1     burden of prove is by the preponderance or the  
2     greater weight of the evidence. In criminal  
3     cases, the State's burden of proof is much  
4     more powerful than by the preponderance of the  
5     evidence. It is by proof beyond a reasonable  
6     doubt. Proof beyond a reasonable doubt is  
7     proof that leaves you firmly convinced of the  
8     defendant's guilt.

9             Now, Ladies and Gentlemen, there are  
10    very few things in life that we know with  
11    absolute certainty. In criminal cases it is  
12    no different. The law does not require the  
13    State must disprove every possible doubt that  
14    may be.

15            But at the end of the case, if based  
16    on your consideration of all the evidence  
17    you're firmly convinced that the defendant  
18    is guilty of the charge with which she is  
19    charged, the crime with which she is charged,  
20    then it will be your burden and your duty to  
21    find her guilty.

22            On the other hand, if you think that  
23    there is a real possibility that she did not  
24    commit this crime, then you must give her the  
25    benefit of the doubt and find her Not Guilty.

1                   Now, your purpose as jurors is to  
2     find facts. In fact, in the vernacular of the  
3     attorneys, we say that you are the sole judges  
4     of the facts. If at any time during this case  
5     I do anything, say anything or make some type  
6     of gesture to you that indicates to you that I  
7     have a feeling one way or the other as to how  
8     you are to find facts, I'm going to ask you  
9     and I'm also going to tell you to disregard  
10    them.

11                  I can tell you that I have absolutely  
12    no feeling one way or the other as to how you  
13    find the facts, or as to how this case is  
14    supposed to end up. That is purely up to you.

15                  The state of South Carolina's  
16    Constitution does not allow any trial judge to  
17    have an opinion on the facts. We are referees  
18    in the sense that we make sure the process is  
19    followed. We are also instructors. We will  
20    instruct you on the law at the end of this  
21    case.

22                  That being said, the law that makes  
23    you the finders of the facts makes me the  
24    instructor of the law. If in this case when  
25    I charge you what the law is, you may not

1     like it. You may say, 'I think it should  
2     be something else' or 'I wish that it was  
3     something else.' It would be improper for you  
4     to try to change the law as I ultimately give  
5     it to you. You must apply the law, as I  
6     charge it to you in this case, to the facts as  
7     you find them to be. When you do that, you  
8     will have performed your duties as jurors.

9             Now, throughout this case, as in  
10    every single case that I've been involved with  
11    as an attorney or a judge, there'll be breaks.  
12    Either because there are objections, or are  
13    lunch breaks, overnight breaks, there will be  
14    breaks. During those breaks when you are not  
15    in the courtroom, you may not begin your  
16    deliberations. During court, you may not  
17    begin your deliberations. In other words,  
18    at the end of this case, after I charge you  
19    on what the law is, I will give you notice  
20    and give you all the exhibits that have been  
21    submitted and say, 'Now is the time to begin  
22    your deliberations.' Up until that point,  
23    you're not to talk about this case amongst  
24    yourselves or any else. That means face to  
25    face conversations, e-mails, Twitters, any

1 other form of communication that I'm not  
2 thinking about. Just don't do it. The reason  
3 being, it's quite obvious. That is that until  
4 you've heard all the testimony, all the  
5 exhibits have been admitted and I charge you  
6 on the law, you do not want to be premature in  
7 coming to a conclusion in determining what the  
8 facts are. So wait until the end of this  
9 case.

10 Also, Ladies and Gentlemen, our Chief  
11 Justice has instructed all charges -- excuse  
12 me -- all trial judges to instruct jurors that  
13 they are not to engage in what they call  
14 independent juror research. What that simply  
15 means is that if you hear an issue in this  
16 case that you think is interesting and you'd  
17 like to research more about, or if you think  
18 researching an issue may be helpful, or you  
19 want to research more about the defendant,  
20 any of these attorneys, or the court -- that  
21 includes me -- you're not to do that until you  
22 end this case and your jury verdict has been  
23 rendered. That is, of course, the same basis  
24 as before. We don't want you to get involved  
25 in any kind of predetermination until you hear

1 all the evidence and the law. When the  
2 verdict is in, you can research to your  
3 heart's desire but until that time, if  
4 you would, do not engage in research.

5 Now, in small towns like Anderson,  
6 there is a possibility that you may bump into  
7 some of these attorneys or some of these  
8 witnesses, or the defendant, coming to and  
9 from the courthouse. They know that they are  
10 not allowed to talk to you. If that happens,  
11 it's okay for you to nod your head but do not  
12 engage in any conversation with any party, any  
13 witness, including attorneys or court  
14 officials until the end of this case and your  
15 verdict has been rendered. Because if one  
16 side or the other happens to essentially see  
17 that, they are naturally going to think that  
18 there is an *ex parte* or one-sided communication  
19 going on, and it is going to affect their --  
20 the unbiased nature of these proceedings.

21 Now, in every single solitary case,  
22 lawyers have to object anytime that they feel  
23 that there is something improper going on.  
24 I tried cases for about twenty-five years and  
25 in every single one of those cases that I

1     tried, there was always objections. I've been  
2     on the bench for about four years and every  
3     single case that I've tried there have been  
4     objections. That is just part of the process.

5             The fact that a party may raise an  
6     objection, to the extent that I allow you to  
7     stay in the courtroom and listen to my  
8     response to that objection, is not to be  
9     considered by you at all. You're not to  
10    discuss it in your deliberations or before-  
11   hand. That simply is part of the process.  
12   In fact, there may be occasions when you  
13   haven't quite gotten your seat warm yet and  
14   you're asked to step out of the courtroom  
15   again because an objection rises. That is  
16   simply part of the process. I ask you and  
17   also charge you that you are to disregard  
18   that in all respects.

19            Now, in every single case in this  
20   state there are five phases. Just -- I'll  
21   tell you these so that you'll know where you  
22   are.

23            In just a minute the State is going  
24   to give what is called an opening statement.  
25   The defendant may, though he is not required

1 to give an opening statement.

2 The next phase will be the pre-  
3 sentation of the evidence, which is the  
4 longest part of any case.

5 The third part will be the closing  
6 arguments by the attorneys.

7 I will then charge you on the law  
8 that is applicable to the case.

9 The fifth phase would be when you  
10 begin your deliberations.

11 I will tell you that so that you  
12 will know generally where are you are in the  
13 process.

14 I have met with these attorneys and  
15 they tell me that this case is not going to be  
16 very long. We might wind up this case  
17 sometime tomorrow. I don't know that that is  
18 going to be, but that's a good possibility.

19 With that being said, before we get  
20 into openings statements, Madame Forelady, I  
21 am going to ask that you go back to your jury  
22 room for one second. If you need anything,  
23 grab it. If you want to have a drink in here,  
24 that's certainly fine. You can bring water or  
25 coffee in the courtroom with you. Please

1 don't bring any food products in here, if you  
2 don't mind.

3 I am going to check with these  
4 attorneys to find out if I have stated  
5 something that I shouldn't have or neglected  
6 to say something that I should have said.

7 Please go back to your jury room  
8 right now, and we'll begin the trial in just  
9 a few minutes.

10 (JURY OUT @ 12:25 P.M.)

11 THE COURT: Any additions or  
12 objections from the State?

13 SOLICITOR HOGAN: No, sir, Your  
14 Honor.

15 THE COURT: From the defense?

16 MR. WHITEN: No, Your Honor.

17 THE COURT: All right. You want  
18 a minute or two before you start or are you  
19 ready to crank it up? You want a minute?

20 SOLICITOR HOGAN: Okay.

21 THE COURT: Let's give the jurors  
22 a minute or two.

23 (BRIEF RECESS)

24 (DEFENDANT PRESENT)

25 THE COURT: Ask them if they are

1 ready. You can bring them in if they are.

2 (JURY IN @ 12:29 P.M.)

3 THE COURT: Ms. Hogan, are you  
4 ready?

5 SOLICITOR HOGAN: Yes, sir, if it  
6 pleases the court.

7 THE COURT: Yes, ma'am.

8 SOLICITOR HOGAN: On January 13<sup>th</sup>,  
9 2011, officers with the Anderson County  
10 Sheriff's office went to the home of this  
11 defendant. While they were there, officers  
12 found Ms. Branyon in possession of more than  
13 one gram of methamphetamine. She was charged  
14 with possession with intent to distribute  
15 methamphetamine, commonly called "meth", based  
16 on the weight of the methamphetamine that she  
17 had in her possession. What that means is  
18 that because she was found in possession of  
19 more than one gram of methamphetamine, the law  
20 requires the assumption that she intended to  
21 sell it.

22 There are three elements that must be  
23 met. The first is that the controlled  
24 substance that she had was indeed meth.  
25 You are going to hear from the chemist in

1     this case that the substance was in fact  
2     methamphetamine.

3             Secondly, that she actually possessed  
4     the methamphetamine. You are going to hear  
5     testimony from the officer about where the  
6     methamphetamine found.

7             Thirdly, that she possessed the  
8     methamphetamine with the intent to distribute  
9     it.

10            I am also going to present additional  
11     evidence to you that in fact she did in fact  
12     possess the methamphetamine with the intent to  
13     distribute it.

14            Now, the judge told you that it will  
15     not be a very long case. That does not mean  
16     that it is not an important case. It is  
17     important to the State, it's important to the  
18     law enforcement officers, and it is also  
19     important to this community.

20            I am confident that after you've  
21     heard the testimony in this case, that you  
22     will find Loretta Galloway Branyon guilty  
23     of the charge of possession with intent to  
24     distribute methamphetamine.

25            MR. WHITEN: May it please the

1 court?

2 THE COURT: Yes, sir, certainly.

3 MR. WHITEN: Ladies and Gentlemen,  
4 my name is Charles Whiten. I introduced  
5 myself earlier.

6 In 1967, our government issued a  
7 proclamation that they were declaring a war  
8 on drugs. That was thirty-seven years ago.  
9 Thirty-seven years ago and we are still at  
10 war on drugs. During that time first it was  
11 marijuana, then it was quaaludes, then heroin,  
12 then cocaine, and now methamphetamine.

13 But I want to tell you something  
14 about the law. The law says that if someone  
15 has one gram -- no bigger than my fingertip,  
16 -- you can consider that they are intending to  
17 distribute that drug. One gram.

18 What happened is that the law, over  
19 the course of thirty-seven years, is that they  
20 first started to say that you actually had to  
21 sell it, distribute or give it to somebody.  
22 Now recent law says that if you have that much  
23 on your person, then you can be considered  
24 under the law to have -- as prima facia  
25 evidence that that is intended to distribute.

1 In this case, methamphetamine. The law says  
2 that you first must possess the drugs --  
3 methamphetamine in this case -- and that it  
4 has to be more than one gram. Remember, one  
5 gram is not considered to be possession with  
6 intent to distribute.

7 So -- just so that you know what's  
8 happened in the last thirty-seven years, is  
9 that every addict, every addict, that has had  
10 methamphetamine in their possession, that  
11 much, every addict is going to be -- can be --  
12 if they're caught with it in their possession,  
13 they can be charged and it's considered as  
14 prima facia evidence, one gram, that they  
15 intended to distribute it. So our jails are  
16 filled with addicts. We build a new jail to  
17 put addicts in jail.

18 Your duty is to hold the State to  
19 their burden of proving beyond a reasonable  
20 doubt that Loretta Branyon, Loretta Galloway  
21 Branyon, possessed more than one gram.

22 But even if she did possess more than  
23 one gram, you also -- they also must prove  
24 beyond a reasonable doubt that she intended to  
25 distribute it. Not that she intended to use

1 it, not that she was going to use it herself,  
2 but that she intended to distribute it.

3 They are going to show you approxi-  
4 mately seven grams that they found in this  
5 house. That's what happened.

6 So if you decide that an addict  
7 should go to prison for a long, long, long,  
8 long period of time because she had this in  
9 her possession, then you find her guilty.

10 If you find that there -- that she  
11 is an addict and there no intent to distri-  
12 bute, then she is not guilty.

13 This is the face of a methamphetamine  
14 addict. An addict. This will be in evidence.

15 I submit that you will find that  
16 there is no reason to find somebody guilty of  
17 possession of intent to distribute drugs, and  
18 that you will find her not guilty. Thank you.

19 THE COURT: All right. Ladies and  
20 Gentlemen of the jury, I have taken the  
21 executive privilege of scheduling. The next  
22 witness, I anticipate, as told me by these  
23 attorneys, is going to take a little while.  
24 So I am going to go ahead and let's break for  
25 lunch right now. I am going to ask that you

1 please the court, the State calls Officer  
2 Marty Robinson to the stand.

3 (WITNESS TAKES STAND)

4 MARTY ROBINSON, being duly sworn to  
5 tell the truth, the whole truth and nothing  
6 but the truth, testified, as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR HOGAN:

9 Q. Officer Robinson, where are you currently  
10 employed?

11 A. I am currently employed as a narcotics and  
12 vice investigator at the Anderson County  
13 Sheriff's Office.

14 Q. How long have you worked at the Sheriff's  
15 Office?

16 A. A little over eight years.

17 Q. How long have you been in law enforcement?

18 A. Seventeen years.

19 Q. What is your position with the Sheriff's  
20 Office?

21 A. I am currently employed in the vice and  
22 narcotics division.

23 Q. How long have you worked in that capacity?

24 A. Currently I've been in the vice and  
25 narcotics unit for three years. Prior to that

1 I was with the Sheriff's Office ACE Team,  
2 which is also a street level drug enforcement  
3 unit, for five years. Prior to that I was a  
4 drug investigator for about three years, in  
5 the late '90s.

6 Q. Okay. As a narcotics investigator, what  
7 are your duties?

8 A. We investigate -- as narcotic  
9 investigators at the Sheriff's Office, our  
10 duties are to investigate long-term, larger  
11 level drug dealers -- people who sell and  
12 traffic in large amount of drugs into this  
13 county.

14 Q. What else do you do as a narcotics  
15 investigator?

16 A. My routine duties are surveillance,  
17 execution of search warrants, controlled  
18 buys, surveillance.

19 Q. What kind of training and experience do  
20 you have as a narcotics officer?

21 A. I was -- I began law enforcement in 1995  
22 as a jailer/dispatcher, became an officer in  
23 '96. I went to the police academy in '97.  
24 I've had twenty-four hours of training through  
25 the South Carolina Department of Public Safety

1 in Advanced Criminal Enforcement.

2 Forty hours of training through the  
3 Department of Public Safety, uh, in intro-  
4 duction to investigative techniques for  
5 drugs and narcotics.

6 Forty hours of training through the  
7 Department of Public Safety as a basic drug  
8 investigator.

9 I attended forty hours of training at  
10 the regional counterdrug training academy  
11 in Meridian, Mississippi to investigate  
12 methamphetamine and other clandestine labs.

13 I attended the network environmental  
14 systems clandestine laboratory basic and  
15 safety site officer, which basically is a  
16 Federal level of certification for the  
17 investigation of methamphetamine and other  
18 clandestine labs.

19 I have a hundred and sixty hours of  
20 training through the International Association  
21 of Chiefs of Police in Phoenix, Arizona.

22 I attended a drug evaluation and classifi-  
23 cation drug recognition expert training.

24 Twenty-four hours of training at St.  
25 Petersburg College in drug conspiracy

1 investigations.

2 Forty hours of training through Desert  
3 Snow, which is a criminal interdiction school.

4 Twenty-four hours of training with the  
5 U.S. Department of Justice and the United  
6 States Department of Transportation in  
7 commercial motor vehicle criminal  
8 interdiction.

9 Eight hours of training through the  
10 U.S. Department of Justice, Basic Narcotics  
11 Investigator school.

12 Sixteen hours of training for the Carolina  
13 Institute for community policing and  
14 investigation of Mexican drug trafficking  
15 organizations.

16 Q. Do you continue to train and educate  
17 yourself through your ---

18 A. I do.

19 Q. Over the years, can you give a ballpark  
20 figure of how many investigations you  
21 personally have been involved in?

22 A. I can't exactly put a number on it.

23 I've been in law enforcement a number of  
24 years. At any one time as a vice and  
25 narcotics investigator, I may have two to

1 twenty investigations going at one time.

2 In a year, twenty to thirty to forty at a  
3 time.

4 Q. Were you employed as a narcotics officer  
5 on January 13th, 2011?

6 A. I was.

7 Q. Were you involved with serving a search  
8 warrant at 905 Shirley Store Road here in  
9 Anderson County?

10 A. I was.

11 Q. Is serving a search warrant something that  
12 you do routinely?

13 A. It is.

14 Q. As part of your ---

15 A. --- daily activities.

16 Q. --- narcotics investigative activities?

17 A. It is.

18 Q. Thank you. What happens when you go in to  
19 serve a search warrant?

20 A. When we first enter a premises, we  
21 announce that law enforcement is present.

22 We immediately detain any suspects in  
23 the house to make sure that they don't have  
24 weapons.

25 We do a protective sweep of the residence,

1 if it is a residence that we are searching, to  
2 make sure that there are no other suspects  
3 hiding or anywhere in the house.

4 Then we will usually identify persons  
5 there and isolate them from the target of  
6 investigation. Let's say that the search  
7 warrant is for a certain house and there is  
8 one certain person that we believe to be the  
9 suspect. We typically isolate that person,  
10 read and give them a copy of the search  
11 warrant to make sure that they understand that  
12 we are there on a search warrant and what we  
13 are there looking for.

14 Q. Were you involved in obtaining a search  
15 warrant for 905 Shirley Store Road?

16 A. I was. I was the affiant. I obtained  
17 that search warrant from ---

18 Q. Who resided at 905 Shirley Store Road?

19 A. The defendant. She's in the courtroom,  
20 Loretta Branyon.

21 Q. What was the purpose of the search  
22 warrant?

23 A. We were there looking for methamphetamines  
24 and meth-related materials.

25 Q. Based on your training and experience and

1 observations, describe what a typical meth  
2 user would have around them.

3 A. A typical meth user normally would have  
4 pipes or needles or some facilitation of  
5 ingesting the drug. Normally they may have a  
6 small amount of drugs on them, a quarter gram,  
7 half a gram, usually no more than a gram.  
8 Usually no bulk money, no large amount of  
9 methamphetamine or whatever drug we're  
10 investigating.

11 Q. Based on your training, experience and  
12 observations, how much would a gram of meth-  
13 amphetamine cost?

14 A. It depends on the region and what is  
15 going on in the drug trends right then. It  
16 currently goes up and down. Usually a half  
17 gram would be fifty dollars, twenty -- a  
18 quarter gram twenty-five dollars, and a gram  
19 would be roughly a hundred dollars.

20 Q. Based on your training, experience and  
21 observations how much would a typical meth  
22 dealer have?

23 A. A typical meth dealer usually has multiple  
24 baggies, scales ---

25 MR. WHITEN: Your Honor, there's

1       been no foundation laid for that.

2                   THE COURT:     One second.  Madame  
3       Forelady, would you take the jury back to your  
4       jury room, please, ma'am?

5                   (JURY OUT @ 2:16 P.M.)

6                   THE COURT:     Would you state your  
7       objection, please?

8                   MR. WHITEN:    Yes, Your Honor.  The  
9       question was 'based on your experience' --  
10      something about how much would a, quote, "meth  
11      dealer" have.  We have no charges for dealing.  
12      This is a possession with intent to  
13      distribute.  So I object to that question as  
14      it was asked.  In addition, there's been no  
15      foundation laid for the question.  It's too  
16      much of a bias to ask it that way, indicating  
17      that this is a dealer and not an intent to  
18      distribute.

19                  THE COURT:     Ms. Hogan?

20                  SOLICITOR HOGAN:  Your Honor, if it  
21      pleases the court, I believe that I have laid  
22      a foundation of his experience, seventeen  
23      years in law enforcement, all the training and  
24      education that he has had over the years.  One  
25      of the parts of the charges of possession with

1 intent to distribute were -- they made the  
2 claim that she just using, that she wasn't  
3 intending to distribute. I am just asking a  
4 generic question as to what the difference  
5 between what a user and a dealer would have  
6 around them.

7 THE COURT: Let's do this, if you  
8 would. I am going to sustain the objection as  
9 raised. I'll ask you to rephrase the question  
10 for me. Okay?

11 SOLICITOR HOGAN: Yes, sir.

12 THE COURT: Okay. Would you bring  
13 the jury back in, please.

14 SOLICITOR HOGAN: Your Honor, one  
15 moment please -- (pause). I would like to  
16 proffer the question just to make sure that  
17 I don't ---

18 THE COURT: Okay.

19 SOLICITOR HOGAN: If you don't mind.  
20 Uh, -- I'm trying to think how to rephrase the  
21 question: 'What would someone who is going  
22 to do more than use the drug, what would they  
23 have around them?'

24 THE COURT: I would certainly -- I  
25 was thinking that his objection was that you

1     said "drug dealer."

2                 SOLICITOR HOGAN:   Right.   So I'm  
3     trying not to say drug dealer.

4                 THE COURT:     Right.   And it seems  
5     to me that certainly you could say, 'In your  
6     experience have you seen a difference between  
7     people who are recreational users versus  
8     people who might be doing more than that?'  
9     Just don't say "dealer."

10                Would you have an objection to it  
11    phrased that way?

12                MR. WHITEN:    Would you state it one  
13    more time?

14                SOLICITOR HOGAN:  'Based on your  
15    training and experience, have you noticed a  
16    difference between someone who uses the drug  
17    versus someone who does more than use the  
18    drugs?'

19                MR. WHITEN:    It's lesser than it  
20    was before, Your Honor, but I still think  
21    that that's calling for an opinion from the  
22    witness, who is not really qualified to answer  
23    that particular question.

24                That is a psychological question.  
25    It's based on -- what she is asking is based

1 on going to the amount. I don't think -- at  
2 least until the amount comes into evidence,  
3 that that is the foundation that's been laid  
4 on that. We don't know at this point how much  
5 is coming in. He's going to say that based on  
6 his opinion such and such an amount or such  
7 and such a situation is more than just  
8 possession. I haven't heard any evidence of  
9 that at all -- other than his experience. I  
10 am not questioning his experience. I am  
11 questioning the underlying foundation of this  
12 particular arrest.

13 THE COURT: What I'm -- I'm going  
14 to note your objection. I am going to over-  
15 rule it and I am going to allow her to get  
16 into, based on this officer's experience, what  
17 he's found that users have versus people who  
18 were dealers. I think that is a fair  
19 question. I think that comes out of his  
20 background.

21 Now, you don't have to get into  
22 opinion testimony. Then I would sustain the  
23 objection, because he's not been qualified as  
24 an expert. Okay?

25 SOLICITOR HOGAN: Yes, sir.

1 THE COURT: Is everybody okay on  
2 the record at this point?

3 SOLICITOR HOGAN: If I could have one  
4 more minute, Your Honor?

5 THE COURT: Yes, ma'am.

6 SOLICITOR HOGAN: Thank you.

7 MR. WHITEN: May I state one other  
8 additional basis for this objection, Your  
9 Honor?

10 THE COURT: Yes, sir?

11 MR. WHITEN: The way that the  
12 question is phrased is taking the decision  
13 of the amount as it applies to the case out  
14 of the hands of the jury. It's asking for a  
15 factual statement that's in the jury's  
16 province to decide, not the witness'.

17 THE COURT: All right.

18 MR. WHITEN: I object on that basis.

19 THE COURT: I note your objection.  
20 Would you bring the jury in, please?

21 (JURY IN @ 2:23 P.M.)

22 THE COURT: Ms. Hogan.

23 SOLICITOR HOGAN: Yes, Your Honor, if  
24 it pleases the court.

25 THE COURT: Yes, ma'am.

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR HOGAN:

3 Q. Officer Robinson, based on your training  
4 and experience and your observations, do you  
5 notice a difference when you see someone who  
6 is a user as opposed to someone who would be  
7 doing more than that?

8 A. Yes. Like I said earlier, ---

9 MR. WHITEN: I still raise my  
10 objection, Your Honor.

11 THE COURT: So noted. Go ahead.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR HOGAN:

14 Q. Continue.

15 A. Like I stated earlier, typically a user is  
16 going to have just the amount on them that  
17 they are going to use right then. You usually  
18 find no more methamphetamine. You usually  
19 don't find any money. Usually what money that  
20 they had they used to buy drugs. You may find  
21 paraphernalia, a needle or smoking pipe or  
22 whatever they are going to use to ingest the  
23 drugs.

24 Whereas somebody who possesses, I guess  
25 with the intent to distribute or sale, they

1 usually are going to have bulk baggies,  
2 usually quantities of whatever drug that  
3 you're talking about -- in this case  
4 methamphetamine -- in different baggies, bulk  
5 currency, scales, usually multiple scales and  
6 things of that sort.

7 Q. Can you describe what scales are?

8 A. Digital scales. They are usually just  
9 battery operated. They are just a small  
10 digital set of scales that you'd weigh  
11 jewelry, drugs or any small quantity of items  
12 on to get up to a gram weight, ounce weight, a  
13 pound weight.

14 Q. Can you describe what you found at 905  
15 Shirley Store Road?

16 A. Yes. We executed the search warrant on  
17 January 13<sup>th</sup>, 2011, at about 2:20 p.m.

18 When we entered the residence, we  
19 encountered Ms. Branyon sitting on a couch.  
20 There was another male in the residence.

21 We read the search warrant to Ms. Branyon.  
22 She was detained.

23 We searched for other persons. No one  
24 else was found inside the house.

25 Immediately upon entering the house there

1 was a coffee table right inside the front  
2 door. There was a larger set of digital  
3 scales in plain view right there on the coffee  
4 table that had what appeared to be drug  
5 residue on it. The scales were open. They  
6 were folding type of scales, they were laid  
7 open.

8 There was two pocketbooks on the couch  
9 to the side of Ms. Branyon. Inside the  
10 pocketbooks we found a folding type purse or  
11 notebook holder, which inside of it had -- I  
12 guess you'd call it a white container. Inside  
13 that container it had numerous pink baggies,  
14 had some red baggies.

15 A smaller black and pink woman's wallet  
16 was located and inside that we found even more  
17 empty pink baggies, one white baggie and two  
18 pink baggies that contained a quantity of  
19 methamphetamine. There was also a set of  
20 scales in there.

21 Also in that pocketbook which was on the  
22 couch beside Ms. Branyon there was a wallet,  
23 inside that wallet we found bulk U.S. currency  
24 -- about Four Thousand Thirty-three dollars  
25 (\$4,033) -- with her South Carolina ID. Her

1 ID and the currency was in the pocketbook that  
2 we found the meth on, sitting beside her on  
3 the couch.

4 Q. Okay. You keep talking about methampheta-  
5 mine, how do you know what you saw was  
6 methamphetamine or what you believed to be  
7 methamphetamine?

8 A. We have field test kits. First we found,  
9 located -- it was an off-white glass looking  
10 substance, which in my experience and training  
11 -- I've seen it before -- it appeared to be  
12 methamphetamine. We did field test a small  
13 amount there on the scene and it field tested  
14 positive for methamphetamine. Once it did, we  
15 sealed it in a secure evidence bag that we  
16 would later submit to our evidence technician.

17 Q. Was there anything else found around the  
18 house at that point?

19 A. In the back bedroom we also found another  
20 set of scales and some smoking pipes, pipes  
21 that would normally or typically be used to  
22 facilitate the ingestion of methamphetamine.

23 Q. Okay. What did you do with the evidence  
24 that you collected that day?

25 A. It was labeled as evidence on the scene,

1 placed in a bag that we call a Best kit. It's  
2 a formalized bag that we use to submit drug  
3 evidence to the Anderson-Oconee Regional Lab  
4 through our Evidence department. We sealed  
5 the bag, labeled it with a case number; put  
6 the item number on it. We have a P&E sheet,  
7 property and evidence sheet. We fill that  
8 out. The evidence sheet matches the drugs  
9 that were found, labeled and sealed in a bag.  
10 Then we submit that to a secure drop box at  
11 our Sheriff's Office, Evidence building.

12 Q. I am going to hand you what has been  
13 marked as State's Exhibit 5.

14 SOLICITOR HOGAN: May I approach,  
15 Your Honor?

16 THE COURT: Yes, ma'am.

17 DIRECT EXAMINATION CONTINUED

18 BY SOLICITOR HOGAN:

19 Q. Do you recognize that?

20 A. I do. This is the Best -- sealed Best kit  
21 that I filled out on the scene, that is listed  
22 in my report, that had the methamphetamine  
23 inside.

24 Q. How do you recognize it?

25 A. It has a control number on it. That's the

1 control number that I documented in my notes.

2 It also bears the case number, the case number  
3 for this incident. Also that's my signature,  
4 my writing.

5 Q. Now does it look the same as it did when  
6 you turned it in?

7 A. The bag itself does, yes.

8 Q. But the rest? It looks different to you?

9 A. There are some bags in here that have been  
10 labeled by somebody other than myself, at the  
11 Evidence department; not myself.

12 Q. What did you do with everything else that  
13 was collected that day, other than what you  
14 believed to be methamphetamine in the Best  
15 kit?

16 A. Everything that is drug related or has  
17 residue on it goes into the Best kit.  
18 Everything else would go into an evidence bag,  
19 sealed. Other than being submitted to the lab  
20 for testing, it's handled the same way. It is  
21 labeled with the case number, I seal it and  
22 then put my signature on it. That's mine,  
23 and it lists the case number on it.

24 Q. I now hand you what has been marked as  
25 State's Exhibits 1 through ---

1 SOLICITOR HOGAN: May I approach?

2 THE COURT: Yes, ma'am.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR HOGAN:

5 Q. Do you recognize those?

6 A. Yes, ma'am. As we -- after we do our  
7 initial protective sweep of the residence and  
8 detain any suspects there, and explain fully  
9 the reason we are there, we go back out and  
10 start from the outside in just like we  
11 approached and we photograph the residence,  
12 anybody that we find and any evidence that  
13 we locate inside.

14 This top photo that you handed me is the  
15 exterior view of 905 Shirley Store Road, the  
16 residence of Loretta Branyon.

17 Q. Who took these pictures?

18 A. I took these pictures.

19 SOLICITOR HOGAN: Your Honor, if it  
20 pleases the court, I would like for Officer  
21 Robinson to be able to put the picture up so  
22 that the jury can see more clearly what he's  
23 speaking of.

24 THE COURT: All right. Sir, do you  
25 mind stepping around, please, sir?

1 THE WITNESS: (Complies)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR HOGAN:

4 Q. We will just take these one by one and you  
5 can tell the jury exactly what you are talking  
6 about. Can you describe what this picture  
7 depicts?

8 A. This is a view of the residence on Shirley  
9 Store Road, from Shirley Store Road. This is  
10 just inside the front door, looking inside the  
11 residence.

12 Q. All right, the next picture, can you  
13 explain what that is a picture of?

14 A. Yes, I took this photo. It was found  
15 inside the living room area of the house.  
16 This is a fuel -- it listed the address of  
17 905 Shirley Store Road and it's in the name  
18 of Loretta Branyon. It's a water bill for  
19 services, water and sewer, for the residence.

20 Q. In her name?

21 A. Yes.

22 Q. At her address?

23 A. Yes.

24 Q. And ---

25 A. This is a photocopy of Ms. Branyon's South

1 Carolina driver's license that was found  
2 inside her wallet, in the bag that was on the  
3 couch beside her.

4 Q. In the pocketbook on the couch beside her?

5 A. Yes.

6 Q. Can you describe ---

7 A. This was the couch that Ms. Branyon was  
8 sitting on. There was a bag/pocketbook that  
9 was sitting beside her and this was -- this is  
10 the bag here. This is some kind of game.  
11 This is the pocketbook that we found that had  
12 the other containers inside of that pocket-  
13 book, including her ID.

14 Q. And?

15 A. This is the pocketbook laid out on the  
16 couch, you can see all the contents as they  
17 were before we started searching. You can  
18 see the pocketbook there, the wallet, there's  
19 another one there. This is the pink and white  
20 baggies that we found inside. This is another  
21 picture of that.

22 Q. Can you describe what this is?

23 A. This is a shot of her wallet that was  
24 found inside the pocketbook. It has bulk  
25 currency in two different flaps inside the

1 wallet.

2 Q. Okay.

3 A. This is the wallet that was found in the  
4 bag with her ID.

5 Q. And?

6 A. That is both sides of the wallet. It  
7 shows bulk currency in both sides.

8 Q. So the prior picture is the one that shows  
9 the two different sides?

10 A. When we initially opened it, we could only  
11 see one side.

12 Q. All right.

13 A. Then when we opened it further we found  
14 currency on both sides.

15 Q. And this?

16 A. That is the currency on both sides, the  
17 U.S. currency.

18 Q. And you testified earlier that it was  
19 about four thousand dollars?

20 A. Four thousand thirty-three dollars,  
21 (\$4,033).

22 Q. And it's a little hard to tell what that  
23 is, but can you describe what's ---

24 A. This is the pocketbook with the items  
25 found inside. You can see by the stitching,

1 you can see that it is the outside of the  
2 pocketbook because you can see the stitching  
3 around.

4 This picture is kind of confusing. That's  
5 a side flap pocket. We just held it open for  
6 the photograph before we took the items out.  
7 You can see several bags in that. Typically  
8 you find drugs in small flaps like that.

9 Q. Okay. And ---

10 A. This is the white bag. There were two  
11 pink bags and one white bag that contained a  
12 quantity of methamphetamine, that field tested  
13 positive for meth. This is the white bag that  
14 contained the white glassy-looking shard  
15 substance. That's what was field tested and  
16 found to be presumptive for methamphetamine.

17 Q. Is it common for drugs to look like that?

18 A. Yes. It is what is commonly referred to  
19 as crystal meth or "ice". It's glassy  
20 looking. Sometimes it is shorter shards,  
21 sometimes longer. It looks like broken pieces  
22 of glass.

23 These are little baggies that we located  
24 inside of those bags.

25 Q. Okay. And was there anything in any of

1     those bags?

2     A.   There's several small pieces of meth in  
3     this bag here. And you can see in this pink  
4     bag, along the bottom that there is meth  
5     inside there.

6             This picture is -- this at the top is the  
7     pink and black bags that had meth inside.

8     This is the two pink baggies that were in  
9     there along with the other bags. Also there  
10    were two straws here, common drinking straws.  
11    Some people use that for ingesting the meth.

12            This is just the inside of that pink and  
13    white bag. You can see that inside the bottom  
14    of that zip baggie that the drugs -- you can  
15    see how this picture looks. There were  
16    multiple bags.

17    Q.   Is that typically what you'd find, the  
18    smaller bag.

19    A.   Just as what we commonly find, one bag and  
20    inside are smaller similar bags?

21    Q.   Okay.

22    A.   And you can see that there are multiple  
23    bags.

24    Q.   And you spoke of a coffee table right as  
25    you walked in the door?

1 A. (Indicating in photograph), this was the  
2 coffee table that was just inside. You open  
3 the front door and the coffee table was right  
4 in the center of the couch. This was the  
5 coffee table.

6 That is the larger set of drug scales that  
7 were open, laying there. You can see on the  
8 scales that this -- this little tray here,  
9 there's some white specks of powder right  
10 there. That appeared to be residue of meth-  
11 amphetamine that had been weighed on the  
12 scales.

13 That's a closer up picture of the same,  
14 of the digital scales. As you can see, that  
15 there is residue.

16 Q. Residue of?

17 A. It appears to be residue of drugs.

18 This is an ashtray on the same coffee  
19 table.

20 And there were some more of those smaller  
21 pink baggies that were found inside.

22 Q. Let's go back to the picture of the coffee  
23 table.

24 A. Here's the scales, here's the ashtray, and  
25 you can see the bags -- baggies.

1 Q. So that is a picture of the ---

2 A. Correct, that's what we saw when we  
3 entered the residence.

4 Q. And this?

5 A. This is another bag that was located in  
6 the bedroom part of the house, the back part  
7 of the house. Inside this bag there are  
8 several pipes that are commonly used to ingest  
9 the drug.

10 There is actually a corner of another pink  
11 bag right there (indicating), but you can just  
12 barely see it.

13 Q. Thank you. Are those a true and accurate  
14 representation of what you saw that day and  
15 night? Is that correct?

16 A. They are.

17 SOLICITOR HOGAN: Your Honor, at this  
18 time I would like to move State's Exhibit 1  
19 into evidence consisting of pictures numbered  
20 one through sixteen.

21 THE COURT: Any objection?

22 MR. WHITEN: No objection.

23 THE COURT: Admitted without  
24 objection.

25 SOLICITOR HOGAN: Thank you, Your

1 Honor.

2 (SO ENTERED AS STATE'S EXHIBIT 1)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR HOGAN:

5 Q. Officer, I also hand you what has been  
6 marked as State's Exhibits 2 and 3. Do you  
7 recognize these items?

8 A. Yes, these are both sets of scales that  
9 were located at the residence.

10 This one here, the one that is marked --  
11 that I marked "C" has the case number on it.  
12 Well, it actually has the date. This was  
13 found in the residence. This is the one that  
14 has -- this set of scales was found in this  
15 pink pouch here.

16 Then this is another set of black scales  
17 that were located in the residence. I marked  
18 them Item "B." It has the case number and  
19 that's my handwriting on that.

20 Q. Okay. And what are those?

21 A. These are sets of digital scales commonly  
22 used -- we commonly find them with -- usually  
23 in proximity to drugs.

24 Q. And where were they found?

25 A. These were found in the living room. Both

1 of these sets were found in the living room.

2 Q. Which is where her purse was on the couch?

3 A. That's where Ms. Branyon was located,  
4 that's where her purse was. It's where we  
5 found the multiple empty baggies and the purse  
6 that had baggies inside that did have meth in  
7 them.

8 Q. Okay. So in the purse, what'all was in  
9 the purse when you -- exactly?

10 A. Inside the purse, we found multiple empty  
11 baggies. We found ---

12 MR. WHITEN: Your Honor, this has  
13 been asked and answered.

14 THE COURT: I would sustain that  
15 objection.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR HOGAN:

18 Q. I am going to show you what has been  
19 marked as State's Exhibit 4. Do you recognize  
20 those items?

21 A. Yes, this is my handwriting on here. I  
22 labeled these as Item "F." I photographed  
23 them in the back bedroom. They bear the case  
24 number for this incident. The -- this was the  
25 bag that contained three separate smoking --

1 it's actually three separate smoking pipes and  
2 a portion of maybe another one that's broken.  
3 Those were located in the bedroom, in that  
4 photograph that I testified to. These are  
5 commonly used to ingest methamphetamines.

6 Q. So these were not found with the purse?

7 A. No, these were in a separate part of the  
8 residence. The purse was inside the living  
9 room with Ms. Branyon, inside the living room.  
10 These were found at the back left of the  
11 residence, in a bedroom.

12 SOLICITOR HOGAN: Your Honor, if it  
13 please the court, I would like to introduce  
14 State's Exhibits 2, 3 and 4 into evidence.

15 THE COURT: Any objection?

16 MR. WHITEN: If I could look at them  
17 just briefly, Your Honor?

18 THE COURT: Yes, sir.

19 MR. WHITEN: (Upon review), no  
20 objection.

21 THE COURT: Exhibits 2, 3 and 4  
22 will be admitted without objection.

23 (SO ENTERED AS STATE'S EXHIBIT 2)

24 (SO ENTERED AS STATE'S EXHIBIT 3)

25 (SO ENTERED AS STATE'S EXHIBIT 4)

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR HOGAN:

3 Q. Let's go back a minute to what you were  
4 talking about with the Best kit. After you  
5 gathered those, what did you do with them  
6 next?

7 A. They're bagged, collected as evidence.  
8 We take them back to our office, label them  
9 and then -- the office is right beside the  
10 Evidence drop box where we place them into --  
11 it's a secure evidence storage where they are  
12 later submitted to the regional drug lab for  
13 analyses and testing.

14 Q. Okay. Before you put them into the Best  
15 kit, do you do anything else with them other  
16 than field test them?

17 A. We just label them, isolate the drug  
18 evidence in bags, and then the nondrug  
19 evidence in separate type bags.

20 SOLICITOR HOGAN: If you would allow  
21 me just a moment, Your Honor.

22 THE COURT: Okay.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR HOGAN:

25 Q. Do you -- before you turn the drugs in,

1 put them into the Best kit, do you weigh them?

2 A. Typically that's part of putting them in  
3 the P&E, property and evidence, sheet. We  
4 identify them either by a description of the  
5 bag or the substance that they are contained  
6 in. Sometimes by weight. In this case we  
7 totaled three bags that had methamphetamine in  
8 them, that contained methamphetamine. Those  
9 three bags, they were put in the Best kit that  
10 is there that identified -- the first item  
11 that you handed me. They contained -- we  
12 weighed it and it contained 7.5 grams of  
13 methamphetamine. That's including the bag  
14 weight.

15 Q. So the bag and the substance?

16 A. Correct.

17 SOLICITOR HOGAN: Your Honor, I  
18 believe that at this time we need to take  
19 something up outside the presence of the jury.

20 THE COURT: Okay. Madame Forelady,  
21 if you would, take your jury back to your jury  
22 room. We will get you back out in just a few  
23 minutes.

24 (JURY OUT @ 2:43 P.M.)

25 THE COURT: Yes, ma'am?

1                   SOLICITOR HOGAN: Your Honor, at this  
2     time I would like to be able to introduce  
3     Officer Robinson as an expert witness based  
4     on his training and experience as a law  
5     enforcement officer -- seventeen years in law  
6     enforcement -- as well as the numerous  
7     trainings that he has had in narcotics.  
8     I believe that he is qualified to be an expert  
9     and give his opinion as to what was found, as  
10    far as it being ---

11                  THE COURT: What would be the field  
12    of expertise?

13                  SOLICITOR HOGAN: I would say  
14    narcotics evaluation.

15                  THE COURT: All right.

16                  MR. WHITEN: I would object to that,  
17    Your Honor. The officer testified about his  
18    training, what he did, what his experience  
19    showed it to be. That is not an expert  
20    opinion at all. Cannot be an expert opinion  
21    because, as far as I know, there is no  
22    criteria for establishing a narcotics officer  
23    as an expert witness. I have never seen that.

24                  THE COURT: Well, I have a tendency  
25    to agree. You've got to have at least some

1 type of area that you find him -- to be  
2 subject to expertise. I understand that his  
3 education and experience in the field enables  
4 him to recognize certain things. But what  
5 area -- just drug? Tell me again what it is  
6 that you're ---

7 SOLICITOR HOGAN: I can title it  
8 differently. Drug packaging and distribution.  
9 I know that I have used a narcotics officer in  
10 a separate trial as an expert in dealing with  
11 street values, specifically. In this one it  
12 would be more to the packaging of narcotics,  
13 being able ---

14 THE COURT: Well, let's do this.  
15 If you would, how about give me some more  
16 background questioning about background and  
17 the packaging so that I can hear a little bit  
18 more about it. Please.

19 SOLICITOR HOGAN: Okay. Officer  
20 Robinson, can you explain a little bit the  
21 difference between someone who -- the  
22 packaging of a drug and what that would mean  
23 to you? How a drug would be packaged, what  
24 that tells you.

25 THE WITNESS: Typically when we

1 -- whether it's at a house, a search warrant,  
2 or we encounter somebody on the street, or on  
3 a drug buy, uh, somebody who is either  
4 trafficking or distributing large amounts of  
5 methamphetamine, whether you find drugs on  
6 them or not, if they're commonly selling or  
7 packaging for resell drugs, you're going to  
8 find bulk packaging.

9 If this person typically sells drugs  
10 in grams and half-gram weights, you are going  
11 to find bulk packaging that matches those  
12 amounts. Like, you're not going to find  
13 gallon Ziploc bags if somebody is selling  
14 grams.

15 However, if it is dealers that are  
16 selling -- if we have dealers that are going  
17 to sell ounces or pounds, you're not going to  
18 find gram weight packaging on them.

19 And, also, typically a user is going  
20 to have the bag that their drug came in right  
21 then. Usually you are not going to find a lot  
22 of packaging at all. Most of time any money  
23 or packaging that they have, the money is gone  
24 and the packaging is gone and -- if you find  
25 those on them, it's very small amounts. It is

1 usually either already ingested or already  
2 loaded to a pipe, so there is no packaging.

3 Like I say, specifically packaging  
4 of any kind of drug -- whether it is meth-  
5 amphetamine, marijuana, cocaine -- the larger  
6 the dealer, the more or larger packages that  
7 they have. And it is always relevant to the  
8 quantities that these persons may be packaging  
9 for resale or actually distributing.

10 So like I said, a person who is  
11 selling small amounts, grams, quarter grams,  
12 you're going to find bulk or usually a large  
13 quantity of small bags. Small bags, either  
14 corners of tie bags or sealable bags.

15 SOLICITOR HOGAN: I believe that  
16 would be his testimony.

17 MR. WHITEN: Your Honor, I object  
18 to qualifying the officer as an expert and  
19 allowing him to testify.

20 First of all, the first thing that  
21 he said when he was testifying just now is  
22 "typically." That doesn't mean that that  
23 passes the test.

24 Secondly, he's trying to say who  
25 was a user based on what was found out there.

1 That's a jury question to decide, not the  
2 officer's. He can't say that this person  
3 is a user because 'I found this.'

4 THE COURT: Just because it's an  
5 issue to be determined by the jury is not  
6 necessarily a basis to an objection. But I  
7 agree, Mr. Whiten. I don't think that is  
8 subject to expertise. I know it's the party's  
9 experience. But ultimately what you are  
10 trying to say is that she is a user versus a  
11 dealer. I am going to sustain that objection.

12 SOLICITOR HOGAN: Is he allowed to  
13 testify, based on his training and experience,  
14 how drugs are packaged?

15 THE COURT: Well, he has said that  
16 already. He's already testified that in his  
17 experience that users only have a little  
18 baggie with the drugs in it and no money.  
19 That dealers have multiple bags, money and  
20 scales. He's got that in. So he's already  
21 got that out.

22 SOLICITOR HOGAN: Okay.

23 THE COURT: Okay?

24 SOLICITOR HOGAN: Yes, sir.

25 THE COURT: Let's take about a

1 five-minute break.

2 SOLICITOR HOGAN: Thank you.

3 THE COURT: Be right back.

4 (BRIEF RECESS 2:51 - 2:54 P.M.)

5 (DEFENDANT PRESENT)

6 (OFF RECORD DISCUSSION ABOUT

7 UNPLUGGED MICROPHONE)

8 THE COURT: Ms. Hogan, are you  
9 ready to proceed?

10 SOLICITOR HOGAN: Yes, sir, Your  
11 Honor.

12 THE COURT: Mr. Whiten, are you  
13 ready to proceed?

14 MR. WHITEN: Yes, Your Honor.

15 THE COURT: Thank you. Bring the  
16 jury in, please, sir.

17 (JURY IN @ 2:55 P.M.)

18 THE COURT: Ladies and Gentlemen,  
19 my understanding is that there has been a  
20 request to get the air-conditioning cut up a  
21 little bit. We are handling that. Let me  
22 just tell you -- the Clerk has called it in.  
23 But I believe, if I am not mistaken, that the  
24 AC is controlled in Columbia or Charlotte, so  
25 it's going to take a little time. So if you

1 can figure the wisdom of that -- (laughter).

2 Anyway, he has no control over that. He's

3 looking into getting that taken care of.

4 Ms. Hogan.

5 SOLICITOR HOGAN: Thank you, Your

6 Honor.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR HOGAN:

9 Q. Officer Robinson, other than turning in

10 the evidence and the Best kit with what you

11 believed to be methamphetamine, other than

12 that did you have any other involvement in

13 this?

14 A. Other than documenting my report of the

15 findings at the residence, no.

16 SOLICITOR HOGAN: I have nothing

17 further at this time, Your Honor.

18 THE COURT: Mr. Whiten.

19 MR. WHITEN: May it please the

20 court?

21 THE COURT: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. WHITEN:

24 Q. Officer Robinson, the house, was it 95

25 Shirley Store Road?

1 A. 905 Shirley Store Road.

2 Q. Are you sure that it was Shirley Store  
3 Road?

4 A. Yes, sir.

5 Q. What time of day or night did you go out  
6 there?

7 A. 2:20 p.m.

8 Q. In the afternoon?

9 A. Yes, sir, 2:20.

10 Q. And were you alone or did someone else go  
11 with you to that address?

12 A. No, sir. There was a group of us, about  
13 five of us.

14 Q. How many people, how many officers went  
15 into the residence -- into the house?

16 A. Four, that I know of.

17 Q. Four?

18 A. Yes, sir.

19 Q. Let me make sure that I get the right --  
20 can you see that?

21 A. I can't see that screen. It's facing the  
22 jury box.

23 Q. Let me see if I can get it back on ---

24 A. Yes, sir.

25 Q. Is that the house?

1 A. Yes, sir.

2 Q. Or -- trailer?

3 A. It's a trailer/house. Yes, sir.

4 Q. And the door to this trailer is not even  
5 really a door, is it? It's a piece of wood?

6 A. It's a door, it opens and closes.

7 Q. But it not exactly a quality door, is it?

8 A. In my opinion, no.

9 Q. And it's got a little porch on it, a  
10 little pine porch on it?

11 A. Yes, sir.

12 Q. There was nobody outside on this  
13 particular -- was there anybody outside when  
14 y'all arrived?

15 A. Yes, sir.

16 Q. Were they near the trailer or were they  
17 backed away from the trailer?

18 A. They were over to the side. They were  
19 doing construction on some kind of outbuild-  
20 ing.

21 Q. Somebody was working there?

22 A. Yes, sir. Two males.

23 Q. Who was first in the house, in the  
24 residence as y'all went in?

25 A. There were four of us on the entry team.

1 Corporal Rusty Scoggins was the first in the  
2 door, I was the second in the door, then two  
3 other officers followed me in.

4 Q. When y'all got into this mobile home, was  
5 there anybody in there other than Loretta  
6 Branyon?

7 A. Yes, sir, there was a -- like I testified  
8 to earlier, there was a Simpson male inside  
9 the residence.

10 Q. A male named Simpson?

11 A. Yes, sir.

12 Q. Charles Simpson, is that right?

13 A. Yes, sir. They called him Chuck, I  
14 believe.

15 Q. Chuck Simpson?

16 A. (No verbal response).

17 Q. And when you entered the trailer, where  
18 was he?

19 A. Just inside the front door, just to the  
20 left of the front door in a small chair.

21 Q. In a small chair?

22 A. Yes, sir.

23 Q. Was he seated?

24 A. Yes, sir.

25 Q. He was seated?

1 A. He was originally seated. We had him go  
2 to the ground when we went in.

3 Q. But when you went in, he was seated in  
4 that small chair?

5 A. Yes, sir.

6 Q. And this mobile home that we are talking  
7 about, the room that you went into first, how  
8 large was that room?

9 A. It's not a large room. It's a single-wide  
10 trailer. I think the common -- I don't know  
11 the dimensions but they are commonly like  
12 fourteen foot.

13 Q. So very small?

14 A. It's a small area.

15 Q. From where Mr. Simpson seated, if he stood  
16 up would he be able to reach over there to the  
17 coffee table?

18 A. To the coffee table, he would.

19 Q. Okay. And the coffee table is beside the  
20 couch, right?

21 A. It's in front of the couch.

22 Q. Okay. And, uh, was any restraining taking  
23 place when you went in?

24 A. Yes, both were detained with cuffs.

25 Q. Okay. Right away?

1 A. Right away, as were the two outside until  
2 we identified them and made sure the evidence  
3 ---

4 Q. Did you knock on the door to go in or ---

5 A. We announced our law enforcement presence,  
6 as we were pulling up. Also, one of our  
7 vehicles activated the blue lights and also  
8 bumped the siren. Somebody on the PA says,  
9 "Sheriff's Office, law enforcement, search  
10 warrant."

11 Q. So whoever was in the mobile home would  
12 have heard you coming?

13 A. In my opinion they would have heard us.

14 Q. Okay. Weren't you going there in the  
15 first place to arrest Mr. Simpson?

16 A. No.

17 Q. You weren't?

18 A. No, sir.

19 Q. But he was there?

20 A. Yes, sir, he was there.

21 Q. And siren was blowing?

22 A. (No verbal response).

23 Q. And he was right there in the same area  
24 as Ms. Branyon when y'all went in?

25 A. Yes, sir, they were both in the living

1 room.

2 Q. And the pocketbook that you're talking  
3 about that was found was found -- or you saw  
4 it right beside the couch, as I understand;  
5 is that right?

6 A. Yes, sir. Right where she was seated.

7 Q. Okay. Let me show you this again, is  
8 this the couch that the pocketbook was found  
9 beside?

10 A. Yes, this was the couch.

11 Q. And the chair that Mr. Simpson was in is  
12 directly across from that?

13 A. Yes, it's not in that picture but it's  
14 across ---

15 Q. --- the room?

16 A. Yes, sir.

17 Q. About how far would you say that the couch  
18 was from the chair where he was seated?

19 A. When you open the front door, the chair  
20 that he was seated in was immediately to the  
21 left against the wall. There's a coffee table  
22 approximately in the middle of the room. The  
23 couch that Ms. Branyon was seated on was along  
24 the back wall, however much room that is.

25 Q. How much time passed from the time that

1 y'all blew the siren -- when you made noise

2 outside -- until you went in the trailer?

3 About how much time?

4 Q. I can't say but it was almost

5 instantaneous. We don't want to give them a

6 lot of notice but we want them to know that it

7 is law enforcement coming in, not somebody

8 coming to rob them.

9 Q. Some notice was given?

10 A. Some notice was given. As well, somebody

11 on the PA is announcing law enforcement

12 presence and when we come in the door we're

13 announcing "search warrant, law enforcement."

14 Q. All right. I think -- before I forget to

15 ask this question -- you said that you

16 weighed, that you did weigh what you took out

17 of there?

18 A. Yeah. Yes, sir.

19 Q. And it weighed 7.2 grams with the

20 envelopes it was in, is that correct?

21 A. To the best of recollection, 7.5 grams

22 with the envelopes.

23 Q. With the packaging?

24 A. Yes, sir.

25 Q. So it weighed less than that when the lab

1 weighed it?

2 A. They'd have to testify to that. It was  
3 weighed with the packaging weight.

4 Q. All right. On the coffee table, you said  
5 -- this is a picture of the coffee table?

6 A. Yes, sir.

7 Q. Did you testify that there was some  
8 residue on there or some use of that coffee  
9 table for drugs?

10 A. I testified that it appeared to have drug  
11 residue on the scales.

12 Q. On the scales?

13 A. Yes, sir.

14 Q. What about on the coffee table itself?

15 A. You can tell by that picture that there  
16 was so much stuff on that coffee table -- I  
17 testified that there was an ashtray offset in  
18 the corner, as I testified earlier, that has  
19 two of those pink baggies in it that were the  
20 same as we found drugs in that were in the  
21 pocketbook.

22 Q. Same as the ones in the pocketbook?

23 A. Yes, sir.

24 Q. So if somebody was using meth on the  
25 coffee table, it obviously would have come

1 from -- could have come from that pink bag?

2 A. Could have.

3 Q. If Ms. Branyon was using, it could have  
4 come from that pink bag?

5 A. Yes, sir, it could have.

6 Q. On the scale itself, you said that there  
7 was what appeared to be residue on the scale.  
8 Was that spot of residue analyzed by the lab?

9 A. No.

10 Q. It was not?

11 A. No.

12 Q. So we don't know for sure that that was  
13 residue on the scales?

14 A. I can't say for sure.

15 Q. You said that as far as the scales that  
16 there might have been a spot on there, but we  
17 don't know for sure -- you can't say that it  
18 was.

19 A. Right.

20 Q. The rest of the meth that you found, as I  
21 understand it, was in the bags inside the pink  
22 bag; is that correct? If that is not correct,  
23 tell me.

24 A. Inside a pink and black bag inside the  
25 pocketbook. Yes, sir.

1 Q. It was all in there?

2 A. Yes, sir.

3 Q. Nothing -- no other residue evident in  
4 the apartment, the trailer, that you know of?

5 A. No, sir.

6 Q. But you did find a pink bag on the table  
7 -- on the coffee table, as you said?

8 A. On the coffee table, in the ashtray, as  
9 well as in other spots on the couch and in the  
10 bedroom, as I just testified.

11 Q. Let's talk about this picture. If you  
12 could just look at it for a minute.

13 A. Okay.

14 Q. How far is the bedroom from the living  
15 room?

16 A. Like I said, I don't know the exact  
17 dimensions of that trailer. It's an older  
18 single-wide trailer. The living room when you  
19 come in the front door, that was in that first  
20 picture that we put up there, the living room  
21 is immediately inside that door. The bedroom  
22 is all the way at the end of -- the very last  
23 thing in the trailer, on the left. I mean,  
24 you have to go through a kitchen, down a small  
25 hallway and then into that bedroom, on the

1 left.

2 Q. So several feet?

3 A. Yes, more than ten.

4 Q. The pipes that we are looking at here were  
5 found in the bedroom?

6 A. Yes, sir.

7 Q. Not in the living room? In the bedroom?

8 A. Yes, sir.

9 Q. Okay. Did you determine whose bedroom  
10 that was?

11 A. Not exactly. I mean, Loretta Branyon's  
12 stuff was in there, that had her name listed  
13 on it, that's in some of those photographs.

14 Q. Okay.

15 A. There were personal clothes in there and  
16 other items.

17 Q. So that was her bedroom?

18 A. I feel that that was her bedroom.

19 Q. And that's where the pipes were that  
20 smoke, uh, -- that you smokes meth from?

21 A. Yes, sir.

22 Q. Laying on her bed?

23 A. (No verbal response).

24 Q. Did you move them off the bed? Or was  
25 that where they were?

1 A. No, there's a chest-of-drawers in it. We  
2 searched through all of those and that bag was  
3 located on top of that chest-of-drawers. There  
4 is not that much room -- there was a lot of  
5 stuff in the house, there was stuff piled  
6 everywhere, and there was a path about that  
7 wide between the bed and the chest-of-drawers.

8 Q. So the pipes were in there and one or two  
9 of these pink baggies were in there too?

10 A. That one pink bag. Yes, sir.

11 Q. One?

12 A. Yes, sir.

13 Q. Other than Loretta Branyon's clothing and  
14 items in that bedroom, did you find any other  
15 items? Any mail or -- anybody else's things  
16 that might have been in that bedroom?

17 A. Not in that bedroom; no, sir.

18 Q. Okay. What about the other bedroom? Was  
19 there another bedroom?

20 A. I was just going to say that we found some  
21 mail attached (sic) to her. We photographed  
22 some of the bills in the living room that were  
23 attached (sic) to her, but not in the bedroom.

24 Q. Okay. Is there a photograph?

25 A. There's a photograph there in front of you

1     that's a bill for water and sewer service,  
2     addressed to that address with her name.

3     Q.   That's where the bill was found?

4     A.   In the living room; yes, sir.

5     Q.   Was there anything addressed to her in her  
6     bedroom?

7     A.   Not of evidentiary value; no, sir.

8     Q.   It's fair to say, Officer Robinson, that  
9     if somebody did do meth that they could have  
10    used it from this package that was open; would  
11    that be a fair statement?

12    A.   Yes, sir.

13    Q.   You found that in the living room?

14    A.   Yes, sir.

15    Q.   Did you bring the meth up here with you?  
16    Is it somewhere?

17    A.   The evidence technician brought it here  
18    today.

19    Q.   Is this it?

20    A.   Yes, sir.

21    Q.   State's Exhibit 5, is that ---

22    A.   Yes, sir.

23    Q.   Is that all of it?

24    A.   Yes, sir.

25    Q.   This is all that you took from the house?

1 A. Yes, sir.

2 Q. And how many bags were there, little bags?

3 Do you know?

4 A. We took five bags, total, that had meth  
5 residue in them. I can't say how many bags  
6 are in there now. It looks like some bags are  
7 labeled ---

8 Q. And in the bags -- one of the bags  
9 contained some blocks?

10 A. Sorry?

11 Q. One of the bags contained meth in block  
12 form, is that right?

13 A. I would call it crystal or shard form.

14 Q. Like glass, crystal?

15 A. Yes, sir.

16 Q. Do you know how much that weighed by  
17 itself?

18 A. No, sir, not separately by itself.

19 Q. The other bags, did they have any kinds of  
20 shards in them or was it powder or residue?

21 A. There was a pink bag that I pointed out  
22 earlier, that along the bottom edge of the bag  
23 -- it's in that stack of photos, and I could  
24 find it for you if you like. It does have a  
25 quantity of methamphetamine in it.

1 Q. Does ---

2 A. There are actually two of them that have  
3 test kits. These are two separate pink bags.  
4 As you can see, they both have shards of  
5 product in those. Of course, I say that they  
6 were all found together and tested for  
7 methamphetamine. This back bag has a little  
8 bit more in it than the front bag. So that's  
9 three bags, total.

10 Q. Three bags, total?

11 A. (No verbal response).

12 Q. Crystal meth?

13 A. Yes, sir.

14 Q. Glass shards meth?

15 A. Yes, sir.

16 Q. Was there any other bag that contained  
17 this kind of meth?

18 A. We had those two others that just had a  
19 residue, tiny particles of that amount; yes,  
20 sir. There was a total of five bags.

21 Q. And they're all in that package right  
22 there?

23 A. Yes, sir, it should be.

24 Q. When you got into the mobile home, Officer  
25 Robinson, was that pocketbook open, the black

1 one?

2 A. No, sir, it was not open.

3 Q. Not open?

4 A. No, sir. There's a photograph of it in  
5 the state that we found it, and then there is  
6 a photograph of it when it is opened and the  
7 contents are laid out; in the individual  
8 photos that we laid out.

9 Q. So you opened it?

10 A. Yes, sir.

11 Q. The one that I'm talking about is the one  
12 that's beside the couch.

13 A. Yes, sir.

14 Q. You opened it?

15 A. Yes, sir.

16 A. Yes, sir, I opened that. As you can see,  
17 some of the side pockets of the bag, you can  
18 see my hand in the photo when I'm opening the  
19 bag and taking pictures -- from inside, from  
20 the outside looking in.

21 Q. Did Mr. Simpson -- did someone question  
22 him about why he was there?

23 A. Yeah. We separated him and Ms. Branyon  
24 and discussed, talked to both of them. I  
25 wasn't personally present for that. He was

1 taken outside and I remained inside.

2 Q. Did you determine if he stayed there,  
3 actually lived there with Ms. Branyon?

4 A. I believe that there was an understanding  
5 that he -- that he stayed at the residence.

6 Q. With Ms. Branyon?

7 A. Yes.

8 Q. He wasn't charged with anything that day?

9 A. No, sir.

10 Q. Though he was staying with her?

11 A. Yes, sir.

12 Q. How old was Mr. Simpson, if you know?

13 A. I don't recall his date of birth but he's  
14 -- he's a little younger than her.

15 Q. He's younger than Ms. Branyon?

16 A. Yes, sir.

17 Q. I suppose that he denied owning the meth?

18 A. I didn't specifically question him.

19 Q. Okay. But he was not arrested?

20 A. He was not arrested, was not charged.

21 Q. But he lived there, in this small mobile  
22 home?

23 A. Exactly.

24 Q. Seated in that room where the methampheta-  
25 mine was found?

1 A. Exactly.

2 Q. Who was the target of the investigation.

3 SOLICITOR HOGAN: Your Honor, may we  
4 approach?

5 THE COURT: Yes, ma'am.

6 SIDEBAR:

7 SOLICITOR HOGAN: I think that  
8 we need to take up a couple of things outside  
9 the presence of the jury. I mean, he's opened  
10 the door as to the target of the investiga-  
11 tion. That's not what the affidavit was  
12 about, or the search warrant. He's putting  
13 in that there was this other person when the  
14 target of the investigation was the defendant.

15 THE COURT: What did he said?

16 SOLICITOR HOGAN: He talked  
17 about Charles Simpson. He was not the target  
18 of the investigation.

19 THE COURT: All right.

20 (SIDEBAR CONCLUDED)

21 THE COURT: Madame Forelady, Ladies  
22 and Gentlemen of the jury, this actually is a  
23 good time to take our afternoon break. We  
24 have some matters to take up out of your  
25 presence. If you would, go back and relax a

1 couple of minutes. If you need anything, just  
2 ask one of the bailiffs. We'll have you back  
3 in just a little bit.

4 (JURY OUT @ 3:19 P.M.)

5 THE COURT: I will be glad to hear  
6 from you.

7 SOLICITOR HOGAN: Your Honor, if it  
8 pleases the court, Mr. Whiten specifically  
9 asked Officer Robinson who the target of the  
10 investigation was. We'd agreed that we  
11 weren't going to go into that. I believe that  
12 the basis of the search warrant was the  
13 investigation of Ms. Branyon as far they used  
14 a CI to buy form her.

15 I wasn't planning on going into that,  
16 but I do think that he opened the door as to  
17 who the actual target of the investigation  
18 was.

19 Ms. Branyon was the actual target  
20 of the investigation, based on that search  
21 warrant.

22 So I believe that I should be allowed  
23 to ask that question of Officer Robinson since  
24 he opened the door.

25 THE COURT: Well, is your intent to

1 ask the question as to the target as opposed  
2 to bringing in the language that you were --  
3 that he was concerned about in the affidavit?

4 SOLICITOR HOGAN: Right. I am not  
5 going to bring in the affidavit. Just to the  
6 actual part about -- I think that he opened  
7 the door. I did not ask that question but I  
8 specifically would like to be allowed to ask  
9 that specific question.

10 THE COURT: Mr. Whiten?

11 MR. WHITEN: The search warrant does  
12 not mention who it is for. It mentions an  
13 address only. This is the search warrant,  
14 (tendering). It does not say that the search  
15 warrant was for Loretta Branyon. It says the  
16 address, and that's -- both of them lived  
17 there.

18 THE COURT: I'm not -- say that  
19 again, please?

20 MR. WHITEN: The search warrant  
21 affidavit does not mention any names. It  
22 mentions/states the address only.

23 THE COURT: Oh, I see what you're  
24 saying. Who was the one that got the search  
25 warrant? This officer?

1 MR. WHITEN: Both of them lived  
2 there.

3 THE COURT: I am going to allow you  
4 to ask the question of the identity of the  
5 target.

6 I think that the door is opened up  
7 for you to ask that question, but I don't want  
8 you going into the language in the affidavit.

9 SOLICITOR HOGAN: No, sir, I have no  
10 intent of doing that, Judge. Just asking him  
11 who the target of the investigation was.

12 THE COURT: What I am saying, Mr.  
13 Whiten, is that she can ask the question as to  
14 the identity of the person that they were  
15 targeting with their search, but that's all  
16 that she can do.

17 MR. WHITEN: I have to object ---

18 THE COURT: I understand.

19 MR. WHITEN: --- to that because the  
20 search warrant only gives the address, and  
21 does not mention the name.

22 THE COURT: Right.

23 MR. WHITEN: I don't think that it  
24 could allow for anything other than why they  
25 were searching the residence, whoever lived

1       there; according to the search warrant.

2               THE COURT:     I note your objection.

3       The thing is that you did ask the question, so

4       I think that it is an appropriate response.

5               SOLICITOR HOGAN:   Thank you, Your

6       Honor.

7               THE COURT:     Anything further?

8               SOLICITOR HOGAN:   Are we going to

9       take a ten-minute break?

10              THE COURT:     Yeah.   Anything further

11       from the State?

12              SOLICITOR HOGAN:   Nothing further,

13       Your Honor.

14              THE COURT:     Anything further, Mr.

15       Whiten?

16              MR. WHITEN:    Nothing other than my

17       objection to the question.

18              THE COURT:     I know.   You're

19       protected on the record.   All right, we will

20       take about a ten-minute break.   You can't talk

21       to anybody.

22              THE WITNESS:     Yes, sir.

23              (BRIEF RECESS 2:51 - 2:54 P.M.)

24              (DEFENDANT PRESENT)

25              THE COURT:     All right, is the State

1 ready to proceed?

2 SOLICITOR HOGAN: Yes, sir, Your  
3 Honor.

4 THE COURT: Mr. Whiten, is the  
5 defense ready to proceed?

6 MR. WHITEN: Your Honor, I renew my  
7 objection about the question about the target.

8 THE COURT: I'm sorry, I missed  
9 what you were saying.

10 MR. WHITEN: I renew my objection  
11 about the ---

12 THE COURT: I don't believe that  
13 you need to do that. You're protected on the  
14 record. I understand the basis of it. But  
15 you are protected.

16 MR. WHITEN: Yes, sir.

17 THE COURT: Would you bring the  
18 jury in, please?

19 (JURY IN @ 2:55 P.M.)

20 THE COURT: Ms. Hogan.

21 SOLICITOR HOGAN: Your Honor, if it  
22 may please the court, ---

23 THE COURT: Yes, ma'am.

24 REDIRECT EXAMINATION

25 BY SOLICITOR HOGAN:

1 Q. Officer Robinson, I'm going to show you --  
2 do you recognize this picture?

3 A. I do.

4 Q. Is the purse in that picture open or  
5 closed?

6 Q. The main top part is closed. There is a  
7 zipper right here on the side that is open.

8 Q. Is that how you found the purse when you  
9 walked into the house?

10 A. The photograph in that picture of that  
11 pocketbook is before I physically picked it  
12 up and laid it on the couch.

13 Q. So the main part was zipped closed?

14 A. Yes.

15 Q. Did it appear when you walked in that  
16 anyone was currently using any type of drug,  
17 when you walked in?

18 A. You mean currently using it?

19 Q. Right.

20 A. No, ma'am.

21 Q. And all the pipes that were used to smoke  
22 methamphetamine were found in the back  
23 bedroom?

24 A. Yes, ma'am.

25 Q. Not in the living room?

1 A. Correct.

2 Q. With the purse that had the drugs, the  
3 scales and the money in it?

4 A. And her ID, correct.

5 Q. And last question, who was the actual  
6 target of your investigation that day?

7 A. During this case the known actual target,  
8 on the basis of our investigation, was Loretta  
9 Branyon. However, we were armed with  
10 information that there was a white male living  
11 there. But we did not have him positively  
12 identified at the time that I obtained the  
13 search warrant.

14 SOLICITOR HOGAN: Nothing further,  
15 Your Honor.

16 THE COURT: Any recross?

17 RECROSS EXAMINATION

18 BY MR. WHITEN:

19 Q. Could you just repeat that last answer?

20 A. The target of the investigation at the  
21 time that I obtained the search warrant all  
22 the way up to the -- I obtained the search  
23 warrant on January 6<sup>th</sup>, 2011. We executed the  
24 search warrant on January 13<sup>th</sup>.

25 From the time the search warrant was

1     obtained and the investigation was officially  
2     underway, the specific target was Loretta  
3     Branyon, who is seated here in the courtroom.

4             However, we did have information through  
5     our investigation that there was a younger  
6     white male living there. We did not have him  
7     positively identified. We had rode by there  
8     several times and ran tags. We couldn't find  
9     anything that we thought may match him. We  
10    also did not know his capacity at the  
11    residence. We did not know if he was a  
12    brother, a son, a boyfriend, a spouse,  
13    whatever.

14    Q.    So you just knew that he was a younger  
15    white male and he was suspicious?

16    A.    I knew that he resided at the residence.

17             MR. WHITEN:   That's all. Thank you.

18             THE COURT:    May this officer be  
19    excused?

20             SOLICITOR HOGAN:   Yes, sir, Your  
21    Honor.

22             THE COURT:    Any objections? Mr.  
23    White, any objection?

24             MR. WHITEN:    No objection, Your  
25    Honor.

1 Meredith Lanford to the stand.

2 (WITNESS TAKES STAND)

3 MEREDITH LANFORD, being duly sworn  
4 to tell the truth, the whole truth and nothing  
5 but the truth, testified, as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR HOGAN:

8 Q. Ms. Lanford, what is your occupation?

9 A. I am a forensic chemist with the Anderson  
10 Oconee Regional Forensics Laboratory.

11 Q. How long have you been a forensic chemist  
12 in the forensics lab?

13 A. A little over six and a half years.

14 Q. And what position do you hold?

15 A. I am a forensic chemist.

16 Q. How long have you worked in that position?

17 A. Six and a half years.

18 Q. And what are your duties with the Anderson-  
19 Oconee Regional Forensics Lab?

20 A. My primary job function is analyze  
21 evidence that is brought to our laboratory  
22 for controlled substances.

23 Q. What type of training did you have to  
24 qualify for your position as a forensic  
25 chemist?

1 MR. WHITEN: We will stipulate her  
2 qualifications, Your Honor.

3 THE COURT: Qualifications in what  
4 field? Forensic examination of drugs?

5 SOLICITOR HOGAN: Yes, sir.

6 THE COURT: Is that?

7 MR. WHITEN: Yes, sir.

8 THE COURT: Okay. Just one second.  
9 Ladies and Gentlemen of the jury, normally a  
10 witness is not allowed to give their opinion.  
11 They are limited to testifying about things  
12 that they've seen, that they've heard, they've  
13 smelled -- basically your senses. However,  
14 because of her education and experience, the  
15 combination, a person may become certified in  
16 a certain area. If their expertise may help  
17 you, the finder of fact, you may listen to the  
18 evidence and they'll be allowed to give their  
19 opinion. In this case it's been stipulated to  
20 that Ms. Lanford is an expert in the field of  
21 forensic chemical analyses. She will be  
22 allowed to give her opinion in that area. Her  
23 opinion is like any other testimony in this  
24 case. You may accept it, you may reject it,  
25 or you may do with it what you think is

1 appropriate. Ms. Hogan.

2 SOLICITOR HOGAN: Your Honor, if it  
3 may please the court.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR HOGAN:

6 Q. Ms. Lanford, have you had the occasion to  
7 chemically analyze substances to determine  
8 whether a substance is or contains a narcotic  
9 type drug?

10 A. Yes, I have.

11 Q. Okay. How many times?

12 A. Well over five thousand.

13 Q. And have you had an occasion to analyze  
14 substances to determine whether it is or is  
15 not methamphetamine?

16 A. Yes, I have.

17 Q. How many times would you say?

18 A. I believe well over a thousand.

19 Q. How many methamphetamine cases do you get  
20 in a week?

21 A. In any given week, probably about --  
22 between twenty and thirty.

23 Q. Based on your past experience and  
24 education, do you have an opinion as to what  
25 -- well, let me show you what has been marked

1 as State's Exhibit 5. Based on your training  
2 and experience, do you have an opinion as to  
3 what that substance is?

4 A. Yes, I do.

5 Q. How can you identify it?

6 A. This actually has -- this is what's known  
7 as our Best kit system. This bag inside is  
8 what the officers put any kind of controlled  
9 substance in. They put it in, then sealed it.

10 The evidence department brings this sealed  
11 bag to us. Then this outer bag right here is  
12 what I repackage it in. I put our lab  
13 stickers identifying with our lab number and  
14 case number.

15 Q. When did you mark that into evidence?

16 A. This exhibit was marked on January 27<sup>th</sup>,  
17 2011.

18 Q. Is that the date that y'all would have  
19 received that exhibit?

20 A. Yes, it is.

21 Q. And where did you receive the exhibit  
22 from?

23 A. I received it from Belinda Lee in our  
24 laboratory.

25 Q. Is this exhibit in the same or

1 substantially the same condition now that it  
2 was when it first was received by your office,  
3 other than being analyzed?

4 A. Yes, it is.

5 Q. For what purpose did the exhibit come into  
6 your possession?

7 A. In order to determine if any controlled  
8 substances were present.

9 Q. And when did you contact the analyses of  
10 the contents?

11 A. I conducted the analysis on February 24<sup>th</sup>,  
12 2011.

13 SOLICITOR HOGAN: At this time the  
14 State would like to enter Court's Exhibit 5  
15 into evidence, Your Honor.

16 THE COURT: Any objection?

17 MR. WHITEN: No objection.

18 THE COURT: Admitted without  
19 objection.

20 (SO ENTERED AS STATE'S EXHIBIT 5)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR HOGAN:

23 Q. Ms. Lanford, what tests did you conduct  
24 when you were testing this substance?

25 A. The first part of my analysis is to remove

1 the substance from any packaging and take the  
2 initial weight of the substance itself. I  
3 then perform two screening tests to help me  
4 narrow down what type of controlled substance  
5 that may be present. Then I perform two  
6 confirmatory tests in order to identify what  
7 controlled substance is present, if any is  
8 present at all.

9 Q. From this evidence, were you able to form  
10 any opinion as to what the evidence that was  
11 provided to you contained?

12 A. Yes, I was able to.

13 Q. What is your opinion as to what the  
14 substance was?

15 A. There were five baggies in this particular  
16 evidence. All of them were found to have  
17 methamphetamine.

18 Q. If you don't mind, I'm going to ask you  
19 to open this bag and take out each individual  
20 baggie for me.

21 A. (Complies).

22 Q. If you could, describe those individual  
23 baggies, the weight of what each individual  
24 baggie was and how you received it.

25 A. These first two bags, the officer had

1 placed these two bags in the sealed evidence  
2 bag, labeled A and B.

3 This pink bag was the first item that I  
4 tested and it contained 1.43 grams of meth-  
5 amphetamine. I always label what the lab  
6 number and the item number is that I give it  
7 with my initials.

8 This second bag was the second item that  
9 I tested. It was found to have 4.42 grams of  
10 methamphetamine in it.

11 Then I actually placed these two bags in  
12 this outer bag, our bag, just to keep them  
13 separate.

14 All right, this was -- this was the second  
15 item that I tested, which was in this sealed  
16 evidence bag labeled "C" by the officer. It  
17 contained this small pink Ziploc baggie, which  
18 I found to be 2.4 grams of methamphetamine.  
19 Again, I placed it in my own clear plastic  
20 bag.

21 Then the last two items were actually  
22 sealed up in this bag by the officer, labeled  
23 "D." It was a small amount. This bag was said  
24 to have 0.02 grams of methamphetamine.

25 Then this last bag here contained 0.07

1 grams of methamphetamine.

2 So the total weight of all of these was  
3 6.18 grams of methamphetamine.

4 SOLICITOR HOGAN: No further  
5 questions from the State at this time.

6 THE COURT: Cross-examination?

7 MR. WHITEN: If it please the court.

8 CROSS EXAMINATION

9 BY MR. WHITEN:

10 Q. Could you show me that 4.42 gram bag,  
11 please? Not me -- show it to the jury.

12 A. (Displaying before jury).

13 Q. Okay. And just show them the other four,  
14 too, one at a time.

15 A. Okay.

16 THE COURT: Do you need her to step  
17 down?

18 MR. WHITEN: Yes.

19 THE COURT: Okay.

20 CROSS EXAMINATION CONTINUED

21 BY MR. WHITEN:

22 Q. Just take them all out and show them all.

23 A. (Displaying before jury).

24 Q. Thank you.

25 MR. WHITEN: That's all the

1 questions that I have.

2 THE COURT: Any redirect?

3 SOLICITOR HOGAN: No, sir, Your  
4 Honor.

5 THE COURT: May Ms. Lanford be  
6 excused?

7 SOLICITOR HOGAN: Yes, sir.

8 THE COURT: Any objection?

9 MR. WHITEN: Yes, Your Honor.  
10 No objection.

11 THE COURT: You may be excused.

12 (WITNESS STEPS DOWN)

13 THE COURT: Would you call your  
14 next witness, please, ma'am?

15 SOLICITOR HOGAN: Your Honor, if it  
16 pleases the court, may we approach?

17 THE COURT: Yes, ma'am.

18 (OFF RECORD BENCH CONFERENCE)

19 SOLICITOR HOGAN: Your Honor, at this  
20 point the State rests.

21 THE COURT: All right. Ladies and  
22 Gentlemen, the State has indicated that it  
23 rests. What that means is, in layman's terms,  
24 that they have presented all that they are  
25 going to present in their case in chief.

1 Your Honor.

2 THE COURT: Are you ready to  
3 proceed?

4 SOLICITOR HOGAN: Yes, sir.

5 MR. WHITEN: Yes, Your Honor.

6 THE COURT: Bring in the jury,  
7 please, if you would.

8 (JURY IN @ 9:52 A.M.)

9 THE COURT: Good morning. Bailiff,  
10 if you would, don't let anybody leave or enter  
11 the courtroom during my charge or the closing  
12 arguments by the attorneys.

13 Ladies and Gentlemen of the jury,  
14 thank you for your patience. I know that  
15 sometimes when you're sitting back there in  
16 that back room -- and, believe it or not,  
17 I've done it myself -- you wonder what is  
18 going on here. Let me just rest you assured  
19 that we have been working, have been since  
20 earlier this morning.

21 At this point where we are in the  
22 stage of the trial -- remember, I told you  
23 that there were five phases in all cases:  
24 opening statement, presentation of the  
25 evidence, and -- and we've finished the

1 presentation of the evidence phase. Okay?

2 Normally what we would be doing is having

3 closing statements by the attorneys.

4 I've given the attorneys the option

5 -- and I'm going to inverse that. What I am

6 going to do is, I'm going to charge you on the

7 law and then the attorneys will come back and

8 give you their closing statement.

9 Then we will have a quick meeting

10 with the attorneys and litigants, and then you

11 will be allowed to begin your deliberations.

12 Okay?

13 Just to let you know where we are.

14 Now, Ladies and Gentlemen, before

15 we go any further with my charge of the law,

16 let me just tell you that I am not nearly as

17 eloquent as these attorneys are; so

18 unfortunately, portions of it will be read to

19 you. I put people to sleep on a regular

20 basis. I apologize to you in advance. But

21 it's important that I go over all these

22 elements because they are very critical.

23 I am going to give you a break after

24 my charge to stand up and move around, so

25 hopefully I won't bore you too bad.

1           That being said, my instructions will  
2     be in three phases. The first part are the  
3     rules that define and control your duties as  
4     jurors. The second aspect will be the  
5     substantive law that you will apply to the  
6     charges in this case. The third will be some  
7     rules that define and control your delibera-  
8     tions. I will give you a clear indication  
9     where we are in those charges.

10           Now, as I told you at the beginning  
11    of this case, it is your duty to find the  
12    facts. You are the finders of the facts. You  
13    do that from the evidence that has been  
14    presented here in the courtroom, and no other.

15           Those facts as you find them to be,  
16    it is your job to apply the law as I give it  
17    to you now. You should not be concerned and  
18    you shall not be concerned with what you want  
19    the law to be or what you think that it should  
20    be. It is your duty to apply the law as I  
21    give it to you.

22           Also, in performing your duties as  
23    fact finders, you should not be influenced by  
24    any personal likes or dislikes, any opinions  
25    or any undue sympathy that you may have for

1 one side of this case or the other. That  
2 means that you decide this case solely on the  
3 facts presented here in this courtroom and  
4 from the law as I give it to you, uninfluenced  
5 by any other factors. Now, that is the oath  
6 that you took at the beginning of this case to  
7 do just that.

8 Now, in following my instructions  
9 this morning, you can't do what so many people  
10 like to do, to pick out some of the  
11 instructions that you like and follow those  
12 but disregard some of the other instructions  
13 that you may not like as much. They are all  
14 equally important.

15 Also, Ladies and Gentlemen, if I've  
16 said anything during the course of this trial  
17 to indicate to you that I have feelings one  
18 way or the other of how you're to find the  
19 facts in this case, I am going to ask that you  
20 disregard that. I can assure you that I have  
21 no feelings the one way or the other. That is  
22 entirely your prerogative as to how you want  
23 to find the facts in this matter. You and you  
24 alone are the judges of the facts.

25 Now, in determining what the facts

1 are, you must evaluate and weigh the evidence  
2 that you've heard during this case. I can't  
3 give you a set of scales to place the evidence  
4 on so that it would weigh up. Weighing the  
5 evidence is entirely a mental process that you  
6 use, that you follow using your good sense,  
7 your sense of logic and the common sense that  
8 you brought into the courtroom with you today.

9 That being said, there are certain  
10 things that are going to consider as evidence,  
11 that you can consider as evidence, and other  
12 things that you consider as helpful but which  
13 is not technically evidence.

14 Number one, the sworn testimony of  
15 witnesses here in this courtroom is evidence.  
16 It doesn't matter whether it was on direct  
17 examination or the cross examination. That  
18 is evidence. If they got up on the witness  
19 stand, raised their hand, they were sworn,  
20 they took an oath and they testified, that  
21 is evidence.

22 Also exhibits that I allowed into  
23 evidence is evidence.

24 So far, Ladies and Gentlemen, in this  
25 case that is the only legal evidence that is

1 before you in this matter. So that leads us  
2 to the consideration of what is not evidence.

3 Now, what these attorneys say -- they  
4 are fine attorneys. What they say in their  
5 arguments and their comments to you is  
6 designed to help you understand the case, it  
7 is designed to help you understand the issues  
8 involved in this matter, and to help guide you  
9 through these facts. But they are not up on  
10 the stand, they have not taken the oath, they  
11 are not witnesses. So what they said in their  
12 opening statements, what they said during  
13 their comments in this trial and what they are  
14 about to say to you in a few minutes is not  
15 legal evidence. It is designed to help you  
16 understand the case but if your memory of what  
17 transpired in this courtroom, by way of  
18 evidence, differs from what they tell you that  
19 it is, then your memory will control over  
20 that.

21 Also, again Ladies and Gentlemen,  
22 objections are made in every single case.  
23 Sometimes that can be maddening where a jury  
24 has to get up and walk out, get up and walk  
25 out. But the fact that someone objected, or

1 to the extent that I let you stay in here and  
2 listen to my ruling on the objection, is not  
3 to be considered by you. It would be improper  
4 for you to even discuss or consider the fact  
5 that either one of these lawyers objected or  
6 that I ruled on that objection in your  
7 presence. That is just not simply for you to  
8 consider. That is part of the process.

9 Finally, Ladies and Gentlemen, what  
10 is not evidence is things that you may have  
11 heard when court is not in session. Things in  
12 the hallway, things at home, or heard during  
13 lunch is not evidence. Only evidence produced  
14 here in this courtroom is something that you  
15 may consider.

16 In South Carolina we have two types  
17 of evidence that is recognized. They are very  
18 straightforward. We have direct evidence and  
19 we have circumstantial evidence.

20 Direct evidence is pretty much what  
21 is says. It's the testimony of a person who  
22 asserts to have actual knowledge or direct  
23 knowledge of a fact, such as an eyewitness.

24 Circumstantial evidence is a little  
25 more difficult. It's proof of a chain of

1 facts and circumstances from which you can  
2 find that another fact exists, although that  
3 fact has not been proved directly.

4           So that that doesn't confuse you, let  
5 me give you examples. If all of you go to bed  
6 at night and you had snow in your front yard,  
7 if you wake up in the morning and there would  
8 tracks in that snow, you may reasonably infer  
9 that someone or some thing walked through your  
10 yard in the night and made tracks in the snow,  
11 although you did not see that person or thing  
12 walk through your yard. That is circumstantial  
13 evidence.

14           Now, in South Carolina we make  
15 absolutely no distinction between the weight  
16 or the value that you can give either direct  
17 or circumstantial evidence. You are entitled  
18 and you may consider both types of evidence.  
19 The only thing that you are not allowed to do  
20 when you're considering circumstantial  
21 evidence is to engage in speculative facts;  
22 i.e., that the inferences would lead you to  
23 only mere speculation. If you were to do  
24 that, that would be improper.

25           But if after weighing all the

1 evidence in this case, whether direct or  
2 circumstantial evidence, if you are not  
3 convinced of this defendant's guilt beyond a  
4 reasonable doubt, it will be your duty to find  
5 her not guilty.

6 Now, in every single case, when  
7 deciding what the facts are, all juries must  
8 consider which testimony that they want to  
9 believe and which testimony that they don't  
10 want to believe. We call that the credibility  
11 of the witnesses. You as the jury have the  
12 right to disbelieve all or part of any  
13 witness' testimony, you have a right to  
14 believe all of any witness' testimony.

15 Now, in making this decision a  
16 witness' credibility, you can -- but you are  
17 not required -- to take into accounts several  
18 factors, and let me indicate those to you:

19 You can determine for yourself  
20 whether the witness was able to see or hear  
21 or know about the things about which they  
22 testified.

23 How well that witness was able to  
24 recall and describe the things about which  
25 they testified?

1           What was the witness' manner on the  
2       witness stand while they were testifying, or  
3       what we commonly refer to as what was their  
4       demeanor?

5           Is there some reason that a witness  
6       would want to give testimony that would help  
7       or hurt one side or the other, and did that  
8       witness have an interest in the outcome of  
9       this case or do they have any bias or  
10      prejudice for one party or matter in this  
11      matter, against the other, -- excuse me. Do  
12      they have any bias or prejudice concerning any  
13      party or any matter or issue involved in this  
14      case?

15          You may ask yourselves how reasonable  
16      that witness' testimony was considered in the  
17      light of all the evidence that's been  
18      presented.

19          You can consider whether their  
20      testimony had been contradicted by what they  
21      said or had done at another time, or by other  
22      evidence that's been presented in this case,  
23      or other testimony that has been presented.

24          Now, Ladies and Gentlemen, those are  
25      some but not all of the factors that you may

1 consider when you go through the analysis of  
2 witness credibility.

3 As a jury, you do not check your  
4 common sense at the door when you're sworn in,  
5 and you should not in this case. So when  
6 you're going through your evaluation of  
7 witness credibility, you should use those  
8 things that in your day to day lives are  
9 indicative of truthfulness and indicative of  
10 lack of truthfulness when you make this  
11 decision of the credibility of witnesses.

12 One thing that you do not do,  
13 however, is add up the number of witnesses  
14 that may have testified for one side or the  
15 other in making a determination of  
16 credibility. It doesn't matter to you if a  
17 witness was for the State or for the defense.  
18 It doesn't matter if the information came from  
19 direct examination or from cross examination.  
20 All you are concerned about is making sure  
21 that justice is served and that justice is  
22 done.

23 Now, Ladies and Gentlemen, in this  
24 case you've heard testimony from persons who  
25 are described as experts. As I told you

1 earlier in this case, normally people are not  
2 allowed to give their opinions in the  
3 courtroom. However, because somebody's  
4 education or experience, or a combination of  
5 those, they may be qualified in a particular  
6 field and be allowed to give their opinion in  
7 that particular field. Expert testimony is no  
8 different from any other testimony that you  
9 hear in this case. You may accept it, you may  
10 reject it, give it as much weight as you think  
11 that it deserves considering the witness'  
12 education, their experience and their reasons  
13 given for their opinion as well as all the  
14 other evidence presented in this case.

15 Now, Ladies and Gentlemen, I remind  
16 you again that the fact that this defendant  
17 has been indicted on that sheet of paper, has  
18 been arrested and charged, is not evidence of  
19 her guilt. It does not raise the inference or  
20 any type of presumption of her guilt. This is  
21 simply the charging mechanism by which the  
22 State of South Carolina brings defendants  
23 before juries such as yourselves for a  
24 determination of whether or not they are  
25 guilty or innocent.

1           In this case the defendant has pled  
2 Not Guilty to this indictment. What that  
3 means is that it puts the burden on the State  
4 of South Carolina to prove the defendant  
5 guilty.

6           Now, I charge you that a person  
7 charged in this state with committing a  
8 criminal offense is never ever required to  
9 prove themselves innocent. It is an important  
10 rule of law that a defendant in a criminal  
11 case, no matter what the seriousness of what  
12 the charge may be, will always be presumed  
13 innocent of the crime for which the indictment  
14 was issued unless there has been guilt (sic)  
15 established proving that person guilty beyond  
16 a reasonable doubt.

17           Now, this presumption of innocence  
18 does not end when you go back to your jury  
19 room and begin your deliberations. It  
20 accompanies this defendant throughout this  
21 trial until you reach a verdict of guilty  
22 based on evidence of guilt satisfying you of  
23 guilt beyond a reasonable doubt.

24           It has been said in the vernacular of  
25 the law that the presumption of innocence is

1 like a robe of righteousness that is placed  
2 about the shoulder of a defendant, and it  
3 remains there throughout a case until it is  
4 stripped from their shoulders by evidence  
5 satisfying you, the jury, of their guilt  
6 beyond a reasonable doubt. That is not,  
7 Ladies and Gentlemen, just a mere legal  
8 theory. It is not just a legal phrase. It is  
9 a substantial right to which every defendant  
10 in this case is entitled unless you, the jury,  
11 are satisfied of guilt beyond a reasonable  
12 doubt.

13 So that leads us to, what is a  
14 reasonable doubt. I gave you a brief charge  
15 on that in this case. I will reiterate that  
16 again. This is what a reasonable doubt is,  
17 a reasonable doubt is the kind of doubt that  
18 would make a reasonable, sincere, honest and  
19 conscientious person hesitate to act in the  
20 matter or in their own affairs.

21 Proof beyond a reasonable doubt is  
22 proof that leaves you firmly convinced of the  
23 defendant's guilt.

24 Now, Ladies and Gentlemen, there are  
25 very few things in this world that we know

1 with absolute certainty. In criminal cases,  
2 the law does not require proof that overcomes  
3 every possible doubt. If based on your  
4 consideration of the evidence you are firmly  
5 convinced that the defendant is guilty of the  
6 crime for which she has been charged, it will  
7 be your duty to find her guilty.

8 If, on the other hand, you think that  
9 there is a real possibility that the defendant  
10 is not guilty, you must give her the benefit  
11 of the doubt and find her not guilty.

12 A reasonable doubt may arise from the  
13 evidence or from the lack of evidence.

14 I further instruct you, Ladies and  
15 Gentlemen, that a defendant is entitled to  
16 every reasonable doubt that may arise in the  
17 case. Now, what that simply means is that if  
18 upon an issue of fact essential to a  
19 conviction of the crime for which she has been  
20 charged, if you have a doubt as to how that  
21 issue should be resolved, it would be your  
22 duty to resolve that doubt in favor of this  
23 defendant.

24 Finally, Ladies and Gentlemen, I will  
25 instruct you and I will charge you that the

1 fact that a defendant has not testified in  
2 this case shall not -- shall not -- be  
3 considered by you in your deliberations.  
4 The burden remains on the State of South  
5 Carolina, in every criminal case, to establish  
6 a defendant guilty beyond a reasonable doubt.  
7 The exercise of your Fifth Amendment rights  
8 shall not be considered or even spoken of by  
9 you in your jury room. It would be improper  
10 for you to do so.

11 With that being said, that is the end  
12 of the first phase of my deliberations (sic).  
13 I am going to give you a minute and then I am  
14 going to go into the substantive law that you  
15 must apply to the charges in this case. So if  
16 you'd like to stand up for a minute and move  
17 about, then we will go to the substantive law.  
18 If you don't want to, you don't have to.

19 Madame Forelady, does everybody have  
20 what they need as far as drinks?

21 FORELADY: Yes, sir.

22 THE COURT: Then I take it that  
23 everybody is okay? (No response). Then I  
24 will go forward with the second aspect of my  
25 charge.

1 Ladies and Gentlemen, this is the  
2 law of possession with intent to distribute  
3 methamphetamines and the law of simple  
4 possession of methamphetamines.

5 In this case the defendant has been  
6 charged with possession with intent to  
7 distribute methamphetamine. The State must  
8 prove beyond a reasonable doubt that the  
9 defendant possessed methamphetamine with the  
10 intent to distribute it.

11 To prove possession the State must  
12 prove beyond a reasonable doubt that the  
13 defendant had both the power and the intent  
14 to control the disposition or use of the  
15 methamphetamine. Possession may be either  
16 actual or constructive.

17 Actual possession means that the  
18 methamphetamine was in the actual physical  
19 custody of the defendant.

20 Constructive possession means that  
21 the defendant had dominion and control or the  
22 right to exercise dominion or control over  
23 either the methamphetamine itself or property  
24 on which the methamphetamine was found.

25 Mere presence at the scene where the

1 drugs were found is not enough to prove  
2 possession. Actual knowledge of the presence  
3 of the methamphetamine is strong evidence  
4 of the defendant's intent to control its  
5 disposition or use. The defendant's knowledge  
6 and possession may be inferred when a  
7 substance is found on the property under the  
8 defendant's control. However, this inference  
9 is simply an evidentiary fact to be taken into  
10 consideration by you along with the other  
11 evidence in this case and is to be given the  
12 weight you decide that it should have.

13 Further, Ladies and Gentlemen, two or  
14 more persons may have joint possession of the  
15 drug. In this case the State must also prove  
16 beyond a reasonable doubt that the defendant  
17 intended to distribute the methamphetamine.  
18 "Distribute" means to deliver other than by  
19 administering or dispensing a drug.

20 Intent may be shown by acts and  
21 conduct of the defendant and other  
22 circumstances from which you may naturally  
23 and reasonably infer intent.

24 In determining whether the defendant  
25 had the intent to distribute the methampheta-

1 mine, you may consider the circumstances  
2 surrounding the defendant's alleged  
3 possession. You may consider the amount of  
4 substance alleged to have been possessed, the  
5 manner in which it was allegedly possessed,  
6 the place where it was allegedly possessed,  
7 and other factors in evidence which you  
8 consider to be important. You must find that  
9 the defendant did not intend to have the  
10 methamphetamine solely for her own use.

11 Possession of one or more grams of  
12 methamphetamine creates an inference that the  
13 defendant possessed the methamphetamine with  
14 intent to distribute. This inference does not  
15 relieve the State from proving beyond a  
16 reasonable doubt that the defendant had the  
17 intent to distribute drugs. It is simply an  
18 evidentiary fact to be taken in consideration  
19 by you along with the other evidence in this  
20 case and to be given the weight that you  
21 decide that it should have.

22 Ladies and Gentlemen, if you find  
23 that the State has failed to prove beyond a  
24 reasonable doubt that the defendant is guilty  
25 of possession with intent to distribute

1 methamphetamine, you may then consider whether  
2 the State has proved beyond a reasonable doubt  
3 that the defendant is guilty of simple  
4 possession of methamphetamine.

5 Simple possession does not require an  
6 intent to distribute the methamphetamine. The  
7 State must prove beyond a reasonable doubt  
8 that the defendant knowingly or intentionally  
9 possessed methamphetamine.

10 "Knowingly" means knowledge,  
11 consciously, not accidentally.

12 "Intentionally" means willfully,  
13 intending the result which actually occurs,  
14 not accidentally or involuntarily.

15 Intent may be shown by acts and  
16 conduct of the defendant and of the circum-  
17 stances from which you may naturally and  
18 reasonably infer intent.

19 To prove possession, the State must  
20 prove beyond a reasonable doubt that the  
21 defendant had both the power and intent to  
22 control the disposition or use of the  
23 methamphetamine.

24 Possession may be either actual or  
25 constructive. This is the same law that

1 I just gave you on actual or constructive  
2 possession, and I'm going to go over it one  
3 more time. Actual possession means that the  
4 methamphetamine was in the actual physical  
5 custody of the defendant. Constructive  
6 possession means that the defendant had  
7 dominion and control or the right to exercise  
8 dominion or control over either the  
9 methamphetamine itself or the property on  
10 which the methamphetamine was found.

11 Mere presence at the scene where the  
12 drugs were found is not enough to prove  
13 possession.

14 Actual knowledge of the presence of  
15 the methamphetamine is strong evidence of the  
16 defendant's intent to control its disposition  
17 or use. The defendant's knowledge and  
18 possession may be inferred when a substance  
19 is found on property under the defendant's  
20 control. However, this inference is simply an  
21 evidentiary fact to be taken into  
22 consideration by you along with the other  
23 evidence in the case and to be given the  
24 weight which you decide that it may have.

25 Again, two or more persons may have

1 joint possession of the drug.

2 In closing on the substantive law,  
3 Ladies and Gentlemen, you may not find the  
4 defendant guilty of both of these charges.  
5 You look at the first charge and make a  
6 determination as to whether or not you feel  
7 that the defendant is guilty of possession  
8 with intent to distribute. If you find that  
9 she is not, then you may next go and consider  
10 the lesser-included charge of simple  
11 possession of methamphetamine.

12 That leads me up to the last part of  
13 my charge, and that is some ideas or some  
14 thoughts about your deliberations. Number  
15 one, you don't serve as jurors to be partisans  
16 or advocates for one side of the case or the  
17 other. You are the judges of the facts in  
18 this case. You, and you alone, decide what  
19 the facts are. But you were chosen by the  
20 State and the defense in this matter because  
21 both sides felt that you could be fair and  
22 impartial and make your decision based solely  
23 on the evidence presented and in accordance  
24 with the law as I give it to you today.

25 In making your decision, again, you

1     should use your good common sense, your sense  
2     of logic and your experience in life in making  
3     your decisions on what the findings of facts  
4     are and what inferences that you give to those  
5     facts.

6                 When you are doing something  
7     deliberately, that means that you are not in  
8     a big hurry. In preparing my charges, I  
9     looked up the meaning of deliberation. This  
10    is what the definition is: it is a careful  
11    consideration weighed with a view to a  
12    decision.

13                Now, regardless of what you may feel  
14    about our judicial system, I would submit to  
15    you that one of the geniuses about our system  
16    is that it allows twelve men and women like  
17    yourselves to come together from different  
18    walks of life, come together with different  
19    perspectives, from different backgrounds, to  
20    listen to the evidence, to listen to the law,  
21    to the arguments, and to ultimately consider  
22    all of the evidence, all of the arguments and  
23    law, and ultimately reach a unanimous  
24    decision. We call them deliberations. Again,  
25    if you are doing something deliberately,

1     you're not in a big hurry. This is the  
2     State's and the defendant's only day in court.

3             Now, when you go back to begin your  
4     deliberations in just a few minutes, again we  
5     will send you word when it is appropriate for  
6     you to do so. I am going to ask, also charge,  
7     that you listen to everybody's points of view,  
8     thoroughly go through all the evidence that is  
9     presented in this case, discuss the different  
10    points of view thoroughly and courteously and  
11    go through all the points. If somebody raises  
12    an issue, discuss it thoroughly.

13            Madame Forelady, your job is to  
14    deliberate (sic) over these -- or preside over  
15    these deliberations.

16            But with that being said, you have to  
17    decide this case on your own. In order for  
18    your verdict to stand, it has to be unanimous.  
19    But you can only reach a verdict that is  
20    unanimous with your fellow jurors after you've  
21    made your own decision as to the facts that  
22    you're going to find in this case.

23            Don't be afraid to change your  
24    opinion if in your conversation and your  
25    deliberations with your fellow jurors you are

1 convinced that it is the right thing for you  
2 to do. On the other hand, don't change your  
3 opinion just to reach an unanimous decision in  
4 this case.

5 Now, Madame Forelady, when you begin  
6 your deliberations, if at any time you have  
7 any questions that we need to consider here in  
8 the courtroom, I am going to ask that you  
9 write down that question, that you sign your  
10 name, knock on the door and the bailiffs will  
11 receive it. We will get the communication,  
12 receive it here in the courtroom and we'll  
13 take appropriate reactions in response to  
14 that.

15 If you need anything for your  
16 personal benefit -- drinks, food, -- knock on  
17 the door and they'll make sure that you have  
18 it. Okay?

19 Now, finally, this verdict form is  
20 pretty much straightforward. The options, let  
21 me just tell you, you and your fellow jurors,  
22 they had to be in some order. So the order in  
23 which they appear has no meaning. But your  
24 first option would be on the charge of  
25 possession with intent to distribute meth-

1     amphetamine, "We, the jury, unanimously find  
2     that the Defendant, Loretta Branyon, is ..."  
3     -- number one, not guilty of possession with  
4     intent to distribute methamphetamine; or, two,  
5     guilty of possession with intent to distribute  
6     methamphetamine.

7             If you find that the defendant is  
8     guilty, you'll stop your deliberations there,  
9     sign the form, knock on the door and we will  
10    receive it.

11            If you find that the defendant is not  
12    guilty, then you'll go down and consider the  
13    lesser-included charge of simple possession of  
14    methamphetamine. Your options there would be  
15    that, 'we find on the charge of simple  
16    possession' -- "We, the jury unanimously find  
17    the Defendant, Loretta Branyon is ..." -- not  
18    guilty of simple possession of methamphetamine  
19    or is guilty of simple possession of meth-  
20    amphetamine.

21            Once the jury has reached a unanimous  
22    verdict, you sign it, date it, knock on the  
23    door and we will receive your verdict back  
24    here in the courtroom.

25            I remind you that the defendant

1 cannot be found guilty to both of these  
2 charges. Okay?

3 With that being said, before we get  
4 into closing arguments let me go over with  
5 these attorneys whether I have misstated  
6 something or that I have neglected to do  
7 something that I should have. It will not  
8 take long. So I am going to ask you to go  
9 back to your jury room very briefly, and then  
10 we will bring you back out here for closing  
11 arguments.

12 (JURY OUT @ 10:22 A.M.)

13 THE COURT: Any additions or  
14 exceptions from the State?

15 SOLICITOR HOGAN: No, sir, Your Honor

16 THE COURT: From the defense?

17 MR. WHITEN: I just have one  
18 exception. It's the same one that I raised  
19 before, and that is that the charge of actual  
20 presence of the methamphetamine is strong  
21 evidence of the defendant's intent to control  
22 the disposition or use. I object to that,  
23 Your Honor.

24 THE COURT: And just for the record  
25 so that you are protected, too, Mr. Whiten,

1     you don't need to move again as to all your  
2     objections to the charge. I think that you  
3     are duly protected on those, as well is the  
4     State.

5                 MR. WHITEN:     Thank you, Your Honor.

6                 THE COURT:     That being said, let's  
7     go ahead and get it set up. We'll take a  
8     couple minutes break so that you can get  
9     yourselves ready to go, then we'll do the  
10    closing arguments.

11                (BRIEF RECESS 10:25 - 10:32 A.M.)

12                (DEFENDANT PRESENT)

13                THE COURT:     Ms. Hogan, are you  
14    ready to proceed?

15                SOLICITOR HOGAN:   Yes, Your Honor.

16                THE COURT:     You are all set up and  
17    technically ready?

18                SOLICITOR HOGAN:   Yes, sir.

19                THE COURT:     Mr. Whiten, are you  
20    ready?

21                MR. WHITEN:     Yes, Your Honor.

22                THE COURT:     All right. Bring the  
23    jury in.

24                (JURY IN @ 10:33 A.M.)

25                THE COURT:     Is the State ready for

1 closing arguments?

2 SOLICITOR HOGAN: Yes, Your Honor.

3 THE COURT: Is the defense ready?

4 MR. WHITEN: Yes, Your Honor.

5 SOLICITOR HOGAN: Your Honor, if it  
6 pleases the court?

7 THE COURT: Yes, ma'am.

8 SOLICITOR HOGAN: Good morning.

9 Thank you for your service on the jury this  
10 week. We appreciate all of your patience and  
11 your participation.

12 We are here today because the  
13 defendant, Loretta Galloway Branyon, has been  
14 charged with the offense of possession with  
15 intent to distribute methamphetamine. It is  
16 the my responsibility to prove that charge  
17 beyond a reasonable doubt.

18 I would like to talk a little bit  
19 about reasonable doubt; though the judge has  
20 given you a definition, I would like to talk  
21 about it a little bit as well. Reasonable  
22 doubt is the kind of doubt that would cause a  
23 reasonable person to hesitate to act. So  
24 please don't have a hesitation to act when  
25 carefully considering the evidence during your

1 deliberation of the evidence.

2 If after reviewing all the evidence  
3 in this case you are firmly convinced of the  
4 defendant's guilt, then you should find her  
5 guilty.

6 Let's start with going over the  
7 elements of possession with intent to  
8 distribute methamphetamine. I am going to  
9 put this up for you to view.

10 The first element involved with PWID  
11 meth is that the substance involved is in fact  
12 methamphetamine.

13 You heard testimony yesterday from  
14 Officer Robinson, who was at the scene at the  
15 time that the search warrant was served, and  
16 that he collected what he believed to be  
17 methamphetamine from the residence. He put  
18 the evidence in a Best kit and turned it in  
19 the Evidence locker at the Sheriff's Office.

20 You also heard from Ms. Belinda Lee,  
21 who testified that she got it out of the  
22 Evidence locker and turned it into a chemist  
23 at the Anderson-Oconee Regional Forensic Labs  
24 for testing.

25 The reason that we had to go through

1 all that testimony is that we had to create a  
2 chain of custody so that you'd know exactly  
3 where those drugs were at every single point  
4 during this case.

5 When Ms. Lanford got the drugs, she  
6 was able to give her opinion as to what the  
7 substances that were turned in actually were.  
8 She pulled these out of this bag and showed  
9 you -- and I'm not going to pull them out of  
10 the bigger bag, which she placed them in.  
11 But you can see that there were two bigger  
12 baggies. There was one that had some bigger  
13 pieces, what they call shards or ice, and then  
14 another one that has a smaller amount in that.  
15 She testified that this bigger bag has 4.42  
16 grams of methamphetamine in it. Then she had  
17 the second bag, which also tested positive, of  
18 1.43 grams. Then we have another baggie that  
19 had .24 and then two smaller baggies with much  
20 smaller -- about .07 and .02 grams of meth.  
21 So she had five separate baggies of substance  
22 that she was testing. She found that the  
23 total of those drugs was 6.18 grams.

24 Now, Officer Robinson testified that  
25 when he weighed them that he weighed them with

1 all the packaging. So there was testimony  
2 that they initially weighed 7.5 grams. But  
3 that was -- he testified that he weighed it  
4 in the bags. When she tests them, she takes  
5 them out of the bag and weighs them without  
6 the bag, so the official weight of the meth  
7 was 6.18 grams of methamphetamine. So that  
8 is the first element. We've got that the  
9 substance involved is in fact methamphetamine.  
10 We have expert testimony that the substance in  
11 the bags was in fact methamphetamine.

12 The second element is that the  
13 defendant is in possession of the methamphe-  
14 tamine. So let's start with talking about the  
15 search warrant.

16 Officer Robinson testified that he  
17 got the search warrant, that he obtained the  
18 search warrant for 905 Shirley Store Road here  
19 in Anderson County, which was the defendant's  
20 residence. We have a picture that shows that  
21 Ms. Branyon receives mail at that residence.  
22 (Displaying), that is her name, Loretta  
23 Branyon, at 905 Shirley Store Road here in  
24 Anderson County. That was the address that  
25 was used for the search warrant.

1           He also testified that the purpose  
2     of the search warrant was to look for  
3     methamphetamine and any related materials,  
4     related to methamphetamine. So he gets the  
5     search warrant, goes to the house Ms. Branyon  
6     resides at. He walks in the front door -- he  
7     also testified that the target of the  
8     investigation was in fact Ms. Branyon. He  
9     was going to her house, she was the target.

10           So they go to the house, and they  
11    walk in. As soon as they go in the house, Ms.  
12    Branyon is seated right inside the door, on  
13    the couch with her purse beside her. That's  
14    the purse, with her identification, and they  
15    find every single one of these baggies in the  
16    purse which is beside her, as she is sitting  
17    on the couch.

18           Now, Mr. Whiten would like you to  
19    believe that the other person in the house,  
20    I believe that his name was Chuck Simpson,  
21    that he was in the house as well and he would  
22    lead you to believe that somehow Mr. Simpson  
23    had time to put the methamphetamine from his  
24    possession into the bag that was found beside  
25    Ms. Branyon.

1           Mr. Robinson testified that there was  
2       -- that it was impossible for that to have  
3       happened, that they announced that they were  
4       there, did their notification, and their entry  
5       was almost simultaneous. There was no way  
6       that he could have taken the drugs off him,  
7       put them in her purse and zipped up the bag.

8           We also had testimony that the  
9       pocketbook was zipped up when they went in.  
10      Officer Robinson testified that they take  
11      pictures before they move any items of  
12      evidence. This (photograph) is how they found  
13      the purse when they went in. You can tell  
14      that the top of the purse is zipped up. It  
15      looks like a couple of the pockets are open,  
16      but the top is zipped up. He testified that  
17      is as he found it when they first went in.

18           The judge also noted that there can  
19      be joint possession of drugs. So even if  
20      somehow they were Mr. Simpson's, it seems  
21      highly unlikely that both of them could  
22      possess the drugs at the same time.

23           So, again, to reiterate, she was the  
24      target of the investigation, it was her house,  
25      the drugs were found in her purse that was

1     beside her as she was sitting on the couch as  
2     the officers came in. Common sense would tell  
3     us that these drugs in her purse belonged to  
4     Ms. Branyon.

5             Now, in Mr. Whiten's opening state-  
6     ment, he as much as admitted that Ms. Branyon  
7     is a meth addict and that these drugs weren't  
8     intended for sale, that they were intended for  
9     use. So in a way, he's admitted that the meth  
10    was here, that she continued to use drugs. I  
11    would disagree with that. I think that we  
12    have ample evidence that she intended to sell  
13    the drugs, which we will go into.

14            The defendant possessed the meth-  
15    amphetamine with the intent to distribute.  
16    So let's go into that. First of all, as I  
17    talked about earlier in my opening statement,  
18    the law allows permissive inference that the  
19    weight of the drugs, in and of itself, is  
20    evidence that she intended to distribute the  
21    drugs. So you have this permissive inference  
22    that -- in other words, it's saying that you  
23    are allowed but that you are not required to  
24    assume that because she had six grams of meth  
25    on her that she intended to sell them. That's

1 real important, so I will say it again. You  
2 are allowed to assume that simply based on the  
3 weight of the drugs, based on the fact that  
4 she had 6.18 grams of meth, you are allowed to  
5 assume that she intended to sell those drugs.

6 Not only do you have this permissive  
7 inference under the law, but you've got other  
8 evidence that Officer Robinson spoke of in his  
9 testimony. So let's talk about that. Officer  
10 Robinson testified that he had seventeen years  
11 of experience and he listed out several  
12 trainings that he had been to every year, a  
13 lot of them specifically related to narcotics  
14 investigations. So he was testifying based on  
15 his training and his experience and  
16 observations specifically as a narcotics  
17 investigator for over eight years, then more  
18 specifically in the last three years he was on  
19 the narcotics vice team that specifically  
20 focuses on targets who are distributing and  
21 trafficking drugs here in Anderson County.  
22 So we have his testimony about what a person  
23 who was possessing something with the intent  
24 to distribute it would have.

25 So we've got that somebody who is

1     possessing drugs with the intent to distribute  
2     them typically has large amounts of cash on  
3     them; which would make sense, they're selling  
4     drugs, they have a lot of money on them from  
5     selling the drugs.

6             They typically have larger quantities  
7     of drugs present around them, which makes  
8     sense. They're not -- he testified that a  
9     user would typically not have very much on  
10    them because they're using what they have.  
11    They're addicts, they use what they have.

12            That typically a user would have  
13    somewhere between .25 and .5 grams of  
14    methamphetamine on their person. Rarely do  
15    they have any larger amount because they are  
16    using it as soon as they get it. They're  
17    addicts.

18            That the drugs would be packaged in  
19    several bags with smaller quantities for sale.  
20    Here you can clearly see that you've got three  
21    bags with smaller amounts and two bags with  
22    bigger amounts, especially the one with 4.42  
23    grams. That's a large chunk. But he said  
24    that's typical, that you have smaller bags  
25    measured out for sale. So if somebody comes

1 to buy it, the bag is ready to sell.

2 He also said that it was typical to  
3 find several sets of scales around to weigh  
4 the drugs on before they are sold.

5 So that's what he spoke of in  
6 reference to what typically someone who  
7 possesses the drug with intent to distribute  
8 have on them.

9 We then go into Ms. Branyon and what  
10 officers found -- what officers found on Ms.  
11 Branyon. They found specifically four  
12 thousand thirty-three dollars (\$4,033) in cash  
13 in her wallet in her purse; consistent with  
14 someone who has a large amount of drugs -- I  
15 mean a large amount of cash, as well as a  
16 large amount of drugs.

17 She had over six grams of meth-  
18 amphetamine on her, and they were packaged in  
19 a way that would be easy to sell. You've got  
20 these little bags to sell and then you also  
21 had several/numerous empty baggies that were  
22 around. There are several pictures that  
23 showed that there were baggies all over the  
24 place. Some just have residue but then some  
25 -- there was one particular picture that she

1 had these baggies, and this picture is blurry  
2 a little bit, but there are all these empty  
3 baggies in there, that she could easily use to  
4 place more meth in to sell where she'd broke  
5 it off of bigger pieces.

6 She also had -- I believe that there  
7 was testimony that she had several sets of  
8 scales around. There were two that were  
9 within arm's length reach of her. You've got  
10 that one that was on the coffee table, this  
11 one, and then this one that was in her purse.  
12 She's got two within easy access of her to  
13 sell these drugs -- to weigh these drugs to  
14 sell. So that was typical of someone who --  
15 would be typical of someone who is going to  
16 sell drugs.

17 I believe on the scales that there  
18 was testimony that there was some residue on  
19 the scales. I think that's important to show  
20 that she probably had reason to have scales.  
21 I don't believe that it's typical for a user  
22 to weigh their drugs before they smoke or use  
23 them. There would be no reason to do that, to  
24 weigh the drugs if you're going to use them  
25 for your own use.

1           Let's go into talking about what Mr.  
2   Whiten has -- what they might argue. They  
3   want you to believe that she simply possessed  
4   these drugs for her own use, not to sell them.  
5   That the pipes that were found -- and there  
6   were some smoking devices that were found in  
7   the back bedroom. He argues that she was  
8   going to smoke the drugs. That's what she had  
9   the meth for, was for her own personal use.

10           But if the defendant was only going to use  
11   the drugs, why was it packaged in separate  
12   baggies like this?

13           Why are they like this? Why did she  
14   have them separated out in smaller baggies  
15   from this one bag?

16           Why does she have over six grams of  
17   meth when the testimony was that a gram of  
18   meth was roughly a hundred dollars, give or  
19   take? So a hundred dollars, give or take, and  
20   she's got over six grams, so she's got  
21   arguable six hundred (600) grains worth on  
22   meth on her. If she is such an addict, how  
23   could she afford to have that stash of drugs?  
24   A typical user has between a quarter gram and  
25   a half gram. Here she is with six grams.

1                   And we heard that they weren't  
2                   currently using the drugs. The pipes weren't  
3                   even in the purse, they were locked up in her  
4                   -- whoever's custody that they were, they  
5                   weren't with the grams that she had in her  
6                   purse.

7                   I think that the reason that that  
8                   makes sense is because -- she may have been  
9                   a user. She was selling drugs to support her  
10                  habit. Maybe she was an addict and she was  
11                  selling drugs to support her habit. I think  
12                  that's a more common sense answer as to the  
13                  pipes and their argument that maybe she was --  
14                  the argument that -- (pause).

15                  Maybe she wasn't using. Maybe she  
16                  was only selling. That would explain the over  
17                  four thousand dollars in cash and the over six  
18                  grams of meth on her.

19                  Officer Robinson explained that  
20                  usually users don't have that kind of meth  
21                  around them, because they smoke it; as soon  
22                  as they get it, they smoke it, they're looking  
23                  for that high, they smoke it right away,  
24                  they're looking for a way to go out and buy  
25                  more. Here she is with over four thousand

1     dollars in cash and she's got six hundred  
2     grains that she could smoke.

3             The State would argue that all of  
4     that evidence proves beyond a reasonable doubt  
5     and would lead you to believe that Ms. Branyon  
6     possessed the drugs with the intent to  
7     distribute.

8             Just to recap:

9             You've got over six hundred dollars  
10     worth of meth that she's got.

11            You've got the way that it is  
12     packaged.

13            You've got the fact that she's got a  
14     large amount of money that's she got in her  
15     purse.

16            You've got the multiple scales that  
17     she has around the house. He just collected  
18     the two that were within reach of her.

19            You've got the purse with her ID.

20            All of this stuff, other than the  
21     scales and the pipes, was in her purse which  
22     was beside her when officers walked into the  
23     room.

24            You've got that the search warrant  
25     was for 905 Shirley Store Road, which was Ms.

1 Branyon's residence. That she was the target  
2 of the investigation.

3 You've got that -- importantly you've  
4 also got the inference that you're allow to  
5 presume that solely based on that weight she  
6 was intending the sell the drugs, the  
7 methamphetamine.

8 Altogether, we believe that we've  
9 proved beyond a reasonable doubt that Ms.  
10 Branyon intended to sell the drugs that she  
11 had in her possession.

12 THE COURT: Mr. Whiten, are you  
13 ready?

14 MR. WHITEN: Yes, Your Honor, may  
15 it please the court?

16 THE COURT: Yes, sir.

17 MR. WHITEN: I want to point out  
18 to you a couple of things before I discuss  
19 the law: The testimony of Officer Robinson  
20 was that there were two people in that home  
21 and that Mr. Simpson had been living there for  
22 a considerable amount of time. He was there  
23 at the time that this took place.

24 He also stated that when they came  
25 into the mobile home that Mr. Simpson was

1 standing right across from where the drugs  
2 were found. If you look at the evidence,  
3 the pictures, particularly the coffee table  
4 picture showing all kinds of stuff on the  
5 table, there is a scale right there on the  
6 table.

7 Can you tell me that this man who  
8 lived there in that house, in that trailer,  
9 for a presumable amount of time did not have  
10 anything to do with this? Did not have any  
11 power or control over these drugs?

12 He wasn't arrested. He could have  
13 been arrested from the fact that he was there  
14 and could have had control and dominion. I  
15 suggest that he would have had more control  
16 than Ms. Branyon because Lorette Branyon is an  
17 addict. No doubt about it, she is an addict.  
18 Yet they set this guy aside and arrested  
19 Loretta Branyon, the addict. What happened to  
20 him? Nothing.

21 You are going to find that -- you  
22 were told that possession of one gram or more,  
23 that there is an inference that if a person  
24 has that much or possesses that much that it  
25 can be assumed they had an intent to

1 distribute. Look at this, look at this, this  
2 in evidence. The chemist said that this is an  
3 amount that you could smoke right away, she  
4 was using.

5 The Solicitor stated that there was a  
6 large quantity of drugs. Look at this. Tell  
7 me that's a large quantity of drugs. You can  
8 hardly see it. It's certainly not a large  
9 amount. It's 6.85 (sic) grams -- not ounces,  
10 grams. A very, very small amount. These are  
11 the amounts that drug addicts use.

12 She stated that they are packaged in  
13 several packages. That the inference is that  
14 because they're in several packages that they  
15 were to be sold. No, the inference is because  
16 that's how they were brought into the house,  
17 either by Ms. Branyon buying them from  
18 somebody else or this mysterious Mr. Simpson  
19 -- who nobody even touched -- brought them  
20 into the house. He walked away.

21 There's scales in there. Yes.  
22 There was scales sitting on the coffee table.  
23 Mr. Simpson lived in that house. He was right  
24 there when this arrest was made. 'Are they  
25 saying that it was his scales? No, no, it

1 wasn't his scales. It was Loretta Branyon's  
2 scales.' That's one circumstance where you  
3 can find reasonable doubt.

4 She states that there was cash in the  
5 pocketbook. Doesn't say where it came from.  
6 Let's assume that it was drug money. The fact  
7 that this man lived there with her, -- if I  
8 was in the drug business, I'd want somebody  
9 else to have the drugs and the money on them,  
10 not me. Whether it was there before or after  
11 the cops got there doesn't matter. He  
12 controlled it.

13 The man was standing right here.  
14 When the police come in, Loretta is over here  
15 on the couch sitting down. He controlled that  
16 ---

17 SOLICITOR HOGAN: Your Honor, I  
18 object. I believe that we're bringing in some  
19 third-party guilt that the foundation hasn't  
20 been laid for.

21 THE COURT: Just one second.  
22 Madame Forelady, would you take the jury back  
23 to the jury room, please?

24 (JURY OUT @ 10:57 A.M.)

25 SOLICITOR HOGAN: Your Honor, if it

1     pleases the court, I understand that there are  
2     going to be some issues that there was  
3     somebody in the house. But to go as far as to  
4     say that she -- that he was the one that had  
5     control over the drugs, I think is going a  
6     step farther than maybe saying that he -- he's  
7     actually saying that he had control and that's  
8     not part of the record, nor has he created a  
9     foundation for third-party guilt as far as I  
10    am concerned.

11           THE COURT:     Mr. Whiten, isn't the  
12    rule that third-party, that's it's got to  
13    exclude your client's guilt before it comes  
14    in; right? Third-party guilt? Doesn't it  
15    have to exclude. Don't you think that crosses  
16    over the line?

17           MR. WHITEN:    Well, I could continue  
18    to say "could be", because he was standing  
19    right there in the room where the stuff was.  
20    That's all that I am trying to say.

21           THE COURT:     Tell me what you said,  
22    again. Quite frankly, I was looking something  
23    up and was ---

24           MR. WHITEN:    I said that he was  
25    standing right there across from -- that he

1 was standing, when they came in, across from  
2 where Loretta was seated. That he controlled  
3 the circumstances.

4 THE COURT: I am going to sustain  
5 the objection. I think that is evidence of  
6 third-party guilt. There certainly is not  
7 evidence of that in this case. All right.  
8 Even though it is a close question, control  
9 is a factor in this case.

10 SOLICITOR HOGAN: Yes, sir.

11 THE COURT: Go ahead and -- I'm  
12 going to instruct the jury that they are to  
13 find the evidence as they -- well, do you  
14 think a curative instruction needs to be made?

15 MR. WHITEN: I am not going to go  
16 back into that issue, other to say that he was  
17 there.

18 SOLICITOR HOGAN: I think that  
19 continuing on with something else will ---

20 THE COURT: That will be sufficient  
21 without a curative?

22 SOLICITOR HOGAN: Yes, sir.

23 THE COURT: Fine. I'll sustain  
24 the objection and will not give a curative  
25 instruction. Are you ready to proceed?

1 MR. WHITEN: Yes, sir.

2 SOLICITOR HOGAN: Thank you, Your  
3 Honor.

4 THE COURT: Yes, ma'am. Bring in  
5 the jury, please.

6 (JURY IN @ 11:01 A.M.)

7 THE COURT: Mr. Whiten.

8 MR. WHITEN: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 MR. WHITEN: I placed a picture on  
11 the screen of these pipes, the evidence.  
12 These pipes were found in the house. I  
13 believe that the testimony was that they were  
14 found on her bed or in her bedroom. It was  
15 indicated -- I asked if there was anybody else  
16 in that bedroom. 'No.' Indicating that Ms.  
17 Branyon used the drugs in the bedroom, that  
18 she was using the drugs in the bedroom. The  
19 packages were from the front.

20 The question is, -- look at this  
21 little piece right here that I held up. I  
22 can't see it, but it looks to me that -- it's  
23 .002 grams. That was -- was it something that  
24 she had used out of this package? If you look  
25 at it, and we have two here, there's hardly

1 any in it at all. Hardly any at all. She  
2 uses, she admitted that she used what was in  
3 these packages. We have evidence that she  
4 was using meth in the back room, that this was  
5 for her own use.

6 I don't even think that the State  
7 would dispute that at least, at least some of  
8 this was for her own use. I mean, I think the  
9 State said that she bought it for her own use,  
10 was selling it to support her own use. She is  
11 an addict. She uses methamphetamine. It's  
12 sad, but she is.

13 The judge is going to charge you, as  
14 I said before, that one gram gives an  
15 inference, what you could say is an inference,  
16 use it as an inference, that she had this to  
17 sell. However, you can also say that one gram  
18 or any amount that she had would show not that  
19 she intended to distribute it but that she was  
20 going to use it. So you have to show -- or  
21 you have to find in your deliberations that  
22 there is no real possibility that she used the  
23 drugs for her own use. No real possibility.  
24 There is a real possibility. The scales, the  
25 pipes, that shows that there is a very real

1 possibility that she was using the drugs or  
2 had the drugs for her own use.

3           So if you find, based on this that  
4 there is a real possibility, and there is,  
5 that she had it for her own use -- of course  
6 they're going to say that if she was using it,  
7 then she must have had possession of it. You  
8 can't have it both ways, we know that. If she  
9 was using it for her own use, she had  
10 possession of it. But again the question is,  
11 did she have dominion and control of the drugs  
12 that she was using herself? She had them but  
13 the question was really whether she had total  
14 dominion and use over the drugs, because there  
15 was others in that house. I'm not talking  
16 about criminal responsibility.

17           I don't know how many of you have  
18 ever been around an addict, near an addict,  
19 had an addict in your family or know an  
20 addict. But addicts get their drugs however  
21 they can.

22           So you must find that beyond a  
23 reasonable doubt that she did not have those  
24 drugs for her own use, that she did not intend  
25 them to be for her own use. You have

1 reasonable doubt. You have doubt, you have  
2 evidence of doubt because she did have them  
3 for her own use and that's a reasonable doubt  
4 that she possessed them with intent to  
5 distribute.

6 The sad part is that she is an  
7 addict. I'm asking the court, this jury,  
8 to consider her addiction as evidenced by  
9 what you see here, as a real possibility of  
10 innocence of these charges. Addicts use drugs  
11 -- especially methamphetamine. If you know  
12 anything about methamphetamine, it is very,  
13 very addictive. She couldn't have stopped  
14 even if she wanted to.

15 If you find her guilty of possession,  
16 I can understand that because she had it. But  
17 there was no intent to distribute that drug.  
18 She had this for her own use and she was going  
19 to use it. She had used it before, she had  
20 used it in her own bedroom. But possession  
21 itself is -- it has to be under her dominion  
22 and control. If you find that to be the case,  
23 so be it but you'd have to find under the  
24 circumstances, beyond a reasonable doubt, that  
25 there was no other reason to have these drugs.

1 Thank you.

2 THE COURT: Ladies and Gentlemen of  
3 the jury, Madame Forelady, what I am going to  
4 do is ask y'all to go back to your jury room  
5 now. I need to have a brief/quick meeting  
6 with these attorneys to make sure that we have  
7 all the evidence, the jury forms, the verdict  
8 form for you to consider. Then we'll send  
9 back the verdict form and the evidence after  
10 we have our meeting if we don't have any  
11 further information that we need to relate to  
12 you.

13 I am going to ask the alternate at  
14 that point to come back out. We'll send word  
15 for when you can begin your deliberations.  
16 But at this stage, don't begin yet. We need  
17 just a couple more minutes. We have finished  
18 all the phases of the trial except the last  
19 phase and that will be when you deliberate  
20 this case. Go back to your jury room right  
21 now and we'll send word back in just a few  
22 minutes.

23 (JURY OUT @ 11:16 A.M.)

24 THE COURT: Any additions or  
25 exceptions from the State, anything before

1 we send the evidence back to the jury?

2 SOLICITOR HOGAN: Nothing further,

3 Your Honor.

4 THE COURT: From the defense?

5 MR. WHITEN: No, Your Honor.

6 SOLICITOR HOGAN: Your Honor, I did  
7 want to bring up the drugs. Because we have  
8 taken them out of the Best kit, I want to make  
9 sure -- the court reporter mentioned a case  
10 where the bags came back but the drugs didn't  
11 come back, so I want to make sure -- I don't  
12 know if there is a way to address how they --  
13 I mean, -- I don't know how you want to ---

14 THE COURT: I think what we do is  
15 count them going in, count them going out. If  
16 not consistent, we'd have a problem.

17 SOLICITOR HOGAN: I think right now,  
18 Your Honor, that they are sealed. So maybe  
19 you could instruct them not to take them out  
20 of these bags, because the little baggies are  
21 in the bigger bag. Maybe you could instruct  
22 them not to open the little bags, because they  
23 can see it through these bags pretty clear. I  
24 don't believe that they need to pull out each  
25 individual little baggie.

1 THE COURT: Do you think it would  
2 be appropriate for me to charge them not to  
3 take them out?

4 SOLICITOR HOGAN: Do you want them to  
5 look at them?

6 MR. WHITEN: Your Honor, I think  
7 that -- why would they take it out?

8 THE COURT: I don't know.

9 SOLICITOR HOGAN: The only reason  
10 that I mention is because there are several  
11 bags. I don't know if you wanted to address  
12 it with them or -- however, you want to handle  
13 it.

14 THE COURT: Bring the jury back in  
15 real quick and I will do that.

16 SOLICITOR HOGAN: That should be all.

17 THE COURT: There is also the  
18 danger of them getting it on their fingers.

19 (JURY IN @ 11:18 A.M.)

20 THE COURT: Madame Forelady and  
21 Ladies and Gentlemen, one matter was brought  
22 to my attention. It's a very appropriate  
23 point for housekeeping matters. When you got  
24 back in deliberations, we are going to send  
25 these exhibits back with you, which will

1 include the baggies of drugs. What I would  
2 instruct you is -- that unless you feel it to  
3 be absolutely critical, -- they are in a big  
4 baggie, what they call a Best baggie. You can  
5 take those smaller bags out but do not open  
6 the smaller bags. I don't think that there  
7 is any need to. Just remember that's meth-  
8 amphetamine and you don't need to have it on  
9 your fingers. It's accounted for going in,  
10 it's accounted for coming back out. So just  
11 don't handle it that way. Other than that, we  
12 are going to send this evidence back with you,  
13 and the verdict form. Once that gets back in  
14 there with you, you may begin your  
15 deliberations.

16 Mr. Alternate, if you will, stay here  
17 in the courtroom with us.

18 Go to your jury room now and they  
19 will be bringing back the evidence to you.

20 (JURY OUT @ 11:20 A.M.)

21 THE COURT: Any objection from  
22 the State or the defense as to my final  
23 instruction on handling the product?

24 SOLICITOR HOGAN: No, sir, Your  
25 Honor.

1 THE COURT: From the defense?

2 MR. WHITEN: No, Your Honor.

3 THE COURT: If you would, tell the  
4 jury they can commence their deliberations.

5 (JURY IN DELIBERATION @ 11:22 A.M.)

6 (NOTIFIED OF VERDICT @ 11:35 A.M.)

7 THE COURT: I understand that we  
8 have a verdict. Is the plaintiff ready to  
9 receive the verdict?

10 SOLICITOR HOGAN: Yes, sir, Your  
11 Honor.

12 THE COURT: Is the defense ready,  
13 Mr. Whiten?

14 MR. WHITEN: Yes, Your Honor.

15 (JURY IN @ 11:39 A.M.)

16 THE COURT: Madame Forelady, I  
17 understand that the jury has reached a  
18 verdict. Is that correct?

19 FORELADY: It is.

20 THE COURT: Is it unanimous?

21 FORELADY: It is.

22 THE COURT: Would you pass it to  
23 the bailiff, please, ma'am?

24 FORELADY: (Complies)

25 THE COURT: The verdict form has

1     been properly completed. Will the defendant  
2     please rise?

3                   DEFENDANT:     (Complies)

4                   THE COURT:     Mr. Clerk, will you  
5     publish the verdict?

6                   CLERK:     Yes, sir. If it pleases the  
7     Court, this is in the Court of General  
8     Sessions, State of South Carolina, County of  
9     Anderson. The State of South Carolina,  
10    Plaintiff, versus Loretta Galloway Branyon,  
11    Defendant, Case Number 2011-GS-04-064,

12                   One, on the charge of possession with  
13    intent to distribute meth, (reading): "We,  
14    the jury unanimously find the Defendant,  
15    Loretta Branyon, is guilty of possession with  
16    intent to distribute methamphetamine."

17                   Two, there's no decision.

18                   This is signed by the forelady,  
19    Anderson, South Carolina, dated August 14,  
20    2012.

21                   THE COURT:     Madame Forelady, Ladies  
22    and Gentlemen of the jury, was that your  
23    verdict in the jury room and is that our  
24    verdict now? If so, raise your right hand.  
25    (Unanimous affirmative response from jurors).

1           Let the record reflect that all  
2       twelve jurors raised their right hand.

3           Uh, Ladies and Gentlemen of the jury,  
4       the Court is never, ever concerned what your  
5       verdict is, just that you paid attention and  
6       were engaged during the trial. You were that.  
7       For that, we thank you for your services.

8           Uh, Madame Forelady, we do have some  
9       paperwork for you to sign. I'm gonna ask that  
10      you step back to the jury room.

11           You want to poll the jury again?

12           MR. WHITEN:    Yes.

13           THE COURT:     Okay. Uh, you want to  
14      -- I'm gonna let you poll, Mr. Ferguson  
15      (clerk). I mean Mr. Clerk, would you poll the  
16      entire jury?

17           CLERK:     When I ask you if this is  
18      your verdict, would you -- one at a time --  
19      say Guilty or Not Guilty. Start over there.

20                   (WHEREUPON JURORS POLLED INDIVIDUALLY  
21                   WITHOUT IDENTIFICATION BY NAME OR NUMBER)

22                   Juror 1:     Guilty.

23                   Juror 2:     Guilty.

24                   Juror 3:     Guilty.

25                   Juror 4:     Guilty.

1 Juror 5: Guilty.

2 Juror 6: Guilty.

3 Juror 7: Guilty.

4 Juror 8: Guilty.

5 Juror 9: Guilty.

6 Juror 10: Guilty.

7 Juror 11: Guilty.

8 Juror 12: Guilty.

9 THE COURT: Let the record reflect  
10 that upon polling, all twelve jurors responded  
11 "Guilty".

12 All right. Now, Madame forelady, I  
13 do have some paperwork for you to sign. And I  
14 want to have a couple of comments from you  
15 guys in -- in the jury room. So if you'd step  
16 back to your jury room just one second, I'll  
17 be back there. Okay?

18 (JURY OUT @ 11:43 A.M.)

19 THE COURT: Y'all stand at-ease.  
20 I'm gonna go talk to the jury. Rema's coming  
21 in to do the sentencing sheet. We'll be back  
22 in just a second.

23 (JUDGE TO JURY ROOM TO DISMISS JURY)

24 THE COURT: Are we ready for  
25 sentencing?

1 SOLICITOR HOGAN: Yes, Your Honor.

2 We are getting the sentencing sheet ready.

3 THE COURT: While you're doing  
4 that, this is a third offense?

5 SOLICITOR HOGAN: Yes, sir, Your  
6 Honor. I have copies of the certified  
7 convictions if you'd like to see them.

8 THE COURT: Okay. Range on that  
9 is fifteen to thirty and/or fifty thousand?

10 SOLICITOR HOGAN: I believe that it  
11 is ten to thirty now, Your Honor.

12 THE COURT: Ten to thirty?

13 SOLICITOR HOGAN: Yeah. Not suspend-  
14 able or probation allowed because she has a  
15 prior conviction for possession and PWID.

16 THE COURT: Okay. Do you agree  
17 with that?

18 MR. WHITEN: Yes, Your Honor.

19 SOLICITOR HOGAN: May I approach?

20 THE COURT: Yes.

21 SOLICITOR HOGAN: (Tenders certified  
22 copies of prior convictions), two from 2006  
23 and two from 2008. Your Honor, she is  
24 currently on probation for PWID Meth 2<sup>nd</sup>, and  
25 Probation is here with a recommendation of

1        revocation.

2                THE COURT:        All right.   Ms.

3        Branyon, would you come around, please, ma'am?

4                DEFENDANT:        (Complies).

5                THE COURT:        Ms. Branyon, before I  
6        hear from you, I want to hear from the State.

7                I've got passed up before me -- there  
8        is a sentencing sheet where on September 12<sup>th</sup>,  
9        2006, Ms. Branyon, you pled guilty to  
10       possession of methamphetamine and marijuana.

11               Then in 2008, on October 15<sup>th</sup>, you  
12       pled to distribution of methamphetamine, first  
13       offense, and manufacture of some scheduled  
14       drug.   What was that?

15               SOLICITOR HOGAN:   I am not sure.  
16       I'd have to look at the indictment, Your  
17       Honor.

18               THE COURT:        (Upon review), okay.  
19       Marijuana.   What other drug -- what other  
20       record, not drugs necessarily but what other  
21       record does she have, please?

22               SOLICITOR HOGAN:   That is her only  
23       record, Your Honor.

24               THE COURT:        Now, reading the  
25       statute, it appears to me that I don't have

1 authority to suspend any part of the sentence  
2 and impose probation. Is that your under-  
3 standing?

4 SOLICITOR HOGAN: That is my  
5 understanding, Your Honor, because one of  
6 her priors is a PWID. Yes, sir.

7 THE COURT: And my understanding  
8 further is that the statute has been amended.  
9 I was under the impression that it was fifteen  
10 minimum. But it's ten minimum? Is that  
11 correct?

12 SOLICITOR HOGAN: Yes, sir. I think  
13 that it was changed to ten, Your Honor. (Upon  
14 review), yeah. Under the new law it's ten to  
15 thirty, Your Honor.

16 THE COURT: Do you agree with that,  
17 Mr. Whiten?

18 MR. WHITEN: Yes, Your Honor.

19 THE COURT: And no other criminal  
20 record?

21 SOLICITOR HOGAN: No, sir.

22 THE COURT: All right. Mr. Whiten?

23 MR. WHITEN: Your Honor, Loretta is  
24 fifty years old. She is -- as stated before,  
25 she is an addict, she's been an addict for

1 quite a while. She is on probation now. She  
2 got a ten-year sentence on that with a  
3 suspended sentence of five years probation to  
4 end next year.

5 I'm asking Your Honor to sentence her  
6 to the minimum sentence to run concurrent with  
7 any probation revocation. We will waive  
8 service of notification/warrant from Probation  
9 so we can handle that today.

10 Your Honor, I am hoping that she will  
11 get some help or assistance where she is going  
12 for her drug addiction. She's been doing it  
13 for ten years. It's unfortunate. That's  
14 about all that I say about it.

15 THE COURT: First, Ms. Branyon,  
16 would you raise your right hand?

17 DEFENDANT: (Complies).

18 THE COURT: Do you swear or affirm  
19 to tell the truth, the whole truth and nothing  
20 but the truth?

21 DEFENDANT: Yes, sir.

22 THE COURT: Now, your attorney has  
23 asked that you be allowed to waive presentment  
24 of the service of the probation revocation  
25 warrant on you and proceed with hearing that

1 at the same time as we are doing the sentence  
2 today. Is that what you want to do?

3 DEFENDANT: I don't know what that  
4 means.

5 THE COURT: Talk to her real quick,  
6 Mr. Whiten. Explain to her what that means.

7 MR. WHITEN: (Sidebar with Defen-  
8 dant). Thank you, Your Honor. I believe that  
9 she understands.

10 THE COURT: Now, Ms. Branyon, have  
11 you had sufficient time -- do you feel like  
12 you've talked to him about me hearing the  
13 probation matter as well as doing the  
14 sentencing right at this time?

15 DEFENDANT: Yes.

16 THE COURT: Do you want me to  
17 dispose of the probation matter as well as  
18 do the sentencing at this point?

19 DEFENDANT: Yes, sir.

20 THE COURT: You're accepting your  
21 attorney's advice to go ahead and get them  
22 both done at this point.

23 DEFENDANT: Yes, sir.

24 THE COURT: Do you have any  
25 questions of me before I proceed?

1 DEFENDANT: No, sir.

2 THE COURT: Ms. Branyon, when was  
3 the last time that you had any type of gainful  
4 employment?

5 DEFENDANT: I clean houses.

6 THE COURT: I need you to speak  
7 louder, please.

8 DEFENDANT: I clean houses.

9 THE COURT: You clean houses?

10 DEFENDANT: Yes.

11 THE COURT: Is that all under the  
12 -- off the books? In other words, you don't  
13 pay taxes on that?

14 DEFENDANT: No.

15 THE COURT: When was the last time  
16 that you held a job for a period of a year or  
17 more, where they withheld taxes from your pay?

18 DEFENDANT: About three years, I  
19 guess.

20 THE COURT: Ma'am?

21 DEFENDANT: Three years.

22 THE COURT: Three years?

23 DEFENDANT: Yes, sir.

24 THE COURT: What did you do?

25 DEFENDANT: I was a housekeeper at

1 the, uh, Ramada Inn.

2 THE COURT: How long did you do  
3 that?

4 DEFENDANT: For -- I went to two or  
5 three different places. I -- for about, I  
6 don't know, about five years, I guess.

7 THE COURT: Okay. Do you have any  
8 children?

9 DEFENDANT: I've got one son -- one  
10 son.

11 THE COURT: How old is he?

12 DEFENDANT: Thirty-three (33).

13 THE COURT: Are you married?

14 DEFENDANT: No, sir.

15 THE COURT: Do you have anything  
16 that you would like to say to me before I  
17 impose sentence on you?

18 DEFENDANT: No.

19 MR. WHITEN: She does have grand-  
20 children also, Your Honor.

21 DEFENDANT: Yeah, I've got two  
22 grandchildren.

23 MR. WHITEN: Two grandchildren.

24 DEFENDANT: No, I don't -- I don't  
25 know. I -- I wish that there was some way I

1     could do something to change all this, you  
2     know.

3                 THE COURT:     How did you get into  
4     using methamphetamine?

5                 DEFENDANT:     You know, working -- it  
6     seems to me that working at Schmer (phonetic)  
7     for like fifteen years and raising my son by  
8     myself 'cause my husband died in a car  
9     accident. I just -- I couldn't do everything.  
10    I didn't have time to do everything and-- and,  
11    you know, so I -- I done meth to make me stay  
12    up longer and all so I could get everything  
13    done. That's how I done it.

14                THE COURT:     All right. Shelia, as  
15    a probationer, how was she? Did she report as  
16    required?

17                PROBATION AGENT: I am not sure,  
18    Your Honor. I don't have that -- I mean, I  
19    don't have that before me. I just have her  
20    file. Crystal White is her supervisor.

21                MR. WHITEN:     Did you report regular?

22                DEFENDANT:     (Sidebar with Mr.  
23    Whiten).

24                THE COURT:     Have you ever been  
25    violated on your probation before?

1 MR. WHITEN: No, sir.

2 DEFENDANT: No, sir.

3 THE COURT: No?

4 MR. WHITEN: No, sir. She reported  
5 regular, Your Honor. I'm confident of that.

6 THE COURT: I am just curious how  
7 she could have made it through probation,  
8 sentenced in 2008, and not have tested  
9 positive for methamphetamine. Did they not  
10 drug test you?

11 DEFENDANT: Yeah, they did.

12 PROBATION AGENT: Excuse me, Your  
13 Honor. I do see where she did test positive  
14 for drugs on May 31<sup>st</sup> of last year.

15 THE COURT: She did?

16 PROBATION AGENT: Yes, sir. That's  
17 all that I have.

18 THE COURT: All right.

19 MR. WHITEN: That's not surprising,  
20 Your Honor.

21 THE COURT: All right. Anything  
22 further?

23 MR. WHITEN: No, sir.

24 THE COURT: Anything further from  
25 you, Ms. Branyon?

1 DEFENDANT: No, sir.

2 THE COURT: I am going to find by  
3 the verdict today that you willfully violated  
4 the terms and conditions of your probation,  
5 in that you continued to possess, sell and use  
6 methamphetamine. So I'm going to revoke the  
7 remainder of your probationary sentence which  
8 was ten years. I am going to sentence you to  
9 ten (10) years and run those concurrent. I am  
10 going to terminate probation for any monies  
11 owed, reduce it to civil judgment. So it will  
12 be a straight, concurrent sentence. Good luck  
13 to you.

14 (TRIAL CONCLUDED)

15

16

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24

25

WITNESSES

M L Robinson, Anderson County Sheriff's Dept.

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

4-26-11

Term

A TRUE COPY

MAR 21 2014

CLERK OF COURT

ARREST WARRANT NUMBER

J899589

THE STATE

vs.

Loretta Galloway Branyon

ACTION OF GRAND JURY

TRUE BILL

APR 26 2011

Foreperson of Grand Jury  
Date:

VERDICT

LSH

Indictment for

Drugs/ Possession of Methamphetamine with  
Intent to Distribute

SC Code: 44-53-0375(B)(3)  
CDR Code: 3200

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

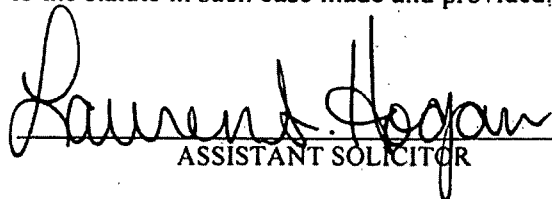
COUNTY OF Anderson )

At a Court of General Sessions, convened on 4-26-11, the Grand Jurors of Anderson County present upon their oath:

**Drugs/ Possession of Methamphetamine with Intent to Distribute**

That on or about **January 13, 2011**, in Anderson County, South Carolina, the Defendant, **Loretta Galloway Branyon** did possess with intent to distribute, dispense, or deliver Methamphetamine, a schedule II controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such distribution not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina (1976), as amended.

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

  
  
ASSISTANT SOLICITOR

## STATE OF SOUTH CAROLINA

COUNTY OF Anderson

STATE

VS.

Loretta Galloway Branyon

AKA:

Race: W Sex: F Age: 48DOB: 04-12-1962 SS#: 250-13-6248Address: 905 Shirley Store RdCity, State, Zip: Anderson, SC 29621-5034DL# 008095810\* SID# SC01676525\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or PLEADSTO: Drugs / Manufacture, distribution, etc. methamphetamine or cocaine base, 3rdIn violation of § 44-53-0375 (B) (3) of the S.C. Code of Laws, bearing CDR Code # 3200 max: 10-30 yrs.☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The charges: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Lauren Hogan 72613  
Solicitor, SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 0 days/months/years or ☐ under the Youthful Offender Act not to exceed 0 years and/or to pay a fine of \$ 0; provided that upon the service of 0 days/months/years and or payment of \$ 0; plus costs and assessments as applicable\*; the balance is suspended with probation for 0 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ 0 plus 20% fee: \$ 0Payment Terms: 0☐ Set by SCDPPPS

Recipient:

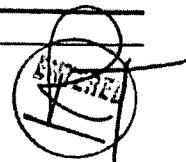
\*Fine: \$ 0§14-1-206 (Assessments 107.5%) \$ 0§14-1-211 (A)(1)(Conv. Surcharge) \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$ 100§56-5-2995 (DUI Assessment) \$ 12§56-1-286 (DUI Breath Test) \$ 25Proviso 47.9 (Public Def/Prob) \$ 500§14-1-212 (Law Enforce. Funding) \$ 25§14-1-213 (Drug Court Surcharge) \$ 150.00§50-21-114 (BUI Breath Test Fee) \$ 50§56-5-2942(J) (Vehicle Assessment) \$ 40/eaProviso 90.5 (SCJA Surcharge) \$ 5§44-53-450(C) (Conditional Discharge) \$ 3503% to County (if paid in installments) \$ 8.40TOTAL \$ 288.40Clerk of Court/Deputy Clerk Richard A. ShirleyCourt Reporter: V. Cross

SCCA/217. (06/2010)

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-ES-04-0064AW#: J899589Date of Offense: 1/13/2011S.C. Code §: 44-53-0375 (B) (3)CDR Code #: 3200

## SENTENCE SHEET



PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ 0 Beginning\$ 0 Paid to Public Defender FundOther: Recommend ATU☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.Presiding Judge [Signature]Judge Code: 2155Sentence Date 8-14-12

A TRUE COPY

MAR 21 2014

CLERK OF COURT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

---

Appellate Case No. 2012-212801

---

The State,.....Respondent.

V.

Loretta Galloway Branyon.....Appellant.

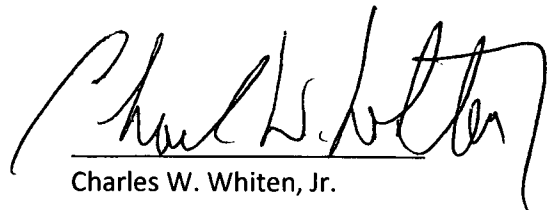
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CERTIFICATE OF COUNSEL

---

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 21, 2014



Charles W. Whiten, Jr.  
P.O. Box 716  
Anderson, South Carolina  
864-225-6268  
Attorney for Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2012-212801

**RECEIVED**  
MAR 28 2014  
SC Court of Appeals

The State,.....Respondent.

V.

Loretta Galloway Branyon.....Appellant.

PROOF OF SERVICE

I, Carla R. Whiten, certify that I have served the within Record on Appeal and Final Brief of Appellant by depositing in the United States Mail, postage prepaid on March 27, 2014 and addressed as follows:

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street

Columbia, South Carolina 29211

Alan Wilson  
Attorney General  
Mark R. Farthing  
Assistant Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, S.C. 29201

Christina T. Adams  
Solicitor, Tenth Judicial Circuit  
100 S. Main Street  
Anderson, SC 2624

Carla R. Whiten  
Carla R. Whiten

LAW OFFICES OF CHARLES W. WHITEN, JR., P.A.  
P.O. BOX 716  
ANDERSON, SOUTH CAROLINA  
29622

Charles W. Whiten, Jr.

215 East Benson Street  
Phone: 864-225-6268  
Fax: 864-642-4351  
E-Mail: [cwhiten2000@gmail.com](mailto:cwhiten2000@gmail.com)

March 27, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: State vs Loretta Galloway Branyon  
Case No.: 2012-212801

**RECEIVED**  
MAR 28 2014  
SC Court of Appeals

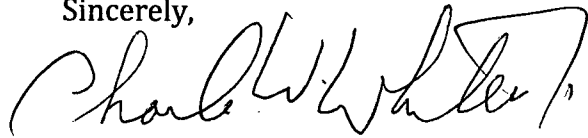
Dear Ms. Kitchings:

Enclosed for filing please find one original (unbound) and fifteen (bound) copies of the Record on Appeal and Final Brief of Appellant in the above revered case along with a Proof of Service for same.

Furthermore, pursuant to Rule 210(a) and Rule 211(a), SCRCP, I have served one copy each on the opposing counsel.

Thank you for your usual courtesies in these matters.

Sincerely,



Charles W. Whiten, Jr.  
Attorney at Law

CWW/crw