

ORIGINAL

VOLUME I of II

THE STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO CHARLESTON COUNTY
Michael G. Nettles, Circuit Court Judge

Appellate Case No: 2017-002121

RECEIVED

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S.C. SUPREME COURT

NORRIS STEPLIGHT,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
Plaintiff,)
vs.) Case No.: 2011-GS-10-6501
NORRIS TYRONE STEPLIGHT,)
Defendant.)

COPY

TRANSCRIPT OF PROCEEDINGS
PRETRIAL AND JURY SELECTION, VOLUME I OF II
HEARD BEFORE JUDGE KRISTI LEA HARRINGTON
ON FEBRUARY 4, 2013

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1 The above-styled cause came on for hearing on
2 the 4th day of February, 2013, at 12:00 p.m., before
3 Judge Kristi Lea Harrington, Resident Judge, presiding
4 over the General Sessions for the County of Charleston,
5 when the following proceedings were had and entered of
6 record, to wit:

7 PROCEEDINGS

8 THE COURT: Just for -- Mr. Wetmore, just for
9 scheduling, you can approach.

10 (A discussion is held off the record with
11 Mr. Wetmore.)

12 THE COURT: Can you pick a jury now?

13 MS. LINDER: Yes, Judge.

14 MR. SMILEY: I'm looking for my client, your
15 Honor. My client has always been available. He -- his
16 phone number wasn't working last week. I've left
17 messages. The bondsman is out to find him now.

18 THE COURT: All right. How long will this case
19 take to try?

20 MS. LINDER: I would think that it would take
21 about one to two hours for pretrial motions, and then I
22 don't see the case taking -- the -- my case in chief
23 wouldn't take more than, I don't think, about a half a
24 day or three-quarters of the day.

25 THE COURT: All right. Mr. Smiley?

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1 MR. SMILEY: I think it's a little longer than
2 that, but it's not a terribly long case. A day and a
3 half, two days.

4 THE COURT: All right. So we could pick a jury
5 now and then start our pre-trial motions in the morning?

6 MR. SMILEY: I'll have to pick without a
7 client.

8 MS. LINDER: Your Honor --

9 THE COURT: He's been on my docket several
10 times, so I know that he's had --

11 MR. SMILEY: He's been here every time.
12 That's why I'm telling you, Judge, he's -- he changed
13 -- changed his phone number, I've left messages
14 everywhere I could. We got a text saying, You just got
15 moved up; you might be going first thing. I called the
16 bondsman at 8:30 this morning, who said, I'll go get
17 him. That's where I was.

18 THE COURT: All right.

19 MS. LINDER: Your Honor, I was just going to
20 say that -- I lost my train of thought. I'm fine to go
21 ahead and pick a jury. I would just ask, in an
22 abundance of caution, if the murder case does take too
23 long, that we don't swear the jury.

24 THE COURT: I'm not going to swear the jury.
25 Where are we with the jurors?

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1 THE DEPUTY CLERK OF COURT: I can bring them
2 now.

3 THE COURT: Are you ready to pick?

4 MR. SMILEY: I've got to just go grab my file.
5 I don't have a client, but I -- yes, ma'am.

6 THE COURT: What time was he told to be here?

7 MS. LINDER: The letters all just have them
8 coming on Monday morning, and everything says nine
9 o'clock tomorrow.

10 MR. SMILEY: And he's gotten a dozen letters
11 over the last year and a half, I'm sure.

12 THE COURT: Okay.

13 MR. SMILEY: And, like I said, I've never had a
14 problem with him not showing. He's showed up every
15 time. The only reason he's not here, is the number that
16 he -- he's changed phones three or four times. The last
17 number I had, I called. It was disconnected. I called
18 every other number, left messages. Then this morning, I
19 contacted the bondsman --

20 THE COURT: Okay. Go get your file. Is there
21 a reason I shouldn't issue a bench warrant to assist in
22 picking him up?

23 MR. SMILEY: No, ma'am, I don't -- I think he
24 will be here. I'm just -- I don't think it will speed
25 up the process. I don't think he's intentionally

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1 avoiding court. He's been anxious to have the case
2 tried.

3 THE COURT: All right.

4 MR. SMILEY: I'll go get my file, your Honor.
5 Thank you.

6 (Other matters/cases discussed off the record.)

7 THE COURT: All right. So you go get your
8 file.

9 MR. SMILEY: Yes, ma'am.

10 THE COURT: You want to get a bench warrant
11 prepared?

12 MS. LINDER: Yes. I will do that.

13 THE COURT: And your witnesses are ready to
14 testify?

15 MS. LINDER: I can have my investigator call
16 them and they can -- they're all police officers for
17 pretrial, so they should all be able to be here probably
18 within an hour.

19 THE COURT: All right. Can we -- so
20 scheduling-wise, Mr. Wetmore, is that okay with your
21 schedule?

22 MR. WETMORE: That works fine, your Honor. We
23 had this prioritized as the Williams thing first, if
24 it's possible. If it's not, then Steplight would be the
25 next. My understanding is that Simmons has already been

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1 bench warranted. Right?

2 MS. LINDER: Yes, Judge. I had -- as
3 Mr. Wetmore said, I also indicated this morning in a
4 pretrial conference for this first Williams case to your
5 law clerk, that Carlos Simmons was on the previous trial
6 docket, he no-showed, and at the time I issued a bench
7 warrant. And I was intending t to go forward on
8 Steplight today as opposed to Simmons.

9 THE COURT: And I also have two others in jail:
10 Freedman and Grant.

11 (Other matters/cases discussed off the record.)

12 THE COURT: And then we're still waiting on
13 Mr. Smiley? Is that correct, Ms. Linder?

14 MS. LINDER: I believe he left here. His
15 office is just on King Street I think he will be back
16 soon.

17 MS. LINDER: I can try to call the bondsmen
18 myself. I guess the bondsman is trying to track him
19 down.

20 THE COURT: But you will have your officers
21 here?

22 MS. LINDER: Yes, I can.

23 THE COURT: At 1:30.

24 MS. LINDER: Yes.

25 MR. NELSON: What time is the jury coming back?

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1 MR. NELSON: 2:30.

2 MR. NELSON: I'm going to tell my officers that
3 they can get lunch.

4 THE COURT: Wait just a moment. There's going
5 to be an hour break somewhere for them to go eat. I'm
6 just trying to make a determination whether or not they
7 need to break for the whole week.

8 MR. NELSON: Yes, your Honor.

9 THE COURT: Okay. Thank you.

10 All right. Mr. Howell, you're on call. I'm
11 going to let you go. You just need to stay in touch
12 with Ms. Riddle.

13 MR. HOWELL: Yes, ma'am.

14 THE COURT: You can take Mr. Freeman back
15 whenever.

16 All right. Mr. Wetmore.

17 MR. WETMORE: Yes, ma'am.

18 THE COURT: Sorry.

19 (A discussion is held off the record with
20 Mr. Wetmore.)

21 (Mr. Smiley returns to the courtroom at
22 12:29 p.m.)

23 THE COURT: Mr. Smile, Ms. Linder. Y'all may
24 approach.

25 (The Judge speaks with Mr. Smiley and

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1 Ms. Linder off the record.)

2 (Other matters/cases discussed off the
3 record.)

4 (Back on the record with the Steplight case
5 at 12:31 p.m.)

6 THE COURT: All right. We're going to go ahead
7 and break for lunch. Be back at 1:30. I'll be in
8 chambers if anything transpires between the AT&T issue.
9 Let me know. I'll be here in chambers, but we're going
10 to start Mr. Steplight's motion at 1:30.

11 (The Judge resumes the bench at 1:30 p.m.)

12 (The Defendant is not present.)

13 THE COURT: So I'd like to go ahead and get
14 started before the jury gets --

15 MS. LINDER: Yes.

16 THE COURT: Your witnesses are here for the
17 pretrial?

18 MS. LINDER: Yes, I'll grab them.

19 THE COURT: I note your vehement objection to
20 continuing without your client's presence.

21 MR. SMILEY: Thank you, Judge.

22 THE COURT: Go ahead with your first witness.

23 MR. SMILEY: Your Honor, this is a Motion
24 to Suppress the evidence; simply being, the crack
25 cocaine that was found once he was taken to the jail.

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1 Because -- Ms. Linder understands I'm challenging it
2 both on being initially an illegal stop, and then,
3 subsequently, being an illegal arrest. Once they're
4 past the arrest, the search at the jail is -- I'm not
5 complaining about.

6 THE COURT: All right.

7 MR. SMILEY: It's those two things. And,
8 again, thank you for noting the record. I surely wish
9 he was here, so he could hear this part because this is
10 what he has complained about the whole time. And just
11 for the record, he has shown up -- and Ms. Linder -- he
12 has shown up at least a half dozen times. This has been
13 on the docket for an excess of a year. One time --

14 THE COURT: I remember we were going to try to
15 try it in December, weren't we?

16 MS. LINDER: I believe it was December.

17 MR. SMILEY: It's been called several -- it's
18 been close to being called several -- it was actually
19 called once, when I got Rocky Mountain Spotted Fever on
20 Memorial Day, in front of Judge Nicholson, and we
21 weren't able to go forward. So it's had stops and
22 starts. And my client -- that's why I said, he's not
23 intentionally missing court. I feel like I've -- I've
24 done something wrong because he's not here, because I
25 know he wants to be present. I understand this Court's

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1 position too. He has a letter and all. But I've
2 usually never had a problem reaching him.

3 THE COURT: Well, where's the bonds person?

4 MR. SMILEY: I've spoke to his -- it's Holiday
5 Bonding -- Thomas Holiday Bonding, has him out on bond.
6 I left a message at every number I had last week. And I
7 had several numbers for Norris. He's changed phones
8 several times. I never got him, but left messages
9 everywhere. I thought we were going to -- I thought we
10 were going to be second this week, your Honor. And
11 my -- never assume anything. -- is I contacted, when I
12 did not hear back from him, the bondsman, at 8:30 this
13 morning, and told them that I needed to get him here as
14 soon as possible. She contacted all the numbers she
15 had, and -- and sent someone, my understanding, to his
16 mother's house to find out where he is now.

17 THE COURT: Okay.

18 MR. SMILEY: As of one o'clock when I spoke to
19 the bondsman last, she still had not located him, but
20 that's where we are.

21 THE COURT: All right. All right.

22 MS. LINDER: And, your Honor, I had E-mailed
23 your law clerk earlier, and copied Mr. Smiley, with a
24 copy of my *voir dire*, and potential witness list.

25 THE COURT: Okay.

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1 MS. LINDER: I have a copy if the Court needed
2 a copy.

3 THE COURT: Can we have a -- can you provide a
4 copy for my court reporter?

5 MS. LINDER: Yes. If I may approach the court
6 reporter?

7 THE COURT: You may.

8 MS. LINDER: And if I may pre-mark two exhibits
9 for identification purposes in this hearing?

10 (Other matters/cases discussed off the record.)

11 THE COURT: Ms. Linder, whenever you are ready.

12 MS. LINDER: Thank you, your Honor. The State
13 calls Investigator Sean Engles.

14 (The oath is administered by the Deputy Clerk
15 of Court, and the witness answers as follows:)

16 THE WITNESS: I do.

17 THE DEPUTY CLERK OF COURT: State your full
18 name and spell your last name.

19 THE WITNESS: My name is Sean Engles,
20 E-n-g-l-e-s.

21 SEAN ENGLES,
22 having been first duly sworn by the Deputy Clerk of
23 Court to tell the truth, the whole truth, and nothing
24 but the truth, was examined and testified upon his oath
25 as follows:

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1 DIRECT EXAMINATION

2 BY MS. LINDER:

3 Q Good afternoon, Mr. Engles. How are you doing
4 today?

5 A Good. Thank you.

6 Q And what is your occupation?

7 A I'm a police officer with the City of
8 Charleston Police Department.

9 Q And what are your duties with CPD?

10 A Currently I'm assigned to Special
11 Investigations Unit as a narcotics investigator.

12 Q And can you just tell briefly, the Court, some
13 of your education and background.

14 A Yes. I have a bachelor's degree from the
15 University of Maryland in business and criminal justice.
16 After college, I joined the Charleston Police
17 Department. Criminal Justice Academy, I earned the
18 academic award. From there, I did my training in
19 Team 1. I stayed in Team 1 for approximately four
20 years. Two of the years was with the Power Shift, which
21 was a proactive patrol unit. I then did almost five
22 months in Team 1 Investigations. And, finally, I'm at
23 my current role as a narcotics detective.

24 Q And how long have you been employed by CPD?

25 A Five and a half years.

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1 Q And did you have the occasion to be working
2 back on May 27 of 2011?

3 A Yes, I did.

4 Q Did you have the occasion to become involved in
5 the investigation of this case, the State versus
6 Norris Steplight, in any way on that date?

7 A Yes, I did.

8 Q How were you brought into this case, and can
9 you please tell the Court what happened.

10 A Yes. I was on patrol. I was the passenger in
11 the patrol vehicle with Officer Harrison, who was
12 driving. We were in the area of Rutledge Avenue and
13 Calhoun Street.

14 Q Is that in Charleston County?

15 A It is.

16 Q Did anything occur while you were on patrol in
17 the area involving the Defendant in this case?

18 A Yes. The Defendant was the driver of the
19 vehicle that we had pulled over for a traffic violation.

20 Q And what traffic violation did you pull the
21 vehicle over for?

22 A We were directly behind the vehicle as it was
23 south on Rutledge approaching Calhoun Street, and I
24 observed the car not come to a complete stop as it made
25 a right turn onto Calhoun Street, and there was a solid

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1 red light, where he should have come to a complete stop.
2 Furthermore, when he turned, he turned into Lane 1,
3 which is not the most immediate lane, which is --
4 constitutes an un- -- or an improper turn.

5 Q So you stopped the vehicle for two different
6 traffic violations?

7 A Yes.

8 MS. LINDER: Your Honor, may I approach?

9 THE COURT: You may.

10 Q (By Ms. Linder) At this time, I show you
11 what's been marked as State's Exhibit 2 for
12 identification purposes. Do you recognize this?

13 A Yes.

14 Q And is it a fair and accurate representation?

15 A Yes, it is.

16 MS. LINDER: Judge, at this time, I would ask
17 for the limited purpose of this hearing for this exhibit
18 to be made a State's exhibit.

19 THE COURT: Any objection?

20 MR. SMILEY: I would agree that it is a map of
21 the downtown area and -- and -- for those purposes.

22 THE COURT: All right. Thank you.

23 (State's Exhibit Number 2 is admitted into
24 evidence.)

25 Q (By Ms. Linder) Can you please explain to us

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1 where the Defendant was and for what reasons the traffic
2 stop was initiated. I will hold this the best I can.

3 A We have Rutledge Avenue right here. And the
4 Defendant's vehicle was a white pickup truck and
5 traveling south. We were behind it, also traveling
6 south. And when the Defendant's vehicle, who had a
7 solid red light at the intersection here for southbound
8 traffic, the Defendant made a right-hand turn, which was
9 westbound, without coming to a complete stop at that red
10 light. It was -- it was in Lane 1, which, again, not
11 the most immediate lane. Ashley Avenue and Calhoun
12 Street is when we initiated the traffic stop with the
13 blue lights and siren. The vehicle continued down
14 Calhoun, made a right on Jonathan Lucas, and stopped in
15 the area of Sabin Street, which is an alley, right about
16 there.

17 Q And can you please explain -- what time of day
18 was this?

19 A This was about 8:00 p.m.

20 Q And what time of year was it, again?

21 A This was the month of May, summertime.

22 Q Okay. What were the -- what were the weather
23 conditions? Can you explain your ability to see that
24 day?

25 A At eight o'clock, even though it's at night,

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1 during that time of the year, it's still perfectly light
2 out. We had ample daylight. There's no need for
3 streetlighting or anything. The weather was clear.
4 Nothing to obstruct our view.

5 Q And who was driving that vehicle?

6 A Detective Harrison.

7 Q No. I apologize. The vehicle that was pulled
8 over for the traffic infractions?

9 A That was Norris Steplight.

10 Q Was anybody else in the vehicle with
11 Mr. Steplight?

12 A No. He was alone.

13 Q And what did you do, or what did you and
14 Officer Harrison do, when you observed the traffic
15 infractions?

16 A Soon after observing the infractions, we
17 initiated blue lights and sirens and attempted to
18 conduct a traffic stop on the vehicle.

19 Q Did you have a video in your car?

20 A No.

21 Q Is this typical?

22 A Yeah, it's typical. We don't have a -- there
23 are plenty of cars that don't have video in them.

24 Q Did the Defendant ultimately pull over for the
25 traffic stop?

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1 A Yes.

2 Q And what did you do after the car was stopped?

3 A After the car was stopped, Detective Harrison
4 approached the driver, while I approached the passenger
5 side of the car.

6 Q And is that style of approach, is that
7 customary, or is that something specific that you and
8 Officer Harrison do only?

9 A No, it's not a specific thing. It's a usual
10 technique.

11 Q Did you notice anything upon your approach of
12 the vehicle?

13 A Yes. And even while we were still in motion in
14 the patrol vehicle, attempting to stop Mr. Steplight, we
15 saw him leaning forward and making some movements in the
16 car that raised our suspicion that he was attempting to
17 conceal something.

18 Q Okay. And when the two of you approached the
19 vehicle, what happened at that point?

20 A Detective Harrison had interaction at the
21 driver's side. He determined to ask Mr. Steplight to
22 exit the car. We all came to the tailgate area.

23 Q Who is "we all"?

24 A I'm sorry. This was Mr. Steplight, myself, and
25 Detective Harrison.

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1 Q And at that point did you learn anything about
2 the Defendant's driving privileges?

3 A Yes. That he had a route-restricted driver's
4 license.

5 MS. LINDER: Your Honor, if I may approach?

6 THE COURT: You may.

7 (Document is handed to the witness.)

8 Q (By Ms. Linder) At this time, I'm going to
9 hand you what's been marked for identification purposes
10 for the hearing as State's Exhibit 1. Do you recognize
11 this?

12 A Yes, I do.

13 Q And how do you recognize it?

14 A This is a copy of the document that
15 Mr. Steplight provided us at the traffic stop. This is
16 a copy of his license application for a route-restricted
17 driver's license.

18 Q And what are the restrictions on
19 Mr. Steplight's route-restricted license? Where was he
20 allowed to drive? For what purpose was he allowed to
21 drive?

22 A For work-related purposes, and he has a route
23 listed out here, if you'd like me to read that.

24 Q I'm fine with that. Thank you.

25 From the restrictions listed on his license and

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1 other events, did you believe that he was in violation
2 of his route-restricted driver's license?

3 A Yes, I did.

4 Q And what happened next? After you determined
5 he was in violation?

6 A Officer Harrison asked to Mr. Steplight to
7 search the car. I remained with Mr. Steplight at the
8 tailgate area. I was watching Mr. Steplight and noticed
9 that he was nervous, that he was -- his hands were
10 shaking, he had rapid breath -- rapid breathing, and he
11 was very curious when Officer Harrison asked for consent
12 to search the car, which he -- which Officer Harrison
13 was granted consent. And he was watching
14 Mr. Harrison -- Officer Harrison very closely as he was
15 searching the car. So due to that -- due to that
16 behavior and curiosity, in addition to the other --
17 couple of other elements, I asked for a pat down of
18 Mr. Steplight and a search, which he also consented
19 to. And I did execute a pat down and a search of
20 Mr. Steplight.

21 Q Let's go back briefly to before the traffic
22 stop that you did based upon those two violations.
23 Please tell us what, if any, information you had on this
24 vehicle and Defendant prior to pulling it over?

25 A The -- the patrol vehicle we were in was

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1 initially Officer Harrison, myself, and Officer Deming.
2 We had intelligence through some complaints that there
3 was a specific house that was involved in narcotics
4 activity. We deployed Officer Deming on foot to surveil
5 the location. Officer Deming was in radio contact with
6 us, and he advised us over the radio of a specific white
7 pickup truck that parked out front of the location, and
8 went into the -- the address that we were surveilling
9 for a short period of time, and conducted what appeared
10 to be a narcotics transaction. So then Officer Deming
11 advised us when that vehicle left, and we were able to
12 intercept it on Rutledge as it came southbound.

13 Q Thank you. Going back to the route-restricted
14 license, on Mr. Steplight's route-restricted license,
15 what dates is this license good for? What time period?

16 A The beginning date was October 15th, 2010, and
17 expires that same day in 2011.

18 Q And the traffic stop that you did, was
19 that within the time frame controlled by this
20 route-restricted license?

21 A Yes, it was.

22 Q And can someone still be charged with a driving
23 under suspension if they have a route-restricted
24 license?

25 A Yes, they can.

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1 Q And does it say anywhere on the
2 route-restricted license that information? If I can
3 direct you to the top third of the page, Item Number C.

4 A Yes. Would you like me to read it?

5 Q Please.

6 A The below information is true and correct. I
7 am also aware that any violation in the time or route
8 listed below may result in a charge of driving under
9 suspension, and upon conviction, suspension of my
10 driving privileges -- or any driving privileges.

11 Q When Mr. Steplight was pulled over, what
12 conversation, if any, was had regarding his route
13 restriction, and what he was driving -- doing that
14 evening?

15 A We obviously had some intelligence that
16 Mr. Steplight was coming from a specific address, and we
17 were curious as to whether or not he would be truthful
18 with us. So we were asking him where he was coming
19 from, to which he only divulged to us that he had gotten
20 off work earlier, and he -- he would not specify what
21 earlier meant, and, also, that he had dropped his
22 girlfriend off at church, which he could not specify
23 which church or where.

24 Q And is dropping his girlfriend off part of the
25 route-restricted license in the exhibit before you?

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1 A No. That would be a violation.

2 Q Did he appear to be working?

3 A No. To me, he did not. He appeared to be
4 freshly clean, wearing clean clothes, and there weren't
5 any tools or anything in his truck.

6 Q And why is that significant to you? What type
7 of work did Mr. Steplight indicate that he did?

8 A He was some kind of laborer.

9 Q Did you ever get consent to search
10 Mr. Steplight's person?

11 A Yes, I did.

12 Q And what was the result of that?

13 A During my search of Mr. Steplight, I noticed
14 that he had a large quantity of money on his person,
15 but, additionally, that there was some object between
16 his buttocks that was unnatural.

17 Q And what happens when someone consents to a
18 search, what do you as the police officer conducting the
19 search say to the person? Do you explain what you are
20 doing? Do you just silently search them?

21 A I specifically asked to search Mr. Steplight.

22 Q Are you ever concerned or do you ever ask about
23 any sort of medical issues that a person may have before
24 doing a search?

25 A If there was a visible condition, I may ask

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1 something like that; but, in this case, I did not ask
2 about anything specific, medically.

3 Q And did you attempt to confirm that driving
4 under suspension, that status, while you were out there
5 on the stop?

6 A Yes, I did. We conducted a check through the
7 DMV, via mobile computer, which stated that he was
8 suspended and route-restricted.

9 Q Ultimately, was the Defendant issued any
10 warning tickets, or any tickets for this stop?

11 A He was. The improper turn, and failing to come
12 to a complete stop at the red light, he was issued a
13 warning ticket for.

14 Q And, ultimately, was the Defendant placed under
15 arrest for this stop?

16 A Yes. For driving under suspension.

17 Q Is it within your discretion as a police
18 officer how to proceed in a driving-under-suspension
19 case?

20 A Yes, it is.

21 Q And what are your options?

22 A An option would be a custodial arrest, a
23 citation, and allow someone to remove the vehicle,
24 with -- with the owner's consent or get the vehicle
25 towed.

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1 Q And in this case, do you attempt to get someone
2 else to pick up the vehicle, or have it towed?

3 A We had the vehicle towed in this case.

4 Q And did you call for any assistance in having
5 that vehicle towed, from any other officers?

6 A Yes. Officer Deming did respond to the scene
7 before the vehicle was towed. We needed his assistance
8 there.

9 MS. LINDER: Beg the Court's indulgence?

10 (Ms. Linder is speaking with co-counsel,
11 Mr. Stoney, off the record.)

12 MS. LINDER: I have no further questions at
13 this time. If you could, please answer any questions
14 that Mr. Smiley may have.

15 CROSS-EXAMINATION

16 BY MR. SMILEY:

17 Q Officer, Jim Smiley. So were you part of the
18 the narcotics unit on the date of this arrest?

19 A No. The date of this arrest, I was part of
20 a -- we call it a Power Shift.

21 Q What is a Power Shift?

22 A A Power Shift is a proactive patrol unit.
23 Typically, we wouldn't respond to traditional calls for
24 service. We would try to generate our own proactive
25 efforts and -- unless -- unless there was an in-progress

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1 significant call.

2 Q Okay. You were a proactive unit. So you're
3 out hunting for crimes?

4 A Yes.

5 Q Okay. And would it be fair to say that in
6 hunting for crime, your target was Norris Steplight that
7 day?

8 A It was unknown to us that specifically
9 Norris Steplight was going to come into the picture.

10 Q Okay. Y'all were hunting for a crime at a
11 particular address?

12 A That's accurate. That -- that we're expecting
13 criminal activity from a specific address.

14 Q Okay. So three officers and one marked car; is
15 that correct?

16 A We were --

17 Q Is that how it started off?

18 A This was an unmarked car.

19 Q Unmarked?

20 A Yes. This was a Chevy Tahoe.

21 Q Okay. And so three officers in an unmarked
22 car, and y'all go to the specific address to begin with?

23 A Yes.

24 Q Okay. What was that address?

25 MR. LINDER: Objection, your Honor. May we

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1 approach?

2 THE COURT: You may.

3 (Ms. Linder and Mr. Smiley approach the bench
4 for a side-bar.)

5 Q (By Mr. Smiley) All right. Officer Engles,
6 what street did your investigation begin on?

7 A I believe it was Morris Street.

8 Q Okay. And that's downtown?

9 A Yes.

10 Q And it's near Rutledge?

11 A Yes.

12 Q Okay. And when y'all were out hunting crime,
13 there was an address on Morris Street that had caught
14 your attention because of concerned citizens'
15 complaints?

16 A Yes.

17 Q Had these concerned citizens' complaints been
18 identified, or just basically anonymous tips?

19 A I didn't specifically verify anything with
20 the citizens, but I believe there -- there was other
21 intelligence, too, from our narcotics unit that this
22 could be a location of interest.

23 Q All right. So you had tips from citizens
24 about an address on Morris Street, and that, with
25 conversations with narcotics, had identified a

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1 particular address on Morris Street that you believe
2 there was criminal activity afoot?

3 A Yes.

4 Q Fair enough?

5 A Yes.

6 Q So had -- what --

7 How do I ask this?

8 What verification did the narcotics unit give
9 you about this address?

10 A It was just a general conversation. Like, you
11 guys might want to keep an eye on this address. We've
12 heard that there's some stuff going on.

13 Q All right. So you got the concerned citizens'
14 complaints coupled with, Hey, asked narcotics about it;
15 they said, Yeah, that address on Morris Street, we've
16 heard there might be some activity going on; correct?

17 A That's about right.

18 Q That's the extent of your verification; right?

19 A Right.

20 Q So about what time did you let -- is it
21 Detective Denning [sic]?

22 A Officer Deming.

23 Q Officer Deming. About what time did he get let
24 off from Morris Street?

25 A My best estimate would be 7:30.

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1 Q Okay. About 30 minutes or so before this
2 stop --

3 A That's my best estimate.

4 Q -- give or take?

5 Okay. And then he was dropped off to watch
6 this residence on Morris Street, and you and the other
7 officers stayed mobile in the area?

8 A We were parked -- we knew that Rutledge Avenue
9 would probably be the best avenue of exit, so we were
10 parked on a -- a street south.

11 Q Okay. So you dropped the officer off in the
12 general area that you had had the -- the concerned
13 citizens' complaints, and then y'all pulled down
14 Rutledge and pulled to an off-street and parked?

15 A Yes.

16 Q Okay. And the purpose of that is you were
17 waiting for Officer Deming to tell you who was coming
18 from the address on Morris Street?

19 A Only if there was something that aroused his
20 suspicion, yes.

21 Q Okay. And I think your testimony was that
22 Officer Deming informed you that a white pickup truck
23 had stopped, the occupant had gone inside, and come back
24 out?

25 A I don't -- I don't know that he went inside. I

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1 know that he went inside the yard. That was -- that was
2 given to us over the radio.

3 Q All right. So you had concerned citizens,
4 narcotics in general, yeah, there might be something
5 going on there, and then you received the information
6 from Officer Deming basically instructing you to pull
7 this white pickup; correct?

8 A His instructions were not to pull the white
9 pickup. It was -- he just relayed to us the activities
10 he had observed, and we got behind the pickup truck, and
11 we didn't pull it over for the observed reasons; we
12 pulled it over for the traffic violation.

13 Q Okay. So y'all weren't traffic that day?
14 You're proactive. You're hunting crime. But you got
15 behind this white car -- white truck, and it made a
16 traffic infraction, so you stopped it. Are you telling
17 the Court that it wasn't -- y'all weren't looking for
18 the narcotics in that white truck when you pulled it
19 over?

20 A I'm not telling the Court that.

21 Q I'm just asking is -- and maybe I -- I
22 apologize. I'll try to make it -- the purpose of
23 pulling the white truck was to lead [sic] in your hunt
24 for crime on the Morris Street location; correct?

25 MS. LINDER: Objection, your Honor. I believe

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1 it's asked and answered. I believe he's asked Engles a
2 couple of times why he pulled the car over, and I
3 believe he stated that already.

4 THE COURT: Answer the question, and then we'll
5 move on.

6 THE WITNESS: We were aware that there was
7 suspected narcotics activity from that address, so that
8 vehicle was, in our minds, likely to be involved with
9 narcotics activity, and we waited for a traffic
10 violation to pull it over.

11 Q (By Mr. Smiley) Okay. So that white truck,
12 when it pulled out on Rutledge, it was your target?

13 A Yes.

14 Q Okay. And from where you were to the corner of
15 Rutledge and Calhoun, what, three or four blocks?

16 A That's right.

17 Q So y'all pull in behind the white pickup truck,
18 followed it to that corner, three or four blocks, and
19 then the traffic violations when he was trying to turn
20 right there that caused you to want to stop it?

21 A Correct.

22 Q Now, you were using a car, you said, that
23 didn't have video -- nobody has any video in this case;
24 correct?

25 A No video.

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1 Q All right. Now, it was approximately, you
2 said, eight o'clock. How was the traffic in the area?

3 A It was steady. It was not congested. But he
4 was not the only car on the road either.

5 Q And the -- it is legal to take a right on red
6 at that intersection; correct?

7 A After coming to a complete stop, yes.

8 Q I'm getting to that next. But if you came to a
9 complete stop, is it -- it would be legal to take a
10 right-hand turn after coming to a complete stop?

11 A Yes, it would, yeah.

12 Q Okay. And it's your testimony that he just
13 didn't come to a complete stop? Sort of like a
14 California stop; he rolled through it? Or did he yield
15 through it?

16 A He slowed, but did not come to a complete stop.

17 Q All right. And, now, I'm not good with Lanes 1
18 and 2, so let me ask you. There's two lanes heading
19 towards the Ashley River, which would be west on Calhoun
20 Street; right?

21 A Yes.

22 Q And the one -- the northerly -- the northerly
23 lane would be considered Lane 2?

24 A Yes. And Lane 1 would be the closest to the
25 double yellow line.

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1 Q Okay. And that's a pretty sharp turn, isn't
2 it?

3 A It's a 90-degree angle.

4 Q Yeah. Let me ask you this: When you -- when
5 Officer Harrison made that turn, did he pull into Lane 2
6 or into Lane 1?

7 A Officer Harrison -- I honestly don't remember
8 which lane we pulled into.

9 Q All righty. And so after that turn, you
10 immediately -- Officer Harrison immediately turned on
11 your blue lights?

12 A Right at about Ashley Avenue. So that --

13 Q So you went up a block or so, got behind him,
14 now you're in an unmarked car, and it has a blue light
15 inside on the dash? Where's the blue lights, I guess,
16 is what I'm asking?

17 A The blue light is in the -- it's mounted where
18 the rearview mirror would be.

19 Q Right. Okay.

20 A Objecting outward.

21 Q Behind the windshield, facing out?

22 A Yes.

23 Q Did you have a siren?

24 A Yes.

25 Q Was the siren on?

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1 A Yes, it was.

2 Q Okay. And then the truck pulled on to

3 Courtney; is that right?

4 A Jonathan Lucas.

5 Q Jonathan Lucas. Excuse me. Went down and then

6 pulled over at an alleyway?

7 A Right.

8 Q Were any backup called?

9 A Not initially. But later, yes, there was a

10 backup unit called.

11 Q Okay. When the car came to a stop, you came up

12 on the passenger side, Officer Harrison on the driver

13 side, and you immediately asked him to get out?

14 A No. I never asked him to get out.

15 Q Excuse me. Does Officer Harrison immediately

16 ask him to get out?

17 A No, not immediately.

18 Q Okay. He asked him for his driver's license,

19 registration, insurance information?

20 A Yes. And he presented that information to

21 Detective Harrison while in the car still.

22 Q Okay. At what point was he asked to get out of

23 the truck?

24 A It wasn't long after we pulled him over.

25 Q Okay.

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1 A I think Detective Harrison would best be able
2 to answer that.

3 Q All right. You were there, though; right?

4 A Yes.

5 Q Okay. And he provided his route-restricted
6 license and his registration and insurance information;
7 correct?

8 A It was a rental agreement.

9 Q Okay. Excuse me. The rental agreement, which
10 if --

11 A Would suffice for the registration.

12 Q Right. And -- and his route-restricted
13 license, he provided that to the officer?

14 A He did.

15 Q Okay. Since you don't know exactly when he was
16 taken out of the car, once he was taken out of the car,
17 he was brought back behind his truck?

18 A Yes.

19 Q Okay. And had he been questioned about his
20 route-restricted license at that point?

21 A We did ask him questions, yes.

22 Q Was that before he got out of the car, or
23 after?

24 A I know that we asked him after he got out of
25 the car.

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1 Q All right.

2 A Detective Harrison might have more insight.

3 Q Okay. When he was brought to the back of the

4 car, was he under arrest at that point in time?

5 A No, he was not.

6 Q Did yourself or Detective Harrison make the

7 determination that he was beyond the scope of his

8 route-restricted license?

9 A We both were able to do that.

10 Q Okay. So you were able to view it -- view his

11 route-restricted license?

12 A Yes. And we talked about it with him at the

13 back of the truck.

14 Q Okay. And what part of his route-restricted

15 license was he violating?

16 A In the route restrictions, it doesn't say

17 anything about transporting a girlfriend to church,

18 which is what he claimed. On top of that, it's -- we

19 had known information that he was at a specific address

20 that he did not admit to, and he was being deceptive

21 with us about that, when we gave him ample opportunity

22 to explain himself. Not to mention, it was not a work

23 function.

24 Q Well, you only saw him from when he got on

25 Rutledge; right? Until when you pulled him over;

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1 correct?

2 A Yes.

3 Q So you don't know where he originated and where
4 he was heading, other than he said he dropped off his
5 wife for church; right? -- or girlfriend, excuse me.

6 A And the transmissions that Officer Deming gave
7 us with the contact at Morris Street.

8 Q Would the contact at Morris Street have been
9 out beyond the scope of his driver's license?

10 A If it was for a work-related reason, then
11 -- then possibly it could.

12 Q Within the -- with the scope.

13 Did you -- so you got information from
14 Detective Denning [sic], and you had some information
15 about Mr. Steplight beforehand; correct?

16 A We had information about the house beforehand.

17 Q Okay. Okay. Well, you said that you had some
18 information about a known address for Mr. Steplight?
19 No?

20 A That's not what I said.

21 Q Then I misunderstood you. Okay. So the only
22 thing you knew about this white truck, is that it had
23 come from the address on Morris Street, you had been
24 told that over the radio, and y'all had pulled it based
25 on the traffic violations, the civil traffic violation,

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1 and then when it got to there, you determined that it
2 was beyond the scope of his driving privilege, the
3 route-restricted; correct?

4 A Well, you -- you said that we just know that it
5 was coming from there. We -- Officer Deming advised us
6 that he had seen it pull up.

7 Q Okay.

8 A And then was briefly there, for a period of
9 time, which was consistent with narcotics activity.

10 Q Okay. So you were pulling him for the
11 narcotics activity?

12 A We pulled him over for the traffic violations.

13 Q Okay. I gotcha. So on the traffic violations,
14 who determined that he was driving beyond the scope of
15 his route-restricted driver's license?

16 A Myself and Officer Harrison.

17 Q Okay. What part of his route-restricted
18 driver's license was he exceeding the scope of?

19 MS. LINDER: Objection, your Honor. I believe
20 that if -- I believe that Mr. Engles has already stated
21 the number of reasons why they determined it, and he --

22 THE COURT: Sustained. Sustained.

23 Q (By Mr. Smiley) Okay. So based on the stop at
24 Morris Street, you didn't believe that he was coming or
25 going to work?

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1 A At that point in time, first of all, we had no
2 idea that he had a route-restricted license that was
3 supposed to be for work-related purposes. But the
4 information we got from Officer Deming was consistent
5 with a narcotics transaction that -- there is not a stay
6 or any type of duration that work could -- physical work
7 was able to be completed.

8 Q Okay. I understand what you are saying, but
9 that's not the question I'm asking. Let me back up
10 again.

11 You arrested him for driving beyond
12 the -- being outside the scope of his route-restricted
13 license; correct? That was the basis for the arrest?

14 A Yes. And driving under suspension was the
15 charge.

16 Q If you're outside the scope of your
17 route-restricted, then you're driving under suspension?

18 A Yes.

19 Q And that was the basis of your arrest; correct?

20 A Yes.

21 Q And --

22 Pardon me, your Honor, I'm not trying to be
23 duplicatus. I'm just trying to get clear on what part
24 of his route-restricted license they said he was
25 violating, and -- because it's important.

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1 So I'm asking one more time. Is the basis of
2 being outside the scope of his route-restricted license
3 was that it appeared he was involved in narcotics
4 activity? Is that correct?

5 A No. It appeared that he was not at work or
6 coming from a work function.

7 Q Okay.

8 A Which was -- which is the basis of his route
9 restriction.

10 Q All right. So if he, in fact, was coming
11 from work and was within the borders of the route
12 restriction, there's nothing to prohibit him from
13 stopping along that route, is there?

14 A If it's not a work-related reason, then I would
15 expect that he still wouldn't be able to stop at that
16 address.

17 Q All right. So at the point that the officer
18 -- excuse me. -- Detective Harrison, that you and he
19 had detained him at the rear, he asked for permission to
20 search the truck; correct?

21 A When you say "detained," what are you speaking
22 about?

23 Q Okay. I'll make it in simpler terms. That the
24 point that Mr. Steplight was at the rear of the truck
25 with yourself and Detective Harrison, at that point, did

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1 Detective Harrison ask for permission to search for
2 -- before or after he was placed under arrest?

3 A Officer Harrison asked to search before he was
4 placed under arrest.

5 Q Okay. Y'all were standing at the back of the
6 truck; right?

7 A Yes.

8 Q And so, then, Mr. Steplight gave permission to
9 search the truck; correct?

10 A Yes.

11 Q All right. And nothing illegal was found in
12 the truck; correct?

13 A Yes, that's correct.

14 Q And at that point in time, you asked for
15 permission to search Mr. Steplight; correct?

16 A I did.

17 Q And he consented to that?

18 A He did.

19 Q And you did an out -- an exterior pat of his
20 clothing?

21 A Yes. And I did search his pockets.

22 Q So you went in his pockets?

23 A With his consent.

24 Q Went inside his pockets, did the exterior pat
25 down; correct?

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1 A Yes.

2 Q At that point in time, you found nothing

3 illegal; correct?

4 A Correct.

5 Q So he was placed, then, under arrest for

6 driving under suspension; correct?

7 A Yes.

8 MR. SMILEY: Beg the Court's indulgence?

9 THE COURT: Take your time.

10 Q (By Mr. Smiley) Were you present with him at

11 the Charleston County jail?

12 A Yes, I was.

13 MS. LINDER: Objection, your Honor.

14 MR. SMILEY: Well, I was getting ready to --

15 THE COURT: All right. What's the objection?

16 MS. LINDER: I believe it's beyond of the scope

17 of this hearing. The hearing is about the unlawfulness

18 of the stop, the unlawfulness of the arrest. I don't

19 believe that going into what occurred at the jail --

20 MR. SMILEY: I'll withdraw my question.

21 THE COURT: All right. Thank you.

22 MR. SMILEY: I agree.

23 Q (By Mr. Smiley) Other than not doing -- not

24 conducting -- trying to find the right word. The reason

25 for the arrest for DUS is because he wasn't coming or

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1 going to work?

2 A Yes, being outside the scope of his route
3 restriction.

4 Q And it was the fact that he wasn't, in your
5 opinion, coming or going to work; correct?

6 A Yes.

7 MR. SMILEY: That's all I have.

8 THE COURT: Ms. Linder?

9 MS. LINDER: No further questions.

10 THE COURT: All right. You may step down.
11 Is this witness excused?

12 MS. LINDER: I'm happy -- I'm fine if he's
13 excused. I would ask that he be able to stay in the
14 courtroom since he's the main person on the case.

15 THE COURT: All right. I'm getting ready to
16 pick Williams' jury, and then we'll continue this
17 hearing.

18 MR. SMILEY: Yes, ma'am.

19 THE COURT: All right. Thank you.

20 So you need to stay in touch with the
21 Solicitor, accordingly.

22 THE WITNESS: Thank you, ma'am.

23 (A break is taken from 2:33 p.m. until
24 2:50 p.m; at which time, the proceedings continue as
25 follows:)

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1 (The Defendant is not present.)
2 THE COURT: All right.
3 MR. SMILEY: I do need to put on the record
4 that I've asked you for a continuance because my client
5 is not present, and that you've ruled against me and
6 that we're going forward.
7 THE COURT: All right. At this stage and at
8 every stage from now on, Mr. Smiley, I'm going to give
9 you a continuing objection.
10 MR. SMILEY: Thank you.
11 THE COURT: We are continuing without your
12 client, but I have heard nothing that indicates to me
13 that Mr. Steplight was not given notice of today. So we
14 are going to -- here's what we're going to do. We're
15 going to pick the jury, let the jury go, and we'll start
16 in the morning. We're going to finish our pretrial
17 motions and then give you a chance to e-mail your
18 client.
19 MR. SMILEY: Okay. So we're to finish
20 pretrials this afternoon, or in the morning?
21 THE COURT: Tonight. This afternoon.
22 MR. SMILEY: Okay.
23 THE COURT: Thank you. All right. I have the
24 jury outside. Anything before we bring them in?
25 Ms. Linder?

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1 MS. LINDER: Nothing from the State, your
2 Honor.

3 THE COURT: Mr. Smiley?

4 MR. SMILEY: Nothing, your Honor.

5 THE COURT: All right. Thank you.

6 Let's bring them in.

7 (The prospective jurors are escorted into the
8 courtroom at 2:54 p.m.)

9 THE COURT: All right. Thank you.

10 Good afternoon, ladies and gentlemen. I am
11 Judge Kristi Harrington. I am a resident judge for the
12 Ninth Circuit, which is Charleston and Berkeley County.
13 I have the pleasure this week of presiding over a term
14 of General Sessions, which is otherwise known as
15 criminal court. Ladies and gentlemen, I have a series
16 of questions to ask you to determine your general
17 eligibility to serve in the case of the State versus
18 Norris Steplight. I will ask you a series of questions.
19 If you need to respond to those questions, I will need
20 you to stand, give me your juror number, and your name.
21 There may be some questions that you feel, or I
22 determined, are a bit personal in nature, so I will give
23 you an opportunity to come forward and speak with me in
24 private. As you may have realized by now, we are a
25 court of record, so "in private" means it will be me and

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1 you in front of my court reporter, and so -- but I will
2 give you an opportunity so you don't have to stand up
3 and state your answers in front of your 48 new best
4 friends. So, please remember, if you need to answer a
5 question, please come forward at the appropriate time.

6 Ladies and gentlemen, as I indicated to you,
7 the case that we are about to begin is the case of the
8 State versus Norris Steplight. Mr. Steplight is charged
9 with an Indictment, which is simply a piece of paper.
10 It is what brings us to court here today. It is not in
11 any sense evidence of any of the allegations contained.
12 It's simply a piece of paper which contains the charge
13 against Mr. Steplight.

14 Mr. Steplight has been indicted for trafficking
15 in cocaine base. The State alleges that in Charleston
16 County, on or about May 27th of 2011, the Defendant did
17 knowingly sell, manufacture, deliver, purchase, or bring
18 into the State, or did provide financial assistance or,
19 otherwise, aid, abet, attempt, or conspire to sell,
20 manufacture, deliver, purchase, or bring into the State,
21 or did possess or attempt to possess a controlled
22 substance or a controlled substance analogue; to wit,
23 cocaine base in excess of 10 grams in violation of
24 44-53-375 of the South Carolina Code of Laws as amended.
25 Mr. Steplight has pled not guilty to that Indictment.

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1 Ladies and gentlemen, is there any member of
2 the jury panel that knows anything about the case other
3 than what I have just read to you? If so, please stand.

4 Thank you. There are none.

5 Mr. Smiley, if you would please stand,
6 introduce yourself, tell us a little bit about your
7 client and anything else, any persons, who may be
8 assisting you throughout this trial.

9 MR. SMILEY: Thank you, your Honor. I'm
10 Jim Smiley. I'm a member of the Charleston County Bar.
11 I've been practicing in the Charleston area since 1993.
12 I represent Norris Steplight, he's a Charleston native,
13 and it's my honor to represent him. When the trial
14 starts, Ms. Hensley, Laree Hensley, also of the
15 Charleston County Bar will be my second chair, assisting
16 in this case. She is originally from Tennessee. She's
17 been in the Charleston area for about an excess of 20
18 years. She has been practicing off of Remount Road for
19 the last decade, I believe. My office is here on King
20 Street.

21 And I think that covered it, your Honor.

22 THE COURT: All right. Thank you.

23 Is there any member of the jury panel related
24 by blood, marriage, close personal friend, ever have
25 any business, personal/ professional, dealings with

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1 Mr. Norris Steplight? If so, please stand.

2 Thank you. There are none.

3 Is there any member of the jury panel related
4 by blood, marriage, close personal friend, ever have any
5 business, personal or professional, dealings or ever
6 been represented by Mr. Smiley or Ms. Hensley? If so,
7 please stand.

8 Thank you. There are none.

9 Ms. Linder, if you would please stand,
10 introduce yourself, any persons who will be assisting
11 you throughout this trial, a little bit about your
12 office.

13 MS. LINDER: Thank you, Judge.

14 My name is Stephanie Linder. I am an Assistant
15 Solicitor for Scarlett Wilson, you're elected Solicitor.
16 I've been in the Solicitor's Office for seven and a half
17 years now. I'm also a Special Assistant United States
18 Attorney and have been for two and a half years. And
19 assisting me with this trial will be Ran Stoney.

20 MR. STONEY: And I'm an Assistant Solicitor.
21 I've been with Solicitor Wilson's Office for about a
22 year and a half now.

23 MS. LINDER: And also seated at the table with
24 us will be Detective Sean Engles. He is from the
25 Charleston Police Department. And also assisting us

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1 with this trial will be Investigator Kenny Barfield, and
2 he is an investigator with the Solicitor's Office.

3 THE COURT: Thank you.

4 Is there any member of the jury panel related
5 by blood, marriage, close personal friend, ever have any
6 business, personal/professional, dealings with anyone in
7 the Solicitor's Office, specifically Ms. Linder,
8 Mr. Stoney, or Mr. Barfield? If so, please stand.

9 THE JUROR: I've know Investigator Barfield for
10 about 30 years.

11 THE COURT: All right. I need your name and
12 your juror number.

13 THE JUROR: My name is Wesley Ropp, and my
14 number is 283, I think.

15 THE COURT: Is that correct?

16 THE DEPUTY CLERK OF COURT: Yes.

17 THE COURT: And how long have you known
18 Mr. Barfield?

19 THE JUROR: For about -- since 1979.

20 THE COURT: All right. And is it a
21 professional or personal relationship?

22 THE JUROR: Personal. He went to my father's
23 church.

24 THE COURT: All right. Is there anything about
25 that relationship that will affect your ability to be

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1 fair and impartial in this case?

2 THE JUROR: No, ma'am.

3 THE COURT: All right. Thank you.

4 Is there anyone else?

5 Thank you. There are none.

6 Is there any member of the jury panel related
7 by blood, marriage, close personal friend, ever have any
8 business, personal/professional, dealings with -- with
9 Detective Engles? If so, please stand.

10 Thank you. There are none.

11 Ladies and gentlemen -- yes.

12 THE JUROR: Your Honor, Stephanie represented
13 a man who stole my mother-in-law's credit card.

14 THE COURT: All right. And, once again, I
15 need -- the reason I need to know is, one, we're a court
16 of record. But Mr. Smiley and Ms. Linder are writing
17 down your responses to these questions, and -- because
18 some jurors are more suitable to serve on certain cases
19 than others. I need your juror number and your name.

20 THE JUROR: 149, Tracy Groom.

21 THE COURT: All right. And so what I gathered
22 from what you had said, was that in her personal
23 capacity Ms. Linder had assisted you as a victim of a
24 crime; is that correct?

25 MS. LINDER: I'm sorry. No, I'm -- I believe

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1 she's saying that I prosecuted someone, and her family
2 member was a victim of that crime.

3 THE JUROR: Correct.

4 THE COURT: All right. Same thing. I just
5 said it in a different way.

6 Is there anything about Ms. Linder handling a
7 matter for you or your family member that would affect
8 your ability to be fair and impartial in this case?

9 THE JUROR: Probably.

10 THE COURT: All right. And I need -- I do it
11 all the time. I say, I guess so, maybe so -- I just
12 need a yes or no.

13 THE JUROR: Yes.

14 THE COURT: It will affect your ability --

15 THE JUROR: Yes.

16 THE COURT: -- to be fair --

17 THE JUROR: Yes.

18 THE COURT: And here's another -- I'm picking
19 on you. I'm sorry.

20 THE JUROR: That's fine.

21 THE COURT: My court reporter, as wonderful as
22 she is, it is very difficult for her to write down two
23 people talking at the same time. So I need to make
24 sure, because this is the magic question. I need to
25 have very clear on the record: Is there anything about

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1 your relationship with Ms. Linder that will affect your
2 ability to be fair and impartial in this case?

3 THE JUROR: Yes.

4 THE COURT: Thank you. I'm going to excuse you
5 from the trial of this case. I need you to stay with
6 us. I'll give you further instructions regarding your
7 service for the remainder of the week. You do not have
8 to answer any more questions concerning this case.
9 Thank you.

10 Is there anyone else?

11 Thank you. There are none.

12 Is there -- I'm now going to call a list of
13 potential witnesses who may testify in this case. If
14 you are related by blood, marriage, close personal
15 friend, ever have any business, personal/professional,
16 dealings with any of these individuals, please stand
17 when I call their name. Jeff Harrison, Anita Moore,
18 Linda Wilson, Susan Moody, Noel Ragos, Adam Deming. If
19 you are related by blood, marriage, close personal
20 friend, please stand.

21 Thank you. There are none.

22 Is there any member of the jury panel who
23 currently is or has a family member who is or close
24 personal friend or you were ever employed by Charleston
25 County Detention Center, or Charleston Police

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1 Department, City of Charleston Police Department? If
2 so, please stand.

3 Thank you. There are none.

4 Is there any member of the jury panel that
5 knows anyone that works in the City of Charleston Police
6 Department in any capacity? If so, please stand.

7 Your juror number and name?

8 THE JUROR. Christopher Allen, Number 3. I
9 know a couple of the detectives.

10 THE COURT: All right. Any of the detectives
11 that I called out their names?

12 THE JUROR: (Moves head from side to side.)

13 THE COURT: Is that a no?

14 THE JUROR: No.

15 THE COURT: Is there anything about you having
16 some acquaintances or friends at the City of Charleston
17 Police Department that would affect your ability to be
18 fair and impartial in this case?

19 THE JUROR: No.

20 THE COURT: And Juror Number 3; is that
21 correct?

22 THE JUROR: Number 3.

23 THE COURT: And your name, for the record?

24 THE JUROR: Christopher Allen.

25 THE COURT: All right. Thank you.

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1 Yes, sir?

2 THE JUROR: Marcus Googer, 141.

3 THE COURT: Yes, sir.

4 THE JUROR: I know Fred Bouie (phonetic).

5 THE COURT: All right. And I don't know

6 Mr. Bouie. Does he work for the City of Charleston?

7 THE JUROR: Yes.

8 THE COURT: And is there anything about your

9 relationship that will affect your ability to be fair

10 and impartial in this case?

11 THE JUROR: No.

12 THE COURT: All right. And your juror number,

13 before you sit down?

14 THE JUROR: 141.

15 THE COURT: Thank you, sir.

16 Yes, sir?

17 THE JUROR: Joseph Geglio, 135. I have a

18 friend that's a police officer.

19 THE COURT: You're friends with a police

20 officer?

21 THE JUROR: (Moves head up and down.)

22 THE COURT: And any of the officers that I have

23 called out their names?

24 THE JUROR: No.

25 THE COURT: Is there anything about your

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1 relationship with a city of Charleston police officer
2 that will affect your ability to be fair and impartial
3 in this case?

4 THE JUROR: No.

5 THE COURT: And your juror number?

6 THE JUROR: 135.

7 THE COURT: Thank you, sir.

8 Yes, sir?

9 THE JUROR: My number is 302. I'm William
10 Shipley. I work for the City of Charleston Housing
11 Authority. I work with the officers every day.

12 THE COURT: All right.

13 THE JUROR: In our area.

14 THE COURT: All right. Anything about that,
15 sir, that will affect your ability to be fair and
16 impartial in this case?

17 THE JUROR: No.

18 THE COURT: Mr. Shipley, your juror number?

19 THE JUROR: 302.

20 THE COURT: Thank you, sir.

21 Yes, ma'am?

22 THE JUROR: Glenys Tucker, 344. And I'm
23 acquainted with a police officer in the Charleston
24 County Department.

25 THE COURT: All right. Any of the -- I've read

1 out a list of officers, anyone that you know?

2 THE JUROR: No, ma'am.

3 THE COURT: All right. Anything about your
4 relationship with that police officer that would affect
5 your ability to be fair and impartial in this case?

6 THE JUROR: No, ma'am.

7 THE COURT: All right. Thank you.

8 Is there anyone else?

9 Is there any member of the jury panel that is a
10 member, or one of your family members is a member, of a
11 victim's rights or law enforcement organizations such as
12 Darkness to Light, Citizens Against Violent Crime,
13 People Against Rape, Mothers Against Drunk Driving,
14 anything of that nature? If so, please stand.

15 Thank you. There are none.

16 Ladies and gentlemen, I now have a series of
17 questions to ask. I have determined that these are
18 personal in nature, so if you would please listen to all
19 of my questions, and come forward at the appropriate
20 time.

21 Is there any member of the jury panel that has
22 ever been arrested for a drug charge, regardless of the
23 outcome?

24 Is there any member of the jury panel that has
25 a very close friend or a family member who has been

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1 arrested for a drug charge, regardless of the outcome?

2 Ladies and gentlemen, if you need to answer
3 either of those questions, or if based upon something
4 that I have indicated to you, by reading the Indictment,
5 or any of my previous questions, that you feel you would
6 be unable to listen to the facts as presented from the
7 witness stand, apply the law as the Court gives it, and
8 render a verdict based only upon those things, free from
9 any personal, moral, religious belief that you may have;
10 if you feel that for whatever reason you cannot be a
11 fair and impartial juror, I need you to come forward at
12 this time. If you need to answer any of those previous
13 questions, please come forward at this time.

14 Thank you. If you will move to the center, the
15 bailiffs will assist you.

16 THE BAILIFF: Number 44.

17 THE COURT: Do you have any additional
18 questions?

19 MS. LINDER: Do you think drugs --

20 (Juror approaches.)

21 THE COURT: Yes, sir.

22 THE JUROR: Yes, ma'am, Judge. My oldest
23 brother and I got numerous friends on the waterfront
24 that actually been arrested -- and then my religious
25 belief also.

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1 THE COURT: Okay. First, so you have a lot of
2 friends and family members that have been arrested for
3 drugs?

4 THE JUROR: Yes.

5 THE COURT: All right. Would that affect your
6 ability to be fair and impartial in this case?

7 THE JUROR: Yes, ma'am.

8 THE COURT: All right. I'm going to excuse you
9 from the trial of this case. But I need you to stay
10 with us. You don't have to answer any more questions.
11 Your juror number?

12 THE JUROR: 44.

13 THE COURT: Juror 44 is excused from the trial
14 of this case.

15 THE BAILIFF: Juror 283.

16 (The next juror approaches.)

17 THE JUROR: My son had a minor in possession
18 charge.

19 THE COURT: All right. Is there anything about
20 that, sir, that will affect your ability to be fair and
21 impartial in this case?

22 THE JUROR: Yes.

23 THE COURT: Was that charge in Charleston?

24 THE JUROR: Yes.

25 THE COURT: And how was that handled?

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1 THE JUROR: It was a juvenile, and it's in drug
2 of court now.

3 THE COURT: Currently in the drug court?

4 THE JUROR: Correct.

5 THE COURT: With the Solicitor's Office?

6 THE JUROR: That's correct.

7 THE COURT: All right. And, again, Solicitor's
8 Office is prosecuting this case. Is there anything that
9 will affect your ability to be fair and impartial in
10 this case?

11 THE JUROR: No.

12 THE COURT: Thank you.

13 THE BAILIFF: Number 329.

14 (The next juror approaches.)

15 THE COURT: Good afternoon.

16 THE JUROR: Good afternoon. I have a brother,
17 he took to probate court.

18 THE COURT: Okay.

19 THE JUROR: I don't know if he has any arrest
20 record or not, but he is an abuser of cocaine.

21 THE COURT: Was that here in Charleston County?

22 THE JUROR: Yes.

23 THE COURT: And short time ago? long time ago?
24 How Long?

25 THE JUROR: Two years, three years.

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1 THE COURT: What drug was he using?
2 THE JUROR: Cocaine.
3 THE COURT: Anything about that, sir, that
4 would affect your ability to be fair and impartial in
5 this case?
6 THE JUROR: No.
7 THE COURT: And your juror number and name?
8 THE JUROR: 329, Robert Stewart.
9 THE COURT: Thank you, Mr. Stewart.
10 329 will remain.
11 THE BAILIFF: Number 305.
12 (The next juror approaches.)
13 THE JUROR: Hi. I have a cousin that was
14 arrested. I don't know what was going on.
15 THE COURT: All right. Arrested for drugs,
16 you're just not sure which drugs?
17 THE JUROR: I don't know. He is incarcerated
18 currently.
19 THE COURT: Is there anything about that that
20 would affect your ability to be fair and impartial in
21 this case?
22 THE JUROR: No.
23 THE COURT: Oh, okay. I'm going to have you
24 stay with us. Thank you.
25 Is there anyone else?

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1 MS. LINDER: Just the question about the -- if
2 you think drugs should be illegal.

3 THE COURT: I asked that. Any additional
4 questions?

5 MR. SMILEY: Just my Question Number 10, was
6 the same thing.

7 THE COURT: I think -- I think it's covered.
8 Anything else?

9 MS. LINDER: Nothing further.

10 MR. SMILEY: No, ma'am.

11 THE COURT: Okay. Strikes are five and five.

12 Madam Clerk, strikes are five and five. Thank
13 you.

14 THE COURTROOM DEPUTY CLERK: Ladies and
15 gentlemen, when I call your name and juror number,
16 please come forward to the podium, turn, and face the
17 audience.

18 Juror Number 167, Kimberly Heck.

19 (White female approaches the podium.)

20 THE DEPUTY CLERK OF COURT: What say you for
21 the State?

22 MS. LINDER: Please present the juror.

23 THE DEPUTY CLERK OF COURT: What say you for
24 the Defendant?

25 MR. SMILEY: Please excuse the juror.

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1 THE COURTROOM DEPUTY CLERK: Please have a seat
2 back in the gallery.

3 Juror 141, Marcus Googer.

4 (White male approaches the podium.)

5 THE DEPUTY CLERK OF COURT: What say you for
6 the State?

7 MS. LINDER: Please present this juror.

8 THE COURT: What say you for the Defendant?

9 MR. SMILEY: Please excuse the juror.

10 THE COURT: Mr. Googer, you can go back to the
11 gallery.

12 Juror Number 126, Richard Foster.

13 (White male approaches the podium.)

14 THE DEPUTY CLERK OF COURT: What say you for
15 the State?

16 MS. LINDER: Please present the juror.

17 THE DEPUTY CLERK OF COURT: What say you for
18 the Defendant?

19 MR. SMILEY: Please seat the juror.

20 THE DEPUTY CLERK OF COURT: Mr. Foster, please
21 have a seat in the jury box.

22 Juror 275, David Rettew.

23 (White male approaches the podium.)

24 THE DEPUTY CLERK OF COURT: What say you for
25 the State?

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1 MS. LINDER: Beg the Court's indulgence?
2 THE COURT: Take your time.
3 (Respite.)
4 MS. LINDER: Please excuse this juror.
5 THE DEPUTY CLERK OF COURT: Have a seat back in
6 the gallery.
7 Juror 254, Willis Murray.
8 (Black male approaches the podium.)
9 THE DEPUTY CLERK OF COURT: What say you for
10 the State?
11 THE JUROR: Beg your pardon?
12 MS. LINDER: Beg the Court's indulgence?
13 THE COURT: Take your time.
14 MS. LINDER: Please present this juror.
15 THE DEPUTY CLERK OF COURT: What say you for
16 the Defendant?
17 MR. SMILEY: Please seat the juror.
18 THE DEPUTY CLERK OF COURT: Mr. Murray, please
19 have a seat in the jury box.
20 Juror Number 56, Jennifer Burke.
21 (White female approaches the podium.)
22 THE DEPUTY CLERK OF COURT: What say you for
23 the State?
24 MS. LINDER: Please present this juror.
25 THE COURT: What say you for the Defendant?

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1 MR. SMILEY: Please seat the juror.

2 THE DEPUTY CLERK OF COURT: Have a seat in the
3 jury box.

4 Juror Number 100, Tana Dursse.

5 (White female approaches the podium.)

6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?

8 MS. LINDER: Please present this juror.

9 THE DEPUTY CLERK OF COURT: What say you for
10 the Defendant?

11 MR. SMILEY: Please seat the juror.

12 THE DEPUTY CLERK OF COURT: Please have a seat
13 in the jury box.

14 Juror Number 4, Joshua Amstutz.

15 (White male approaches the podium.)

16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?

18 MS. LINDER: Please present the juror.

19 THE DEPUTY CLERK OF COURT: What say you for
20 the Defendant?

21 MR. SMILEY: Please seat the juror.

22 THE DEPUTY CLERK OF COURT: Please have a seat
23 in the jury box.

24 Juror Number 368, Yolanda Wilson.

25 (White female approaches the podium.)

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1 THE DEPUTY CLERK OF COURT: What say you for
2 the State?

3 MS. LINDER: Please present this juror.

4 THE DEPUTY CLERK OF COURT: What say you for
5 the Defendant?

6 MR. SMILEY: Please seat the juror.

7 THE DEPUTY CLERK OF COURT: Have a seat in the
8 jury box.

9 Juror Number 189, Karen Jackson.

10 (White female approaches the podium.)

11 THE DEPUTY CLERK OF COURT: What say you for
12 the State?

13 MS. LINDER: Please present this juror.

14 THE DEPUTY CLERK OF COURT: What say you for
15 the Defendant?

16 MR. SMILEY: Please excuse the juror.

17 THE DEPUTY CLERK OF COURT: Have a seat back in
18 the gallery.

19 Juror Number 101, Robert Dustman.

20 (White male approaches the podium.)

21 THE DEPUTY CLERK OF COURT: What say you for
22 the State?

23 MS. LINDER: Please present this juror.

24 THE DEPUTY CLERK OF COURT: What say you for
25 the Defendant?

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1 MR. SMILEY: Please excuse the juror.
2 THE DEPUTY CLERK OF COURT: Have a seat back in
3 the gallery.
4 Juror Number 282, Jennifer Rolland.
5 (White female approaches the podium.)
6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?
8 MS. LINDER: Please present this juror.
9 THE DEPUTY CLERK OF COURT: What say you for
10 the Defendant?
11 MR. SMILEY: Please seat the juror.
12 THE DEPUTY CLERK OF COURT: Have a seat in the
13 jury box.
14 Juror Number 170, Naomi Henderson.
15 (Black female approaches the podium.)
16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?
18 MS. LINDER: Beg the Court's indulgence?
19 THE COURT: Yes, ma'am.
20 (Respite.)
21 MS. LINDER: Please excuse this juror.
22 THE DEPUTY CLERK OF COURT: Have a seat back in
23 the gallery.
24 Juror Number 130, Donna Freeman.
25 (Black female approaches the podium.)

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1 THE DEPUTY CLERK OF COURT: What say you for
2 the State?

3 MS. LINDER: Please present this juror.

4 THE DEPUTY CLERK OF COURT: What say you for
5 the Defendant?

6 MR. SMILEY: Please seat the juror.

7 THE DEPUTY CLERK OF COURT: Have a seat in the
8 jury box.

9 Juror Number 223, David Marshall.

10 (White male approaches the podium.)

11 THE DEPUTY CLERK OF COURT: What say you for
12 the State?

13 MS. LINDER: Please present this juror.

14 THE DEPUTY CLERK OF COURT: What say you for
15 the Defendant?

16 MR. SMILEY: Please seat the juror.

17 THE DEPUTY CLERK OF COURT: Mr. Marshall,
18 please have a seat in the jury box.

19 Juror Number 373, Shalanda Wright.

20 (Black female approaches the podium.)

21 THE DEPUTY CLERK OF COURT: What say you for
22 the State?

23 MS. LINDER: Please present this juror.

24 THE DEPUTY CLERK OF COURT: What say you for
25 the Defendant?

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1 MR. SMILEY: Please seat the juror.
2 THE DEPUTY CLERK OF COURT: Have a seat in the
3 jury box.
4 Juror number 323, Alfredel Spann.
5 (Black female approaches the podium.)
6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?
8 MS. LINDER: Please excuse this juror.
9 THE DEPUTY CLERK OF COURT: Have a seat back in
10 the gallery.
11 Three strikes for the State.
12 Juror Number 217, Danielle Lopez.
13 (Hispanic female approaches the podium.)
14 THE DEPUTY CLERK OF COURT: What say you for
15 the State?
16 MS. LINDER: Please present this juror.
17 THE DEPUTY CLERK OF COURT: What say you for
18 the Defendant?
19 MR. SMILEY: Please seat the juror.
20 THE DEPUTY CLERK OF COURT: Juror Number 340,
21 Tony Taylor.
22 (White male approaches the podium.)
23 THE DEPUTY CLERK OF COURT: What say you for
24 the State?
25 MS. LINDER: Beg the Court's indulgence?

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1 THE COURT: Take your time.
2 (Respite.)
3 MS. LINDER: Please excuse this juror.
4 THE DEPUTY CLERK OF COURT: Have a seat back in
5 the gallery.
6 Juror Number 136, William Gelwicks.
7 (White male approaches the podium.)
8 THE DEPUTY CLERK OF COURT: What say you for
9 the State?
10 MS. LINDER: Please present this juror.
11 THE DEPUTY CLERK OF COURT: What say you for
12 the Defendant?
13 MR. SMILEY: Please excuse this juror.
14 THE DEPUTY CLERK OF COURT: Mr. Gelwicks, have
15 a seat back in the gallery.
16 Defense has exhausted its strikes.
17 Juror 374, Gail Yarborough.
18 (White female approaches the podium.)
19 THE DEPUTY CLERK OF COURT: What say you for
20 the State?
21 MS. LINDER: Please present this juror.
22 THE DEPUTY CLERK OF COURT: Any challenges from
23 the Defendant?
24 MR. SMILEY: No challenge. Please seat the
25 juror.

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1 THE DEPUTY CLERK OF COURT: Now striking for
2 alternate.
3 Juror Number 32, Robert Stewart.
4 (White male approaches the podium.)
5 MR. SMILEY: One and two, correct, your Honor?
6 THE COURT: Correct.
7 THE DEPUTY CLERK OF COURT: What say you for
8 the State?
9 MS. LINDER: Please present this juror.
10 THE DEPUTY CLERK OF COURT: What say you for
11 the Defendant.
12 MR. SMILEY: Please excuse the juror.
13 THE DEPUTY CLERK OF COURT: Juror Number 236,
14 Bertha Middleton.
15 (Black female approaches the podium.)
16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?
18 MS. LINDER: Please present this juror.
19 THE COURT: What say you for the Defendant?
20 MR. SMILEY: Please seat the juror.
21 THE DEPUTY CLERK OF COURT: Have a seat in the
22 jury box. You will serve as an alternate.
23 THE COURT: All right. Any motions or matters
24 pertaining to the jury as selected? From the State?
25 MS. LINDER: No, your Honor.

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1 THE COURT: From the Defendant?

2 MR. SMILEY: No, ma'am, your Honor.

3 THE COURT: Whitney, they're to call back after
4 6:00?

5 THE DEPUTY CLERK OF COURT: Yes.

6 THE COURT: Ladies and gentlemen, you were not
7 selected as the jurors in this case. You will need to
8 call back after 6:00 p.m. to get your instructions for
9 the remainder of the week. Please remember that you are
10 on jury duty for the entirety of the week, so you will
11 need to call back after 6:00 p.m. to get further
12 instructions. Thank you again for your service to
13 Charleston County, and I will likely see some of you
14 later in the week. Thank you. You are excused for the
15 afternoon.

16 (The remainder of jurors from the jury panel
17 are excused at 3:28 p.m.)

18 THE COURT: All right. Ms. Yarborough, you
19 have been selected as the foreperson in this case, so
20 what that means is you are the jury spokesperson here in
21 court. So if at any time any of you need any extra
22 breaks or are having difficulty hearing or for whatever
23 reason, the way that we communicate in court, is you let
24 your foreperson know, she will alert the bailiff, and we
25 will handle the matter accordingly. Ms. Yarborough, you

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1 will also be responsible for writing the verdict, but
2 I'll give you further instructions regarding that matter
3 as well.

4 Ladies and gentlemen, we are going to break for
5 the evening and begin the trial of this case in the
6 morning. Please remember -- and I will give you, it's
7 simply -- it will be -- when we just take short breaks
8 in the afternoons or in the mornings, I'll say, please
9 remember my admonitions. But this is my full
10 admonitions, so please listen very carefully.

11 Until you have been discharged from service in
12 this case, you may not discuss this case in any way.
13 Ladies and gentlemen, you may not discuss this case with
14 anyone. That includes your fellow jurors, your friends,
15 your family members, or anyone. You may not discuss
16 this case in any way. That includes face-to-face
17 discussions. You may not E-mail about this case, text
18 about this case, make any entry on Facebook or MySpace
19 or Twitter or whatever technological device, social
20 media that you use. You may not discuss this case in
21 any way with anyone until I tell you that you may do so.

22 You may not perform any investigation,
23 research, or experiment of any kind on your own, either
24 individually or as a group. You may not look up
25 anything on the Internet concerning this case. Ladies

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1 and gentlemen of the jury, that includes the State's
2 attorneys, the Defendant, the Defendant's attorneys, the
3 witnesses, anything about the subject of this case, or
4 the Judge.

5 You may not do any independent investigation.
6 You may not go to the scene where any of the events that
7 are the subject of this trial are alleged to take place.
8 You may not use Internet maps or Google Earth or any
9 other program to search for or review any place
10 discussed in this case.

11 You, again, may not have any discussions on any
12 social media site, but please remember that that
13 includes all forms of oral, written, or electronic
14 communications.

15 Ladies and gentlemen, please understand that
16 I'm giving these directions as part of my responsibility
17 to ensure fairness to all of the parties in this case.
18 That fairness would be compromised, and your actions
19 could jeopardize the results of this trial if you
20 violate my instructions. So my first question to you in
21 the morning will be: Did you follow my instructions?
22 Ladies and gentlemen, I know it's difficult. You'll go
23 home and your significant other is probably going to ask
24 you: What did you do today? You may not discuss
25 anything about this case. You may say, I'm on jury

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1 duty, but that's all you may say. You may not talk
2 about the nature of the case, what the charges are, or
3 anything of the nature.

4 Ladies and gentlemen, you may think why is she
5 saying this five times? I heard it. I understood it
6 the first time. It's because in the morning somebody
7 who inevitably will say, Yes, I did something I wasn't
8 supposed to do. Please, just go home. Have a wonderful
9 afternoon. Enjoy the early day that you're getting
10 today. And just forget that you're serving jury
11 service.

12 You may not do any independent investigation.
13 Do not read, watch, listen to any news accounts
14 regarding this case should there be any. It is
15 essential that all of the information that you have
16 concerning this case, comes only from the courtroom.

17 Any questions?

18 Thank you. Please be back in your jury room at
19 9:30. We will begin as promptly as we can at 9:30. The
20 bailiff will show you where you are to be escorted and
21 how to report in the morning. So please have a
22 wonderful afternoon. I'll see you back at 9:30.

23 (The jury is escorted from the courtroom
24 at 3:33 p.m.)

25 THE COURT: Thank you. Be seated. Anything

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1 regarding jury selection? From the State?

2 MS. LINDER: Nothing from the State, your
3 Honor.

4 MR. SMILEY: No, ma'am.

5 THE COURT: All right. Can we continue on into
6 our hearing?

7 MR. SMILEY: Before we begin, could I get a
8 quick restroom break?

9 THE COURT: You take all the time you need,
10 Mr. Smiley.

11 MR. SMILEY: Then I will be ready to knock it
12 out.

13 THE COURT: Okay. Thank you.

14 THE COURT: Take a few minutes.

15 Your second witness is here; is that correct?

16 MS. LINDER: Yes, your Honor. Are we at ease,
17 Judge?

18 THE COURT: We're at ease.

19 (A recess is taken from 3:33 p.m. until
20 3:42 p.m.; at which time, the proceedings continue as
21 follows:)

22 THE COURT: Who's your next witness,
23 Ms. Linder?

24 MS. LINDER: Jeff Harrison. He's in the
25 hallway.

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1 THE COURT: He can come on in.

2 If you'll have a seat, we'll wait for
3 Mr. Smiley. There's no need for you to be just out in
4 the hallway.

5 THE WITNESS: Thank you.

6 (Mr. Steplight enters at 3:51 p.m.)

7 (Mr. Smiley enters at 3:52 p.m.)

8 MR. SMILEY: Thank you for an extra couple of
9 minutes. Mr. Steplight arrived when I was downstairs,
10 and I had an opportunity to explain to him what has
11 happened so far and the details. He's now present. He
12 just didn't know. The bondsman found him; he came
13 immediately. He apologizes, even though, I guess,
14 technically, I needed to have gotten in touch with him.
15 He did get a letter from me. But he'd gotten so many of
16 them, he didn't realize this case would be first this
17 morning. We apologize, your Honor.

18 THE COURT: All right.

19 MR. SMILEY: We're ready to proceed.

20 THE COURT: Call your next witness.

21 MR. STONEY: The State calls Jeff Harrison.

22 (The oath is administered by the Deputy Clerk
23 of Court and the witness answers as follows:)

24 THE WITNESS: Yes.

25 THE DEPUTY CLERK OF COURT: State your full

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1 name and spell your last.

2 THE WITNESS: Jeffery Harrison, H-a-r-r-i-
3 s-o-n.

4 JEFFERY HARRISON,
5 having been first duly sworn by the Courtroom Deputy
6 Clerk of the Court to tell the truth, the whole truth,
7 and nothing but the truth, was examined and testified
8 upon his oath as follows:

9 DIRECT EXAMINATION

10 BY MR. STONEY:

11 Q Good afternoon. Tell us what your occupation
12 is.

13 A Currently now, I'm a detective in the Burglary
14 Unit with Charleston Police Department.

15 Q In May of 2011, what was your title?

16 A I was attached to the Team 1 Power Shift, which
17 is a patrol squad to mainly target violent crime areas,
18 narcotic areas.

19 Q And how long have you been employed with the
20 City of Charleston Police Department?

21 A Little under eight years.

22 Q And did you have an occasion to become involved
23 in the case against Norris Steplight?

24 A Yes.

25 Q And when was that?

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1 A May 27th, 2011.

2 Q And how were you brought into this case?

3 A I was involved in the traffic stop. I was the

4 driver of the vehicle, myself with Officer Engles.

5 Q Can you tell us where that occurred?

6 A It occurred at -- the violations occurred at

7 Rutledge and Avenue -- Rutledge and Calhoun. The final

8 stop was at Jonathan Lucas and Sabin Street.

9 Q That's in the city and county of Charleston?

10 A Yes.

11 Q And after the stop -- so did you attempt to

12 initially -- initially attempt to do a lawful traffic

13 stop on this Defendant's vehicle?

14 A Yes. On the 27th of May, we observed a white

15 Dodge Ram pickup truck approach on Rutledge, approaching

16 Calhoun Street, came to a red traffic light; at which

17 time, he failed to come to a complete stop, rolled

18 through, turned right onto Calhoun Street. Calhoun is a

19 two-lane road. Instead of turning into Lane 2, he

20 completed and failed -- and proceeded to turn into

21 Lane 1, failing to turn into the immediate lane, so we

22 initiated a traffic stop at Rutledge and Ashley in

23 reference to disregarding a traffic signal and improper

24 turn.

25 Q When you say "disregarding a traffic signal,"

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1 is that running a red light?

2 A Yes. Failed to come to a complete stop at the
3 light.

4 Q Did you have an unobstructed view of both of
5 these infractions?

6 A Yes.

7 Q And just for the record, how was the lighting
8 at that time?

9 A It was still light outside.

10 Q Just -- about what time of day was this?

11 A It was approximately eight o'clock -- 8:00 p.m.

12 Q And so on May 27th, you were able to see that
13 clearly?

14 A Yes.

15 Q Did you initiate your blue light and siren?

16 A Yeah. We initiated blue lights and siren, and
17 we were in an unmarked Chevy Tahoe at the time.

18 Q And where were -- where were you located?
19 Where were y'all located in reference to the Defendant's
20 vehicle at this time?

21 A We were behind the vehicle. Not directly
22 behind. Maybe 100 yards, 200 yards.

23 Q And can you just -- can you tell us where the
24 Defendant drove and where the actual location of the
25 stop -- where did you finally stopped?

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1 A The violation occurred at Rutledge and Calhoun.
2 We initiated the blue lights and sirens at Rutledge and
3 Ashley. Several times he could have safely pulled to
4 the side; however, he continued on Calhoun to Jonathan
5 Lucas where he made a right-hand turn and came to a
6 final stop at Sabin Street on Jonathan Lucas at Sabin
7 Street.

8 Q And once the Defendant did pull his vehicle
9 over, what happened at that point?

10 A I approached the driver, asked him for his
11 license, registration, insurance. He handed me a
12 route-restricted license, his paperwork, and the
13 insurance and paperwork for the vehicle. I asked him
14 what he was restricted for. He said his route was
15 restricted for work. He was able to travel to and from
16 work. I asked if he was going to work or coming from
17 work. He said he had gotten off work earlier, and he
18 had dropped his girlfriend off at church.

19 Q So he -- he said he was dropping his girlfriend
20 at church?

21 A Yes.

22 Q Not coming to and from work?

23 A Yes.

24 MR. STONEY: Your Honor, may I approach?

25 THE COURT: You may.

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1 Q (By Mr. Stoney) I'm going to show you what has
2 been marked as State's Exhibit 1 for identification
3 purposes only. Can you please tell us what that is.

4 A This is his route-restricted explanation, his
5 paperwork, and it explains that he's able to drive to
6 and from work.

7 Q Okay. And for what dates does that --

8 A It began October 15, 2010, through October
9 15th, 2011.

10 Q And can someone be charged with driving under
11 suspension if they have a route-restricted driver's
12 license?

13 A Yes. If they're not following the guidelines
14 of their route restrictions.

15 Q And does it say that on the. . .

16 If I can direct you to Number 3.

17 A Number 3? Oh, yes.

18 Q Just -- can you tell us what that says? I
19 know it's kind of. . .

20 A I can't see 3.

21 Q I can -- from your knowledge, can somebody be
22 arrested for driving under suspension if they have a
23 route-restricted driver's license?

24 A Yes.

25 Q And so what conversation, if any, was had with

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1 the Defendant as far as his route restriction goes, and
2 where he was -- where he was coming from?

3 A He said he was coming from dropping off his
4 girlfriend at church. He claimed he had gotten off work
5 earlier that day. We attempted to contact his boss to
6 find out where he was working. We were unable to
7 contact him.

8 Q And did he appear to be coming to or from work?

9 A No. He was -- he was clean. No tools or
10 anything in the vehicle.

11 Q Did he give any indication of what his
12 occupation was?

13 A I believe he said he helped with construction
14 and landscaping.

15 Q So he were -- if he were coming to or from
16 work, would have made sense for him to have tools or --

17 A Correct.

18 Q Yeah. And did y'all attempt to confirm status
19 that he was -- his DUS status?

20 A Yes. We checked with our CPD dispatch and
21 confirmed that he was route-restricted, came back
22 suspended.

23 Q So, ultimately, was this Defendant issued any
24 warning ticket for this stop?

25 A Yes. He was issued a warning citation for the

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1 disregarding a stop sign -- or a traffic light, sorry,
2 and improper turn. And then was arrested for driving
3 under suspension for the route-restricted license.

4 Q And is it within your discretion -- or you
5 all's discretion as police officers as to whether or not
6 you --

7 A Yes.

8 Q You have the ability to place somebody
9 under arrest for deviating from their route-restricted
10 license?

11 A Correct.

12 MR. STONEY: Court's indulgence, please?

13 (Mr. Stoney speaks with Ms. Linder off the
14 record.)

15 MR. STONEY: No further questions. Please
16 answer anything that Mr. Smiley may have.

17 THE COURT: Mr. Smiley?

18 MR. SMILEY: Please the Court, your Honor?

19 CROSS-EXAMINATION

20 BY MR. SMILEY:

21 Q The name of your unit was Power Shift?

22 A Yes, sir.

23 Q What is Power Shift?

24 A It's a unit within each team. It's a -- it's
25 an entity of the patrol unit; however, you're tasked

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1 with targeting violent crime areas, violent offenders,
2 narcotic trafficking areas -- any area where the team
3 may be having issues as far as high crime, influx crime,
4 we are free to go within the team and target those
5 areas.

6 Q All right. So you're not a traffic enforcement
7 unit, per se. You're proactive towards drugs and
8 violence; right?

9 A Correct. But we also target all crimes as a
10 police officer.

11 Q All right. So you regularly make traffic
12 stops?

13 A Yes.

14 Q How long had you been on duty that day?

15 A I believe we started -- we either start at 5:00
16 or 7:00, depending on the day.

17 Q You don't know?

18 A I can't recall. No, I can't recall.

19 Q Had you made any other traffic stops that
20 night?

21 A I cannot recall at this time.

22 Q Now, y'all were targeting -- when I say
23 "y'all" -- let me back up. I'm bad about that. It was
24 you and two other officers that day; correct?

25 A Working?

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1 Q Yeah.
2 A Yes.
3 Q So that would be Officer Engles, I believe you
4 were detective at that point, Detective?
5 A No, I was still a police officer at that time.
6 I'm a detective now.
7 Q I'm just trying to make sure I get --
8 A Yeah.
9 Q The two of y'all were officers assigned to
10 Power Shift Unit, but you were Team 1?
11 A Team 1.
12 Q Team 1. And then you had Deming?
13 A Yes.
14 Q He was -- was he an officer? Was he a
15 detective?
16 A He's an officer.
17 Q He was just an officer? Wasn't --
18 A No, he worked with us in the same unit.
19 Q I understand. I'm just trying to figure out if
20 y'all were just patrol officers or had been promoted up
21 to something higher from that, I guess. Trying to get
22 your titles right. It's not a trick, I promise.
23 A No.
24 Q Okay. All right. So who was the head of the
25 Power Shift Unit?

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1 A As far as supervisor?

2 Q Yeah. Who was giving you instructions?

3 A We respond to our sergeant, our team sergeant,

4 as well as our team lieutenant.

5 Q Okay. And that particular day, y'all were

6 being proactive in the area of Morris Street?

7 A Correct.

8 Q And in particular, Officer Denning [sic] had

9 been let out on foot, or around the address on Morris

10 Street?

11 A Correct.

12 Q And the purpose of that was to do surveillance

13 on an address on Morris Street; correct?

14 MR. STONEY: Objection. Outside the scope of

15 Direct.

16 THE COURT: Overruled.

17 Q (By Mr. Smiley) My question was, the purpose

18 of Officer Denning being on foot patrol was to surveil

19 an address on Morris Street; correct?

20 A Correct.

21 Q All right. So after Officer Denning was let

22 out, in and around Morris Street, you and -- I believe

23 you were driving, and you and the other officer went

24 down Rutledge and pulled into another street?

25 A Correct.

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1 Q Okay. And you're parked; right?
2 A Yes, sir.
3 Q And you did that while Officer Denning was
4 surveilling the address; correct?
5 A Correct.
6 Q And the idea was that whatever vehicle came up
7 to this address on Morris Street, is after it came out,
8 it most likely would go down Rutledge; right?
9 A Correct.
10 Q And so that way, you would be able to fall in
11 behind whatever vehicle that was; right?
12 A Correct.
13 Q All right. And so you got information over the
14 radio from Officer Denning, that a white pickup was
15 coming your way?
16 A Correct.
17 Q And that he had observed it pull in briefly and
18 then leave that area on Morris Street; correct?
19 A Correct.
20 Q And I believe he also conveyed to you that he
21 said that the meet appeared to have -- be consistent
22 with narcotic activity?
23 A Correct.
24 Q Okay. So when you got behind the white pickup
25 truck, y'all were behind it because of that information

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1 provided by Officer Denning; correct?

2 A Yes.

3 Q All right. So the next step was to find a
4 reason to pull it over; right?

5 A Find a reason?

6 Q Yeah.

7 A If an infraction occurred, then, yes, I would
8 pull it over.

9 Q Right. So you fall in behind the pickup truck,
10 looking for a reason to pull it over?

11 A As a police officer, I'm always looking for
12 infractions to stop vehicles.

13 Q I -- I mean, let's cut through it. Y'all were
14 looking for that pickup truck; right?

15 A Yeah, we're given the information of the pickup
16 truck, correct.

17 Q Okay. So you got behind it, and if he hadn't
18 committed what appeared to you to be a traffic
19 violation, you wouldn't have pulled it; correct?

20 A Correct.

21 Q And so is -- when it appeared to roll through
22 that light and go in the other lane, it gave you the
23 excuse you needed to pull him; right?

24 A Well, he committed the traffic violation, so
25 it's not an excuse.

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1 Q But y'all were targeting narcotic activity that
2 day; right?

3 A We were targeting that area, yes.

4 Q Okay. Now, the automobile you were in, was a
5 Tahoe?

6 A Yes.

7 Q That's an SUV?

8 A Yes.

9 Q All right. Four -- two-door? Four-door? Do
10 you remember?

11 A Four-door.

12 Q Four-door. Did it have any kind of markings on
13 it?

14 A No. It was black, unmarked.

15 Q And it had a blue light up where the rearview
16 mirror is?

17 A Yeah. It's a blue light on the rearview, the
18 headlights flash, and one in the rear as well.

19 Q Okay. And once you observed this action at the
20 corner of Rutledge and Calhoun, you fell in behind and
21 turned on your lights about at Ashley; correct?

22 A Correct.

23 Q And then finally pulled over the pickup truck
24 on Jonathan Lucas and Sabin; correct?

25 A Correct.

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1 Q Now, when you got out at Sabin, you approached
2 the car --

3 A Yes.

4 Q -- correct?

5 And you came up on the driver's side?

6 A I did.

7 Q And Officer Engles came on the passenger side?

8 A Yes.

9 Q All right. And Mr. Steplight was the driver?

10 A Yes.

11 Q You asked him for his license, registration,
12 and insurance; correct?

13 A Yeah, vehicle information.

14 Q Correct. And that's what you typically do if
15 you're asking somebody -- information regarding the
16 traffic violation?

17 A Correct.

18 Q And he provided you with that information?

19 A Yes.

20 Q And that would be in the form of a
21 route-restricted license -- or paperwork; correct?

22 A Yes.

23 Q And a rental agreement for the truck?

24 A Uh-huh.

25 Q And insurance information; correct?

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1 A Correct.

2 Q At that point in time, he's still in the truck;
3 right?

4 A Yes.

5 Q And you go back to your car to check it;
6 correct?

7 A Uh-huh.

8 Q Is Officer Engles still standing on the
9 passenger side?

10 A Yes.

11 Q And so you run it through the computer?

12 A No. We radioed it. We didn't have a computer.

13 Q You didn't have a computer in the car. So you
14 called dispatch with the information; correct?

15 A Yeah.

16 Q And the dispatch confirmed, in fact, that
17 Mr. Steplight had a route-restricted license; correct?

18 A Yes. Either suspended or route restriction.

19 Q Well, it's got to be suspended to get a route
20 restriction --

21 A Correct.

22 Q -- right?

23 Okay. So you got the information that
24 confirmed the document that you had?

25 A Uh-huh.

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1 Q All right. Now, I believe you testified that
2 the route-restricted license ran from October, 2010, to
3 October 15th, 2011; right?

4 A Uh-huh.

5 Q And --

6 THE COURT: Is that a yes?

7 THE WITNESS: Yes.

8 Q (By Mr. Smiley) And this was May the 27th,
9 2011; right?

10 A Yes.

11 Q So it was within that time period?

12 A Yes.

13 Q Okay. And that route-restricted license
14 allowed him to follow the route that he was on during
15 the prescribed time to and from work; correct?

16 A Yes.

17 Q So the -- it was your determination that he was
18 operating beyond the scope?

19 A Correct.

20 Q And that's based on the fact that he wasn't
21 dirty? Didn't look like he was coming back from work;
22 right?

23 A Yes.

24 Q And that -- and the information that he
25 provided that he had gotten off earlier that day, and he

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1 was taking his wife by church?

2 A Correct.

3 Q Now, is -- you were never able to determine
4 what church it was, were you?

5 A No.

6 Q Okay. So there's plenty of churches within
7 that prescribed route; right?

8 A Sure.

9 Q Now, you weren't able to determine what time he
10 got off; right?

11 A No, sir.

12 Q I believe you said you tried calling the boss?

13 A I did.

14 Q Now, after you ran that information and got the
15 confirmation that he had a restricted license, you got
16 him out of the truck?

17 A Correct.

18 Q All right. And you brought him to the back of
19 the pickup truck in front of the Tahoe; correct?

20 A Yeah. Between the two vehicles towards the
21 side of the street, but between the two vehicles.

22 Q And you had asked him at that point in time for
23 consent to search; right?

24 A Correct.

25 Q Which would be -- withdraw the question I was

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1 going to ask and didn't ask.

2 So he gave you permission to search the truck;

3 correct?

4 A Yes.

5 Q And there was nothing illegal found in the

6 truck?

7 A No.

8 MR. SMILEY: Beg the Court's indulgence?

9 (Respite.)

10 Q (By Mr. Smiley) At that point in time, he

11 was placed under arrest for driving under suspension;

12 correct?

13 A Uh-huh.

14 Q And the basis -- I'm sorry, it's not -- I

15 understand what you're saying, but she's got to write

16 yes or no.

17 A Yes.

18 Q Okay. So you placed him under arrest for DUS,

19 that being, driving beyond the scope of his restricted

20 license?

21 A Correct.

22 Q And on the civil traffic violations, you gave

23 him warnings?

24 A Yes.

25 Q Did Officer Denning come to the scene?

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1 A I believe he came later on, yes.

2 Q All right. Was he involved with any
3 interaction with Mr. Steplight, to your knowledge?

4 A Not to my knowledge.

5 Q Just a few more questions. Y'all were
6 targeting that Morris Street address because of
7 concerned citizens' complaints about narcotic activity?

8 A Correct.

9 Q And you had pow-wowed -- or your team had
10 talked with the Narcotics Unit?

11 A Yes.

12 Q And they had provided some general information
13 about that address too?

14 A Yes.

15 Q Okay. And so y'all were basically hunting what
16 was going on there that day; right?

17 A Trying to gather information, find out. . .

18 MR. SMILEY: Just one more moment, your Honor?

19 THE COURT: Take your time.

20 (Mr. Smiley speaks with his client off the
21 record.)

22 Q (By Mr. Smiley) Couple -- when -- when the
23 white pickup truck was at the corner of Rutledge and
24 Calhoun, in that right-hand lane, where were you
25 located?

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1 A Approximately 100 yards behind him.

2 Q Okay. So -- and I know you're familiar with

3 downtown, so I won't ask you. But there's an entrance

4 there to the hospital about 100 yards or so before you

5 get to the end?

6 A Right.

7 Q And then there's an Exxon station about

8 a -- little farther down, but on the left-hand side;

9 right?

10 A Right.

11 Q So you were about at that entrance, give or

12 take?

13 A Yeah. I don't know the exact distance.

14 Q Was there any cars between you and the pickup

15 truck?

16 A Not that I recall; no.

17 MR. SMILEY: Nothing further from this

18 witness.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. STONEY:

22 Q You said that y'all -- y'all did issue a

23 traffic ticket to Mr. Steplight for the violation?

24 A For the suspension?

25 Q No. For the traffic violation?

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1 A No. Warning.

2 Q A warning. Excuse me.

3 MR. STONEY: Your Honor, may I approach?

4 THE COURT: You may.

5 (Document is shown to Mr. Smiley and then

6 passed to the witness.)

7 Q (By Mr. Stoney) Do you recognize that?

8 A Yes.

9 Q Can you tell us what it is?

10 A It's a traffic ticket for DUS first for

11 Mr. Steplight.

12 Q And what day of the week did that occur?

13 A May 27th, 2011.

14 Q Does it say what actual day it was?

15 A Oh, yeah. Friday.

16 Q So this occurred Friday at eight o'clock?

17 A Correct.

18 Q And he said he was going to church?

19 A Correct. Or dropping his wife off.

20 MR. STONEY: Court's indulgence, please?

21 (Mr. Stoney speaks with Ms. Linder off the

22 record.)

23 MR. STONEY: No further questions.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: Just a couple.

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1 RECROSS-EXAMINATION

2 MR. SMILEY:

3 Q Friday evening around eight o'clock. You don't
4 know his work schedule, do you?

5 A No, sir.

6 Q And as -- and I think that's been cleared up.
7 He didn't say he was going to church. He said he
8 dropped his wife off; correct?

9 A Correct.

10 Q And he had left work earlier that day?

11 A Correct.

12 MR. SMILEY: Okay. That's all I have.

13 THE COURT: You may step down. Thank you.

14 Is this witness excused?

15 MS. LINDER: Yes, your Honor.

16 THE COURT: All right. And he knows when to be
17 back for court tomorrow?

18 MS. LINDER: He does. We told him the jury is
19 back by 9:30 and for him to be here by 9:00 a.m.

20 THE COURT: Any issue?

21 THE WITNESS: No.

22 THE COURT: See you in the morning.

23 Mr. Smiley, any objection to excusing the
24 witness for the evening?

25 MR. SMILEY: No, your Honor.

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1 THE COURT: Okay. Thank you.

2 Call your next witness.

3 MS. LINDER: No other witnesses.

4 THE COURT: Mr. Smiley, do you have any other
5 witnesses? Take your time.

6 (Mr. Smiley speaks with his client off the
7 record.)

8 THE COURT: You may step outside.

9 Mr. Steplight, let me make this clear to you?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: We have -- first of all, we have
12 picked a jury. Regardless, if you decide not to come
13 back after I release you out of this courtroom, we're
14 going forward with your trial. Do you understand that,
15 sir?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. I'm also telling you
18 you're not free to leave for purposes of this hearing.
19 You may step outside and speak with your attorney
20 because I want you to have the benefit of his counsel
21 without all of us overhearing what you're saying. But
22 let me make this clear: If you don't show up, what's
23 going to happen to you?

24 THE DEFENDANT: Get arrested.

25 THE COURT: And?

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1 THE DEFENDANT: Get charged.
2 THE COURT: And?
3 THE DEFENDANT: And my trial will keep going.
4 THE COURT: All right. Thank you?
5 THE DEFENDANT: Yes, ma'am.
6 THE COURT: Let me know when you are ready.
7 Take your time, Mr. Smiley.
8 MR. SMILEY: Yes, ma'am.
9 (Mr. Smiley and the Defendant step out of the
10 courtroom at 4:20 p.m.)
11 (Mr. Smiley and the Defendant back in the
12 courtroom at 4:26 p.m.)
13 THE COURT: Mr. Smiley, are you ready to go
14 forward?
15 MR. SMILEY: We won't be presenting any
16 witnesses, your Honor. At this point in time, I would
17 like to argue about suppression of the evidence and
18 violation of the Fourth Amendment and both being -- an
19 illegal arrest without any probable cause, your Honor.
20 In the arrest -- they arrested him for a violation of
21 his route-restricted. And I was very careful in asking
22 questions of both the officers in what manner he
23 violated his route-restricted license that would have
24 given them probable cause to arrest him. And their
25 -- both of the officers said that the reason they did is

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1 that it appeared that he wasn't coming from -- back from
2 work, and that he had stated he had gotten off earlier.
3 But you've got to get off work to get home. They didn't
4 establish what time it was. So there's no indication he
5 was outside of his prescribed route, that his license
6 was in any way expired, or that he had gone outside of
7 any time limits. And there's -- he said he dropped his
8 wife off for church, but there's nothing within a DUS in
9 route-restricted or the law that says, as long as you're
10 traveling to and from work -- along the prescribed route
11 within the prescribed time, that you can't drop somebody
12 off. I mean, there's not anything to say otherwise to
13 say that that would be a violation of the law.

14 In fact, there's been no testimony that the
15 basis of the arrest, which was the DUS, that there was
16 any violation of his route-restricted license. They had
17 said because he appeared clean, it didn't look like he
18 was coming home from work. He told them that he'd
19 gotten off earlier and had dropped his wife off on the
20 way by -- the way down.

21 Even if you take the stop on Morris Street, and
22 there's nothing to say that in -- within --

23 THE COURT: Mr. Smiley, does his wife work with
24 him?

25 MR. SMILEY: No, ma'am. I don't know the

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1 answer to that. But I don't believe so. It wasn't
2 brought forth in testimony. But there's nothing to
3 show -- any evidence to show that he was outside the
4 prescribed route, outside a time, or that his route was
5 expired. He had the appropriate paperwork. He was
6 within the prescribed route -- well, there's been no
7 testimony that he was outside the prescribed route,
8 outside the time --

9 THE COURT: But didn't he also commit a moving
10 violation?

11 MR. SMILEY: A civil traffic violation, yes,
12 ma'am.

13 THE COURT: And wouldn't that have given them
14 probable cause to stop the vehicle?

15 MR. SMILEY: For the stop, yes, ma'am. Even
16 though I -- it certainly was a pretextual. I think the
17 Supreme Court has said that basically pretext are
18 okay --

19 THE COURT: So you're not challenging the stop
20 at this time?

21 MR. SMILEY: No. Secondarily. My focus -- my
22 attack is on the illegal arrest. That they had no
23 reason to arrest him. There's -- you don't -- his
24 -- his route-restricted was in order. Completely in
25 order. There was nothing to -- there's been no evidence

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1 other than his appearance that he wasn't on his way home
2 from work. Nothing. Therefore, if, in fact, there is
3 any probable cause for the arrest, is they were acting
4 in bad faith, beyond -- to -- to arrest him to go
5 further, your Honor. If you will -- the initial stop
6 -- there's no doubt, your Honor, that the stop is
7 pretextual from the evidence that is put there. Because
8 they're part of a Power Shift Unit looking for narcotics
9 activity and violent crime. So they're not a Traffic
10 Enforcement Unit. Now, I'm not saying on the face that
11 in that context they can't make a traffic stop.
12 I think the Supreme Court said that it's not an
13 objective test, it's a subjective test. And that if, in
14 fact, their dual purpose is for the stop itself, that
15 that will survive that. So complete bad faith. And I
16 think they've established what they believe to be a
17 moving violation, but certainly pretextual.

18 But when you couple the pretext that they're
19 looking for narcotics is that they put an officer out in
20 a particular location based an anonymous tips -- well,
21 concerned citizens. I won't call it anonymous.
22 Concerned citizens' tips. And they gathered general
23 information from narcotics with nothing more. They're
24 just stopping cars that are coming off this location.
25 And as we all -- or as the Supreme Court, I'll give you

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1 the case, your Honor. And it's Whren, W-h-r-en, versus
2 United States, decided by the United States Supreme
3 Court in June 10th of 1996, which is probably the
4 similar case about pretext rules stopped. It -- it
5 talks about that why they can have competing purposes --
6 dual purposes, I guess is the right word, your Honor,
7 that in it, is a -- that -- in the dicta of the case,
8 it's like civil traffic warrants, you can get those a
9 dime a dozen. They're -- literally, every driver at
10 some point in time comes close to the line.

11 They're looking -- they were there to stop that
12 car because of narcotics. That's what they were
13 investigating. That's what they were looking for. I
14 think that's clear. Like I said, the initial stop,
15 they've made an argument that -- or testified that there
16 was a civil traffic violation that they gave warning
17 tickets over, and then they have a DUS that they arrest
18 him for. But there is no evidence that he is DUS
19 besides his appearance, and that -- he said -- he had
20 gotten off earlier, on his way home -- or on the way, he
21 had dropped his wife off at church. No other evidence
22 to that effect. So there's nothing to show that there
23 was a scintilla of evidence that he was violating -- of
24 actual evidence that he was violating his restricted
25 driver's permit, and, therefore, the arrest is illegal.

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1 Subsequently, any search made of his person as a result
2 of that arrest, should be suppressed, because it's fruit
3 of a poisonous tree.

4 And even though we haven't had testimony, I
5 think I can still argue with, your Honor, once they got
6 him to jail, the bulge that they felt -- that Engles
7 said he thought he felt a bulge, but that wasn't
8 investigated until they arrested him, took him to the
9 jail to book him in for the charge that I allege is
10 illegal. And as a fruit, they found crack cocaine at
11 the jail. He would never have been booked in for jail
12 but for the illegal arrest, your Honor, as I believe it
13 violates his -- his Fourth Amendment right to be free of
14 illegal seizures.

15 And in this case, I believe his seizure
16 certainly violates the law. And I believe the
17 standards, looking at the totality of the circumstances,
18 is that in this, if the officers made an illegal arrest,
19 and is -- were operating -- did not have a good faith
20 basis, then they didn't check -- that's why I asked
21 about the computer. They called it in, and said that
22 -- but they're -- there's nothing there. There's no --
23 nothing to say we're arresting him because he was
24 outside the area that he was allowed to, outside the
25 time he was allowed to -- as they say, it appears he was

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1 doing it for the wrong -- he was within that route for
2 the wrong reason, but there's no evidence of that.
3 There's not even hardly a suspicion. It was a purpose
4 to a means, which was to search him -- or a means to a
5 purpose, I think is the right way, to be able to search
6 him, incident to the arrest, your Honor; therefore, I
7 think it violates both the U.S. Constitution and the
8 South Carolina Constitution to be free of illegal
9 searches, your Honor.

10 THE COURT: Ms. Linder?

11 MS. LINDER: Thank you, your Honor. May it
12 please the Court?

13 I just want to go over a couple of things. I
14 think that this is in two different sections, the stop
15 itself, and the violation under route-restricted.
16 First, I'd like to talk about the stop itself. Your
17 Honor, I would say that the stop itself, regardless of
18 what was occurring or they knew of or did not know of
19 beforehand, for the stop itself, they -- you heard from
20 both Detective Harrison and Detective Engles that the
21 stops were done based upon not one but two separate
22 traffic infractions; that is, running through a steady
23 solid red light and -- or not coming to a complete stop
24 is I believe the term they used, and also an improper
25 turn, which is not -- more or less, hugging your curb as

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1 you're turning, going over to the farther lane. I
2 believe also that the officer testified that part of
3 their job as patrol officers, as they were at that time,
4 was indeed to make traffic stops.

5 Another thing that I would like to bring to the
6 Court's attention, in listening to Engles' testimony, he
7 says that there are the two traffic infractions, and
8 then he also mentioned other items that were causing
9 problems. He said there was unobstructed view; he said
10 it was eight o'clock, but late May, so it was still
11 light outside for them to be able to see the two traffic
12 infractions; I submit seeing a Dodge Ram pickup truck is
13 something that you would -- that I would think that you
14 would be able to see, as both he and Officer Harrison
15 both testified to.

16 In the state [sic] that Mr. Smiley quoted,
17 Whren v. U.S., it says that the temporary detention of a
18 traffic stop is a Fourth Amendment seizure, but where a
19 PC exists that there was a traffic violation, it becomes
20 reasonable, *per se*, that further allows the removal of
21 the driver from the car or driver and passenger, and it
22 also allows for a driver's license check and a warrant
23 check. I think that this stop got a little more
24 complicated, potentially a little longer, due to the
25 complexity that it's a route-restricted license, but I

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1 do not believe that that amount of time has any bearing
2 on this case.

3 I also would ask the Court -- I think
4 specifically on point is a case that -- from 2009,
5 State v. Corley. In that case, Judge Nicholson
6 was upheld, and at that case, officers were doing
7 surveillance of a drug house, officers watched a quick
8 stop fault, and then there was a traffic violation, the
9 individual was nervous, short of breath, fidgety, he was
10 asked outside for safety, and, ultimately, the holding
11 of that was that a minor traffic violation arrest will
12 not be rendered invalid even if it is mere pretext for a
13 narcotics investigation. The subjective intent of the
14 officer doesn't lessen the traffic infraction itself.

15 Your Honor, I hold -- that pretty much is,
16 quite frankly, what we have going on here. There was,
17 as many people do, there was the multi-tasking
18 happening. Officers were on patrol. Their part of
19 patrol is part of Power Shift, that includes traffic
20 stops, that includes surveillance, that includes a
21 variety of things. They initiated a traffic stop on
22 Mr. Steplight's vehicle for the two different
23 infractions that were stated. When it comes to the
24 arrest itself, your Honor, I would -- I'd like to say
25 that you heard from -- especially, Detective Engles,

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1 that Mr. Steplight said that he was dropping his
2 girlfriend off at church. Mr. Smiley made a point that,
3 you know, well, just dropping her off at church, doesn't
4 mean it has to be directly to and from. I submit that
5 the language of the route-restricted driver's license,
6 it says: The time I commute to and from work. To me,
7 commuting means you're driving to and from work, as it
8 states. And with that being said, if Mr. Steplight's
9 girlfriend or wife does not work with him, there's
10 really no reason that she'd be in the vehicle.

11 Furthermore, Mr. Smiley says that we did not
12 allege there being a violation of the time nor route
13 itself. Your Honor, I would -- I submit that in the
14 route-restricted license, the times are 6:00 a.m.
15 until midnight. So all but six hours. The route
16 restrictions -- the employer is in North Charleston, so
17 he has to start out going on West Sherwood, so that
18 tells me West Ashley. And it's all these ways to get
19 there up until North Charleston, and then, kind of the
20 catchall at the end, saying it varies because we work in
21 Berkeley, Charleston, and Colleton Counties. So there's
22 a catchall. So, more or less, if he's not honestly
23 commuting directly to and from work, this tries to
24 allege that anything is allowed because it's all
25 work-related. Mr. Steplight, himself, according to the

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1 testimony of both officers, said that he was dropping
2 his girlfriend off at work [sic]. And then when he was
3 getting caught up in everything, he tried to ultimately
4 change what he said. I submit that recanting by the
5 Defendant of a later statement -- of a statement based
6 on the realization that he was about to get re-arrested,
7 does not render that first utterance that he was in
8 violation. It does not -- it doesn't nullify that
9 admission itself.

10 THE COURT: Remind me what the testimony was,
11 Ms. Linder.

12 MS. LINDER: Officers testified that when they
13 talked to him and got the route-restricted, he said that
14 he was -- he was dropping his girlfriend off at church.
15 That, I would submit, is enough for the officers in good
16 faith, taking his word, to make the DUS arrest. That's
17 in violation. That's not commuting to and from work.

18 Furthermore, the officers then had other
19 information, then, in fact, he was witnessed, not with
20 the wife or girlfriend, not being in a church parking
21 lot, but being somewhere else that also was not work.

22 Your Honor, I believe that the officers, in
23 good faith, relied upon the information relayed to them
24 from Officer Deming, and from the Defendant, himself,
25 and based upon that good faith, made the arrest for

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1 driving under suspension.

2 Your Honor, in a 2002 case, Brown v. Gilmore,
3 which is in the Fourth Circuit, Court of Appeals,
4 ultimately the individual alleged a false arrest,
5 officer arrested the defendant for disorderly, it was
6 busy in traffic, it was after a car accident, the
7 defendant claimed, well, I didn't hear the directive.
8 The officer said that the defendant refused to obey, so,
9 ultimately, that individual was arrested for disorderly.
10 In that case, the main holding was the totality of the
11 circumstances known to the officer at the time of arrest
12 only needs to be enough evidence to warrant the belief
13 of a reasonable officer that the officer -- that -- of
14 the offense committed, not enough evidence to convict.
15 That's not what we're here for. It is, did the officer,
16 in good faith, arrest this individual based on the
17 information that he had at the time.

18 Beg the Court's indulgence?

19 (Ms. Linder speaks with Mr. Stoney off the
20 record.)

21 MS. LINDER: Your Honor, I believe that's all I
22 have to say. I, of course, would ask to respond if
23 Mr. Smiley has additional. And I do have copies of the
24 cases that I cited. I do have some highlight marks, but
25 I'm happy to --

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1 THE COURT: That's all right. I already have
2 them. I have them. Thank you.

3 MS. LINDER: Thank you, Judge.

4 THE COURT: All right. Mr. Smiley?

5 MR. SMILEY: First, this thing with State v.
6 Corley. In State v. Corley, the arrests were for the
7 traffic infraction. He was not arrested for the
8 improper stop at Rutledge and Calhoun. He was not
9 arrested for improper lane change. He was given a
10 warning citation. That wasn't the basis for the arrest,
11 your Honor. That distinctions --

12 THE COURT: Your client?

13 MR. SMILEY: My client was not arrested for
14 those.

15 THE COURT: Correct.

16 MR. SMILEY: In Corley, the traffic infractions
17 were the subject of the arrest. And I think it has --
18 it -- that distinguishes the two. My client was
19 -- would have been given -- well, he was given a warning
20 ticket, which is not in custody. You -- you don't get
21 taken into custody for a warning. He was arrested for
22 operating outside his route-restricted, considered to
23 be driving under suspension. And in that, their
24 -- Mr. Steplight doesn't have to prove that he wasn't
25 violating it here. As we look at these documents -- the

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1 document that she's -- has a wide time frame, it has a
2 large area, but the highway department approved that,
3 so, I mean, that's his route-restricted license, your
4 Honor. And if the officers didn't like it, doesn't mean
5 they can make an arrest about it. I purposefully was
6 asking them the basis for them to believe he was
7 violating that route-restricted license, and they came
8 up with, that he was clean, that he had said he had
9 dropped his wife off, and he'd gotten off work earlier.
10 That's -- there's nothing there that says that it
11 violates -- nothing that they say would show any
12 evidence that he was in violation of his route-
13 restricted license.

14 THE COURT: All right. What is it that you
15 want me to do?

16 MR. SMILEY: I want the drugs suppressed, your
17 Honor, of course.

18 THE COURT: Based upon the fact that the
19 officers should not have arrested him because they
20 lacked probable cause of the DUS?

21 MR. SMILEY: Not just probable cause. That
22 they -- they lacked any substantial evidence. I mean,
23 there's no evidence, other than their assumptions
24 because he was clean, and they thought he must have a
25 dirty job, and he didn't look dirty; the fact that he

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1 had dropped his wife off. But there's nothing to show
2 he was outside his route. There's been no testimony to
3 show that he wasn't coming from work. He said he'd
4 gotten off earlier. There's nothing there, period.
5 Their arrest was so that they could get to the ultimate
6 prize, which was a search of his person; and, therefore,
7 it is -- it was an illegal arrest, and the basis of
8 that, I believe, any subsequent search would be fruit of
9 a poisonous tree; and, therefore, should be suppressed.
10 Any evidence found therein, should be suppressed.

11 THE COURT: All right. I disagree based
12 upon the testimony that I've heard, the fact that
13 Mr. Steplight had a route-restricted driver's license,
14 he indicated that he had gotten off work earlier, he was
15 taking his wife, or girlfriend, somewhere, indicates to
16 me that the officers, based upon the totality of the
17 circumstances had probable cause to arrest him based
18 upon the violation and that he was driving under
19 suspension based upon a route-restricted driver's
20 license. Note your exception to my ruling. Your Motion
21 to Suppress as evidenced from the -- your Motion to
22 Suppress the evidence from the arrest as fruit of a
23 poisonous tree is denied.

24 Anything further?

25 MR. SMILEY: Not today, your Honor.

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1 THE COURT: All right. And I apologize -- my
2 throat's getting scratchy, so I apologize.

3 Anything further before we break? You will be
4 ready to begin trial tomorrow?

5 MS. LINDER: Yes, Judge.

6 THE COURT: And just for scheduling, do we
7 anticipate that if we were to begin promptly at 9:30, we
8 should be done tomorrow?

9 MS. LINDER: Yes.

10 MR. SMILEY: It will be close. I'm just -- I
11 take -- maybe I'm a slow lawyer, but I take a little bit
12 longer, I guess.

13 THE COURT: I'm just trying to -- just for
14 scheduling, to anticipate.

15 MR. SMILEY: Yes.

16 THE COURT: All right. Mr. Steplight, out of
17 abundance of caution, I'm going to take you into
18 custody. Your bonds person has satisfied the
19 requirements on the bond. We have selected a jury, so
20 I'm going to take you into custody. All right? So I'll
21 give you a moment to give whatever personal items that
22 you need to give Mr. Smiley, and you will need to make
23 arrangements, Mr. Smiley. Not that you don't look
24 appropriate, but if there's other clothes that you need
25 for him to wear for tomorrow.

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1 MR. SMILEY: All right.

2 THE COURT: Mr. Steplight, I'll see you in the
3 morning. Thank you. Have a good night.

4 Ms. Linder, anything further? Ms. Linder?

5 MS. LINDER: There's nothing further at this
6 time, your Honor. If after consulting with co-counsel,
7 if I think of something, I will E-mail your law clerk or
8 Mr. Smiley. I do not see any immediate issues as
9 scheduled for tomorrow.

10 THE COURT: Thank you.

11 Ms. Linder, were there any offers?

12 MS. LINDER: Yes, there was an offer. There
13 was previously an offer of a ten-year active sentence.
14 And this is a trafficking third, so it carries 25. And
15 Mr. Steplight rejected that offer on the record with
16 Judge Dennis when he was on a previous trial docket, and
17 Judge Dennis had me extend it further --

18 THE COURT: Hold on one second. I was just
19 inquiring if there was any offers still on the table
20 that I needed to convey to Mr. Steplight on the record.
21 All the offers have been rejected --

22 MS. LINDER: All rejected.

23 THE COURT: -- and withdrawn at this time?

24 MS. LINDER: Yes, Judge.

25 THE COURT: Is that correct?

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1 MR. SMILEY: Yes, there was an offer of ten
2 years made earlier on in this case. Mr. Steplight
3 conveyed to me and on the record in front of Judge
4 Dennis, at one point in time, that he rejected that
5 offer.

6 THE COURT: All right. Ms. Linder, is that
7 offer still available since I have ruled on a Motion to
8 Suppress, would you keep that one open for the next few
9 minutes, if Mr. Smiley can convey that to his client?

10 MS. LINDER: Your Honor, I do not believe that
11 a ten-year offer is appropriate to remain open at this
12 time.

13 THE COURT: All right. Thank you. All right.
14 Just making sure that everybody's bases are covered.

15 THE DEFENDANT: Can I talk?

16 THE COURT: I'm sorry, Mr. Steplight, my ears
17 are clogged up.

18 THE DEFENDANT: Can I talk to him?

19 THE COURT: They're taking you into custody,
20 Mr. Steplight, so that's going to be the problem. So
21 I'm going to leave that up to my very able deputies,
22 because it's time for us to leave. And I can't -- like,
23 there's no half custody, so I either have to take you in
24 or I don't, and you're in custody at this time. So the
25 deputies can make arrangements.

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1 I don't know where you meet with them. All
2 right, Mr. Smiley.

3 MR. SMILEY: I'm just trying to get information
4 about his clothes and who to take this property to.

5 THE COURT: All right. Thank you. All right.
6 9:30 in the morning.

7 MS. LINDER: Yes, Judge.

8 THE COURT: Which means 9:30 in the morning.

9 (The jury trial of this cause adjourned for
10 the day at 2:52 p.m., on February 5, 2013.)
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Jury Trial, State v Steplight
Volume I of II

STATE OF SOUTH CAROLINA)
) ss.
COUNTY OF BERKELEY)

I, **ROLAYNE M. VOLPE**, Certified Court Reporter, CCR, and Registered Professional Reporter, RPR, do hereby certify that the transcript of the foregoing proceedings, **Volume I of II**, accurately reflects the events that occurred before me to the best of my ability at the time and place set out on the caption hereto, the witnesses having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken or to any attorney or counsel employed by the parties hereto, nor financially interested, directly or indirectly, in the outcome of this action.

CERTIFIED AND SIGNED on this 16th day of June, 2013.

COPY

ROLAND E. M. VOLPE, JR. RPR
Certified Court Reporter and
Registered Professional Reporter
Commission Expires: 8/30/2021

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 Rolayne M. Volpe, CCR, RPR
 Official Court Reporter for the State of South Carolina

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
Plaintiff,)
vs.) Case No.: 2011-GS-10-6501
NORRIS TYRONE STEPLIGHT,)
Defendant.)

COPY

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL, VOLUME II OF II
HEARD BEFORE JUDGE KRISTI LEA HARRINGTON
ON FEBRUARY 5, 2013

ROLAYNE M. VOLPE, CCR, RPR
Court Reporter for the State of South Carolina at Large
Post Office Box 342
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1 The above-styled cause came on for hearing on
2 the 5th day of February, 2013, at 10:00 a.m., before
3 Judge Kristi Lea Harrington, Resident Judge, presiding
4 over the General Sessions for the County of Charleston,
5 when the following proceedings were had and entered of
6 record, to wit:

7 PROCEEDINGS

8 (The Defendant is present in court with his
9 counsel.)

10 (The jury is escorted into the courtroom at
11 10:05 a.m.)

12 THE COURT: All jurors, please remain standing.
13 We are going to administer the oath.

14 (The oath is administered to the jury by the
15 Deputy Clerk of Court, and the jurors answer in the
16 affirmative.)

17 THE COURT: You may be seated.

18 JURY INSTRUCTIONS

19 THE COURT: Good morning, ladies and gentlemen.
20 I know that some of you had a little more difficult time
21 getting here this morning than others, and I appreciate
22 each of you being here. Without you, we could not
23 complete this case, and so it is important that all,
24 now 12 of you, are here and remain with us in order for
25 us to complete this trial.

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1 Ladies and gentlemen of the jury, you have just
2 been administered the oath to try the case of the State
3 versus Norris Tyrone Steplight. What I now say is
4 intended to serve as an introduction to the trial of
5 this case. These remarks are not a charge on the law.
6 I will instruct you on the law applicable to this case
7 throughout the case when it becomes necessary and at the
8 end of the case. I just wanted you to have an
9 understanding of what we would be doing so you will be
10 able to better understand the procedure.

11 The Defendant is charged by an Indictment filed
12 in this Court with the crime of trafficking in cocaine
13 base. I will explain the elements of that charge to you
14 later. The Indictment is simply the charge by which
15 this case is brought into court. It is not and in any
16 sense evidence of the allegations it contains. The
17 Defendant has pled not guilty to this Indictment.

18 (Pause in proceedings. People entering the
19 courtroom.)

20 THE COURT: The Defendant has pled not guilty
21 to this Indictment. The State has the burden of proving
22 each of the elements of the Indictment beyond a
23 reasonable doubt. It is your duty, ladies and
24 gentlemen, to decide whether the State has met its
25 burden.

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1 Your purpose as jurors is to find and determine
2 the facts. You are the sole judges of the facts in this
3 case. You may have noticed when you came in this time
4 that the attorneys involved and the parties involved and
5 the audience were standing. This is out of respect for
6 your new position as judges of the facts. Please
7 remember, if at any time I make any comment regarding
8 the facts in this case, you must disregard it. You are
9 to determine the facts from the testimony you hear and
10 any other evidence that is introduced in court. If
11 there is any evidence that is admitted into evidence,
12 you will have that to go back with you during your
13 deliberations.

14 It is up to you to determine the inferences
15 which you feel may be properly drawn from the evidence.
16 It is important that you perform your duty of
17 determining the facts diligently and conscientiously,
18 because ordinarily, there is no way to correct an
19 erroneous determination of the facts by a jury. On the
20 other hand and with equal emphasis, the same law that
21 makes you the judges of the facts, makes me the judge of
22 the law. The law as given by this Court is the only law
23 that you may consider. You must accept it even though
24 you may disagree with me about what the law is. Your
25 job is to take the law as I gave it to you, apply it to

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1 the facts as you find them from the testimony of the
2 witnesses and other evidence that is introduced, and
3 after doing that, you will render your verdict, a true
4 and just verdict under the solemn oath that you just
5 took as jurors.

6 Again, until I advise you to begin your
7 deliberations, you must not discuss this case with
8 anyone. That includes your fellow jurors, your friends
9 and family members, or anyone else. Ladies and
10 gentlemen, you may not decide any issue in this case
11 until you have heard all of the evidence, heard closing
12 arguments on behalf of the State and Defendant, and I
13 have instructed you on the law applicable to this case.

14 Please remember you may not read, listen to,
15 watch any news reports regarding this case, and you may
16 not do any independent investigation regarding this
17 matter. It is important that you keep an open mind and
18 not decide any issue in this case until all of the
19 evidence has been presented, the parties have made their
20 closing arguments, and I have instructed you on the law
21 in this case.

22 It is your solemn responsibility to determine
23 the guilt or innocence of the Defendant, and your
24 verdict must be based solely on the evidence as it is
25 presented to you in this trial and on the law as I

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1 instruct you during and at the close of the trial.

2 In just a moment, the Solicitor will make what

3 is called an opening statement in which the Solicitor

4 will explain to you what the Solicitor thinks the issues

5 are in this case. The attorney for the Defendant may

6 also make an opening statement, although he is not

7 required to do so. What the attorneys tell you in their

8 opening statements, as well as in their closing

9 arguments, is not evidence in this case; it is merely

10 their contention as to what the evidence will show. The

11 evidence in this case will be presented to you by the

12 testimony of sworn witnesses from the witness stand, as

13 well as any exhibits that may be introduced throughout

14 this trial. From time to time, you may hear one of the

15 lawyers say: Your Honor, I have an objection. May we

16 approach? Or I might find it necessary to excuse you

17 for a short while. If I have the attorneys approach the

18 bench, please do not try to listen to us, read our lips,

19 or think that we are hiding anything from you. The

20 reason for this is sometimes it is necessary for me to

21 make a comment regarding the facts when I make a ruling

22 concerning the law, and as I indicated to you, the law

23 does not allow me to have an opinion about the facts in

24 this case, so I may excuse you for a short while while I

25 issue my ruling.

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1 Ladies and gentlemen, in determining what the
2 true facts are in this case, you must decide whether or
3 not the testimony you hear is believable. It is my
4 responsibility to rule as a matter of law whether
5 certain testimony is admitted. But once it is admitted,
6 whether or not you believe it, is solely for you to
7 determine. In deciding whether to believe a witness,
8 you have the right to consider the interest of any
9 witness, the bias of any witness, the prejudice of any
10 witness, as well as the opportunity for the witness to
11 have seen and heard the things about which the witness
12 testifies. You have a right to consider anything in the
13 record that will help you evaluate the testimony of the
14 witnesses. That means it's your duty to pay close
15 attention to the witnesses, to pay close attention to
16 the attorneys, and to the Court. Please do not let your
17 thoughts wander, so at the end of the testimony, after
18 you have heard closing arguments, and I have instructed
19 you on the law, you will be in a position to determine
20 the true facts and apply the law to those facts
21 rendering a true and just verdict.

22 You have been given notepads which indicates
23 you may take notes throughout the progress of this
24 trial. Please remember that one juror's notes are no
25 more correct or accurate than another juror's notes.

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1 And some of us were much better notetakers in school
2 than others. So those are for your own use.

3 Ladies and gentlemen, please give your strict
4 attention.

5 Madam Solicitor?

6 MS. LINDER: Thank you, your Honor. May it
7 please the Court?

8 OPENING STATEMENTS

9 MS. LINDER: Good morning, ladies and gentlemen
10 of the jury. This case is fairly simple. Drugs are
11 illegal. It is illegal to possess drugs; it is illegal
12 to traffic drugs. Cocaine base is a drug. It's illegal
13 to possess cocaine base, and it's illegal to traffic
14 cocaine base.

15 Back on May the 27th of 2011, Detectives Engles
16 and Harrison were on routine patrol in the Team 1 area
17 that they're assigned in the city of Charleston. While
18 on patrol that day, around eight o'clock in the evening,
19 they initiated a lawful traffic stop. That lawful
20 traffic stop was on a vehicle driven by this Defendant,
21 Norris Steplight, and he was the driver and the sole
22 occupant of that vehicle.

23 As a result of that lawful traffic stop, a
24 lawful arrest was made for a driving under suspension.
25 As done in any case after a lawful arrest, the defendant

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1 is then transported up to the Charleston County
2 Detention Center, and they are processed through
3 booking. Part of the booking procedures are to search
4 the person of the individual before they get lodged into
5 the prison -- to the jail, excuse me, and also to take
6 an inventory list of that person's belongings. During
7 the search of this Defendant at the jail, Detective
8 Engles was present, Detective Harrison was present, and
9 Charleston Corrections Officer Noel Ragos was present.
10 During the course of the search, there were multiple
11 baggies containing an off-white rocklike substance
12 located in the Defendant's buttocks area. That
13 substance was tested, and it was found to be in excess
14 of 10 grams, and it was tested and found to be cocaine
15 base.

16 THE COURT: Mr. Smiley?

17 MR. SMILEY: Please the Court? Ms. Linder?

18 OPENING STATEMENTS

19 MR. SMILEY: I'm an advocate. I represent
20 Norris Steplight. My job is to come in here and do
21 everything I can to zealously represent my client. He
22 sits there just like you and me and every citizen of the
23 United States, innocent. Innocent until and if the
24 State can prove him guilty beyond a reasonable doubt.
25 That's my role. Zealously represent my client. To be

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1 his advocate. As everybody in this courtroom has a
2 different job -- as you've been told, y'all are the
3 judges of the facts. You're all that counts here.
4 You're the ones that will make the determinations. The
5 Judge, she's the judge of the law. She's the
6 gatekeeper. She makes sure that Ms. Linder and myself
7 follow the rules. And rules are important. They're
8 there for a reason. Because the United States of
9 America is the greatest country on earth for one simple
10 reason: We have a Constitution that stands to protect
11 all citizens. The rules are important.

12 So the State's job -- first we start with the
13 officer. His job is to make arrests and follow the
14 rules. He stands there with a great burden when he's
15 made doing his job, to make sure he does his job within
16 inside the bounds of the law also. To protect innocent
17 people. To protect guilty people too. The rules are
18 there, because without them, there is no democracy;
19 there is no protection. His job is to make arrests.

20 And Ms. Linder, as the prosecutor, it's -- her
21 job is a little different than mine. She's an advocate
22 for the State. But her job is to do justice. To take
23 what's in front of her, what she's given, and to
24 prosecute the appropriate cases. And in her opening,
25 she kept using words: lawful traffic stop, lawful

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1 arrest. I would hope all traffic stops are lawful. And
2 I would hope that all arrests are lawful. Rules, keep
3 those in mind as you listen to this case.

4 Now, as you listen to the evidence, use your
5 common sense, what you know, your life experiences, and
6 apply them to what you hear. And at the end, you're
7 going to be asked to return a verdict in this case.
8 Have the police made the proper arrest and followed the
9 rules? Has Ms. Linder, and in keeping mind those rules,
10 prosecuted this case, and then take those facts and come
11 back with a verdict. It will be not guilty. Thank you.

12 THE COURT: Call your first witness.

13 MS. LINDER: State calls Detective Sean Engles.

14 (The Deputy Clerk of Court administers the
15 oath, and the witness answers as follows:)

16 THE WITNESS: I do.

17 THE DEPUTY CLERK OF COURT: State your full
18 name and spell your last name.

19 THE WITNESS: My name is Sean Engles,
20 E-n-g-l-e-s.

21 SEAN ENGLES,
22 having been first duly sworn by the Courtroom Deputy
23 Clerk of the Court to tell the truth, the whole truth,
24 and nothing but the truth, was examined and testified
25 upon his oath as follows:

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1 DIRECT EXAMINATION

2 BY MS. LINDER:

3 Q Good morning, Detective Engles.

4 A Good morning.

5 Q What is your occupation?

6 A I'm a police officer with the City of
7 Charleston Police Department.

8 Q And what are your current duties with the City
9 of Charleston?

10 A Currently I'm a member of the SWAT team, and
11 I'm a detective with the Narcotics Unit.

12 Q And can you please tell the jury a little bit
13 about your education and background and training in law
14 enforcement?

15 A Yes. I graduated from the University of
16 Maryland with a degree in business and criminal justice.
17 From college, I came down to Charleston and joined the
18 Charleston Police Department. I went through the
19 Criminal Justice Academy. After the academy, I was
20 trained in Team 1, which is the area where this incident
21 took place, and I've been in Team 1 for approximately
22 four years. I was a field training officer myself in
23 Team 1. When I became a member of the SWAT team, I was
24 still in Team 1. I became the Team 1 investigator for a
25 period of five months. Currently, I've been in the

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1 position of narcotics investigator for approximately
2 five months.

3 Q And how long total have you been employed by
4 CPD?

5 A Approximately five and a half years.

6 Q Did you have the occasion to be working back on
7 May 27 of 2011?

8 A Yes.

9 Q And did you have the occasion to become
10 involved in the investigation of this case in any way on
11 that date?

12 A Yes, I did.

13 Q How were you first brought into this case, and
14 what happened?

15 A I was the passenger in a two-man patrol unit,
16 and we executed a traffic stop on the vehicle that
17 Norris Steplight was driving.

18 Q And where was the traffic stop initiated?

19 A The violations that we observed occurred at
20 Calhoun Street and Rutledge.

21 Q And is that Charleston County?

22 A It is.

23 Q And what violations did you observe?

24 A The vehicle, which was a white pickup truck,
25 was southbound on Rutledge Avenue. At the intersection

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1 of Calhoun, there was a solid red light. The vehicle
2 made a right turn onto Calhoun without coming to a
3 complete stop at the red light, and, furthermore, when
4 it made that right turn, it turned into the farthest
5 lane, which is closest to the double yellow lines, which
6 is constituted as an improper lane. You're meant to
7 turn into the most immediate lane.

8 Q So you stopped the vehicle based upon two
9 traffic violations; is that correct?

10 A Yes.

11 Q And who was driving that vehicle?

12 A Detective Harrison.

13 Q I apologize. Who was driving the vehicle that
14 was pulled over?

15 A I'm sorry. Norris Steplight, who's seated over
16 at the defense table.

17 Q And can you describe what he's wearing?

18 A Pink polo shirt and khaki pants.

19 MS. LINDER: Your Honor, let the record
20 reflect that Detective Engles identified the Defendant,
21 Norris Steplight, in this case.

22 THE COURT: It will.

23 Q (By Ms. Linder) What did you and
24 Detective Harrison do when you saw the traffic
25 infractions?

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1 A About half a block later, we initiated the blue
2 lights and sirens on our police vehicle to pull the
3 vehicle over.

4 Q And did the vehicle pull over?

5 A It did, yes.

6 Q After the car was stopped, what did you do?

7 A I approached on the passenger side.

8 Q And where was Detective Harrison?

9 A He approached from the driver's side.

10 Q What was the outcome of this traffic stop?

11 A We learned that the driver was driving under
12 suspension, and we placed him under arrest.

13 Q Was there anything done about the traffic
14 violations themselves?

15 A We issued a warning citation for the red light
16 violation and the improper turn.

17 Q After the Defendant was arrested, what did you
18 do with the Defendant?

19 A We transported him to the county jail.

20 Q And once you got to the county jail, what
21 happened? What did you do? What happened with the
22 Defendant?

23 A I was present when a strip search was conducted
24 at the county jail. And during that strip search, some
25 bags were recovered from between the Defendant's butt

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1 cheeks that had cocaine base in them.

2 Q And is a search a customary part of intake at
3 the jail?

4 A Yes. To insure that an inmate does not bring a
5 weapon or contraband, like drugs, into the facility.

6 Q And are there any other parts of intake and
7 booking at the jail aside from the search?

8 A There's a property inventory also taken.

9 Q And what's the point of making that property
10 list?

11 A Just to ensure that the inmate leaves with the
12 same property that he comes with, that there's no cause
13 to report any missing property.

14 Q In this case, what property did the Defendant
15 have on his person?

16 A He had a large quantity of cash on his person.
17 It was in excess of \$4,000.

18 Q And you had mentioned about the search that was
19 done of the Defendant's person at the jail. Can you
20 explain what occurred during that search? Who was
21 present?

22 A At the county jail?

23 Q Yes.

24 A I was present, Detective Harrison was also
25 present, and a corrections officer with the detention

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1 center was present.

2 Q And can you explain -- somewhat take us through
3 this actual search itself at the jail?

4 A Since it's the Charleston County Detention
5 Center, the corrections officer takes the lead, and he
6 gives the inmate instructions on what to do, to remove
7 items of clothing, piece by piece, and so forth.

8 Q And did the Defendant complete all tasks that
9 were requested of him?

10 A No. When -- he hesitated when the corrections
11 officer asked him to turn and bend over.

12 Q And did you see anything unusual at that time?

13 A Yes. I could see that there were two plastic
14 bags between the Defendant's butt cheeks, without him
15 even bending.

16 Q And what did you do when you saw that?

17 A I -- I had rubber gloves on, but I did retrieve
18 the narcotics from the butt area.

19 Q And what did the baggies appear to contain,
20 with your training and experience?

21 A Crack cocaine base.

22 Q And what did you do with the substance that was
23 in the baggies?

24 A I field-tested it with a test kit.

25 Q And can you explain what a field test is.

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1 A A field test is a way for us to determine that
2 there is a presence of cocaine in the item that we're
3 testing.

4 Q And can you specifically tell the jury how you
5 field-tested this substance.

6 A The field test kit that we have is a small
7 eyedropper-type thing that I carry in my chest pocket.
8 I stepped out of the search room, and took a small
9 portion from the substance that we recovered, and I used
10 the dropper, and tested it, which turned to be
11 presumptive.

12 Q And what was the approximate weight of the
13 substance?

14 A Twelve grams.

15 Q And to clarify, the substance that you tested,
16 where was that substance prior to you testing it?

17 A In the Defendant's buttocks. But -- between
18 the cheeks, kind of pinched between there.

19 Q After recovering and testing the substance,
20 what did you do, and where did you go with the
21 substance?

22 A I returned to -- I'm sorry. Can you repeat
23 that? I didn't hear.

24 Q After you -- after you recovered the substance
25 and you tested the substance, where did you go, and what

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1 did you do?

2 A I took the substance out to the patrol vehicle
3 that we were using at the time and locked it in there,
4 and then I completed an amended booking sheet with the
5 additional charge of trafficking cocaine for the
6 Defendant.

7 Q And what did you do with the drugs? After
8 locking them in your car?

9 A When we drove back to the station, I put them
10 into the evidence room.

11 Q And did you have custody of the drugs from the
12 time they were recovered from the Defendant's person
13 until dropping them off at evidence?

14 A Yes.

15 Q Can you just explain to the jury a little bit
16 about the process that you, as a law enforcement
17 officer, go through when dropping off evidence at the
18 station.

19 A Well, we want to make sure that the chain of
20 custody is in order and that no one else has access to
21 whatever item it may be. In this case, it was drugs.
22 But I sealed the drugs in a plastic envelope with a heat
23 sealer, entered them into our records management system,
24 and then I dropped them into a secure mailbox.

25 MS. LINDER: Your Honor, may I approach?

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1 THE COURT: You may.

2 Q (By Ms. Linder) Detective Engles, at this
3 time, I show you what's been marked State's 4 for
4 identification purposes. Do you recognize this?

5 A I do.

6 Q How do you recognize it?

7 A This is the property voucher that I
8 submitted containing the drugs that I recovered from
9 Mr. Steplight.

10 MR. SMILEY: Your Honor, renew my objection.
11 Thank you.

12 THE COURT: Note your objection for the record.

13 Q (By Ms. Linder) And when did you submit this
14 evidence?

15 A I submitted this evidence on the night of the
16 27th of May.

17 Q And what items were submitted into evidence?

18 A The crack cocaine, the money, and a copy of the
19 route-restricted license that Mr. Steplight had.

20 MS. LINDER: Thank you. Beg the Court's
21 indulgence?

22 THE COURT: Take your time.

23 (Ms. Linder speaks with Mr. Stoney off the
24 record.)

25 MS. LINDER: Thank you very much, Detective

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1 Engles. Please answer any questions that the Defense
2 may have.

3 THE COURT: Mr. Smiley?

4 CROSS-EXAMINATION

5 BY MR. SMILEY:

6 Q Now, you're a member of a unit called Power
7 Shift; correct?

8 A At the time of this incident, I was a member of
9 the Power Shift, yes.

10 Q And Power Shift isn't a routine patrol;
11 correct?

12 A Yes. Our function at that point, we don't
13 respond to typical calls for service, like a -- someone
14 locked out of their car or something. We are a
15 multiple-officer unit that we actively look to create
16 proactive arrests and stop crimes in progress.

17 Q All right. So I think you said that -- this
18 that -- your job is to go out and create arrests;
19 correct?

20 MS. LINDER: Objection, your Honor. May we
21 approach?

22 THE COURT: You may.

23 (Side-bar, all four attorneys approach the
24 bench.)

25 THE COURT: You may continue, Mr. Smiley.

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1 MR. SMILEY: Thank you.

2 Q (By Mr. Smiley) All right. Back where we
3 were. As part of Power Shift, you're also out creating
4 arrests; correct?

5 A We're a proactive unit, yes.

6 Q Okay. Your vehicle that day wasn't a marked
7 car, was it?

8 A No. It was a black Chevy Tahoe with blue
9 lights and sirens mounted on the interior of the
10 vehicle.

11 Q Were you in uniform or plain clothes?

12 A Uniform.

13 Q All right. And there was yourself, Officer
14 Harrison, and a third officer at the beginning your said
15 shift, Officer Denning [sic] in the car; correct?

16 A Yes.

17 Q And you -- what time did you come on shift?

18 A I can't say for sure, but it was either
19 5:00 p.m. or 7:00 p.m.

20 Q Okay. And creating -- as you began that
21 shift, y'all had a plan in place before the shift began;
22 correct?

23 A Before the shift, no, I wouldn't say we had a
24 plan before.

25 Q Well, let me back up for -- a little bit

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1 further. As part of your Power Shift team, y'all had
2 received some complaints from concerned citizens about a
3 particular --

4 MS. LINDER: Objection, your Honor.

5 THE COURT: What's the basis?

6 MS. LINDER: Basis is Rule 403.

7 THE COURT: All right. Counsel approach.

8 (Side-bar, all four attorneys approach.)

9 Q (By Mr. Smiley) All right. Officer Engles, at
10 the beginning of your shift or prior to your shift,
11 y'all discussed citizen complaints about a particular
12 address on Morris Street; correct?

13 A Yes.

14 Q And that was in reference to narcotics
15 activity; correct?

16 A Yes.

17 Q And in coming up with your plan, you spoke with
18 Narcotics; correct?

19 A We also had information from Narcotics -- our
20 Narcotics Unit that informed us about that residence.

21 Q Okay. So your first order of business was to
22 go out and check this place out; right?

23 A That was an order of business. I can't say it
24 was our first one.

25 Q All right. Well, pardon me. As an order -- an

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1 order of business, was to go check out this particular
2 location; right?

3 A Yes, it was.

4 Q And in doing that, you dropped off Officer
5 Denning in the vicinity of Morris Street; right?

6 A Yes, we did.

7 Q And yourself, and Officer Harrison -- I believe
8 you said he was the driver of the Tahoe; right?

9 A Yes, he was.

10 Q Y'all pulled off and went down Rutledge and
11 stopped shortly on a side street shortly past Morris;
12 correct?

13 A Yes.

14 Q And your rationale in doing that, is anybody
15 coming from that Morris Street area most likely would
16 use the Rutledge Avenue as an exit?

17 MS. LINDER: Objection, your Honor.

18 THE COURT: Basis?

19 MS. LINDER: Speculation.

20 THE COURT: Sustained as to speculation.

21 Q (By Mr. Smiley) You parked south of Morris
22 off of Rutledge for a particular reason; didn't you?

23 A Yes.

24 Q And that reasoning being that anyone leaving
25 the Morris Street address would most likely come down

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1 Rutledge Avenue; correct?

2 A Yes.

3 Q Now, y'all set up somewhere around 7:30; fair

4 to say?

5 A About, yes.

6 Q And y'all hadn't been following or pulling any

7 other cars, had you?

8 A I don't remember about earlier in the shift.

9 Q Okay. Now, you were in communication with

10 Officer Denning; correct?

11 A Yes.

12 Q And Officer Denning was reporting to you what

13 he was observing on Morris Street; correct?

14 A He was, yes.

15 Q And the information that you were provided, led

16 you to pull behind a white pickup truck; correct?

17 A Officer Deming identified a white pickup

18 truck that had been stopped outside that residence

19 for a brief period of time and then left consistent with

20 the -- in a short time period with that of a narcotics

21 transaction. And with the information we already had

22 on the residence, when that vehicle passed us, we did

23 decide to get behind it.

24 Q Okay. So the white truck goes by, and that was

25 your target, so y'all pulled out?

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1 MS. LINDER: Objection, your Honor.

2 THE COURT: What's the basis?

3 MS. LINDER: The basis is -- same Rule 403 as

4 stated prior --

5 THE COURT: All right. Counsel approach.

6 (Side-bar.)

7 Q (By Mr. Smiley) All right. Officer Engles,

8 when you pulled out behind the white pickup truck, it

9 was because you -- of the information you had received;

10 correct?

11 A Yes.

12 Q And you followed that white truck for a block

13 or two; correct?

14 A We did, yes.

15 Q And then let's talk about the intersection of

16 Rutledge and Calhoun. Rutledge at that point is a

17 one-way street; right?

18 A Yes. Southbound.

19 Q And there at the corner, there's a four-way

20 traffic light; right?

21 A Yes.

22 Q Well, three-way, actually; isn't it?

23 A Right.

24 Q Okay. Three-way traffic light. And there's an

25 Exxon station to the east; correct?

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1 A Correct.

2 Q I'm bad with directions. And the hospital is
3 there on the west corner?

4 A Yes.

5 Q And there is a red light at that corner where
6 Mr. Steplight pulled up; correct?

7 A Yes.

8 Q Now, the undercover vehicle you were in,
9 it -- it doesn't have video?

10 A No video.

11 Q No video. And the light was red?

12 A Yes.

13 Q Okay. And the white pickup came up to it and
14 slowed; correct?

15 A It slowed.

16 Q And it's your testimony that it did not stop
17 and took a right-hand turn; correct?

18 A Yes.

19 Q At that point in time, y'all had a reason to
20 pull over the white truck; right?

21 A Yes, we did.

22 Q And that's a pretty tight turn to the right;
23 correct?

24 A It's approximately a 90-degree angle.

25 Q And it's your testimony that that truck pulled

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1 into the center lane instead of the one closest to the
2 curb there; right?

3 A Yes.

4 Q Okay. So at that point, you had your traffic
5 violation; right?

6 A Yes, I did.

7 Q The next block up, in the westbound direction,
8 is Ashley; right?

9 A Yes, it is.

10 Q And so at about the interchange of Calhoun and
11 Ashley, you turned on your lights -- or excuse me,
12 Officer Harrison turned on the lights; correct?

13 A Correct.

14 Q And that was because you wanted to pull over
15 the white truck for the traffic violation; right?

16 A Correct.

17 Q All right. And he didn't stop right away, did
18 he?

19 A No. It took him a couple of blocks.

20 Q And, finally, you had him pulled over at the
21 corner of Jonathan Lucas and a small street called
22 Sabin; right?

23 A Yes.

24 Q You and Officer Harrison got out of the car and
25 approached; right?

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1 A Yes.

2 Q And Officer Harrison's on the driver's side,
3 and you came up on the passenger's side; right?

4 A Yes.

5 Q And there's only one occupant in the car?

6 A Correct.

7 Q So Officer Harrison made the initial contact
8 with the driver?

9 A He did.

10 Q And so the driver rolled his window down;
11 right?

12 A Correct.

13 Q And he asked him for his driver's license,
14 registration, and for any insurance information that you
15 would ask in any traffic stop; right?

16 A He did, yes.

17 Q Now, when -- and Mr. Steplight provided
18 -- provided a route-restricted license; correct?

19 A And a rental agreement.

20 Q And a rental agreement, which would be
21 equivalent of the registration?

22 A Correct.

23 Q So he provided that to the officer --

24 A Right.

25 Q -- to Officer Harrison?

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1 Now, your Tahoe, it doesn't have one of
2 those -- they've got such fancy technology now. It
3 doesn't have one of those computers inside of it, does
4 it?

5 A No, it does not.

6 Q Okay. So Officer Harrison went back and called
7 in the information; correct? That would be over the
8 dispatch?

9 A He did, yes.

10 Q Okay. At this point in time, Mr. Steplight,
11 the driver of the truck, is still sitting there; right?
12 Still inside the truck?

13 A Yes, he was.

14 Q And after confirming the information,
15 Officer Harrison came back out, and y'all got
16 Mr. Steplight out of the truck; right?

17 A Yes.

18 Q And at that point in time, you brought him to
19 the back of the truck between the tailgate of the white
20 truck and the front of your unmarked Tahoe; right?

21 A That's correct.

22 MR. SMILEY: Your Honor, may we approach?

23 THE COURT: You may.

24 (Side-bar.)

25 THE COURT: Ms. Linder, your objection --

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1 Sustained pursuant to the testimony heard in
2 pretrial motions, note your exception, and the fact that
3 that has limited your questions of this witness. You
4 may continue.

5 MR. SMILEY: Yes, ma'am. And thank you for
6 noting my objection, your Honor.

7 Q (By Mr. Smiley) All right. I'm going to skip
8 ahead a little bit. So at that point in time, y'all
9 believed that y'all had probable cause to arrest
10 Mr. Steplight for driving under suspension?

11 A Yes.

12 Q Now, when you were out there on the scene, you
13 asked for permission to search; correct?

14 A I asked for permission to search
15 Mr. Steplight's person.

16 Q Okay. And Officer Harrison, prior to that, had
17 asked for permission to search the truck; correct?

18 A Yes, he did.

19 Q All right. And when you asked Mr. Steplight
20 those questions, you hadn't made a determination to
21 arrest him at that point in time; fair enough?

22 A Correct.

23 Q Okay. So Mr. -- excuse me -- Officer Harrison
24 asked for permission to search the truck, which was
25 granted; correct?

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1 A Yes, it was.

2 Q And Officer Harrison then searched the interior

3 of the truck; right?

4 A He did.

5 Q And nothing was -- nothing illegal was found?

6 A No.

7 Q Okay. And contemporaneously with that search

8 of the truck, you asked Mr. Steplight for permission to

9 search his person; correct?

10 A Yes. I had noted some nervous attributes that

11 Mr. Steplight was exhibiting, and he was -- he had

12 shortness of breath, and he was very curious as to

13 Mr. Harrison's -- Officer Harrison's searching the car.

14 Q All right. An officer was in his car, so he

15 kept looking to see what he was doing; right?

16 A Yes.

17 Q All right. And so he granted you permission to

18 search him; right?

19 A He did.

20 Q And you patted him down and went through his

21 pockets and found money; right?

22 A Yes.

23 Q But at that point in time, that's all you

24 found; right?

25 A That's the only -- yes, that's all I found.

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1 However, during that search and pat down, I did feel
2 an unnatural bulge between the buttocks area of
3 Mr. Steplight.

4 Q All right. But you didn't retrieve it?

5 A Not at that time, no.

6 MR. SMILEY: Beg the Court's indulgence?

7 THE COURT: Take your time.

8 Q (By Mr. Smiley) Okay. So at that point in
9 time that y'all made the determination that you believed
10 he was driving under suspension, he was placed under
11 arrest; correct?

12 A Yes.

13 Q All right. And so he was issued -- or a
14 charging document for the driving under suspension,
15 being outside of his route-restricted -- let me back up.
16 Being in violation of his route-restricted license; that
17 is, y'all wrote the driving under suspension ticket;
18 correct?

19 A Yes.

20 Q Okay. And while you could have written him
21 tickets for the improper turn -- or going through
22 -- well, two things. Go -- disregarding a traffic
23 signal, that would have been the California stop or
24 rolling through the right -- the red light, correct, and
25 for improper lane change, going to that center lane,

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1 y'all chose to write him what are called warnings;
2 right?

3 A Yes.

4 Q And a warning, you don't go to court; but on a
5 ticket, you actually have to go to Court; right?

6 A Correct.

7 Q At that point in time that he's cuffed, did you
8 do any further search of Mr. Steplight?

9 A No.

10 Q Okay. Did another car come to get him to
11 transport him, or did you transport him in the Tahoe?

12 A We transported him in the Tahoe, but there was
13 a marked patrol car that came by and stopped.

14 Q So another officer came to the stop -- because
15 you had to tow the truck; right?

16 A The truck was towed, yes.

17 Q Rather than put him in a marked car with a
18 cage, you put him in the Tahoe; right?

19 A Yes.

20 Q The Tahoe have a cage in it?

21 A No cage.

22 Q Okay. And yourself and Officer Harrison
23 transported him to the Charleston County Detention
24 Center?

25 A Yes, we did.

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1 Q Didn't go pick up the officer you had let out,
2 just the two of you?

3 A The officer that we had let out had made his
4 way to the scene of the traffic stop.

5 Q Uh-huh.

6 A So we did not have to pick him up.

7 Q Okay. And he didn't go with you to the jail?

8 A No.

9 Q Now, when you get to the jail, it's where
10 you're giving custody over to the detention officer;
11 right?

12 A Yes.

13 Q Okay. You have to fill out a booking report;
14 right?

15 A Yes, we did.

16 Q That has the basic information on the person
17 you're turning in for custody; right?

18 A Yes.

19 Q And the charge, right, that's listed on that;
20 correct?

21 A We did, yes.

22 Q Okay. And then the detention center is going
23 to process him and put him in the population; right?
24 That's their job?

25 A I believe it is, yes.

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1 Q Okay. At the very beginning, you give the
2 detention center items that you had taken off of
3 Mr. Steplight for safekeeping. It's not going to be
4 kept for evidence; correct?

5 A They -- I don't give it to them. They remove
6 it from Mr. Steplight.

7 Q All right. And is -- I guess -- let me get to
8 the point that I'm trying to ask. You get there, and
9 you drop him off. Do you typically stay through
10 everything that goes on, or only in some cases do you
11 stay?

12 A We stay until the detention center has advised
13 us that all their paperwork is correct, and they are
14 officially in their system.

15 Q Okay.

16 A And at that point is when we leave.

17 Q All right. Now, when they're asking him to
18 take his clothes off, he doesn't do that out in the
19 open?

20 A No. They have a private room for that.

21 Q Okay. And it's policy to go in the private
22 room?

23 A I don't know if it's our policy to do that.

24 Q Okay. But in this particular case, you went
25 into the private room?

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1 A I did, yes.

2 Q So it -- in this private room where

3 Mr. Steplight's being asked to undress, there's the

4 Detention Officer, Ragos; correct?

5 A Yes.

6 Q Yourself; correct?

7 A Yes.

8 Q And Officer Harrison --

9 A Yes.

10 Q -- correct?

11 Okay. And, of course, Mr. Steplight?

12 A Yes, he was there.

13 Q Okay. And at that point in time, the detention

14 officer instructed him to disrobe; correct?

15 A He did, yes.

16 Q And while Mr. Steplight is nude in front of you

17 and the process is continuing, y'all are all there

18 waiting to see if there's anything else on him; correct?

19 Fair enough?

20 A Yes.

21 MR. SMILEY: Beg the Court's indulgence?

22 THE COURT: Take your time.

23 (Mr. Smiley speaks with Ms. Hensley off the

24 record.)

25 MR. SMILEY: May we approach, your Honor?

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1 THE COURT: You may.

2 (Side-bar.)

3 THE COURT: Ms. Linder, Redirect?

4 MS. LINDER: Very briefly, your Honor.

5 REDIRECT EXAMINATION

6 BY MS. LINDER:

7 Q Detective Engles, do all police vehicles have
8 video capabilities?

9 A No. I would estimate the majority of our
10 police vehicles don't have video.

11 Q And when you and Detective Harrison initiated
12 the traffic stop, were blue lights and sirens used?

13 A Yes.

14 Q As a police officer with Team 1, as you were
15 back in May of '11, are part of your duties including
16 traffic stops?

17 A Yes, absolutely. Conducted numerous traffic
18 stops per shift.

19 Q Were there multiple violations when
20 Mr. Steplight's car was pulled over?

21 A Yes, there were.

22 Q And what were the traffic violations?

23 A Disregarding the traffic control device, which
24 would have been the -- the red light violation, and then
25 improper turn.

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1 Q And when someone is charged with driving under
2 suspension, as a police officer, do you have the
3 discretion -- do you have discretion as to how to handle
4 that driving under suspension?

5 A Yes, I do.

6 Q And what are your two choices?

7 A Custodial arrest, which is what took place in
8 this incident, or a citation, and then releasing the
9 vehicle to a licensed driver, or having that vehicle
10 towed.

11 Q Is it unusual that there's a custodial arrest,
12 from your experience, for driving under suspension?

13 MR. SMILEY: Objection, your Honor.

14 THE COURT: What's the basis?

15 MR. SMILEY: Relevance.

16 THE COURT: Overruled.

17 THE WITNESS: No, it's not unusual.

18 MS. LINDER: Beg the Court's indulgence?

19 THE COURT: Take your time.

20 MS. LINDER: Thank you, Mr. Engles.

21 THE COURT: Mr. Smiley, any Recross?

22 MR. SMILEY: No.

23 THE COURT: Ladies and gentlemen, it's a good
24 time for us to take our first break. Do not begin your
25 deliberations; do not discuss this case amongst

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1 yourselves. You may leave your notepad in your chair,
2 if that's what you wish to do. You may take it with
3 you. No one will bother it.

4 Please rise for the jury.

5 Detective Engles, stay seated.

6 (The jury is escorted from the courtroom at
7 11:08 a.m.)

8 THE COURT: Thank you. Be seated.

9 All right. Mr. Smiley, you had indicated that
10 there were some questions that you needed to inquire of
11 Detective Engles before he stepped down, so I wanted to
12 do that while he was here, in case you needed -- in case
13 there was something that I felt would be appropriate.

14 MR. SMILEY: Yes, ma'am. And what I would like
15 to be able to do is, based on your ruling that you had
16 made -- that limited my Cross-Examination, based on the
17 rulings that you had made yesterday, it prevented me
18 from asking some questions. And I would like to proffer
19 what those questions, for the record, would be and the
20 answers that -- it shouldn't take but a minute, your
21 Honor.

22 THE COURT: Mr. Smiley, take all the time you
23 need. And before I forget, there was some questions
24 -- my understanding is, it's not D-e-n-n-i-n-g, but
25 Deming, D-e-m-i-n-g. Is that correct?

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1 MS. LINDER: That is correct.

2 MR. SMILEY: And I apologize if I --

3 THE COURT: I just wanted to make that sure
4 we're talking about the same individual --

5 MR. SMILEY: Yes, ma'am.

6 THE COURT: -- so the record is clear. So
7 thank you.

8 All right. You may continue, Mr. Smiley.

9 MR. SMILEY: I'll back up to where the
10 objection was made and sustained, your Honor.

11 PROFFER EXAMINATION

12 BY MR. SMILEY:

13 Q Officer Engles, when you got behind the white
14 car, it was your purpose to find a reason to pull it;
15 correct?

16 A Yes, it was.

17 Q Okay. And you believed that the traffic
18 infraction at the corner of Rutledge and Calhoun is what
19 provided you with the reason to be able to pull the car;
20 correct?

21 A Yes.

22 Q All right. Now, once the car was pulled, there
23 was a discussion between Mr. Steplight, yourself, and
24 Officer Harrison before the determination of --

25 Excuse me just a second. I need to get some

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1 water.

2 -- there was a discussion between yourself,
3 Officer Harrison, and Mr. Steplight before an arrest was
4 effected; correct?

5 A Yes, there was.

6 Q And you were questioning where he had been;
7 right?

8 A We did.

9 Q All right. And who -- well, he volunteered
10 that a female had been with him; correct?

11 A Yes.

12 Q And that he had let her out for church
13 on -- before he was pulled; correct?

14 A Yes.

15 Q All right. But y'all never saw a female in
16 this car?

17 A We never did.

18 Q And in determining whether, in fact, he was in
19 violation of his route restriction, y'all read the
20 route-restricted license; correct? The paperwork?

21 A Yes, we did.

22 Q And on that, it provided dates that it would
23 have been valid; correct?

24 A Yes.

25 Q And, in fact, May 27th, 2011, was within the

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1 dates that was valid; right?

2 A Yes, it was.

3 Q And it also, on this route-restricted
4 paperwork, provided a time frame that Mr. Steplight
5 would be able to drive; correct?

6 A Yes.

7 Q And it provided a route or area, more in this
8 case, where he would be considered to have a license;
9 correct?

10 A For work-related purposes, yes.

11 Q I gotcha. And so the key question was: Was he
12 within this route for work-related purposes; correct?

13 A And we determined that he was not.

14 Q I'm getting to you. But I'm asking, so the key
15 question was: Was whether or not he was on this route
16 for work-related purposes; correct?

17 A Correct.

18 Q All right. And in determining that, you asked
19 him some questions; correct?

20 A In addition to the observations that
21 Officer Deming had relayed to us.

22 Q Right. You asked him if -- where he had been
23 earlier; correct?

24 A Yes.

25 Q And he told you he had gotten off work earlier;

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1 correct?

2 A Yeah. He would not specify what "earlier"
3 meant.

4 Q Okay. I'm with you. But he said he had gotten
5 off work earlier; correct?

6 A Yes.

7 Q All right. And that he -- he informed you that
8 he had dropped his girlfriend off at church; correct?

9 A Yes.

10 Q Okay. And y'all made the observation -- well,
11 from the paperwork, it appeared his occupation was
12 landscaper and construction, contracting, or something
13 to that degree?

14 A Yes. And he conveyed to us in the conversation
15 that he was a laborer of some sort.

16 Q All right. And this rental truck didn't have
17 any tools in it?

18 A No, it did not.

19 Q And Mr. Steplight, in your appearance, didn't
20 appear dirty; correct? And when I say "dirty," meaning
21 like he had soil on him and stuff like that or sawdust
22 or anything like that; correct?

23 A And he was wearing nicer clothes than would be
24 expected.

25 Q Okay. What kind of clothes did he have on?

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1 A I believe -- I believe it was jeans and a nicer
2 top.

3 Q Okay. And that's not something you would
4 associate with his profession? In other words, doing
5 labor?

6 A No, I would not.

7 Q Now, in determining whether he was, in fact,
8 coming from work, y'all attempted to call his boss that
9 was listed on the route-restricted license; correct?

10 A Yes.

11 Q And you didn't get an answer?

12 A That's right.

13 Q So you weren't able to confirm whether he was,
14 in fact, coming from work or not; right? Based on that
15 call?

16 A Based on that call, correct.

17 Q I'm not trying to trick you, I promise. I'm
18 just trying to lay it out.

19 Did he provide the name of the female that was
20 in the car?

21 A No, he did not.

22 Q Okay. So, in other words, no attempt to call
23 her or anything like that?

24 A I don't remember if there was or not.

25 Q Okay. Fair enough. Now, you testified --

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1 I'm about done, Judge.

2 You testified that you had patted Mr. Steplight
3 down and you felt an unnatural bulge in his buttocks
4 region?

5 A Yes. And I felt an object there.

6 Q But you didn't know immediately it was illegal
7 drugs, or else you would have retrieved them; correct?

8 A I suspected highly.

9 Q Okay. But my question was: If you knew it
10 immediately upon contact, you would have retrieved it?
11 You just felt something unnatural there; correct?

12 A Yes.

13 Q All right. Now, you at no time went in his
14 underwear or anything like that? Is that your
15 testimony?

16 A That's correct. Are you talking about on
17 the -- on the street?

18 Q On the street, yeah.

19 A Yes.

20 Q Okay.

21 A I also don't feel that that would have been an
22 appropriate place to reach a hand down into --

23 Q Okay. So you don't ever do that, out on the
24 street?

25 A No, I've not gone in someone's butt.

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1 Q Okay. And since he was -- y'all had determined
2 that y'all were going to place him under arrest for
3 driving under suspension, you knew you could do that
4 search at the jail?

5 A Yes, we knew a search could be done at the
6 jail.

7 Q And, quite frankly, that's why y'all were in
8 the strip search room; correct?

9 A We wanted to make sure he wasn't bringing in
10 any contraband, weapons, drugs, anything of that sort
11 into the jail, yes.

12 Q And since it's not your policy to always be
13 present, you had a -- as you said -- a high suspicion
14 that there was something between his buttocks, before he
15 ever got in there; right?

16 A Yes, I did.

17 MR. SMILEY: Okay. Beg the Court's indulgence?

18 THE COURT: Yes, sir.

19 (Mr. Smiley speaks with the Defendant off the
20 record.)

21 Q (By Mr. Smiley) Just a couple more questions.

22 So would it be appropriate, or not, to call the
23 initial pat -- the initial search you did on the street,
24 a Terry pat for -- a search for weapons?

25 A It would be considered a consent search because

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1 I asked Mr. Steplight for consent, and he granted it to
2 me.

3 Q Okay. Very good. All right. So in executing
4 that search, would it be consistent with a pat down for
5 weapons?

6 A Yes, that was part of it.

7 MR. SMILEY: That's what I would proffer, your
8 Honor.

9 THE COURT: All right. Thank you.

10 All right. You may step down. Thank you.

11 THE WITNESS: Thank you, your Honor.

12 THE COURT: Your next witness, Ms. Linder?

13 MS. LINDER: My next witness is Detective
14 Jeffery Harrison.

15 THE COURT: And he's here, ready?

16 MS. LINDER: Yes.

17 THE COURT: Let's take just a few moments. And
18 we'll at least get through his testimony.

19 What time will lunch be here?

20 THE DEPUTY CLERK OF COURT: 12:30.

21 MS. LINDER: All my witnesses are here.

22 MR. SMILEY: Five minutes, your Honor?

23 THE COURT: All right. Five minutes.

24 (A recess is taken from 11:27 a.m. until
25 11:33 a.m.; at which time, the proceedings continue as

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1 follows:)

2 (The Defendant is present in the courtroom with
3 his counsel.)

4 THE COURT: All right. Let's bring in the
5 jury.

6 (The jury is escorted into the courtroom
7 at 11:33 a.m.)

8 THE COURT: Thank you. Please be seated. Call
9 your next witness.

10 MR. STONEY: State calls Detective Jeff
11 Harrison.

12 THE DEPUTY CLERK OF COURT: Please raise your
13 right hand.

14 (The Deputy Clerk of Court administers the
15 oath, and the witness answers as follows:)

16 THE WITNESS: Yes.

17 THE DEPUTY CLERK OF COURT: State your full
18 name and spell your last.

19 THE WITNESS: Jeffery Harrison,
20 H-a-r-r-i-s-o-n.

21 JEFFERY HARRISON,
22 having been first duly sworn by the Deputy Clerk of
23 Court to tell the truth, the whole truth, and nothing
24 but the truth, was examined and testified upon his oath
25 as follows:

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1 DIRECT EXAMINATION

2 BY MR. STONEY:

3 Q Good morning, Detective Harrison. Would you
4 please tell us what your occupation is?

5 A I currently now am a police officer at
6 Charleston County Police Department, currently assigned
7 to Detective Division, Burglary.

8 Q And what are your duties with the police
9 department?

10 A I began at the police department at roughly
11 eight years ago, started in the Patrol Unit. From
12 there, I was transferred to the Power Shift, which is a
13 squad within the patrol that targets violent crime
14 areas, violent offenders, narcotic areas, any target
15 areas with increased crime. In the last -- within the
16 last two years, I was then transferred to the Burglary
17 Unit, where I still currently am.

18 Q Did you have the occasion to be working on
19 May 27th, 2011?

20 A Yes.

21 Q Did you have the occasion to become involved in
22 the investigation of this case?

23 A Yes.

24 Q How were you brought into this case?

25 A The 27th of May, 2011, about 8:00 p.m., I

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1 was driving an unmarked police truck, along with
2 Officer Engles, who observed a white Dodge pickup fail
3 to come to a complete stop at the traffic signal.
4 Following that, he proceeded to conduct an improper
5 turn, failing to turn into the immediate lane. He
6 proceeded into Lane Number 1. After that, we initiated
7 a traffic stop at Rutledge and Calhoun, initiated blue
8 lights and sirens at Ashley and Calhoun. Took the
9 Defendant several minutes -- several seconds to pull
10 over. There were several spots where he could pull over
11 safely; however, he finally came to a stop at Johnathan
12 Lucas and Sabin. Prior to the stop, while he was
13 driving, we noticed that he was shifting in the vehicle,
14 sitting up, and leaning towards the center of the
15 console, possibly -- at that time, we believed maybe
16 concealing some type of contraband.

17 Q And who was driving that vehicle?

18 A The Defendant.

19 Q Was anyone else in the --

20 A No, sir.

21 Q -- vehicle with him?

22 And do you see him in the courtroom today?

23 A Yeah. He's right there in the pink shirt.

24 MR. STONEY: Let the record reflect that

25 Officer Harrison has identified the Defendant.

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1 THE COURT: It will.

2 Q (By Mr. Stoney) And so what was the outcome of
3 this lawful traffic stop?

4 A Once we conducted the stop, I approached the
5 driver side, asked for the vehicle information, driver's
6 license; at which time, he handed me a suspended
7 driver's license. Checked, cross-referenced, determined
8 that he was suspended, removed him from the vehicle, he
9 was placed under arrest for driving under suspension,
10 and he was transported to the county jail.

11 Q Okay. And what occurred at the county
12 jail?

13 A At county jail, he was booked, intake
14 procedure; at which time, a strip search was conducted.
15 Myself and Officer Engles accompanied the county
16 corrections officer in the strip room; at which time,
17 during the strip, it was noticed that Mr. -- the
18 Defendant was concealing two plastic bags in his
19 buttocks. Upon that, Officer Engles removed them,
20 discovered that they contained a white -- an off-white
21 rocklike substance in the two bags. Also, Engles
22 field-tested the items presumptive as cocaine base.

23 Q Do you remember the approximate weight of the
24 cocaine base?

25 A I believe it was approximately 12 grams.

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1 Q Okay. And just to clarify, where was the
2 substance prior to its recovery and tested?

3 A In the Defendant's buttocks.

4 Q And so after the substance was recovered and
5 tested, what did y'all do? Where did y'all go?

6 A It was -- we secured the evidence. It was
7 secured in our -- in our -- my vehicle. We have a truck
8 vault. Secured it in there. Brought it to the police
9 station, where it was placed in our evidence mailbox.
10 It's a secure location, where we tag and place all of
11 our evidence so that the evidence people can retrieve
12 it, and it can get on to the laboratory testing.

13 Q And along with the drugs, were any other items
14 submitted into evidence?

15 A Yes. Also, it was confiscated, was cash. The
16 value was \$4,232, smaller increments, which is
17 consistent with the sale of narcotics.

18 MR. STONEY: Court's indulgence, please?

19 THE COURT: Yes, sir.

20 MR. STONEY: Thank you. That's all I have.

21 Please answer any questions Attorney Smiley may
22 have.

23 THE WITNESS: Yes, sir.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: Thank you.

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1 CROSS-EXAMINATION

2 BY MR. SMILEY:

3 Q All right. Officer Harrison, you were the
4 driver of the unmarked car; right?

5 A Yes, sir.

6 Q And Power Shift is -- I think you had said it's
7 a proactive unit?

8 A Correct. It's a proactive unit where we are
9 tasked with the freedom and the ability to target
10 increased crime areas, violent offenders, violent crime
11 areas, narcotic areas.

12 Q So unlike the regular patrol unit, you don't
13 wait for things to happen, you go and try to catch them
14 before they happen?

15 A We are proactive police, correct.

16 Q Okay. And I think you used the word "target."
17 So y'all target particular areas, people, places, that
18 kind of thing; correct?

19 A Correct. Based on statistics and trends in
20 crimes.

21 Q All right. And in this case, you were in that
22 car with two other officers that had been assigned to
23 Power Shift; correct?

24 A I was in the car with Officer Engles.

25 Q Well, you had Officer Deming before that;

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1 right?

2 A Yes, sir.

3 Q And he's tasked to Power Shift also; right?

4 A Yes.

5 Q And that day, y'all had targeted a place, on
6 Morris Street; correct?

7 MR. STONEY: Objection, your Honor.

8 THE COURT: Sustained. Note your objection.

9 MR. SMILEY: Yes, ma'am.

10 Q (By Mr. Smiley) Fair to say that you dropped
11 Officer Deming off before going to park somewhere?

12 A Correct.

13 Q Okay. And you chose where you parked your
14 car -- your truck, excuse me, that had Officer Engles in
15 it, strategically; right?

16 A Correct.

17 Q So when the white pickup truck went by your
18 location, that was a particular vehicle that y'all were
19 looking for; correct?

20 MR. STONEY: Objection.

21 THE COURT: I'll allow him to answer that one.

22 THE WITNESS: Can you rephrase the question?

23 Q (By Mr. Smiley) Okay. When the white pickup
24 truck came by, y'all pulled out behind it because that
25 was the particular vehicle that you were looking for?

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1 A Officer Deming told us a vehicle may be
2 involved in some kind of criminal activity.

3 Q All right. It wasn't happenstance that you
4 were behind the white pickup truck? That was a
5 purposeful movement on the part of the Power Shift;
6 right?

7 A Correct.

8 Q And when you got behind the pickup truck, you
9 don't just pull over for no reason? You followed it
10 until it -- until the driver committed a traffic
11 infraction?

12 A The driver committed the infraction, therefore,
13 we stopped it.

14 Q Okay. And then the pickup truck comes
15 to a -- comes to a stop, and you pull behind it, and you
16 and Officer Engles got out and approached the pickup
17 truck; right?

18 A Correct. I approached the driver's side, and
19 Officer Engles approached the passenger's side.

20 Q And because it was a traffic stop at that
21 point, you asked the driver for his license,
22 registration, and insurance information?

23 A Yes, sir.

24 Q Okay. And he provided you with a route-
25 restricted license; correct?

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1 A Correct.

2 Q And there's a form that the highway department
3 approves that the person carries with them; right?

4 A Yes.

5 Q And since he didn't -- wasn't his truck --
6 MR. STONEY: Objection. Can we approach?
7 THE COURT: Let's -- well, yes.
8 (Side-bar.)

9 THE COURT: Mr. Smiley, rephrase your question,
10 because I'm certain Officer Harrison doesn't remember.
11 So if you could just rephrase it for me?

12 MR. SMILEY: I'm going to back up.

13 THE COURT: Thank you.

14 Q (By Mr. Smiley) One of the things he provided
15 you was the paperwork that went along with the route
16 restricted -- I mean, excuse me. -- his license had a
17 route restriction, so there's paperwork that comes along
18 with that; correct?

19 A Yes.

20 Q And on his -- when he provided you that, he
21 also provided you with a rental agreement; correct?

22 A Yes.

23 Q And that would have been the equivalent to the
24 registration?

25 A Yes, sir.

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1 Q Correct? At that point in time, you went back
2 to the Tahoe; right?

3 A Correct.

4 Q And -- because you were going to call it in?

5 A Yes, sir.

6 Q Correct? Okay. And while that was going on,
7 while you were calling it in, Officer Engles is out of
8 the car, up by the passenger window, and Mr. Steplight's
9 still sitting in the car; right?

10 A Yes, sir.

11 Q All right. And you were able to confirm he, in
12 fact, had a route-restricted license; correct?

13 A Yes.

14 Q Okay. And you took time to look at the route
15 restrictions and read the document; correct?

16 A We looked at the route restriction, as well as
17 asking him about his restrictions.

18 Q So you -- at that point, you had taken him out
19 of the car and put him behind the pickup in front of the
20 Tahoe; right?

21 A Yes.

22 Q That's where those questions were taking place?

23 A Yes.

24 Q Okay. And so you were asking him questions,
25 looking at the document, and you made a determination

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1 and arrested him for driving under suspension?

2 A Yes. The document stated that he was route-
3 restricted to to and from work. Asked him if he was
4 going to work. He said he had got off earlier, and then
5 dropped -- at this point, he was dropping his girlfriend
6 off at church, which is not in the -- which is not part
7 of the work route.

8 Q I gotcha. All right. So at that point in
9 time, you ask him for permission to search the truck;
10 correct?

11 A Correct.

12 Q And he consented to that?

13 A Yes.

14 Q And your search of the truck didn't reveal
15 anything illegal?

16 A No, sir.

17 Q And Officer Engles was still back with
18 Mr. Steplight; right?

19 A Correct.

20 Q Okay. And Mr. Steplight was placed under
21 arrest; right?

22 A Yes.

23 Q Okay. Were you searching the truck, or back
24 with Officer Engles when he asked Mr. Steplight about
25 searching his person?

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1 A I believe I was still up at the truck.

2 Q All right. So you weren't present when
3 Officer Engles searched the -- Mr. Steplight, there out
4 on the scene?

5 A I don't recall exactly.

6 Q Okay. Is -- Officer Engles didn't
7 retrieve anything illegal, at that point in time, from
8 Mr. Steplight?

9 A No, sir, not at that time.

10 Q All righty. Fair to say, once you place
11 somebody under arrest, the rules about searching are
12 different?

13 A Yes.

14 Q Okay. So you placed him in the Tahoe, and
15 y'all took him to the county jail?

16 A Yes. I drove, and Officer Engles sat in the
17 back, because it's an unmarked truck, and we didn't have
18 a cage.

19 Q All right. But you could have put him in a
20 marked unit and had him transported, but you chose the
21 Tahoe; right?

22 A Correct.

23 Q Okay. When you get to the jail -- you've
24 booked many fellows, so you're familiar with the
25 process; right?

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1 A Yes, sir.

2 Q And you have to fill out your booking report;
3 right?

4 A Yes, sir.

5 Q And then you turn them over to the custody of
6 the county detention officer; right?

7 A Right.

8 Q Okay. Is it your policy to be present in the
9 strip search room?

10 A Typically, with any strip search, you need
11 multiple officers during a strip search.

12 Q Okay. So is it your policy to go back into the
13 jail whenever you book someone there while being strip
14 searched?

15 A County jail, yes. The policy is, you cannot
16 strip search a subject by yourself.

17 Q Right.

18 A So they requested the assistance of us to
19 assist him.

20 Q Okay. So it was yourself, Officer Ragos,
21 Officer Engles, and Mr. Steplight in the strip search
22 room?

23 A Yes.

24 Q And whenever you arrest somebody and take them
25 to the county detention center, they're going to be

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1 strip searched before they're put in the population;
2 right?

3 A Depending on the crime, or the officer can
4 request a strip search.

5 Q Did y'all request a strip search?

6 A Yes.

7 Q So once somebody is placed under arrest, the
8 search at the jail could be certainly more thorough than
9 the one -- somebody you come in contact with on the
10 street?

11 A Yes, sir.

12 MR. SMILEY: Beg the Court's indulgence?

13 THE COURT: Take your time.

14 (Mr. Smiley speaks with Ms. Hensley off the
15 record.)

16 MR. SMILEY: That's all I have, your Honor.

17 MR. STONEY: Nothing further from this witness.

18 THE COURT: You may step down. Is this witness
19 excused? Any objection?

20 MR. SMILEY: None from the Defense.

21 THE COURT: You are free to remain in the
22 courtroom, but you're also free to leave. Thank you.

23 THE WITNESS: Thank you.

24 THE COURT: Call your next witness.

25 MS. LINDER: The State calls Noel Ragos.

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1 THE DEPUTY CLERK OF COURT: Raise your right
2 hand.

3 (The Deputy Clerk of Court administers the
4 oath, and the witness answers as follows:)

5 THE WITNESS: I do.

6 THE DEPUTY CLERK OF COURT: State your full
7 name and spell your last name.

8 THE WITNESS: Full name is Noel Francis Ragos,
9 R-a-g-o-s.

10 NOEL FRANCIS RAGOS,
11 having been first duly sworn by the Courtroom Deputy
12 Clerk of the Court to tell the truth, the whole truth,
13 and nothing but the truth, was examined and testified
14 upon his oath as follows:

15 DIRECT EXAMINATION

16 BY MS. LINDER:

17 Q Good morning, still, Officer Ragos. How are
18 you today?

19 A Pretty good.

20 Q What's your occupation?

21 A I am a detention officer at the Al Cannon
22 Detention Center.

23 Q Okay. And how long have you been employed by
24 the detention center?

25 A Four years.

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1 Q And can you tell the jury a little bit about
2 your education, background, training, and experience.

3 A I have education -- I have a bachelor's from
4 College of Charleston in business, and I am a certified
5 detention officer through the South Carolina Criminal
6 Justice Academy.

7 Q And what was your position or title back on
8 May 27 of 2011?

9 A On May 27th --

10 Q Yes.

11 A -- 2011, I was working overtime as an intake,
12 pat-down officer.

13 Q Did you have the occasion to become involved in
14 this case, the State versus Norris Steplight, in any way
15 on that date?

16 A No.

17 Q Did you become involved in this case at any
18 point on that date?

19 A No.

20 Q Were you involved with this Defendant at the
21 jail on that day?

22 A Oh, yes. Sorry.

23 Q And how were you first brought into this case?
24 Why are you involved in this case?

25 A They -- two Charleston City Police Officers

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1 brought in Steplight, Norris, and had asked to have a
2 strip search performed.

3 Q And where's the strip search located?

4 A As you walk in the jail, there's a little room
5 to your left, and that's where we perform all the strip
6 searches.

7 Q And is the jail -- or, rather, is the room
8 that's in the jail, is all that here in Charleston
9 County?

10 A Yes, ma'am.

11 Q And can you please take us through the process
12 of the strip search in this case?

13 A Okay. When an officer wants a strip search to
14 be performed, I take him to the room, there's a little
15 curtain and -- for privacy, and I request -- at first I
16 say, Open your mouth, run your fingers through your
17 gumline; and from that point on, I ask them to hand me
18 his article of clothing, each, you know, shirt, pants,
19 underwear, all the way down to the socks. I then ask
20 him to raise up his hands. I tell him to lift his
21 penis, and then his testicles, and then I ask him to
22 turn around. I ask him to lift his right foot, so I see
23 the bottom of the right foot, as well as the left foot.
24 And I then proceed to tell him, to bend over, spread
25 your butt cheeks, and cough.

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1 Q And was this Defendant fully compliant during
2 all of your directives?

3 A Not all of my directives, no.

4 Q And can you explain what you mean by that?

5 A Usually when I -- when a person complies with
6 all my directives, they would finish the strip search.
7 When I asked him to turn around and spread his butt
8 cheeks, I found, like, something protruding in his butt
9 cheeks.

10 Q And did you take anything from the buttocks
11 region of the Defendant?

12 A No, ma'am. We're not allowed to touch the
13 inmate while we strip search them.

14 Q What happened when you noticed the item in the
15 Defendant's butt cheeks, as you said?

16 A He appeared hesitant in completing the strip
17 search. At that point, there's nothing I could do. I
18 mean, I'm not allowed to touch the inmate in any form
19 during the strip search. That's about it.

20 Q What did the police officers, who were in there
21 with you, what did they do at the sight of the item in
22 the Defendant's buttocks?

23 A I believe one of them took it out.

24 MS. LINDER: Beg the Court's indulgence?

25 THE COURT: Take your time.

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1 MS. LINDER: That's all the questions that I
2 have for you, Officer Ragos. If you can please answer
3 anything that Mr. Smiley has.

4 THE COURT: Mr. Smiley?

5 MR. SMILEY: Yes, ma'am.

6 CROSS-EXAMINATION

7 BY MR. SMILEY:

8 Q And it's Officer Ragos, or Deputy?

9 A Detention Officer.

10 Q Detention Officer. Thank you. Detention
11 Officer Ragos, you've done a lot of strip searches, I
12 take it?

13 A Yes.

14 Q And so there's a standard procedure behind
15 that, that you've described?

16 A Uh-huh.

17 Q And is every person that's brought in the
18 county jail strip searched?

19 A No.

20 Q In this case, one of the officers that brought
21 Mr. Steplight in requested that you conduct a strip
22 search?

23 A Yes, sir.

24 Q Is it general policy that the officers go with
25 you into the strip search room?

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1 A Yes, sir.

2 Q Both of them?

3 A Whoever is part of -- who wants to be in there,

4 actually.

5 Q All right. The search that you get to do at

6 the jail, it's pretty extensive; right?

7 A Yes.

8 Q Before you went in to do the strip search, did

9 you have conversation with either of the city officers

10 about the search?

11 A (The witness moves head from side to side.)

12 Q All right. So you had no clue? They just

13 said --

14 A Yeah.

15 Q -- we want to do a strip search on this guy?

16 A They requested it.

17 Q All right. And so as that process goes on, at

18 some point, he's told to spread and turn around; right?

19 A (Moves head up and down.)

20 Q And that's when you say you saw something

21 protruding. But you can't touch it?

22 A Yeah.

23 Q So the other officer -- one of the officers,

24 they can, I guess?

25 A I -- I don't know what their policy is.

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1 Q Okay. You just know yours?
2 A Yeah, I just know mine.
3 Q All right. Fair enough. So at that
4 point in time, an officer reached between his legs
5 -- Mr. Steplight's legs and retrieved an item; right?
6 A Yes.
7 MR. SMILEY: Beg the Court's indulgence?
8 (Mr. Smiley speaks with Ms. Hensley off the
9 record.)
10 MR. SMILEY: Just a couple more.
11 Q (By Mr. Smiley) Now, Officer Ragos, you don't
12 make a determination to do the strip search -- I think
13 it was your testimony that it was at the request of the
14 officer?
15 A Yes.
16 MS. LINDER: Objection, your Honor. May we
17 approach?
18 THE COURT: You may.
19 (Side-bar, all four attorneys approach.)
20 Q (By Mr. Smiley) So you're just following the
21 instructions of the officer; correct?
22 A (Moves head up and down.)
23 THE COURT: Was that -- I need you to verbalize
24 your response. Thank you.
25 THE WITNESS: Sorry, ma'am.

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1 Q (By Mr. Smiley) And I'm sorry about that,
2 Detention Officer. I'm usually pretty good about making
3 sure I get a verbal response.

4 A Yes.

5 MR. SMILEY: That's all I have for you.

6 THE COURT: Anything further?

7 MS. LINDER: Nothing further from the State,
8 your Honor.

9 THE COURT: Can this witness be excused?

10 MS. LINDER: We ask this witness be excused.

11 THE COURT: Any objection, Mr. Smiley?

12 MR. SMILEY: No objection.

13 THE COURT: Please step down. You're free to
14 leave, but you're also free to stay with us. Thank you.

15 Call your next witness.

16 MR. STONEY: State calls Linda Wilson.

17 THE COURT: Please come forward and be sworn.
18 Thank you.

19 THE DEPUTY CLERK OF COURT: Please raise your
20 right hand.

21 (The Deputy Clerk of Court administers the
22 oath, and the witness answers as follows:)

23 THE WITNESS: Yes, ma'am.

24 THE CLERK: State your full name and spell your
25 last name.

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1 THE WITNESS: Linda Wilson, W-i-l-s-o-n.

2 LINDA WILSON,

3 having been first duly sworn by the Courtroom Deputy
4 Clerk of the Court to tell the truth, the whole truth,
5 and nothing but the truth, was examined and testified
6 upon her oath as follows:

7 DIRECT EXAMINATION

8 BY MR. STONEY:

9 Q Good morning, Ms. Wilson. Where are you
10 presently employed?

11 A City of Charleston Police Department, Evidence
12 Division.

13 Q How long have you been with the Evidence
14 Division?

15 A A little over four years.

16 Q And what type of training and education do you
17 have?

18 A Well, I was trained by Sergeant Lima (phonetic)
19 before he left the Evidence Department to -- for -- the
20 Evidence Division.

21 Q And what are your duties with the Evidence
22 Division?

23 A What we do, we take in evidence that the
24 officers/investigators drops off in the Evidence
25 Department, and we store -- store it until they need it

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Official Court Reporter for the State of South Carolina

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1 again.

2 Q And per the procedure, do you assign the case a
3 number or any identifying marker?

4 A Not a case number. It's as PR number. When
5 the officer creates a voucher in our computer system, it
6 creates a PR number, and that PR number is associated
7 with that piece of evidence.

8 Q And how do you log in the evidence?

9 A The officer logs in evidence.

10 Q Is it -- how do they log it in?

11 A Through our computer system, they -- it's
12 called a voucher within the RMS system, and they just
13 log it in by whatever it is, and then I match it up to
14 whatever they've submitted.

15 Q Okay. And does all the evidence go to the same
16 place, or different places?

17 A The same place.

18 Q And where's this evidence stored?

19 A In our evidence control room.

20 Q Is that a secure location?

21 A Yes, sir.

22 Q And on May 27th, 2011, did you receive any
23 evidence from Officer Engles regarding the case of
24 State v. Norris Steplight?

25 A It was actually dropped off May 27th. I picked

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1 it up at the locker on May the 31st.

2 Q Okay. And what items did you receive?

3 A It was cocaine crack.

4 MR. SMILEY: Again, I have to make my
5 objection.

6 THE COURT: All right. Overruled pursuant to
7 my previous ruling.

8 Q (By Mr. Stoney) And when officers bring in
9 evidence, how is it secured?

10 A It is -- they drop it off in your locked
11 mailbox.

12 Q When they drop it off, can they retrieve it?

13 A No, they cannot.

14 Q Who has the ability to get it out of the secure
15 locked box?

16 A Myself, my supervisor, and another co-worker.

17 MR. STONEY: Your Honor, may I approach?

18 THE COURT: You may.

19 Q (By Mr. Stoney) Let me show you what has
20 been marked as State's Exhibit 4, for identification
21 purposes.

22 (Document is handed to the witness.)

23 Q Can you tell us what that is?

24 A Excuse me?

25 Q Can you tell us -- have you seen that before?

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1 A Yes, sir.

2 Q And when did you first see it?

3 A On May the -- the morning of May 31st, 2011.

4 Q And where did you first see it?

5 A When I received it -- when I got it out of the

6 mailbox. Our locked box.

7 Q And is it in substantially the same condition

8 as when you first saw it?

9 A It's a little different because it went to the

10 lab.

11 Q Okay. And can you tell us who submitted this

12 evidence?

13 A Yes. It was Officer Engles.

14 Q And how can you tell?

15 A On the voucher, again, that he created for this

16 evidence. His name is on there.

17 Q And can you tell when he submitted it?

18 A Yes, sir. He dropped it off at the mailbox,

19 and he submitted it on May 27th.

20 Q Can you tell who then received and logged it

21 into evidence?

22 A Yes. Well, I did, because it has it on our

23 chain.

24 Q And then when did you do that?

25 A On May the 31st, about 6:00 -- 6:15 in the

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1 morning.

2 Q And so after you've logged it in, where is it
3 then placed?

4 A It is placed in our evidence control room in a
5 locked room.

6 Q And is there limited access to that room?

7 A It is limited access.

8 Q Who has access to it?

9 A Myself, my supervisor, my co-worker.

10 Q And can you tell who next handled it?

11 A Yes, sir. I got it out of our evidence control
12 room and signed it over to Susan Moody on the same
13 day, 5-31.

14 MR. STONEY: Court's indulgence?

15 THE COURT: Yes, sir.

16 MR. STONEY: Nothing further for this witness.
17 Please answer any questions Mr. Smiley may
18 have.

19 THE COURT: Mr. Smiley, any questions for the
20 witness?

21 MR. SMILEY: Just one or two.

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q So, basically, you do the same thing with any
25 evidence? It comes in, you make sure it's secure and

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1 numbered correctly, you look to make sure it hadn't been
2 tampered with, and then you hold it until somebody
3 requests it; right?

4 A Yes, sir.

5 Q And that's the sum total of your involvement in
6 this case?

7 A Yes, sir.

8 MR. SMILEY: That's all I have.

9 MR. STONEY: Nothing further.

10 THE COURT: Is this witness excused?

11 MR. STONEY: Yes, ma'am.

12 THE COURT: Any objection, Mr. Smiley?

13 MR. SMILEY: No objection.

14 THE COURT: You are excused. You're free to
15 stay with us, however.

16 Call your next witness.

17 Mr. Stoney: The State calls Susan Moody.

18 THE DEPUTY CLERK OF COURT: Please raise your
19 right hand.

20 (The Deputy Clerk of Court administers the
21 oath, and the witness answers as follows:)

22 THE WITNESS: I do.

23 THE DEPUTY CLERK OF COURT: State your full
24 name and spell your last name.

25 THE WITNESS: It's Susan Marie Payne,

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1 P-a-y-n-e.

2 SUSAN MARIE PAYNE,

3 having been first duly sworn by the Deputy Clerk of
4 Court to tell the truth, the whole truth, and nothing
5 but the truth, was examined and testified upon her oath
6 as follows:

7 DIRECT EXAMINATION

8 MR. STONEY:

9 Q Good morning, Ms. Payne. Where are you
10 presently employed?

11 A The City of Charleston Police Department.

12 Q And how long have you been with the department?

13 A Seven years.

14 Q And what is your position with the police
15 department?

16 A Currently, I'm the loans (phonetic)
17 administrator and the laboratory technician.

18 Q And can you please tell us a little bit about
19 your training and education?

20 A I have an associate degree in criminal justice,
21 and I went through an in-house training program with the
22 police department.

23 Q And what are your duties with the police
24 department?

25 A I'm responsible for evidence pickups,

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1 submission, and return, and the database where the
2 analysis is performed.

3 Q And on May 31st, 2011, did you receive any
4 evidence from the police department regarding the case
5 of State v. Norris Steplight?

6 A I did, yes, sir.

7 Q What items did you receive?

8 A I received items in evidence packaging.

9 MR. STONEY: Your Honor, may I approach?

10 THE COURT: You may.

11 Q (By Mr. Stoney) I'm going to hand you what's
12 been marked as State's Exhibit 4 for identification
13 purposes. Do you recognize this?

14 A I do.

15 Q Where have you seen this?

16 A At the station in the lab.

17 Q And when did you first see it?

18 A On May 31st.

19 Q Is it in substantially the same appearance and
20 condition as when you first saw it?

21 A Other than being opened and analyzed, yes, sir.

22 Q And per city police department procedure, what
23 did you do when you checked out this evidence?

24 A I made sure it was sealed and initialed, with
25 the initials half on and half off the seal.

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1 Q And did you take it anywhere?
2 A I brought it to the lab.
3 Q And what's done with it at the lab?
4 A It's entered into the database, and then the
5 evidence is placed in our safe.
6 Q Is that all that they do with it at the lab?
7 A Yes, sir.
8 Q Can you tell who took the evidence from the
9 lab?
10 A Yes, sir.
11 Q How can you tell?
12 A Because the analyst's initials are on the seal
13 and on the label of the evidence.
14 Q And when was it taken?
15 A According to the chain, on May 31st.
16 Q And what was it taken -- for what purpose?
17 A For analysis.
18 MR. STONEY: Court's indulgence?
19 THE COURT: Yes, sir.
20 MR. STONEY: Nothing further. Please answer
21 any questions that Mr. Smiley has.
22 THE COURT: Mr. Smiley?
23 CROSS-EXAMINATION
24 BY MR. SMILEY:
25 Q So your job is the runner; right? You move the

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1 evidence from one place to the another?

2 A Yes.

3 Q And that's your only involvement in this case?

4 A Yes.

5 Q And so when you get a piece of evidence, you
6 make sure it hasn't been tampered with; right?

7 A Yes, sir.

8 Q And then you deliver it to the next step in the
9 line, which would have been the lab?

10 A Yes, sir.

11 MR. SMILEY: That's all I have.

12 MR. STONEY: Nothing further.

13 THE COURT: Is this witness excused?

14 MR. STONEY: Yes, your Honor.

15 THE COURT: Any objection?

16 MR. SMILEY: None.

17 THE COURT: You may step down. Feel free to
18 remain with us. Thank you.

19 Call your next witness.

20 MR. STONEY: The State calls Anita Moore.

21 THE CLERK: Raise your right hand, please.

22 (The Deputy Clerk of Court administers the
23 oath, and the witness answers as follows:)

24 THE WITNESS: I do.

25 THE DEPUTY CLERK OF COURT: State your full

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1 name and spell your last name.

2 THE WITNESS: Anita Marie Moore, M-o-o-r-e.

3 ANITA MARIE MOORE,

4 having been first duly sworn by the Courtroom Deputy
5 Clerk of the Court to tell the truth, the whole truth,
6 and nothing but the truth, was examined and testified
7 upon her oath as follows:

8 DIRECT EXAMINATION

9 BY MR. STONEY:

10 Q Good afternoon, Ms. Moore. What is your
11 occupation?

12 A I'm a crime scene technician.

13 Q And who is your current employer?

14 A The City of North Charleston.

15 Q And at -- at any point, were you employed with
16 the City of Charleston?

17 A Yes. I was employed with the City of
18 Charleston for about 12 years.

19 Q And what position did you hold with the City of
20 Charleston?

21 A As a criminalist and as a crime scene
22 technician.

23 Q And what were your duties?

24 A As a criminalist, it was to analyze substances
25 that came into the lab to determine controlled

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1 substances, fiber debris analysis.

2 Q And how long did you hold the position as --

3 And I apologize. What was the --

4 A Criminalist.

5 Q -- as a criminalist?

6 A Two years.

7 Q And what type of training, education, and
8 experience do you have?

9 A I have a bachelor's degree in chemistry from
10 the College of Charleston. Been certified through the
11 American Board of Criminalistics and the International
12 Association for Identification. We do a thorough
13 in-house training program where you shadow an
14 experienced criminalist. You stay under their purview
15 and do cases where they're technically reviewed for a
16 period of time before you're actually cut loose to do
17 your own casework, and then you have to complete a
18 competency sample training.

19 Q And during your time with the City of
20 Charleston Police Department, did you analyze substances
21 to determine whether or not they contained narcotic
22 drugs?

23 A Yes, I did.

24 Q And about how many times?

25 A Per samplewise, I couldn't tell you. Casewise,

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1 over 800 cases.

2 Q And of those 800 cases, at any point did you
3 analyze substances to determine whether or not they
4 contained cocaine base?

5 A Yes, I did.

6 Q And did you make these analyses as a regular
7 part of your duties?

8 A Yes, most of them contained substances along
9 those lines.

10 Q What type of equipment do you all use at the
11 lab for testing drugs?

12 A We do wet chemical tests when we first receive
13 a sample, which gives us an idea of what it may be. And
14 then from that, we'll use several different types of
15 instruments. One is what we abbreviate as a FTIR,
16 which is a Fourier Transform Infrared Spectrometer, and
17 the other one is abbreviated GCMS, which is a Gas
18 Chromatography-Mass Spectrometer.

19 Q And is this instrument precise and accurate in
20 its testing?

21 A Yes, it is.

22 Q And can you tell us a little bit about more
23 your training that you had to become a drug analysis,
24 including any certification?

25 A Again, we went through in-house training,

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1 which gives us a competency sample, and then near the
2 end of my two-year tenure there, I did become certified
3 as a criminalist through the American Board of
4 Criminalistics.

5 MR. STONEY: Your Honor, at this point the
6 State would move to have Anita Moore declared an expert
7 in the field of drug analysis.

8 THE COURT: Any objection, Mr. Smiley? Any
9 *voir dire*?

10 MR. SMILEY: No, ma'am.

11 THE COURT: And you're requesting her to be
12 qualified as an expert in --

13 MR. STONEY: Drug analysis.

14 THE COURT: Any objection as to drug analysis
15 only, Mr. Smiley?

16 MR. SMILEY: No, ma'am.

17 THE COURT: Ladies and gentlemen, normally a
18 person cannot testify and give an opinion. Normally,
19 they must testify as to either what they saw, or heard,
20 or sensed by smell, or something of that nature. There
21 is an exception in our law when someone is qualified
22 because of their education or experience. They are
23 permitted to give their opinion in certain areas if the
24 Court qualifies them in that way. Ms. Moore will be
25 qualified as an expert in the area of drug analysis to

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1 give opinion testimony in the area. That does not mean
2 that you must accept the opinion. It is simply evidence
3 for you to use in anyway that you see fit.

4 Mr. Stoney?

5 MR. STONEY: Your Honor, may I approach?

6 THE COURT: You may.

7 MR. SMILEY: Judge, at this time, if I can
8 renew my objection.

9 THE COURT: Pursuant to -- overruled, pursuant
10 to my previous rulings.

11 MR. SMILEY: Yes, ma'am.

12 THE COURT: Thank you.

13 Q (By Mr. Stoney) I'm going to show you what's
14 been marked as State's Exhibit 5 for identification
15 purposes. Can you identify that for me, please.

16 (Document is handed to the witness.)

17 A This is a report generated from our laboratory
18 in regards to analysis on this case.

19 Q And can you tell us who prepared it?

20 A It has my signature. I'm the one that signed
21 the report, stating that these are my findings.

22 Q And can you tell us when the report was
23 prepared?

24 A Shows May 31st, 2011.

25 Q And the report is signed by you?

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1 A Yes, sir, it is.

2 Q And can you tell us who the subject of the drug
3 report is, please?

4 A State's the name of Norris Steplight.

5 MR. STONEY: Your Honor, at this point the
6 State would like to offer State's Exhibit 5 into
7 evidence.

8 THE COURT: Any objection?

9 MR. SMILEY: Yes. Objection. Foundation
10 hasn't been established.

11 THE COURT: Counsel, approach.

12 (Sidebar.)

13 MR. SMILEY: Withdrawn.

14 THE COURT: State's 5 is admitted. Objection
15 withdrawn --

16 MR. SMILEY: Well, the objection that I
17 previously made, not the --

18 THE COURT: As to -- as to the foundation, the
19 objection was withdrawn. But pursuant to the previous
20 rulings --

21 MR. SMILEY: Yes, ma'am.

22 (State's Exhibit Number 5 is admitted into
23 evidence.)

24 THE COURT: You may continue.

25 MR. STONEY: May I publish this?

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1 THE COURT: You may. We have it up here, or
2 you want to pass it around?

3 MR. STONEY: Put it on the Elmo.

4 THE COURT: Can we do that?

5 MR. STONEY: May I approach?

6 THE COURT: You may.

7 (Respite.)

8 (Exhibit displayed on the Elmo.)

9 Q (By Mr. Stoney) Can you read that?

10 A Yes, sir, I believe so.

11 Q Can you please tell the jury the findings of
12 that report?

13 A It stated that the items submitted, the first
14 one being a plastic bag with rocklike substance,
15 had a result of cocaine base of 5.2- -- I believe it
16 says -- -66 grams. The second item was a plastic bag
17 with rocklike substance with a finding of cocaine base
18 of 7.216 grams.

19 Q And so would that be a total of approximately
20 12 grams?

21 A Approximately. We don't -- I don't total them.

22 MR. STONEY: Your Honor, may I approach?

23 THE COURT: You may.

24 Q (By Mr. Stoney) I'm next going to show you
25 what has been marked as State's Exhibit 4 for

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1 identification purposes. Do you recognize this item?

2 A Yes, sir, I do.

3 Q Can you identify this exhibit, please?

4 A It states that it is Case Number 1108747, with
5 the Lab Number of 151110885. It has my initials across
6 the seal and initials on the identification sticker that
7 we place on our items.

8 Q So you marked this?

9 A Yes, sir.

10 Q And can you tell us when you received it?

11 A I don't recall the exact date of receive [sic].
12 I signed, date sealed, as 5-31-11.

13 Q Okay. And how are you able to determine that?

14 A I'm sorry?

15 Q How are you able to determine the date?

16 A Oh, I'm sorry. Anytime that we seal it, we
17 also place the date sealed onto the evidence.

18 Q And are these drugs that were delivered to you
19 by Susan Moody?

20 A Yes, they were.

21 MR. STONEY: Your Honor, at this time, the
22 State would like to offer State's Exhibit 4 into
23 evidence.

24 THE COURT: Any objection?

25 MR. SMILEY: Just my previous objection, your

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1 Honor.

2 THE COURT: State's 4 into evidence over your
3 objection.

4 (State's Exhibit Number 4 is admitted into
5 evidence.)

6 Q (By Mr. Stoney) And based on your experience
7 and training, do you have an opinion as to what this
8 substance is?

9 A Yes, sir. From the analysis that was
10 conducted, the opinion would be that it is cocaine base.

11 Q And on what occasion did you make this
12 analysis?

13 A I was -- I would have to see my report again.
14 I'm sorry, I don't have it in front of me.

15 The actual date that it was concluded was
16 May 31st of 2011, and those were the dates that all the
17 analysis was completed, and a report was generated.

18 Q And do you know what tests you performed on
19 this evidence?

20 A Yes. If you -- I'm sorry, if you can --

21 MR. STONEY: May I approach the Clerk?

22 THE COURT: You may?

23 THE WITNESS: On our reports, we actually state
24 what analysis has been done. And --

25 MR. STONEY: May I approach the witness?

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1 (Document is handed to the witness.)

2 THE WITNESS: And on the right side, it gives
3 us -- we have a letter key, and it tells us exactly what
4 was done. And it states that -- excuse me. -- that a
5 color test and an FTIR were completed on these samples.

6 Q (By Mr. Stoney) And from those tests, were you
7 able to form an expert opinion as to what the substance
8 is?

9 A Yes, sir, we were.

10 Q And please state your opinion.

11 A States that it is cocaine base, on both
12 samples.

13 Q And just for clarification, both samples would
14 equal approximately how many grams?

15 A It showed the first sample of cocaine base as
16 5.266 grams, and then a second sample of rocklike
17 substance was cocaine base of 7.216 grams, so
18 approximately 12 grams, yes.

19 MR. STONEY: I have no further questions.
20 Please answer anything that Mr. Smiley may ask?

21 THE WITNESS: Thank you.

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q What is a color test?

25 A A color test is a chemical wet test that is

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1 placed onto a sample, and the actual chemical reacts
2 with the substance, and it produces a color, and it is
3 indicative of what it may possibly be.

4 Q It's a presumptive test?

5 A It is a presumptive test, yes, sir.

6 Q Similar to the field test that they do?

7 A Yes, sir, it is.

8 Q But that's not good enough. You've got to do
9 some extra work; right?

10 A Right. It is a presumptive test. It just
11 gives us an avenue to see what kind of instrumental
12 tests that we need to do.

13 Q All right. So based on the color test, you
14 then decided to use the FTIR?

15 A Yes, sir, we did.

16 Q And the FTIR is the gas chromatograph --

17 A No, sir.

18 Q Okay. Then explain it to the jury.

19 A Okay. An FTIR is a Fourier Transfer Infrared
20 Spectrometer, and what that does is take a sample that
21 you place onto it, and it shoots a laser beam on it.
22 Gives you a -- this is a short version -- a vibrational
23 spectra, and then with that, we can compare it to known
24 samples. And if they match, then that tells us
25 definitively that that is the sample content.

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1 Q All right. So you put it in a machine, and the
2 machine spits out a result; and if it's consistent, then
3 you make a determination?

4 A We have to analyze the results, yes. We have
5 to look at it and make sure that it does match the
6 standards and the specific peaks that are there, but
7 then we can make our opinion as to that sample.

8 MR. SMILEY: All right. That's all I have.

9 MR. STONEY: Nothing further.

10 THE COURT: Is this witness excused?

11 MR. STONEY: Yes, ma'am.

12 THE COURT: Any objection?

13 MR. SMILEY: No, ma'am.

14 THE COURT: You are free to remain with us, but
15 you are also free to leave. Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: Call your next witness.

18 MS. LINDER: Your Honor, at this time the State
19 rests.

20 THE COURT: Ladies and gentlemen, that
21 indicates to the Court that there's a matter of law
22 that I must take up outside of your presence. And,
23 timingwise, your lunch is here, so we're going to go
24 ahead and take a break for you to eat your lunch, and
25 we'll receive you back in the courtroom.

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1 Madam Foreperson, if you would just let the
2 bailiff know when all of you have eaten lunch and you're
3 ready to proceed, and we will bring you in accordingly.
4 No rush. But we have made those lunch arrangements for
5 you.

6 And so please remember all of my admonitions to
7 you. You will not have your phones, so I'm not worried
8 about you talking to anyone else, but do not begin your
9 deliberations, do not decide any issue in this case, do
10 not discuss this case amongst yourselves until I tell
11 you that you may do so.

12 And that is one of your responsibilities, Madam
13 Foreperson.

14 Please rise for the jury.

15 (The jury is escorted from the courtroom
16 at 12:27 p.m.)

17 THE COURT: Thank you. Be seated.

18 Please place Mr. Steplight under oath.

19 Mr. Steplight?

20 THE DEPUTY CLERK OF COURT: Raise your right
21 hand.

22 (The Deputy Clerk of Court administers the
23 oath, and the Defendant answers as follows:)

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. Mr. Steplight, I'm

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1 going to take this opportunity to explain to you certain
2 of your rights. We've reached the stage of the trial
3 where you're going to be able to present your defense.
4 If you do not understand anything that I say to you now
5 or if you need me to explain anything in further detail,
6 please let me know. Do you understand?

7 THE DEFENDANT: Uh-huh.

8 THE COURT: Is that a yes?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. Mr. Steplight, remember
11 -- and I've admonished several witnesses for doing the
12 same thing. I need you to speak your answer, and I need
13 a yes or a no.

14 THE DEFENDANT: You say my rights?

15 THE COURT: I'm sorry?

16 THE DEFENDANT: My rights?

17 THE COURT: Okay. And, remember, we cannot
18 talk over each other. I'm going to try real hard not to
19 talk over you. If you will show me the same courtesy.
20 I need you to answer your questions out loud. I saw
21 that you verbalized [sic] that you understood, but it's
22 important for the record that I have a yes or a no. Do
23 you understand everything that I've told you so far
24 today?

25 THE DEFENDANT: Yes, ma'am.

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1 THE COURT: Thank you. You have the right to
2 claim the protections given to you by the Fifth
3 Amendment to the Constitution of the United States.
4 This amendment states in part that no person shall be
5 compelled to be a witness against himself in any
6 criminal case. That means that you cannot be required
7 to testify in this case. You have the right to testify
8 on your own behalf. No one can make you testify. This
9 is a personal right, and no one can waive this right
10 except for you. If you decide to testify, you will
11 become subject to the same rules that govern other
12 witnesses and you may be examined and cross-examined on
13 any relevant issue in this case. If you have any
14 convictions involving dishonesty or false statement, or
15 for crimes punishable by imprisonment for more than one
16 year and I determine that the probative value of
17 admitting this evidence outweighs its prejudicial affect
18 to you, the Solicitor will be able to introduce your
19 record to attack your credibility.

20 Madam Solicitor, do you plan to use any
21 convictions to attack his credibility?

22 MS. LINDER: Your Honor, if he testifies and
23 opens the door, we do intend to use items that are not
24 for -- for impeachment purposes that have to deal with
25 his record, including prior drug convictions and a gun

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1 conviction if he were to open the door. As far as
2 crimes and dishonesty, no, your Honor.

3 THE COURT: And, Mr. Smiley, you've gone over
4 his prior convictions with him and have indicated to
5 him, in essence, if he opens the door to certain
6 convictions, that the Solicitor does plan to impeach his
7 credibility?

8 MR. SMILEY: I've talked to him in general.
9 I'm going to -- during the lunch break, your Honor, make
10 sure that I know which ones she's going to use so I can
11 explain it in detail.

12 THE COURT: All right. But you agree that he
13 does have a prior conviction of some sort?

14 MR. SMILEY: Oh, he does, yes, ma'am.

15 THE COURT: All right. Thank you.

16 And, Mr. Steplight, you agree that you do have
17 some prior convictions?

18 THE DEFENDANT: Yes.

19 THE COURT: And you understand that there is a
20 potential that those convictions could be used against
21 you if you testify?

22 THE DEFENDANT: Even if the charges were
23 dropped?

24 THE COURT: All right. Mr. Steplight, you
25 agree that you have some convictions?

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1 THE DEFENDANT: Yeah.

2 THE COURT: Is that a yes?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. Thank you. And you
5 understand what I have just explained to you? I haven't
6 heard what your prior convictions are. I haven't made a
7 ruling, but you understand that you do have some
8 convictions?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. And you understand that
11 should I allow them in, the Solicitor could use them, if
12 you testify, to impeach you?

13 THE DEFENDANT: Can I ask you a question?

14 THE COURT: That -- I need you to answer my
15 question. Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. If you decide to
18 testify, this decision on your part must be freely,
19 voluntarily, knowingly, and intelligently made, with an
20 understanding of the protections given to you by the
21 Fifth Amendment and the consequences of your decision to
22 testify. If you decide not to testify, I will instruct
23 the jurors that they cannot give the fact that you did
24 not testify any consideration whatsoever, and there is
25 to be absolutely no prejudice to you because you did not

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1 testify.

2 It is left entirely up to you whether or not
3 you testify. You may talk with your attorney, either
4 both, or individually, your friends, your family
5 members, or anyone else, but the final decision is left
6 entirely up to you. Do you understand what I have
7 explained to you?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you have any questions about
10 what I've explained to you?

11 THE DEFENDANT: I want to know if she can use
12 charges that was dropped?

13 THE COURT: I'm going to give you an
14 opportunity -- the jurors are eating lunch. So I'm
15 going to give you an opportunity during this time to
16 meet with Mr. Smiley, because the State has presented
17 all of their evidence. So he's going to answer that
18 question for you. I cannot give you legal advice at
19 this point, Mr. Steplight. Do you understand?

20 THE DEFENDANT: Okay.

21 THE COURT: It is important. Do you understand
22 everything that I have explained to you?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you understand the consequences
25 and the benefits of testifying, as well as not

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1 testifying?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right. I'm going to allow you
4 to speak with your attorney.

5 Mr. Smiley, other than should Mr. Steplight
6 testify, do you have any additional witnesses?

7 MR. SMILEY: No, ma'am.

8 THE COURT: All right. And, Mr. Steplight, you
9 may have a seat. Thank you.

10 Are you requesting -- are there any lesser
11 included that you are requesting?

12 MR. SMILEY: No, ma'am.

13 THE COURT: And are there any charges that you
14 think that need to be included that you think I may not
15 have included?

16 MR. SMILEY: No, ma'am. I'd like a chance
17 to look at what your charge will be, briefly, but I
18 don't -- if it's standard charge --

19 THE COURT: It's a standard charge.

20 MR. SMILEY: No, ma'am.

21 THE COURT: And there's nothing -- there's no
22 challenge to the amount of drugs there either --

23 MR. SMILEY: It's 12 and a half or it's not.

24 THE COURT: Or it's not. And there's no
25 dispute about constructive or actual possession, so

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1 that's not --

2 MR. SMILEY: No, ma'am.

3 THE COURT: All right.

4 Anything?

5 MS. LINDER: Your Honor, I would ask that you
6 consider doing the curative instructions to the jury,
7 regarding the questions that I objected to under
8 Rule 403, specifically for the questions that were asked
9 of Detective Engles, also including the items asked to
10 Detective Harrison. I -- I renew those objections about
11 403. I'm concerned that the jury could be misled, and
12 all those items were already decided by your Honor.

13 Aside from that, we do not have any requests
14 for any other specific jury charges or any lesser
15 included.

16 THE COURT: My general charge, I believe, is
17 satisfactory in addressing your concerns, so I will not
18 be giving a separate curative instruction.

19 MS. LINDER: Thank you, Judge.

20 THE COURT: Thank you. Anything further?

21 MR. SMILEY: I don't have anything.

22 THE COURT: All right. Counsel, I'm assuming
23 that they're going to take about 30 minutes for lunch.
24 That's what I'm anticipating.

25 That will give you sufficient time to meet with

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1 Mr. Steplight, I'm assuming.
2 MR. SMILEY: I don't get lunch, then?
3 THE COURT: I'm sorry?
4 MR. SMILEY: I don't get to get any lunch? Or
5 us? It wouldn't take long, your Honor.
6 THE COURT: How long are you requesting,
7 Mr. Smiley?
8 MR. SMILEY: How long does it take --
9 MS. HENSLEY: Thirty minutes?
10 MR. SMILEY: Thirty or 45 minutes to get a
11 bite to eat. I won't go have a sit-down lunch, but
12 something.
13 THE COURT: All right. I need for you -- your
14 first priority is to Mr. Steplight.
15 MR. SMILEY: Yes, ma'am.
16 THE COURT: And let me know whether or not he
17 is going to testify.
18 MR. SMILEY: Yes, ma'am.
19 THE COURT: And answer -- he appears to have
20 several questions.
21 MR. SMILEY: I understand.
22 THE COURT: And then I will give you 45
23 minutes, Mr. Smiley. All right. I'll even give you a
24 little extra. So 1:15? 1:25. 1:25.
25 MR. SMILEY: Yes, ma'am. And I'm not trying

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1 to -- my stomach is growling.

2 THE COURT: I understand, Mr. Smiley.

3 MR. SMILEY: Okay.

4 THE COURT: I'm trying to make sure that we
5 accomplish -- since we don't have an alternate --

6 MR. SMILEY: Yes, ma'am.

7 THE COURT: -- I'm trying to keep the jurors
8 here. I don't want them waiting any longer than they
9 need to.

10 MR. SMILEY: Yes, ma'am.

11 THE COURT: All right. Anything further from
12 the State?

13 MS. LINDER: Nothing further, your Honor.

14 THE COURT: All right. And I know that you
15 will not be able to answer this, but should there be any
16 rebuttal, you will have that witness available assuming
17 that there is some defense presented?

18 MS. LINDER: Yes, Judge.

19 THE COURT: All right. Thank you. We're at
20 ease.

21 (A lunch break is taken from 12:36 p.m. until
22 1:34 p.m; at which time, the proceedings continue as
23 follows:)

24 (The Defendant is present in court with his
25 counsel.)

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1 THE COURT: Did you have enough time to eat and
2 meet with your client?

3 MR. SMILEY: Not to eat. But I met with my
4 client.

5 THE COURT: I'm going to mark the Court's
6 Exhibit Number 1, the juror's doctor's excuse.

7 MR. SMILEY: Yes, ma'am. And before --

8 THE COURT: Hold on.

9 (Juror's doctor's excuse is marked as Court's
10 Exhibit Number 1.)

11 MR. SMILEY: Your Honor, before we get to
12 whether my client will testify, the State has rested
13 their case, I think that this is the appropriate time
14 that I need to make a motion for a directed verdict.

15 THE COURT: All right.

16 MR. SMILEY: But more than -- I make my motion
17 for directed verdict with the light most favorable to
18 the State. But more than -- importantly, I need to
19 renew my pretrial suppression motion --

20 THE COURT: Would you pull your microphone just
21 a little bit towards you? Thank you.

22 MR. SMILEY: I need to renew my pretrial motion
23 to suppress the drugs in this case as being the product
24 of a search that took place in what I have argued was an
25 illegal arrest, as I -- and I respect your ruling, but,

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1 of course, I have to renew that; and so for that reason,
2 again, I'm going to ask you to consider suppressing the
3 evidence for all the reasons that I put forth, and I --
4 I guess I have to articulate why I believe it's an
5 illegal arrest again. It's -- the Court Exhibit -- it's
6 not a -- it's a State's Exhibit. The Court Exhibit, the
7 route-restricted license that was used at pretrial --

8 Let me make sure --

9 Pardon me, your Honor. Since I'm going to be
10 referencing it.

11 (Mr. Smiley speaks with the Court Reporter.)

12 MR. SMILEY: Your Honor, it's the State's
13 Exhibit 3 for I.D. purposes, I would ask it be included
14 in the record on appeal, because that was the document
15 that was --

16 THE COURT: Did we mark that as a Court's
17 Exhibit yesterday?

18 MR. SMILEY: I thought it was, but it was
19 marked as a State's Exhibit.

20 THE COURT REPORTER: I.D.

21 THE COURT: Were they admitted?

22 THE COURT REPORTER: No.

23 THE COURT: Just I.D.'d?

24 THE COURT REPORTER: Just I.D.'d.

25 THE COURT: All right. We'll mark that as

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1 Court's Exhibit 2.

2 (State's Exhibit Number 3 is marked as Court's
3 Exhibit Number 2.)

4 MR. SMILEY: Thank you very much. I think that
5 -- since that's the basis of my argument, was that he
6 had a valid route-restricted license, and we've, through
7 testimony, showed that it was within the time period,
8 that it was valid, and that he was within the area.
9 What was the point of contention, was he operating
10 beyond the scope of his route-restricted license. And
11 through the testimony, it was determined that he was
12 able to come to and from his job with his route-
13 restricted license. This arrest took place in the
14 evening time. He had said he -- the testimony is that
15 he told the officer -- and I think they're both officers
16 -- that he had gotten off earlier, and that he had
17 dropped off his girlfriend at church. Also,
18 Officer Deming had I.D.'d the white pickup truck on
19 Morris Street, which technically was within the
20 boundaries of the route restriction, but may be -- by
21 your ruling, your Honor, you believed it went beyond the
22 scope also and saying the arrest was lawful. If, in
23 fact, he was within all of the parameters of that, it
24 would have been, in my opinion, an unlawful arrest, and,
25 therefore, the strip search in jail would have

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1 -- produced evidence as the result of the illegal
2 arrest, and, therefore, I was asking that it be
3 excluded.

4 I believe that the illegal seizure that
5 results from the illegal arrest violates my client's
6 constitutional protections under the Fourth Amendment of
7 the United States and the South Carolina Constitution.
8 And -- and the Constitution of South Carolina, your
9 Honor, as I understand your ruling, as I've explained to
10 my client, that I believe that at this point that I had
11 to re-put it on the record. I hope for the Court of
12 Appeals that I've preserved that argument in every
13 possible point without being too redundant. So, again,
14 I would make a Motion to Suppress the crack cocaine as
15 evidence in this case.

16 THE COURT: Based upon all of the reasons that
17 I articulated in my ruling yesterday, I'm denying your
18 Motion to Suppress.

19 You have a motion for a directed verdict at
20 this time?

21 MR. SMILEY: Yes, ma'am. And I do it for form
22 purposes only. In looking at the evidence in the light
23 most favorable to the State, I would make a Motion for
24 Directed Verdict, your Honor.

25 THE COURT: All right. And what are the

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1 basis -- what's the basis for your motion?

2 MR. SMILEY: I guess, since the arrest was
3 illegal and the evidence will be illegal, if you took
4 that out, in the light most favorable to the State,
5 there would be no evidence, and, therefore, a directed
6 verdict would be required. Since you've allowed it
7 in -- the evidence in, as -- I just know I have to make
8 that motion, your Honor, quite frankly.

9 THE COURT: All right. Based upon the
10 testimony that the Court has heard in the light most
11 favorable to the nonmoving party, concerning the
12 existence or nonexistence to the weight of the evidence,
13 there has been testimony that the -- the trafficking
14 -- that the cocaine base was over 10 but less than 28
15 grams, that it occurred in Charleston County, two
16 witnesses at a minimum identified the Defendant to be
17 the passenger -- the driver of the vehicle, for all of
18 these reasons, in the light most favorable to the
19 nonmoving party, I deny your motion for directed
20 verdict.

21 Mr. Steplight, I remind you that you're still
22 under oath. Have you had an opportunity to meet with
23 your attorney over the lunch break?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Have you made a decision as to

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1 whether or not you will testify?
2 THE DEFENDANT: No, I won't.
3 THE COURT: Have you made a decision whether
4 you will testify?
5 THE DEFENDANT: No, ma'am, I won't.
6 THE COURT: Will you testify?
7 THE DEFENDANT: No, ma'am.
8 THE COURT: All right. And, Mr. --
9 MR. SMILEY: The Defense is not presenting any
10 evidence.
11 THE COURT: All right. Is the State prepared
12 to go forward with closing?
13 MS. LINDER: Yes, your Honor.
14 THE COURT: And who will be doing the closing?
15 MS. LINDER: I will be doing the closing.
16 THE COURT: And, Mr. Smiley, you will be doing
17 the closing?
18 MR. SMILEY: Yes.
19 THE COURT: Please come look at the verdict
20 forms. My records reflect that only State's 4 and 5 are
21 admitted into evidence. Is that correct?
22 MS. LINDER: That is correct.
23 THE COURT: And you have admitted nothing?
24 MR. SMILEY: No, ma'am. I just want to make
25 sure that that one exhibit was the Court's exhibit.

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1 THE COURT: It will be, yes.

2 All right. Anything before we bring in the
3 jury?

4 MS. LINDER: Nothing from the State.

5 THE COURT: Mr. Smiley?

6 MR. SMILEY: Nothing.

7 THE COURT: Members of the audience, the State
8 will be giving the close, Mr. Smiley will be giving the
9 close, and then I will be doing my instructions. Please
10 do not move while anyone is speaking. It's very
11 disruptive with the door shutting and all of that. So
12 if you will please stay seated until no one is talking.

13 Mr. Smiley, I'm going to -- I will let you know
14 when you can begin speaking so that if there's anybody
15 that needs to move, so that nobody is disrupted.

16 MR. SMILEY: Yes, ma'am.

17 THE COURT: If there's any questions, my
18 bailiffs are going to escort you out, and we'll deal
19 with it later. Thank you.

20 (The jury is escorted into the courtroom at
21 1:44 p.m.)

22 THE COURT: Please be seated.

23 All right. Mr. Smiley, in the presence of the
24 jury?

25 MR. SMILEY: The Defense has no evidence to

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1 present, your Honor.

2 THE COURT: All right. Ladies and gentlemen,
3 that means that you have heard all of the testimony that
4 you will hear in this case and receive into evidence all
5 the exhibits that are made part of the record in this
6 case. Ladies and gentlemen, you will now hear closing
7 arguments on behalf of counsel, and after that, I will
8 instruct you on the law applicable to this case. Ladies
9 and gentlemen, please give your strict attention.

10 Ms. Linder?

11 MS. LINDER: Thank you, your Honor. May it
12 please the Court?

13 CLOSING ARGUMENTS

14 MS. LINDER: Good afternoon, ladies and
15 gentlemen. We're here, as I told you a couple of hours
16 ago, for the reason the drugs are illegal. I told you
17 earlier, I'll tell you again now, it's illegal to
18 possess drugs, and it's illegal to possess trafficking
19 weight of drugs. Cocaine base is a drug. You're going
20 to hear from the Judge pretty soon about matters of law,
21 and she will instruct you on the law that you are to
22 apply in this case. She is the final say on that, but I
23 did want to speak with you very briefly about the law.

24 Trafficking in the state of South Carolina,
25 includes a lot of things. And one of those items is

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1 that the weight of the drugs are in excess of 10 grams.
2 That means 10.2, that means 11, 12, 13, whatever the
3 number may end up being. But in the state of South
4 Carolina, I submit that possession of a specific weight
5 or excess of a weight is indeed trafficking. You heard
6 from a couple witnesses here today. You heard from
7 Detective Engles; you also heard from Detective
8 Harrison. They were on patrol with their unit in
9 Team 1, which is downtown in Charleston. Roughly, it's
10 anywhere south of Crosstown. And you heard from both
11 detectives, that they initiated a lawful traffic stop
12 based upon two different traffic infractions, based upon
13 not coming to a stop at a solid red light, and also
14 based upon the maneuver in the way that the car turned.
15 That it did not stay -- hug the curb, more or less. It
16 was an improper turn. I submit to you that one of those
17 reasons would be plenty to make a stop, but in this case
18 they had two. Both of these officers testified that a
19 stop was initiated.

20 After conducting that traffic stop, this
21 Defendant, Norris Steplight, was placed under arrest for
22 driving under suspension. After he was placed under
23 arrest for driving under suspension, he was taken up to
24 the county jail. The same two detectives who did the
25 stop are the ones who transported him to the jail. When

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1 they got up to the jail, the typical booking procedures
2 happened: Photos are taken, an inventory of what's in
3 your pockets are taken, and you heard from both
4 Detective Harrison and Engles that over \$4,000 in cash
5 was found on this person. You also heard from
6 Detectives Engles and Harrison, along with the
7 correction's officer, Noel Ragos, when he testified,
8 that a strip search was conducted. Strip searches are
9 conducted, as you heard, for a multitude of reasons, and
10 a lot of that is that they do not want someone who's
11 about to enter into the general population of the jail
12 to have any sort of weapon or contraband on their
13 person.

14 During that booking procedure, you heard,
15 actually, I believe, from all three, but most important,
16 I submit, is going to be the intake officer himself.
17 That is his job, is to do searches. He doesn't care who
18 it is. He -- his job to -- when an inmate is coming in,
19 to do searches. And for that, there is -- he went
20 behind a privacy area, curtain was drawn, and he stands
21 away from the individual, and asked to do items: Taking
22 off his shoes, taking off items of clothing, checking in
23 the mouth. All of this is done to make sure that no
24 contraband or weapons are brought into the facility.

25 You heard from the three witnesses that

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1 Mr. Steplight complied to a point, and then he stopped.
2 He was noncompliant with one of the final instructions,
3 which is to face away from the detectives, and the
4 intake officer, and to ultimately spread your buttocks
5 region and cough. This is part of procedure; it's done
6 at intake, day in and day out. At that point, when
7 Mr. Steplight turned around, all three people you heard
8 from, told you that they saw something. They saw
9 baggies protruding from his buttocks.

10 At that point, Detective Engles, with a rubber
11 glove, retrieved the items from his buttocks. And,
12 ladies and gentlemen, you will have this back with you.
13 This piece of evidence. You will have back there with
14 you, to where you will be able to see what -- that there
15 were baggies, and you will be able to see that there
16 was an item that was confiscated from the person of
17 Mr. Steplight. After this item was recovered, you heard
18 Detective Engles tell you that he field-tested it. Part
19 of being a police officer, it's a handy aid kit that
20 you put a dropper, and if changes colors, it tests
21 presumptive. Based upon that presumptive test,
22 Mr. Steplight was charged with trafficking cocaine base.

23 Then you heard how Detective Engles and
24 Harrison secured this in their vault within their
25 vehicle. They drove to the police department, they put

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1 it in a mailbox of sorts, that once you put it in, you
2 can't get it out. Once they placed it in there, you
3 heard from Linda Wilson, whose job is to come in, remove
4 items -- that she is one of three people who have access
5 to -- and she indicates that she is the one who removed
6 it, she makes sure that the labels match up with
7 everything, and then she keeps it in the evidence area
8 which is also a secured area.

9 From there, you heard from -- I referred to her
10 as Susan Moody. She's recently married. You heard from
11 Susan Payne, who, more or less, is the courier. She's
12 an employee of the City of Charleston Police Department.
13 She went from evidence, and took it over to the lab.
14 She also then told you that she logs it in and places it
15 in a safe.

16 Once there, you heard from -- you heard from
17 Anita Moore. Anita Moore explained to you all of the
18 tests. I was an economics major. I do not pretend to
19 know science. She explained the FTIR test that she did,
20 about a laser, and she explained how she's been trained
21 and how she's been testing these chemicals for a number
22 of years. This is State's Exhibit 5, and this you can
23 also have back in the jury room. And it's ultimately --
24 we attempted to put it up on the TV screen, but I had a
25 hard time reading it. So you'll have this back with you

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1 to see it yourself. And on there, it explains the
2 findings, and it was signed off by Anita Moore, in her
3 expert opinion, that this is her determination of the
4 substances, of the weight, and what the substance was.
5 You heard her testimony, and as reflected in this lab
6 report, that there were two plastic bags of rocklike
7 substance. One was cocaine base, which is 5.266 grams;
8 and one is cocaine base, 7.216 grams. I submit to you
9 that rounding down, even, seven plus five equals twelve.
10 Twelve is greater than ten. Therefore, I submit to you
11 that the State's burden of the weight in excess of ten
12 grams has been satisfied.

13 Drugs are illegal. It is what it is. Cocaine
14 base is a drug. It is up to you to determine what the
15 Judge puts before you, which is to determine, did the
16 Defendant, Norris Steplight, possess, which I submit to
17 you is having on his person, or within his person, in
18 this case, illegal drugs, and that weight was in excess
19 of ten grams. That is the question that is left to you,
20 the jury. Did Mr. Steplight possess cocaine base in
21 excess of ten grams? And I'll respectfully ask that you
22 come back after careful deliberation with a guilty.

23 Thank you.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: I'm going to get a little water.

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1 I have the hiccups. Excuse me.

2 CLOSING ARGUMENTS

3 MR. SMILEY: As I told you, I'm an advocate for
4 Mr. Steplight, and when he said he was not guilty, it's
5 the State's, their burden, and we went through it.
6 Y'all are the judges of the facts. The facts have been
7 presented to you. Your Honor is the judge of the law,
8 and she's made some rulings in this case as if -- I'm
9 sure y'all have noticed, it's hard sometimes being a
10 lawyer, making sure that each of us go by the rules of
11 evidence, and the rulings of Her Honor. Therefore, I
12 submit to you that it's up to y'all to make a
13 determination. Y'all have heard the evidence, and I
14 know you will do the right thing. Thank you.

15 JURY CHARGE

16 THE COURT: Ladies and gentlemen, I remind you
17 that during this trial, you and I have had certain
18 duties to perform. As the trial judge, it is my
19 responsibility to preside over the trial of this case,
20 and I also have the duty to rule on the admissibility of
21 the evidence offered during this trial. You are to
22 consider only the competent evidence before you. If
23 there was any testimony ordered stricken from the
24 record, you must disregard that testimony. You are to
25 consider only the testimony which has been presented

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1 from the witness stand, any exhibits that have been made
2 part of the record in this case, as well as the
3 stipulations of counsel.

4 I have the additional duty to charge you the
5 law applicable to this case. As the presiding judge, I
6 am the sole judge of the law in this case. It is your
7 duty as jurors to accept the law and apply the law
8 exactly as I state it to you now. If you have any idea
9 as to what the law is, or what the law ought to be, and
10 it does not agree with what I'm about to tell you, you
11 must abandon your own idea because you are sworn to
12 accept the law and apply the law exactly as I state it
13 to you now. In every case tried in this court before a
14 jury, the jury becomes the sole and exclusive judges of
15 the facts. A trial judge may not make any comment
16 regarding the facts in this case. You are not to infer
17 from anything that I have said or done throughout the
18 progress of this trial that I have any opinion about the
19 facts in this case. The law does not allow me to have
20 an opinion about the facts in this case.

21 The Indictment in this case charges the
22 Defendant with trafficking in cocaine base. I remind
23 you, the fact that the Defendant was arrested, charged,
24 and indicted in this case is not evidence in this case,
25 and cannot be considered by you as evidence of guilt,

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1 nor does it create any presumption or inference of
2 guilt. An Indictment is simply the formal document
3 which contains the charge made against the Defendant.
4 It is the formal document by which this case is brought
5 into court.

6 The Defendant has pled not guilty to this
7 Indictment. A person charged with committing a criminal
8 offense in South Carolina is never required to prove
9 themselves innocent. I charge you it is an important
10 rule of law, that the Defendant in a criminal trial, no
11 matter what the seriousness of the charge may be, will
12 always be presumed to be innocent of the crime for which
13 the Indictment was issued unless guilt has been proven
14 by evidence satisfying you of that guilt beyond a
15 reasonable doubt. This presumption of innocence does
16 not end when you begin your deliberations, but it
17 accompanies the Defendant throughout the trial until you
18 reach a verdict of guilt based upon evidence satisfying
19 you of that guilt beyond a reasonable doubt.

20 The presumption of innocence is not mere legal
21 theory. It is not just a legal phrase. It is a
22 substantial right to which every defendant is entitled
23 unless you, the jury, are convinced and satisfied from
24 the evidence of the Defendant's guilt beyond a
25 reasonable doubt.

Reported By:
Rolayne M. Volpe, CCR, RPR
Official Court Reporter for the State of South Carolina

Jury Trial, State v Steplight
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1 The State has the burden of proving the
2 Defendant guilty beyond a reasonable doubt. Some of you
3 may have served as jurors in civil cases where you were
4 told that it is only necessary to prove that a fact is
5 more likely true than not true, such as by a greater
6 weight or preponderance of the evidence. In criminal
7 cases, the State's proof must be more powerful than
8 that. It must be beyond a reasonable doubt. Proof
9 beyond a reasonable doubt is proof that leaves you
10 firmly convinced of the Defendant's guilt. There are
11 very few things that we know with absolute certainty,
12 and in criminal cases, the law does not require proof
13 that overcomes every possible doubt. If based upon your
14 consideration of the evidence, you are firmly convinced
15 that the Defendant is guilty of the crime charged, you
16 must find the Defendant guilty. On the other hand, if
17 you think there's a real possibility that the Defendant
18 is not guilty, you must give the Defendant the benefit
19 of the doubt and find him not guilty.

20 There are two types of evidence which are
21 generally presented during a trial: direct evidence and
22 circumstantial evidence. Direct evidence is testimony
23 of a person who claims to have actual knowledge of the
24 facts, such as an eyewitness. It is evidence which
25 immediately establishes the main facts to be proved.

Reported By:
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1 Circumstantial evidence is proof of a chain of facts
2 and circumstances indicating the existence of a fact.
3 It is evidence which immediately establishes collateral
4 facts from which the main fact may be inferred.
5 Circumstantial evidence is based on inference and not on
6 personal knowledge or observation. The law makes
7 absolutely no distinction between the weight or value to
8 be given to either direct or circumstantial evidence,
9 nor is a greater degree of certainty required of
10 circumstantial evidence than that of direct evidence.
11 You should weigh all of the evidence presented in this
12 case, and after weighing all of the evidence, if you are
13 not convinced of the guilt of the Defendant beyond a
14 reasonable doubt, you must find the Defendant not
15 guilty.

16 Necessarily, you must determine the credibility
17 of the witnesses who have testified in this case.
18 Credibility simply means believability. It becomes your
19 duty as jurors to evaluate and to analyze the evidence
20 and to determine which evidence convinces you of its
21 truth. In determining the believability of the
22 witnesses who have testified in this case, you may
23 believe one witness over several witnesses or several
24 witnesses over one witness. You may believe a part of
25 the testimony of a witness and reject the remaining part

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1 of the testimony of that same witness. You may believe
2 the testimony of a witness in its entirety or reject the
3 testimony of a witness in its entirety. You may
4 consider whether any witness has exhibited to you any
5 interest, bias, prejudice, or other motive in this case.

6 The rules of evidence ordinarily do not permit
7 witnesses to testify to opinions or to conclusions. An
8 exception to this rule exists for witnesses we call
9 expert witnesses. A witness who by education and
10 experience has become an expert in some art, science,
11 profession, or calling, may state an opinion as to
12 relevant and material matter in which the witness claims
13 to be an expert and may also state the reasons for that
14 opinion.

15 You should consider any expert opinion received
16 in evidence in this case, and like any other evidence,
17 give it the weight you think it deserves. If you decide
18 that the opinion of an expert witness is not based upon
19 sufficient education and experience, or if you conclude
20 that the reasons given in support of the opinion are not
21 sound, or that the opinion is outweighed by other
22 evidence, you may disregard the opinion entirely. An
23 expert witness's testimony is to be given no greater
24 weight than that of other witnesses simply because the
25 witness is an expert. Further, you are not required to

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1 accept an expert's opinion even though it is not
2 contradicted.

3 I instruct you, and emphasize, the fact that
4 the Defendant did not testify is not a factor to be
5 considered by you in any way in your deliberation and in
6 your consideration of the question of the guilt of the
7 Defendant. It must not be considered by you in any
8 manner whatsoever. A defendant has a constitutional
9 right to remain silent, and the exertion of this right
10 must not be considered by you in your deliberations. I
11 repeat: Under your oath, you are to draw no conclusion
12 whatsoever from the fact that the Defendant in this case
13 did not testify.

14 Madam Foreperson, the fact that the Defendant
15 did not testify, cannot and should not be discussed in
16 the jury room.

17 The burden of proof, as I have stated to you,
18 is on the State to prove the guilt beyond a reasonable
19 doubt. The Defendant is not required to prove his
20 innocence.

21 In order to establish criminal liability,
22 criminal intent is required. For example, the mental
23 state required to be proven by the State for a
24 particular crime might be purpose, intent, knowledge,
25 recklessness, or criminal negligence. Criminal intent

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1 must be proven by the State beyond a reasonable doubt.
2 Criminal intent is always a matter that must be
3 determined by the jury from the circumstances
4 surrounding his situation. There is no way to prove
5 intent to mathematical certainty. Because there is no
6 way to tell exactly what the person had in mind, the law
7 says that criminal intent may be inferred from the
8 circumstances shown to have existed. This is how you
9 make a determination of whether or not the element
10 requiring intent was present. It is not necessary to
11 establish intent by direct and positive evidence, but
12 intent may be established by inference in the same ways
13 as any other fact, by taking into consideration the acts
14 of the parties, and all of the facts and circumstances
15 of this case.

16 Criminal intent is a mental state, a conscious
17 wrongdoing. It is up to you to determine what the
18 Defendant intended to do based upon the circumstances
19 shown to have existed. Criminal intent can arise from
20 action or a failure to act; it may arise from
21 negligence, recklessness, or an indifference to duty or
22 a consequence that is considered by the law to be the
23 equivalent of criminal intent.

24 The Defendant is charged with trafficking in
25 cocaine base. The State must prove beyond a reasonable

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1 doubt that the Defendant knowingly sold, manufactured,
2 cultivated, delivered, purchased, brought into the
3 State, provided financial assistance, or otherwise
4 aided, abetted, or attempted, or conspired to sell,
5 manufacture, cultivate, deliver, purchase, or bring into
6 the State was knowingly in actual or constructive
7 possession, knowingly attempted to become an actual or
8 constructive possession of cocaine base. Actual
9 possession means that the cocaine base was in the actual
10 physical custody of the Defendant. Constructive
11 possession means that the Defendant had dominion and
12 control or the right to exercise dominion and control
13 over either the cocaine base itself or the property of
14 which the cocaine base was found. The State must also
15 prove beyond a reasonable doubt that the amount of the
16 cocaine base was ten grams or more but less than 28
17 grams.

18 Ladies and gentlemen, I now am going to go over
19 the verdict form with you. There's absolutely no
20 significance in the way that I read from the verdict
21 form. It's simply something has to go on the paper
22 first.

23 In the Court of General Sessions, Ninth
24 Judicial Circuit, Case 2011-GS-10-6501, State of South
25 Carolina, County of Charleston, versus Norris Steplight,

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1 Defendant, verdict: We, the jury, find the Defendant
2 not guilty; or we, the jury, find the Defendant guilty
3 of trafficking cocaine base.

4 Madam Foreperson, you will sign the verdict
5 form, indicating that this is the unanimous decision of
6 the jury, meaning, all 12 of you must agree. Once you
7 have a unanimous decision, you will sign it, date it,
8 and knock on the jury room door, indicating to the
9 bailiff that you have reached a decision. At that time,
10 we will receive you back into the courtroom.

11 Ladies and gentlemen, this hopefully will be
12 the last time that I say this to you. Do not begin your
13 deliberations; do not discuss this case amongst
14 yourselves. We will be gathering the evidence to go
15 back to you, as well as the verdict form. At that time,
16 the bailiffs will alert you that you may begin your
17 deliberations.

18 Please rise for the jury.

19 (The jury is escorted from the courtroom
20 at 2:07 p.m.)

21 THE COURT: Thank you. Be seated.

22 Any objections, corrections, additions to the
23 charge? From the State?

24 MS. LINDER: None from the State, your Honor.

25 MR. SMILEY: No, ma'am.

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1 THE COURT: And 4 and 5 will go back. And no
2 objection to the verdict form?

3 Thank you.

4 All right. Anything before we are -- await the
5 verdict? From the State?

6 MS. LINDER: Nothing from the State, your
7 Honor.

8 THE COURT: Mr. Smiley, do you need to renew
9 any motions?

10 MR. SMILEY: I don't believe at this point.

11 THE COURT: All right.

12 MR. SMILEY: Once the verdict comes in, then
13 I --

14 THE COURT: All right. Just giving you an
15 opportunity to put anything you need to put on the
16 record.

17 MR. SMILEY: Yes, ma'am.

18 THE COURT: All right. I ask that you remain
19 until -- just in the courtroom, until they begin their
20 deliberations.

21 Thank you. We will be at ease.

22 (Court in recess from 2:08 p.m. until
23 2:34 p.m.; at which time, the proceedings continue as
24 follows:)

25 (The Defendant is present in the courtroom with

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1 his counsel.)

2 (The jury is escorted into the courtroom at
3 2:39 p.m.)

4 THE COURT: Thank you. Please be seated.

5 Madam Foreperson, I understand that you have
6 reached a verdict?

7 MADAM FOREPERSON: Yes, ma'am.

8 THE COURT: If you will hand the verdict form
9 to the bailiff.

10 (Document is handed to the Judge and then to
11 the Deputy Clerk of Court.)

12 THE COURT: Mr. Steplight, please rise.

13 VERDICT

14 THE DEPUTY CLERK OF COURT: In the Court of
15 General Sessions, Ninth Circuit Judicial Court, Case
16 Number 2011-GS-10-6501, State of South Carolina versus
17 Norris Steplight. We, the jury, find the Defendant
18 guilty of traffic in cocaine base. Signed, Foreperson,
19 Gail Yarborough.

20 Madam Forelady, ladies and gentlemen of the
21 jury, if this is your verdict, please raise your right
22 hand.

23 (Jury complies.)

24 THE DEPUTY CLERK OF COURT: Thank you.

25 THE COURT: Mr. Smiley, anything further

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1 required from the jury?

2 MR. SMILEY: I would ask that they be polled,
3 your Honor.

4 THE COURT: All right.

5 THE DEPUTY CLERK OF COURT: Ladies and
6 gentlemen, I'm going to ask you two questions. Please
7 respond to both of them.

8 THE COURT: Please use juror numbers,
9 Ms. Whitney.

10 THE DEPUTY CLERK OF COURT: Yes, ma'am.

11 Starting with the foreperson, Juror 374, is
12 this your verdict?

13 MADAM FOREPERSON: Yes, it is.

14 THE DEPUTY CLERK OF COURT: Is this still your
15 verdict?

16 MADAM FOREPERSON: Yes, it is.

17 THE DEPUTY CLERK OF COURT: Juror Number 126 --

18 THE JUROR: Yes, it is.

19 THE DEPUTY CLERK OF COURT: -- is this your
20 verdict?

21 THE JUROR: Yes.

22 THE DEPUTY CLERK OF COURT: Is this still your
23 verdict?

24 THE JUROR: Yes.

25 THE DEPUTY CLERK OF COURT: Juror Number 254 --

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1 THE JUROR: All right.
2 THE DEPUTY CLERK OF COURT: -- is this your
3 verdict?
4 THE JUROR: Yes.
5 THE COURT: Is this still your verdict? Is it
6 still your verdict?
7 THE JUROR: Is it still my verdict?
8 THE DEPUTY CLERK OF COURT: Yes, sir.
9 THE JUROR: I guess so, yes.
10 THE DEPUTY CLERK OF COURT: Jury Number 56, is
11 this your verdict?
12 THE JUROR: Yes.
13 THE DEPUTY CLERK OF COURT: Is it still your
14 verdict?
15 THE JUROR: Yes.
16 THE DEPUTY CLERK OF COURT: Juror Number 100,
17 is this your verdict?
18 THE JUROR: Yes.
19 THE DEPUTY CLERK OF COURT: And is it still
20 your verdict?
21 THE JUROR: Yes, ma'am.
22 THE DEPUTY CLERK OF COURT: Juror Number 4, is
23 this your verdict?
24 THE JUROR: Yes.
25 THE DEPUTY CLERK OF COURT: Is this still your

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1 verdict?
2 THE JUROR: Yes.
3 THE DEPUTY CLERK OF COURT: Juror Number 358,
4 is this your verdict?
5 THE JUROR: Yes.
6 THE DEPUTY CLERK OF COURT: Is this still your
7 verdict?
8 THE JUROR: Yes.
9 THE DEPUTY CLERK OF COURT: Juror Number 282,
10 is this your verdict?
11 THE JUROR: Yes.
12 THE DEPUTY CLERK OF COURT: Is this still your
13 verdict?
14 THE JUROR: Yes.
15 THE DEPUTY CLERK OF COURT: Juror Number 130,
16 is this your verdict?
17 THE JUROR: Yes.
18 THE DEPUTY CLERK OF COURT: Is this still your
19 verdict?
20 THE JUROR: Yes.
21 THE DEPUTY CLERK OF COURT: Juror Number 233,
22 is this your verdict?
23 THE JUROR: Yes.
24 THE DEPUTY CLERK OF COURT: Is it still your
25 verdict?

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1 THE JUROR: Yes.

2 THE DEPUTY CLERK OF COURT: Juror Number 373,
3 is this your verdict?

4 THE JUROR: Yes.

5 THE DEPUTY CLERK OF COURT: Is this still your
6 verdict?

7 THE JUROR: Yes.

8 THE DEPUTY CLERK OF COURT: Juror Number 236,
9 is this your verdict?

10 THE JUROR: Yes.

11 THE DEPUTY CLERK OF COURT: Is this still your
12 verdict?

13 THE JUROR: Yes.

14 THE DEPUTY CLERK OF COURT: Thank you. Your
15 Honor, the jury has been polled.

16 THE COURT: Thank you.

17 Anything further, Mr. Smiley?

18 MR. SMILEY: Not from the jury, your Honor.

19 THE COURT: All right. Anything further from
20 the State?

21 MS. LINDER: Nothing further.

22 THE COURT: Prepared to go forward with
23 sentencing at this time?

24 MS. LINDER: Yes, your Honor.

25 THE COURT: Mr. Smiley, are we prepared to go

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1 forward with the sentencing?

2 MR. SMILEY: At some point, to renew my
3 objection --

4 Yes, at this point we can go forward with the
5 sentencing.

6 THE COURT: All right.

7 MR. SMILEY: If you would like, I can go ahead
8 and make my motion if you want me to.

9 THE COURT: You can make your motion --
10 reserving all motions and matters to impose sentence,
11 and then you can articulate everything on the record.

12 MR. SMILEY: Thank you.

13 SENTENCING

14 MS. LINDER: May I approach?

15 THE COURT: You may.

16 (Document is handed to the Judge.)

17 THE COURT: All right. Ms. Linder, I've
18 heard all the facts. Does Mr. Steplight have prior
19 convictions?

20 MS. LINDER: 2001, two counts of possession of
21 cocaine base, failure to stop for a blue light; 2006,
22 unlawful carrying of a pistol; 2009, possession of
23 cocaine, possession of cocaine base; 2011, receiving
24 stolen goods.

25 THE COURT: Okay. And the -- what's the

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1 penalty range?

2 MS. LINDER: The penalty range is 25 years.

3 THE COURT: All right. That's a mandatory?

4 MS. LINDER: Yes, your Honor.

5 THE COURT: All right. Anything further on
6 behalf of the State?

7 MS. LINDER: Nothing further, your Honor.

8 THE COURT: All right. Mr. Smiley?

9 MR. SMILEY: Your Honor, since there is but one
10 penalty for this crime, there's no reason to offer
11 mitigation at this point, so -- I mean, there's only one
12 thing you can do.

13 THE COURT: Okay.

14 MR. SMILEY: Only thing I will tell you is
15 that he's 30 years old. He's got all of his family here
16 in the courtroom. And -- and we understand that you are
17 bound by the law and that -- and, more importantly, I
18 guess, is we will renew our objections and follow
19 through with the procedure after this. But we
20 understand what you have to do, your Honor.

21 THE COURT: All right.

22 Mr. Steplight, please rise. Mr. Steplight, is
23 there anything that you wish to tell the Court? I
24 understand that your attorney has probably told you not
25 to speak to me due to -- for appellate concerns. Is

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1 there anything that you wish to say to the Court?

2 THE DEFENDANT: I just feel like I made a
3 mistake. And that mistake, you know, the roads were
4 rocky. It goes like this: I didn't get my suppression.
5 I didn't get to pick my jury. I don't even know half of
6 those people in this room. I don't even know who those
7 people was. My suppression was hold without me. I -- I
8 ain't even get to hear my whole suppression. I feel
9 like -- as an example, I had fired my attorney, and you
10 still give me him. And with that being said, I feel as
11 if I get -- I get railroaded -- I get treated unjustly
12 in this courtroom today. But I understand we have all
13 got to go through and how you got to do your job. But
14 understand that I got kids too. And with that, the
15 questions that I would need to ask, for the jury, to
16 hear my side, I didn't -- I didn't get that. And on top
17 of that, I got sodomized. But I can understand, and
18 pray for everybody, and everybody to do the same.

19 THE COURT: All right. Mr. Steplight, you
20 understand that there is -- that the sentence for this,
21 based upon your prior convictions, is 25 years?

22 THE DEFENDANT: Yes, ma'am, I understand.

23 THE COURT: You understand that you have the
24 right to appeal the jury's decision and the sentence
25 that I'm about to impose, but you or your attorney must

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1 do so within ten days?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you understand that, sir?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Anything further, Mr. Smiley?

6 MR. SMILEY: No, ma'am.

7 THE COURT: Mr. Steplight, it's the Order of
8 the Court on Indictment 2011-GS-10-6501 that you be
9 committed to the State Department of Corrections for a
10 term of 25 years. Give you credit for the time that you
11 have served. Good luck to you, sir.

12 MR. SMILEY: You want to leave him present for
13 post-trial motions?

14 THE COURT: Thank you.

15 MS. LINDER: Your Honor, I also want to state
16 for the record, as a result of this verdict, the State
17 will be *not* *prossing* two other pending general sessions
18 charges that stem from a separate arrest against
19 Mr. Steplight.

20 THE COURT: All right. And that's your
21 understanding?

22 MR. SMILEY: Yes, ma'am.

23 THE COURT: Anything further? I'm going to go
24 release the jury for the day. Anything further?

25 MS. LINDER: Nothing from the State, your

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1 Honor.

2 MR. SMILEY: No, your Honor. Just my legal
3 arguments.

4 THE COURT: Just a few minutes after I release
5 the jury, and then we'll proceed with our other matters
6 as well.

7 Ladies and gentlemen, this concludes your
8 service to this case. If you would please be escorted
9 back to your jury room, I will be there in just a few
10 moments to release you. Thank you.

11 Please rise for the jury.

12 (The jury is escorted from the courtroom at
13 2:47 p.m.)

14 THE COURT: All right. Ms. Linder?
15 Mr. Smiley?

16 (Side-bar.)

17 THE COURT: Ms. Linder, based upon my review of
18 the statute and conference we had at the bench, is it
19 your understanding that this carries 25 to 30?

20 MS. LINDER: Yes, your Honor. I apologize for
21 my mistake earlier. It does carry 25 to 30 years,
22 classified as serious and violent.

23 THE COURT: All right. Mr. Steplight, I need
24 you to stand, and I need you to understand that I can
25 impose 25 to 30 years. Do you understand that?

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1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And because it's just a glitch in
3 the paperwork, and -- and a fine of \$50,000. Do you
4 understand that I can now impose upon you a 30-year
5 sentence?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Knowing that, do you have any -- do
8 you need to speak --

9 Anything further, Mr. Smiley?

10 MR. SMILEY: No, ma'am. I just ask you to
11 please -- 25 years is a very long time.

12 THE COURT: And, Mr. Smiley, you did indicate
13 to your client that this is a violent and most -- and a
14 serious offense and what that means to him as far as his
15 future and the time he would serve?

16 MR. SMILEY: Yes, we spoke about it before. I
17 don't know that I spoke about it today, your Honor. We
18 had been hopeful that we would have another result. But
19 he understood the perils when he went to trial.

20 THE COURT: All right. Thank you.

21 All right. Mr. Smiley, I'll be happy
22 to --

23 Mr. Steplight, you may have a seat.

24 Mr. Smiley, I'll be happy to allow you to make
25 post-trial motions.

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1 MR. SMILEY: Yes, ma'am. At this point in
2 time, I request a new trial. And I request a new trial
3 based on the motion that I made for the suppression of
4 the evidence; and that being, that the illegal arrest
5 was a product -- a violation of my client's Fourth
6 Amendment Rights and of the United States Constitution,
7 and under the Rights provided to him under the South
8 Carolina Constitution. I have articulated the facts
9 that I believe created an illegal arrest, and so I won't
10 do so again. But for the purposes of the record, I
11 again have to renew my motion to have the evidence
12 suppressed. And at this point, the alternative is to
13 request a new trial, your Honor.

14 THE COURT: All right. Any other post-trial
15 motions?

16 MR. SMILEY: No, ma'am.

17 THE COURT: Based upon the testimony that I
18 have heard, your motions, and all of my previous
19 rulings, I'm denying your motion for a new trial.

20 Anything further, Mr. Smiley?

21 MR. SMILEY: No, ma'am.

22 THE COURT: Anything further?

23 MS. LINDER: No, ma'am.

24 THE COURT: All right. And just so the record
25 is clear, the sentence of 25 years active time to the

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1 Department of Corrections is still in effect.

2 MR. SMILEY: Thank you.

3 THE COURT: Thank you.

4 Good luck to you, Mr. Steplight.

5 (Defendant is escorted from the courtroom at
6 2:51 p.m.)

7 THE COURT: Mr. Smiley, Ms. Linder, anything
8 further regarding this matter?

9 MS. LINDER: Nothing further.

10 MR. SMILEY: No, ma'am.

11 THE COURT: Thank you.

12 Thank you, Ms. Linder and Mr. Stoney.

13 And I'll have the Foreperson sign the verdict
14 form.

15 MS. LINDER: Thank you, your Honor.

16 WHICH WAS ALL THE EVIDENCE ADDUCED AT THIS
17 CAUSE.

18 (The jury trial of this cause concluded
19 at 2:52 p.m., on February 5, 2013.)

20

21

22

23

24

25

REPORTER'S CERTIFICATE

STATE OF SOUTH CAROLINA)
) ss.
COUNTY OF BERKELEY)

I, **ROLAYNE M. VOLPE**, Certified Court Reporter, CCR, and Registered Professional Reporter, RPR, do hereby certify that the transcript of the foregoing proceedings, **Volume II of II**, accurately reflects the events that occurred before me to the best of my ability at the time and place set out on the caption hereto, the witnesses having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken or to any attorney or counsel employed by the parties hereto, nor financially interested, directly or indirectly, in the outcome of this action.

CERTIFIED AND SIGNED on this 16th day of June, 2013.

COPY

ROLYNE M. VOLPE, JCR RPR
 Certified PUBLIC Reporter and
 Registered Professional Reporter
 Commission Expires 8/30/2021

Reported By:
 Rolayne M. Volpe, CCR, RPR
 Official Court Reporter for the State of South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
Norris T Steplight

AKA:

Race: BLACK Sex: M Age: 29DOB: 1983 SS#: Address: 709 W Sherwood DrCity, State, Zip: Charleston, SC 29407-6626DL#: SID#: SC01283223*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Trafficking in Cocaine Base/Meth, 10 to 28 grams, 3rd offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS1006501A/W#: M611575Date of Offense: 5/27/2011S.C. Code §: 44-53-0375(C)(1)(c)CDR Code #: 0452

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0452
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Arrested by: Stephanie B. Under SC Bar# 72656 Defendant
 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ 500.00; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
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Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	8.40
TOTAL		\$	288.40

Clerk of Court/ Deputy Clerk Whitney HooperCourt Reporter: Rosayne Joice

SCCA/217 (03/2011)

PTUP

 days/hours Public Service EmploymentObtain 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 \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge Keith HarnishJudge Code: 215Sentence Date: 2/5/13

SLB20110503340

WITNESSES

Officer Engles

Charleston City Police Department

AGENCY CASE NUMBER

1108747

ARREST WARRANT NUMBER

M611575

DATE OF ARREST

May 28, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: OCT 03 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1006501

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2011

THE STATE

vs.

NORRIS T STEPLIGHT

DOB: 1983-
B/M

Indictment for

Trafficking in Cocaine Base

FILED

10/19/2011 10:30:53 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

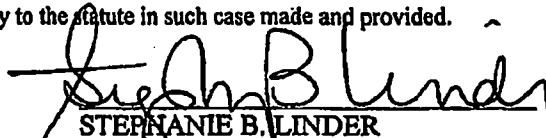
INDICTMENT

At a Court of General Sessions, convened on October 3, 2011 the Grand Jurors of Charleston County present upon their oath:

Trafficking in Cocaine Base

That in Charleston County, South Carolina, on or about May 27, 2011, the Defendant, NORRIS T STEPLIGHT, knowingly did sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in excess of 10 grams; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

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


STEPHANIE B. LINDER
ASSISTANT SOLICITOR

ORIGINAL

Form Approved by
U.S. Attorney General
April 21, 2003
SCCA 118

ARREST WARRANT

M-611575

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE
against

Norris T Steplight

Address: 709 W Sherwood Dr

Charleston, SC 29407-6626

Phone: (843)557-5391

SSN:

Sex: M Race: B Height: 5 6 Weight: 260

DL State: SC DL #:

DOB: 983

Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Officer Engles - 0663

Offense: Drugs / Trafficking in crack, 10 g or more, but less than 28 g - 1st offense

Offense Code: 0278

Code/Ordinance Sec: 44-53-0375(a)(6)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Court/Clerk/Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant

Officer Engles

being duly sworn deposes and says that defendant Norris T Steplight

did within this county and state on or about 5/27/2011

State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Charleston

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in crack, 10 g or more, but less than 28 g - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone (843)577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/27/2011

defendant Norris T Steplight

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Charleston

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in crack, 10 g or more, but less than 28 g - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 5/28/2011Signature of Issuing Judge
Priscilla Bridges Baldwin
Judge Code: 5749

(L.S.)

Judge's Address 3870 Leeds Avenue, Suite 106
North Charleston, SC 29405-7469

Judge's Telephone (843)746-9822

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

268

BAIL set by

Judge Baldwin
on 5-28-11
Type and Amount: 5900
Name of Surety: (circled)

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Defendant: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not plea, etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____
Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



FILED
2011 MAY 31 PM 3:11
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, SPO David Vargo, who first being duly sworn deposed and says that, Norris Tyrone Steplight, did within this county and state on the May 27, 2011 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Trafficking Cocaine Base
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

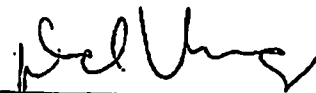
On the 27th of May, 2011 at approximately 2000 hours, while at the intersection of Calhoun Street and Jonathan Lucas Street, which is located in the City and County of Charleston, SC the defendant, Norris Tyrone Steplight, did knowingly, willingly, and unlawfully violate State Statute 44-53-375 (Trafficking Cocaine Base) to wit:

Officers conducted a lawful traffic stop on a Dodge Ram 1500 pickup truck (SC tag: GXB632) being driven by the defendant for failing to come to a complete stop at the steady red traffic control light at the intersection of Rutledge Avenue and Calhoun Street. The defendant additionally made an improper right turn onto Calhoun Street into lane 1, bypassing lane 2, the most immediate lane. The defendant was found to not be in compliance with his SC Route Restricted Driver's License and was arrested for Driving Under Suspension 1st. The defendant was transported to the Charleston County Detention Center. During the intake process at CCDC, the defendant was found to be in possession of two clear plastic baggies, one containing approximately 7 grams of a white rock-like substance and the other baggie containing approximately 5 grams of a white rock-like substance. Officer Engles recovered and field tested the white rock-like substance presumptive for Cocaine Base (approximate weight of 12 grams). The defendant was charged with Trafficking Cocaine Base.

The above facts are true and believable based on the observations and investigations of SPO J. Harrison, PTO A. Deming and PTO S. Engles of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 28 DAY OF May, 2011



AFFIANT

180 Lockwood Blvd.
Charleston, SC 29403
843-577-7434


SIGNATURE OF JUDGE

(L.S.)

COMPLAINT # 1108747

WARRANT #

CPD Form OT3

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

v.

NORRIS TYRONE STEPLIGHT,

Defendant.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2011-GS-10-6501

VERDICT FORM

VERDICT

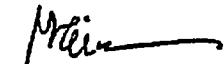
1. We the Jury find the Defendant NOT GUILTY. ____

NC

OR

2. We the Jury find the Defendant GUILTY of Trafficking in Cocaine Base X

I certify that this decision is the unanimous decision of the Jury.



Gail M. Yarborough, Foreperson

February 2, 2013

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 05/05/15
OMCOMITA RELEASE DATE SCREEN C056368
SCDC# > 279329 LOC: LEE
STEPLIGHT, NORRIS - SCDC CLASSIFICATION...: VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:
CURRENT SENTENCE: 025-00-000 CONSECUTIVE SENTENCE ...: N
025-00-000 CURRENT SENT START DATE: 02/03/2013
PROJECTED COMPLETION DATES
MAXOUT DATE: 01/28/2038 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000193 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ..: 000812 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Tuesday, May 5, 2015

Classification Summary Reports

Inmate Number

279329

Submit

SCDC ID

00279329

Y 00279329

Name

STEPLIGHT, NORRIS

STEPLIGHT, NORRIS

Sex/Race

M B

M B

Status

INCARCERATED

TERMINATED YOA PAROLE

Classification Summary Report for STEPLIGHT, NORRIS :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 05/05/2015

SCDC# 00279329

STEPLIGHT, NORRIS

FBI# 984494LB4

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: LEE

SECURITY/CUST: 3 MINIMUM IN

CURR INCARC 25 YRS 0 MOS 0
SENT: DAYS

VICTIM
WITNESS: SEPREQ:N

MED
CLASS: ~~RESTRICTED~~

INST
RESTRICT: NO RESTRICTION

MENTAL
CLASS: ~~RESTRICTED~~

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 31



RESIDENT
STABILITY:

NA

DORMROOMBUNK_CODE: DAR 2250 T

PROJ MAXOUT
DATE: 01/28/2038

PROJ PAROLE DATE: -

EWC JOB: GENERAL WORKER

ASSIGNMENT: DARLINGTON UNIT

EWC
LEVEL: 3F5 EEC LEVEL:

EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

Y00279329

SENTENCE

SENTENCE

CURRENT OFFENSES	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT
TRAFFICKING IN CRACK COC	25	0	0	CHARLESTON	02/03/2013	V	4	11GS1006501

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

		SENTENCE					SENTENCE			
PREVIOUS OFFENSES	PREVSCDCID	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT	
CRACK POSSESS	Y00279329	4	0	0	CHARLESTON	10/24/2001	N	2	01GS103503	
CRACK POSSESS	Y00279329	4	0	0	CHARLESTON	10/24/2001	N	2	00GS103778	
FAIL TO STOP FOR OFFICER	Y00279329	0	0	14	CHARLESTON	10/10/2001	N	2	01GS106642	

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

10/02/2014	POSSESSION OF CONTRABAND	CONVICTED	MAJOR DISC. HEARING
10/02/2014	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
08/12/2014	POSSESSION OF CONTRABAND	CONVICTED	MAJOR DISC. HEARING
08/12/2014	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
02/23/2014	EXHIBITIONISM AND PUBLIC MASTURBATION	CONVICTED	MAJOR DISC. HEARING
09/11/2013	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
07/12/2002	REFUSING TO WORK	CLOSED	OTHER ACTION TAKEN/INFORM

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

04/30/2015	LEE	INCARCERATED	ADMINISTRATIVE
04/29/2015	KIRKLAND	INCARCERATED	MEDICAL
06/06/2013	LEE	INCARCERATED	ADMINISTRATIVE
02/06/2013	KIRKLAND	INCARCERATED	R&E PROCESSING
02/06/2013	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
GENERAL WORKER	03/05/2015	-		3F5
FOOD SERVICE AIDE	10/31/2013	08/12/2014	PLACED IN ST/SP CUSTODY	3F5
WASH RACK ATTENDANT	07/11/2013	10/30/2013	LATERAL TRANSFER	3F5
LANDSCAPE LABORER	03/19/2013	05/24/2013	PLACED IN ST/SP CUSTODY	3F5

FARM WORKER 01/04/2002 03/20/2002 PLACED IN ST/SP CUSTODY 2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 2 - FULL TIME(NO EWC)	04/26/2002	11/27/2002	RELEASED/PAROLED
LVL 2 - FULL TIME(NO EWC)	04/22/2002	04/25/2002	MI ELIGIBLE FOR LEVEL 2

***** END OF REPORT *****

Create PDF

Source : SummaryReport.jsp

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[Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 09:51:32 AM]

COUNTY OF Charleston
 STATE VS.
Norris T Steplight

AKA:

Race: BLACK Sex: M Age: 29DOB: 1983 SS#: Address: 709 W Sherwood DrCity, State, Zip: Charleston, SC 29407-6626DL#: SID#: SC01283223*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Trafficking in Cocaine Base/Meth, 10 to 28 grams, 3rd offense

INDICTMENT/CASE#: 2011GS1006501A/W#: M611575Date of Offense: 5/27/2011S.C. Code § : 44-53-0375(C)(1)(c)CDR Code #: 0452

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0452

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
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 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

OFFENSE:

Stephanie B.72656
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
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pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47:12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Korayne

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 215Sentence Date: 2/5/13

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Kristi L. Harrington, Circuit Court Judge

Appellate Case No.: 2013-000332

The State,

Respondent,

v.

Norris T. Steplight,

Appellant.

RECORD ON APPEAL

Jerry N. Theos (Bar No.: 5518)
Barry Krell (Bar No.: 3573)
Jeff Buncher, Jr. (Bar No.: 78890)
Post Office Box 399
Charleston, South Carolina 29402
(843) 723-7491
Attorneys for Appellant

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SLB20110503340

WITNESSES

Officer Engles

Charleston City Police Department

AGENCY CASE NUMBER

1108747

ARREST WARRANT NUMBER

M611575

DATE OF ARREST

May 28, 2011

ACTION OF GRAND JURY

TRUE BILLForeperson of Grand Jury
Date:

OCT 03 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1006501

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2011

THE STATE

vs.

NORRIS T STEPLIGHT

DOB: 1983-06-13

B/M

Indictment for

Trafficking in Cocaine Base

FILED

10/19/2011 10:30:53 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

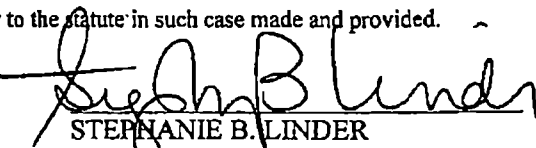
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At a Court of General Sessions, convened on October 3, 2011 the Grand Jurors of Charleston County present upon their oath:

Trafficking in Cocaine Base

That in Charleston County, South Carolina, on or about May 27, 2011, the Defendant, NORRIS T STEPLIGHT, knowingly did sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in excess of 10 grams; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

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


STEPHANIE B. LINDER
ASSISTANT SOLICITOR

OCT-02-2013 08:44 From: CLERK OF COURT

843 958 5020

To: 8037344113

P. 1/2

M611575

71706FQ

CRIMINAL CHARGING DOCUMENT NO

BAIL PROCEEDING
FORM II

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

v.

COURT OF GENERAL SESSIONS

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

NORRIS STEPLIGHT
NAME OF DEFENDANTOffense Charged TRAFFICKING COCAINE, DUS 1ST

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
- ☐ The release of the defendant on recognizance will result in an unreasonable danger to the community

This determination was based upon the following findings of fact

(Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State

APPEARANCE RECOGNIZANCE WITH SURETY

- ☐ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$30,562.00.

3. That the defendant shall appear at (check one).

- ☒ the term of COURT OF GENERAL SESSIONS beginning on Friday, July 29, 2011
at 2:00 o'clock, P.M. at CHARLESTON COUNTY JUDICIAL CENTER, 100 BROAD STREET, CHARLESTON
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
- ☒ the session of MUNICIPAL COURT OF CHARLESTON beginning on Thursday, June 23, 2011
at 9:30 o'clock, A.M., at 180 Lockwood Blvd. Charleston
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT

N.S.

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order

[Signature]
SIGNATURE OF JUDGE: BaldwinMay 28, 2011
DATE

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.
SCCA/511 (Revised 9/2006) Original Copy For The Trial Court - Copy For The Defendant

OCT-02-2013 08:44 From:CLERK OF COURT

843 958 5020

To:8037344113

P.2/2

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ADDRESS _____
CITY/STATE/ZIP _____ TELEPHONE _____
SOCIAL SECURITY NUMBER _____ DRIVER'S LICENSE OR ID NUMBER _____
SIGNATURE OF DEFENDANT Norris Steplight
DATE May 28, 2011
ATTORNEY REPRESENTING ACCUSED (IF KNOWN) _____

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of: _____

NAME OF PERSON OR ORGANIZATION

ADDRESS _____ CITY/STATE _____ ZIP _____ TELEPHONE _____
who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED) _____

DATE _____

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions.

c. ☐ Part-time Release. The defendant will be released from custody from: _____ o'clock, _____ AM/PM to _____ o'clock, _____ AM/PM
on _____ DATE(S) on condition that he return to the custody of _____

at _____ LOCATION _____ NAME OF PERSON OR ORGANIZATION _____
us designated.

d. ☒ Other Conditions. The defendant will comply with the following other conditions of release. You are required to appear for your 2nd Court Appearance on Friday, October 21, 2011 at 9:00 A.M. at the Court of General Sessions located at 100 Broad Street, Charleston.

APPEARANCE RECOGNIZANCE WITH SURETY

On the _____ day of _____, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of _____, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

NAME OF SURETY BONDSMAN _____ TELEPHONE _____ SIGNATURE OF SURETY BONDSMAN _____
ADDRESS OF SURETY BONDSMAN _____
CITY/STATE/ZIP _____
NAME OF INSURANCE COMPANY _____
ADDRESS OF INSURANCE COMPANY _____
CITY/STATE/ZIP _____
SIGNATURE OF JUDGE Baldwin
DATE May 28, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

v.)

NORRIS TYRONE STEPLIGHT,)

Defendant.)
_____)IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2011-GS-10-6501**VERDICT FORM****VERDICT**

1. We the Jury find the Defendant NOT GUILTY. _____

EC

OR

2. We the Jury find the Defendant GUILTY of Trafficking in Cocaine Base X

I certify that this decision is the unanimous decision of the Jury.

Mein
Gail M. Yarborough, Foreperson
February 2, 2013ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK P.P. G.S. & F.C.
By *Paul Clay*
DEPUTY CLERK

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
Norris T Steplight

AKA:

Race: BLACK Sex: M Age: 29

DOB: 1983 SS#: [REDACTED]

Address: 709 W Sherwood Dr

City, State, Zip: Charleston, SC 29407-6626

DL#: [REDACTED] SID#: SC01283223

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Trafficking in Cocaine Base/Meth, 10 to 28 grams, 3rd offense

in violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0452
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS

☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence.

☐ Recommendation by the State. (defendant's initials)

ATTEST:

Stephanie B. Linder
Linder, Stephanie B.

72656
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 25 days/months/years or

and/or to pay a fine of \$ 500.00 provided that upon the service of

of S 500.00; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 ☐ Ordered

Total: \$ 500.00 plus 20% fee: \$ 100.00

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 8.40
TOTAL		\$ 288.40

6

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS1006501

A/W#: M611575

Date of Offense: 5/27/2011

S.C. Code § : 44-53-0375(C)(1)(c)

CDR Code #: 0452

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

 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 \$ beginning

\$ paid to Public Defender Fund

Other:

ATTEST: A TRUE COPY

JULIE I. ARMSTRONG (SEAL)

CLERK, C.S. & F.C.

By
DEPUTY CLERK

☐ Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

2/5/13

Jury Trial, State v Steplight
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1 The above-styled cause came on for hearing on
2 the 4th day of February, 2013, at 12:00 p.m., before
3 Judge Kristi Lea Harrington, Resident Judge, presiding
4 over the General Sessions for the County of Charleston,
5 when the following proceedings were had and entered of
6 record, to wit:

7 PROCEEDINGS

8 THE COURT: Just for -- Mr. Wetmore, just for
9 scheduling, you can approach.

10 (A discussion is held off the record with
11 Mr. Wetmore.)

12 THE COURT: Can you pick a jury now?

13 MS. LINDER: Yes, Judge.

14 MR. SMILEY: I'm looking for my client, your
15 Honor. My client has always been available. He -- his
16 phone number wasn't working last week. I've left
17 messages. The bondsman is out to find him now.

18 THE COURT: All right. How long will this case
19 take to try?

20 MS. LINDER: I would think that it would take
21 about one to two hours for pretrial motions, and then I
22 don't see the case taking -- the -- my case in chief
23 wouldn't take more than, I don't think, about a half a
24 day or three-quarters of the day.

25 THE COURT: All right. Mr. Smiley?

Jury Trial, State v Steplight
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1 MR. SMILEY: I think it's a little longer than
2 that, but it's not a terribly long case. A day and a
3 half, two days.

4 THE COURT: All right. So we could pick a jury
5 now and then start our pre-trial motions in the morning?

6 MR. SMILEY: I'll have to pick without a
7 client.

8 MS. LINDER: Your Honor --

9 THE COURT: He's been on my docket several
10 times, so I know that he's had --

11 MR. SMILEY: He's been here every time.
12 That's why I'm telling you, Judge, he's -- he changed
13 -- changed his phone number, I've left messages
14 everywhere I could. We got a text saying, You just got
15 moved up; you might be going first thing. I called the
16 bondsman at 8:30 this morning, who said, I'll go get
17 him. That's where I was.

18 THE COURT: All right.

19 MS. LINDER: Your Honor, I was just going to
20 say that -- I lost my train of thought. I'm fine to go
21 ahead and pick a jury. I would just ask, in an
22 abundance of caution, if the murder case does take too
23 long, that we don't swear the jury.

24 THE COURT: I'm not going to swear the jury.
25 Where are we with the jurors?

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1 THE DEPUTY CLERK OF COURT: I can bring them
2 now.

3 THE COURT: Are you ready to pick?

4 MR. SMILEY: I've got to just go grab my file.
5 I don't have a client, but I -- yes, ma'am.

6 THE COURT: What time was he told to be here?

7 MS. LINDER: The letters all just have them
8 coming on Monday morning, and everything says nine
9 o'clock tomorrow.

10 MR. SMILEY: And he's gotten a dozen letters
11 over the last year and a half, I'm sure.

12 THE COURT: Okay.

13 MR. SMILEY: And, like I said, I've never had a
14 problem with him not showing. He's showed up every
15 time. The only reason he's not here, is the number that
16 he -- he's changed phones three or four times. The last
17 number I had, I called. It was disconnected. I called
18 every other number, left messages. Then this morning, I
19 contacted the bondsman --

20 THE COURT: Okay. Go get your file. Is there
21 a reason I shouldn't issue a bench warrant to assist in
22 picking him up?

23 MR. SMILEY: No, ma'am, I don't -- I think he
24 will be here. I'm just -- I don't think it will speed
25 up the process. I don't think he's intentionally

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1 avoiding court. He's been anxious to have the case
2 tried.

3 THE COURT: All right.

4 MR. SMILEY: I'll go get my file, your Honor.
5 Thank you.

6 (Other matters/cases discussed off the record.)

7 THE COURT: All right. So you go get your
8 file.

9 MR. SMILEY: Yes, ma'am.

10 THE COURT: You want to get a bench warrant
11 prepared?

12 MS. LINDER: Yes. I will do that.

13 THE COURT: And your witnesses are ready to
14 testify?

15 MS. LINDER: I can have my investigator call
16 them and they can -- they're all police officers for
17 pretrial, so they should all be able to be here probably
18 within an hour.

19 THE COURT: All right. Can we -- so
20 scheduling-wise, Mr. Wetmore, is that okay with your
21 schedule?

22 MR. WETMORE: That works fine, your Honor. We
23 had this prioritized as the Williams thing first, if
24 it's possible. If it's not, then Steplight would be the
25 next. My understanding is that Simmons has already been

10

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1 Ms. Linder off the record.)

2 (Other matters/cases discussed off the
3 record.)

4 (Back on the record with the Steplight case
5 at 12:31 p.m.)

6 THE COURT: All right. We're going to go ahead
7 and break for lunch. Be back at 1:30. I'll be in
8 chambers if anything transpires between the AT&T issue.
9 Let me know. I'll be here in chambers, but we're going
10 to start Mr. Steplight's motion at 1:30.

11 (The Judge resumes the bench at 1:30 p.m.)

12 (The Defendant is not present.)

13 THE COURT: So I'd like to go ahead and get
14 started before the jury gets --

15 MS. LINDER: Yes.

16 THE COURT: Your witnesses are here for the
17 pretrial?

18 MS. LINDER: Yes, I'll grab them.

19 THE COURT: I note your vehement objection to
20 continuing without your client's presence.

21 MR. SMILEY: Thank you, Judge.

22 THE COURT: Go ahead with your first witness.

23 MR. SMILEY: Your Honor, this is a Motion
24 to Suppress the evidence; simply being, the crack
25 cocaine that was found once he was taken to the jail.

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1 Because -- Ms. Linder understands I'm challenging it
2 both on being initially an illegal stop, and then,
3 subsequently, being an illegal arrest. Once they're
4 past the arrest, the search at the jail is -- I'm not
5 complaining about.

6 THE COURT: All right.

7 MR. SMILEY: It's those two things. And,
8 again, thank you for noting the record. I surely wish
9 he was here, so he could hear this part because this is
10 what he has complained about the whole time. And just
11 for the record, he has shown up -- and Ms. Linder -- he
12 has shown up at least a half dozen times. This has been
13 on the docket for an excess of a year. One time --

14 THE COURT: I remember we were going to try to
15 try it in December, weren't we?

16 MS. LINDER: I believe it was December.

17 MR. SMILEY: It's been called several -- it's
18 been close to being called several -- it was actually
19 called once, when I got Rocky Mountain Spotted Fever on
20 Memorial Day, in front of Judge Nicholson, and we
21 weren't able to go forward. So it's had stops and
22 starts. And my client -- that's why I said, he's not
23 intentionally missing court. I feel like I've -- I've
24 done something wrong because he's not here, because I
25 know he wants to be present. I understand this Court's

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1 position too. He has a letter and all. But I've
2 usually never had a problem reaching him.

3 THE COURT: Well, where's the bonds person?

4 MR. SMILEY: I've spoke to his -- it's Holiday
5 Bonding -- Thomas Holiday Bonding, has him out on bond.
6 I left a message at every number I had last week. And I
7 had several numbers for Norris. He's changed phones
8 several times. I never got him, but left messages
9 everywhere. I thought we were going to -- I thought we
10 were going to be second this week, your Honor. And
11 my -- never assume anything. -- is I contacted, when I
12 did not hear back from him, the bondsman, at 8:30 this
13 morning, and told them that I needed to get him here as
14 soon as possible. She contacted all the numbers she
15 had, and -- and sent someone, my understanding, to his
16 mother's house to find out where he is now.

17 THE COURT: Okay.

18 MR. SMILEY: As of one o'clock when I spoke to
19 the bondsman last, she still had not located him, but
20 that's where we are.

21 THE COURT: All right. All right.

22 MS. LINDER: And, your Honor, I had E-mailed
23 your law clerk earlier, and copied Mr. Smiley, with a
24 copy of my *voir dire*, and potential witness list.

25 THE COURT: Okay.

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1 MS. LINDER: I have a copy if the Court needed
2 a copy.

3 THE COURT: Can we have a -- can you provide a
4 copy for my court reporter?

5 MS. LINDER: Yes. If I may approach the court
6 reporter?

7 THE COURT: You may.

8 MS. LINDER: And if I may pre-mark two exhibits
9 for identification purposes in this hearing?

10 (Other matters/cases discussed off the record.)

11 THE COURT: Ms. Linder, whenever you are ready.

12 MS. LINDER: Thank you, your Honor. The State
13 calls Investigator Sean Engles.

14 (The oath is administered by the Deputy Clerk
15 of Court, and the witness answers as follows:)

16 THE WITNESS: I do.

17 THE DEPUTY CLERK OF COURT: State your full
18 name and spell your last name.

19 THE WITNESS: My name is Sean Engles,
20 E-n-g-l-e-s.

21 SEAN ENGLES,
22 having been first duly sworn by the Deputy Clerk of
23 Court to tell the truth, the whole truth, and nothing
24 but the truth, was examined and testified upon his oath
25 as follows:

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1 Q And did you have the occasion to be working
2 back on May 27 of 2011?

3 A Yes, I did.

4 Q Did you have the occasion to become involved in
5 the investigation of this case, the State versus
6 Norris Steplight, in any way on that date?

7 A Yes, I did.

8 Q How were you brought into this case, and can
9 you please tell the Court what happened.

10 A Yes. I was on patrol. I was the passenger in
11 the patrol vehicle with Officer Harrison, who was
12 driving. We were in the area of Rutledge Avenue and
13 Calhoun Street.

14 Q Is that in Charleston County?

15 A It is.

16 Q Did anything occur while you were on patrol in
17 the area involving the Defendant in this case?

18 A Yes. The Defendant was the driver of the
19 vehicle that we had pulled over for a traffic violation.

20 Q And what traffic violation did you pull the
21 vehicle over for?

22 A We were directly behind the vehicle as it was
23 south on Rutledge approaching Calhoun Street, and I
24 observed the car not come to a complete stop as it made
25 a right turn onto Calhoun Street, and there was a solid

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1 red light, where he should have come to a complete stop.
2 Furthermore, when he turned, he turned into Lane 1,
3 which is not the most immediate lane, which is --
4 constitutes an un- -- or an improper turn.

5 Q So you stopped the vehicle for two different
6 traffic violations?

7 A Yes.

8 MS. LINDER: Your Honor, may I approach?

9 THE COURT: You may.

10 Q (By Ms. Linder) At this time, I show you
11 what's been marked as State's Exhibit 2 for
12 identification purposes. Do you recognize this?

13 A Yes.

14 Q And is it a fair and accurate representation?

15 A Yes, it is.

16 MS. LINDER: Judge, at this time, I would ask
17 for the limited purpose of this hearing for this exhibit
18 to be made a State's exhibit.

19 THE COURT: Any objection?

20 MR. SMILEY: I would agree that it is a map of
21 the downtown area and -- and -- for those purposes.

22 THE COURT: All right. Thank you.

23 (State's Exhibit Number 2 is admitted into
24 evidence.)

25 Q (By Ms. Linder) Can you please explain to us

17

Reported By:
Rolayne M. Volpe, CCR, RPR
Official Court Reporter for the State of South Carolina

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1 where the Defendant was and for what reasons the traffic
2 stop was initiated. I will hold this the best I can.

3 A We have Rutledge Avenue right here. And the
4 Defendant's vehicle was a white pickup truck and
5 traveling south. We were behind it, also traveling
6 south. And when the Defendant's vehicle, who had a
7 solid red light at the intersection here for southbound
8 traffic, the Defendant made a right-hand turn, which was
9 westbound, without coming to a complete stop at that red
10 light. It was -- it was in Lane 1, which, again, not
11 the most immediate lane. Ashley Avenue and Calhoun
12 Street is when we initiated the traffic stop with the
13 blue lights and siren. The vehicle continued down
14 Calhoun, made a right on Jonathan Lucas, and stopped in
15 the area of Sabin Street, which is an alley, right about
16 there.

17 Q And can you please explain -- what time of day
18 was this?

19 A This was about 8:00 p.m.

20 Q And what time of year was it, again?

21 A This was the month of May, summertime.

22 Q Okay. What were the -- what were the weather
23 conditions? Can you explain your ability to see that
24 day?

25 A At eight o'clock, even though it's at night,

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1 during that time of the year, it's still perfectly light
2 out. We had ample daylight. There's no need for
3 streetlighting or anything. The weather was clear.
4 Nothing to obstruct our view.

5 Q And who was driving that vehicle?

6 A Detective Harrison.

7 Q No. I apologize. The vehicle that was pulled
8 over for the traffic infractions?

9 A That was Norris Steplight.

10 Q Was anybody else in the vehicle with
11 Mr. Steplight?

12 A No. He was alone.

13 Q And what did you do, or what did you and
14 Officer Harrison do, when you observed the traffic
15 infractions?

16 A Soon after observing the infractions, we
17 initiated blue lights and sirens and attempted to
18 conduct a traffic stop on the vehicle.

19 Q Did you have a video in your car?

20 A No.

21 Q Is this typical?

22 A Yeah, it's typical. We don't have a -- there
23 are plenty of cars that don't have video in them.

24 Q Did the Defendant ultimately pull over for the
25 traffic stop?

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1 A Yes.

2 Q And what did you do after the car was stopped?

3 A After the car was stopped, Detective Harrison
4 approached the driver, while I approached the passenger
5 side of the car.

6 Q And is that style of approach, is that
7 customary, or is that something specific that you and
8 Officer Harrison do only?

9 A No, it's not a specific thing. It's a usual
10 technique.

11 Q Did you notice anything upon your approach of
12 the vehicle?

13 A Yes. And even while we were still in motion in
14 the patrol vehicle, attempting to stop Mr. Steplight, we
15 saw him leaning forward and making some movements in the
16 car that raised our suspicion that he was attempting to
17 conceal something.

18 Q Okay. And when the two of you approached the
19 vehicle, what happened at that point?

20 A Detective Harrison had interaction at the
21 driver's side. He determined to ask Mr. Steplight to
22 exit the car. We all came to the tailgate area.

23 Q Who is "we all"?

24 A I'm sorry. This was Mr. Steplight, myself, and
25 Detective Harrison.

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1 Q And at that point did you learn anything about
2 the Defendant's driving privileges?

3 A Yes. That he had a route-restricted driver's
4 license.

5 MS. LINDER: Your Honor, if I may approach?

6 THE COURT: You may.

7 (Document is handed to the witness.)

8 Q (By Ms. Linder) At this time, I'm going to
9 hand you what's been marked for identification purposes
10 for the hearing as State's Exhibit 1. Do you recognize
11 this?

12 A Yes, I do.

13 Q And how do you recognize it?

14 A This is a copy of the document that
15 Mr. Steplight provided us at the traffic stop. This is
16 a copy of his license application for a route-restricted
17 driver's license.

18 Q And what are the restrictions on
19 Mr. Steplight's route-restricted license? Where was he
20 allowed to drive? For what purpose was he allowed to
21 drive?

22 A For work-related purposes, and he has a route
23 listed out here, if you'd like me to read that.

24 Q I'm fine with that. Thank you.

25 From the restrictions listed on his license and

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1 other events, did you believe that he was in violation
2 of his route-restricted driver's license?

3 A Yes, I did.

4 Q And what happened next? After you determined
5 he was in violation?

6 A Officer Harrison asked to Mr. Steplight to
7 search the car. I remained with Mr. Steplight at the
8 tailgate area. I was watching Mr. Steplight and noticed
9 that he was nervous, that he was -- his hands were
10 shaking, he had rapid breath -- rapid breathing, and he
11 was very curious when Officer Harrison asked for consent
12 to search the car, which he -- which Officer Harrison
13 was granted consent. And he was watching
14 Mr. Harrison -- Officer Harrison very closely as he was
15 searching the car. So due to that -- due to that
16 behavior and curiosity, in addition to the other --
17 couple of other elements, I asked for a pat down of
18 Mr. Steplight and a search, which he also consented
19 to. And I did execute a pat down and a search of
20 Mr. Steplight.

21 Q Let's go back briefly to before the traffic
22 stop that you did based upon those two violations.
23 Please tell us what, if any, information you had on this
24 vehicle and Defendant prior to pulling it over?

25 A The -- the patrol vehicle we were in was

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1 initially Officer Harrison, myself, and Officer Deming.
2 We had intelligence through some complaints that there
3 was a specific house that was involved in narcotics
4 activity. We deployed Officer Deming on foot to surveil
5 the location. Officer Deming was in radio contact with
6 us, and he advised us over the radio of a specific white
7 pickup truck that parked out front of the location, and
8 went into the -- the address that we were surveilling
9 for a short period of time, and conducted what appeared
10 to be a narcotics transaction. So then Officer Deming
11 advised us when that vehicle left, and we were able to
12 intercept it on Rutledge as it came southbound.

13 Q Thank you. Going back to the route-restricted
14 license, on Mr. Steplight's route-restricted license,
15 what dates is this license good for? What time period?

16 A The beginning date was October 15th, 2010, and
17 expires that same day in 2011.

18 Q And the traffic stop that you did, was
19 that within the time frame controlled by this
20 route-restricted license?

21 A Yes, it was.

22 Q And can someone still be charged with a driving
23 under suspension if they have a route-restricted
24 license?

25 A Yes, they can.

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1 Q And does it say anywhere on the
2 route-restricted license that information? If I can
3 direct you to the top third of the page, Item Number C.

4 A Yes. Would you like me to read it?

5 Q Please.

6 A The below information is true and correct. I
7 am also aware that any violation in the time or route
8 listed below may result in a charge of driving under
9 suspension, and upon conviction, suspension of my
10 driving privileges -- or any driving privileges.

11 Q When Mr. Steplight was pulled over, what
12 conversation, if any, was had regarding his route
13 restriction, and what he was driving -- doing that
14 evening?

15 A We obviously had some intelligence that
16 Mr. Steplight was coming from a specific address, and we
17 were curious as to whether or not he would be truthful
18 with us. So we were asking him where he was coming
19 from, to which he only divulged to us that he had gotten
20 off work earlier, and he -- he would not specify what
21 earlier meant, and, also, that he had dropped his
22 girlfriend off at church, which he could not specify
23 which church or where.

24 Q And is dropping his girlfriend off part of the
25 route-restricted license in the exhibit before you?

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1 A No. That would be a violation.

2 Q Did he appear to be working?

3 A No. To me, he did not. He appeared to be
4 freshly clean, wearing clean clothes, and there weren't
5 any tools or anything in his truck.

6 Q And why is that significant to you? What type
7 of work did Mr. Steplight indicate that he did?

8 A He was some kind of laborer.

9 Q Did you ever get consent to search
10 Mr. Steplight's person?

11 A Yes, I did.

12 Q And what was the result of that?

13 A During my search of Mr. Steplight, I noticed
14 that he had a large quantity of money on his person,
15 but, additionally, that there was some object between
16 his buttocks that was unnatural.

17 Q And what happens when someone consents to a
18 search, what do you as the police officer conducting the
19 search say to the person? Do you explain what you are
20 doing? Do you just silently search them?

21 A I specifically asked to search Mr. Steplight.

22 Q Are you ever concerned or do you ever ask about
23 any sort of medical issues that a person may have before
24 doing a search?

25 A If there was a visible condition, I may ask

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1 something like that; but, in this case, I did not ask
2 about anything specific, medically.

3 Q And did you attempt to confirm that driving
4 under suspension, that status, while you were out there
5 on the stop?

6 A Yes, I did. We conducted a check through the
7 DMV, via mobile computer, which stated that he was
8 suspended and route-restricted.

9 Q Ultimately, was the Defendant issued any
10 warning tickets, or any tickets for this stop?

11 A He was. The improper turn, and failing to come
12 to a complete stop at the red light, he was issued a
13 warning ticket for.

14 Q And, ultimately, was the Defendant placed under
15 arrest for this stop?

16 A Yes. For driving under suspension.

17 Q Is it within your discretion as a police
18 officer how to proceed in a driving-under-suspension
19 case?

20 A Yes, it is.

21 Q And what are your options?

22 A An option would be a custodial arrest, a
23 citation, and allow someone to remove the vehicle,
24 with -- with the owner's consent or get the vehicle
25 towed.

Sean Engles -

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Cross Examination by Mr. Smiley Jury Trial, State v Steplight
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1 Q And in this case, do you attempt to get someone
2 else to pick up the vehicle, or have it towed?

3 A We had the vehicle towed in this case.

4 Q And did you call for any assistance in having
5 that vehicle towed, from any other officers?

6 A Yes. Officer Deming did respond to the scene
7 before the vehicle was towed. We needed his assistance
8 there.

9 MS. LINDER: Beg the Court's indulgence?
10 (Ms. Linder is speaking with co-counsel,
11 Mr. Stoney, off the record.)

12 MS. LINDER: I have no further questions at
13 this time. If you could, please answer any questions
14 that Mr. Smiley may have.

15 CROSS-EXAMINATION

16 BY MR. SMILEY:

17 Q Officer, Jim Smiley. So were you part of the
18 the narcotics unit on the date of this arrest?

19 A No. The date of this arrest, I was part of
20 a -- we call it a Power Shift.

21 Q What is a Power Shift?

22 A A Power Shift is a proactive patrol unit.
23 Typically, we wouldn't respond to traditional calls for
24 service. We would try to generate our own proactive
25 efforts and -- unless -- unless there was an in-progress

27

Reported By:
Rolayne M. Volpe, CCR, RPR
Official Court Reporter for the State of South Carolina

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1 significant call.

2 Q Okay. You were a proactive unit. So you're
3 out hunting for crimes?

4 A Yes.

5 Q Okay. And would it be fair to say that in
6 hunting for crime, your target was Norris Steplight that
7 day?

8 A It was unknown to us that specifically
9 Norris Steplight was going to come into the picture.

10 Q Okay. Y'all were hunting for a crime at a
11 particular address?

12 A That's accurate. That -- that we're expecting
13 criminal activity from a specific address.

14 Q Okay. So three officers and one marked car; is
15 that correct?

16 A We were --

17 Q Is that how it started off?

18 A This was an unmarked car.

19 Q Unmarked?

20 A Yes. This was a Chevy Tahoe.

21 Q Okay. And so three officers in an unmarked
22 car, and y'all go to the specific address to begin with?

23 A Yes.

24 Q Okay. What was that address?

25 MR. LINDER: Objection, your Honor. May we

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1 approach?

2 THE COURT: You may.

3 (Ms. Linder and Mr. Smiley approach the bench
4 for a side-bar.)

5 Q (By Mr. Smiley) All right. Officer Engles,
6 what street did your investigation begin on?

7 A I believe it was Morris Street.

8 Q Okay. And that's downtown?

9 A Yes.

10 Q And it's near Rutledge?

11 A Yes.

12 Q Okay. And when y'all were out hunting crime,
13 there was an address on Morris Street that had caught
14 your attention because of concerned citizens'
15 complaints?

16 A Yes.

17 Q Had these concerned citizens' complaints been
18 identified, or just basically anonymous tips?

19 A I didn't specifically verify anything with
20 the citizens, but I believe there -- there was other
21 intelligence, too, from our narcotics unit that this
22 could be a location of interest.

23 Q All right. So you had tips from citizens
24 about an address on Morris Street, and that, with
25 conversations with narcotics, had identified a

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1 particular address on Morris Street that you believe
2 there was criminal activity afoot?

3 A Yes.

4 Q Fair enough?

5 A Yes.

6 Q So had -- what --

7 How do I ask this?

8 What verification did the narcotics unit give
9 you about this address?

10 A It was just a general conversation. Like, you
11 guys might want to keep an eye on this address. We've
12 heard that there's some stuff going on.

13 Q All right. So you got the concerned citizens'
14 complaints coupled with, Hey, asked narcotics about it;
15 they said, Yeah, that address on Morris Street, we've
16 heard there might be some activity going on; correct?

17 A That's about right.

18 Q That's the extent of your verification; right?

19 A Right.

20 Q So about what time did you let -- is it
21 Detective Denning [sic]?

22 A Officer Deming.

23 Q Officer Deming. About what time did he get let
24 off from Morris Street?

25 A My best estimate would be 7:30.

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1 Q Okay. About 30 minutes or so before this
2 stop --

3 A That's my best estimate.

4 Q -- give or take?

5 Okay. And then he was dropped off to watch
6 this residence on Morris Street, and you and the other
7 officers stayed mobile in the area?

8 A We were parked -- we knew that Rutledge Avenue
9 would probably be the best avenue of exit, so we were
10 parked on a -- a street south.

11 Q Okay. So you dropped the officer off in the
12 general area that you had had the -- the concerned
13 citizens' complaints, and then y'all pulled down
14 Rutledge and pulled to an off-street and parked?

15 A Yes.

16 Q Okay. And the purpose of that is you were
17 waiting for Officer Deming to tell you who was coming
18 from the address on Morris Street?

19 A Only if there was something that aroused his
20 suspicion, yes.

21 Q Okay. And I think your testimony was that
22 Officer Deming informed you that a white pickup truck
23 had stopped, the occupant had gone inside, and come back
24 out?

25 A I don't -- I don't know that he went inside. I

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1 know that he went inside the yard. That was -- that was
2 given to us over the radio.

3 Q All right. So you had concerned citizens,
4 narcotics in general, yeah, there might be something
5 going on there, and then you received the information
6 from Officer Deming basically instructing you to pull
7 this white pickup; correct?

8 A His instructions were not to pull the white
9 pickup. It was -- he just relayed to us the activities
10 he had observed, and we got behind the pickup truck, and
11 we didn't pull it over for the observed reasons; we
12 pulled it over for the traffic violation.

13 Q Okay. So y'all weren't traffic that day?
14 You're proactive. You're hunting crime. But you got
15 behind this white car -- white truck, and it made a
16 traffic infraction, so you stopped it. Are you telling
17 the Court that it wasn't -- y'all weren't looking for
18 the narcotics in that white truck when you pulled it
19 over?

20 A I'm not telling the Court that.

21 Q I'm just asking is -- and maybe I -- I
22 apologize. I'll try to make it -- the purpose of
23 pulling the white truck was to lead [sic] in your hunt
24 for crime on the Morris Street location; correct?

25 MS. LINDER: Objection, your Honor. I believe

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1 it's asked and answered. I believe he's asked Engles a
2 couple of times why he pulled the car over, and I
3 believe he stated that already.

4 THE COURT: Answer the question, and then we'll
5 move on.

6 THE WITNESS: We were aware that there was
7 suspected narcotics activity from that address, so that
8 vehicle was, in our minds, likely to be involved with
9 narcotics activity, and we waited for a traffic
10 violation to pull it over.

11 Q (By Mr. Smiley) Okay. So that white truck,
12 when it pulled out on Rutledge, it was your target?

13 A Yes.

14 Q Okay. And from where you were to the corner of
15 Rutledge and Calhoun, what, three or four blocks?

16 A That's right.

17 Q So y'all pull in behind the white pickup truck,
18 followed it to that corner, three or four blocks, and
19 then the traffic violations when he was trying to turn
20 right there that caused you to want to stop it?

21 A Correct.

22 Q Now, you were using a car, you said, that
23 didn't have video -- nobody has any video in this case;
24 correct?

25 A No video.

1 Q All right. Now, it was approximately, you
2 said, eight o'clock. How was the traffic in the area?

3 A It was steady. It was not congested. But he
4 was not the only car on the road either.

5 Q And the -- it is legal to take a right on red
6 at that intersection; correct?

7 A After coming to a complete stop, yes.

8 Q I'm getting to that next. But if you came to a
9 complete stop, is it -- it would be legal to take a
10 right-hand turn after coming to a complete stop?

11 A Yes, it would, yeah.

12 Q Okay. And it's your testimony that he just
13 didn't come to a complete stop? Sort of like a
14 California stop; he rolled through it? Or did he yield
15 through it?

16 A He slowed, but did not come to a complete stop.

17 Q All right. And, now, I'm not good with Lanes 1
18 and 2, so let me ask you. There's two lanes heading
19 towards the Ashley River, which would be west on Calhoun
20 Street; right?

21 A Yes.

22 Q And the one -- the northerly -- the northerly
23 lane would be considered Lane 2?

24 A Yes. And Lane 1 would be the closest to the
25 double yellow line.

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1 Q Okay. And that's a pretty sharp turn, isn't
2 it?

3 A It's a 90-degree angle.

4 Q Yeah. Let me ask you this: When you -- when
5 Officer Harrison made that turn, did he pull into Lane 2
6 or into Lane 1?

7 A Officer Harrison -- I honestly don't remember
8 which lane we pulled into.

9 Q All righty. And so after that turn, you
10 immediately -- Officer Harrison immediately turned on
11 your blue lights?

12 A Right at about Ashley Avenue. So that --

13 Q So you went up a block or so, got behind him,
14 now you're in an unmarked car, and it has a blue light
15 inside on the dash? Where's the blue lights, I guess,
16 is what I'm asking?

17 A The blue light is in the -- it's mounted where
18 the rearview mirror would be.

19 Q Right. Okay.

20 A Objecting outward.

21 Q Behind the windshield, facing out?

22 A Yes.

23 Q Did you have a siren?

24 A Yes.

25 Q Was the siren on?

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1 A Yes, it was.

2 Q Okay. And then the truck pulled on to

3 Courtney; is that right?

4 A Jonathan Lucas.

5 Q Jonathan Lucas. Excuse me. Went down and then
6 pulled over at an alleyway?

7 A Right.

8 Q Were any backup called?

9 A Not initially. But later, yes, there was a
10 backup unit called.

11 Q Okay. When the car came to a stop, you came up
12 on the passenger side, Officer Harrison on the driver
13 side, and you immediately asked him to get out?

14 A No. I never asked him to get out.

15 Q Excuse me. Does Officer Harrison immediately
16 ask him to get out?

17 A No, not immediately.

18 Q Okay. He asked him for his driver's license,
19 registration, insurance information?

20 A Yes. And he presented that information to
21 Detective Harrison while in the car still.

22 Q Okay. At what point was he asked to get out of
23 the truck?

24 A It wasn't long after we pulled him over.

25 Q Okay.

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1 A I think Detective Harrison would best be able
2 to answer that.

3 Q All right. You were there, though; right?

4 A Yes.

5 Q Okay. And he provided his route-restricted
6 license and his registration and insurance information;
7 correct?

8 A It was a rental agreement.

9 Q Okay. Excuse me. The rental agreement, which
10 if --

11 A Would suffice for the registration.

12 Q Right. And -- and his route-restricted
13 license, he provided that to the officer?

14 A He did.

15 Q Okay. Since you don't know exactly when he was
16 taken out of the car, once he was taken out of the car,
17 he was brought back behind his truck?

18 A Yes.

19 Q Okay. And had he been questioned about his
20 route-restricted license at that point?

21 A We did ask him questions, yes.

22 Q Was that before he got out of the car, or
23 after?

24 A I know that we asked him after he got out of
25 the car.

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1 Q All right.

2 A Detective Harrison might have more insight.

3 Q Okay. When he was brought to the back of the
4 car, was he under arrest at that point in time?

5 A No, he was not.

6 Q Did yourself or Detective Harrison make the
7 determination that he was beyond the scope of his
8 route-restricted license?

9 A We both were able to do that.

10 Q Okay. So you were able to view it -- view his
11 route-restricted license?

12 A Yes. And we talked about it with him at the
13 back of the truck.

14 Q Okay. And what part of his route-restricted
15 license was he violating?

16 A In the route restrictions, it doesn't say
17 anything about transporting a girlfriend to church,
18 which is what he claimed. On top of that, it's -- we
19 had known information that he was at a specific address
20 that he did not admit to, and he was being deceptive
21 with us about that, when we gave him ample opportunity
22 to explain himself. Not to mention, it was not a work
23 function.

24 Q Well, you only saw him from when he got on
25 Rutledge; right? Until when you pulled him over;

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1 correct?

2 A Yes.

3 Q So you don't know where he originated and where
4 he was heading, other than he said he dropped off his
5 wife for church; right? -- or girlfriend, excuse me.

6 A And the transmissions that Officer Deming gave
7 us with the contact at Morris Street.

8 Q Would the contact at Morris Street have been
9 out beyond the scope of his driver's license?

10 A If it was for a work-related reason, then
11 -- then possibly it could.

12 Q Within the -- with the scope.

13 Did you -- so you got information from
14 Detective Denning [sic], and you had some information
15 about Mr. Steplight beforehand; correct?

16 A We had information about the house beforehand.

17 Q Okay. Okay. Well, you said that you had some
18 information about a known address for Mr. Steplight?
19 No?

20 A That's not what I said.

21 Q Then I misunderstood you. Okay. So the only
22 thing you knew about this white truck, is that it had
23 come from the address on Morris Street, you had been
24 told that over the radio, and y'all had pulled it based
25 on the traffic violations, the civil traffic violation,

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1 and then when it got to there, you determined that it
2 was beyond the scope of his driving privilege, the
3 route-restricted; correct?

4 A Well, you -- you said that we just know that it
5 was coming from there. We -- Officer Deming advised us
6 that he had seen it pull up.

7 Q Okay.

8 A And then was briefly there, for a period of
9 time, which was consistent with narcotics activity.

10 Q Okay. So you were pulling him for the
11 narcotics activity?

12 A We pulled him over for the traffic violations.

13 Q Okay. I gotcha. So on the traffic violations,
14 who determined that he was driving beyond the scope of
15 his route-restricted driver's license?

16 A Myself and Officer Harrison.

17 Q Okay. What part of his route-restricted
18 driver's license was he exceeding the scope of?

19 MS. LINDER: Objection, your Honor. I believe
20 that if -- I believe that Mr. Engles has already stated
21 the number of reasons why they determined it, and he --

22 THE COURT: Sustained. Sustained.

23 Q (By Mr. Smiley) Okay. So based on the stop at
24 Morris Street, you didn't believe that he was coming or
25 going to work?

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1 A At that point in time, first of all, we had no
2 idea that he had a route-restricted license that was
3 supposed to be for work-related purposes. But the
4 information we got from Officer Deming was consistent
5 with a narcotics transaction that -- there is not a stay
6 or any type of duration that work could -- physical work
7 was able to be completed.

8 Q Okay. I understand what you are saying, but
9 that's not the question I'm asking. Let me back up
10 again.

11 You arrested him for driving beyond
12 the -- being outside the scope of his route-restricted
13 license; correct? That was the basis for the arrest?

14 A Yes. And driving under suspension was the
15 charge.

16 Q If you're outside the scope of your
17 route-restricted, then you're driving under suspension?

18 A Yes.

19 Q And that was the basis of your arrest; correct?

20 A Yes.

21 Q And --

22 Pardon me, your Honor, I'm not trying to be
23 duplicatus. I'm just trying to get clear on what part
24 of his route-restricted license they said he was
25 violating, and -- because it's important.

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1 So I'm asking one more time. Is the basis of
2 being outside the scope of his route-restricted license
3 was that it appeared he was involved in narcotics
4 activity? Is that correct?

5 A No. It appeared that he was not at work or
6 coming from a work function.

7 Q Okay.

8 A Which was -- which is the basis of his route
9 restriction.

10 Q All right. So if he, in fact, was coming
11 from work and was within the borders of the route
12 restriction, there's nothing to prohibit him from
13 stopping along that route, is there?

14 A If it's not a work-related reason, then I would
15 expect that he still wouldn't be able to stop at that
16 address.

17 Q All right. So at the point that the officer
18 -- excuse me. -- Detective Harrison, that you and he
19 had detained him at the rear, he asked for permission to
20 search the truck; correct?

21 A When you say "detained," what are you speaking
22 about?

23 Q Okay. I'll make it in simpler terms. That the
24 point that Mr. Steplight was at the rear of the truck
25 with yourself and Detective Harrison, at that point, did

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1 Detective Harrison ask for permission to search for

2 -- before or after he was placed under arrest?

3 A Officer Harrison asked to search before he was
4 placed under arrest.

5 Q Okay. Y'all were standing at the back of the
6 truck; right?

7 A Yes.

8 Q And so, then, Mr. Steplight gave permission to
9 search the truck; correct?

10 A Yes.

11 Q All right. And nothing illegal was found in
12 the truck; correct?

13 A Yes, that's correct.

14 Q And at that point in time, you asked for
15 permission to search Mr. Steplight; correct?

16 A I did.

17 Q And he consented to that?

18 A He did.

19 Q And you did an out -- an exterior pat of his
20 clothing?

21 A Yes. And I did search his pockets.

22 Q So you went in his pockets?

23 A With his consent.

24 Q Went inside his pockets, did the exterior pat
25 down; correct?

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1 A Yes.

2 Q At that point in time, you found nothing

3 illegal; correct?

4 A Correct.

5 Q So he was placed, then, under arrest for

6 driving under suspension; correct?

7 A Yes.

8 MR. SMILEY: Beg the Court's indulgence?

9 THE COURT: Take your time.

10 Q (By Mr. Smiley) Were you present with him at

11 the Charleston County jail?

12 A Yes, I was.

13 MS. LINDER: Objection, your Honor.

14 MR. SMILEY: Well, I was getting ready to --

15 THE COURT: All right. What's the objection?

16 MS. LINDER: I believe it's beyond of the scope

17 of this hearing. The hearing is about the unlawfulness

18 of the stop, the unlawfulness of the arrest. I don't

19 believe that going into what occurred at the jail --

20 MR. SMILEY: I'll withdraw my question.

21 THE COURT: All right. Thank you.

22 MR. SMILEY: I agree.

23 Q (By Mr. Smiley) Other than not doing -- not

24 conducting -- trying to find the right word. The reason

25 for the arrest for DUS is because he wasn't coming or

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1 going to work?

2 A Yes, being outside the scope of his route
3 restriction.

4 Q And it was the fact that he wasn't, in your
5 opinion, coming or going to work; correct?

6 A Yes.

7 MR. SMILEY: That's all I have.

8 THE COURT: Ms. Linder?

9 MS. LINDER: No further questions.

10 THE COURT: All right. You may step down.
11 Is this witness excused?

12 MS. LINDER: I'm happy -- I'm fine if he's
13 excused. I would ask that he be able to stay in the
14 courtroom since he's the main person on the case.

15 THE COURT: All right.. I'm getting ready to
16 pick Williams' jury, and then we'll continue this
17 hearing.

18 MR. SMILEY: Yes, ma'am.

19 THE COURT: All right. Thank you.

20 So you need to stay in touch with the
21 Solicitor, accordingly.

22 THE WITNESS: Thank you, ma'am.

23 (A break is taken from 2:33 p.m. until
24 2:50 p.m; at which time, the proceedings continue as
25 follows:)

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1 (The Defendant is not present.)

2 THE COURT: All right.

3 MR. SMILEY: I do need to put on the record
4 that I've asked you for a continuance because my client
5 is not present, and that you've ruled against me and
6 that we're going forward.

7 THE COURT: All right. At this stage and at
8 every stage from now on, Mr. Smiley, I'm going to give
9 you a continuing objection.

10 MR. SMILEY: Thank you.

11 THE COURT: We are continuing without your
12 client, but I have heard nothing that indicates to me
13 that Mr. Steplight was not given notice of today. So we
14 are going to -- here's what we're going to do. We're
15 going to pick the jury, let the jury go, and we'll start
16 in the morning. We're going to finish our pretrial
17 motions and then give you a chance to e-mail your
18 client.

19 MR. SMILEY: Okay. So we're to finish
20 pretrials this afternoon, or in the morning?

21 THE COURT: Tonight. This afternoon.

22 MR. SMILEY: Okay.

23 THE COURT: Thank you. All right. I have the
24 jury outside. Anything before we bring them in?
25 Ms. Linder?

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1 MS. LINDER: Nothing from the State, your
2 Honor.

3 THE COURT: Mr. Smiley?

4 MR. SMILEY: Nothing, your Honor.

5 THE COURT: All right. Thank you.

6 Let's bring them in.

7 (The prospective jurors are escorted into the
8 courtroom at 2:54 p.m.)

9 THE COURT: All right. Thank you.

10 Good afternoon, ladies and gentlemen. I am
11 Judge Kristi Harrington. I am a resident judge for the
12 Ninth Circuit, which is Charleston and Berkeley County.
13 I have the pleasure this week of presiding over a term
14 of General Sessions, which is otherwise known as
15 criminal court. Ladies and gentlemen, I have a series
16 of questions to ask you to determine your general
17 eligibility to serve in the case of the State versus
18 Norris Steplight. I will ask you a series of questions.
19 If you need to respond to those questions, I will need
20 you to stand, give me your juror number, and your name.

21 There may be some questions that you feel, or I
22 determined, are a bit personal in nature, so I will give
23 you an opportunity to come forward and speak with me in
24 private. As you may have realized by now, we are a
25 court of record, so "in private" means it will be me and

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1 you in front of my court reporter, and so -- but I will
2 give you an opportunity so you don't have to stand up
3 and state your answers in front of your 48 new best
4 friends. So, please remember, if you need to answer a
5 question, please come forward at the appropriate time.

6 Ladies and gentlemen, as I indicated to you,
7 the case that we are about to begin is the case of the
8 State versus Norris Steplight. Mr. Steplight is charged
9 with an Indictment, which is simply a piece of paper.
10 It is what brings us to court here today. It is not in
11 any sense evidence of any of the allegations contained.
12 It's simply a piece of paper which contains the charge
13 against Mr. Steplight.

14 Mr. Steplight has been indicted for trafficking
15 in cocaine base. The State alleges that in Charleston
16 County, on or about May 27th of 2011, the Defendant did
17 knowingly sell, manufacture, deliver, purchase, or bring
18 into the State, or did provide financial assistance or,
19 otherwise, aid, abet, attempt, or conspire to sell,
20 manufacture, deliver, purchase, or bring into the State,
21 or did possess or attempt to possess a controlled
22 substance or a controlled substance analogue; to wit,
23 cocaine base in excess of 10 grams in violation of
24 44-53-375 of the South Carolina Code of Laws as amended.
25 Mr. Steplight has pled not guilty to that Indictment.

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1 Ladies and gentlemen, is there any member of
2 the jury panel that knows anything about the case other
3 than what I have just read to you? If so, please stand.

4 Thank you. There are none.

5 Mr. Smiley, if you would please stand,
6 introduce yourself, tell us a little bit about your
7 client and anything else, any persons, who may be
8 assisting you throughout this trial.

9 MR. SMILEY: Thank you, your Honor. I'm
10 Jim Smiley. I'm a member of the Charleston County Bar.
11 I've been practicing in the Charleston area since 1993.
12 I represent Norris Steplight, he's a Charleston native,
13 and it's my honor to represent him. When the trial
14 starts, Ms. Hensley, Laree Hensley, also of the
15 Charleston County Bar will be my second chair, assisting
16 in this case. She is originally from Tennessee. She's
17 been in the Charleston area for about an excess of 20
18 years. She has been practicing off of Remount Road for
19 the last decade, I believe. My office is here on King
20 Street.

21 And I think that covered it, your Honor.

22 THE COURT: All right. Thank you.

23 Is there any member of the jury panel related
24 by blood, marriage, close personal friend, ever have
25 any business, personal/ professional, dealings with

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1 Mr. Norris Steplight? If so, please stand.

2 Thank you. There are none.

3 Is there any member of the jury panel related
4 by blood, marriage, close personal friend, ever have any
5 business, personal or professional, dealings or ever
6 been represented by Mr. Smiley or Ms. Hensley? If so,
7 please stand.

8 Thank you. There are none.

9 Ms. Linder, if you would please stand,
10 introduce yourself, any persons who will be assisting
11 you throughout this trial, a little bit about your
12 office.

13 MS. LINDER: Thank you, Judge.

14 My name is Stephanie Linder. I am an Assistant
15 Solicitor for Scarlett Wilson, you're elected Solicitor.
16 I've been in the Solicitor's Office for seven and a half
17 years now. I'm also a Special Assistant United States
18 Attorney and have been for two and a half years. And
19 assisting me with this trial will be Ran Stoney.

20 MR. STONEY: And I'm an Assistant Solicitor.
21 I've been with Solicitor Wilson's Office for about a
22 year and a half now.

23 MS. LINDER: And also seated at the table with
24 us will be Detective Sean Engles. He is from the
25 Charleston Police Department. And also assisting us

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1 with this trial will be Investigator Kenny Barfield, and
2 he is an investigator with the Solicitor's Office.

3 THE COURT: Thank you.

4 Is there any member of the jury panel related
5 by blood, marriage, close personal friend, ever have any
6 business, personal/professional, dealings with anyone in
7 the Solicitor's Office, specifically Ms. Linder,
8 Mr. Stoney, or Mr. Barfield? If so, please stand.

9 THE JUROR: I've know Investigator Barfield for
10 about 30 years.

11 THE COURT: All right. I need your name and
12 your juror number.

13 THE JUROR: My name is Wesley Ropp, and my
14 number is 283, I think.

15 THE COURT: Is that correct?

16 THE DEPUTY CLERK OF COURT: Yes.

17 THE COURT: And how long have you known
18 Mr. Barfield?

19 THE JUROR: For about -- since 1979.

20 THE COURT: All right. And is it a
21 professional or personal relationship?

22 THE JUROR: Personal. He went to my father's
23 church.

24 THE COURT: All right. Is there anything about
25 that relationship that will affect your ability to be

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1 fair and impartial in this case?

2 THE JUROR: No, ma'am.

3 THE COURT: All right. Thank you.

4 Is there anyone else?

5 Thank you. There are none.

6 Is there any member of the jury panel related
7 by blood, marriage, close personal friend, ever have any
8 business, personal/professional, dealings with -- with
9 Detective Engles? If so, please stand.

10 Thank you. There are none.

11 Ladies and gentlemen -- yes.

12 THE JUROR: Your Honor, Stephanie represented
13 a man who stole my mother-in-law's credit card.

14 THE COURT: All right. And, once again, I
15 need -- the reason I need to know is, one, we're a court
16 of record. But Mr. Smiley and Ms. Linder are writing
17 down your responses to these questions, and -- because
18 some jurors are more suitable to serve on certain cases
19 than others. I need your juror number and your name.

20 THE JUROR: 149, Tracy Groom.

21 THE COURT: All right. And so what I gathered
22 from what you had said, was that in her personal
23 capacity Ms. Linder had assisted you as a victim of a
24 crime; is that correct?

25 MS. LINDER: I'm sorry. No, I'm -- I believe

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1 she's saying that I prosecuted someone, and her family
2 member was a victim of that crime.

3 THE JUROR: Correct.

4 THE COURT: All right. Same thing. I just
5 said it in a different way.

6 Is there anything about Ms. Linder handling a
7 matter for you or your family member that would affect
8 your ability to be fair and impartial in this case?

9 THE JUROR: Probably.

10 THE COURT: All right. And I need -- I do it
11 all the time. I say, I guess so, maybe so -- I just
12 need a yes or no.

13 THE JUROR: Yes.

14 THE COURT: It will affect your ability --

15 THE JUROR: Yes.

16 THE COURT: -- to be fair --

17 THE JUROR: Yes.

18 THE COURT: And here's another -- I'm picking
19 on you. I'm sorry.

20 THE JUROR: That's fine.

21 THE COURT: My court reporter, as wonderful as
22 she is, it is very difficult for her to write down two
23 people talking at the same time. So I need to make
24 sure, because this is the magic question. I need to
25 have very clear on the record: Is there anything about

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1 your relationship with Ms. Linder that will affect your
2 ability to be fair and impartial in this case?

3 THE JUROR: Yes.

4 THE COURT: Thank you. I'm going to excuse you
5 from the trial of this case. I need you to stay with
6 us. I'll give you further instructions regarding your
7 service for the remainder of the week. You do not have
8 to answer any more questions concerning this case.
9 Thank you.

10 Is there anyone else?

11 Thank you. There are none.

12 Is there -- I'm now going to call a list of
13 potential witnesses who may testify in this case. If
14 you are related by blood, marriage, close personal
15 friend, ever have any business, personal/professional,
16 dealings with any of these individuals, please stand
17 when I call their name. Jeff Harrison, Anita Moore,
18 Linda Wilson, Susan Moody, Noel Ragos, Adam Deming. If
19 you are related by blood, marriage, close personal
20 friend, please stand.

21 Thank you. There are none.

22 Is there any member of the jury panel who
23 currently is or has a family member who is or close
24 personal friend or you were ever employed by Charleston
25 County Detention Center, or Charleston Police

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1 Department, City of Charleston Police Department? If
2 so, please stand.

3 Thank you. There are none:

4 Is there any member of the jury panel that
5 knows anyone that works in the City of Charleston Police
6 Department in any capacity? If so, please stand.

7 Your juror number and name?

8 THE JUROR. Christopher Allen, Number 3. I
9 know a couple of the detectives.

10 THE COURT: All right. Any of the detectives
11 that I called out their names?

12 THE JUROR: (Moves head from side to side.)

13 THE COURT: Is that a no?

14 THE JUROR: No.

15 THE COURT: Is there anything about you having
16 some acquaintances or friends at the City of Charleston
17 Police Department that would affect your ability to be
18 fair and impartial in this case?

19 THE JUROR: No.

20 THE COURT: And Juror Number 3; is that
21 correct?

22 THE JUROR: Number 3.

23 THE COURT: And your name, for the record?

24 THE JUROR: Christopher Allen.

25 THE COURT: All right. Thank you.

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1 Yes, sir?

2 THE JUROR: Marcus Googer, 141.

3 THE COURT: Yes, sir.

4 THE JUROR: I know Fred Bouie (phonetic).

5 THE COURT: All right. And I don't know

6 Mr. Bouie. Does he work for the City of Charleston?

7 THE JUROR: Yes.

8 THE COURT: And is there anything about your

9 relationship that will affect your ability to be fair

10 and impartial in this case?

11 THE JUROR: No.

12 THE COURT: All right. And your juror number,

13 before you sit down?

14 THE JUROR: 141.

15 THE COURT: Thank you, sir.

16 Yes, sir?

17 THE JUROR: Joseph Geglio, 135. I have a

18 friend that's a police officer.

19 THE COURT: You're friends with a police

20 officer?

21 THE JUROR: (Moves head up and down.)

22 THE COURT: And any of the officers that I have

23 called out their names?

24 THE JUROR: No.

25 THE COURT: Is there anything about your

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1 relationship with a city of Charleston police officer
2 that will affect your ability to be fair and impartial
3 in this case?

4 THE JUROR: No.

5 THE COURT: And your juror number?

6 THE JUROR: 135.

7 THE COURT: Thank you, sir.

8 Yes, sir?

9 THE JUROR: My number is 302. I'm William
10 Shipley. I work for the City of Charleston Housing
11 Authority. I work with the officers every day.

12 THE COURT: All right.

13 THE JUROR: In our area.

14 THE COURT: All right. Anything about that,
15 sir, that will affect your ability to be fair and
16 impartial in this case?

17 THE JUROR: No.

18 THE COURT: Mr. Shipley, your juror number?

19 THE JUROR: 302.

20 THE COURT: Thank you, sir.

21 Yes, ma'am?

22 THE JUROR: Glenys Tucker, 344. And I'm
23 acquainted with a police officer in the Charleston
24 County Department.

25 THE COURT: All right. Any of the -- I've read

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1 out a list of officers, anyone that you know?

2 THE JUROR: No, ma'am.

3 THE COURT: All right. Anything about your
4 relationship with that police officer that would affect
5 your ability to be fair and impartial in this case?

6 THE JUROR: No, ma'am.

7 THE COURT: All right. Thank you.

8 Is there anyone else?

9 Is there any member of the jury panel that is a
10 member, or one of your family members is a member, of a
11 victim's rights or law enforcement organizations such as
12 Darkness to Light, Citizens Against Violent Crime,
13 People Against Rape, Mothers Against Drunk Driving,
14 anything of that nature? If so, please stand..

15 Thank you. There are none.

16 Ladies and gentlemen, I now have a series of
17 questions to ask. I have determined that these are
18 personal in nature, so if you would please listen to all
19 of my questions, and come forward at the appropriate
20 time.

21 Is there any member of the jury panel that has
22 ever been arrested for a drug charge, regardless of the
23 outcome?

24 Is there any member of the jury panel that has
25 a very close friend or a family member who has been

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1 arrested for a drug charge, regardless of the outcome?

2 Ladies and gentlemen, if you need to answer
3 either of those questions, or if based upon something
4 that I have indicated to you, by reading the Indictment,
5 or any of my previous questions, that you feel you would
6 be unable to listen to the facts as presented from the
7 witness stand, apply the law as the Court gives it, and
8 render a verdict based only upon those things, free from
9 any personal, moral, religious belief that you may have;
10 if you feel that for whatever reason you cannot be a
11 fair and impartial juror, I need you to come forward at
12 this time. If you need to answer any of those previous
13 questions, please come forward at this time.

14 Thank you. If you will move to the center, the
15 bailiffs will assist you.

16 THE BAILIFF: Number 44.

17 THE COURT: Do you have any additional
18 questions?

19 MS. LINDER: Do you think drugs --

20 (Juror approaches.)

21 THE COURT: Yes, sir.

22 THE JUROR: Yes, ma'am, Judge. My oldest
23 brother and I got numerous friends on the waterfront
24 that actually been arrested -- and then my religious
25 belief also.

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1 THE COURT: Okay. First, so you have a lot of
2 friends and family members that have been arrested for
3 drugs?

4 THE JUROR: Yes.

5 THE COURT: All right. Would that affect your
6 ability to be fair and impartial in this case?

7 THE JUROR: Yes, ma'am.

8 THE COURT: All right. I'm going to excuse you
9 from the trial of this case. But I need you to stay
10 with us. You don't have to answer any more questions.
11 Your juror number?

12 THE JUROR: 44.

13 THE COURT: Juror 44 is excused from the trial
14 of this case.

15 THE BAILIFF: Juror 283.

16 (The next juror approaches.)

17 THE JUROR: My son had a minor in possession
18 charge.

19 THE COURT: All right. Is there anything about
20 that, sir, that will affect your ability to be fair and
21 impartial in this case?

22 THE JUROR: Yes.

23 THE COURT: Was that charge in Charleston?

24 THE JUROR: Yes.

25 THE COURT: And how was that handled?

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1 THE JUROR: It was a juvenile, and it's in drug
2 of court now.
3 THE COURT: Currently in the drug court?
4 THE JUROR: Correct.
5 THE COURT: With the Solicitor's Office?
6 THE JUROR: That's correct.
7 THE COURT: All right. And, again, Solicitor's
8 Office is prosecuting this case. Is there anything that
9 will affect your ability to be fair and impartial in
10 this case?
11 THE JUROR: No.
12 THE COURT: Thank you.
13 THE BAILIFF: Number 329.
14 (The next juror approaches.)
15 THE COURT: Good afternoon.
16 THE JUROR: Good afternoon. I have a brother,
17 he took to probate court.
18 THE COURT: Okay.
19 THE JUROR: I don't know if he has any arrest
20 record or not, but he is an abuser of cocaine.
21 THE COURT: Was that here in Charleston County?
22 THE JUROR: Yes.
23 THE COURT: And short time ago? long time ago?
24 How Long?
25 THE JUROR: Two years, three years.

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1 THE COURT: What drug was he using?
2 THE JUROR: Cocaine.
3 THE COURT: Anything about that, sir, that
4 would affect your ability to be fair and impartial in
5 this case?
6 THE JUROR: No.
7 THE COURT: And your juror number and name?
8 THE JUROR: 329, Robert Stewart.
9 THE COURT: Thank you, Mr. Stewart.
10 329 will remain.
11 THE BAILIFF: Number 305.
12 (The next juror approaches.)
13 THE JUROR: Hi. I have a cousin that was
14 arrested. I don't know what was going on.
15 THE COURT: All right. Arrested for drugs,
16 you're just not sure which drugs?
17 THE JUROR: I don't know. He is incarcerated
18 currently.
19 THE COURT: Is there anything about that that
20 would affect your ability to be fair and impartial in
21 this case?
22 THE JUROR: No.
23 THE COURT: Oh, okay. I'm going to have you
24 stay with us. Thank you.
25 Is there anyone else?

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1 MS. LINDER: Just the question about the -- if
2 you think drugs should be illegal.

3 THE COURT: I asked that. Any additional
4 questions?

5 MR. SMILEY: Just my Question Number 10, was
6 the same thing.

7 THE COURT: I think -- I think it's covered.
8 Anything else?

9 MS. LINDER: Nothing further.

10 MR. SMILEY: No, ma'am.

11 THE COURT: Okay. Strikes are five and five.

12 Madam Clerk, strikes are five and five. Thank
13 you.

14 THE COURTROOM DEPUTY CLERK: Ladies and
15 gentlemen, when I call your name and juror number,
16 please come forward to the podium, turn, and face the
17 audience.

18 Juror Number 167, Kimberly Heck.

19 (White female approaches the podium.)

20 THE DEPUTY CLERK OF COURT: What say you for
21 the State?

22 MS. LINDER: Please present the juror.

23 THE DEPUTY CLERK OF COURT: What say you for
24 the Defendant?

25 MR. SMILEY: Please excuse the juror.

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1 THE COURTROOM DEPUTY CLERK: Please have a seat
2 back in the gallery.

3 Juror 141, Marcus Googer.

4 (White male approaches the podium.)

5 THE DEPUTY CLERK OF COURT: What say you for
6 the State?

7 MS. LINDER: Please present this juror.

8 THE COURT: What say you for the Defendant?

9 MR. SMILEY: Please excuse the juror.

10 THE COURT: Mr. Googer, you can go back to the
11 gallery.

12 Juror Number 126, Richard Foster.

13 (White male approaches the podium.)

14 THE DEPUTY CLERK OF COURT: What say you for
15 the State?

16 MS. LINDER: Please present the juror.

17 THE DEPUTY CLERK OF COURT: What say you for
18 the Defendant?

19 MR. SMILEY: Please seat the juror.

20 THE DEPUTY CLERK OF COURT: Mr. Foster, please
21 have a seat in the jury box.

22 Juror 275, David Rettew.

23 (White male approaches the podium.)

24 THE DEPUTY CLERK OF COURT: What say you for
25 the State?

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1 MS. LINDER: Beg the Court's indulgence?
2 THE COURT: Take your time.
3 (Respite.)
4 MS. LINDER: Please excuse this juror.
5 THE DEPUTY CLERK OF COURT: Have a seat back in
6 the gallery.
7 Juror 254, Willis Murray.
8 (Black male approaches the podium.)
9 THE DEPUTY CLERK OF COURT: What say you for
10 the State?
11 THE JUROR: Beg your pardon?
12 MS. LINDER: Beg the Court's indulgence?
13 THE COURT: Take your time.
14 MS. LINDER: Please present this juror.
15 THE DEPUTY CLERK OF COURT: What say you for
16 the Defendant?
17 MR. SMILEY: Please seat the juror.
18 THE DEPUTY CLERK OF COURT: Mr. Murray, please
19 have a seat in the jury box.
20 Juror Number 56, Jennifer Burke.
21 (White female approaches the podium.)
22 THE DEPUTY CLERK OF COURT: What say you for
23 the State?
24 MS. LINDER: Please present this juror.
25 THE COURT: What say you for the Defendant?

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1 MR. SMILEY: Please seat the juror.
2 THE DEPUTY CLERK OF COURT: Have a seat in the
3 jury box.
4 Juror Number 100, Tana Dursse.
5 (White female approaches the podium.)
6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?
8 MS. LINDER: Please present this juror.
9 THE DEPUTY CLERK OF COURT: What say you for
10 the Defendant?
11 MR. SMILEY: Please seat the juror.
12 THE DEPUTY CLERK OF COURT: Please have a seat
13 in the jury box.
14 Juror Number 4, Joshua Amstutz.
15 (White male approaches the podium.)
16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?
18 MS. LINDER: Please present the juror.
19 THE DEPUTY CLERK OF COURT: What say you for
20 the Defendant?
21 MR. SMILEY: Please seat the juror.
22 THE DEPUTY CLERK OF COURT: Please have a seat
23 in the jury box.
24 Juror Number 368, Yolanda Wilson.
25 (White female approaches the podium.)

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1 THE DEPUTY CLERK OF COURT: What say you for
2 the State?

3 MS. LINDER: Please present this juror.

4 THE DEPUTY CLERK OF COURT: What say you for
5 the Defendant?

6 MR. SMILEY: Please seat the juror.

7 THE DEPUTY CLERK OF COURT: Have a seat in the
8 jury box.

9 Juror Number 189, Karen Jackson.
10 (White female approaches the podium.)

11 THE DEPUTY CLERK OF COURT: What say you for
12 the State?

13 MS. LINDER: Please present this juror.

14 THE DEPUTY CLERK OF COURT: What say you for
15 the Defendant?

16 MR. SMILEY: Please excuse the juror.

17 THE DEPUTY CLERK OF COURT: Have a seat back in
18 the gallery.

19 Juror Number 101, Robert Dustman.
20 (White male approaches the podium.)

21 THE DEPUTY CLERK OF COURT: What say you for
22 the State?

23 MS. LINDER: Please present this juror.

24 THE DEPUTY CLERK OF COURT: What say you for
25 the Defendant?

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1 MR. SMILEY: Please excuse the juror.

2 THE DEPUTY CLERK OF COURT: Have a seat back in
3 the gallery.

4 Juror Number 282, Jennifer Rolland.

5 (White female approaches the podium.)

6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?

8 MS. LINDER: Please present this juror.

9 THE DEPUTY CLERK OF COURT: What say you for
10 the Defendant?

11 MR. SMILEY: Please seat the juror.

12 THE DEPUTY CLERK OF COURT: Have a seat in the
13 jury box.

14 Juror Number 170, Naomi Henderson.

15 (Black female approaches the podium.)

16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?

18 MS. LINDER: Beg the Court's indulgence?

19 THE COURT: Yes, ma'am.

20 (Respite.)

21 MS. LINDER: Please excuse this juror.

22 THE DEPUTY CLERK OF COURT: Have a seat back in
23 the gallery.

24 Juror Number 130, Donna Freeman.

25 (Black female approaches the podium.)

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1 THE DEPUTY CLERK OF COURT: What say you for
2 the State?

3 MS. LINDER: Please present this juror.

4 THE DEPUTY CLERK OF COURT: What say you for
5 the Defendant?

6 MR. SMILEY: Please seat the juror.

7 THE DEPUTY CLERK OF COURT: Have a seat in the
8 jury box.

9 Juror Number 223, David Marshall.

10 (White male approaches the podium.)

11 THE DEPUTY CLERK OF COURT: What say you for
12 the State?

13 MS. LINDER: Please present this juror.

14 THE DEPUTY CLERK OF COURT: What say you for
15 the Defendant?

16 MR. SMILEY: Please seat the juror.

17 THE DEPUTY CLERK OF COURT: Mr. Marshall,
18 please have a seat in the jury box.

19 Juror Number 373, Shalanda Wright.

20 (Black female approaches the podium.)

21 THE DEPUTY CLERK OF COURT: What say you for
22 the State?

23 MS. LINDER: Please present this juror.

24 THE DEPUTY CLERK OF COURT: What say you for
25 the Defendant?

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1 MR. SMILEY: Please seat the juror.
2 THE DEPUTY CLERK OF COURT: Have a seat in the
3 jury box.
4 Juror number 323, Alfredel Spann.
5 (Black female approaches the podium.)
6 THE DEPUTY CLERK OF COURT: What say you for
7 the State?
8 MS. LINDER: Please excuse this juror.
9 THE DEPUTY CLERK OF COURT: Have a seat back in
10 the gallery.
11 Three strikes for the State.
12 Juror Number 217, Danielle Lopez.
13 (Hispanic female approaches the podium.)
14 THE DEPUTY CLERK OF COURT: What say you for
15 the State?
16 MS. LINDER: Please present this juror.
17 THE DEPUTY CLERK OF COURT: What say you for
18 the Defendant?
19 MR. SMILEY: Please seat the juror.
20 THE DEPUTY CLERK OF COURT: Juror Number 340,
21 Tony Taylor.
22 (White male approaches the podium.)
23 THE DEPUTY CLERK OF COURT: What say you for
24 the State?
25 MS. LINDER: Beg the Court's indulgence?

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1 THE COURT: Take your time.
2 (Respite.)
3 MS. LINDER: Please excuse this juror.
4 THE DEPUTY CLERK OF COURT: Have a seat back in
5 the gallery.
6 Juror Number 136, William Gelwicks.
7 (White male approaches the podium.)
8 THE DEPUTY CLERK OF COURT: What say you for
9 the State?
10 MS. LINDER: Please present this juror.
11 THE DEPUTY CLERK OF COURT: What say you for
12 the Defendant?
13 MR. SMILEY: Please excuse this juror.
14 THE DEPUTY CLERK OF COURT: Mr. Gelwicks, have
15 a seat back in the gallery.
16 Defense has exhausted its strikes.
17 Juror 374, Gail Yarborough.
18 (White female approaches the podium.)
19 THE DEPUTY CLERK OF COURT: What say you for
20 the State?
21 MS. LINDER: Please present this juror..
22 THE DEPUTY CLERK OF COURT: Any challenges from
23 the Defendant?
24 MR. SMILEY: No challenge. Please seat the
25 juror.

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1 THE DEPUTY CLERK OF COURT: Now striking for
2 alternate.
3 Juror Number 32, Robert Stewart.
4 (White male approaches the podium.)
5 MR. SMILEY: One and two, correct, your Honor?
6 THE COURT: Correct.
7 THE DEPUTY CLERK OF COURT: What say you for
8 the State?
9 MS. LINDER: Please present this juror.
10 THE DEPUTY CLERK OF COURT: What say you for
11 the Defendant.
12 MR. SMILEY: Please excuse the juror.
13 THE DEPUTY CLERK OF COURT: Juror Number 236,
14 Bertha Middleton.
15 (Black female approaches the podium.)
16 THE DEPUTY CLERK OF COURT: What say you for
17 the State?
18 MS. LINDER: Please present this juror.
19 THE COURT: What say you for the Defendant?
20 MR. SMILEY: Please seat the juror.
21 THE DEPUTY CLERK OF COURT: Have a seat in the
22 jury box. You will serve as an alternate.
23 THE COURT: All right. Any motions or matters
24 pertaining to the jury as selected? From the State?
25 MS. LINDER: No, your Honor.

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1 THE COURT: From the Defendant?
2 MR. SMILEY: No, ma'am, your Honor.
3 THE COURT: Whitney, they're to call back after
4 6:00?
5 THE DEPUTY CLERK OF COURT: Yes.
6 THE COURT: Ladies and gentlemen, you were not
7 selected as the jurors in this case. You will need to
8 call back after 6:00 p.m. to get your instructions for
9 the remainder of the week. Please remember that you are
10 on jury duty for the entirety of the week, so you will
11 need to call back after 6:00 p.m. to get further
12 instructions. Thank you again for your service to
13 Charleston County, and I will likely see some of you
14 later in the week. Thank you. You are excused for the
15 afternoon.
16 (The remainder of jurors from the jury panel
17 are excused at 3:28 p.m.)
18 THE COURT: All right. Ms. Yarborough, you
19 have been selected as the foreperson in this case, so
20 what that means is you are the jury spokesperson here in
21 court. So if at any time any of you need any extra
22 breaks or are having difficulty hearing or for whatever
23 reason, the way that we communicate in court, is you let
24 your foreperson know, she will alert the bailiff, and we
25 will handle the matter accordingly. Ms. Yarborough, you

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1 will also be responsible for writing the verdict, but
2 I'll give you further instructions regarding that matter
3 as well.

4 Ladies and gentlemen, we are going to break for
5 the evening and begin the trial of this case in the
6 morning. Please remember -- and I will give you, it's
7 simply -- it will be -- when we just take short breaks
8 in the afternoons or in the mornings, I'll say, please
9 remember my admonitions. But this is my full
10 admonitions, so please listen very carefully.

11 Until you have been discharged from service in
12 this case, you may not discuss this case in any way.
13 Ladies and gentlemen, you may not discuss this case with
14 anyone. That includes your fellow jurors, your friends,
15 your family members, or anyone. You may not discuss
16 this case in any way. That includes face-to-face
17 discussions. You may not E-mail about this case, text
18 about this case, make any entry on Facebook or MySpace
19 or Twitter or whatever technological device, social
20 media that you use. You may not discuss this case in
21 any way with anyone until I tell you that you may do so.

22 You may not perform any investigation,
23 research, or experiment of any kind on your own, either
24 individually or as a group. You may not look up
25 anything on the Internet concerning this case. Ladies

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1 and gentlemen of the jury, that includes the State's
2 attorneys, the Defendant, the Defendant's attorneys, the
3 witnesses, anything about the subject of this case, or
4 the Judge.

5 You may not do any independent investigation.
6 You may not go to the scene where any of the events that
7 are the subject of this trial are alleged to take place.
8 You may not use Internet maps or Google Earth or any
9 other program to search for or review any place
10 discussed in this case.

11 You, again, may not have any discussions on any
12 social media site, but please remember that that
13 includes all forms of oral, written, or electronic
14 communications.

15 Ladies and gentlemen, please understand that
16 I'm giving these directions as part of my responsibility
17 to ensure fairness to all of the parties in this case.
18 That fairness would be compromised, and your actions
19 could jeopardize the results of this trial if you
20 violate my instructions. So my first question to you in
21 the morning will be: Did you follow my instructions?
22 Ladies and gentlemen, I know it's difficult. You'll go
23 home and your significant other is probably going to ask
24 you: What did you do today? You may not discuss
25 anything about this case. You may say, I'm on jury

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1 duty, but that's all you may say. You may not talk
2 about the nature of the case, what the charges are, or
3 anything of the nature.

4 Ladies and gentlemen, you may think why is she
5 saying this five times? I heard it. I understood it
6 the first time. It's because in the morning somebody
7 who inevitably will say, Yes, I did something I wasn't
8 supposed to do. Please, just go home. Have a wonderful
9 afternoon. Enjoy the early day that you're getting
10 today. And just forget that you're serving jury
11 service.

12 You may not do any independent investigation.
13 Do not read, watch, listen to any news accounts
14 regarding this case should there be any. It is
15 essential that all of the information that you have
16 concerning this case, comes only from the courtroom.

17 Any questions?

18 Thank you. Please be back in your jury room at
19 9:30. We will begin as promptly as we can at 9:30. The
20 bailiff will show you where you are to be escorted and
21 how to report in the morning. So please have a
22 wonderful afternoon. I'll see you back at 9:30.

23 (The jury is escorted from the courtroom
24 at 3:33 p.m.)

25 THE COURT: Thank you. Be seated. Anything

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1 regarding jury selection? From the State?

2 MS. LINDER: Nothing from the State, your
3 Honor.

4 MR. SMILEY: No, ma'am.

5 THE COURT: All right. Can we continue on into
6 our hearing?

7 MR. SMILEY: Before we begin, could I get a
8 quick restroom break?

9 THE COURT: You take all the time you need,
10 Mr. Smiley.

11 MR. SMILEY: Then I will be ready to knock it
12 out.

13 THE COURT: Okay. Thank you.

14 THE COURT: Take a few minutes.

15 Your second witness is here; is that correct?

16 MS. LINDER: Yes, your Honor. Are we at ease,
17 Judge?

18 THE COURT: We're at ease.

19 (A recess is taken from 3:33 p.m. until
20 3:42 p.m.; at which time, the proceedings continue as
21 follows:)

22 THE COURT: Who's your next witness,
23 Ms. Linder?

24 MS. LINDER: Jeff Harrison. He's in the
25 hallway.

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1 THE COURT: He can come on in.

2 If you'll have a seat, we'll wait for
3 Mr. Smiley. There's no need for you to be just out in
4 the hallway.

5 THE WITNESS: Thank you.

6 (Mr. Steplight enters at 3:51 p.m.)

7 (Mr. Smiley enters at 3:52 p.m.)

8 MR. SMILEY: Thank you for an extra couple of
9 minutes. Mr. Steplight arrived when I was downstairs,
10 and I had an opportunity to explain to him what has
11 happened so far and the details. He's now present. He
12 just didn't know. The bondsman found him; he came
13 immediately. He apologizes, even though, I guess,
14 technically, I needed to have gotten in touch with him.
15 He did get a letter from me. But he'd gotten so many of
16 them, he didn't realize this case would be first this
17 morning. We apologize, your Honor.

18 THE COURT: All right.

19 MR. SMILEY: We're ready to proceed.

20 THE COURT: Call your next witness.

21 MR. STONEY: The State calls Jeff Harrison.

22 (The oath is administered by the Deputy Clerk
23 of Court and the witness answers as follows:)

24 THE WITNESS: Yes.

25 THE DEPUTY CLERK OF COURT: State your full

Jeffery Harrison -

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1 name and spell your last.

2 THE WITNESS: Jeffery Harrison, H-a-r-r-i-
3 s-o-n.

4 JEFFERY HARRISON,
5 having been first duly sworn by the Courtroom Deputy
6 Clerk of the Court to tell the truth, the whole truth,
7 and nothing but the truth, was examined and testified
8 upon his oath as follows:

9 DIRECT EXAMINATION

10 BY MR. STONEY:

11 Q Good afternoon. Tell us what your occupation
12 is.

13 A Currently now, I'm a detective in the Burglary
14 Unit with Charleston Police Department.

15 Q In May of 2011, what was your title?

16 A I was attached to the Team 1 Power Shift, which
17 is a patrol squad to mainly target violent crime areas,
18 narcotic areas.

19 Q And how long have you been employed with the
20 City of Charleston Police Department?

21 A Little under eight years.

22 Q And did you have an occasion to become involved
23 in the case against Norris Steplight?

24 A Yes.

25 Q And when was that?

79

Reported By:
Rolayne M. Volpe, CCR, RPR
Official Court Reporter for the State of South Carolina

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1 A May 27th, 2011.

2 Q And how were you brought into this case?

3 A I was involved in the traffic stop. I was the
4 driver of the vehicle, myself with Officer Engles.

5 Q Can you tell us where that occurred?

6 A It occurred at -- the violations occurred at
7 Rutledge and Avenue -- Rutledge and Calhoun. The final
8 stop was at Jonathan Lucas and Sabin Street.

9 Q That's in the city and county of Charleston?

10 A Yes.

11 Q And after the stop -- so did you attempt to
12 initially -- initially attempt to do a lawful traffic
13 stop on this Defendant's vehicle?

14 A Yes. On the 27th of May, we observed a white
15 Dodge Ram pickup truck approach on Rutledge, approaching
16 Calhoun Street, came to a red traffic light; at which
17 time, he failed to come to a complete stop, rolled
18 through, turned right onto Calhoun Street. Calhoun is a
19 two-lane road. Instead of turning into Lane 2, he
20 completed and failed -- and proceeded to turn into
21 Lane 1, failing to turn into the immediate lane, so we
22 initiated a traffic stop at Rutledge and Ashley in
23 reference to disregarding a traffic signal and improper
24 turn.

25 Q When you say "disregarding a traffic signal,"

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1 is that running a red light?

2 A Yes. Failed to come to a complete stop at the
3 light.

4 Q Did you have an unobstructed view of both of
5 these infractions?

6 A Yes.

7 Q And just for the record, how was the lighting
8 at that time?

9 A It was still light outside.

10 Q Just -- about what time of day was this?

11 A It was approximately eight o'clock -- 8:00 p.m.

12 Q And so on May 27th, you were able to see that
13 clearly?

14 A Yes.

15 Q Did you initiate your blue light and siren?

16 A Yeah. We initiated blue lights and siren, and
17 we were in an unmarked Chevy Tahoe at the time.

18 Q And where were -- where were you located?
19 Where were y'all located in reference to the Defendant's
20 vehicle at this time?

21 A We were behind the vehicle. Not directly
22 behind. Maybe 100 yards, 200 yards.

23 Q And can you just -- can you tell us where the
24 Defendant drove and where the actual location of the
25 stop -- where did you finally stopped?

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1 A The violation occurred at Rutledge and Calhoun.
2 We initiated the blue lights and sirens at Rutledge and
3 Ashley. Several times he could have safely pulled to
4 the side; however, he continued on Calhoun to Jonathan
5 Lucas where he made a right-hand turn and came to a
6 final stop at Sabin Street on Jonathan Lucas at Sabin
7 Street.

8 Q And once the Defendant did pull his vehicle
9 over, what happened at that point?

10 A I approached the driver, asked him for his
11 license, registration, insurance. He handed me a
12 route-restricted license, his paperwork, and the
13 insurance and paperwork for the vehicle. I asked him
14 what he was restricted for. He said his route was
15 restricted for work. He was able to travel to and from
16 work. I asked if he was going to work or coming from
17 work. He said he had gotten off work earlier, and he
18 had dropped his girlfriend off at church.

19 Q So he -- he said he was dropping his girlfriend
20 at church?

21 A Yes.

22 Q Not coming to and from work?

23 A Yes.

24 MR. STONEY: Your Honor, may I approach?

25 THE COURT: You may.

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1 Q (By Mr. Stoney) I'm going to show you what has
2 been marked as State's Exhibit 1 for identification
3 purposes only. Can you please tell us what that is.

4 A This is his route-restricted explanation, his
5 paperwork, and it explains that he's able to drive to
6 and from work.

7 Q Okay. And for what dates does that --

8 A It began October 15, 2010, through October
9 15th, 2011.

10 Q And can someone be charged with driving under
11 suspension if they have a route-restricted driver's
12 license?

13 A Yes. If they're not following the guidelines
14 of their route restrictions.

15 Q And does it say that on the. . .

16 If I can direct you to Number 3.

17 A Number 3? Oh, yes.

18 Q Just -- can you tell us what that says? I
19 know it's kind of. . .

20 A I can't see 3.

21 Q I can -- from your knowledge, can somebody be
22 arrested for driving under suspension if they have a
23 route-restricted driver's license?

24 A Yes.

25 Q And so what conversation, if any, was had with

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1 the Defendant as far as his route restriction goes, and
2 where he was -- where he was coming from?

3 A . He said he was coming from dropping off his
4 girlfriend at church. He claimed he had gotten off work
5 earlier that day. We attempted to contact his boss to
6 find out where he was working. We were unable to
7 contact him.

8 Q And did he appear to be coming to or from work?

9 A No. He was -- he was clean. No tools or
10 anything in the vehicle.

11 Q Did he give any indication of what his
12 occupation was?

13 A I believe he said he helped with construction
14 and landscaping.

15 Q So he were -- if he were coming to or from
16 work, would have made sense for him to have tools or --

17 A Correct.

18 Q Yeah. And did y'all attempt to confirm status
19 that he was -- his DUS status?

20 A Yes. We checked with our CPD dispatch and
21 confirmed that he was route-restricted, came back
22 suspended.

23 Q So, ultimately, was this Defendant issued any
24 warning ticket for this stop?

25 A Yes. He was issued a warning citation for the

1 disregarding a stop sign -- or a traffic light, sorry,
2 and improper turn. And then was arrested for driving
3 under suspension for the route-restricted license.

4 Q And is it within your discretion -- or you
5 all's discretion as police officers as to whether or not
6 you --

7 A Yes.

8 Q You have the ability to place somebody
9 under arrest for deviating from their route-restricted
10 license?

11 A Correct.

12 MR. STONEY: Court's indulgence, please?

13 (Mr. Stoney speaks with Ms. Linder off the
14 record.)

15 MR. STONEY: No further questions. Please
16 answer anything that Mr. Smiley may have.

17 THE COURT: Mr. Smiley?

18 MR. SMILEY: Please the Court, your Honor?

19 CROSS-EXAMINATION

20 BY MR. SMILEY:

21 Q The name of your unit was Power Shift?

22 A Yes, sir.

23 Q What is Power Shift?

24 A It's a unit within each team. It's a -- it's
25 an entity of the patrol unit; however, you're tasked

1 THE COURT: It will.

2 Q (By Mr. Stoney) And so what was the outcome of
3 this lawful traffic stop?

4 A Once we conducted the stop, I approached the
5 driver side, asked for the vehicle information, driver's
6 license; at which time, he handed me a suspended
7 driver's license. Checked, cross-referenced, determined
8 that he was suspended, removed him from the vehicle, he
9 was placed under arrest for driving under suspension,
10 and he was transported to the county jail.

11 Q Okay. And what occurred at the county
12 jail?

13 A At county jail, he was booked, intake
14 procedure; at which time, a strip search was conducted.
15 Myself and Officer Engles accompanied the county
16 corrections officer in the strip room; at which time,
17 during the strip, it was noticed that Mr. -- the
18 Defendant was concealing two plastic bags in his
19 buttocks. Upon that, Officer Engles removed them,
20 discovered that they contained a white -- an off-white
21 rocklike substance in the two bags. Also, Engles
22 field-tested the items presumptive as cocaine base.

23 Q Do you remember the approximate weight of the
24 cocaine base?

25 A I believe it was approximately 12 grams.

Anita Marie Moore -

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1 name and spell your last name.

2 THE WITNESS: Anita Marie Moore, M-o-o-r-e.

3 ANITA MARIE MOORE,

4 having been first duly sworn by the Courtroom Deputy
5 Clerk of the Court to tell the truth, the whole truth,
6 and nothing but the truth, was examined and testified
7 upon her oath as follows:

8 DIRECT EXAMINATION

9 BY MR. STONEY:

10 Q Good afternoon, Ms. Moore. What is your
11 occupation?

12 A I'm a crime scene technician.

13 Q And who is your current employer?

14 A The City of North Charleston.

15 Q And at -- at any point, were you employed with
16 the City of Charleston?

17 A Yes. I was employed with the City of
18 Charleston for about 12 years.

19 Q And what position did you hold with the City of
20 Charleston?

21 A As a criminalist and as a crime scene
22 technician.

23 Q And what were your duties?

24 A As a criminalist, it was to analyze substances
25 that came into the lab to determine controlled

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1 substances, fiber debris analysis. .

2 Q And how long did you hold the position as --

3 And I apologize. What was the --

4 A Criminalist.

5 Q -- as a criminalist?

6 A Two years.

7 Q And what type of training, education, and
8 experience do you have?

9 A I have a bachelor's degree in chemistry from
10 the College of Charleston. Been certified through the
11 American Board of Criminalistics and the International
12 Association for Identification. We do a thorough
13 in-house training program where you shadow an
14 experienced criminalist. You stay under their purview
15 and do cases where they're technically reviewed for a
16 period of time before you're actually cut loose to do
17 your own casework, and then you have to complete a
18 competency sample training.

19 Q And during your time with the City of
20 Charleston Police Department, did you analyze substances
21 to determine whether or not they contained narcotic
22 drugs?

23 A Yes, I did.

24 Q And about how many times?

25 A Per samplewise, I couldn't tell you. Casewise,

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1 over 800 cases.

2 Q And of those 800 cases, at any point did you
3 analyze substances to determine whether or not they
4 contained cocaine base?

5 A Yes, I did.

6 Q And did you make these analyses as a regular
7 part of your duties?

8 A Yes, most of them contained substances along
9 those lines.

10 Q What type of equipment do you all use at the
11 lab for testing drugs?

12 A We do wet chemical tests when we first receive
13 a sample, which gives us an idea of what it may be. And
14 then from that, we'll use several different types of
15 instruments. One is what we abbreviate as a FTIR,
16 which is a Fourier Transform Infrared Spectrometer, and
17 the other one is abbreviated GCMS, which is a Gas
18 Chromatography-Mass Spectrometer.

19 Q And is this instrument precise and accurate in
20 its testing?

21 A Yes, it is.

22 Q And can you tell us a little bit about more
23 your training that you had to become a drug analysis,
24 including any certification?

25 A Again, we went through in-house training,

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1 which gives us a competency sample, and then near the
2 end of my two-year tenure there, I did become certified
3 as a criminalist through the American Board of
4 Criminalistics.

5 MR. STONEY: Your Honor, at this point the
6 State would move to have Anita Moore declared an expert
7 in the field of drug analysis.

8 THE COURT: Any objection, Mr. Smiley? Any
9 *voir dire*?

10 MR. SMILEY: No, ma'am.

11 THE COURT: And you're requesting her to be
12 qualified as an expert in --

13 MR. STONEY: Drug analysis.

14 THE COURT: Any objection as to drug analysis
15 only, Mr. Smiley?

16 MR. SMILEY: No, ma'am.

17 THE COURT: Ladies and gentlemen, normally a
18 person cannot testify and give an opinion. Normally,
19 they must testify as to either what they saw, or heard,
20 or sensed by smell, or something of that nature. There
21 is an exception in our law when someone is qualified
22 because of their education or experience. They are
23 permitted to give their opinion in certain areas if the
24 Court qualifies them in that way. Ms. Moore will be
25 qualified as an expert in the area of drug analysis to

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1 give opinion testimony in the area. That does not mean
2 that you must accept the opinion. It is simply evidence
3 for you to use in anyway that you see fit.

4 Mr. Stoney?

5 MR. STONEY: Your Honor, may I approach?

6 THE COURT: You may.

7 MR. SMILEY: Judge, at this time, if I can
8 renew my objection.

9 THE COURT: Pursuant to -- overruled, pursuant
10 to my previous rulings.

11 MR. SMILEY: Yes, ma'am.

12 THE COURT: Thank you.

13 Q (By Mr. Stoney) I'm going to show you what's
14 been marked as State's Exhibit 5 for identification
15 purposes. Can you identify that for me, please.

16 (Document is handed to the witness.)

17 A This is a report generated from our laboratory
18 in regards to analysis on this case.

19 Q And can you tell us who prepared it?

20 A It has my signature. I'm the one that signed
21 the report, stating that these are my findings.

22 Q And can you tell us when the report was
23 prepared?

24 A Shows May 31st, 2011.

25 Q And the report is signed by you?

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1 A Yes, sir, it is.

2 Q And can you tell us who the subject of the drug
3 report is, please?

4 A State's the name of Norris Steplight.

5 MR. STONEY: Your Honor, at this point the
6 State would like to offer State's Exhibit 5 into
7 evidence.

8 THE COURT: Any objection?

9 MR. SMILEY: Yes. Objection. Foundation
10 hasn't been established.

11 THE COURT: Counsel, approach.

12 (Sidebar.)

13 MR. SMILEY: Withdrawn.

14 THE COURT: State's 5 is admitted. Objection
15 withdrawn --

16 MR. SMILEY: Well, the objection that I
17 previously made, not the --

18 THE COURT: As to -- as to the foundation, the
19 objection was withdrawn. But pursuant to the previous
20 rulings --

21 MR. SMILEY: Yes, ma'am.

22 (State's Exhibit Number 5 is admitted into
23 evidence.)

24 THE COURT: You may continue..

25 MR. STONEY: May I publish this?

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1 THE COURT: You may. We have it up here, or
2 you want to pass it around?

3 MR. STONEY: Put it on the Elmo.

4 THE COURT: Can we do that?

5 MR. STONEY: May I approach?

6 THE COURT: You may.

7 (Respite.)

8 (Exhibit displayed on the Elmo.)

9 Q (By Mr. Stoney) Can you read that?

10 A Yes, sir, I believe so.

11 Q Can you please tell the jury the findings of
12 that report?

13 A It stated that the items submitted, the first
14 one being a plastic bag with rocklike substance,
15 had a result of cocaine base of 5.2- -- I believe it
16 says -- -66 grams. The second item was a plastic bag
17 with rocklike substance with a finding of cocaine base
18 of 7.216 grams.

19 Q And so would that be a total of approximately
20 12 grams?

21 A Approximately. We don't -- I don't total them.

22 MR. STONEY: Your Honor, may I approach?

23 THE COURT: You may.

24 Q (By Mr. Stoney) I'm next going to show you
25 what has been marked as State's Exhibit 4 for

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1 his counsel.)

2 (The jury is escorted into the courtroom at
3 2:39 p.m.)

4 THE COURT: Thank you. Please be seated.

5 Madam Foreperson, I understand that you have
6 reached a verdict?

7 MADAM FOREPERSON: Yes, ma'am.

8 THE COURT: If you will hand the verdict form
9 to the bailiff.

10 (Document is handed to the Judge and then to
11 the Deputy Clerk of Court.)

12 THE COURT: Mr. Steplight, please rise.

13 VERDICT

14 THE DEPUTY CLERK OF COURT: In the Court of
15 General Sessions, Ninth Circuit Judicial Court, Case
16 Number 2011-GS-10-6501, State of South Carolina versus
17 Norris Steplight. We, the jury, find the Defendant
18 guilty of traffic in cocaine base. Signed, Foreperson,
19 Gail Yarborough.

20 Madam Forelady, ladies and gentlemen of the
21 jury, if this is your verdict, please raise your right
22 hand.

23 (Jury complies.)

24 THE DEPUTY CLERK OF COURT: Thank you.

25 THE COURT: Mr. Smiley, anything further

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1 penalty range?

2 MS. LINDER: The penalty range is 25 years.

3 THE COURT: All right. That's a mandatory?

4 MS. LINDER: Yes, your Honor.

5 THE COURT: All right. Anything further on
6 behalf of the State?

7 MS. LINDER: Nothing further, your Honor.

8 THE COURT: All right. Mr. Smiley?

9 MR. SMILEY: Your Honor, since there is but one
10 penalty for this crime, there's no reason to offer
11 mitigation at this point, so -- I mean, there's only one
12 thing you can do.

13 THE COURT: Okay.

14 MR. SMILEY: Only thing I will tell you is
15 that he's 30 years old. He's got all of his family here
16 in the courtroom. And -- and we understand that you are
17 bound by the law and that -- and, more importantly, I
18 guess, is we will renew our objections and follow
19 through with the procedure after this. But we
20 understand what you have to do, your Honor.

21 THE COURT: All right.

22 Mr. Steplight, please rise. Mr. Steplight, is
23 there anything that you wish to tell the Court? I
24 understand that your attorney has probably told you not
25 to speak to me due to -- for appellate concerns. Is

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1 there anything that you wish to say to the Court?

2 THE DEFENDANT: I just feel like I made a
3 mistake. And that mistake, you know, the roads were
4 rocky. It goes like this: I didn't get my suppression.
5 I didn't get to pick my jury. I don't even know half of
6 those people in this room. I don't even know who those
7 people was. My suppression was hold without me. I -- I
8 ain't even get to hear my whole suppression. I feel
9 like -- as an example, I had fired my attorney, and you
10 still give me him. And with that being said, I feel as
11 if I get -- I get railroaded -- I get treated unjustly
12 in this courtroom today. But I understand we have all
13 got to go through and how you got to do your job. But
14 understand that I got kids too. And with that, the
15 questions that I would need to ask, for the jury, to
16 hear my side, I didn't -- I didn't get that. And on top
17 of that, I got sodomized. But I can understand, and
18 pray for everybody, and everybody to do the same.

19 THE COURT: All right. Mr. Steplight, you
20 understand that there is -- that the sentence for this,
21 based upon your prior convictions, is 25 years?

22 THE DEFENDANT: Yes, ma'am, I understand.

23 THE COURT: You understand that you have the
24 right to appeal the jury's decision and the sentence
25 that I'm about to impose, but you or your attorney must

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1 do so within ten days?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you understand that, sir?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Anything further, Mr. Smiley?

6 MR. SMILEY: No, ma'am.

7 THE COURT: Mr. Steplight, it's the Order of
8 the Court on Indictment 2011-GS-10-6501 that you be
9 committed to the State Department of Corrections for a
10 term of 25 years. Give you credit for the time that you
11 have served. Good luck to you, sir.

12 MR. SMILEY: You want to leave him present for
13 post-trial motions?

14 THE COURT: Thank you.

15 MS. LINDER: Your Honor, I also want to state
16 for the record, as a result of this verdict, the State
17 will be *not* pressing two other pending general sessions
18 charges that stem from a separate arrest against
19 Mr. Steplight.

20 THE COURT: All right. And that's your
21 understanding?

22 MR. SMILEY: Yes, ma'am.

23 THE COURT: Anything further? I'm going to go
24 release the jury for the day. Anything further?

25 MS. LINDER: Nothing from the State, your

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Kristi L. Harrington, Circuit Court Judge

Appellate Case No.: 2013-000332
Case No. 2011-GS-10-06501

The State,

Respondent,

v.

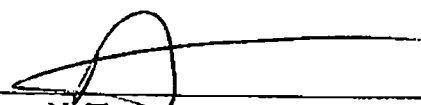
Norris T. Steplight,

Appellant.

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.

December 3, 2013



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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The State,

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v.

Norris T. Steplight,

Appellant.

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QUESTION PRESENTED

Whether Appellant's right to be present at all critical stages of the proceedings against him, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, § 14 of the South Carolina Constitution, was violated when the trial court, over objection, conducted all of jury selection and much of a pre-trial suppression hearing prior to his arrival at the courthouse?

STATEMENT OF THE CASE

1. Procedural History

Appellant Norris T. Steplight was arrested in Charleston County, South Carolina, on May 27, 2011, and charged with trafficking cocaine base, 10 grams or more, but less than 28 grams. The Charleston County grand jury indicted Appellant for trafficking in cocaine base (R.pp.1-2) and on February 4, 2013, a pretrial motion to suppress and jury selection in the Charleston County court of General Sessions came before Kristi L. Harrington, Resident Circuit Judge, presiding. Defendant was not present for the pretrial motion to suppress or for jury selection. On February 5, 2013, the jury convicted Appellant as charged, and the court sentenced him to twenty-five (25) years and to pay a fine of fifty thousand dollars (\$50,000.00). (R.pp.5-6). Notice of this appeal was filed on February 14, 2013, and the transcript was received on June 25, 2013. The only issues before the Court of Appeals are: 1) whether Appellant's constitutional rights were violated when the entire jury selection process and most of the pretrial motion to suppress were conducted outside of Appellant's presence; and, 2) whether Appellant waived his right to be present. The relevant facts are as follows below.

2. Facts relevant to the violation of Appellant's right to be present

When the proceedings below began at 12:00 p.m. on Monday, February 4, 2013, defense counsel immediately advised the trial court that his client was not present, that he had "always been available" for past court appearances, and that affirmative efforts to contact him were already well under way. (R.p.7, lines 14-17; *id.* at R.p.8, lines 15-17) ("I called the bondsman at 8:30 this morning, who said, I'll go get him."). As the

discussion progressed, the trial court was apprised of a series of circumstances that explained Appellant's absence and indicated that it was both unintentional and unlikely to persist for long. Defense counsel explained that he had received "a text saying, 'You just got moved up; you might be going first thing,'" and that his ensuing efforts to summon Appellant had not succeeded due to a recent telephone number change. (R.p.8, lines 14-15) (internal quotation marks added). The solicitor indicated that Appellant had been sent a letter, which "just ha[d] them coming on Monday morning, and everything says nine o'clock tomorrow [Tuesday]," (R.p.9, lines 7-9), and defense counsel added that Appellant had "gotten a dozen letters over the last year and a half," and had "showed up every time," (R.p.9, lines 10-11 and 14-15). When the trial court inquired about the possibility of issuing a bench warrant, defense counsel answered that he did not "think it w[ould] speed up the process," and that Appellant was not "intentionally avoiding court." (R.p.9, line 25 - R.p.10, line 1). To the contrary, Appellant had "been anxious to have the case tried." (R.p. 10, lines 1-2). Neither the solicitor nor the trial court questioned or contradicted any of these representations. Instead, the discussion ended with the trial court's announcement of the lunch break, and declaration that "we're going to start [Appellant's suppression] motion at 1:30." (R.p.11, lines 6-10).

When the proceedings resumed after lunch, the trial court noted defense counsel's "vehement objection to continuing without [Appellant's] presence", and then immediately directed that the first witness be called. (R.p.11, lines 19-20). Defense counsel responded by reiterating that Appellant's presence was important, that he "ha[d] shown up at least a half dozen times" during the extended period the case had been on the

docket, and that he "kn[e]w Appellant want[ed] to be present." (R.p.12, lines 11-25). Counsel also continued to emphasize that the difficulty he was experiencing in attempting to reach Appellant was anomalous, and that counsel himself had been caught off guard, having "thought [the case was] going to be second th[at] week" (R.p.13, lines 9-10). Once again, counsel's representations were neither questioned nor contested.

Without further inquiry, and without making any findings concerning either the information with which Appellant had been supplied or the voluntariness of his absence, the trial court went forward with a portion of the suppression hearing. (See R.pp.14-45). During a break, defense counsel noted for the record that he had requested a continuance due to Appellant's absence, and that the trial court had denied it. (R.p.46, lines 4-6). In response, the trial court gave defense counsel "continuing objection", and added that, "We are continuing without your client, but I have heard nothing that indicates to me that [Appellant] was not given notice of today." (R.p.46, lines 11-13). The court then proceeded with *voir dire* and jury selection, all of which occurred in Appellant's absence. (See R.pp.47-77).

Appellant entered the courtroom at 3:51 p.m. on Monday, February 4. Consistent with counsel's earlier representations to the trial court, Appellant's absence had been neither intentional nor voluntary. Rather, counsel explained:

[Appellant] just didn't know. The bondsman found him; he came immediately. He apologizes, even though, I guess, technically, I needed to have gotten in touch with him. He did get a letter from me. But he'd gotten so many of them, he didn't realize this case would be first this morning. We apologize, your Honor.

(R.p.78, lines 12-17). In response, the trial court simply remarked, "All right," and

directed the prosecution to call its next witness. (R.p.78, lines 18-20). As with the prior discussions of Appellant's absence, the court made no findings, and expressed no concern for any constitutional implications generated by having proceeded without him. Appellant's suppression motion was denied later that day, and the following day the jury convicted him as charged. At sentencing, Appellant raised his own objection to the suppression motion and jury selection having been conducted in his absence. (See R.p.96, lines 4-12). Once again, the trial court did not respond.

ARGUMENT

APPELLANT'S RIGHT TO BE PRESENT AT ALL CRITICAL STAGES OF THE PROCEEDINGS AGAINST HIM, AS GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE I, § 14 OF THE SOUTH CAROLINA CONSTITUTION, WAS VIOLATED WHEN THE TRIAL COURT, OVER OBJECTION, CONDUCTED ALL OF JURY SELECTION AND MUCH OF A PRE-TRIAL SUPPRESSION HEARING PRIOR TO HIS ARRIVAL AT THE COURTHOUSE.

1. Relevant legal principles

"One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial." *Illinois v. Allen*, 397 U.S. 337, 338 (1970); see also, e.g., *Rushen v. Spain*, 464 U.S. 114, 117 (1983); *Ellis v. State*, 267 S.C. 257, 260, 227 S.E.2d 304, 305 (1976) (citing *Allen*) ("[T]he Sixth

Amendment of the U.S. Constitution guarantees the right of the accused to be present at every stage of his trial, and is applicable to the States by reason of the Fourteenth Amendment. . . ."); S.C. Const. art. I, § 14 ("[A defendant has the right] to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both.").

The Supreme Court of the United States has made clear that a defendant's right to be present extends to jury selection, because his presence at that critical stage "bears, or may fairly be assumed to bear, a relation, reasonably substantial, to his opportunity to defend." *Snyder v. Massachusetts*, 291 U.S. 97, 106 (1934) *overruled on other grounds by Mallory v. Hogan*, 378 U.S. 1 (1964); *see also id.* (observing that "it will be in [the defendant's] power, if present, to give advice or suggestion or even to supersede his lawyers altogether." (citing *Lewis v. United States*, 146 U.S. 370, 13 S. Ct. 136, 36 L. Ed. 1011 (1892))); *Gomez v. United States*, 490 U.S. 858, 873 (1989) (affirming that jury selection is "a critical stage of the criminal proceeding during which the defendant has a constitutional right to be present," and recognizing that it is "the primary means by which a court may enforce a defendant's right to be tried by a jury free from ethnic, racial, or political prejudice, or predisposition about the defendant's culpability."); *United States v. Gagnon*, 470 U.S. 522, 526 (1985) (observing that defendant's presence at jury selection has a "reasonably substantial" relation to his "opportunity to defend against the charge.").

It is equally well established that a proceeding on the admissibility of evidence against the accused constitutes a critical stage at which the defendant's presence is guaranteed. *See, e.g., Iowa v. Tovar*, 541 U.S. 77, 80-81 (2004) ("The Sixth Amendment

safeguards to an accused who faces incarceration the right to counsel at all critical stages of the criminal process.”); *Kimmelman v. Morrison*, 477 U.S. 365 (1986) (Sixth Amendment right to effective assistance of counsel mandates competent representation in connection with motions to suppress unlawfully obtained evidence); *Kentucky v. Stincer*, 482 U.S. 730, 745 (1987) (“[A] defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.”).¹

Finally, while the right to be present may be waived, *see, Allen*, 397 U.S. at 342; *State v. Fairey*, 374 S.C. 92, 99, 646 S.E.2d 445, 448 (Ct. App. 2007), the existence of a valid waiver may not be presumed, *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938) *overruled in part on other grounds by Edwards v. Arizona*, 451 U.S. 477, 68 L. Ed. 2d 378, 101 S. Ct. 1880 (1981) (quoting *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292, 307 (1937)) (“We ‘do not presume acquiescence in the loss of fundamental rights.’”). On the contrary, “courts must indulge every reasonable presumption *against* the loss of constitutional rights,” including the right of a defendant to be present at all critical stages of a criminal proceeding. *Allen*, 397 U.S. at 343 (citing *Zerbst, supra*) (emphasis added). Consistent with this mandate, Rule 16, SCRCrimP, provides that a non-capital felony defendant “may voluntarily waive his right to be present,” but makes clear that such a waiver can occur only “upon a finding by the court

¹ See also, e.g., *Commonwealth v. Campbell*, 83 Mass. App. Ct. 368, 374, 983 N.E.2d 1227 (2013) (citing *Stincer, supra*) (“The United States Supreme Court has made clear that when a hearing involves evidence that is going to be used against the defendant at trial to prove his guilt, he has the right to a fair and just hearing under due process and his presence assures that result -- because he can consult with his lawyer, listen to the evidence, and assess the credibility of the witnesses (and the evidence) against him. In addition, his ability to have the full assistance of counsel may turn on his opportunity to see the evidence against him, with counsel, and to consult with counsel about the evidence and to better defend himself at trial.”).

received notice of his right to be present and that a warning was given that the trial would proceed in his absence upon a failure to attend the court.” *See, e.g., City of Aiken v. Koontz*, 368 S.C. 542, 547, 629 S.E.2d 686, 689 (Ct. App. 2006) (“While Rule 16 permits a knowing and intelligent waiver of the right to be present, such a waiver is permitted only in limited circumstances.”). Thus, absent factual findings by the trial court that a defendant both (1) received notice of his right to be present, and (2) was warned that the trial would proceed in his absence upon his failure to attend, there can be no voluntary waiver.

2. Discussion

The violation of Appellant’s right to be present in this case is self-evident. Despite full awareness that he was not in the courtroom, the trial court insisted upon pressing ahead without him through all of jury selection, and a substantial portion of a motion to suppress key prosecution evidence. Both proceedings constituted critical stages of the prosecution against Appellant, such that he had a fundamental right – guaranteed by both the United States and South Carolina Constitutions – to be in the courtroom when they took place.

While the right to be present may be waived, the record in this case contains neither an actual finding of waiver, nor any information from which such a finding could have been made. For its part, the trial court said nothing that could be construed either as an application of *Illinois v. Allen*, *Johnson v. Zerbst*, and Rule 16, or as a determination that Appellant had validly and voluntarily waived his right to be present. Instead, the court proceeded as if Appellant’s absence alone – regardless of its cause or likely

duration – was reason enough to move on without him.

Moreover, even if the trial court had attempted to observe the settled rules for waiver of the right to be present, all of the relevant information available to it pointed the other way. From the very beginning of the proceedings, defense counsel repeatedly advised the trial court that his client's absence was uncharacteristic, unintentional, and temporary. Counsel explained that Appellant had consistently appeared when notified in the past, that he had expressed his unequivocal desire to be present when the case went to trial, and that his absence on the day the case was finally called was attributable to a combination of communication difficulties and a last-minute schedule change by which counsel himself had been caught off guard. None of these representations were contradicted by the prosecution or questioned by the trial judge, and none of them suggested Appellant had voluntarily chosen not to appear, had received adequate notice that the case had been called to trial on that date and time, or had been informed that critical stages of the proceedings would go forward without him. Under such circumstances, there could have been no finding that Appellant validly waived his right to be present.

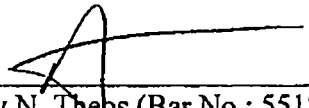
In sum, the trial court's insistence upon proceeding in Appellant's absence, under circumstances that gave no suggestion of a valid waiver, violated the Sixth and Fourteenth Amendments of the United States Constitution, and Article I, § 14 of the South Carolina Constitution. Thus, absent proof by the State that the error was harmless beyond a reasonable doubt, the judgment against Appellant must be reversed, and the case must be remanded for a new trial. *See, e.g., Arizona v Fulminante*, 499 U.S. 279,

295-96 (1991) ("*Chapman v. California*, 386 U.S. 18, 24 (1967), made clear that 'before a federal constitutional error can be held harmless, the court must be able to declare a belief that it was harmless beyond a reasonable doubt.' ... In so doing, it must be determined whether the State has met its burden of demonstrating that the [error] did not contribute to [the] conviction."); *O'Neal v. McAninch*, 513 U.S. 432, 438-39 (1995) (describing *Chapman* as "placing the risk of doubt" about harmlessness on the State); *State v. Watts*, 321 S.C. 158, 165, 361, 467 S.E.2d 272, 277 (Ct. App. 1996) (citing and relying upon *Chapman*).

CONCLUSION

As a result of the circuit court's failure to allow Appellant to be present for much of his pretrial motion to suppress and for the entire jury selection process, his federal and state constitutional rights were violated. Appellant respectfully submits that this Court reverse judgment and remand this case to the circuit court and order a new trial.

Respectfully submitted,



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December 20, 2013

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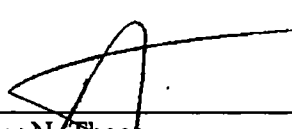
Norris T. Steplight,

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

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STATE OF SOUTH CAROLINA
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Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge

Appellate Case No: 2013-000332

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v.

NORRIS T. STEPLIGHT,

Appellant.

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STATEMENT OF THE CASE

A Charleston County Grand Jury indicted Appellant for trafficking cocaine base. (R.pp.1-2) On February 4-5, 2013, Appellant proceeded to trial before a jury. James W. Smiley, IV, Esquire, and Laree A. Hensley, Esquire, represented Appellant, and Assistant Solicitors Stephanie Linder and Randell Stoney represented the State. The jury found Appellant guilty, and the Honorable Kristi Lea Harrington sentenced him to twenty-five years' imprisonment. (R.p.97.)

On February 13, 2013, Appellant filed a Notice of Appeal.

STATEMENT OF FACTS

On May 27, 2011, Detective Jeffery Harrison of the City of Charleston Police Department pulled Appellant over for failing to come to a complete stop at a red light and for failing to turn into the immediate lane. (R. p.79, line 13-p. 80, line 24.) Appellant handed Detective Harrison a route-restricted drivers license, and Harrison discovered Appellant had violated the restrictions by dropping his girlfriend off at church instead of only driving to and from work. (R. p.82, lines 10-23.) Harrison arrested Appellant for driving under suspension. (R. p.85, lines 2-3.) Appellant consented to a search, and Investigator Sean Engles, who was present at the traffic stop with Harrison, noticed an unnatural object between Appellant's buttocks. (R. p.25, lines 9-16.) When Appellant was booked into the county jail, Engles confiscated two plastic bags from between Appellant's buttocks during a strip search. (R. p.86, lines 13-19.) The bags contained 5.266 grams and 7.216 grams of cocaine base. (R. p.93, lines 13-18.) Appellant was indicted for trafficking cocaine base. (R.pp.1-2)

At 12:00 p.m. on Monday, February 4, 2013, Appellant's counsel appeared in court and informed the trial court that his client was not present, had always been available in the past, had a non-working phone number on which counsel had left messages, and was currently being sought by his bondsman. (R. p.7, lines 14-17.) When the trial court suggested picking the jury right then, defense counsel stated, "I'll have to pick without a client." (R. p.8, lines 4-7.) He then stated, "I'm fine to go ahead and pick a jury. I would just ask, in an abundance of caution, if the murder case does take too long, that we don't swear the jury." (R. p.8, lines 20-23.) The trial court inquired what time Appellant was told to be there, and the solicitor indicated the letters defendants receive request they arrive on Monday morning at 9:00. (R. p.9, lines 6-9.)

The trial court began Appellant's suppression hearing at 1:30 p.m., noting counsel's vehement objection to continuing without his client present. (R. p.11, lines 11-20.) After beginning his argument to suppress, defense counsel stated, "I feel like I've - - I've done something wrong because he's not here, because I know he wants to be present. I understand this Court's position too. He has a letter and all. But I've usually never had a problem reaching him." (R. p.12, line 23-R. p.13, line 2.) (emphasis added.) The trial court asked where the bonds person was, and counsel explained the bondsman had been trying to locate Appellant since 8:30 that morning. (R. p.13, lines 3-16.) Following this discussion, the State called Investigator Sean Engles and began the suppression hearing. At 2:33 p.m., the trial court suspended the hearing to pick a jury for another case. (R. p.45, lines 15-25.) At 2:50 p.m., the proceedings continued and Appellant was still not present. (R. p.45, line 24-R. p.46, line 1.) The following exchange took place:

[Defense counsel]: I do need to put on the record that I've asked you for a continuance because my client is not present, and that you've ruled against me and that we're going forward.

The Court: All right. At this stage and at every stage from now on, Mr. Smiley, I'm going to give you a continuing objection.

[Defense counsel]: Thank you.

The Court: We are continuing without your client, but I have heard nothing that indicates to me that [Appellant] was not given notice of today. So we are going to - - here's what we're going to do. We're going to pick the jury, let the jury go, and we'll start in the morning. We're going to finish our pretrial motions and then give you a chance to e-mail your client.

(R. p.46, lines 3-18.) The trial court then began jury selection. (R. p.46, line 23-R. p.47, line 8.)

At 3:51 p.m., Appellant arrived at the courthouse. (R. p.78, lines 6-11.) Defense counsel explained to the trial court:

[Appellant] arrived when I was downstairs, and I had an opportunity to explain to him what has happened so far and the details. He's now present. He just didn't know. The bondsman found him; he came immediately. He apologizes, even though, I guess, technically, I need to have gotten in touch with him. He did get a letter from me. But he'd gotten so many of them, he didn't realize this case would be first this morning. We apologize, your Honor.

(R. p.78, lines 9-17.) (emphasis added.) The trial court continued the suppression hearing. (R. p.78, line 20.) Ultimately, the jury found Appellant guilty. (R. p.94, lines 14-19.) During sentencing, Appellant told the trial court:

I just feel like I made a mistake. And that mistake, you know, the roads were rocky. It goes like this: I didn't get my suppression. I didn't get to pick my jury. I don't even know half of those people in this room. I don't even know who those people was [sic]. My suppression was hold [sic] without me. I - - I ain't even get to hear my whole suppression. I feel like - - as an example, I had fired my attorney, and you still give me him. And with that being said, I feel as if I get - - I get railroaded - - I get treated unjustly in this courtroom today. But I understand we have all got to go through and how you got to do your job. But understand that I got kids too. And with that, the questions that I would need to ask, for the jury, to hear my side, I didn't - - I didn't get that. And on top of that, I got sodomized. But I can understand, and pray for everybody, and everybody to do the same.

(R. p.96, lines 2-18.) Judge Harrington sentenced him to twenty-five years' imprisonment. (R. p.97, lines 7-11.)

ARGUMENT

To the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review because Appellant raised no objection to the trial court failing to make findings on the record before proceeding in his absence. Regardless, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in absentia because Appellant was aware of his right to be present for trial and the fact the trial would proceed without him. Furthermore, even if the trial court did err, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was present for most of the trial and fully able to present his defense.

Appellant argues his right to be present at all critical stages of the proceedings against him, as guaranteed by the Sixth and Fourteenth Amendments to the United States and South Carolina Constitutions, was violated when the trial court, over objection, conducted all of jury selection and much of a pretrial suppression hearing prior to his arrival at the courthouse. Appellant asserts the trial court erred in proceeding with the trial in absentia because it failed to make factual findings that Appellant received notice of his right to be present and was warned the trial would proceed in his absence if he failed to appear. Initially, to the extent Appellant is challenging the trial court's decision to begin trial without Appellant based on its failure to make specific findings regarding whether Appellant knowingly waived his right to be present, this issue is not preserved for appellate review because it was not raised to the trial court. Regardless, notwithstanding any issue preservation concerns, the trial court did not err in denying Appellant's continuance motion and proceeding with the trial in absentia because Appellant had notice of when his trial would begin and was warned of the consequences of his failure to appear. Furthermore, even if the issue was preserved for appellate review

and the trial court erred in proceeding with the trial, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant suffered no prejudice as a result of the trial proceeding in his absence. Therefore, Appellant's conviction should be affirmed.

A. Issue Preservation

"Generally, an issue must be both raised to and ruled upon by the trial court in order to be preserved for appellate review." In re Walter M., 386 S.C. 387, 392, 688 S.E.2d 133, 136 (Ct. App. 2009). If an error is not presented to and ruled upon by the trial court, it cannot be raised for the first time to the appellate court. State v. Freiburger, 366 S.C. 125, 135, 620 S.E.2d 737, 742 (2005). The appellate court will not consider any issues that were not presented to or passed upon by the trial court. State v. Fleming, 254 S.C. 415, 421, 175 S.E.2d 624, 627 (1970). "Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 725 (2000).

In the case sub judice, Appellant contends the trial court erred in denying his continuance motion and proceeding with a trial in absentia because it did not make specific factual findings regarding Appellant's waiver of his right to be present for trial. However, because Appellant raised no objection to the trial court's failure to make specific factual findings regarding Appellant's waiver of his right to be present for trial, Appellant is precluded from raising such an objection for the first time on appeal. See State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Appellant is limited to the grounds raised at trial."); State v. Adams, 354 S.C. 361, 380, 580 S.E.2d 785, 795 (Ct. App. 2003) ("[A] defendant may not argue one ground below and another on appeal.") .

Therefore, to the extent Appellant is challenging his trial in absentia based on the trial court's failure to make certain factual findings, the issue is not preserved for appellate review. See State v. Holland, 385 S.C. 159, 172, 682 S.E.2d 898, 905 (Ct. App. 2009) (“[The appellant] did not raise this specific ground before the trial court. Therefore, this specific argument is not preserved for this Court’s review.”).

Appellant asserts the trial court erred in proceeding with the trial in absentia because it failed to make the required factual findings that Appellant received notice of his right to be present and was warned the trial would proceed in his absence if he failed to appear. (App. Br. p. 11). This Court examined this issue in State v. Ravenell, 387 S.C. 449, 692 S.E.2d 554 (Ct. App. 2010). In Ravenell, Ravenell was present for jury selection on the first day of his trial but failed to appear at the beginning of the trial’s second day. Id. at 452-53, 692 S.E.2d at 556. Based on Ravenell’s absence, defense counsel moved for a continuance but did not specifically object to a trial in absentia. Id. at 453, 692 S.E.2d at 556. The trial court then proceeded with the trial in Ravenell’s absence only after making specific factual findings that Ravenell had notice of the trial and was warned the trial would proceed without him, and Ravenell was ultimately convicted at the conclusion of the trial in absentia. Id. at 453-54, 692 S.E.2d at 556-57.

On appeal, this Court instructed:

In order to claim the protection afforded by the rule of law that a criminal defendant may be tried in his absence only upon a trial court’s finding that the defendant has received the requisite notice of his right to be present and advisement that the trial would proceed in his absence if he failed to attend, **a defendant or his attorney must object at the first opportunity to do so**, and failure to so object constitutes waiver of the issue on appeal.

Id. at 456, 692 S.E.2d at 558 (emphasis added). However, although Ravenell failed to object to his trial in absentia, this Court decided to address the merits of the issue

because: (1) defense counsel moved for a continuance; **and** (2) the trial court made findings on the record that Ravenell was given notice the trial would proceed without him and he would be tried in absentia if he failed to appear. Id. at 456-57, 692 S.E.2d at 558. Thereafter, this Court found the trial court did not abuse its discretion in denying Ravenell's continuance motion because Ravenell's absence from trial appeared to be deliberate. Id. at 458-59, 692 S.E.2d at 559.

Comparing Ravenell to Appellant's case, Appellant's defense counsel, much like Ravenell's defense counsel, moved for a continuance after Appellant failed to appear in court for trial but did not specifically object to the trial proceeding in Appellant's absence on the basis of the trial court's failure to make specific factual findings regarding waiver. However, unlike in Ravenell, the trial court in Appellant's case did not specifically make factual findings that Appellant had notice of his trial and was warned of the consequences of his failure to appear like the trial court did in Ravenell's case, which is exactly the alleged error Appellant is now raising on appeal. Instead, the trial judge merely noted she had heard nothing to indicate Appellant was not given notice. Accordingly, because the trial court in Appellant's case did not make the specific factual findings the trial court in Ravenell's case made, Appellant's continuance motion was not sufficient to preserve any issue related to the trial court's failure to make specific factual findings regarding Appellant's waiver of his right to be present for trial. Cf. id. at 456-57, 692 S.E.2d at 558 ("However, because Ravenell's counsel did move for a continuance, **and in light of the fact the trial judge made findings on the record that Ravenell was given notice the trial would proceed without him and he would be tried in absentia should he fail to appear**, we find it proper to address the matter on the merits." (emphasis added)). Therefore, as this Court instructed in Ravenell, Appellant was required to object at his

first opportunity to do so in order to preserve for appellate review any challenge to his trial in absentia based on the trial court's failure to make factual findings. Because Appellant failed to do so, the issue should not be considered for the first time on appeal. Otherwise, Appellant would be permitted to potentially obtain a reversal of his conviction based on the trial court's failure to make specific factual findings Appellant never asked the trial court to make. Appellant's conviction should be affirmed.

B. Propriety of the Denial of the Continuance Motion and the Trial Proceeding in Appellant's Absence

A decision on whether to grant or deny a motion for continuance rests in the sound discretion of the trial court. State v. Yarborough, 363 S.C. 260, 266, 609 S.E.2d 592, 595 (Ct. App. 2005). Appellate courts in South Carolina typically show great deference to the trial court regarding these decisions. State v. Colden, 372 S.C. 428, 435, 641 S.E.2d 912, 916 (Ct. App. 2007). The denial of a motion for continuance will not be disturbed on appeal absent a clear abuse of discretion. Ravenell, 387 S.C. at 455, 692 S.E.2d at 557. "The granting or refusal of a motion for continuance is within the discretion of the trial judge and his disposition of such a motion will not be reversed on appeal unless it is shown that there was an abuse of discretion to the prejudice of appellant. . . . [R]eversals of refusal of continuance are about as rare as the proverbial hens' teeth." State v. Lytchfield, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957) (emphasis added).

In State v. Wright, 304 S.C. 529, 531, 405 S.E.2d 825, 826 (1991), Wright was not present for his trial on a charge of distributing cocaine. At the outset of trial, Wright's defense counsel moved for a continuance, asserting he had recently been in contact with Wright and believed Wright could be located. Id. at 532, 405 S.E.2d at 827.

The trial court denied the continuance motion and proceeded with a trial in absentia. Id. Following his conviction, Wright appealed, arguing the trial court erred in denying the continuance motion. Id. On appeal, the Supreme Court affirmed the trial court's ruling, finding the trial court did not abuse its discretion in denying Wright's continuance motion because the record reflected Wright was aware of the term of court in which he was set to be tried and knew he would be tried in his absence if he failed to appear. Id.

In the case at bar, the trial court did not abuse its discretion in denying Appellant's continuance motion and proceeding with the trial in Appellant's absence because Appellant knowingly waived his right to be present for trial by not appearing at trial when he had full awareness of the fact he had a right to be present, his trial was scheduled to begin, and he would be tried in his absence if he failed to appear. See State v. Goode, 299 S.C. 479, 481, 385 S.E.2d 844, 845 (1989) ("[T]he right to be present at trial can be waived if done knowingly and voluntarily.").

Initially, Appellant unquestionably received notice regarding when his case was set to be tried prior to the trial going forward in his absence. When the trial court asked what time Appellant was told to be there, the solicitor stated the letter told him to be in court at 9:00 Monday morning, and Appellant's defense counsel confirmed Appellant had received a dozen letters over the last year and a half and had shown up every time. (R. p.9, 6-15.) Defense counsel further stated the matter had been on the docket for more than a year and that Appellant had a letter. (R. p.12, line 10-R. p.13, line 1.) When Appellant finally appeared, defense counsel confirmed again that Appellant did get a letter from him but acknowledged Appellant had gotten so many letters that he did not realize his case would be first that morning. (R. p.78, lines 8-17.) See, e.g., Ellis v. State, 267 S.C. 257, 261, 227 S.E.2d 304, 306 (1976) ("In our courts of general sessions,

defendants are generally only given notice of the term of court in which they will be tried and do not know the exact date and time of their trial until shortly before the trial begins. We think such notice is sufficient to enable a defendant to make an effective waiver of his right to be present at his trial.”).

Furthermore, Appellant was also fully aware the trial would proceed in his absence when he failed to appear at the courthouse for the trial. Most tellingly, prior to his release on bond, Appellant personally signed an acknowledgement form affirmatively stating that he understood: (1) he had “a right and obligation to be present at trial”; and (2) “should [he] fail to attend the court, the trial [would] proceed in [his] absence.”¹ (R. pp.3-4). Through his signature on the acknowledgement form, Appellant unequivocally demonstrated his full understanding of the consequences of his failure to appear at the scheduled time of his trial. See State v. Fairey, 374 S.C. 92, 101, 646 S.E.2d 445, 449 (Ct. App. 2007) (“A bond form that provides notice that a defendant can be tried in absentia may serve as the requisite notice.”). Also on the Bail Proceeding form, Appellant initialed a section that read, “If no disposition is made during [the term specified on the form], the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the

¹ The bail proceeding order containing Appellant’s signature acknowledging his awareness of his right to be present during trial and the consequences of his failure to appear for trial was not directly referenced by counsel or the trial judge during Appellant’s trial. However, the bail proceeding order was properly before the trial court due to the fact the order was signed during the bond hearing that took place before Appellant’s trial, was filed with the Charleston County clerk of court approximately twenty months before Appellant’s trial, and was a part of the clerk’s file associated with Appellant’s criminal case. See Rule 210(c), SCACR (“The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal.”); see South Carolina Dep’t of Soc. Servs. v. Janice C., 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) (“These documents were filed with the family court; therefore, they were part of the record.”). Furthermore, even assuming the order was not before the trial court as required by Rule 210(c), SCACR, this Court should take judicial notice of the order due to the indisputable nature of the signed, filed, and certified court document. See Wise v. Wise, 394 S.C. 591, 601, 716 S.E.2d 117, 122 (Ct. App. 2011) (“[A]n appellate court can take judicial notice of something that was not before the trial court if it is indisputable.”).

court.” Therefore, by his own agreement, Appellant was aware he was expected to appear in court each weekly term until otherwise notified rather than simply wait for notification from the court before appearing. Additionally, Appellant’s substantial prior experience with the criminal justice system, which included seven prior convictions over the course of a twelve-year criminal career, provided him with sufficient knowledge and experience to understand the consequences of his failure to attend his trial. Cf. Graves v. State, 309 S.C. 307, 310, 422 S.E.2d 125, 127 (1992) (considering Graves’ “extensive criminal background” when reviewing a determination of whether Graves validly waived his right to counsel); State v. Cash, 309 S.C. 40, 43, 419 S.E.2d 811, 813 (Ct. App. 1992) (listing the factors different courts have considered in determining whether a defendant had a sufficient background to waive his right to counsel, which included whether the defendant was previously involved in criminal trials).

In light of the representations of the solicitor and Appellant’s defense counsel regarding Appellant’s awareness of when his trial was set to begin and Appellant’s act of signing the acknowledgement form before he was released on bond, it is clear Appellant was fully aware of his right to be present for his trial, the scheduled date and time of his trial, and the consequences of his failure to appear for trial. Accordingly, the trial court did not abuse its discretion in denying Appellant’s continuance motion and proceeding with the trial in absentia after Appellant failed to appear at the courthouse for the beginning of his trial. See Wright, 304 S.C. at 532, 405 S.E.2d at 827 (1991) (finding no abuse of discretion in the denial of Wright’s continuance motion raised before Wright’s trial in absentia because the record reflected Wright was aware of the term of court in which his case was set to be tried and was aware the trial would proceed in his absence); see also State v. Williams, 321 S.C. 455, 459, 469 S.E.2d 49, 51 (1996) (“The trial

court's refusal of a motion for continuance in a criminal case will not be disturbed absent a clear abuse of discretion." Appellant's conviction should be affirmed.

C. Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). "No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case." State v. Wiley, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). "When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result." State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989). Thus, when overwhelming evidence of guilt has been presented, any trial error may be harmless. State v. Gathers, 295 S.C. 476, 480-481, 369 S.E.2d 140, 143 (1988).

In Appellant's case, even if the trial court erred in beginning the trial without Appellant in attendance, any error was entirely harmless in light of the overwhelming evidence of Appellant's guilt. The testimony presented during trial established Appellant was stopped for a valid traffic violation and arrested for driving under suspension. After officers strip searched Appellant at the jail, two bags of cocaine base were discovered between Appellant's buttocks. Anita Moore, a criminalist with the City of Charleston, testified the bags obtained from Appellant contained 5.266 grams and 7.216 grams of cocaine base. (R. pp.87-93.) Appellant's guilt was conclusively established beyond any reasonable doubt, rendering any error in the trial initially proceeding in his absence

entirely harmless. See State v. Williams, 292 S.C. 231, 233, 355 S.E.2d 861, 862 (1987) (finding errors resulting from a trial in absentia are subject to a harmless error analysis). Even if Appellant had been present for jury selection and the beginning of his suppression hearing, the result of trial would have been no different in light of the overwhelming nature of the evidence presented. Furthermore, notwithstanding the fact Appellant was not present for part of the first day of trial, Appellant was present for the rest of the trial and was able to fully and completely present his defense to the charges. Appellant makes no prejudice argument at all and it is interesting to note that because he appeared before the suppression hearing was completed, he certainly could have testified if he had wanted to.² Thus, he suffered no prejudice by not being present for a portion of the hearing. Therefore, any error resulting from the trial initially proceeding without Appellant does not warrant reversal of Appellant's conviction and resulted in no actual prejudice to Appellant. See State v. McLeod, 362 S.C. 73, 82, 606 S.E.2d 215, 220 (Ct. App. 2004) (“[A]n insubstantial error not affecting the result of the trial is harmless where guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached.”); see also State v. Shuler, 344 S.C. 604, 625, 545 S.E.2d 805, 815 (2001) (“Although the right to be present is a substantial one, **no presumption of prejudice arises from a defendant's exclusion.**” (emphasis added)). Appellant's conviction should be affirmed.

² As to Appellant's argument regarding his absence during jury selection, this issue was waived when defense counsel stated, “I'm fine to go ahead and pick a jury.” (R. p.8, lines 20-23.)

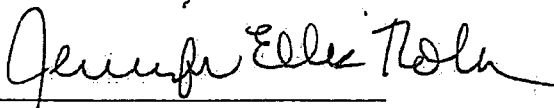
CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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December 17, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge

Appellate Case No: 2013-000332

THE STATE,

Respondent,

v.

NORRIS T. STEPLIGHT,

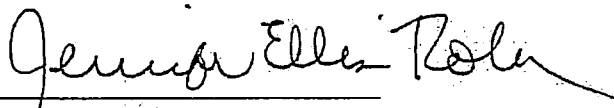
Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR.

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ATTORNEYS FOR RESPONDENT

December 17, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Kristi Lea Harrington, Circuit Court Judge

Appellate Case No: 2013-000332

THE STATE,

Respondent,

v.

NORRIS T. STEPLIGHT,

Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

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Barry Krell, Esquire
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I further certify that all parties required by Rule to be served have been served.
This 17th day of December, 2013.


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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Kristi L. Harrington, Circuit Court Judge

Appellate Case No.: 2013-000332

The State,

Respondent,

v.

Norris T. Steplight,

Appellant.

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ARGUMENT

1. Counsel Properly Preserved the Issue for Appellate Review

“Error preservation rules do not require a party to use the exact name of a legal doctrine in order to preserve an issue for appellate review.” *State v. Brannon*, 388 S.C. 498, 502, 697 S.E.2d 593, 597 (2010) (citation omitted). In order to claim the protection afforded by Rule 16, SCRCrimP, a defendant or his attorney must object at the first opportunity to do so, and failure to object constitutes waiver of the issue on appeal. *State v. Williams*, 292 S.C. 231, 232, 355 S.E.2d 861, 862 (1987) (citing *United States v. Gagnon*, 470 U.S. 522, 105 S.Ct. 1482, 84 L.Ed. (2d) 486 (1985)).

Appellant’s counsel objected to proceeding without his client at the first opportunity he had before the pretrial motion to suppress began as the trial court noted Appellant counsel’s “**vehement objection**” to continuing “**without your client’s presence**”. (R.p.11, lines 19-20) (emphasis added). Appellant’s counsel thanked the trial court for noting his objection to proceeding without Appellant and that he wished Appellant was present as he had shown up at least a half dozen times prior. (R.p.12, lines 7-12). Appellant’s counsel informed the court that Appellant’s absence was not intentional but due to the belief that Appellant’s case was going to be tried second until counsel received a text message early Monday morning that the case was going to be tried first. (R.p.8, lines 14-15; R.p.9, line 25 – R.p.10, line 1; R.p.13, lines 9-10). At that time, counsel immediately called the bondsman at 8:30 a.m. to go and locate Appellant because Appellant’s phone number was not working. (R.p.7, lines 15-17; R.p.8, lines 12-17; R.p.13, lines 9-16). When the court inquired as to the notice Appellant received for

trial, the solicitor stated that the letters had "them coming on Monday morning, and everything says nine o'clock tomorrow [Tuesday]." (R.p.9, lines 7-9).

It is evident that Appellant has properly preserved this issue as Appellant's counsel objected to going forward without his client's presence at the first opportunity he had and made several assertions to the trial judge that Appellant's absence was not deliberate but due to Appellant's case being bumped up to number one early Monday morning. The purpose of the contemporaneous objection rule is to alert the trial judge to possible error in time for the trial judge to evaluate the issue and, if necessary, make a correction. No one could seriously argue that Appellant counsel's objection did not meet that purpose. *See State v. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991) (a contemporaneous objection on proper grounds is required to preserve an error for appellate review).

2. Whether the Error was Harmless Beyond a Reasonable Doubt?

"Generally, appellate courts will not set aside convictions due to insubstantial errors not affecting the result." *State v. Pagan*, 369 S.C. 201, 212, 631 S.E.2d 262, 267 (2006) (citation omitted). "Error is harmless beyond a reasonable doubt where it did not contribute to the verdict obtained." *Id.* (citation omitted). An accused's right to be present at both jury selection and a pretrial motion to suppress derives from the Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution and S.C. Const. art. I, § 14, which provides that: "[a defendant has the right] to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both."

In *Commonwealth v. Campbell*, 83 Mass. App. Ct. 368, 369, 983 N.E.2d 1227 (2013), Campbell appealed from his convictions contending that he was deprived "of his right to be present at a critical stage of the proceedings, specifically at a hearing on the motion to suppress." In deciding whether Campbell's deprivation of his right to be present at the pretrial motion to suppress was harmless beyond a reasonable doubt, the court noted that in a pretrial motion to suppress, the defendant "has the opportunity to listen to the strength (or weakness) of at least a part of the government's case and to assess the witnesses. He has the ability to consult with his attorney and, as a participant in the event under examination, offer a unique perspective." *Id.* At 373-74. In finding that the Commonwealth had not met its burden proving that the error was harmless beyond a reasonable doubt, the court stated that "the motion to suppress concerned evidence that was used against the defendant at trial and was the basis for his conviction. In these circumstances it is not for an appellate court or a motion judge to determine how a defendant's presence at a critical stage which concerns the evidence against him could have assisted his over-all defense. *Id.* at 374. See also *State v. Grey*, 256 N.W.2d 74, 77 (Minn. 1977) (defendant's absence at a hearing on a motion to suppress, a critical stage, was not harmless beyond a reasonable doubt because it is impossible on the record to determine what contribution or assistance to counsel defendant could have rendered had he been present to hear the oral testimony of the officer).

In *State v. Irby*, 170 Wn.2d 874, 877, 246 P.3d 796 (2011), the issue before the court was whether the trial court violated defendant's right to be present at trial by conducting a portion of the jury selection process by e-mail in defendant's absence. The court determined that the State did not meet its burden proving that the error was

harmless beyond a reasonable doubt as the State could not show that the jurors excused in Irby's absence had no chance to sit on Irby's jury. *Id.* at 886. Likewise, in *USA v. Gordon*, 829 F.2d 119, 122-23, 264 U.S. App. D.C. 334 (1987), the court had to determine whether the trial court's impaneling a jury in Gordon's absence violated Gordon's rights. The court found that Gordon had a Fifth Amendment right to be present at voir dire and noted that " 'what may be irrelevant when heard or seen by [defendant's] lawyer may tap a memory or association of the defendant's which in turn may be of some use to his defense.' " *Id.* at 124. In finding that the government did not meet their burden of showing that the error was harmless beyond a reasonable doubt, the court noted that Gordon did not observe a prospective juror, did not hear a single response to the court's questioning of jurors and did not participate in a single peremptory challenge. *Id.* at 128. The court further stated that "A defendant [] who does not make his appearance until midway through the first day of his trial is surely noticed by the jury, and it is not beyond a reasonable doubt that 'the jury speculated adversely to the defendant about his absence from the courtroom.' " *Id.* (citation omitted).

The State contends that the harm done by the error of proceeding without Appellant can be assessed exclusively through looking at the prosecution's evidence and declaring that it would have been the same result regardless of Appellant's presence or absence, which is incorrect. If that were the case, then almost every violation of the right to be present would be harmless (with the only exception coming in cases where the accused's own testimony was essential), and the right itself would become meaningless and all but unenforceable. The better approach, as outlined in *Campbell*, *Grey*, *Irby* and *Gordon*, is to require the beneficiary of the error (the State) to affirmatively demonstrate

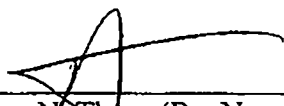
not merely that the evidence presented by the prosecution was constitutionally sufficient, but also that Appellant's absence did not affect the defense at any other critical stage(s) of the proceeding, e.g., jury selection, suppression, etc.

Accordingly, the State cannot prove that the error was harmless beyond a reasonable doubt as Appellant was deprived of his right to consult with his lawyer, to listen to the evidence and assess the credibility of the witnesses (and evidence) against him at the pretrial motion to suppress. Further, it is impossible to determine what contribution or assistance to counsel Appellant could have rendered had he been present to hear the oral testimony of the police officer's. Here, as in *Irby*, jurors were excused in Appellant's absence. (R.p.52, line 6 – R.p.54, line 11; R.p.58, line 16 – R.p.60, line 14; R.p.63, lines 18–25; R.p.64, lines 3-9; R.p.67, lines 9-16; R.p.67, line 19 – R.p.68, line 1; R.p.71, lines 6-13). Furthermore, like *Gordon*, Appellant did not observe a single juror, did not hear the court's questioning of the prospective jurors or their responses, nor did Appellant have the opportunity to participate in a single peremptory challenge in his trial. Finally, Appellant did not make his first appearance in front of the jurors until the next day.

CONCLUSION

Based upon the foregoing, Appellant respectfully submits that the issue is preserved for appellate review and that the State has not met its burden demonstrating that the error was harmless beyond a reasonable doubt.

Respectfully submitted,



Jerry N. Theos (Bar No.: 5518)
Barry Krell (Bar No.: 3573)

Jeff Buncher, Jr. (Bar No.: 78890)
Post Office Box 399
Charleston, South Carolina 29402
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Attorneys for Appellant

December 20, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Kristi L. Harrington, Circuit Court Judge

Appellate Case No.: 2013-000332

The State,

Respondent,

v.

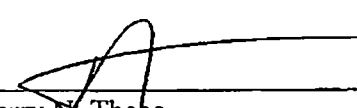
Norris T. Steplight,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

December 20, 2013



Jerry N. Theos

Barry Krell

Jeff Buncher, Jr.

URICCHIO HOWE KRELL JACOBSON

TOPOREK THEOS & KEITH, P.A.

Post Office Box 399

Charleston, South Carolina 29402

(843) 723-7491

Attorneys for Appellant

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Norris T. Steplight, Appellant.

Appellate Case No. 2013-000332

Appeal From Charleston County
Kristi Lea Harrington, Circuit Court Judge

Unpublished Opinion No. 2014-UP-184
Submitted April 1, 2014 – Filed April 30, 2014

AFFIRMED

Barry Krell, Jerry Nicholas Theos, and Jeffrey Wayne
Buncher, Jr., all of Uricchio Howe Krell Jacobson
Toporek Theos & Keith, P.A., of Charleston, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jennifer Ellis Roberts, both of
Columbia, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Fairey*, 374 S.C. 92, 100, 646 S.E.2d 445, 448 (2007) ("[B]efore a defendant may be tried in absentia, the trial court must determine a defendant voluntarily waived his right to be present at trial, making findings of fact *on the record* that the defendant (1) received notice of his right to be present and (2) was warned that the trial would proceed in his absence." (emphasis added)); *State v. Shuler*, 344 S.C. 604, 626, 545 S.E.2d 805, 816 (2001) ("Denials of a defendant's right to be present, as well as other constitutional violations, are subject to a harmless error analysis."); *id.* ("Although the right to be present is a substantial right, no presumption of prejudice arises from a defendant's exclusion."); *State v. Gillian*, 360 S.C. 433, 455, 602 S.E.2d 62, 74 (Ct. App. 2004) ("Error is harmless [when] it could not reasonably have affected the result of the trial."); *Shuler*, 344 S.C. at 626, 545 S.E.2d at 816 (finding the defendant's absence during a pretrial hearing was harmless error when the defendant failed to allege either at trial or on appeal any facts not known to his counsel that would have been of consequence during the hearing and the evidence of guilt was overwhelming); *State v. Whaley*, 290 S.C. 463, 465, 351 S.E.2d 340, 341 (1986) (finding the trial court's exclusion of the defendant from portions of voir dire was harmless error).

AFFIRMED.¹

HUFF, THOMAS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
www.sccourts.org

May 16, 2014

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: The State v. Norris T. Steplight
Lower Court Case No. 2011GS1006501
Appellate Case No. 2013-000332

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Jerry Nicholas Theos, Esquire
Alan McCrory Wilson, Esquire
Jennifer Ellis Roberts, Esquire
Barry Krell, Esquire
Jeffrey Wayne Buncher, Jr., Esquire
The Honorable Kristi Lea Harrington

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Norris Steplight, SCDC ID 00279329

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP - 10- 2362

Submitted By: Jeff Buncher, Jr.

Address: PO Box 399 - Charleston, SC 29402

SC Bar #: 78890

Telephone #: 843-723-7491

Fax #: 843-577-4179

Other:

E-mail: jeff@uricchio.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)** If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

☐ Contracts	☐ Torts - Professional Malpractice	☐ Torts - Personal Injury	☐ Real Property
☐ Constructions (100)	☐ Dental Malpractice (200)	☐ Assault/Slander/Libel (300)	☐ Claim & Delivery (400)
☐ Debt Collection (110)	☐ Legal Malpractice (210)	☐ Conversion (310)	☐ Condemnation (410)
☐ Employment (120)	☐ Medical Malpractice (220)	☐ Motor Vehicle Accident (320)	☐ Foreclosure (420)
☐ General (130)	☐ Previous Notice of Intent Case #	☐ Premises Liability (330)	☐ Mechanics Lien (430)
☐ Breach of Contract (140)	20 -NI-	☐ Products Liability (340)	☐ Partition (440)
☐ Other (199)	☐ Notice/ File Med Mal (230)	☐ Personal Injury (350)	☐ Possession (450)
	☐ Other (299)	☐ Wrongful Death (360)	☐ Building Code Violation (460)
		☐ Other (399)	☐ Other (499)
☒ Inmate Petitions	☐ Administrative Law/Relief	☐ Judgments/Settlements	☐ Appeals
☒ PCR (500)	☐ Reinstate Drv. License (800)	☐ Death Settlement (700)	☐ Arbitration (900)
☐ Mandamus (520)	☐ Judicial Review (810)	☐ Foreign Judgment (710)	☐ Magistrate-Civil (910)
☐ Habeas Corpus (530)	☐ Relief (820)	☐ Magistrate's Judgment (720)	☐ Magistrate-Criminal (920)
☐ Other (599)	☐ Permanent Injunction (830)	☐ Minor Settlement (730)	☐ Municipal (930)
	☐ Forfeiture-Petition (840)	☐ Transcript Judgment (740)	☐ Probate Court (940)
	☐ Forfeiture-Consent Order (850)	☐ Lis Pendens (750)	☐ SCDOT (950)
	☐ Other (899)	☐ Transfer of Structured Settlement Payment Rights Application (760)	☐ Worker's Comp (960)
☐ Specin/Complex /Other	☐ Pharmaceuticals (630)	☐ Confession of Judgment (770)	☐ Zoning Board (970)
☐ Environmental (600)	☐ Unfair Trade Practices (640)	☐ Petition for Workers' Compensation Settlement Approval (780)	☐ Public Service Comm. (990)
☐ Automobile Arb. (610)	☐ Out-of State Depositions (650)	☐ Other (799)	☐ Employment Security Comm (991)
☐ Medical (620)	☐ Motion to Quash Subpoena in an Out-of-County Action (660)		☐ Other (999)
☐ Other (699)	☐ Sexual Predator (510)		

Submitting Party Signature: _____

Date: 4/22/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Norris Steplight, SCDC ID 00279329)

Applicant,)

v.)

State of South Carolina)

Respondent.)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

1. Place of detention

Lee Correctional Institute, Bishopville, SC 29010

2. Name and location of Court which imposed sentence

The Honorable Kristi L. Harrington

Charleston County Court of General Sessions

100 Broad Street

Charleston, SC 29401

3. Name(s) of co-defendant(s) (if any)

None.

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2011-GS-10-06501; Trafficking in Crack Cocaine Base, 10 grams or more, but less than 28 grams.

5. The date upon which sentence was imposed and the terms of the sentence:

(a) February 5, 2013; 25 Years

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ☒

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

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2015 APR 27 AM 11:07
JULIE J. AMOS, RONA
CLERK OF COURT

Yes.

8. If you answered "yes" to (7), list:

- (a) the name of each Court to which you appealed:
 - i. Court of Appeals of South Carolina
- (b) the result in each such Court to which you appealed:
 - i. Affirmed the trial court.
- (c) the date of each such result:
 - i. April 30, 2014
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. 2014-UP-184

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) Not applicable.

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

The Applicant was convicted in violation of his right to the effective assistance of counsel under the Sixth Amendment to the United States Constitution. Applicant's counsel failed to act with reasonable diligence and promptness by failing to stay in touch with Applicant and promptly inform Applicant of his trial date. Because Applicant was not informed of his trial date by counsel, Applicant was precluded from choosing his own jury and precluded from being able to participate in a majority of his pre-trial motion to suppress, resulting in prejudice to Applicant.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

Applicant was not informed by trial counsel that he was up for trial. Applicant did not know his trial was under way until the bondsman informed Applicant later in the day on February 4, 2013. Upon being informed by the bondsman that his trial had begun, Applicant went straight to the court house. Applicant's entire jury was chosen without any input from Applicant. A member of the jury panel that was subsequently chosen to sit on Applicant's jury previously knew Applicant. Additionally, a majority of the pre-trial motion to suppress was conducted outside of Applicant's presence. Applicant had a constitutional right, as guaranteed by the Fifth, Sixth and Fourteenth amendments to the United States Constitution and Article I, § 14 of the South Carolina Constitution, to be present during jury selection and his pre-trial suppression hearing. Counsel's failure to keep

Applicant informed of his trial date was ineffective, resulting in prejudice to Applicant.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law?
No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief?
No.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?
No.
- (d) any other petitions, motions or applications in this or any other Court?
No.

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. Not applicable.
- (b) the name and location of the Court in which each was filed:
 - i. Not applicable.
- (c) the disposition thereof:
 - i. Not applicable.
- (d) the date of each such disposition:
 - i. Not applicable.
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. Not applicable.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No.

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
 - i. Not applicable.

- (b) the proceedings in which each ground was raised:
 - i. Not applicable.
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) The grounds set forth in 10 were not proper for appellate review.
- 17. Were you represented by an attorney at any time during the course of:
 - (a) your arraignment and plea?
Not Applicable.
 - (b) your trial, if any?
Yes.
 - (c) your sentencing?
Yes.
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
Yes.
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
Yes.
- 18. If you answered "yes" to one or more parts of (17), list:
 - (a) the name and address of each attorney who represented you:
 - i. James W. Smiley, IV
58 Broad St, Suite 2E
Charleston, SC 29401
 - ii. Barry Krell, Jerry Theos, Jeff Buncher
PO Box 399
Charleston, SC 29402
 - iii. Jeff Buncher
PO Box 399
Charleston, SC 29402
 - (b) the proceedings at which each such attorney represented you:

- i. Trial Counsel
 - ii. Appellate Counsel
 - iii. PCR
19. State clearly the relief you seek in filing this application:
Reversal and new trial.
20. Are you now under sentence from any other court that you have not challenged?
No.

WHEREFORE, Applicant requests that he be granted a new trial and for such other relief as the Court may deem appropriate.

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.



Jeff Buncher Jr.
PO Box 399
Charleston, SC 29402
Tel.: (843) 723-7491; Fax: (843) 577-4179
jeff@uricchio.com
Attorney for Applicant

April 22, 2015
Charleston, South Carolina.

2015-CP-10-2362

STATE OF SOUTH CAROLINA)

County of LEE)

VERIFICATION

I, Norris Steplight, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Norris Steplight
Norris Steplight

SWORN to and subscribed before me this 21st
day of April, 2015.

[Signature] (L.S.)
Notary Public

My Commission Expires: 2/15/2021

FILED
2015 APR 27 AM 11:07
JULIE S. ANTONIO
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Norris Steplight, #279329,

2015-CP-10-2362

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

Respondent, making its Return to the application for post-conviction relief (PCR) filed April 27, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the October 2013 term of the Charleston County Grand Jury for one (1) count of Trafficking in Cocaine Base, 3rd Offense (2011-GS-10-6501). James W. Smiley, IV, Esquire, represented him. The Applicant proceeded to a jury trial pursuant to which he was found guilty as indicted. The Honorable Kristi L. Harrington sentenced Applicant to incarceration for twenty-five (25) years for Trafficking in Cocaine Base, 3rd Offense.

A notice of appeal was filed on Applicant's behalf and an appeal perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Steplight, 2014-UP-184 (Filed on April 30, 2014). The Remittitur was issued on May 19, 2014.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the application, and the trial transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:
 - a. "Applicant was not informed by trial counsel that he was up for trial;"
 - b. "Applicant's entire jury was chosen without any input from Applicant;"
 - c. "A member of the jury panel that subsequently chosen to sit on Applicant's jury previously knew Applicant;"
 - d. "Additionally, a majority of the pre-trial motion to suppress was conducted outside of Applicant's presence."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

Respondent submits that Applicant's allegation of Ineffective Assistance of Counsel is without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process

that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

IV.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

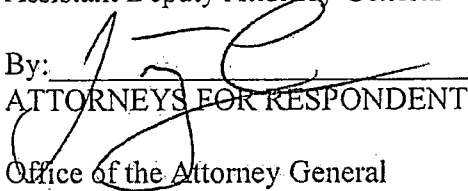
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

February 5, 2016.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
	)	2015-CP-10-2362
NORRIS T. STEPLIGHT, #279329	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jeffrey Wayne Buncher, Jr., Esq.
Uricchio Howe Krell Jacobson Toporek Theos & Keith, PA
PO Box 399
Charleston, SC 29402

DATED this 5th day of February, 2016.


 Elizabeth McLellan, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS
	)	Case No.: 2015-CP-10-02362
Norris Steplight, SCDC ID 00279329	)	
	)	
Applicant,	)	
	)	
v.	)	AMENDED APPLICATION FOR
	)	
State of South Carolina	)	POST-CONVICTION RELIEF
	)	
Respondent.	)	

Applicant, with the consent of counsel for Respondent, hereby submits his amended application for post-conviction relief.

1. Place of detention
Lee Correctional Institute, Bishopville, SC 29010
2. Name and location of Court which imposed sentence
The Honorable Kristi L. Harrington
Charleston County Court of General Sessions
100 Broad Street
Charleston, SC 29401
3. Name(s) of co-defendant(s) (if any)
None.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2011-GS-10-06501; Trafficking in Crack Cocaine Base, 10 grams or more, but less than 28 grams.
5. The date upon which sentence was imposed and the terms of the sentence:
(a) February 5, 2013; 25 Years
6. Check whether a finding of guilty was made:
(a) after a plea of guilty _____
(b) after a plea of not guilty X

- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. Court of Appeals of South Carolina
 - (b) the result in each such Court to which you appealed:
 - i. Affirmed the trial court.
 - (c) the date of each such result:
 - i. April 30, 2014
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. 2014-UP-184
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Not applicable.
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- The Applicant was convicted in violation of his right to the effective assistance of counsel under the Sixth Amendment to the United States Constitution. Applicant's counsel failed to act with reasonable diligence and promptness by failing to stay in touch with Applicant and promptly inform Applicant of his trial date. Because Applicant was not informed of his trial date by counsel, Applicant was precluded from choosing his own jury and precluded from being able to participate in a majority of his pre-trial motion to suppress, resulting in prejudice to Applicant.
 - Trial counsel failed to advise or inform Applicant regarding the significance of the suppression hearing and the ramifications associated therewith in the event the motion to suppress was denied.
 - Trial counsel failed to discuss and prepare a defense on behalf of Applicant regarding the trafficking charge, namely that the drugs found on Applicant were for personal consumption and not intended for distribution.
 - Trial counsel failed to interview witnesses associated with the defense of possession of cocaine and failed to develop testimony pertaining to Applicant's possession of the substance versus trafficking.
 - Trial counsel failed to request a jury instruction on lesser included offenses.
 - Trial counsel failed to have the drugs independently tested and/or analyzed.
 - Trial counsel failed to give an effective closing argument.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- Applicant was not informed by trial counsel that he was up for trial. Applicant did not know his trial was under way until the bondsman informed Applicant later in the day on February 4, 2013. Upon being informed by the bondsman that his trial had begun, Applicant went straight to the court house. Applicant's entire jury was chosen without any input from Applicant. A member of the jury panel that was subsequently chosen to sit on Applicant's jury previously knew Applicant. Additionally, a majority of the pre-trial motion to suppress was conducted outside of Applicant's presence. Applicant had a constitutional right, as guaranteed by the Fifth, Sixth and Fourteenth amendments to the United States Constitution and Article I, § 14 of the South Carolina Constitution, to be present during jury selection and his pre-trial suppression hearing. Counsel's failure to keep Applicant informed of his trial date was ineffective, resulting in prejudice to Applicant.
- Applicant was not informed by trial counsel of the ramifications should the motion to suppress be denied.
- Trial counsel did not meet with witnesses or discuss with Applicant that the drugs were for Applicant's personal consumption and not intended for distribution.
- Trial counsel did not interview witnesses or develop testimony that the drugs found were for Applicant's personal consumption.
- As evidenced by the trial transcript, trial counsel did not request a jury instruction on lesser included offenses.
- Trial counsel did not retain an expert to independently test and/or analyze the drugs in question.
- As evidenced by the trial transcript, trial counsel's closing was ineffective.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law?
No.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief?
No.

- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?
No.
- (d) any other petitions, motions or applications in this or any other Court?
No.
- 13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 - (a) the specific nature thereof:
 - i. Not applicable.
 - (b) the name and location of the Court in which each was filed:
 - i. Not applicable.
 - (c) the disposition thereof:
 - i. Not applicable.
 - (d) the date of each such disposition:
 - i. Not applicable.
 - (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. Not applicable.
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No.
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. Not applicable.
 - (b) the proceedings in which each ground was raised:
 - i. Not applicable.
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) The grounds set forth in 10 were not proper for appellate review.
- 17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea?

Not Applicable.

- (b) your trial, if any?

Yes.

- (c) your sentencing?

Yes.

- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

Yes.

- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

Yes.

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. James W. Smiley, IV

58 Broad St, Suite 2E

Charleston, SC 29401

- ii. Barry Krell, Jerry Theos, Jeff Buncher

PO Box 399

Charleston, SC 29402

- iii. Jerry Theos

PO Box 399

Charleston, SC 29402

- (b) the proceedings at which each such attorney represented you:

- i. Trial Counsel

- ii. Appellate Counsel

- iii. PCR

19. State clearly the relief you seek in filing this application:

Reversal and new trial.

20. Are you now under sentence from any other court that you have not challenged?

No.

WHEREFORE, Applicant requests that he be granted a new trial and for such other relief as the Court may deem appropriate.

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.

Jerry N. Theps
PO Box 399
Charleston, SC 29402
Tel.: (843) 723-7491; Fax: (843) 577-4179
Attorney for Applicant

December 13th, 2016
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2015-CP-10-2362

Norris Steplight, SCDC ID 00279329,
Plaintiff,

v

State of South Carolina,
Defendant.

MOTION AND ORDER INFORMATION SHEET

Plaintiff's Atty: JERRY N. THEOS, ESQUIRE
Bar No.: 5518
Address: POB 399 CHARLESTON, SC
29402-0399
Phone/Fax: 843/723-7491; 843/577-4179
E-Mail/Other: Jerry@uricchio.com

Defendant's Atty: Alicia A. Olive, Esquire
Bar No.

Address: P O Box 192, Columbia, SC 29202
Phone/Fax: 803/576-1783
E-Mail/Other:

☒ **MOTION HEARING REQUESTED** (Attach written Motion, complete § I & III)
☐ **FORM MOTION-NO HEARING REQUESTED** (complete § II & III)

SECTION I: Hearing Information

Time Needed: 15 minutes

Nature of Motion: **MOTION TO INSPECT AND/OR ANALYZE EVIDENCE**

Court Reporter?: ☒ Yes ☐ No

SECTION II: Motion Type

☒ Written Motion attached
☐ Form Motion:.

Jerry N. Theos

Attorney for ☒ Plaintiff ☐ Defendant DATED: 01/04/17

SECTION III: Motion Fee

☒ Paid. Amt: \$
☐ Exempt:

Rule to Show Cause in Child or Spousal Support
Domestic Abuse or Abuse and Neglect
Indigent Status ☐ State Agency v Indigent Party
Sexually Violent Predator Act ☒ PCR
Motion for Stay in Bankruptcy
Motion for Publication
Motion for Execution (Rule 69, SCRCP)
Proposed order submitted at request of court or reduced to writing
from motion made in open court per judge instruction
Other: Plaintiff's Response to Def Motion to Recuse
Name of Court Reporter: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of
attached order
☐ Other: _____

JUDGE

Code _____

Date _____

CLERK'S VERIFICATION

Collected by: _____
☐ Motion Fee Collected: _____
☐ Contested. Amt Due: _____

Date Filed: _____

SCCA/233 (1/2003)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
Norris Steplight, SCDC ID 00279329

Applicant,

v.

State of South Carolina

Respondent.

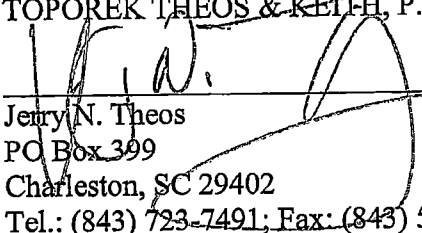
IN THE COURT OF COMMON PLEAS

Case No.: 2015-CP-10-02362

**MOTION TO INSPECT AND/OR ANALYZE
EVIDENCE**

Applicant, Norris Steplight, by and through undersigned counsel, will move before the Court at a time and place to be determined, for an Order allowing the Applicant's expert to inspect and/or analyze the drugs that are in evidence at the Charleston County Courthouse relative to Applicant's underlying General Sessions matter, case number M611575.

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.


Jerry N. Theos
PO Box 399
Charleston, SC 29402
Tel.: (843) 723-7491; Fax: (843) 577-4179
Attorney for Applicant

January 4th, 2017
Charleston, South Carolina

FILED
2017 JAN -4 PM 3:44
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

448

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-10-02362

Norris Steplight, SCDC ID 00279329

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Jerry N. Theos

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

Pursuant to the attached Order, the Applicant's expert shall be allowed to inspect, weigh and/or analyze the drugs which are in the custody of the Charleston County Clerk of Court's Office relative to case number M611575.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2157
Judge Code1/10/2017
Date

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
Norris Steplight, SCDC ID 00279329

Applicant,

v.

State of South Carolina

Respondent.

IN THE COURT OF COMMON PLEAS

Case No.: 2015-CP-10-02362

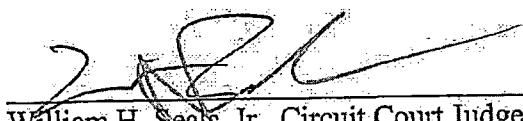
ORDER

FILED
2017 JAN 10 PM 4:11
JULIE J. ARMSTRONG
CLERK OF COURT

This matter came before the Court on January 9, 2017, upon motion of the Applicant, Norris Steplight, to have an expert inspect, weigh and/or analyze the drugs that are in evidence at the Charleston County Courthouse relative to Applicant's underlying General Sessions matter, case-number M611575. Present at the hearing were Jerry N. Theos and Jeff Buncher, Jr., for the Applicant and Alicia A. Olive for the Respondent.

After hearing the arguments of counsel, IT IS HEREBY ORDERED that Applicant's motion is granted and his expert is hereby allowed access to inspect, weigh and/or analyze the drugs that are in evidence relative to case number M611575. Said drugs are presently in the possession of the Charleston County Clerk of Court's Office and, as such, the Clerk of Court is hereby ordered to facilitate said inspection, weighing and/or analysis of the drugs in evidence.

IT IS SO ORDERED on this the 10 day of January, 2017, in Charleston County, South Carolina.


William H. Seals, Jr., Circuit Court Judge

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Norris Steplight, SCDC ID 00279329,	)	2015-CP-10-02362
	)	
Applicant,	)	
	)	
v.	)	APPLICANT'S MEMORANDUM
	)	OF LAW
State of South Carolina,	)	
	)	
Respondent.	)	

1. PCR Standard

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. *Caprood v. State*, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). There is a two-prong test for evaluating claims of ineffective assistance of counsel. First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); *Alexander v. State*, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Strickland*, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; *Alexander*, 303 S.C. at 541-42, 402 S.E.2d at 485. "A reasonable probability is a probability sufficient to undermine confidence in the outcome" of the trial. *Strickland*, 466 U.S. at 694, 104 S.Ct. 2052.

2. There is a reasonable probability that had Applicant been informed by trial counsel that his trial was underway, the proceeding would have been different.

"One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial." *Illinois v. Allen*, 397 U.S. 337, 338 (1970); *see also, e.g., Rushen v. Spain*, 464 U.S. 114, 117 (1983); *Ellis v. State*, 267

S.C. 257, 260, 227 S.E.2d 304, 305 (1976) (citing *Allen*) ("[T]he Sixth Amendment of the U.S. Constitution guarantees the right of the accused to be present at every stage of his trial, and is applicable to the States by reason of the Fourteenth Amendment. . . ."); S.C. Const. art. I, § 14 ("[A defendant has the right] to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both.").

The Supreme Court of the United States has made clear that a defendant's right to be present extends to jury selection, because his presence at that critical stage "bears, or may fairly be assumed to bear, a relation, reasonably substantial, to his opportunity to defend." *Snyder v. Massachusetts*, 291 U.S. 97, 106 (1934) *overruled on other grounds by Mallory v. Hogan*, 378 U.S. 1 (1964); *see also id.* (observing that "it will be in [the defendant's] power, if present, to give advice or suggestion or even to supersede his lawyers altogether." (citing *Lewis v. United States*, 146 U.S. 370, 13 S. Ct. 136, 36 L. Ed. 1011 (1892))); *Gomez v. United States*, 490 U.S. 858, 873 (1989) (affirming that jury selection is "a critical stage of the criminal proceeding during which the defendant has a constitutional right to be present," and recognizing that it is "the primary means by which a court may enforce a defendant's right to be tried by a jury free from ethnic, racial, or political prejudice, or predisposition about the defendant's culpability."); *United States v. Gagnon*, 470 U.S. 522, 526 (1985) (observing that defendant's presence at jury selection has a "reasonably substantial" relation to his "opportunity to defend against the charge.").

It is equally well established that a proceeding on the admissibility of evidence against the accused constitutes a critical stage at which the defendant's presence is guaranteed. *See, e.g., Iowa v. Tovar*, 541 U.S. 77, 80-81 (2004) ("The Sixth Amendment safeguards to an accused who faces incarceration the right to counsel at all critical stages of the criminal process."); *Kimmelman v.*

Morrison, 477 U.S. 365 (1986) (Sixth Amendment right to effective assistance of counsel mandates competent representation in connection with motions to suppress unlawfully obtained evidence); *Kentucky v. Stincer*, 482 U.S. 730, 745 (1987) ("[A] defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.").¹

An accused's right to be present at both jury selection and a pretrial motion to suppress derives from the Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution and S.C. Const. art. I, § 14, which provides that: "[a] defendant has the right] to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both."

In *Commonwealth v. Campbell*, 83 Mass. App. Ct. 368, 369, 983 N.E.2d 1227 (2013), Campbell appealed from his convictions contending that he was deprived "of his right to be present at a critical stage of the proceedings, specifically at a hearing on the motion to suppress." In deciding whether Campbell's deprivation of his right to be present at the pretrial motion to suppress was harmless beyond a reasonable doubt, the court noted that in a pretrial motion to suppress, the defendant "has the opportunity to listen to the strength (or weakness) of at least a part of the government's case and to assess the witnesses. He has the ability to consult with his attorney and, as a participant in the event under examination, offer a unique perspective." *Id.* At 373-74. In finding that the Commonwealth had not met its burden proving that the error was harmless beyond

¹ See also, e.g., *Commonwealth v. Campbell*, 83 Mass. App. Ct. 368, 374, 983 N.E.2d 1227 (2013) (citing *Stincer*, *supra*) ("The United States Supreme Court has made clear that when a hearing involves evidence that is going to be used against the defendant at trial to prove his guilt, he has the right to a fair and just hearing under due process and his presence assures that result — because he can consult with his lawyer, listen to the evidence, and assess the credibility of the witnesses (and the evidence) against him. In addition, his ability to have the full assistance of counsel may turn on his opportunity to see the evidence against him, with counsel, and to consult with counsel about the evidence and to better defend himself at trial.").

a reasonable doubt, the court stated that "the motion to suppress concerned evidence that was used against the defendant at trial and was the basis for his conviction. In these circumstances it is not for an appellate court or a motion judge to determine how a defendant's presence at a critical stage which concerns the evidence against him could have assisted his over-all defense. *Id.* at 374. See also *State v. Grey*, 256 N.W.2d 74, 77 (Minn. 1977) (defendant's absence at a hearing on a motion to suppress, a critical stage, was not harmless beyond a reasonable doubt because it is impossible on the record to determine what contribution or assistance to counsel defendant could have rendered had he been present to hear the oral testimony of the officer).

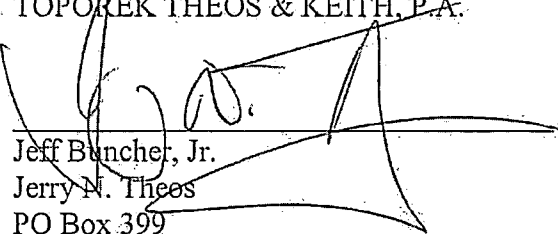
In *State v. Irby*, 170 Wn.2d 874, 877, 246 P.3d 796 (2011), the issue before the court was whether the trial court violated defendant's right to be present at trial by conducting a portion of the jury selection process by e-mail in defendant's absence. The court determined that the State did not meet its burden proving that the error was harmless beyond a reasonable doubt as the State could not show that the jurors excused in Irby's absence had no chance to sit on Irby's jury. *Id.* at 886. Likewise, in *USA v. Gordon*, 829 F.2d 119, 122-23, 264 U.S. App. D.C. 334 (1987), the court had to determine whether the trial court's impaneling a jury in Gordon's absence violated Gordon's rights. The court found that Gordon had a Fifth Amendment right to be present at voir dire and noted that " 'what may be irrelevant when heard or seen by [defendant's] lawyer may tap a memory or association of the defendant's which in turn may be of some use to his defense.' " *Id.* at 124. In finding that the government did not meet their burden of showing that the error was harmless beyond a reasonable doubt, the court noted that Gordon did not observe a prospective juror, did not hear a single response to the court's questioning of jurors and did not participate in a single peremptory challenge. *Id.* at 128. The court further stated that "A defendant [] who does not make his appearance until midway through the first day of his trial is surely noticed by the

jury, and it is not beyond a reasonable doubt that 'the jury speculated adversely to the defendant about his absence from the courtroom.' " *Id.* (citation omitted).

Here, as in *Irby*, jurors were excused in Appellant's absence. (Tr. Vol. I of II: 51:6-53:11, 57:16-59:14, 62:18-25, 63:3-9, 66:9-16, 66:19-67:1, 70:6-13). Furthermore, like *Gordon*, Appellant did not observe a single juror, did not hear the court's questioning of the prospective jurors or their responses, nor did Appellant have the opportunity to participate in a single peremptory challenge in his trial. Finally, Appellant did not make his first appearance in front of the jurors until the next day.

Based upon the foregoing, Applicant respectfully requests that the Court find that trial counsel was deficient and grant a new trial to Applicant.

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.


 Jeff Buncher, Jr.
 Jerry N. Theos
 PO Box 399
 Charleston, SC 29402
 Tel.: (843) 723-7491; Fax: (843) 577-4179
 Attorneys for Applicant

August 1, 2017
 Charleston, South Carolina

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON 2015-CP-10-2362

NORRIS STEPLIGHT,	)	
	)	TRANSCRIPT OF RECORD
Applicant,	)	
	)	August 1, 2017
-vs-	)	
	)	
STATE OF SOUTH CAROLINA,	)	Charleston, South Carolina
	)	
Respondent.	)	

B E F O R E:

The Honorable Michael G. Nettles, Judge.

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

Jerry Theos, Esquire
Attorney for the Petitioner

Megan Harrigan Jameson, Esquire
Attorney for the State

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

<u>E X A M I N A T I O N S</u>				
<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
NORRIS STEPLIGHT	6	26	--	--
ANGELICA DeSAUSSURE COOPER	37	41	--	--
ROBERT BENNETT	44;50	46;74	--	--
RICHARD ALLEN VANCE	87	--	--	--
WENDY BELL	91;96	94;107	118	--
JUDITH GORDON	120	131	--	--
JAMES WATSON SMILEY, IV	139	152	171	--

<u>E X H I B I T S</u>			
<u>APPLICANT'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>RECEIVED</u>
1	Order for Testing dated 1/10/17	52	52
2	Protocol for Drug Weighing and Evaluation	53	53
3	Forensic Report by Dr. Bennett	61	61
4	Forensic Lab Report from Trial	62	62
5	DVD from Vance Investigations	90	90
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1	Affidavit of Angelica DeSaussure-Cooper	43	--

1 (August 1, 2017.)

2 MS. JAMESON: Thank you, Your Honor. May it
3 please the Court: This is the matter of Norris Steplight
4 versus the State of South Carolina, docket number
5 2015-CP-10-2362.

6 Mr. Steplight was indicted during the October
7 2011 term of the Charleston County grand jury for
8 trafficking in cocaine base, 10 to 28 grams, third
9 offense. James W. Smiley, IV represented him, and the
10 case was prosecuted by assistant solicitor Stephanie
11 Linder. On February 4, 2013, Mr. Steplight proceeded to
12 a jury trial before the Honorable Kristi Harrington where
13 he was convicted as indicted.

14 Judge Harrington sentenced Mr. Steplight to
15 the mandatory minimum sentence of 25 years' imprisonment.
16 Notice of appeal was filed, and appeal was perfected on
17 Mr. Steplight's behalf by his current counsel, including
18 Jerry Theos and Jeff Buncher.

19 On appeal, Mr. Steplight argued that the
20 trial court erred in proceeding forward with the jury
21 selection and a portion of his pretrial motions in his
22 absence. Following briefing, the Court of Appeals
23 addressed the merits of this claim and affirmed
24 Mr. Steplight's convictions and sentences in a summary
25 opinion filed April 30, 2014, and a remitter was sent

1 back on May 16th, 2014.

2 On April 27th, 2015, Mr. Steplight filed a
3 timely application for post-conviction relief alleging
4 trial counsel was ineffective for failing to adequately
5 inform him of his trial date. The State made its return
6 on February 5, 2015 requesting an evidentiary hearing.

7 Thereafter, on December 14, 2016,
8 Mr. Steplight, through counsel, filed an amended
9 application alleging the following allegations of
10 ineffective assistance of counsel: Failing to stay in
11 touch with him and promptly inform him of his trial date;
12 failing to advise him of the significance of his pretrial
13 suppression hearing and the ramifications if the
14 suppression motion was denied; failing to discuss and
15 prepare a defense that the drugs were for personal
16 consumption, not distribution; failing to interview
17 witnesses and develop testimony that the drugs were not
18 for distribution; failing to request a jury instruction
19 on the lesser included offenses; failing to have the
20 drugs independently tested or analyzed; and failing to
21 give an effective closing argument.

22 Thereafter, on January 4th of this year --

23 THE COURT: Lesser included offenses of what?

24 MS. JAMESON: Failing to request a jury
25 instruction on lesser included offenses, failing to have

1 the drugs independently tested or analyzed, and failing
2 to give an effective closing argument, and a copy of that
3 amended application is in Your Honor's packet.

4 On January 4th of this year, Mr. Steplight
5 moved to inspect or analyze the drug evidence, and a
6 motions hearing was held January 9th of this year before
7 Judge Seals. And on January 10, 2017, Judge Seals
8 granted Mr. Steplight's motion by written order. On
9 February 17th, the drug evidence was inspected at this
10 courthouse, and at this time, I'll turn it over to
11 Mr. Steplight's counsel.

12 THE COURT: Yes, sir.

13 MR. THEOS: Thank you, Your Honor. May it
14 please the Court: We're prepared to go forward. I'm not
15 sure if you want any -- since I've never been before Your
16 Honor, and certainly never in a post-conviction relief
17 hearing before you, I'm not quite sure what your standard
18 procedure is.

19 THE COURT: Has she accurately stated the
20 grounds that you're going to allege in this proceeding?

21 MR. THEOS: She has, Your Honor.

22 THE COURT: We'll proceed forward, and I
23 think it's probably helpful at the conclusion that we'll
24 address them one at a time in closing argument.

25 MR. THEOS: I'm prepared to address them now,

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1 but I agree with you.

2 THE COURT: I think we know what the grounds
3 are, and you can elicit whatever testimony you think is
4 necessary, and we'll address each one. Let's do it that
5 way.

6 MR. THEOS: Thank you, Judge. Your Honor, we
7 call Norris Steplight to the stand.

8 NORRIS STEPLIGHT,
9 having been first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. THEOS:

13 Q. Norris, I'm going to ask you a question, and if at
14 any time you don't understand my question or if it needs
15 to be repeated, let me know, okay? And, again, as the
16 judge said, it's important that you answer loudly and
17 clearly so the judge can hear your answers. Do you
18 understand?

19 A. Yes, sir.

20 Q. Norris, you were arrested on May 27, 2011; is that
21 right?

22 A. Yes, sir.

23 Q. And at that time you were -- the circumstances
24 surrounding your arrest were that you were stopped for a
25 traffic violation; is that right?

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1 A. Yes, sir.

2 Q. And as a result of being stopped for that traffic
3 violation, you were then charged with driving under
4 suspension; is that right?

5 A. Yes, sir.

6 Q. And that driving under suspension charge was the
7 result of the claim by law enforcement that you were
8 driving outside of the range or the scope of your route
9 restricted license; is that --

10 A. Yes, sir.

11 Q. And as a result of being charged with driving
12 under suspension, were you issued a ticket and allowed to
13 leave or were you arrested and taken to the detention
14 center?

15 A. Arrested.

16 Q. And as a result of the arrest, were you
17 transported to the detention center?

18 A. Yes, sir.

19 Q. At that point in time, you had not been charged
20 with any drug violations; is that right?

21 A. No, sir.

22 Q. When you arrived at the detention center, did they
23 conduct a strip search?

24 A. Yes, sir.

25 Q. And it was during the strip search the drugs were

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1 found; is that right?

2 A. Yes, sir.

3 Q. And the drugs were hidden on your body?

4 A. Yes, sir.

5 Q. Actually, in your buttocks area?

6 A. Yes, sir.

7 Q. So there's no question about the fact that the
8 drugs themselves -- that you were in possession of those
9 drugs?

10 A. No, sir.

11 Q. And you never argued that you were not in
12 possession.

13 A. Did I ever argue?

14 Q. Yeah.

15 A. No. No, sir.

16 Q. Okay. Now, my reading of your record, your
17 criminal record, as well as my reading of what the State
18 has provided is that you had two prior convictions for
19 possession of cocaine or possession of crack?

20 A. Yes, sir.

21 Q. You don't have any prior convictions for
22 distribution or trafficking; is that right?

23 A. No, sir.

24 Q. Now, Mr. Smiley -- my understanding was you hired
25 Mr. Smiley to represent you?

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1 A. Yes, sir.

2 Q. Do you know about when you hired him, about how
3 long after the arrest?

4 A. Like, a month after the arrest.

5 Q. All right. Now, when you hired Mr. Smiley, did
6 you pay him a fee?

7 A. Yeah. I paid him a small portion in payments.

8 Q. And what did the fee ultimately total, the amount
9 you ultimately paid him?

10 MS. JAMESON: Your Honor, the State would
11 object on relevance grounds.

12 THE COURT: I'd like to hear it. I'd just
13 like to hear what the fee was. It is kind of irrelevant,
14 but go ahead.

15 MR. THEOS: Well, Your Honor, I will show
16 there is some relevance to it down the road.

17 BY MR. THEOS:

18 Q. So Mr. Smiley began representing you within a
19 month or so of your arrest; is that right?

20 A. Yes, sir.

21 Q. All right. And did you discuss with Mr. Smiley
22 both the facts surrounding your arrest as well as your
23 possession of that crack, that cocaine base?

24 A. Yes, sir.

25 Q. Okay. Did you tell him where you got that crack

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1 from? And I'm going to refer to it as crack instead of
2 cocaine base, if that's all right. Did you tell him
3 where you had purchased the cocaine?

4 A. Did I tell Mr. Smiley where I got it from?

5 Q. Yeah.

6 A. Yes, sir.

7 Q. Okay. And did you tell him what you paid for it?

8 Did you tell him what you paid for it?

9 A. At the time, yes.

10 Q. And tell the judge what you paid for it.

11 A. It was \$300.

12 Q. All right. And how much cocaine base or crack did
13 you buy?

14 A. Nine grams for \$300.

15 Q. How can you be so sure and how are you so sure
16 that you only bought nine grams?

17 A. Because that's what you normally get for \$300.

18 Q. And how was the cocaine packaged when you got it?

19 A. Two plastic bags.

20 Q. Did you pay cash for it?

21 A. Yeah.

22 Q. And did you tell Mr. Smiley those things? Did
23 tell him you had purchased nine grams of crack and you
24 paid \$300 for it?

25 A. Yes, sir. We talked about that.

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1 Q. How many times did you meet with Mr. Smiley before
2 February 4, 2013, the date of your trial?

3 A. Maybe two or three times.

4 Q. And can you tell us about how long each one of
5 those meetings would have taken.

6 A. Anywhere between half an hour, an hour.

7 Q. Did Mr. Smiley discuss with you what the potential
8 penalties would be for what you were charged with?

9 A. He tell me he been trying to get anywhere between
10 three and five years.

11 Q. Well, did he tell you that -- did he tell you for
12 a third offense trafficking cocaine that the penalty was
13 either 25 to 30 years with a mandatory minimum of 25
14 years?

15 A. We never spoke of that.

16 Q. Did he tell you that the other possibility -- if
17 your two prior convictions were for possession rather
18 than distribution, did he tell you that it was up to --
19 that it was no more than ten years -- I'm sorry, that it
20 was no less than ten years, no more than 25, but that
21 that ten years could have been suspended? Did he tell
22 you that?

23 A. No, he never --

24 Q. He never discussed the details and the particulars
25 of the possible punishment for what you were charged

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1 with?

2 A. No.

3 Q. Now, were you aware that Mr. Smiley filed a motion
4 to suppress the drugs that were taken from you?

5 A. Not until the day of the trial.

6 Q. Did he not give you a copy of the suppression
7 motion that he filed with the Court?

8 A. No.

9 Q. Do you know if he filed one with the Court?

10 A. No. I never got nothing from him.

11 Q. So the first time you found out that Mr. Smiley
12 was pursuing a suppression of the evidence was during the
13 trial itself?

14 A. Yeah.

15 Q. Did Mr. Smiley discuss with you before the trial
16 that the State had offered -- made a plea offer and that
17 that plea offer was a ten-year sentence?

18 A. Yeah. We talked about that.

19 Q. Did he tell you that in going -- well, you said he
20 didn't tell you about the motion to suppress before the
21 trial, but during the trial, did he tell you that if the
22 Court ruled against him, against you and the motion to
23 suppress, did he tell you that either the offer, the plea
24 offer by the State, would have been withdrawn or was
25 likely to be withdrawn if the Court ruled favorably for

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1 the State? Did he tell you that?

2 A. He said the State asked him --

3 Q. Did Mr. Smiley tell you that if he lost the
4 suppression hearing that the plea offer of ten years
5 would either be withdrawn or it was, in all likelihood,
6 going to be withdrawn?

7 A. Oh, yeah. He did tell me about that.

8 Q. Did he tell you before the Court ruled or did he
9 tell you after the Court ruled? Do you understand my
10 question?

11 A. No. Say it again.

12 Q. Okay. Let me try to clarify: If you had known
13 that the State was going to withdraw, back out, of their
14 ten-year offer if Mr. Smiley lost the suppression
15 hearing, would you have taken the ten-year deal?

16 A. Oh, yeah. I would have took it.

17 Q. He didn't discuss that with you before the
18 suppression hearing?

19 A. No.

20 Q. Now, after you told Mr. Smiley that you had only
21 bought nine grams of cocaine base, of crack, but you were
22 charged with over -- with ten grams or more, did you ask
23 him to have an independent analysis of the drugs done?

24 A. Yeah. We spoke about that.

25 Q. Okay. And why wasn't it done?

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1 A. A lot of stuff wasn't -- he just didn't do it.

2 Q. You asked him to do it?

3 A. Yeah, I asked him to do it.

4 Q. At any point in time did he tell you he would do
5 it, but you would have to pay for it?

6 A. Not if I would pay for it.

7 Q. Let me ask that question in another way, and I
8 think you just answered it.

9 If he would have said, Norris, I'll do it, but you
10 have to pay extra for that, would you have done it?

11 A. Yeah.

12 Q. Would you have paid for it?

13 A. Yeah.

14 Q. Was that -- did Mr. Smiley ever ask that question
15 of you?

16 A. No, sir.

17 Q. Okay. You're aware of the fact that since there's
18 no question but that you possessed the cocaine, right,
19 and the loss of the suppression hearing, the only
20 possible defense you had would have been the drugs were
21 less than ten grams?

22 A. Yes.

23 Q. Now, before we get to whether or not you and
24 Mr. Smiley discussed you testifying regarding what you
25 bought and the quantity and the weight of those drugs, I

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1 want to ask you questions regarding the trial itself.

2 Did you ever receive either written or oral notice
3 of the trial being set for and beginning on February 4,
4 2013?

5 A. No, sir.

6 Q. When did you first learn that the -- that your
7 case was up for trial?

8 A. When my bondsman called me.

9 Q. And what is her name?

10 A. Miss Angelica.

11 Q. And what bonding company is she or was she with,
12 do you recall?

13 A. It was Around the Clock.

14 Q. Around the Clock Bonding? Is Ms. Angelica in the
15 courtroom?

16 A. Yeah, she's here.

17 Q. Is that your bonds person, your bondsman?

18 A. Yes, sir.

19 Q. And your testimony is that the first you learned
20 that your case was up for trial was that Ms. Angelica
21 told you; is that correct?

22 A. Yes, sir.

23 Q. And how did she tell you? Did she come see you?
24 Did she call you? How did she let you know?

25 A. I got a phone call from her.

1 Q. And she called you on your cellphone?

2 A. Yes, sir.

3 Q. Your cellphone was working at the time?

4 A. Yes, sir.

5 Q. And it's the same cellphone and same number you
6 had for some period of time?

7 A. Yes, sir.

8 Q. When she called you to tell you that your case was
9 up, did she tell you -- did she tell you that the trial
10 had already started?

11 A. Yes. She said it's starting.

12 Q. Now, as a result of receiving that phone call,
13 what time did you get to the courthouse, as best you can
14 recall?

15 A. At 3 -- maybe 3:00, 3:30, somewhere in there.

16 Q. Up until that point in time, had you heard from
17 Mr. Smiley, either by phone or in writing, text message,
18 e-mail, in any way, had you heard from Mr. Smiley that
19 your case was up for trial?

20 A. I mean --

21 Q. Up until the time you received the phone call from
22 Ms. Angelica, your bondsman, had you received any word
23 from Mr. Smiley that your case was up for trial that day?

24 A. No, sir.

25 Q. Had you been notified your case was up for trial

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1 by Mr. Smiley, would you have been there that day on
2 time?

3 A. Yes, sir.

4 Q. Now, when you arrived at the courthouse and
5 entered the courtroom, did you learn that your jury had
6 already been selected?

7 A. No.

8 Q. When did you learn that your jury had already been
9 selected?

10 A. At the time of the trial, the next day.

11 Q. Okay. So the trial actually started the next day.

12 A. Yes, sir.

13 Q. Okay. And that -- so you didn't learn until --
14 the second day of your trial, after the motion hearing,
15 you didn't learn until then that a jury had been selected
16 in your absence?

17 A. No. I mean, the jury get picked that day, right,
18 and --

19 Q. No, I'm asking -- let me simplify it: Were you
20 present when the jury was selected?

21 A. No, sir.

22 Q. Did you have any input into the jury being
23 selected? Were you involved in any way in the selection
24 of the jury?

25 A. No, sir.

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1 Q. Before the trial, did Mr. -- we lawyers and
2 prosecutors get jury lists, and we have the ability to
3 get information regarding jurors. At any point prior to
4 the trial, did Mr. Smiley provide you with juror
5 information?

6 A. No, sir.

7 Q. Now, did you want to be there for your trial, from
8 the beginning?

9 A. Yes, sir.

10 Q. And did you also want to be there to participate
11 in the selection of your jury?

12 A. Yes, sir.

13 Q. All right. In fact, there was a juror that was
14 selected that you would have asked Mr. Smiley to strike;
15 is that right?

16 A. Yes, sir.

17 Q. And do you remember that juror's name?

18 A. Sheila Wright.

19 Q. And Sheila Wright, I believe, was juror 373. Why
20 would you have asked that she be stricken and not allowed
21 to serve on your jury?

22 A. Me and her sister's ex-boyfriend's sister had bad
23 dealings, and she know he wasn't -- it wouldn't have been
24 a nice pick, because me and her, we butt heads a lot.

25 Q. There's some bad blood there?

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1 A. Yes, sir.

2 Q. So you would have asked Mr. Smiley to strike her.

3 A. Yes, sir.

4 Q. All right. Since you weren't there, were there
5 any jurors -- you don't know whether there were any
6 jurors that Mr. Smiley actually struck that you would
7 have wanted him to take, do you?

8 A. Another way to say it?

9 Q. Let me see if I can clarify: Mr. Smiley may have
10 struck jurors that you would have wanted him to keep on
11 your jury, but you don't have any way of knowing that
12 because you weren't there; isn't that right?

13 A. Yes, sir.

14 Q. Okay. Now, you were also not present for most of
15 your motion hearing, or Mr. Smiley's motion to suppress,
16 the hearing on that motion, correct?

17 A. Yes, sir.

18 Q. So you weren't able to look at the witnesses; you
19 weren't able to hear what they had to say; you weren't
20 able to speak with Mr. Smiley regarding his
21 cross-examination of those witnesses, were you?

22 A. No, sir.

23 Q. Again, if you had been provided with notice of the
24 trial, would you have been there from the beginning and
25 present for the motion hearing?

1 A. Yes, sir.

2 Q. Now, understanding again that the motion was
3 denied, so the judge didn't suppress the evidence, which
4 meant that that evidence was -- the drugs were coming in,
5 did Mr. Smiley tell you that the only possible defense
6 that you have would be to challenge the weight or the
7 quantity of the drugs? Did he tell you that?

8 A. No, sir.

9 Q. Did he tell you -- in the absence of having an
10 independent analysis of the drugs conducted, did he tell
11 you that the only way to present -- the only defense you
12 would have had would be for you to testify?

13 A. No, sir.

14 Q. Did you tell Mr. Smiley, or did you discuss with
15 Mr. Smiley, testifying at the trial so that you could
16 explain what you bought, how much you paid for it, and
17 what the quantity was? Did you discuss that with
18 Mr. Smiley, testifying in the trial?

19 A. At the trial?

20 Q. Yes.

21 A. You said like --

22 Q. Did you discuss with Mr. Smiley testifying at the
23 trial to address those issues?

24 A. Did I testify?

25 Q. Let me ask -- let me simplify: Did you testify at

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1 the trial?

2 A. No, sir.

3 Q. Okay. Why didn't you?

4 A. Because Smiley said it wouldn't be a good thing.

5 Q. Did he tell you why he didn't believe it would be
6 a good thing?

7 A. Something about he could use my prior convictions
8 against me.

9 Q. Did you understand then, or do you even understand
10 now, that the only way to present a challenge to the
11 weight of the drugs would have been to testify? Did you
12 understand that at the time?

13 A. No.

14 Q. Do you understand it now?

15 A. You said do I do what?

16 Q. The only possible defense you had to the case --

17 A. Uh-huh.

18 Q. -- was to challenge the weight of the drugs. Do
19 you understand that?

20 A. The only --

21 Q. The only defense you had to your case and the
22 charges was for you or Mr. Smiley to challenge the weight
23 of the drugs. Do you understand that?

24 A. Yes, sir; yes, sir.

25 Q. Because there's a big difference between the

1 sentence for --

2 MS. JAMESON: Your Honor, I would object.
3 He's testifying.

4 THE COURT: I'll allow him some leeway.
5 BY MR. THEOS:

6 Q. You understand there was a big difference in
7 sentencing between ten grams or more and less than ten
8 grams. Do you understand that?

9 A. You said there's a big chance of what?

10 Q. A big difference in sentencing.

11 A. Oh, yes, sir; yes, sir; yes, sir.

12 Q. All right. Did Mr. Smiley advise you that that
13 was the only way -- that the only way to get evidence, to
14 present evidence to the jury that you bought less than
15 ten grams, was for you to testify? Did he advise you
16 that that was the only way to present the jury with that
17 evidence?

18 A. No, sir.

19 Q. Had he advised you that, Norris, the only way to
20 present evidence that you bought less than ten grams is
21 for you to testify, had he told you that, would you have
22 testified?

23 A. Yes, sir.

24 Q. Norris, the only thing I want to ask you, again,
25 because there was an objection before you answered, how

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1 much did you pay Mr. Smiley in total?

2 A. 7,500 bucks.

3 Q. And, again, if he would have told you that you had
4 to pay for an independent chemical analysis of the drugs,
5 would you have paid for it?

6 A. Yes, sir.

7 Q. But you weren't given that opportunity?

8 A. No, sir.

9 MR. THEOS: No other questions, Judge.

10 THE COURT: One question you might want to
11 ask, counsel -- of course, we're going to talk about this
12 in great detail at the conclusion of the case.

13 Isn't the state of law that the weight is
14 merely an inference and it's not dispositive as to
15 whether or not it's trafficking? Wouldn't you agree that
16 that's the state of the law? There are a number of
17 things that could go to whether or not it was
18 trafficking; by the way it's packaged, whether it's in
19 one package or -- there are a number of different ways to
20 defend that, wouldn't you agree?

21 MR. THEOS: I generally do, but my
22 understanding is that if it's over ten grams or a third
23 or subsequent offense that there is -- it's not based
24 upon an inference. In other words --

25 THE COURT: That's why I'm asking.

1 MR. THEOS: Right, so I agree with you, but
2 if it's less than ten grams, I think that would come into
3 play, and certainly the sentencing is much less.

4 THE COURT: That's why I'm asking, and I'll
5 ask the Attorney General as well, because it's my
6 understanding of the law that it's never dispositive.

7 You know, if they say it's ten, you can still
8 argue even it's if ten, it's still for personal use. Is
9 that --

10 MR. THEOS: I don't believe that is so, Your
11 Honor.

12 MS. JAMESON: I believe pursuant to statute
13 44-53-375 --

14 THE COURT: So it's dispositive, just the
15 sheer amount of the drug?

16 MS. JAMESON: Yes, and it's the State's
17 position -- and we'll get into this more in argument.
18 The State's argument is that Mr. Steplight wouldn't have
19 been -- the trial Court wouldn't have charged any lesser
20 included offenses because the only evidence that we have
21 in this case is that it was more than ten grams, and
22 based on that, the trial Court would not have been able
23 to charge the lesser included offenses, so it's not
24 merely a presumption of trafficking.

25 MR. THEOS: And, Your Honor, I don't disagree

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1 with that, but our position is that had the drugs either
2 been weighed or, if not weighed, at least Mr. Steplight
3 would have testified as to a different quantity that a
4 lesser charge would have --

5 THE COURT: That was the clarification I
6 needed. Thank you very much.

7 All right. Cross-examination?

8 MS. JAMESON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. JAMESON:

11 Q. Good afternoon, Mr. Steplight.

12 A. Good afternoon.

13 Q. I think you testified on direct that you retained
14 Mr. Smiley about one month after your arrest?

15 A. Yes, ma'am.

16 Q. Do you recall what day that was?

17 A. Not really.

18 Q. And you testified on direct that you only met with
19 him two or three times?

20 A. Yes, ma'am.

21 Q. Where were those meetings?

22 A. At his office.

23 Q. And you might have testified to this prior, but
24 how long were those meetings?

25 A. Between 30 minutes to an hour.

1 Q. Did you ever discuss the case with him by phone?

2 A. My case?

3 Q. Did you ever discuss your case, your pending
4 charges, with him by phone?

5 A. No, ma'am.

6 Q. You've never talked to Mr. Smiley on the phone?

7 A. No, ma'am. You say have I ever talked to him on
8 the phone?

9 Q. Uh-huh.

10 A. He ever called me?

11 Q. Yes.

12 A. He never called me to tell me to come to his
13 office or something like that?

14 Q. So you did talk to him on the phone, and he told
15 you to come?

16 A. Yeah.

17 Q. How many times do you think he called you when you
18 talked to him on the phone?

19 A. Probably about -- I mean, once or twice.

20 Q. Over 18 months?

21 A. Yes, ma'am.

22 Q. And I believe you testified on direct that you had
23 the same cellphone number the entire time you were out on
24 bond.

25 A. I testified --

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1 Q. Yeah. Did you have the same number the entire
2 time you were out on bond?

3 A. Yes, ma'am.

4 Q. Have you had an opportunity to read any of your
5 trial transcripts since your convictions?

6 A. Yes, ma'am.

7 Q. Do you recall Mr. Smiley telling Judge Harrington
8 that you changed your number multiple times and your
9 phone was actually disconnected the day of trial?

10 A. Mr. Smiley said that?

11 Q. Yes, to the Court.

12 A. That wasn't true.

13 Q. But you recognize that he told the Court that. It
14 was in the transcript.

15 A. Yeah, I recollect that.

16 Q. When was your bond hearing?

17 A. A day after I got out of the county jail.

18 Q. Did Mr. Smiley represent you at the bond hearing?

19 A. No, ma'am.

20 Q. You retained him afterwards?

21 A. Yes, ma'am.

22 Q. Do you recall at the end of your bond hearing,
23 signing a bond form acknowledgement acknowledging the
24 conditions of your bond?

25 A. Yes, ma'am.

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 Q. Do you recall what that acknowledgement said?

2 A. No, I can't remember.

3 MS. JAMESON: Your Honor, may I approach?

4 I'm showing him page four of the record on appeal, which
5 is the acknowledgement by the defendant of his bond form.

6 A copy is in Your Honor's packet.

7 THE COURT: Very good.

8 BY MS. JAMESON:

9 Q. Mr. Steplight, I'm going to give you a chance to
10 look this over. Do you recognize this document?

11 A. Yes, ma'am.

12 Q. Is that your signature right there that I've
13 highlighted?

14 A. Yes, ma'am.

15 Q. Can you read the highlighted portion, please.

16 A. I understand I am informed that I have the right
17 to obtain -- to be present at trial. Should I --

18 Q. Sorry.

19 A. Should I fail to -- should I fail to attend the
20 court, the trial will proceed in my absence, yes.

21 Q. So you understood the day you were released on
22 bond that if you didn't show up for your trial it would
23 go forward without you being there?

24 A. That's right.

25 Q. In your two to three meetings with Mr. Smiley, did

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 he go over the elements of trafficking in cocaine base
2 with you?

3 A. Did he go --

4 Q. What the State would be required to prove to find
5 you guilty at trial?

6 A. Repeat that. I can't --

7 Q. Did he go over the charge of trafficking in
8 cocaine base and what the State would be required to
9 prove at your trial for you to be found guilty by the
10 jury?

11 A. No.

12 Q. So you never discussed your charges with Mr.
13 Smiley?

14 A. We discussed the trial, but we didn't discuss
15 trafficking.

16 Q. What did you discuss?

17 A. We discuss simple possession, discussed simple
18 possession.

19 Q. What did you talk about simple possession?

20 A. That he couldn't get my charges down to simple
21 possession.

22 Q. Are you aware of the weight that would need to be
23 established for simple possession?

24 A. Did I establish the weight?

25 Q. Did he tell you what weight would be required for

1 simple possession, whether it was less than a gram, less
2 than --

3 A. No. He didn't say simple possession. He did say
4 it would have been a possession charge, something like
5 that.

6 Q. And did he ever explain to you that you were
7 charged with trafficking because you had over ten grams
8 of crack on your person?

9 A. Yeah.

10 Q. He did discuss trafficking with you?

11 A. He said I was charged with trafficking.

12 Q. And I believe you testified on direct that you had
13 two prior cocaine possession charges, correct?

14 A. Yeah.

15 Q. But this is actually -- you have four priors,
16 correct?

17 A. Four priors --

18 Q. You have two counts of possession of cocaine base
19 from 2001, correct?

20 A. 2000 -- who?

21 Q. Do you have two prior convictions for possession
22 of cocaine base from the year 2001?

23 A. I get charged one time for that.

24 Q. So you would refute if the record shows that you
25 were convicted of two counts of possession of cocaine

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 base in 2001?

2 A. I don't recall getting charged two times for
3 possession.

4 Q. In 2009, you were charged with both possession of
5 cocaine and cocaine base, correct?

6 A. Correct.

7 Q. So this is your fifth drug-related conviction,
8 correct?

9 A. My fifth -- with this conviction?

10 Q. Yes. What number drug conviction is this for you?

11 A. Drug conviction?

12 Q. Yes. How many drug convictions, including this
13 one, do you have now?

14 A. I think it would be five.

15 Q. You testified on direct that you and Mr. Smiley
16 never discussed your motion to suppress.

17 A. You said I testified at trial?

18 Q. No. Earlier today when your attorney was
19 questioning you, you testified that you and Mr. Smiley
20 never discussed a motion to suppress, that he was going
21 to try to keep the drugs out at trial.

22 A. But we never -- actually, I did -- you said that I
23 didn't?

24 Q. Yeah. Did you ever discuss it with Mr. Smiley?

25 A. No, no, not at trial. I mean, not prior to --

1 Q. When did you discuss it?

2 A. Like, the day after, right after the second day of
3 trial. He said he lost the motion.

4 Q. You were there for the second half of the motion,
5 correct?

6 A. Yeah.

7 Q. And you heard his arguments to the Court on that,
8 correct?

9 A. Yeah, yeah.

10 Q. So you actually knew the day before your trial
11 started that the motion had been denied because you were
12 in the courtroom, right?

13 A. I know he lost it.

14 Q. When you were pulled over, you had a route
15 restricted license, correct?

16 A. Correct.

17 Q. And it allowed you to drive to and from work?

18 A. Correct.

19 Q. And when you were pulled over, you told the
20 officers you had just dropped your girlfriend off at
21 church, correct?

22 A. Correct.

23 Q. Do you recall how long you were out on bond before
24 trial?

25 A. Maybe two years.

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 Q. Did you see letters from the solicitor's office
2 that your case was on the trial docket?

3 A. Yes, I did.

4 Q. How many?

5 A. Several, maybe four or five.

6 Q. Did you receive one for the term of court that
7 your case was tried?

8 A. No, ma'am.

9 Q. When was the last one you received?

10 A. Right before I went to Judge Dennis.

11 Q. When you were out on bond for about two years, did
12 you stay in touch with Mr. Smiley?

13 A. I would say we talked -- we rarely talked.

14 Q. Rarely talked?

15 A. I mean, he would say -- no, no, we didn't talk.

16 Q. You didn't stay in touch with him?

17 A. Like, two or three times, and that was that.

18 Q. Did you ever try to call him?

19 A. Yes, several times.

20 Q. Did you talk to him?

21 A. No.

22 Q. And your testimony today is you never changed your
23 number. The entire time you were out, you had the same
24 cellphone number?

25 A. Yes.

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 Q. Had you given a copy of that to Mr. Smiley?

2 A. My cellphone?

3 Q. Uh-huh, yes.

4 A. He had it in his -- I think he had it in his
5 packet.

6 Q. When you say in his package, what do you mean?

7 A. You fill out a form with your emergency contacts
8 and all of that.

9 Q. Did you list any family members or friends as
10 emergency contacts so Mr. Smiley could get ahold of you?

11 A. Yeah, always.

12 Q. Do you know if he tried to contact anyone in your
13 family or off that list about your trial?

14 A. Nobody was contacted.

15 Q. One of your allegations are that you knew numerous
16 people on your jury pool, in the actual jury that was
17 sat, correct?

18 A. Yes, ma'am. I know one person.

19 Q. You know one person? So it's not numerous. It's
20 only one person?

21 A. It's only one person.

22 Q. And you testified you had bad blood, and it was an
23 ex-girlfriend's brother?

24 A. Yeah, ex-girlfriend's brother.

25 Q. How long had it been since you saw that juror?

CROSS-EXAMINATION - NORRIS STEPLIGHT

1 A. I saw her maybe three or four months before.

2 Q. Where did you see her?

3 A. At -- I think passing by in her car. She was
4 passing by.

5 Q. So other than -- did you talk to her when you saw
6 her pass in a car?

7 A. No, ma'am.

8 Q. When was the last time you had spoke with this
9 juror?

10 A. We spoke maybe -- we never really been on speaking
11 terms.

12 Q. So you've never really spoken with this juror?

13 A. Not really, not other than to drive by.

14 Q. Other than seeing her pass by in a car, when was
15 the last time you interacted with her socially?

16 A. Like, I saw her, like, two or three years ago.

17 Q. Had she ever been to your house?

18 A. No, ma'am.

19 Q. Had you ever been to her house?

20 A. No, ma'am.

21 Q. And your relationship was just a hi or a bye; no
22 personal conversations?

23 A. No personal conversations.

24 Q. Did you tell Mr. Smiley you knew this juror?

25 A. At the time -- the trial was happening so fast I

1 didn't speak to Smiley.

2 Q. So you never told Mr. Smiley that you knew a
3 juror?

4 A. No. I couldn't even -- no, I didn't speak to him.

5 Q. Did you inform Judge Harrington you knew one of
6 the jurors?

7 A. No. I couldn't speak to anyone.

8 Q. Going back, when you said you couldn't speak to
9 Mr. Smiley, the Court actually gave you multiple
10 opportunities to take a break and talk to Mr. Smiley
11 during trial, correct?

12 A. Yes, ma'am.

13 Q. Why didn't you bring up, that you knew a juror
14 during all of those breaks Judge Harrington allowed you
15 to have?

16 A. At the time I couldn't -- I didn't notice her
17 personally -- I mean, I didn't notice her at the trial,
18 but when I got back my dockets, I saw the name in the
19 trial. That's when I noticed it.

20 Q. So even though this is someone you have had blood
21 with, you didn't recognize her as a member of your jury?

22 A. No. I couldn't recognize her at the trial. I
23 didn't pick the jury.

24 MS. JAMESON: No further questions, Your
25 Honor.

DIRECT EXAMINATION - ANGELICA DeSAUSSURE-COOPER

1 THE COURT: Any redirect?

2 MR. THEOS: Nothing, Your Honor.

3 THE COURT: You may step down. Thank you,
4 sir. You may call your next witness.

5 MR. THEOS: Your Honor, we call Ms. Angelica
6 DeSaussure-Cooper.

7 ANGELICA DeSAUSSURE-COOPER,
8 having been first duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. THEOS:

12 Q. How do you prefer to be called, Ms.
13 DeSaussure-Cooper?

14 A. Ms. Cooper is fine.

15 Q. Okay. Ms. Cooper, were you the bonds person for
16 Norris Steplight?

17 A. Yes, I was.

18 Q. And at the time, which bonding company did you
19 work with?

20 A. It was Around the Clock Bonding Company as well as
21 Thomas Holiday Bonding Company.

22 Q. Now, were you on his bond from the time the bond
23 was set and he was released from the detention center
24 until the time of trial?

25 A. Yes.

DIRECT EXAMINATION - ANGELICA DeSAUSSURE-COOPER

1 Q. Were you the contact person for the bonding
2 company with Mr. Steplight?

3 A. Yes, me and Mr. Holiday was, but I'm the one that
4 answered the phone and --

5 Q. And when you act as a bonds person for a defendant
6 who has charges pending, do you maintain contact
7 information for that particular defendant?

8 A. Yes.

9 Q. And did you do that with Norris?

10 A. Yes.

11 Q. And throughout the time that you were serving as
12 his bonds person, did he have the same cell number?

13 A. Oh, yes.

14 Q. And did you ever have any difficulty in
15 communicating with him via cellphone?

16 A. Norris was at our office every Friday to make his
17 payments, so I never had to call him via telephone, but
18 he would always come to the office on Fridays to make his
19 payment. That was his check-in time.

20 Q. All right. Now, when did you first learn that his
21 case was up for trial?

22 A. When Mr. Smiley called.

23 Q. Okay. I'm going to hand to you an affidavit that
24 appears you signed on August the 20th of 2015. I just
25 ask you to review that affidavit.

DIRECT EXAMINATION - ANGELICA DeSAUSSURE-COOPER

1 A. I left my glasses back there.

2 Q. Would you just take a look at that and read it
3 over, please.

4 Did you have a chance to read it?

5 A. Yes, I have.

6 Q. And is the affidavit true and correct?

7 A. Yes.

8 Q. Now, is that your signature on the affidavit?

9 A. Yes, it is.

10 Q. Second page of the affidavit? Did you -- if you
11 need to, look at the affidavit to refresh your
12 recollection. What day did you receive the phone call
13 from Mr. James Smiley, Mr. Norris Steplight's lawyer,
14 that his case was up for trial?

15 A. On the day that the trial was, so --

16 Q. What date was that?

17 A. February 4, 2013.

18 Q. And at that time, what did Mr. Smiley tell you?

19 A. Mr. Smiley called and told me that he needed me to
20 call Mr. Steplight and let him know that he needed him to
21 be downtown -- get him downtown to the courthouse.

22 So I asked him, I said, He's got court? He
23 said --

24 MS. JAMESON: Your Honor, I would object.
25 This is hearsay.

DIRECT EXAMINATION - ANGELICA DeSAUSSURE-COOPER

1 THE COURT: Sustained.

2 BY MR. THEOS:

3 Q. Did Mr. Smiley advise you that Mr. Steplight's
4 trial was underway?

5 A. Yes, he did.

6 Q. And did he advise you that he did not want you to
7 tell Mr. Steplight that his trial was underway?

8 A. Yes, he did.

9 Q. So when you called Mr. Steplight, did you heed the
10 advice of Mr. Smiley and not tell Norris that his trial
11 was underway?

12 A. No, I couldn't do that.

13 Q. What did you tell Norris Steplight?

14 A. I called him. I said, Norris, where were you?
15 And he said --

16 MS. JAMESON: Your Honor, I would object.
17 This is hearsay.

18 BY MR. THEOS:

19 Q. Did you learn where Mr. Steplight was? Yes or no.

20 A. He said he was at home.

21 Q. All right. Mr. Steplight was not at the
22 courthouse?

23 A. No, he was not.

24 Q. In addition to advising him that his trial was
25 underway, did you advise him that he needed to get down

DIRECT EXAMINATION - ANGELICA DeSAUSSURE-COOPER

1 to the courthouse right away?

2 A. Oh, yes, I did.

3 Q. Did you have any trouble reaching him on that day?

4 A. No, sir.

5 Q. Did you call -- did you call him on his cellphone?

6 A. Yes, I did.

7 Q. Was it the same cell number that he had throughout
8 the time that you were carrying his bond?

9 A. Yes, sir.

10 Q. Did you specifically ask him whether he had been
11 notified of his trial date?

12 A. I asked him did he get a phone call from
13 Mr. Smiley.

14 Q. And he said?

15 A. He said no, he didn't.

16 Q. As a result of receiving a phone call from you,
17 did Norris Steplight go to the courthouse and appear at
18 his trial?

19 A. He said he was on his way down as soon as he got
20 off the phone with me.

21 Q. Did you go to the courthouse as well?

22 A. No, I did not.

23 MR. THEOS: No other questions, Your Honor.

24 THE COURT: Cross-examination?

25 CROSS-EXAMINATION

1 BY MS. JAMESON:

2 Q. You testified you never needed to call
3 Mr. Steplight because he came into the office every day,
4 every Friday?

5 A. Yes.

6 Q. So if you never had to call him, how do you know
7 he had the same number the entire time he was out?

8 A. Because it's the number that he gave us on the
9 file, and that's the number that, when we opened his
10 file, we called the number.

11 Q. But you don't know -- beyond the day that the file
12 was opened and when you had to call him on the trial
13 date, you don't know if the phone was functioning for
14 that 18 months to two years in between, correct?

15 A. No, but I know it was functioning the day
16 Mr. Smiley called me. When he called, I know it was
17 functioning.

18 Q. But, again, you never tried to call him in the
19 entire time he was out on bond?

20 A. No, I didn't have to. He came into the office.

21 MS. JAMESON: No further questions.

22 THE COURT: Any redirect?

23 MR. THEOS: Your Honor, the only thing I want
24 to do is move that affidavit into evidence.

25 THE COURT: What does the State have to say

1 to that?

2 MS. JAMESON: The State would object. It's
3 hearsay, and we have the testimony from the witness here,
4 and that's the best evidence before the Court.

5 MR. THEOS: She's already testified, Your
6 Honor. She testified consistently with that affidavit.
7 It is a sworn statement. It is not hearsay. She is here
8 to testify, and I don't believe that it constitutes
9 hearsay.

10 THE COURT: I think it does. Typically, any
11 kind of statement, whether it be an affidavit or other,
12 you can ask them the substance of it in testimony, and if
13 they waver from it, you can use it to cross-examine them
14 on it. It's not admissible. Never has been, never will
15 be.

16 MR. THEOS: I understand your ruling. I just
17 ask that it be marked as a Court's exhibit.

18 THE COURT: We can mark it as a Court's
19 exhibit, but it's not in evidence.

20 (Court's Exhibit No 1 was marked for
21 identification.)

22 MR. THEOS: I understand. Thank you.

23 THE COURT: You may call your next witness.

24 MR. THEOS: Your Honor, we call Mr. Robert
25 Bennett.

DIRECT EXAMINATION - ROBERT BENNETT

1 ROBERT BENNETT,
2 having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. THEOS:

6 Q. Dr. Bennett, tell the judge who you are and what
7 you do.

8 A. I'm a full-time practicing forensic scientist here
9 in Charleston with an office in West Ashley and have been
10 in this field for about 25 years. So I provide forensic
11 service, forensic testing, forensic laboratory analysis,
12 and forensic consultation as a full-time professional.

13 Q. And where are you presently employed?

14 A. Self-employed under the d/b/a Medical Legal
15 Services.

16 Q. All right. Tell the judge what your educational
17 background is, please.

18 A. I have a pharmacy degree that I received from the
19 Medical University of South Carolina in 1980, passed the
20 Boards, and practiced pharmacy research for a number of
21 years, about five years, and then went back to school to
22 get my doctorate degree at the Medical University of
23 South Carolina and received that doctorate in 1991.

24 Q. Since 1991, what has been the essence of your
25 practice?

DIRECT EXAMINATION - ROBERT BENNETT

1 A. It's focussed on drugs of abuse and detection of
2 those drugs as well as alcohol.

3 Q. Have you ever been qualified as an expert to
4 testify in courts in this state?

5 A. Yes, many times.

6 Q. Have you been qualified in both the common pleas
7 courts and general sessions courts in our state?

8 A. Yes.

9 Q. Have you been qualified as an expert in federal
10 court in our district as well?

11 A. Yes.

12 Q. Have you been qualified as an expert in family
13 court as well?

14 A. Yes.

15 Q. Have you been qualified as an expert in military
16 court?

17 A. Yes.

18 Q. And you have been qualified in those courts as an
19 expert in chemical analysis; is that correct?

20 A. Correct.

21 Q. And how many times would you say over your 25-year
22 career have you been qualified as an expert in that area?

23 A. Numerous times; dozens and dozens of times.

24 MR. THEOS: At this time, Your Honor, I would
25 offer Dr. Bennett as an expert in the area of chemical

1 analysis.

2 THE COURT: Any voir dire with regard to his
3 qualifications?

4 MS. JAMESON: The State would like to briefly
5 cross-examine him on his qualifications.

6 THE COURT: Yes.

7 CROSS-EXAMINATION

8 BY MS. JAMESON:

9 Q. Dr. Bennett, your CV lists you as an expert in
10 forensic toxicology, environmental toxicology,
11 occupational toxicology, criminal forensics, DNA mapping,
12 sexual assault analysis, handwriting and forgery
13 analysis, and evidence reexamination, correct?

14 A. Yes.

15 Q. So what's your primary area of focus then?

16 A. Toxicology.

17 Q. But you offer services in an expert capacity
18 regarding all of those things?

19 A. I provide the services, yes.

20 Q. As an expert?

21 A. Correct.

22 Q. And you testified your medical background was you
23 received a pharmacy degree from MUSC and passed the
24 Boards in pharmacy, correct?

25 A. Correct.