

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

RECEIVED

JUN 28 2019

S.C. SUPREME COURT

KARACUS K. FREEMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001958

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
)
 KARACUS KOREAN FREEMAN,)
)
 DEFENDANT.)
 _____)

2014-GS-23-08489

TRANSCRIPT OF RECORD

APRIL 5, 2016
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE EDWARD W. MILLER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

HUNTER BLOUIN, ASSISTANT SOLICITOR
STAN OVERBY, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

SCOTT ROBINSON, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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1 **THE COURT:** Thanks. Please be seated. All right. We
2 ready to pick a jury?

3 **MR. BLOUIN:** Your Honor, I think -- if we'd like to do
4 that before we have some pretrial issues.

5 **THE COURT:** What are your pretrial issues?

6 **MR. BLOUIN:** Your Honor, the State had two original
7 motions. One motion was to amend the indictment against Mr.
8 Freeman. The date on the indictment states March 26, 2014.
9 We believe that was a scriveners error on the original. The
10 date that should have been on the indictment was May 26,
11 2014.

12 Your Honor, we believe that pursuant to 17-19-100, if
13 there's a defect in the form, that Your Honor may amend the
14 indictment. According to proof if the indictment -- if such
15 amendment does not change the nature of the offense charged,
16 Your Honor, the indictment as far as the elements and
17 everything else is correct, the Defendant knows what he's on
18 trial for, the Court knows that it's a trafficking heroin
19 case ...

20 **THE COURT:** Well, what are these other indictments?

21 **MADAME CLERK:** They were all attached.

22 **THE COURT:** Okay.

23 **MADAME CLERK:** I'm sorry.

24 **THE COURT:** That's all right.

25 **MR. BLOUIN:** And, Your Honor, all discovery that was

1 turned over to the Defense has the correct date.

2 **THE COURT:** So you want it to be ...

3 **MR. BLOUIN:** May 26th, 2014.

4 **THE COURT:** All right. Anything from the Defense?

5 **MR. ROBINSON:** Your Honor, I'd just point out that the
6 warrant is for 3/26/2014, the original warrant in the case
7 was 3/26/2014. And the -- it's interesting looking at the
8 indictment itself, it looks like it's got a crossed out 2014
9 to 2015, handwritten in here.

10 **THE COURT:** Well, okay.

11 **MR. BLOUIN:** We haven't changed the indictment since
12 it's been true billed. That's why we're asking for an
13 amendment at this point.

14 **THE COURT:** Any objection?

15 **MR. ROBINSON:** No objection.

16 **THE COURT:** All right.

17 **MR. BLOUIN:** Your Honor, the only other motion that the
18 State had is we initially filed a motion in limine to
19 exclude any third party guilt or reference to or by the
20 Defense during the trial. It's my understanding that Mr.
21 Robinson is not expected to, you know, present any third
22 party guilt or evidence. Therefore, we'd ask that, you
23 know, he consent to that ---

24 **THE COURT:** Okay. Well, if he's done that, that's not
25 an issue.

1 **MR. BLOUIN:** Yes, Your Honor. That was all of the
2 State's motions.

3 **THE COURT:** All right. Anything from the Defense?

4 **MR. ROBINSON:** Your Honor, we have a motion as far as a
5 suppression motion in this case and also a Jackson v. Denno
6 hearing as well in this matter.

7 **THE COURT:** Well, can we pick the jury before we do
8 that?

9 **MR. ROBINSON:** Yes, sir.

10 **THE COURT:** Good.

11 **MR. BLOUIN:** Yes.

12 **MR. OVERBY:** No objection.

13 **THE COURT:** I've got the State's witness list,
14 Defendant's proposed voir dire, and a Defense witness list,
15 except I can't read it. Sabrina what?

16 **MR. ROBINSON:** Sabrina Tiller, Your Honor.

17 **THE COURT:** Tiller.

18 **MR. ROBINSON:** Yes, sir.

19 **THE COURT:** All right. What does trafficking heroin
20 carry?

21 **MR. BLOUIN:** It carries seven to twenty-five years,
22 Your Honor.

23 **THE COURT:** Seven to twenty-five. Okay. Before we go
24 through all this, has there been any negotiation?

25 **MR. BLOUIN:** Your Honor, there has been some

1 negotiations. He was always -- the offer was to always
2 plead straight up to the heroin charge. He has some other
3 pending charges that we were going to take care of,
4 obviously, that is no longer on the table going forward.

5 **THE COURT:** Okay.

6 (Pause)

7 (Whereupon the jury panel entered the courtroom)

8 **THE COURT:** All right. Ladies and gentlemen, I want to
9 welcome y'all up to courtroom number four, introduce myself.
10 Some of you I may have seen, I recognize. The rest of you,
11 my name is Ned Miller. I'm one of your local circuit court
12 judges here in the Thirteenth Circuit. And I am conducting
13 a term of general sessions court or what is also known as
14 criminal court this week.

15 Yesterday you all were qualified to serve as jurors,
16 generally for the week. And now we have to qualify you to
17 serve as jurors for this particular case. So please
18 remember you're under oath and to fully, truthfully answer
19 all the questions that I will propose to you as we go
20 forward.

21 Let me just introduce the case to you. This is
22 indictment number 2014-8489, the State versus Karacus Korean
23 Freeman. It's an indictment for trafficking heroin. And
24 this indictment alleges that Karacus Korean Freeman did in
25 Greenville County on or about the 26th day of May, 2014

1 knowingly sell, manufacture, deliver or bring into South
2 Carolina or did knowingly provide financial assistance or
3 otherwise aid, abet, attempt or conspire to sell,
4 manufacture, deliver or bring into the State or was
5 knowingly in actual or constructive possession of more than
6 four grams of heroin.

7 Now to this indictment Mr. Freeman has pled not guilty.
8 And as such, certain rights attach, which belong to every
9 person who is charged with a crime in this country. And
10 that is he is presumed to be innocent unless and until a
11 jury finds, based on proof provided by the State, who always
12 has the burden, beyond any reasonable doubt each and every
13 element of the offense that is charged. Please keep that in
14 mind throughout the course of these proceedings.

15 I'd also point out to you that this indictment, which I
16 read to you, is not evidence. And you should take no
17 presumption or any inference from the fact that it issued
18 with respect to the question of guilt or innocence. It's
19 just the formal document that allows this case to wind its
20 way through our system to arrive here in court for
21 resolution.

22 Now before I go further, I would ask the attorneys to
23 stand and introduce themselves. All right.

24 **MR. BLOUIN:** My name is Hunter Blouin. And I'm an
25 assistant solicitor here in Greenville County.

1 **MR. OVERBY:** My name is Stan Overby. And I also am an
2 assistant solicitor here in Greenville County.

3 **THE COURT:** All right. Mr. Robinson.

4 **MR. ROBINSON:** May it please the Court. Good morning.
5 My name is Scott Robinson. And I am an attorney here in
6 Greenville.

7 **THE COURT:** All right. And would you introduce your
8 client as well, please, sir.

9 **MR. ROBINSON:** Yes, sir, Judge. May it please the
10 Court. Good morning, again. My name is Scott Robinson.
11 This is my client, Karacus Freeman.

12 **THE COURT:** All right. Thank you very much.

13 **MR. ROBINSON:** Thank you.

14 **THE COURT:** All right. Ladies and gentlemen, is there
15 any member of the jury panel who is related by blood or
16 marriage or who has a business, personal or social
17 relationship with any of the attorneys involved in this case
18 or any member of the Thirteenth Circuit Solicitor's Office?
19 If so, please stand.

20 (No response)

21 **THE COURT:** Is there any member of the jury panel
22 related by blood or marriage or who has a business, personal
23 or a social relationship with Mr. Karacus Korean Freeman?
24 If so, please stand.

25 (No response)

1 **THE COURT:** I'm going to read a list of potential
2 witnesses. I ask that you listen carefully. I'll need to
3 know the same about these persons. Officer Mauricio Reyes
4 with the Greenville Police Department, Officer Eric Koepke
5 with the Greenville Police Department, Andrew Sturman, Kelly
6 Dixon, Kara Bennick with the Greenville County Property and
7 Evidence Office, Carman Kellett, Robert Arnold, Mike
8 Blizzard, Ryan Holloway, Greg Williams, Sabrina Tiller. Is
9 there any member of the jury panel related by blood or
10 marriage or who has a business, personal or social
11 relationship with any of those persons, potential witnesses
12 whose names I've just read? If so, please stand.

13 (No response)

14 **THE COURT:** Is there any member of the jury panel who
15 has any knowledge about the events that are alleged in the
16 indictment? If so, please stand.

17 (No response)

18 **THE COURT:** Is there any member of the jury panel who
19 has a close, personal relationship or friendship with a
20 member of law enforcement or is related by blood or marriage
21 to a member of law enforcement? If so, please stand. All
22 right.

23 **JUROR:** You mean any law enforcement?

24 **THE COURT:** Yes, ma'am. Okay. What ---

25 **JUROR:** I have ---

1 **THE COURT:** What's your name and number, ma'am?

2 **JUROR:** Sorry. Mary Rutledge, 248.

3 **THE COURT:** Okay. Who?

4 **MS. RUTLEDGE:** My son-in-law, who's a police officer.
5 He teaches at the academy in Columbia.

6 **THE COURT:** All right. Thank you, ma'am. Your name,
7 sir, and number?

8 **MR. SMITH:** Robert Smith, 249.

9 **THE COURT:** Okay.

10 **MR. SMITH:** My brother is a Greenville County sheriff's
11 deputy.

12 **THE COURT:** All right. Thank you very much. Those two
13 folks who answered that question, would the fact that you
14 have that relationship impair your ability to be fair and
15 impartial in this case to either the State or the Defense?

16 **MR. SMITH:** No, Your Honor.

17 **MS. RUTLEDGE:** No, Your Honor.

18 **THE COURT:** All right. Thank you. All right. Is
19 there any member of the jury panel who has ever or a family
20 member who's ever been charged with this type of offense?
21 If so, please stand.

22 (No response)

23 **THE COURT:** Is there any member of the jury panel aware
24 of any bias or prejudice towards either the State or the
25 Defense? If so, please stand.

1 (No response)

2 **THE COURT:** Is there any member of the jury panel who
3 is a member of or a contributor to whose group -- whose
4 primary concern is the promotion of law enforcement or
5 victim's rights? Examples would be MADD, SADD or CAV. If
6 so, please stand.

7 (No response)

8 **THE COURT:** Is there any juror who knows of any reason
9 whatsoever why you should not serve in this case with
10 particular emphasis on your ability to be fair and impartial
11 to both the State and the Defense? If you can't do that,
12 please stand.

13 (No response)

14 **THE COURT:** Okay. All right. Anything further from
15 the State?

16 **MR. BLOUIN:** Nothing from the State, Your Honor.

17 **THE COURT:** Defense?

18 **MR. ROBINSON:** Nothing, Your Honor.

19 **THE COURT:** All right. We're going to go through the
20 process of picking the jury. And as your name is called, if
21 you would just please stand in place and await further
22 instructions. Thank you.

23 **MADAME CLERK:** Juror number 126, Barbara Knuth.

24 (Whereupon juror 126, Barbara Knuth, a white female,
25 stood)

1 **MADAME CLERK:** What says the State?

2 **MR. BLOUIN:** Please present the juror.

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

4 **MR. ROBINSON:** Please seat the juror.

5 **MADAME CLERK:** Thank you. You may be seated in the

6 jury box. Please bring your personal belongings.

7 Juror number 8, John Alvarez.

8 (Whereupon juror 8, John Alvarez, a white male, stood)

9 **MADAME CLERK:** What says the State?

10 **MR. BLOUIN:** Please present the juror.

11 **MADAME CLERK:** Thank you. What says the Defendant?

12 **MR. ROBINSON:** Please seat the juror.

13 **MADAME CLERK:** Thank you. You may be seated in the

14 jury box.

15 Juror number 58, Jadison Fioramosca.

16 (Whereupon juror 58, Jadison Fioramosca, a white male,

17 stood)

18 **MR. BLOUIN:** Please present the juror.

19 **MADAME CLERK:** Thank you. What says the Defendant?

20 **MR. ROBINSON:** Please excuse this juror.

21 **MADAME CLERK:** Thank you. You may be seated. You're

22 excused from the trial of this case.

23 Juror number 244, Lois Keenan.

24 (Whereupon juror 244, Lois Keenan, a white female,

25 stood)

1 **MR. BLOUIN:** Please present this juror.

2 **MADAME CLERK:** Thank you. What says the Defendant?

3 **MR. ROBINSON:** Please seat this juror.

4 **MADAME CLERK:** Thank you. You may be seated in the
5 jury box.

6 Juror number 40, Patch Crozier.

7 (Whereupon juror 40, Patch Crozier, a white male,
8 stood)

9 **MR. BLOUIN:** Please present this juror.

10 **MADAME CLERK:** Thank you. What says the Defendant?

11 **MR. ROBINSON:** Please seat this juror.

12 **MADAME CLERK:** Thank you. You may be seated in the
13 jury box.

14 Juror number 34, Richard Clovis.

15 (Whereupon juror 34, Richard Clovis, a white male,
16 stood)

17 **MR. BLOUIN:** Please excuse this juror.

18 **MADAME CLERK:** Thank you. You may be seated. You're
19 excused from the trial of this case.

20 Juror number 2, Andrew Allen.

21 (Whereupon juror 2, Andrew Allen, a white male, stood)

22 **MR. BLOUIN:** Please excuse this juror.

23 **MADAME CLERK:** Thank you. You may be seated. You're
24 excused from the trial of this case.

25 Juror number 172, Richard Price.

1 (Whereupon juror 172, Richard Price, a black male,
2 stood)

3 **MR. BLOUIN:** Please present this juror.

4 **MADAME CLERK:** Thank you. What says the Defendant?

5 **MR. ROBINSON:** Please seat this juror.

6 **MADAME CLERK:** Thank you. You may be seated in the
7 jury box.

8 Juror number 101, Donald Hindman.

9 (Whereupon juror 101, Donald Hindman, a white male,
10 stood)

11 **MR. BLOUIN:** Please present this juror.

12 **MADAME CLERK:** Thank you. What says the Defendant?

13 **MR. ROBINSON:** Please seat this juror.

14 **MADAME CLERK:** Thank you. You may be seated in the
15 jury box.

16 Juror 131, Edwin Lathan.

17 (Whereupon juror 131, Edwin Lathan, a white male,
18 stood)

19 **MR. BLOUIN:** Please excuse this juror.

20 **MADAME CLERK:** Thank you. You may be seated. You're
21 excused from the trial of this case.

22 Juror number 153, Crystal McKenzie.

23 (Whereupon juror 153, Crystal McKenzie, a black female,
24 stood)

25 **MR. BLOUIN:** Please present this juror.

1 **MADAME CLERK:** Thank you. What says the Defendant?

2 **MR. ROBINSON:** Please seat this juror.

3 **MADAME CLERK:** Thank you. You may be seated in the
4 jury box.

5 Juror 127, Benjamin Kreft.

6 (Whereupon juror 127, Benjamin Kreft, a white male,
7 stood)

8 **MR. BLOUIN:** Please present this juror.

9 **MADAME CLERK:** Thank you. What says the Defendant?

10 **MR. ROBINSON:** Please seat this juror.

11 **MADAME CLERK:** Thank you. You may be seated in the
12 jury box.

13 Juror number 96, Vincent Henderson.

14 (Whereupon juror 96, Vincent Henderson, a black male,
15 stood)

16 **MADAME CLERK:** What says the State?

17 **MR. BLOUIN:** Please present this juror.

18 **MADAME CLERK:** Thank you. What says the Defendant?

19 **MR. ROBINSON:** Please seat this juror.

20 **MADAME CLERK:** Thank you. You may be seated in the
21 jury box.

22 Juror 211, Bobby Thatcher.

23 (Whereupon juror 211, Bobby Thatcher, a white male,
24 stood)

25 **MR. BLOUIN:** Please present this juror.

1 **MADAME CLERK:** Thank you. What says the Defendant?

2 **MR. ROBINSON:** Please seat this juror.

3 **MADAME CLERK:** Thank you. You may be seated in the
4 jury box.

5 Juror number 13, Ronald Baker.

6 (Whereupon juror 13, Ronald Baker, a white male, stood)

7 **MR. BLOUIN:** Please present this juror.

8 **MADAME CLERK:** Thank you.

9 **MR. ROBINSON:** Please seat this juror.

10 **MADAME CLERK:** Thank you. You may be seated in the
11 jury box.

12 Juror number 4, Felecia Allen.

13 (Whereupon juror 4, Felecia Allen, a black female,
14 stood)

15 **MR. BLOUIN:** Please present this juror.

16 **MADAME CLERK:** Thank you.

17 **MR. ROBINSON:** Please seat this juror.

18 **MADAME CLERK:** Thank you. You may be seated in the
19 jury box.

20 **THE COURT:** One alternate. One and one.

21 **MADAME CLERK:** Juror number 54, Richard Enloe.

22 (Whereupon juror 54, Richard Enloe, a white male,
23 stood)

24 **MR. BLOUIN:** Please present this juror.

25 **MADAME CLERK:** Thank you.

1 **MR. ROBINSON:** Please seat this juror.

2 **MADAME CLERK:** Thank you. You may be seated in the
3 jury box.

4 **THE COURT:** All right. Any exception or objection to
5 the jury as empaneled pursuant to Batson or JEB?

6 **MR. BLOUIN:** None from the State.

7 **MR. ROBINSON:** No, sir, Your Honor.

8 **THE COURT:** All right. Ladies and gentlemen, I am
9 happy to tell you that you all are released for the
10 remainder of the day. We'd ask you to call back after 6:00
11 to find out when you next need to check back. Thank you.

12 (Whereupon the remaining jurors exited the courtroom)

13 **THE COURT:** All right. Ladies and gentlemen, I'm just
14 going to make a few brief remarks to you before we place
15 y'all under oath and proceed with the case.

16 We have a dispute about the facts in this case which
17 can't be resolved in any way other than to ask a jury of
18 citizens to come up and listen to the evidence that's
19 presented in this courtroom and the law as I will give it to
20 you and at the conclusion of the case render a decision
21 which will resolve the dispute.

22 I'll remind you again that the indictment which I read
23 to you is not evidence. And you should take no inference
24 from the fact that it was issued or any presumption with
25 respect to the question of guilt or innocence. That is

1 determined solely from the evidence and the law that is
2 presented in the case. And as I told you, that document is
3 just a piece of paper that allows the case to wind its way
4 through our system to arrive here in court for disposition.

5 I'll also remind you that every person charged with a
6 crime is presumed to be innocent unless and until the State
7 can prove them guilty beyond any reasonable doubt of each
8 and every element of the offense that that person is charged
9 with. So please remember that. I'm going to have to keep
10 my comments very brief. And I know that'll make y'all
11 happy.

12 I'll just tell you, I divide a trial into five parts so
13 that you all have a procedural roadmap to know what's coming
14 next. The first part of the trial is the opening statements
15 of the attorneys. That is a brief, non-argumentative
16 statement about the case.

17 The second part of the trial is the presentation of the
18 testimony and the evidence in the case. And that's the meat
19 and potatoes of every case. Evidence will come to you
20 generally in one of three ways. The first most common way
21 is through oral testimony. Second most common way is
22 through the introduction of tangible documents or items.
23 And the third most common way is when the parties agree that
24 some fact is so far beyond dispute that you should accept it
25 as true. And that is what we call a stipulation of the

1 parties.

2 The third part of the trial will be after all the
3 evidence has been presented, the lawyers will make their
4 closing arguments to you and advocate their position, urge
5 you to resolve the dispute in their favor. The fourth part
6 of the trial will be when I give you the charge on the law.
7 I tell you what the law is as it applies to this case. And
8 the fifth part of the trial will be when you retire to your
9 jury room to deliberate the case and resolve the dispute.

10 Parts are not of equal lengths. And as you can
11 imagine, the presentation of the testimony and the evidence
12 is generally the longest part.

13 I'll ask you to do a number of things throughout the
14 course of the trial. There are three main things I ask you
15 to do. The first one is to have a -- keep an open mind
16 throughout the course of the trial. We go through all the
17 questioning to qualify you all to make sure that we have a
18 fair and impartial jury that won't judge this case on
19 anything other than the evidence and the law that's
20 presented in this courtroom.

21 The second thing I ask you to do is to pay attention.
22 And that seems very simple, but it is very important. And
23 if you miss -- if you let your mind wander off and you miss
24 the way, for instance, a witness might respond to a
25 question, which we would call a witness' demeanor, it may

1 turn out that that's important in your deliberations at the
2 close of the case. And if you weren't paying attention you
3 would be at a disadvantage. So please pay attention.

4 The last thing I ask you to do, and this is vital, is
5 that you not discuss the case with anyone until you're free
6 to deliberate the trial -- the case at the end of the trial.
7 That means if we break for lunch, you can't -- and you go to
8 lunch with a friend or a co-worker or something, you can't
9 discuss it with them. You can't discuss it with the
10 bailiffs. And you can't discuss it among yourselves until
11 the deliberations at the end of the case.

12 And that is to ensure that even an innocent comment
13 from someone who you might like and trust doesn't influence
14 you, doesn't have an impact on your state of mind. That
15 would not be fair to the parties involved in this case. It
16 wouldn't be fair to your fellow jurors.

17 And most importantly it wouldn't be fair to yourself to
18 let someone outside of this courtroom who's not making the
19 sacrifices that you're making, who is not hearing the
20 evidence firsthand or the law firsthand. They shouldn't
21 have any input on the outcome of this trial. We don't care
22 what they think. We only care what you think. So don't
23 talk about it.

24 That also includes not doing any independent research.
25 You can't go on the internet. You can't go visit some scene

1 or location that might be described in the proceedings. And
2 you can't -- don't get on social media, which to an old
3 phobie like me, is the plague. But anyway, you can't do it
4 in this case. So don't do it.

5 I will tell you that you all are the sole judges of the
6 facts. And a trial judge is not allowed by law to have an
7 opinion about the facts of the case. So don't think by
8 anything I say or do throughout the course of the trial --
9 you all are the sole judges of the facts, which means you
10 are the ones who determine what to believe and what not to
11 believe, what is true and what is not true.

12 That same law, however, makes me the sole judge of the
13 law. So if you think you have any idea as to what the law
14 is or what the law ought to be and it disagrees with what I
15 tell you the law is throughout the course of the trial or at
16 the end of the trial, you're going to swear an oath to set
17 aside your own opinion and apply the law precisely as I
18 state it to you. And the purpose behind that is so that
19 everyone is treated the same under our rule of law.

20 Now, I'm going to ask y'all to stand in just a second
21 and take your oath, but I want to tell you a couple of
22 things. One, I'm going to dismiss you to your jury room for
23 just a few minutes and let you all see if you can decide who
24 you would like to be your foreperson. And the foreperson is
25 the jury's moderator of discussions at the close of the case

1 and the spokesperson in the courtroom should that become
2 necessary. If you all can't make that decision, I'll be
3 happy to help you with it.

4 The other thing I want to tell you is that from time to
5 time throughout the course of the trial you may see me ask
6 the lawyers to approach the bench or I may ask you all to
7 leave the courtroom so that we can discuss some legal matter
8 or some disputed piece of evidence or something like that.
9 And -- or we might be discussing how long a witness is going
10 to be so we can decide whether or not we should break then
11 for lunch or something like that.

12 So we may not be -- we may be trying to keep something
13 from you, but we're not trying to deceive you in any way.
14 And you can imagine that if it's -- we're talking about a
15 disputed piece of evidence that should not be allowed in,
16 then you all shouldn't hear it. So that's what we're doing
17 when we have these private bench conferences or when I ask
18 y'all to retire to your jury room.

19 So for right now I'm going to ask y'all to stand, take
20 your oath. And I will dismiss you to enter into that
21 election process. It'll be good practice for later in the
22 year. All right.

23 **MADAME CLERK:** Would you please raise your right hand.
24 The answer -- the answer to the oath is I will. You shall
25 well and truly try the case 2014-GS-23-8489, the State

1 versus Karacus Korean Freeman, indicted for trafficking
2 heroin, and a true verdict rendered according to the law and
3 the evidence so help you God.

4 **THE JURY:** I will.

5 **MADAME CLERK:** Thank you.

6 **THE COURT:** All right. Thank you. If you all will go
7 with the bailiff, and we'll get back with you as quickly as
8 possible. We do have a couple of matters we need to go over
9 before we start the trial.

10 (Whereupon the jury exited the courtroom at 11:10 am)

11 **THE COURT:** All right. Defense motions. Let's go.

12 **MR. ROBINSON:** Please the Court.

13 **THE COURT:** Yeah.

14 **MR. ROBINSON:** Your Honor, the first motion we have is
15 a motion to sequester witnesses, which I believe that they
16 have consented to in the past ---

17 **THE COURT:** Okay. Not an issue. They're sequestered.

18 **MR. ROBINSON:** The next issue we have, Your Honor, is
19 regarding the stop itself. We have a motion to suppress in
20 this case. I'd like to call ---

21 **THE COURT:** Is it a warrantless search?

22 **MR. ROBINSON:** What it is, Your Honor, we're basing it
23 on a reasonable suspicion as far as the stop itself.

24 **THE COURT:** So there was no warrant. It was a
25 warrantless search, is that right?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

26

1 **MR. BLOUIN:** Yes, Your Honor.

2 **THE COURT:** Okay. Burden shifts. Let's go. Get your
3 guy and let's go.

4 **MR. BLOUIN:** We'd call Robert Arnold.

5 **MADAME CLERK:** Sir, would you please come forward to
6 take the oath. Would you please place your left hand on the
7 Bible and raise your right.

8 Robert Arnold, being duly
9 sworn testified as follows;

10 **MADAME CLERK:** Thank you. You may be seated. Would
11 you please state your name for the record.

12 **MR. ARNOLD:** Robert Arnold.

13 **MADAME CLERK:** Thank you.

14 Direct Examination by Mr. Blouin:

15 Q. Mr. Arnold, how are you doing today?

16 A. All right.

17 Q. Good. Can you please -- do you know the Defendant in
18 this case?

19 A. I do a little bit.

20 Q. All right. And what's his name?

21 A. I don't know his full name.

22 Q. How do you know him?

23 A. You know, running around with some of the same people.

24 Q. Okay. What would you call him if you could -- do you
25 know his name or nickname or anything like that?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

27

1 A. Not really. I mean, you know, I just kind of heard it
2 through some other people on the street, you know.

3 Q. So you have no knowledge of the Defendant in this case?

4 A. Like I said, I seen him around a couple of times, but I
5 don't just know him like that.

6 Q. Okay. Mr. Arnold, you have been arrested previously in
7 the past, haven't you?

8 A. Yes, sir, I have.

9 Q. And multiple occasions for different types of drug
10 offenses?

11 A. Yes, sir.

12 Q. Okay. Do you remember being arrested on or about May
13 26th, 2014?

14 A. I remember being arrested in 2014, but I don't -- I
15 don't remember. Like I said, I had them seizures. So, you
16 know, I really can't remember.

17 Q. Okay. Do you remember at any point after your arrest
18 being taken and speaking with an Officer Sturman?

19 A. No, sir, I don't.

20 Q. You don't remember him being the one that arrested you?

21 A. No, sir, I don't.

22 Q. Okay. Do you remember placing a phone call with
23 Officer Sturman to the Defendant?

24 A. Like I told you out there, I don't -- I don't recall
25 none of that.

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. So you're not saying it didn't happen, you're saying
2 you just don't remember?

3 A. To be honest with you, I don't -- I don't think I did
4 it, but I don't -- I don't remember it. I don't remember
5 doing it.

6 Q. Okay. Mr. Arnold, do you remember this case being
7 originally called for trial back in, I believe, March of
8 this year?

9 A. Um, that came to Greenville County?

10 Q. Right.

11 A. Yes, sir.

12 Q. Do you remember being in Greenville County?

13 A. Yes, sir, I do.

14 Q. Do you remember being -- refusing to be transported
15 here?

16 A. Yes, sir.

17 Q. To testify like you are right now?

18 A. (Affirmative nod).

19 **THE COURT:** You have to answer, speak.

20 A. Oh, yes, sir. Yes, sir.

21 **MR. BLOUIN:** No further questions for Mr. Arnold.

22 **THE COURT:** Cross.

23 **MR. ROBINSON:** I have no cross of this witness, Your
24 Honor.

25 **THE COURT:** Okay. Step down. Thank you.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

29

1 **MR. OVERBY:** Your Honor, I'd request that Mr. Arnold be
2 kept on the scene for the time being.

3 **THE COURT:** He's -- I haven't released him.

4 **MR. OVERBY:** Okay. Your Honor, at this time the State
5 calls Officer Andrew Sturman to the stand.

6 **MADAME CLERK:** Sir, would you come forward to be sworn
7 in, please. Please place your left hand on the Bible and
8 raise your right.

9 - **Andrew Sturman**, being
10 duly sworn testified as follows;

11 **MADAME CLERK:** Thank you. You may be seated. Would
12 you please state your name for the record.

13 **MR. STURMAN:** Andrew Sturman.

14 **MADAME CLERK:** Thank you.

15 Direct Examination by Mr. Overby:

16 Q. Good morning, Officer Sturman. How are you today?

17 A. Good, sir.

18 Q. Please state where you're employed presently.

19 A. Presently Kannapolis, North Carolina.

20 Q. Okay. And on the date of May 26th, 2014 where were you
21 employed?

22 A. Greenville Police Department.

23 Q. Okay. What was your assignment in the Greenville
24 Police Department?

25 A. Patrol.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

30

1 Q. Okay. What sort of -- what sort of responsibilities
2 did you have as a member of patrol in Greenville ---

3 A. Answered service calls and worked my zone area.

4 Q. Okay. Did you have any specialized experience or
5 training with regards to law enforcement?

6 A. I've taken numerous training classes for different
7 types of investigations, narcotics. And I was trained at
8 the Criminal Justice Academy.

9 Q. Okay. Now, on May 26th, 2014 did you have an
10 opportunity to come across a Robert Arnold?

11 A. Yes.

12 Q. Okay. Describe how that event occurred.

13 A. I was on routine patrol at Shemwood Crossing, which was
14 in my zone. And I know Mr. Arnold to be on trespass from
15 that location from previous encounters. And at that time I
16 made contact with him in front of the seven building and
17 placed him under arrest.

18 Q. Okay. What did you place him under arrest for?

19 A. Trespassing.

20 Q. About what time did this occur?

21 A. Approximately 7:42 pm.

22 Q. Okay. Now, when you placed him under arrest what, if
23 anything, did you discover?

24 A. I discovered three pills in his pocket identified to be
25 a scheduled substance, and it was required a prescription to

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 carry.

2 Q. Okay. And where did you -- where did you discover
3 these?

4 A. I discovered these at the Greenville County Detention
5 Center prior to booking.

6 Q. So you didn't discover them at the scene?

7 A. No.

8 Q. And he was under arrest for trespass?

9 A. Yes, sir.

10 Q. Okay. Were you involved in a discussion with Mr.
11 Arnold about those narcotics?

12 A. Yes.

13 Q. What was the context of that discussion?

14 A. We discussed a -- him assisting me in a further
15 investigation for my assistance with his charges on these
16 pills.

17 Q. Okay. And what -- what was it that Mr. Arnold agreed
18 to do?

19 A. He agreed to make a phone call to a known supplier of
20 his.

21 Q. Okay. A supplier of what?

22 A. Heroin.

23 Q. Okay. And what did you agree to do?

24 A. I agreed to walk him outside the detention center and
25 let him make that phone call.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

32

1 Q. Okay. What did you -- what was essentially the benefit
2 you were conferring on Mr. Arnold?

3 A. He would be getting assistance with his charges. That
4 would be his benefit.

5 Q. Okay. Now, this phone conversation, who placed that
6 phone conversation?

7 A. Mr. Arnold.

8 Q. Okay. Did you force Mr. Arnold to make that -- place
9 that phone call in any other way other than conferring that
10 benefit?

11 A. No, sir.

12 Q. Okay. Who, to the best of your knowledge, was he to
13 place the phone call to?

14 A. An individual he identified as "K".

15 Q. Okay. And what did he say "K" was involved in?

16 A. Drug distribution, heroin sales.

17 Q. Okay. And this call, where was this call placed?

18 A. Right outside the detention center, in front of the
19 intoxilyzer room.

20 Q. Okay. And was this call placed on his phone or yours?

21 A. His phone.

22 Q. Okay. And was this call placed on speaker phone or ---

23 A. Speaker phone.

24 Q. Okay. What do you recall being the substance of
25 conversation that was made?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. It was an inquiry about purchasing more heroin and
2 inquiring ---

3 Q. Who inquired who?

4 A. Arnold was inquiring to "K" about purchasing more
5 heroin and asking where he was at at the current time.

6 Q. Okay. And what information did you receive as a result
7 of that conversation?

8 A. I was advised that he was in the area of Joe Louis
9 Street. Mr. Arnold provided a vehicle that he should be
10 driving, a white Monte Carlo, blue racing stripes and rims
11 on it.

12 Q. Okay. And about when did they -- about when was this
13 vehicle supposed to be near Joe Louis Street?

14 A. Approximately fifteen to twenty minutes after he made
15 that phone call. So approximately nine, 9:15.

16 Q. Okay. And he made the phone call about what time?

17 A. Between 8:40 and nine.

18 Q. Okay. So he places the phone call. What -- did Mr.
19 Arnold have any kind of confidential informant agreement?

20 A. No, sir.

21 Q. Okay. Had you ever worked Mr. Arnold as a confidential
22 informant before?

23 A. No, sir.

24 Q. Okay. Did Mr. Arnold -- did Mr. Arnold identify
25 himself on the phone when he placed the call?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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- 1 A. I can't recall if he identified him by name or not.
- 2 Q. Okay. Now, but he used his phone number?
- 3 A. That's correct.
- 4 Q. Okay.
- 5 A. Correct.
- 6 Q. So after this incident occurred -- well, let me ask you
- 7 this. Do you have any -- did you have any reason to suspect
- 8 that he might be a reliable -- other than -- that he might
- 9 be reliable due to prior instances with him?
- 10 A. He was -- my previous encounters, he's always been
- 11 honest with me.
- 12 Q. But you've never given any kind of -- you've never used
- 13 him in this capacity ---
- 14 A. That is correct. That's correct.
- 15 Q. Okay. So you don't know -- so do you have any opinion
- 16 as to his reliability in this capacity?
- 17 A. No. No, sir.
- 18 Q. Okay. But what he told you -- why did you feel like
- 19 his information was reliable in this particular case?
- 20 A. Based on the phone call and based on his, I guess, what
- 21 he was telling me, and describing the car and everybody, and
- 22 where he's supposed to be, I felt it was good information.
- 23 Q. Okay. Are you familiar with any of the -- are you
- 24 familiar with any of Mr. Arnold's drug past?
- 25 A. I do know I've caught him with marijuana before. And

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

35

1 he's been caught with heroin before as well.

2 Q. Okay. So would it be fair to say that you have reason
3 to believe he would know people who ---

4 A. That's correct.

5 Q. --- conducted this operation? What did you do with --
6 what happened to Mr. Arnold after this phone call was made?

7 A. I placed him into detention.

8 Q. Okay. What did you do with the pills?

9 A. I placed them into property and evidence.

10 Q. Okay. And what did you do with the information
11 thereafter?

12 A. I relayed this information to Officer Reyes.

13 Q. Okay. And Officer Reyes is with?

14 A. The Greenville City Police Department.

15 Q. Okay. And you relayed that information about what
16 time?

17 A. Approximately nine pm.

18 **MR. OVERBY:** Court's indulgence, Your Honor.

19 (Pause)

20 **MR. OVERBY:** Your Honor, I have no further questions.

21 Q. Please answer any questions Defense has.

22 **THE COURT:** Okay. Cross.

23 **MR. ROBINSON:** May it please the Court.

24 **Cross Examination by Mr. Robinson:**

25 Q. Officer, do you have any idea what the phone number

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 that Mr. Arnold called was?

2 A. No, sir.

3 Q. No idea? And you said you listened to the phone call,
4 is that correct?

5 A. Yes, sir.

6 Q. But you have no idea who that person was on the phone,
7 do you?

8 A. No, sir.

9 Q. As far as Mr. Arnold goes, I think you testified too
10 that there was no CI agreement, you had no information as
11 far as Mr. Arnold's reliability because you hadn't used him
12 before, correct?

13 A. That's correct.

14 Q. Okay. So you had no idea whether he was reliable or
15 not, is that correct?

16 A. Correct.

17 Q. And as far as the drug past that Mr. Arnold had, that
18 doesn't -- didn't tell you anything about whether he was
19 reliable or not?

20 A. No, sir.

21 Q. So really he could -- he could pick out anyone that he
22 didn't like or liked and say that guy is the guy that's
23 doing heroin ---

24 **MR. OVERBY:** Objection. Calls for speculation.

25 **THE COURT:** Go ahead. Go ahead.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. ROBINSON:** I'll withdraw the question, Your Honor.

2 That's all I have. Thank you.

3 THE COURT: Okay.

4 **MR. OVERBY:** No recross [sic], Your Honor.

5 **THE COURT:** All right. But you dealt with him in the
6 past, is that right?

7 A. Yes, sir.

8 **THE COURT:** And you said that your dealings with him in
9 the past had resulted in truthful conversations?

10 A. Yes, sir. Yes, sir.

11 THE COURT: Okay. Thanks.

12 A. Um-hum (affirmative).

13 **THE COURT:** You can step down. Thank you.

14 **MR. BLOUIN:** The State would call Officer Reyes.

15 **MADAME CLERK:** Officer, would you come forward to be
16 sworn, please. Please place your left hand on the Bible and
17 raise your right.

18 **Mauricio Reyes**, being
19 duly sworn testified as follows;

20 **MADAME CLERK:** Thank you. You may be seated. Would
21 you please state your name for the record.

22 **MR. REYES:** Mauricio Andres Reyes.

23 : **MADAME CLERK:** Thank you.

24 Direct Examination by Mr. Blouin:

25 Q. Officer Reyes, can you please tell me what your

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 occupation is.

2 A. Police officer.

3 Q. And how long have you been a police officer?

4 A. Coming up on eight years.

5 Q. Eight years. And what do you do as a police officer?

6 What are you assigned to do?

7 A. Uniform patrol. We answer basic calls for service.

8 Q. Okay. We're going to talk about an incident that
9 happened on May 26th of 2014. Do you remember that day?

10 A. Yes, sir.

11 Q. Can you tell me how you got involved with this
12 situation?

13 A. I received a call from Officer Sturman that there was
14 going to be a vehicle in my area that was possibly involved
15 in drug activity.

16 Q. Okay. Did he describe that vehicle?

17 A. Yes, he did.

18 Q. What was the description of that vehicle?

19 A. A two door white Monte Carlo, white in color with blue
20 racing stripes and twenty-four inch rims.

21 Q. Okay. And where was that vehicle supposed to be?

22 A. Joe Louis Street.

23 Q. Okay. And do you remember about how long after you
24 received that call from Sturman that you were supposed to
25 see this vehicle?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. I received the call just before nine. And the traffic
2 stop took place at 9:18.

3 Q. Okay. Did you know who the informant was that gave
4 that information to Sturman?

5 A. I did not.

6 Q. Okay. And what did you do once you received that
7 information?

8 A. I went to the area to patrol the area.

9 Q. Did you contact anybody beforehand?

10 A. I contacted my supervisor along with Officer Koepke,
11 which is our K-9 unit.

12 Q. Okay. And you did that before any ---

13 A. Correct.

14 Q. Okay. And did you observe the suspect vehicle?

15 A. I did.

16 Q. And where was it?

17 A. Coming off of Joe Louis Street.

18 Q. And was it during the time period that Officer Sturman
19 said it was going to be there?

20 A. It was.

21 Q. All right. And what did you do when you saw that
22 vehicle?

23 A. They took a right onto Queen Street. I then had to
24 conduct a u-turn to get behind that vehicle. He pulled into
25 a parking -- shopping center, a restaurant area. That's

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

40

- 1 when I activated my blue lights and made contact.
- 2 Q. Was the vehicle unique looking?
- 3 A. Yes.
- 4 Q. Did you see any other vehicles that looked like it?
- 5 A. I did not.
- 6 Q. All right. Did you observe how many people were in the
- 7 vehicle?
- 8 A. There were two occupants.
- 9 Q. Okay. And were you told who would be driving this
- 10 vehicle?
- 11 A. A subject by the name of "K" ---
- 12 Q. Okay.
- 13 A. --- was all I was given.
- 14 Q. All right. And what did you do when you pulled the
- 15 vehicle over?
- 16 A. I made contact with the driver, asked him to keep his
- 17 hands on the steering wheel, pulled him out of the vehicle.
- 18 I asked him for his identification at which time -- he was
- 19 placed in handcuffs before I asked him for his
- 20 identification at which time he stated he did not have one.
- 21 Q. Did he give you his name?
- 22 A. No.
- 23 Q. Okay.
- 24 A. And he also did not have a valid driver's license is
- 25 what I was told.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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- 1 Q. So he was driving without a license?
- 2 A. Correct.
- 3 Q. All right. And did you ask him who owned the vehicle?
- 4 A. I did not at that time, but it did come up.
- 5 Q. And who did he say owned the vehicle?
- 6 A. He said his mother owned the vehicle.
- 7 Q. All right. At this point did you ask for consent to
- 8 search the vehicle?
- 9 A. Yes.
- 10 Q. Was he -- were you given consent to search the vehicle?
- 11 A. No.
- 12 Q. All right. What -- what happened next?
- 13 A. We -- I spoke to Officer Koepke of the circumstances.
- 14 He ran his K-9 around the vehicle, and the K-9 alerted.
- 15 Q. How long did it take Officer Koepke to get there?
- 16 A. He was there immediately during -- as the traffic stop
- 17 was occurring.
- 18 Q. Okay. And after you were told that he alerted to the
- 19 vehicle, what did you do?
- 20 A. I searched the vehicle.
- 21 Q. And what did you find pursuant to that search?
- 22 A. I found an open twelve ounce can of Bud Light in the
- 23 center console. And I also found a bag containing a chalky
- 24 brown substance.
- 25 Q. Okay. What did you do after you found those items?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

42

1 A. I took them into my possession, field tested the baggy
2 on the scene.

3 Q. Okay. And how did the field test turn out?

4 A. The testing indicates it's supposed to be a purple or a
5 dark blue color. It came back as kind of a blackish color.

6 Q. So it was inconclusive at that time?

7 A. Correct.

8 Q. And did you -- did you submit those for testing?

9 A. I did.

10 Q. All right. Did you speak with Mr. Freeman, ---

11 A. I did, yes.

12 Q. --- the Defendant? And you learned his identity?

13 A. I did.

14 Q. And what was his first name?

15 A. Karacus.

16 Q. And what does Karacus start with?

17 A. A "K".

18 Q. Okay. And when you spoke to Mr. Freeman after finding
19 the bag of powder did you Mirandize Mr. Freeman?

20 A. I did Mirandize him.

21 Q. Okay. When you spoke with Mr. Freeman did anybody
22 claim those narcotics originally?

23 A. Originally, they -- no one claimed ownership of the
24 narcotics.

25 Q. Okay. Eventually did anyone claim ownership of ---

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Eventually, yes.

2 Q. Okay. How did that come about?

3 A. I spoke to the female passenger about everything. She
4 denied ownership of the baggy as well. She was placed into
5 custody due to the pending charges. When Mr. Karacús
6 Freeman observed that, he grew kind of irate. And at that
7 time he claimed ownership of the bag.

8 Q. Okay. So he claimed ownership of the bag?

9 A. Yes.

10 Q. You didn't threaten Mr. Freeman?

11 A. I did not.

12 Q. You didn't coerce him in any way?

13 A. I did not.

14 Q. All you were doing was no one claimed the bag, so you
15 were going to arrest the other passenger in the car?

16 A. Correct.

17 Q. And that's what you would normally do under those
18 circumstances?

19 A. Correct.

20 Q. All right. Now I'm going to ask you about something.
21 There are no pictures or video of this incident?

22 A. Correct.

23 Q. Okay. Do you know why there are no pictures or video
24 of this incident?

25 A. I do not.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay. Did you erase any video or pictures of this
2 incident?

3 A. Absolutely not.

4 Q. If you had a video of the incident would you have
5 downloaded it and turned it in per City protocol?

6 A. Yes.

7 Q. So just to your knowledge no video ever existed?

8 A. Correct.

9 Q. All right. And then what did you do with the brown bag
10 of powdery -- the bag of brown powdery substance once you
11 were -- once you had done everything?

12 A. After leaving detention, I went to property and
13 evidence where it was placed into a storage unit. It was
14 heat-sealed as well.

15 Q. At that point -- at that point in time was Mr. Freeman
16 arrested for the heroin charge?

17 A. No.

18 Q. Was he arrested?

19 A. Yes.

20 Q. What was he arrested for?

21 A. For driving under suspension, third and above, along
22 with the open container in the vehicle.

23 Q. Okay. Just to get this out of the way, did this all
24 happen in Greenville County?

25 A. Yes.

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

45

1 Q. All right. No further questions from the State.
2 Please answer any questions that Mr. Robinson would have for
3 you.

4 MR. ROBINSON: Please the Court.

5 THE COURT: Yeah.

6 **Cross Examination by Mr. Robinson:**

7 Q. Officer, you didn't have an opportunity to observe Mr.
8 Freeman engaging in any illegal activity, did you?

9 A. I did not observe him.

10 Q. Didn't observe him. As far as anything that would
11 indicate that was involving drug dealing or anything like
12 that, you never saw anything, did you?

13 A. Correct.

14 Q. Okay. Actually, you -- you observed him as far as the
15 traffic laws, he didn't make any improper lane changes. Yes
16 or no?

17 A. Correct.

18 Q. Okay. All the headlights were on, everything was --
19 there was nothing broken or anything of that nature,
20 correct?

21 A. To my knowledge.

22 Q. He didn't violate any traffic laws, did he?

23 A. Correct.

24 Q. Okay. And regarding this alleged drug transaction that
25 was going to take place from this informant, you had never

MAURICIO REYES - REDIRECT EXAMINATION BY MR. BLOUIN

46

1 saw a drug transaction take place, did you?

2 A. I did not.

3 Q. Okay. Now, in fact, you had -- you, yourself, had
4 never worked with this informant before, had you?

5 A. No.

6 Q. And you just got this information from the other
7 officer that an informant had said a drug deal was going to
8 take place, correct?

9 A. Yes.

10 Q. But again, you never saw any drug deal take place?

11 A. Correct.

12 Q. Now, regarding the baggy that you found, isn't it true
13 the baggy was found inside the gear shift, is that right?

14 A. Yes.

15 Q. Okay. Was it stuck in the gear shift? Is that what
16 you said?

17 A. Stuffed into the opening of where the gear shift was,
18 yes.

19 Q. And you, I think, according to the report, you saw
20 something stick out, is that correct?

21 A. Yes.

22 Q. Okay. That's all I had. Thank you.

23 **Redirect Examination by Mr. Blouin:**

24 Q. You found drugs?

25 A. I did.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

1 **MR. BLOUIN:** No further questions.

2 **THE COURT:** Thanks. You can step down.

3 **MR. OVERBY:** Your Honor, at this time the State calls
4 Officer Eric Koepke to the stand.

5 **MADAME CLERK:** Officer Koepke, if you'd come forward,
6 please. Would you please place your left hand on the Bible
7 and raise your right.

8 Eric Koepke, being duly
9 sworn testified as follows;

10 **MADAME CLERK:** Thank you. You may be seated. Would
11 you please state your name for the record.

12 **MR. KOEPKE:** It's Eric, E-r-i-c, Koepke, K-o-e-p-k-e.

13 **MADAME CLERK:** Thank you.

14 Direct Examination by Mr. Overby:

15 Q. Officer Koepke, where are you employed?

16 A. Greenville City Police Department.

17 Q. Okay. What capacity are you employed with the
18 Greenville City Police Department?

19 A. I'm a K-9 handler.

20 Q. Okay. And were you employed in this capacity on May
21 26th, 2014?

22 A. Yes.

23 Q. Okay. What's your dog's name?

24 A. Valor.

25 Q. Okay. Do you and Valor undergo special training and

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 experience in working in the K-9?

2 A. Yes.

3 Q. Okay. Give a description to the Judge about that, if
4 you would.

5 A. Your Honor, we're certified through North American
6 Police Work Dog Association in narcotic detection as well as
7 patrol work. We've been certified since the beginning of
8 2013 and have subsequently certified October of 2013,
9 October 2014, October 2015.

10 We do maintenance training every Wednesday that I'm
11 scheduled to be at work. If I'm not at work, then we don't
12 do the maintenance training. But it's a ten hour training
13 session every day that I'm at work just to maintain what he
14 does.

15 Q. Okay. And what sort of -- what sort of aspects of law
16 enforcement is Valor trained to do?

17 A. The narcotic detection portion, he's trained to locate
18 the presence of narcotic odor. That's marijuana,
19 methamphetamine, heroin, cocaine and derivatives of those.
20 He's trained to alert -- find it in vehicles, buildings,
21 areas. We also do patrol work, which consists of tracking,
22 apprehension work, obedience, building searches for persons,
23 area searches for persons and evidence searches as well.

24 Q. Okay. And does Valor undergo any kind of -- did you
25 and Valor undergo any kind of recertification?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. Yes. We recertify annually.

2 Q. Okay. And are you required to create a report when you
3 use Valor in the field?

4 A. That's correct.

5 Q. Okay. Describe the incident -- describe how you came
6 to be involved in this case.

7 A. On that night Officer Reyes contacted me by phone and
8 informed me that there was about to be a drug deal that was
9 about to happen in the area of Joe Louis Street in
10 Greenville. He said that the drug dealer would be in a
11 white Monte Carlo with blue racing stripes and big rims.
12 And he asked me to come to that area.

13 Shortly after I got in the area, Officer Reyes located
14 the vehicle and initiated a traffic stop. I saw him as he
15 was stopping the car and pulled in right behind him. I
16 think it was 1148 Pendleton Street.

17 Q. Okay. And what -- about what time did that occur?

18 A. I believe my report has it at 9:18 pm.

19 Q. Okay. And so you were there almost simultaneously with
20 Officer Reyes?

21 A. That's correct.

22 Q. Okay. How did Valor get involved in this?

23 A. Officer Reyes stated that the Defendant refused consent
24 to search the vehicle and that Officer Reyes had reasonable
25 suspicion to believe that the driver was involved in

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 narcotic activity. So he requested that I use Valor for a
2 narcotic sniff at the vehicle.

3 Q. Okay. Did you have any kind of conversation with Mr.
4 Freeman about that?

5 A. I talked to him briefly, why I was there and what I was
6 about to do.

7 Q. Okay. What did he -- what did you -- what kind of
8 questions did you ask him?

9 A. I asked him if he understood the difference between the
10 presence of narcotic substance and the presence of narcotic
11 odor. And then I asked him if there was any reason that my
12 police dog would alert to the presence of narcotic odor in
13 his vehicle.

14 Q. Okay. Did he tell you any reason why?

15 A. He said that he had just smoked reefer before he got in
16 the car.

17 Q. Okay. What'd you do next?

18 A. I got my K-9 out of the vehicle using a six foot lead
19 attached to his flat collar and walked him to the passenger
20 headlight of the Monte Carlo and put him in a sit. I then
21 gave him the command to sniff for narcotics. And he began
22 moving counterclockwise around the vehicle as he sniffed.

23 Q. Okay. Is that pursuant to Valor's training?

24 A. Yes. As long as there's no obstruction blocking that
25 location of the vehicle, I always start him at the same spot

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 in the same position every time.

2 Q. Okay. And that's pursuant to your training as well?

3 A. Yes.

4 Q. What -- after Valor started what happened?

5 A. As soon as he hit the driver's door, I began seeing
6 distinct behavior changes consistent with his training,
7 alerting to the presence of narcotic odor. We proceeded
8 around the vehicle. And he had those behavior changes at
9 the trunk as well. And then he had the same behavior
10 changes at the passenger side door. At that point he did
11 come to the final responsive sit.

12 Q. Okay. And what kind of response is that? What does
13 that tell you?

14 A. The response tells me that there's presence of narcotic
15 odor in the vehicle.

16 Q. Narcotic odor?

17 A. Yes.

18 Q. Okay. What did you do for Valor after that?

19 A. I awarded him with his toy and returned him to my car.

20 Q. Is that part of your training -- his training and your
21 training?

22 A. Yes.

23 Q. Okay. Did you inform -- what did you inform Mr. or
24 Officer Reyes of at that point?

25 A. That he had probable cause to search the vehicle.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And why was that?

2 A. Because the K-9 alerted to the presence of narcotic
3 odor.

4 Q. I have no further questions. Please answer any
5 questions Defense counsel has for you.

6 MR. ROBINSON: I have no questions for this witness,
7 Your Honor.

8 THE COURT: All right. Thank you, sir. You may step
9 down.

10 A. Thank you, Your Honor.

11 MR. BLOUIN: Your Honor, that's the State's case for
12 probable cause, for reasonable suspicion to stop the vehicle
13 and search the vehicle.

14 THE COURT: All right. Anything?

15 MR. ROBINSON: Arguments, Your Honor?

16 THE COURT: Yeah.

17 MR. ROBINSON: Your Honor, first off, this motion that
18 I have for the suppression is based on reasonable suspicion
19 for the stop. Your Honor, the officer testified as far as
20 no traffic violations, as far as no headlights out, improper
21 lane changes, no erratic driving behavior, nothing that
22 would indicate that he was driving illegal or anything of
23 that nature.

24 Then I asked the officer as far as did he observe any
25 sort of illegal activity going on with Mr. Karacus Freeman.

1 And he said, no, I did not observe any -- any sort of
2 illegal activity.

3 Judge, regarding the informant in this case, he is not
4 someone that they -- they may have known that he had had
5 drug charges, things like that, but I think the officer may
6 have testified that he had not worked with him before, that
7 also he was not someone -- that he had no idea about the
8 reliability of this person.

9 All he had -- all he had in this case without the
10 illegal activity, observation to see if this person, this
11 informant were reliable, all he had to do was get an idea of
12 was a drug transaction going to take place. He never
13 observed any drug transaction to back up and to corroborate
14 what this -- what this informant said.

15 And I would submit this informant was very unreliable.
16 He had no idea if he was reliable or not. He knew he was a
17 drug dealer. He had friends that were drug dealers, but
18 that does not mean he was a reliable witness that they'd
19 used in the past to be an informant in these cases.

20 What we have is a phone call that they don't know what
21 number he called, they didn't know who he called, could be
22 anybody. He said it was "K". But that's all they really
23 have in this case.

24 We don't believe -- I would submit, Your Honor, that
25 there was no reasonable suspicion for this stop to take

1 place. Now if he had observed that this informant gave him
2 credible information, that he saw a drug buy take place, but
3 he didn't see any of that. He saw nothing in this case.
4 And as a result of that I believe that there was not
5 reasonable suspicion for this officer to go ahead and stop
6 this vehicle. Thank you.

7 **THE COURT:** All right. Yeah.

8 **MR. BLOUIN:** Your Honor, the State relies on two cases
9 as far as the reasonable suspicion for that stop. First,
10 State v. Rogers, which is 368 S.C. 529 and also State v.
11 Willard, which is 374 S.C. 129. If I may approach, I have
12 copies of that for you and your clerk.

13 Your Honor, if I may point directly to the Willard
14 case. The facts in Willard are almost identical to the
15 facts that we have here. In Willard an individual was
16 picked up on a bench warrant for failure to pay child
17 support. He also was found with a quantity of
18 methamphetamine.

19 He agreed to help the officer, cooperate with the
20 officer in setting up a drug transaction for help on the
21 charges. A phone call was made from the officer's phone at
22 this point, not the informant's phone, basically setting up
23 the drug transaction.

24 Officers then went to where the drug transaction was
25 going to take place. They took down the vehicle. Actually,

1 the court goes as far as to say that they had probable cause
2 to search the vehicle due to exigent circumstances of the
3 automobile exception. The informant wasn't even present
4 when that transaction or that take-down took place.

5 Your Honor, the court in Willard also states that
6 although the informant in this case was not previously
7 proven reliable, this is page 4 of 5, as in Rogers, -- and
8 that was the other comment, the officer never worked with
9 this informant before. The informant correctly identified
10 Willard's vehicle, knew Willard's phone number and mentioned
11 drugs during the conversation with Willard.

12 Although the informant's reliability had not previously
13 been tested, a non-confidential informant is given even a --
14 is given a higher level of credibility because he exposed
15 himself to liability should the information prove to be
16 false. Thus we find support to affirm the trial court's
17 finding of reasonable suspicion for the stop.

18 Your Honor, it's almost exactly the same here. The
19 informant identified the vehicle, which when passed on was a
20 very unique vehicle that they stopped. There were drugs
21 mentioned during the conversation Officer Sturman heard on
22 speaker phone. The informant called "K", the Defendant, on
23 his phone.

24 So he had prior knowledge of drug activity -- prior
25 knowledge of drug activity. And like the informant in this

1 case, Mr. Arnold had never been used before, no officers had
2 -- were aware of his prior drug history and knew that
3 because of his history with drugs he would know where to get
4 drugs.

5 The court goes even further in Willard and actually
6 says that they find exigent circumstances for a warrantless
7 search, arising from mobility, as required under California
8 v. Carney.

9 Your Honor, we actually have a drug sniff, you know, an
10 indication -- it's furthered before they actually search the
11 car. They didn't just rip him out and search it. He was
12 actually under arrest at the time. Would have been placed
13 under arrest for driving under suspension, third.

14 Koepke, the K-9 officer, there was no extended search.
15 He arrived at the same time as the pull-over per their
16 testimony. You know, so there was no length, you know, they
17 didn't extend any length of any stop of any kind.

18 Your Honor, we just think based on Rogers and Willard
19 that the State has shown that there was reasonable suspicion
20 of ongoing criminal activity to pull over Mr. Freeman.

21 **THE COURT:** All right. I think there was a
22 particularized objective basis for the reasonable suspicion.
23 And I'm going to deny your motion. Anything else?

24 (Pause)

25 **THE COURT:** This jury's been out now for about forty-

1 five minutes. Anything else?

2 **MR. ROBINSON:** Nothing else, Your Honor.

3 **THE COURT:** What about your Jackson v. Denno?

4 **MR. ROBINSON:** I think we'll ---

5 **THE COURT:** What statement -- what statement are you
6 talking about?

7 **MR. BLOVIN:** Your Honor, he mentioned in his -- in the
8 incident report -- Officer Reyes said that Mr. Freeman
9 claimed the drugs, eventually claimed the drugs. I went
10 through with his testimony about whether he was coerced,
11 whether he gave it free and voluntarily.

12 The only testimony that Reyes gave was that Mr. Freeman
13 spoke after Miranda once he saw that the passenger was being
14 locked up for the same charge because no one claimed the
15 drugs. That was basically the statement.

16 **THE COURT:** That's the statement you're talking about?

17 **MR. ROBINSON:** That's the statement.

18 **THE COURT:** All right. I'm not going to find -- I'm
19 going to find that the statement's admissible. All right.
20 We'll take about a five minute break.

21 I would caution -- I don't know who all's here, but if
22 you're on the witness list, and you're in the courtroom, you
23 will not be allowed to testify. So if anybody -- potential
24 witnesses are in here, you need to stay out. All right.
25 We'll take about five minutes.

1 (Whereupon court was in recess at 11:50 am)

2 (Whereupon State's exhibit 1 was marked for
3 identification)

4 (Whereupon court reconvened at 12:04 pm)

5 **THE COURT:** Y'all have a seat. Thanks. The foreperson
6 is Bobby Thatcher.

7 (Whereupon Court's exhibit 1 was marked)

8 **THE COURT:** Ready?

9 **MR. OVERBY:** State's ready, Your Honor.

10 **THE COURT:** Okay. The jury wants to take notes. So
11 make sure we've got pads and pencils for all of them.

12 (Whereupon the jury entered the courtroom at 12:06 pm)

13 **THE COURT:** All right. Mr. Thatcher, thank you for
14 agreeing to serve as foreperson. Ladies and gentlemen, I
15 understand y'all want to -- are interested in taking notes.
16 And that's great. I have no problem with that.

17 I do want to caution you, though, that if you -- if
18 you're taking notes, please remember that you may miss out
19 on an expression or the way someone reacts to a question or
20 something. Just keep that in mind.

21 And then more importantly that at the close of the case
22 in your deliberations I will tell you that one person's
23 written notes carry no more weight than another person's
24 remembered recollection. So just keep that -- if they can
25 benefit you, then that's what we're interested in. Okay.

OPENING STATEMENTS - MR. OVERBY

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1 Thank you.

2 **MR. OVERBY:** May it please the Court, Your Honor.

3 **THE COURT:** Yes.

4 **MR. OVERBY:** Ladies and gentlemen of the jury, good
5 afternoon. This is a case about heroin and a man who deals
6 in it, Mr. Karacus Freeman.

7 Mr. Karacus Freeman is charged with trafficking heroin.
8 That means that Mr. Karacus Freeman was found in possession
9 pursuant -- found in possession of four grams or more of
10 heroin. It's what the law provides.

11 The question for y'all to answer is whether he was in
12 possession knowingly of this, okay. And the State would
13 contend that he absolutely was because the evidence you're
14 going to hear comes from four to five witnesses.

15 It's going to start with Robert Camilio Arnold. Mr.
16 Arnold is an associate of Mr. Freeman. And Mr. Arnold on
17 May 26th, 2014 with law enforcement -- apted to assist law
18 enforcement in setting up a drug purchase.

19 **MR. ROBINSON:** Your Honor, I'm going to object with
20 this as far as opening statement arguing.

21 **THE COURT:** On what basis?

22 **MR. ROBINSON:** Argument, Your Honor.

23 **THE COURT:** Well, you make a brief statement about what
24 you think the facts will show. Don't get into argument. Go
25 ahead.

OPENING STATEMENTS - MR. OVERBY

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1 **MR. OVERBY:** Very well, Your Honor.

2 He's going to come up here and he's going to tell you
3 about that. Now, Mr. Arnold's probably not going to tell
4 you the truth today. But you're going to hear from the
5 other officer, Officer Sturman, who was there when this
6 incident was set up.

7 And then the next thing you're going to hear from is
8 Officer Mauricio Reyes from the Greenville City Police
9 Department. And Officer Reyes is going to testify that he
10 received this information from Officer Sturman about the
11 vehicle that this Defendant was driving in and that he was
12 engaged in illegal narcotic activity.

13 After that, a stop occurs, begin to take a look at the
14 -- they begin to do an investigation, eventually. Officer
15 Koepeke from the Greenville City Police Department has a K-9
16 that comes out. He's going to tell you about the K-9
17 operations, how a K-9 dog is used. And there's a dog sniff
18 that occurs in this case. He's going to tell you about
19 that.

20 Eventually Mr. Freeman's car is searched lawfully and
21 seven point five four (7.54) grams of heroin are found.
22 More than your four gram weight.

23 Ladies and gentlemen, it is the State's burden of
24 proof, and very importantly so, to show beyond a reasonable
25 doubt the elements of this offense, that he was in

OPENING STATEMENTS - MR. ROBINSON

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1 possession of four grams of -- of four grams or more of
2 heroin.

3 Reasonable doubt does not mean all possible doubt. It
4 means proof that leaves you firmly convinced of the
5 Defendant's guilt. That's what it is. It is not a fanciful
6 determination. It's not your wildest imagination. It's
7 proof that leaves you firmly convinced. I believe that the
8 evidence will show you, once you've heard all the testimony
9 from these officers and from Mr. Arnold, that Mr. Freeman is
10 guilty of trafficking heroin.

11 **THE COURT:** All right.

12 **MR. ROBINSON:** May it please the Court. Good
13 afternoon. As I said earlier, my name is Scott Robinson. I
14 practice in Greenville.

15 The prosecution and I obviously have a different view
16 of the facts in this case. But in this case the burden, as
17 the prosecutor said, is on them. They have to establish
18 their case beyond a reasonable doubt in this matter that Mr.
19 Freeman committed this crime beyond a reasonable doubt. And
20 we would submit they can't do that. If you look at the
21 facts, it's going to show they can't do that beyond a
22 reasonable doubt.

23 But in this case as you look at the evidence and look
24 at the -- and hear the testimony, think about what's
25 missing. Think about if there are any pictures, or any

OPENING STATEMENTS - MR. ROBINSON

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1 audio or anything like that that would indicate that there's
2 evidence of this case of anything that Mr. Freeman did.
3 There's going to be a complete lack of that in this case
4 because the State doesn't have it. They have speculation,
5 they have lots of things like that, but they don't have
6 evidence of this taking place.

7 Now, when y'all woke up this morning you may have
8 listened to the news, got on the internet and so forth. And
9 you may have thought you saw someone get arrested or
10 something of that nature. And you may have thought, well,
11 they got the guy. The person must be guilty. And you made
12 that assumption in this case.

13 But that assumption went out the door when you came to
14 this courtroom and took an oath 'cause in this courtroom
15 there is no assumption of guilt. The presumption of
16 innocence in this case is with Mr. Freeman in this matter.

17 And you need -- I'm going to ask you to look at each
18 and every part of the State's case, what it's lacking and
19 make the decision that speaks the truth. And that is that
20 Mr. Freeman is not guilty of this offense. Thank you.

21 **THE COURT:** All right. Call your first witness.

22 **MR. BLOUIN:** The State would call Robert Arnold.

23 **MADAME CLERK:** Mr. Arnold, if you'd come forward to be
24 sworn in, please. Please place your left hand on the Bible
25 and raise your right.

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 **Robert Arnold**, being duly
2 sworn testified as follows;

3 **MADAME CLERK:** Thank you. You may be seated. Would
4 you please state your name for the record.

5 **MR. ARNOLD:** Robert Arnold.

6 **MADAME CLERK:** Thank you.

7 Direct Examination by Mr. Blouin:

8 Q. Mr. Arnold, where do you currently reside? What county
9 do you currently reside in?

10 A. Greenville.

11 Q. County. And are you currently employed?

12 A. No, sir.

13 Q. Okay. Mr. Arnold, I'm going to talk to you about some
14 things that happened on or about May 26th, 2014. Do you
15 remember that day?

16 A. No, sir, I don't.

17 Q. Why don't you remember that day?

18 A. Well, for one, I have seizures.

19 Q. Okay. Do you remember getting arrested around May 26th
20 of 2014?

21 A. No, sir, I don't recall it.

22 Q. Do you recall getting arrested 2014?

23 A. Yes, sir, I do.

24 Q. Okay. And do you remember what kind of charges those
25 were?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Drug charges.

2 Q. Were they specifically heroin charges?

3 A. No, it was cocaine.

4 Q. Cocaine? Okay. And did you -- you've been in trouble
5 in the past. Do you remember talking or getting arrested by
6 an Officer Sturman?

7 A. No, sir.

8 Q. Okay. Do you remember speaking with Officer Sturman
9 regarding helping you out for the charges that you face by
10 cooperating with police?

11 A. No, sir.

12 Q. Do you remember placing a telephone call to the
13 Defendant, Mr. Karacus Freeman?

14 A. No, sir, I don't.

15 Q. Okay. Do you know Mr. Freeman?

16 A. Not like that.

17 Q. Okay. But you know who he is?

18 A. Yes, sir.

19 Q. Okay.

20 **MR. BLOUIN:** Beg the Court's indulgence.

21 (Pause)

22 **MR. BLOUIN:** No further questions, Your Honor.

23 **THE COURT:** Cross.

24 **MR. ROBINSON:** I have no questions, Judge.

25 **THE COURT:** Okay. You can step down. Thanks.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 **MR. OVERBY:** Your Honor, at this time the State calls
2 Officer Andrew Sturman to the stand.

3 **MADAME CLERK:** Officer, would you come forward to be
4 sworn in, please. Please place your left hand on the Bible
5 and raise your right.

6 **Andrew Sturman**, being
7 duly sworn testified as follows;

8 **MADAME CLERK:** Thank you. You may be seated.

9 Direct Examination by Mr. Overby:

10 Q. Good afternoon, Officer Sturman. How are you today?

11 A. Good, sir. How are you?

12 Q. Doing well. Please state -- tell the jury where you're
13 employed.

14 A. I'm employed with the Kannapolis Police Department in
15 North Carolina.

16 Q. How long have you been employed there?

17 A. Since August of 2015.

18 Q. Okay. And prior to being employed there where were --
19 where else were you employed?

20 A. Greenville City Police Department.

21 Q. Okay. How long were you employed with the Greenville
22 City Police Department?

23 A. For approximately four years.

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

25 A. A little over five years.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 Q: Okay. And as a law enforcement officer do you have any
2 specialized training and experience that you go through?

3 A. We got trained at the Criminal Justice Academy in
4 Columbia. And we also do a lot of training classes for
5 investigations and narcotics.

6 Q. Okay. And with regards to -- with regards to your
7 position at the City Police Office, what was your role
8 there?

9 A. I was on patrol.

10 Q. Okay. And how long were you with the City?

11 A. Right at four years.

12 Q. Four years. Started about 2000 ---

13 A. August of 2011.

14 Q. 2011. Okay. Were you employed with the City on the
15 date of May 26th, 2014?

16 A. Yes.

17 Q. Okay. What was your role at that time?

18 A. I was on patrol.

19 Q. Okay. What -- how did you become involved in this
20 particular case?

21 A. On that particular date I arrested an individual,
22 Robert Arnold, who I later transported to the detention
23 center. I located some narcotics on him.

24 Q. Okay. Let's step back briefly, okay? How did you come
25 across Mr. Arnold?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. He was at Shemwood Crossing Apartments. And I -- from
2 previous encounters I knew he was on trespass from that
3 location.

4 Q. And where is Shemwood Crossing Apartments?

5 A. It's at 100 Shemwood Lane.

6 Q. Okay. And that's in Greenville County?

7 A. It's Greenville.

8 Q. Okay. How is it that you became familiar with Mr.
9 Arnold?

10 A. There were two previous encounters. I arrested him for
11 marijuana and numerous times for trespassing at that
12 location.

13 Q. Okay. And he was on trespass notice at the request of
14 the apartment complex?

15 A. Yes.

16 Q. Okay. Now you said that you knew that he was engaged
17 in narcotics?

18 A. Yes.

19 Q. Okay. Talk a little bit about what happened from the
20 moment that you arrested him to the moment that you
21 discovered these pills.

22 A. Yes. I identified Mr. Arnold standing in front of the
23 apartments. And I knew he was on trespass. So at that time
24 I placed him under arrest and transported him to the
25 Greenville County Detention Center where I located three

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 white pills, which was a scheduled substance. And at that
2 time we began discussing further assistance from him for a
3 further drug investigation.

4 Q. Okay. And you searched him pursuant to his arrest?

5 A. Yes.

6 Q. Okay. And you didn't find those drugs until you got
7 him to the detention ---

8 A. That's correct, sir. It was in his pocket.

9 Q. So when -- you started talking about an agreement that
10 y'all came to. Give me some -- give the jury some context
11 about that agreement.

12 A. The agreement was with his assistance in this drug
13 investigation I would assist him with the drug charges I had
14 against him.

15 Q. Okay. And what did you do -- what did Mr. Arnold
16 volunteer to do?

17 A. He advised he would make a phone call to one of his
18 drug dealers for heroin.

19 Q. Okay. And who was this drug dealer? Who did he say
20 this drug dealer was?

21 A. He identified him as "K", nickname as "K".

22 Q. Now where did this -- was this phone conversation --
23 was this phone call placed?

24 A. Yes. It was placed outside the detention center. We
25 walked out the front doors in front of the intoxilyzer room.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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- 1 Q. Okay. Is that in back of the detention center?
- 2 A. It's in the back of the detention center, but gated in.
- 3 Q. Was Mr. Arnold forced to make this phone call?
- 4 A. No, sir.
- 5 Q. Okay. What did -- what phone was used?
- 6 A. It was -- he used his cell phone.
- 7 Q. Okay. And was this phone call -- were you able to hear
- 8 this phone call?
- 9 A. Yes, that's correct. He ---
- 10 Q. Okay. And how were you able to hear this phone call?
- 11 A. He left it on speaker phone for me to listen.
- 12 Q. So you were able to hear both parties discuss?
- 13 A. That's correct, sir.
- 14 Q. Okay. Do you remember the specifics of the phone call,
- 15 the specific words, things of that nature?
- 16 A. Not the specific words, but it was more Mr. Arnold
- 17 asked where Mr. "K" was, asked if he had anymore stuff to
- 18 buy. And at that time he was given a location where "K" was
- 19 located at the current time.
- 20 Q. Okay. And what location was that?
- 21 A. In the area of Joe Louis, Queen Street area.
- 22 Q. Okay. And that's in Greenville County as well.
- 23 A. That's correct.
- 24 Q. All right. Now, and this was the conversation you
- 25 overheard both parties ---

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. That's correct.

2 Q. Now, when -- what sort of details did you overhear with
3 regards to this -- with regards to this meeting that they
4 were ---

5 A. Mr. Arnold was able to describe "K's" vehicle to me.
6 He described it as a white Monte Carlo with blue racing
7 stripes and with rims on it.

8 Q. Okay. Sizable rims?

9 A. Pretty big rims, yes, sir.

10 Q. Okay. What kind -- any particular color or anything
11 ---

12 A. He said it was chrome rims.

13 Q. Okay. Now, when he made those particular -- when he
14 provided that information to you, what else did he tell you
15 about -- he said he'd be in the Joe Louis Street area.

16 A. Yeah, and he should be in possession of heroin.

17 Q. Okay. What time -- let me back up briefly. What time
18 did you meet with Mr. Arnold?

19 A. I arrested him -- made contact with him in Shemwood at
20 approximately 7:42 in the evening.

21 Q. Okay. And what time did this phone call take place?

22 A. Probably between 8:40 and 9:00 in the evening.

23 Q. Okay. All right. What did you do with that
24 information?

25 A. I relayed this information to Officer Reyes of the

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 Greenville City Police Department.

2 Q. Okay. And then you had no further involvement in that?

3 A. That's correct, sir.

4 Q. What did you do with Mr. Arnold?

5 A. Placed him into detention on the trespassing charge.

6 Q. Okay. Did you charge him with the pills?

7 A. No, sir.

8 Q. Okay. And what did you do with the pills?

9 A. I placed them into property and evidence.

10 Q. And do you know where those pills are today?

11 A. They should be in property and evidence.

12 Q. All right. I have no further questions. Please answer
13 any questions Defense has.

14 **MR. ROBINSON:** Please the Court.

15 **THE COURT:** Yeah.

16 **Cross Examination by Mr. Robinson:**

17 Q. Officer Sturman, you took -- you took an audio of this
18 -- you recorded this, didn't you?

19 A. No, sir.

20 Q. So there's no recording that we could show the -- or
21 show the jury of this conversation that you supposedly had?

22 A. That's correct.

23 Q. Correct? Now, and you didn't -- in your investigation
24 with Mr. Arnold you didn't by chance get the number that he
25 called, did you?

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 A. No, sir.

2 Q. So he could have called anybody pretty much, couldn't
3 he?

4 A. That's correct.

5 Q. So you have -- you have no information for this jury
6 that the number he called belonged to either Mr. Freeman or
7 anybody else? You have no idea, do you?

8 A. That's correct.

9 Q. Now as far as the -- as far as your investigation did
10 you -- did you happen maybe to trace the number that he
11 called at any time to see where that number went to?

12 A. No, sir.

13 Q. So you can't tell anything to this jury about who he
14 called or anything, can you?

15 A. The only thing I could say is Mr. Arnold identified the
16 individual as "K".

17 Q. Okay. And now you know the alphabet pretty well. You
18 know "K". You know a good number of people with the letter
19 "K" in their name, don't you?

20 A. Sure. Yes, sir.

21 Q. So you can't say that just one specific person is known
22 as "K", can you?

23 A. I can't say that.

24 Q. Okay. And you have no idea if the "K" that they're
25 referring to was Mr. Karacus Freeman or any other person,

ANDREW STURMAN - REDIRECT EXAMINATION BY MR. OVERBY

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1 can you?

2 A. That's correct.

3 **MR. ROBINSON:** I beg the Court's indulgence.

4 (Pause)

5 Q. That's all I have. Thank you, officer.

6 **MR. OVERBY:** Brief redirect, Your Honor.

7 **Redirect Examination by Mr. Overby:**

8 Q. Did you have any reason to believe that Mr. Arnold was
9 not telling you the truth?

10 A. No, sir.

11 Q. Okay. And did you do anything with regards to this
12 case other than relay that information?

13 A. No, sir. I just relayed the information.

14 Q. Okay. No further questions.

15 **THE COURT:** All right. Thank you. You can step down.

16 **MR. BLOUIN:** The State would call Mauricio Reyes.

17 **MADAME CLERK:** Officer Reyes, if you'd come forward to
18 be sworn in, please. Please place your -- thank you.

19 **Mauricio Reyes,** being
20 duly sworn testified as follows;

21 **MADAME CLERK:** Thank you. You may be seated. Please
22 state your name for the record.

23 **MR. REYES:** Mauricio Andres Reyes.

24 **MADAME CLERK:** Thank you.

25 **Direct Examination by Mr. Blouin:**

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Thank you, Officer Reyes. What do you do for a living?

2 A. I'm a police officer.

3 Q. And how long have you been a police officer?

4 A. Eight years.

5 Q. Eight years. And what -- what do you do as a police
6 officer? What are you assigned?

7 A. Assigned to uniform patrol. So we do patrolling of
8 neighborhoods along with call responsive.

9 Q. Are you assigned to a certain area of the City or does
10 it kind of shift depending on time of day, where you are,
11 that sort of thing?

12 A. I'm assigned to the west side of Greenville.

13 Q. Okay. And how long have you been assigned to the west
14 side of Greenville?

15 A. At least seven, six, seven years.

16 Q. Okay. Now, we're going to talk about the incident that
17 occurred on May 26th, 2014.

18 A. Correct.

19 Q. How did you get involved in this incident?

20 A. I received a call from Officer Sturman. And he told me
21 that there was going to be a ---

22 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

23 **THE COURT:** Yeah. You can say what you did as a result
24 of your conversation. Don't tell us what he said.

25 **MR. BLOUIN:** Yes, sir.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Officer Reyes, what did you do as a result of your
2 conversation with Officer Sturman?

3 A. I was involved in a drug investigation.

4 Q. Okay. Were you looking for a vehicle?

5 A. I was.

6 Q. What sort of vehicle was it?

7 A. It was a white, two door Monte Carlo with blue racing
8 stripes and twenty-four inch rims.

9 Q. Okay. Did you have information of who would be driving
10 that vehicle?

11 A. I received information that the driver ---

12 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

13 **THE COURT:** No -- no, go ahead. You can proceed. Go
14 ahead.

15 A. By the name of "K".

16 Q. And where that vehicle would be located?

17 A. On Joe Louis Street.

18 Q. Okay. Is that in Greenville County?

19 A. Yes.

20 Q. All right. Did you make contact with a vehicle that
21 matched that description?

22 A. I did.

23 Q. Where did you see that vehicle?

24 A. I observed the vehicle leaving Joe Louis Street taking
25 a right onto Queen Street.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay. And was it a unique looking vehicle?

2 A. Yes, very unique.

3 Q. Have you seen any other vehicles that looked like it?

4 A. I have not.

5 Q. All right. Did you make contact with that vehicle?

6 A. Yes.

7 Q. Please tell the jury what you did.

8 A. I observed the vehicle on Queen Street. I conducted a
9 u-turn. The vehicle crossed over Perry Avenue, took a quick
10 left into what we call the first walk, which is on Pendleton
11 Street. And at that time I initiated a traffic stop on the
12 vehicle.

13 Q. Okay. Before you initiated a traffic stop on the
14 vehicle did you contact anybody?

15 A. I did.

16 Q. Who did you contact?

17 A. I contacted my supervisor, Sergeant Conroy, along with
18 our K-9 unit, Officer Koepke.

19 Q. And this was based on information that you received
20 regarding that vehicle?

21 A. Yes.

22 Q. All right. And after you pulled over that vehicle what
23 did you do?

24 A. I made contact with the driver.

25 Q. And how many people were in the car?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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- 1 A. Two occupants.
- 2 Q. Okay. Who was driving the car?
- 3 A. A male.
- 4 Q. Okay. Is he in this courtroom today?
- 5 A. Yes, he is.
- 6 Q. Can you point him out for us?
- 7 A. He's right there.
- 8 (Whereupon the witness pointed to the Defendant)
- 9 Q. And there was a female in the car as well?
- 10 A. Correct.
- 11 Q. Who did you make contact with?
- 12 A. The driver.
- 13 Q. Okay. And what did you do after that?
- 14 A. I asked him to step out of the vehicle. Due to the
- 15 investigation he was placed into handcuffs at that time.
- 16 Q. Okay. Did you ask to search the vehicle?
- 17 A. I did.
- 18 Q. Okay. Was that search based on information you'd
- 19 received?
- 20 A. Correct.
- 21 Q. And were you given permission to search the vehicle?
- 22 A. I was not given consent to search the vehicle.
- 23 Q. Okay. What did you do then?
- 24 A. I advised Officer Koepke of the situation and the
- 25 circumstances. Officer Koepke then ran his dog around the

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 vehicle.

2 Q. And Officer Koepke was on the scene at that time?

3 A. Yes, he was.

4 Q. Okay. And did you find out who owned the vehicle?

5 A. Later on I did find out who owned the vehicle, yes.

6 Q. Who was the owner of the vehicle?

7 A. I was told by the driver that his mother was the owner
8 of the vehicle.

9 Q. Okay. Now, how -- what did -- what did you observe
10 Officer Koepke do when he arrived or when he got his K-9
11 unit out?

12 A. He walked his K-9 around the vehicle, and the K-9
13 alerted.

14 Q. Okay. So what did you do after the K-9 alert?

15 A. After the K-9 alerted for the presence of narcotics, I
16 searched the vehicle.

17 Q. Okay. And tell the jury what you found pursuant to
18 that search.

19 A. I found a open Bud Light can, a twelve ounce can of Bud
20 Light in the center console. As I continued my search I
21 found a baggy with a brown chalky substance.

22 **MR. BLOUIN:** May I approach the witness?

23 **THE COURT:** Yes.

24 Q. Officer Reyes, I'm going to show you what's been
25 premarked as State's exhibit number 1. Do you recognize

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 what this is?

2 A. Yes.

3 Q. Would you please -- is this -- could you say what this
4 is?

5 A. It's the item that I found in the center console.

6 Q. Okay. Is it in the same condition as when you found
7 it?

8 A. Yes.

9 Q. Okay. And this looks substantially similar to what you
10 found in that car?

11 A. Correct.

12 Q. All right. And where did you find this?

13 A. I found that in the center, near the drive shaft -- the
14 gear shift, I'm sorry.

15 Q. And what did you do when you found this?

16 A. I pulled it out, took possession of it.

17 Q. Okay. And did -- what did you do after you took
18 possession of it?

19 A. I approached the driver, Mr. Freeman, and began to
20 question him about it.

21 Q. Okay. Did the driver tell you anything about that bag?

22 A. He denied knowing anything about the bag.

23 Q. Okay. What did you do next?

24 A. I then approached the passenger and I questioned her
25 about it as well. She also denied any knowledge of the bag.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. All right. At this point did the Defendant make any
2 statements?

3 A. I placed the female into custody as well due to the
4 narcotics being found where both of them could have
5 possession of it. And at that time I approached Mr. Freeman
6 again when he did make a statement to me.

7 Q. Okay. That Mr. Freeman?

8 A. Yes.

9 Q. And what did he tell you?

10 A. He advised me that the baggy was his.

11 Q. Okay. And it's this baggy right here that you've
12 identified as State's exhibit 1?

13 A. Correct.

14 Q. All right. And what did you do with the bag at that
15 point? Did you field test the bag?

16 A. I field tested the substance inside the bag, yes.

17 Q. Okay. And what did the field test come back as?

18 A. Inconclusive.

19 Q. All right. So what did you do then?

20 A. I then took it into possession where I placed it into
21 property and evidence. And I requested a drug analysis on
22 the items in the bag.

23 Q. Did you weigh the bag at that point?

24 A. Yes.

25 Q. Okay. Do you remember what the weight of the bag was?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. I believe eleven grams, eleven point ...

2 Q. Okay. And -- okay. Once that was all done and it's
3 just you and the bag, ---

4 A. Um-hum (affirmative).

5 Q. --- what did you do with the bag next?

6 A. We put it into property and evidence, heat-sealed ---

7 Q. Explain how -- explain how that all works.

8 A. We take it into our possession. We have a storage
9 where we store all of our property and evidence. We have to
10 mark, date and initial everything. It is then heat-sealed.
11 And every -- basically every movement that that item takes
12 after then is documented.

13 Q. Okay.

14 **MR. BLOUIN:** And may I approach the witness one more
15 time, Your Honor?

16 **THE COURT:** Yes.

17 Q. Whose initials are these on this heat-sealed bag?

18 A. M.A.R. would be my initials.

19 Q. And what is the case number as you see it on that heat-
20 sealed bag?

21 A. It reads 02-14037497.

22 Q. And that is the same case number as in this case?

23 A. Yes.

24 Q. And lastly -- and this all happened in Greenville
25 County?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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- 1 A. Yes, it did.
- 2 Q. Now, Officer Reyes, there are no pictures of anything
- 3 that happened that went on?
- 4 A. Correct.
- 5 Q. There's no videotape of what went on?
- 6 A. Correct.
- 7 Q. This is you explaining how this whole thing went down?
- 8 A. Correct.
- 9 Q. Did you destroy any video?
- 10 A. I did not.
- 11 Q. Did you take any pictures?
- 12 A. No.
- 13 Q. If there was video of the incident would you have
- 14 uploaded it?
- 15 A. Yes.
- 16 Q. Is that the policy of the Greenville City Police
- 17 Office?
- 18 A. Yes.
- 19 Q. Okay. So there is no video?
- 20 A. No.
- 21 Q. And you took this bag and placed it into evidence with
- 22 the file number and -- after heat-sealing it?
- 23 A. Correct.
- 24 Q. Did you plant the drugs?
- 25 A. Absolutely not.

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

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1 Q. Okay. Please answer any questions that Mr. Robinson
2 has.

3 MR. ROBINSON: Please the Court.

4 THE COURT: Yes.

5 **Cross Examination by Mr. Robinson:**

6 Q. So the policy is to take a video of what you're doing,
7 isn't that correct, ---

8 A. Correct.

9 Q. --- in Greenville County, correct? And you decided not
10 to take a video of what you were doing in this case, isn't
11 that correct?

12 A. Well, I'm not sure what happened. It could be an
13 electronic failure. I don't know. But at that time a video
14 was not produced.

15 Q. Okay. So while you had an obligation by your policy,
16 Greenville City policy, some kind of policy, you did not
17 follow that policy, did you? Is that a fair statement?

18 A. Correct. The video did not work.

19 Q. But that video would have helped you or helped anyone
20 else, would help them to see that what you were doing and
21 what you allegedly found was actually found in that car?
22 That would help, wouldn't it?

23 A. It could, yes.

24 Q. And despite that you didn't take a video of what you
25 were doing in that car, correct?

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

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1 A. Correct.

2 Q. So there's no way for this jury to tell what you did or
3 what they found -- what you found in that car, is there?

4 A. I've testified to what I did.

5 Q. But again, the question is there's -- there's no way
6 for this jury to corroborate through that video what you did
7 that day, is there?

8 A. There is no video.

9 Q. Okay. In fact, it's not just no videos, you didn't
10 take any -- there was no pictures taken either, was there?

11 A. No pictures.

12 Q. So you didn't take pictures of the inside of the
13 vehicle to indicate what you found, where you found it? You
14 didn't take anything, correct?

15 A. I did not.

16 Q. Okay. And that would prevent anyone corroborate -- be
17 able to corroborate what you did that day or that night when
18 you went into that car, isn't that correct?

19 A. Again, I've testified to what I did that night.

20 Q. But you would agree with me that that information would
21 be -- pictures would -- very helpful to this jury to
22 understand what you did that day?

23 **MR. BLOUIN:** Objection, Your Honor. That's
24 speculation. We don't know what the pictures would show one
25 way or the other if they were to ---

MAURICIO REYES - REDIRECT EXAMINATION BY MR. BLOUIN

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1 **THE COURT:** It's all right. I'm going to let him ask
2 it. Go ahead.

3 A. Of course.

4 Q. What did you say?

5 A. I said of course.

6 Q. And as far as Mr. Freeman's statement to you that the
7 drugs was his, that was only after you had this girl in the
8 car put in handcuffs, isn't that correct?

9 A. Yes.

10 Q. Okay. But again, we don't have any video or pictures
11 of this conversation that you had with Mr. -- either Mr.
12 Freeman or the girl that was in the car, do we?

13 A. Correct.

14 Q. That's all I have. Thank you.

15 **Redirect Examination by Mr. Blouin:**

16 Q. Officer Reyes, did you intentionally not videotape
17 anything to your knowledge?

18 A. No.

19 Q. And how many different ways can there -- how many
20 different reasons could there be for there not being a
21 video?

22 A. Numerous.

23 Q. And you just don't know?

24 A. Correct.

25 Q. But you didn't intentionally not take a video?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 **MR. ROBINSON:** Objection, ---

2 A. I did not.

3 **MR. ROBINSON:** --- Your Honor. Leading.

4 **THE COURT:** Overruled. Go ahead.

5 Q. Did you plant -- did you plant the heroin?

6 A. Absolutely not.

7 Q. Did Mr. Freeman admit that the heroin was his?

8 A. Yes, he did.

9 MR. BLOUIN: No further questions.

10 **THE COURT:** All right. Thank you, sir. You can step
11 down.

12 **MR. OVERBY:** Your Honor, at this time the State calls
13 Officer Eric Koepke to the stand.

14 **MADAME CLERK:** Officer, would you please come forward
15 to be sworn in. Please raise your right hand.

16 Eric Koepke, being duly
17 sworn testified as follows;

18 **MADAME CLERK:** Thank you. Please be seated. Please
19 state your name for the record.

20 **MR. KOEPKE:** It's Eric, E-r-i-c, Koepke, K-o-e-p-k-e.

21 **MADAME CLERK:** Thank you.

22 Direct Examination by Mr. Overby:

23 Q. Good afternoon, Officer Koepke. How are you today?

24 A. Doing well. How are you?

25 Q. Where are you employed, sir?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. I'm sorry, I couldn't hear you.

2 Q. I'm sorry. Where are you employed?

3 A. With the Greenville Police Department.

4 Q. Okay. In what capacity are you employed with the
5 Greenville Police Department?

6 A. I'm a K-9 handler.

7 Q. Okay. And as a K-9 handler what are your duties and
8 responsibilities?

9 A. I conduct narcotic searches with my K-9 unit. I also
10 do tracking, apprehension work, building searches for
11 suspects.

12 Q. Okay. And what's your K-9's name?

13 A. Valor.

14 Q. Valor? All right. And what kind of dog is Valor?

15 A. He's a mix. He's a German Shepherd and Belgian
16 Malinois mix.

17 Q. Okay. What does Valor and what do you have to go
18 through in order to be a K-9 handler?

19 A. I had to go through a six hundred hour course that was
20 taught by the sheriff's office to train him and myself to
21 become -- to become a police dog. I also do weekly
22 maintenance training. Every Wednesday we train for ten
23 hours. And I also do a national certification every year
24 through NAPWDA, which is the North American Police Work Dog
25 Association.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And are there certain safeguards to make sure that you
2 and Valor are up to date on certifications?

3 A. Yes.

4 Q. And, I mean, I assume that y'all are both evaluated,
5 correct?

6 A. Yes.

7 Q. Okay. Tell me a little bit about that process.

8 A. Through the certification there's a bunch of different
9 things that we have to go through. For narcotic detection
10 we have to do vehicle narcotics, we do building narcotics
11 and area narcotics. The four odors that we're certified in
12 are marijuana, methamphetamine, heroin, cocaine and
13 derivatives of those.

14 So for vehicle narcotics they'll have six vehicles set
15 out for us. Four of the vehicles have hides, exterior and
16 interior hide. And there's two blank cars. We're not
17 allowed to make any mistakes. The dog alerts to the
18 presence of the odor. We reward them with a toy and
19 continue with the certification -- continue with the issues
20 of certification.

21 Q. What does the dog do when he alerts? And what does
22 alert mean?

23 A. Alert is actually a distinct behavior change that he
24 has in the presence of narcotic odor. His is -- he brackets
25 the odor. So when he's sniffing along a surface he'll hit

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 the odor and then turn back and recheck that area. He'll
2 sniff quickly, he'll wag his tail and his posture change.
3 He'll get more of a rigid posture. And then he comes to a
4 final response, which is a passive alert, which is a sit or
5 a down depending on the location of the narcotics.

6 Q. Okay. Did you -- how did you get involved in this
7 particular case, Officer Koepke?

8 A. I was contacted by Officer Reyes over the phone. He
9 told me that there's about to be ---

10 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

11 **THE COURT:** Just talk about what your -- what you did
12 as a result of the conversation.

13 A. Okay. I responded to the area of Joe Louis Street to
14 look out for a white Monte Carlo with blue racing stripes
15 and large rims.

16 Q. Okay. And when you got in that area what did you
17 observe?

18 A. Officer Reyes was stopping a car matching that exact
19 description. I saw him pulling into the parking lot at 1148
20 Pendleton Street, and I got behind him and pulled into the
21 parking lot as well.

22 Q. Okay. And about what time was that?

23 A. It was about 9:19 or 9:18 pm.

24 Q. Okay. Now, did you observe anything with regards to
25 Officer Reyes -- Officer Reyes' approach to the vehicle?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. Not that I recall, no.

2 Q. Okay. Did you -- what did you do while Officer Reyes
3 spoke with the driver?

4 A. I spoke with the passenger and stood by with her.

5 Q. Okay. Did you notice anything odd, anything like that?

6 A. Not with the passenger, no.

7 Q. Okay. What did -- where was Valor at this time?

8 A. He was in the back of my patrol car.

9 Q. Okay. Did you or Officer Reyes open the door in any
10 way at that time?

11 A. To my patrol car?

12 Q. No, to the Defendant's patrol car or to the Defendant's
13 vehicle. I apologize.

14 A. Not that I'm aware of. I had the female party step out
15 of the vehicle at one point.

16 Q. Okay. Why'd you do that?

17 A. Just to separate the parties.

18 Q. Okay.

19 A. To see if their stories matched.

20 Q. Okay. And did Officer Reyes have the driver step out
21 of the vehicle?

22 A. Yes.

23 Q. Okay. And is the driver of that vehicle in the
24 courtroom here today?

25 A. Yes.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And, if you wouldn't mind, just identify him.

2 A. He's sitting in the white shirt at the table.

3 (Whereupon the witness pointed to the Defendant)

4 Q. Okay. When y'all asked them out of the vehicle did you
5 go into the vehicle at that time?

6 A. No.

7 Q. Okay. Did you manipulate the vehicle in any way?

8 A. No.

9 Q. Did you touch the vehicle in any way?

10 A. No.

11 Q. Okay. What did Officer Reyes -- what information did
12 Officer Reyes -- what did Officer Reyes ask you to do?

13 A. He asked me to deploy Valor for a narcotic sniff of the
14 vehicle.

15 Q. Okay. And what did you do?

16 A. I did deploy Valor for a narcotic sniff, but at first I
17 asked him if he had reasonable suspicion and if the driver
18 had refused consent.

19 Q. Okay. And what was the answer to those questions?

20 A. He said he had reasonable suspicion. And he said that
21 the driver refused consent to search the vehicle.

22 Q. Okay. Did Officer Reyes go into the vehicle at all
23 from what you observed?

24 A. No.

25 Q. Okay. Did Officer Reyes manipulate the vehicle at all

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 from what you observed?

2 A. No.

3 **MR. ROBINSON:** Objection, Your Honor. Calls for
4 speculation.

5 **THE COURT:** He asked him what he observed. Overruled.
6 Go ahead.

7 Q. Now after -- after you got the go ahead to go ahead and
8 use K-9 Valor what did you do? Describe the process that --
9 for the jury, the process of doing this dog sniff.

10 A. Okay. Typically I'll talk to the driver or the owner
11 of the vehicle if the owner's present, otherwise, I talk to
12 the driver and just explain to them what I'm about to do,
13 that I'll be doing an exterior narcotic sniff of the
14 vehicle. I'll explain the difference between narcotic odor
15 and the substance. And I'll ask him if -- is there any
16 reason that my dog would alert to the presence of narcotic
17 odor in your vehicle.

18 Q. Okay. And what's the next step after that?

19 A. Then I get my K-9 out of the vehicle using a six foot
20 lead, walk him to the passenger headlight of the vehicle and
21 place him in a sit. And then I give him the command to
22 sniff for narcotics, and we begin moving counterclockwise
23 around the vehicle.

24 Q. Okay. And what did Valor do when you started this
25 process?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. When we reached the driver's door, Valor had distinct
2 behavior changes consistent with his training, alerting to
3 the presence of narcotic odor, the same -- the same behavior
4 changes I already explained to the jury. And then we
5 reached the trunk and he had additional behavior changes.
6 And then when he reached the passenger door, he had more
7 behavior changes. And then he came to the final response of
8 a sit at the passenger's door.

9 Q. And again, what does sit mean?

10 A. A sit is just a final response alerting to the presence
11 of narcotic odor.

12 Q. Okay. What did you do after that?

13 A. I rewarded Valor with a toy and returned him to my
14 patrol car.

15 Q. And is that pursuant to y'all's training?

16 A. Yes.

17 Q. Okay. Did Officer Reyes or you during this dog sniff
18 ever go into this vehicle?

19 A. No.

20 Q. Okay. Did y'all ever manipulate the vehicle in any
21 way?

22 A. No.

23 Q. Prior to the sniff?

24 A. No.

25 Q. Okay. After K-9 Valor alerted what did you do?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. I stood by with the female party while Officer Reyes
2 searched the car.

3 Q. Okay. And what did -- what did you observe Officer
4 Reyes find?

5 A. A clear plastic baggy with a beige, powdery substance,
6 which I believed to be heroin.

7 Q. I have no further questions for you, Officer Koepke.
8 Please answer any questions Defense counsel may have.

9 **THE COURT:** Cross.

10 **MR. ROBINSON:** No further questions. Thank you.

11 **THE COURT:** All right. Thanks. You can step down.

12 A. Thank you, Your Honor.

13 **MR. OVERBY:** Your Honor, may we approach?

14 **THE COURT:** All right.

15 (Whereupon a bench conference was held off the record,
16 in the presence of the jury, but out of their hearing)

17 **THE COURT:** All right. Ladies and gentlemen, we just
18 had a little logistics conference about location of
19 witnesses and so forth. We're going to break now for lunch
20 until 2:15. I hope that'll give you adequate time to get a
21 bite to eat and take care of any personal business you might
22 need to take care of.

23 Remember, don't discuss the case. Don't visit the
24 location. Don't go on the internet. And y'all have a nice
25 lunch. We'll see you back at 2:15. Thank you. Everybody

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1 else remain seated until the jury's out of the courtroom.

2 Sit down.

3 (Whereupon the jury exited the courtroom at 12:50 pm)

4 **THE COURT:** Okay. Anything further?

5 **MR. BLOUIN:** Nothing from the State, Your Honor.

6 **MR. ROBINSON:** No, sir, Your Honor.

7 **THE COURT:** All right. We'll see you at 2:15.

8 (Whereupon court was in recess at 12:51 pm)

9 (Whereupon State's exhibit 2 was marked for
10 identification)

11 (Whereupon court reconvened at 2:27 pm)

12 **THE COURT:** Thank you. Please be seated. All right.
13 Y'all ready?

14 **MR. BLOUIN:** Yes, Your Honor. Before we begin, the
15 parties have agreed to stipulate as to the chain of the
16 property and evidence people, therefore, leaving only the
17 chemist.

18 **THE COURT:** All right. Very good. Okay.

19 (Whereupon the jury entered the courtroom at 2:29 pm)

20 **THE COURT:** All right. Call your next witness.

21 **MR. BLOUIN:** The State would call Kelly Dixon.

22 **MADAME CLERK:** Please come forward to be sworn in.

23 Please place your left hand on the Bible and raise your
24 right.

25

Kelly Dixon, being duly

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1 sworn testified as follows;

2 **MADAME CLERK:** Thank you. You may be seated. Would
3 you please state your name for the record.

4 **MS. DIXON:** Kelly Dixon.

5 **MADAME CLERK:** Thank you.

6 **Direct Examination by Mr. Blouin:**

7 Q. Ms. Dixon, where are you employed?

8 A. I'm currently employed at the Laurens Middle School.

9 Q. Okay. And where were you employed before Laurens
10 Middle School?

11 A. Greenville County Department of Public Safety in the
12 Crime Lab Division.

13 Q. How long were you employed there?

14 A. Five years.

15 Q. And what were your duties while employed there?

16 A. I was a forensic chemist, and I analyzed substances
17 that were believed to be controlled substances.

18 Q. And what type of training/education did you have to
19 qualify for that position?

20 A. I have a bachelor's degree from Southern Wesleyan
21 University. And I trained for over a year under the
22 supervision of our lab supervisor.

23 Q. Have you had to chemically analyze substances to
24 determine whether they contained controlled substances?

25 A. Yes, I have.

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1 Q. And how many times would you say you've done that?

2 A. Thousands.

3 Q. Have you had to chemically analyze substances to
4 determine if they contained heroin?

5 A. Yes, I have.

6 Q. And how many times have you done that?

7 A. Thousands.

8 Q. And was chemical analysis a regular part of your
9 duties?

10 A. Yes, sir.

11 Q. And have you ever been qualified as an expert in
12 chemical analysis in Greenville County?

13 A. Yes, sir.

14 Q. How many times?

15 A. Six.

16 Q. Okay. And have you ever testified in court?

17 A. Yes, sir.

18 Q. How many times?

19 A. Six.

20 **MR. BLOUIN:** Your Honor, at this time we would present
21 this witness as an expert in the field of chemistry and
22 analysis of controlled substances.

23 **MR. ROBINSON:** No objection, Your Honor.

24 **THE COURT:** Okay.

25 Q. All right. Ms. Dixon, tell us how you became involved

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1 in this case.

2 A. Well, I usually, when I was employed there, I would go
3 down to property and evidence and retrieve cases that were
4 selected randomly for me to test.

5 Q. Okay.

6 A. And this was the one given to me.

7 Q. Okay.

8 **MR. BLOUIN:** May I approach the witness, Your Honor?

9 **THE COURT:** I'm sorry?

10 **MR. BLOUIN:** May I approach the witness?

11 **THE COURT:** Yeah.

12 **MR. BLOUIN:** Okay.

13 Q. I am showing you what's been premarked as State's
14 exhibit number 1. Can you identify what that is?

15 A. Yes. Those are my initials and at the top with the
16 date that I sealed it.

17 Q. Okay. So tell me, what would you do when you would
18 pick up a bag like this?

19 A. I would take it back to our laboratory. And if it was
20 sealed, then I would conduct my investigative -- and conduct
21 my testing. And if it was not sealed, I would take it back
22 down to property and evidence.

23 Q. So the heat-sealed bag had to be sealed ---

24 A. Yes, sir.

25 Q. --- for you to even touch it or test it?

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- 1 A. Yes, sir.
- 2 Q. And in this case was it sealed?
- 3 A. Yes, sir.
- 4 Q. Okay. So it's sealed, you've taken it to the lab.
- 5 What do you do with it next?
- 6 A. I would conduct my testing upon it.
- 7 Q. All right. What would that testing entail?
- 8 A. In this case it would be a chemical spot test to
- 9 indicate what drug may be there.
- 10 Q. Okay.
- 11 A. And then I ran it on our gas chromatograph mass
- 12 spectrometer for conclusive evidence.
- 13 Q. All right. And would you weigh it?
- 14 A. Yes. I would weigh it before testing.
- 15 Q. Okay. So you would weigh what's in the bag before
- 16 testing. After you weighed it, what would you do? Would
- 17 you take ---
- 18 A. I'd take a sample.
- 19 Q. Okay. And then with the rest of it that's not used for
- 20 the sample, what would you do with it?
- 21 A. Put it back in that bag and seal it up.
- 22 Q. Seal it up. And you'd put your initials on it?
- 23 A. Yes, sir.
- 24 Q. Like you did right here?
- 25 A. Yes, sir.

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1 Q. Okay. So you ran a GCMS test on it?

2 A. Yes, sir.

3 Q. Can you explain what that is?

4 A. A gas chromatograph mass spectrometer is an instrument
5 that we use in the lab to determine what substances are
6 controlled substances.

7 Q. Okay. And you ran the sample from this bag through
8 that device?

9 A. Yes, sir.

10 Q. And with a reasonable degree of scientific certainty
11 can you tell me what's in this bag?

12 A. Heroin.

13 Q. Heroin. Okay. And this is the same bag that you took
14 out -- how do you know it's the same bag?

15 A. I know it's the same bag because I heat-sealed the
16 original bag inside of there. And my initials and the date
17 have not been tampered with.

18 Q. And it hadn't been tampered with when I showed it to
19 you?

20 A. No.

21 **MR. BLOUIN:** Your Honor, at this point the State would
22 move to put State's exhibit number 1 into evidence.

23 **MR. ROBINSON:** No objection, Judge.

24 **THE COURT:** All right.

25 (Whereupon State's exhibit 1 was admitted into

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1 evidence)

2 Q. And you would also, when you finished your testing, you
3 would generate a report?

4 A. Yes, sir.

5 **MR. BLOUIN:** May I approach the witness, Your Honor?

6 **THE COURT:** Yes.

7 Q. I'm showing you what's been premarked as State's
8 exhibit number 2. Can you tell me what that is?

9 A. This is my report for this case.

10 Q. And that's your signature on the bottom?

11 A. Yes, sir.

12 Q. And has that been altered or changed in any way?

13 A. No, sir.

14 Q. And that involves the same heroin that was in that bag
15 right there?

16 A. Yes, sir.

17 Q. All right.

18 **MR. BLOUIN:** Your Honor, at this time we'd move State's
19 exhibit 2 into evidence.

20 **MR. ROBINSON:** No objection.

21 **THE COURT:** Okay.

22 (Whereupon State's exhibit 2 was admitted into
23 evidence)

24 Q. Once it is tested and resealed, what do you do with it?

25 A. I take it back to property and evidence for storage.

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1 Q. Okay. And do you remember the weight of the heroin in
2 this bag?

3 A. According to my report it was seven point five four
4 (7.54) grams of heroin.

5 Q. And you would write it also on the bag, outside the
6 bag?

7 A. Yes, sir.

8 **MR. BLOUIN:** Beg the Court's indulgence just one
9 moment.

10 (Pause)

11 Q. One last question, would there be a difference between
12 the official weight and the field weight of a substance?

13 A. There could be. When I weigh it, I do not weigh it
14 with any packaging at all. I just weigh the substance
15 itself. So if the officer had weighed it inside the bag,
16 then it could have been heavier when he weighed it.

17 Q. But this is the official weight of the substance?

18 A. Yes, sir.

19 Q. All right. No further questions. If you could please
20 answer any questions that Mr. Robinson has for you.

21 **THE COURT:** Cross.

22 **Cross Examination by Mr. Robinson:**

23 Q. Regarding the weight, though, you have no idea how the
24 officer weighed it or anything, do you?

25 A. Oh, no, sir.

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1 Q. So he could have just -- he could have actually taken
2 it out of the bag, weighed it, couldn't he?

3 A. He could have.

4 Q. Okay. That's all I have. Thank you.

5 **THE COURT:** All right.

6 **MR. BLOUIN:** No redirect, Your Honor.

7 **THE COURT:** You can step down. Thank you.

8 **MR. BLOUIN:** We'd ask that Ms. Dixon be freed from her
9 subpoena or released ---

10 **MR. ROBINSON:** No objection.

11 **THE COURT:** All right.

12 **MR. BLOUIN:** Your Honor, the State would rest at this
13 time.

14 **THE COURT:** All right. Mr. Foreman, ladies and
15 gentlemen of the jury, there's a couple of legal matters I
16 need to take up with the lawyers. So I have to excuse you
17 at this time to your jury room. We'll get right back with
18 you.

19 (Whereupon the jury exited the courtroom at 2:36 pm)

20 **THE COURT:** Motions.

21 **MR. ROBINSON:** May it please the Court. At this time
22 the Defense would argue a motion for a directed verdict in
23 this case, Your Honor. No evidence has been presented by
24 the State to justify a conviction in this matter. They've
25 presented no pictures, no video, no nothing in terms of

1 evidence. We would ask the Court to dismiss this case --
2 this case at this time.

3 **THE COURT:** Well, I think there's ample evidence and
4 certainly reasonable inferences from the evidence introduced
5 from which a jury could conclude that there was guilt. So I
6 deny the motion. Mr. Freeman.

7 **MR. FREEMAN:** Yes, sir.

8 **THE COURT:** Stand up. Raise your right hand. Do you
9 swear to tell the truth?

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

11 **THE COURT:** Okay. You can put your hand down. I want
12 you to understand that you have an absolute constitutional
13 right to testify in this case. You have an equal absolute
14 constitutional right not to testify. And it cannot be held
15 against you.

16 Now, whether or not you decide to testify is a matter
17 that involves a lot of factors that you, I'm sure, have
18 discussed with your attorney. And have you made a decision
19 about whether or not you're going to testify?

20 **MR. FREEMAN:** Yeah. I'm not.

21 **THE COURT:** You're not?

22 **MR. FREEMAN:** (Negative nod)

23 **THE COURT:** Okay. Is that your free and voluntary
24 decision?

25 **MR. FREEMAN:** Yes, sir.

1 **THE COURT:** Okay. All right. Thank you. You going to
2 put anything up, Mr. Robinson?

3 **MR. ROBINSON:** After discussions with my client both
4 today and the other day when we talked about it, no, not at
5 this time, Your Honor. No.

6 **THE COURT:** Well, if it's not at this time, it's not
7 ever. So ---

8 **MR. ROBINSON:** It's not -- we are not presenting a
9 case, Your Honor.

10 **THE COURT:** Okay. Y'all have any proposed jury
11 charges?

12 **MR. BLOUIN:** None from the State, Your Honor. The
13 standard charge ---

14 **THE COURT:** You want failure of the Defendant to
15 testify?

16 **MR. ROBINSON:** Yes, Your Honor.

17 **THE COURT:** Is there any request for like mere
18 presence?

19 **MR. ROBINSON:** Yes, Your Honor, we'd request mere
20 presence in this case.

21 **THE COURT:** Anything from the State with respect to
22 that? Was the woman charged? She wasn't charged ---

23 **MR. BLOUIN:** The woman was not charged, Your Honor.

24 **THE COURT:** You want anything about the statement of
25 the Defendant?

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1 **MR. ROBINSON:** Yes, sir, Judge.

2 **THE COURT:** Well, you didn't really contest anything.

3 **MR. ROBINSON:** I think the Court ruled on the statement
4 at the pretrial motion, Your Honor.

5 **THE COURT:** Yeah, I did. All right. Well, let's just
6 take a few minutes and then we'll get started. Let me just
7 get this charge put together. So we'll be at ease.

8 (Whereupon court was in recess at 2:41 pm)

9 (Whereupon court reconvened at 2:53 pm)

10 **THE BAILIFF:** Do you want the jury?

11 **THE COURT:** Yeah, let's get 'em.

12 (Whereupon the jury entered the courtroom at 2:54 pm)

13 **THE COURT:** All right. Mr. Foreman, ladies and
14 gentlemen of the jury, you'll remember in my opening
15 comments to you I described five parts of the trial. We've
16 now completed the first two parts. So we've had the opening
17 statements and now all of the evidence and testimony that's
18 going to be presented has been presented.

19 And we are at this time ready to move into the third
20 part of the trial, which are the closing arguments of the
21 attorneys. So I ask you to please pay close attention as
22 they advocate their positions to you.

23 **MR. BLOUIN:** Ladies and gentlemen of the jury, Mr.
24 Freeman over here is charged with trafficking heroin greater
25 than four grams. So, me, as a part of the State has to

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1 prove basically five things to you. I have to prove
2 identity. I have to prove that there was heroin, that Mr.
3 Freeman had possession of the heroin. And the fourth and
4 last thing is that that heroin weighed more than four grams.

5 Well, we already know the identity. Mr. Freeman was in
6 the car. There's no -- there's no question whatsoever
7 whether Mr. Freeman was in that car.

8 Two, there's no question that what is in this baggy is
9 heroin. You can look at it. You can bring it back into
10 your jury deliberation room. You can, I mean, study it.
11 That's heroin. And there is no question that that heroin
12 weighed seven point five four (7.54) grams, which is more
13 than four grams.

14 So that leaves us to possession. And I want to talk to
15 you a little bit about kind of wrapping everything up, about
16 how everything happened.

17 Now, the Defense is going to come up here and say,
18 well, there is no video of this, there is no pictures of
19 this. And I am here to tell you you're right, but that
20 doesn't mean it didn't happen.

21 And you as the jury, your job is to judge the
22 truthfulness of each of the witnesses who took the stand.
23 And I'm here to tell you that from the top of the chain to
24 the bottom of our witness list, the only person that has any
25 credibility issues, whose story doesn't, you know, kind of

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1 line up with everybody else's is the first one, Mr. Arnold.

2 And Mr. Arnold came in here and he didn't remember
3 anything. Of course remember, Mr. Arnold already got the
4 benefit of his deal. As Mr. Sturman said, he never got
5 charged with the pills he was arrested for. He's got a
6 criminal past. He doesn't remember anything.

7 But remember, this isn't just a random fishing
8 expedition into the west side of Greenville to find, you
9 know, anybody that's using drugs. Officer Sturman right
10 there testified that there was -- there was a reason that we
11 got a description of a white Monte Carlo with blue racing
12 stripes, twenty-four inch chrome rims and a guy that goes by
13 the name of "K" is going to have a bunch of heroin on him.

14 He didn't just make that up. And if he did, then he is
15 clairvoyant. He doesn't need to be an officer. He needs to
16 be a fortune teller. So he's not even with these other
17 officers. He's at the law enforcement center.

18 So he picks up the phone and says, Officer Reyes, we're
19 looking out for a white Monte Carlo with blue racing
20 stripes, twenty-four inch rims and is driven by a guy named
21 "K". And guess what? He's going to have a whole bunch of
22 drugs because this guy, Arnold, just told me this.

23 And how do I know Arnold told me this? Because we were
24 on his phone, on speaker phone, and I heard the whole setup
25 kind of go down. And they're going to be on Joe Louis

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1 Street in Greenville County.

2 He said, okay. He works the west side of Greenville.

3 He's over there. He calls Officer Koepke. Officer Koepke

4 is the K-9 unit. Says, you know what, before anyone's been

5 pulled over, before anything's happened, he says, you know

6 what, we've got this report of this guy driving this certain

7 car and this is a very unique car, why don't you be here

8 just in case.

9 And guess what? Right at the exact time that they said

10 they would see a car on Joe Louis Avenue, they see a white

11 Monte Carlo with a blue racing stripe and twenty-four inch

12 chrome rims. Those rims are two feet in diameter.

13 And they pulled that car over. It's driven by the

14 Defendant, Karacus Freeman. Guess what? His first name

15 happens to start with a "K". Now, this isn't just random,

16 you know, happenstance. This is a chain of events that

17 takes place starting here and ends up there.

18 And remember, testimony of the officers, no one touched

19 or went inside the car until after the dog indicated that

20 there was the presence of drug odor. Officer Koepke and

21 Officer Reyes, we asked them to get out of the car. Did you

22 search the car at that point? No, I did not. Did you

23 manipulate the car in any way? No, we did not.

24 Well, what did you do? We ran the dog around like we

25 are trained to do. I think he said five or eight hundred

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1 hours worth of training with this dog. I know what this
2 dog's supposed to do. We do it the same time [sic] every
3 time. And guess what? It indicated this time.

4 And it wasn't until there was an indication by that
5 drug dog that anyone went into that car. And when they went
6 into the car, jammed into a gear shift, and you can look,
7 there's two kind of heat-sealed baggies here, there is what
8 looks to be kind of a plastic bag here kind of crumpled up,
9 which looks like what this was originally in, shoved in the
10 gear shift.

11 And he said he saw a piece of plastic sticking out and
12 pulled it out and guess what? Just like Mr. Arnold, who
13 once again, is not there, just like Officer Sturman said,
14 he's not there, said, a white Monte Carlo is going to be at
15 this place at this time, and it's going to have a whole lot
16 of heroin in it. And it had seven point five four (7.54)
17 grams, which is more than the four grams.

18 And here's the kicker. At the end of the day, after
19 all that, that man told Officer Reyes, that's my bag. So
20 see, we have possession. He has claimed it. This is his
21 bag of heroin. It weighs more than four grams. And it was
22 found in a car that they got a tip from way over here.

23 So I understand that, you know, like I said, the
24 Defense is going to come up and say, well, pictures would be
25 more helpful, well, a video would have been more -- we don't

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1 have that. You as the jury are the judge of the credibility
2 of those witnesses that took the stand.

3 Understand once again that two of those officers were
4 there. One of them just was connected through a phone call.
5 They pulled over one car that had a matching description and
6 they found this.

7 So I'm asking you to, you know, just think logically
8 about this and find that that man right there trafficked in
9 heroin in more than four grams. Thank you.

10 **MR. ROBINSON:** Please the Court.

11 **THE COURT:** Yeah.

12 **MR. ROBINSON:** Good afternoon again. It's been kind of
13 a quick day for you guys, hasn't it been? We appreciate you
14 being here and listening so intently.

15 There's a couple of things you'll need to think about
16 when you go back to the jury room. I want to -- let's take
17 a -- let's look at this little piece of information we have
18 here. Seven point five four (7.54) grams, remember the
19 person who came in? Now some of you have taken notes. And
20 I'm sure you've taken this down.

21 The officer, Officer Reyes, testified that he actually
22 took out of that car eleven point eight (11.8) grams.
23 Eleven point eight (11.8) grams. There's a big difference
24 here. Eleven point eight (11.8) grams that he said he took
25 out of the car, but now the people at the forensics say it's

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1 seven point five (7.5) grams.

2 So why the difference? Could it be that it's a
3 different bag? Because if you look -- if you listen to
4 Officer Reyes, he said, he testified that the bag, the
5 eleven point eight (11.8) grams tested negative for heroin.
6 So think about that. He got no heroin in the eleven point
7 grams [sic] that he testified to. And we've got seven point
8 five (7.5) grams in that baggy that she tested.

9 What we don't have here is any corroboration by anyone
10 that any sort of illegal act took place. The officer,
11 Officer Reyes said he never saw any illegal activity in
12 terms of watching for a drug buy or something like that or
13 some transaction. He said he never saw any of that.

14 But what's interesting is -- you know, common sense
15 plays a big part of this whole thing. And my dad used to
16 say that close only matters in horseshoes and hand grenades.
17 And the solicitor a second ago in his closing said about the
18 vehicle, he said it happened to match the description.

19 We're not talking about could've, would've, should've.
20 We're talking, that is the car. And he didn't say that. He
21 said -- didn't say that was the car. He said that happens
22 to match a description. Think to yourself how many Monte
23 Carlos are out there. There's a lot of Monte Carlos out
24 there, white Monte Carlo. And he said, happens to match the
25 description. He didn't say matched the description. He

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1 said happened to match the description.

2 But what overlays this whole thing for you all is, and
3 it's important, there's no video of any sort of what the
4 officer did when he went into the car, stopped the car and
5 so forth. There's nothing that you can hang on to establish
6 what took place. And he stated in his testimony that the
7 department policy is to video, but he didn't do that.

8 And you've got to ask yourself why is it that there's
9 no video, there's no pictures of this scene? And the
10 officer says eleven point eight (11.8) grams that he field
11 tested at the scene was not heroin.

12 So think about that. Why is it that this mysterious
13 bag that he allegedly found that was eleven point eight
14 (11.8) grams, how come that's not heroin and all of a sudden
15 we have a seven point five (7.5) gram bag that they didn't
16 -- no one testified that they found fingerprints or anything
17 on that bag that linked it to Mr. Freeman, nothing. There's
18 no testimony about that. But we have a bag that I would
19 submit is different, is not the same bag as this eleven
20 point eight (11.8) that Officer Reyes allegedly found at the
21 scene that was not heroin.

22 And as far as the phone call that we're talking about,
23 this phone call supposedly by this Mr. Arnold, he, by the
24 way, is a State witness. He's not my witness. He's a State
25 witness. You know, I'm not the one who brought him, they

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1 are.

2 He says he doesn't really know Mr. Freeman. He doesn't
3 remember the phone call. Okay. Let's just assume that he's
4 not telling the truth. Let's just assume that. But you
5 can't get around the testimony of Mr. Sturman. There's no
6 audio. There's no way they did not trace that number that
7 he called, that Mr. Arnold called to Mr. Freeman. Wouldn't
8 it make sense to you all if you're investigating a case to
9 tape it? And also find out where that number is, who the
10 number's connected to?

11 They don't have anything that connects it to Mr.
12 Freeman. All they have is an alleged phone call that Mr.
13 Sturman has no idea who it is. He doesn't know if it's him,
14 doesn't know if it's a number of his. They had him on this
15 whole thing about "K", but Mr. Sturman himself said he
16 doesn't know who "K" is. And he also stated that lots of
17 people have "K" as the first letter in their name. It's not
18 unusual. But they can't establish that "K" was Karacus
19 Freeman.

20 But, ladies and gentlemen, at the end of the day when
21 you go back to the jury room, you use your common sense.
22 And you don't have to like Mr. Freeman. You don't have to
23 like him. You don't have to like being here. You don't
24 have to like this situation. But at the end of the day if
25 you use your common sense you can see there's a big

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1 difference between seven point five (7.5) grams and eleven
2 point eight (11.8) grams at the scene.

3 I would submit to you that they took the bag, eleven
4 point eight (11.8) grams, that had no heroin in it. That's
5 the bag they found. And they also had no -- didn't see any
6 illegal activity. But I would submit to you if you use your
7 common sense and you look at everything through the careful
8 analysis of using it as guilt beyond a reasonable doubt,
9 they have not established their case. If you have anything
10 as far as doubt goes, you have to go in favor of Mr.
11 Freeman.

12 There's a famous saying that I use -- that I've seen
13 that I think is very apt with this case. And that's the
14 saying justice anywhere, excuse me, injustice anywhere is
15 injustice everywhere. I ask you to give a just verdict in
16 this case based on the facts, based on what the State's
17 presented. And if you do that, if you use your common sense
18 and look at the State's complete lack of evidence, no video,
19 no pictures, nothing, and the fact that there's eleven point
20 eight (11.8) not heroin versus seven point five (7.5)
21 heroin, that you come back to a just verdict, not guilty. I
22 want to thank you very much for listening. Thank you.

23 **THE COURT:** All right. Ladies and gentlemen of the
24 jury, during this trial you and I have certain duties to
25 perform. As the trial judge it is my responsibility to

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1 preside over the trial of the case and to rule on the
2 admissibility of the evidence offered during the trial.
3 It's also my duty to charge you the law applicable to this
4 case.

5 And it is your duty as jurors to accept and apply the
6 law as I now state it to you. As I told you in my opening
7 comments, if you think you have any idea as to what the law
8 is or what the law ought to be and it does not agree with
9 what I now tell you the law is, you must forget your own
10 idea because you have sworn an oath to set aside your own
11 opinions and apply the law precisely as I state it to you.

12 I also remind you that in every case tried in this
13 court before a jury, the jury is the sole and exclusive
14 judge of the facts. A trial judge is not allowed to have an
15 opinion about the facts of the case. So please don't think
16 by anything I may have said or done throughout the course of
17 the trial that I had such an opinion. I do not. It is
18 entirely up to you all to be the judge of the facts.

19 I instruct you that the fact that the Defendant was
20 arrested, charged and indicted in this case is not evidence
21 of guilt. Nor does it create a presumption or inference of
22 guilt. These documents are simply the formal written
23 instruments which contain the charges they've made against
24 the Defendant. And they serve as the formal documents by
25 which the case is processed and brought to court for

CHARGE OF THE COURT

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1 resolution.

2 Now necessarily you must determine the credibility or
3 believability of the witnesses who have testified in the
4 case. It becomes your duty as jurors to evaluate the
5 evidence and determine which evidence convinces you that it
6 is true.

7 And in determining the believability of the witnesses
8 you may believe one witness over several or several over
9 one. You may believe a part of the testimony of a witness
10 and reject the remaining part. You may believe the
11 testimony of a witness in its entirety or reject the
12 testimony in its entirety.

13 You may consider whether the witness has an interest in
14 the result of the trial, whether the witness is prejudiced
15 towards either the State or the Defense, the opportunity for
16 the witness to have seen the matters and things about which
17 the witness has testified and the way the witness acts on
18 the witness stand or what we call a witness' demeanor.

19 Now I instruct you and I emphasize that the fact that
20 the Defendant did not testify is not a factor to be
21 considered by you in any way in your deliberations on the
22 question of guilt or innocence. It must not be considered
23 by you in any manner whatsoever. Every defendant has the
24 constitutional right to remain silent. And the assertion of
25 this right must not be considered by the jury in its

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1 deliberations.

2 The Defendant has pled not guilty to the indictment.

3 And that plea puts the burden on the State to prove the

4 Defendant guilty. A person charged with committing a

5 criminal offense in South Carolina is never required to

6 prove themselves innocent. I charge you that it is a

7 cardinal and a signal rule of the law that a defendant in a

8 criminal trial will always be presumed to be innocent of the

9 crime for which an indictment has issued unless guilt has

10 been proven by evidence satisfying you, the jury, of guilt

11 beyond a reasonable doubt.

12 A reasonable doubt is the kind of doubt which would

13 cause a reasonable person to hesitate to act. And

14 reasonable doubt may arise from the evidence which is in a

15 case or the lack or absence of evidence in a case. And you,

16 the jury, must determine whether or not reasonable doubt

17 exists as to the guilt of the Defendant. I remind you the

18 State has the burden of proving each and every element of a

19 crime beyond a reasonable doubt.

20 A statement alleged to have been made by the Defendant

21 has been admitted into evidence in the case. Now while the

22 Court has determined that the state -- that the statement is

23 admissible, I instruct you that you make the ultimate

24 decision of whether or not the Defendant made the statement.

25 If the Defendant did make the statement, you must

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1 determine whether the statement was made by the Defendant
2 voluntarily and of his own free will. This means that the
3 statement was not caused by pressure, force, fear, threats,
4 coercion or intimidation or by hope or a promise of leniency
5 or a reward of any kind.

6 And in determining whether this statement was voluntary
7 you should consider both the characteristics of the
8 Defendant and the details of the questioning. Some of the
9 factors that you consider are the age of the Defendant, the
10 Defendant's education or lack of education, Defendant's
11 mental ability or capacity, Defendant's IQ or intelligence,
12 the Defendant's background and environment, the place and
13 length of the detention, the nature of the questioning and
14 the advice or lack thereof to the Defendant of his
15 constitutional rights including, but not limited to, the
16 right to remain silent, that any statement could be used
17 against him in a court of law, the right to have a lawyer
18 present and that if he could not afford a lawyer, a lawyer
19 would be appointed to represent him without cost and that he
20 could stop making a statement at any time.

21 You must carefully consider all of the surrounding
22 circumstances before you give any weight to an alleged
23 statement. And the State has the burden of proving beyond a
24 reasonable doubt that the alleged statement was voluntary.
25 If you determine that it was, you may give the statement any

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1 further consideration that you deem proper. You must decide
2 what weight, if any, should be given to the alleged
3 statement.

4 And you -- if you determine the alleged statement was
5 not a free and voluntary statement of the Defendant, you
6 should not consider the statement at all.

7 The Defendant is charged with trafficking in heroin.
8 The State must prove beyond a reasonable doubt that the
9 Defendant knowingly sold, manufactured, cultivated,
10 delivered, purchased, brought into this State, provided
11 financial assistance or otherwise aided, abetted, attempted
12 or conspired to sell, manufacture, cultivate, deliver,
13 purchase or bring into this State or was knowingly in actual
14 or constructive possession, knowingly attempted to become in
15 actual or constructive possession of heroin.

16 I'll tell you that mere presence at the scene where the
17 drugs are found is not enough to prove possession. Actual
18 knowledge of the presence of the heroin is strong evidence
19 of the Defendant's intent to control its disposition or use.
20 And the Defendant's knowledge and possession may be inferred
21 when a substance is found on the property under the
22 Defendant's control.

23 However, this inference is simply an evidentiary fact
24 to be taken into consideration by you along with the other
25 evidence in the case and to be given the weight you decide

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1 it should have. I would also tell you that two or more
2 persons may have joint possession of a drug.

3 The State must also prove beyond a reasonable doubt
4 that the amount of heroin or any mixture containing heroin
5 was between -- was greater than four grams, but less than
6 fourteen grams.

7 Now, ladies and gentlemen, there are two possible
8 verdicts that you may reach in this case. No significance
9 the order in which I state them. One's got to be said
10 first. So they're either guilty or not guilty.

11 I want to tell you that your verdict must be unanimous.
12 All twelve of you must agree on the verdict. And your
13 verdict cannot be based on sympathy, passion, prejudice,
14 emotion or any other consideration which is not in evidence
15 in the case. You have no friends to reward. You have no
16 enemies to punish.

17 We've prepared a verdict form, Mr. Foreman. And we'll
18 send it back to you. I think it's very self-explanatory.
19 When you all have completed your deliberations and come to a
20 unanimous decision, please indicate at the appropriate place
21 and sign your name, alert the bailiffs, and we'll receive
22 you back into court to take your verdict.

23 So at this time, ladies and gentlemen, I'll excuse you
24 back to your jury room. Don't begin your deliberations just
25 yet. I have to go over the charge with the lawyers, make

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1 sure I didn't misstate something or omit something.

2 When the verdict form comes back along with all of the
3 evidence, then y'all can begin your deliberations. So at
4 this time everyone except Mr. Enloe, please go with the
5 bailiffs. Say goodbye to Mr. Enloe for the day.

6 (Whereupon the jury exited the courtroom at 3:20 pm)

7 **THE COURT:** Mr. Enloe, this is the hardest part for me.
8 You've sat through the trial, you're just as qualified, but
9 I can't -- the law only allows twelve. So being an
10 alternate is like being a bridesmaid or kissing your sister
11 or something. You kind of, you know, go through it, but you
12 don't get to finish it off. So in any event, you're free to
13 go at this time. I would ask you to call back after 6:00.

14 **MR. ENLOE:** Yes, sir.

15 **THE COURT:** Thank you very much. All right.

16 Any exception or objection to the charge from the
17 State?

18 **MR. BLOUIN:** None from the State, Your Honor.

19 **THE COURT:** Defense?

20 **MR. ROBINSON:** No, sir, Your Honor.

21 **THE COURT:** All right. Y'all make sure the evidence is
22 right. Here's the verdict form.

23 (Whereupon the jury began deliberating at 3:22 pm)

24 (Whereupon court was in recess at 3:22 pm)

25 (Whereupon Court's exhibit 2 was marked)

1 (Whereupon court reconvened at 4:16 pm)

2 **THE COURT:** All right. We've got a question. What is
3 the definition of trafficking? Okay. So here's what I read
4 to them. You guys come and take a look at it. I'm going to
5 make six copies and send it back to them.

6 **MR. BLOUIN:** That works.

7 **MR. OVERBY:** We're fine, Your Honor.

8 **MR. ROBINSON:** Yep.

9 **THE COURT:** Okay. It's got the mere presence thing as
10 well. Did you see that?

11 **MR. BLOUIN:** Yes, sir.

12 **THE COURT:** All right. Six copies.

13 **MADAME CLERK:** Of each?

14 **THE COURT:** Yeah, please.

15 (Whereupon Court's exhibits 3 and 4 were marked)

16 **THE COURT:** You guys want to look at them? You just
17 saw her make the copies and tack them. You can look at them
18 if you want to.

19 **MR. OVERBY:** Judge, we trust the Court.

20 **THE COURT:** You can trust the clerk of court, you might
21 not want to trust me. Okay. All right.

22 (Whereupon court was in recess at 4:20 pm)

23 (Whereupon court reconvened at 4:55 pm)

24 **THE COURT:** All right. We've got a verdict.

25 (Whereupon the jury entered the courtroom at 4:56 pm)

VERDICT OF THE JURY

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1 **THE COURT:** Mr. Foreman, I understand y'all have
2 reached a verdict.

3 **MR. FOREMAN:** We have, Your Honor.

4 **THE COURT:** Would you hand it to the bailiff for me,
5 please. Madame Clerk, would you publish it, please.

6 **MADAME CLERK:** Yes, sir, Your Honor. Your Honor, this
7 is case number 2014-GS-23-8489. As to the charge of
8 trafficking heroin, greater than four grams, but less than
9 fourteen grams, we, the jury, find the Defendant, Karacus
10 Korean Freeman, guilty. I certify that this decision was
11 the unanimous decision of the jury, signed foreperson, Bobby
12 Thatcher. If that was your verdict in the verdict room --
13 in the jury room and continues to be your verdict now,
14 please raise your right hand.

15 (Whereupon all jurors raised their right hand)

16 **MADAME CLERK:** Thank you.

17 **THE COURT:** All right. Thank you all very much. I
18 really appreciate your service. I hope you understand how
19 important it was. And I hope you have a deep sense of
20 satisfaction, if not, perhaps, today, at sometime in the
21 future that you participated in maintaining the order of our
22 society in Greenville County. So thank y'all very much.

23 I'm happy to tell you you're free to go for the day
24 since it's 5:00. Unfortunately I have to ask you to call
25 back after six. But thank you very much for your service.

SENTENCE OF THE COURT

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1 (Whereupon the jury exited the courtroom at 4:58 pm)

2 **THE COURT:** All right. Any motions?

3 **MR. BLOUIN:** None from the State, Your Honor.

4 **MR. ROBINSON:** None from Defense, Your Honor.

5 **THE COURT:** All right. Well, you got the ...

6 (Pause)

7 **THE COURT:** Okay. All right. What y'all need to tell
8 me?

9 **MR. BLOUIN:** Your Honor, he has four hundred and four
10 jail days credit. And as far as his criminal history;
11 2003, possession of crack, 2004, assault and battery, third,
12 2005, receiving stolen goods, ---

13 **THE COURT:** Wait a minute. '03, possession of crack.
14 Go ahead. That's the only one I got.

15 **MR. BLOUIN:** Okay. '04, A&B, third, '05, receiving
16 stolen goods, habitual traffic offender, probation
17 violation, '09, A&B, third, '11, DUS and '12 is a resisting
18 arrest in North Carolina.

19 **THE COURT:** Is all that true and correct?

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

21 **THE COURT:** All right. Well, is this being treated as
22 a first or second?

23 **MR. BLOUIN:** It's a first because of the 2003 is over
24 the ten year. He didn't get any active time.

25 **THE COURT:** Okay. Well, and you -- Mr. Robinson, you

SENTENCE OF THE COURT

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1 renew your former motions?

2 **MR. ROBINSON:** I do.

3 **THE COURT:** I deny those. What can you tell me? What
4 do you want to tell me?

5 **MR. ROBINSON:** Judge, I could tell you a little bit
6 about Karacus. I have his family with me, his mother,
7 grandmother, fiancé and friends. Judge, I've dealt with
8 Karacus for a while now. He's always been a very good
9 client. He's always been very pleasant to deal with. He
10 has five children. And this is just -- this is just really
11 a tragedy, obviously.

12 **THE COURT:** Well, I don't know about tragic. I guess
13 in the classical sense he brought it on himself.

14 **MR. ROBINSON:** Well, Judge, we'd ask for the minimum
15 sentence or close to the minimum sentence.

16 **THE COURT:** Well, what are we doing here? I mean, he's
17 caught in the car with over seven grams of heroin. He
18 admitted it was his. Why are we here? Can you explain that
19 to me?

20 **MR. FREEMAN:** I never admitted to anything. I never
21 admitted to no drugs being in my car. A man came to the
22 door, he said he smelled reefer, reefer smoke. I had a
23 blunt on the floor that he didn't never even present to the
24 Court that they found on the floor that I admitted to. I
25 never admitted to no heroin, bag of heroin being mine. He

SENTENCE OF THE COURT

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1 was saying a bag, a baggy. He never said a baggy of heroin.

2 **THE COURT:** Wow. So what is that that was introduced

3 in court today?

4 **MR. FREEMAN:** I mean, that's heroin they said they
5 found, but he never presented a bag of heroin to me, period.

6 **THE COURT:** Well, was it yours?

7 **MR. FREEMAN:** No, it wasn't mine.

8 **THE COURT:** It wasn't yours? It was in your mother's
9 car?

10 **MR. FREEMAN:** It wasn't mine.

11 **THE COURT:** It was in the gear shift? Where was it?

12 **MR. FREEMAN:** So they say it was in the gear shift, but
13 they don't ---

14 **THE COURT:** In the ---

15 **MR. FREEMAN:** --- have any ---

16 **THE COURT:** --- gear shift.

17 **MR. FREEMAN:** --- evidence showing as it being in the
18 gear shift.

19 **THE COURT:** Oh, yes, they do. Ten years. Good luck.
20 You have ten days to file a notice of appeal.

21 (Hearing Ended at 5:04 pm)

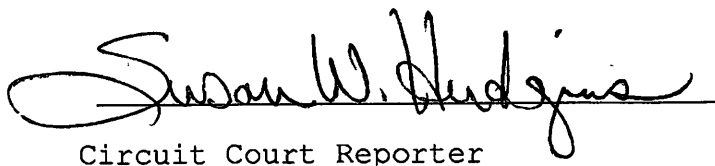
22 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 5th day of April 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 17, 2016


Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)Kenneth K. Freeman # 312428)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2017-CP-23- 05952

FILED-CLERK
PAUL R. BROWN
2017 SEP 18 PM 3:56INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Trenton Correctional Inst. 841 Greenhouse Rd.
Trenton SC 29847
2. Name and location of Court which imposed sentence Greenville County
Court Greenville SC
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-23 008489
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) April 14, 2015 10 yrs
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty yes
- (c) after a plea of nolo contendere N/A
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. Division of Appellate Defense
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denial
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. March 10, 2017
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Failure to properly suppress evidence
- (c) Failure to investigate
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see attachment facts
- (b) see attachment facts
- (c) see attachment facts
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? first time of the app
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA
- (d) any other petitions, motions or applications in this or any other Court? NA
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. NA
- ii. NA
- iii. NA
- iv. NA
- (b) the name and location of the Court in which each was filed:
- i. NA
- ii. NA
- iii. NA
- iv. NA

(c) the disposition thereof:

- i. NA
- ii. WA
- iii. NA
- iv. NA

(d) the date of each such disposition:

- i. NA
- ii. NA
- iii. NA
- iv. NA

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. NA
- ii. NA
- iii. NA
- iv. NA

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 first time on PCR

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. NA
- ii. NA
- iii. NA

(b) the proceedings in which each ground was raised:

- i. NA
- ii. NA
- iii. NA

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) First time on PCR
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A
 (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? attorney fail to do his duty
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
N/A

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. Scott D. Robinson Attorney at law
P.O. Box 10042, Federal Station
 ii. Greenville, S.C. 29603
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. Trial and sentencing
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

To vacate sentence and clear record of this
charge.

20. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Kerens K. Freeman #12428, 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.

Kerens K. Freeman #12428

SWORN to and subscribed before me this 18
day of Aug, 2017.

S. Ou (L.S.)
Notary Public

My Commission Expires: 2/17/24

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Karacis. K. Freeman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Karacis. K. Freeman

Applicant

SWORN or affirmed to and subscribed before me this

18 day of August, 2017.

S. Ouellet

Notary Public

My Commission Expires: 2017/24

Attachment "Facts"Ineffective Assistance of Counsel

Strickland v. Washington, 466 U.S. 668, 104 S.C.T. 2052, 2068, 80 L.ED.2D 671 [1984] A Defendant is Entitled to a new trial if he can show (1.) That trial Counsel performance was deficient; and (2.) A reasonable probability that, for the deficient performance the outcome of the proceeding would have been different. Id. AT687. A petitioner can meet this standard by showing that Counsel failed to conduct adequate pre trial investigation / Failure to suppress evidence, Failure to object, and Failure to file appeal. Jones v. Wood 114 F.3D 1002 [9th CIR. 1997] Before an attorney can make a reasonable strategic choice against pursuing a certain line of investigation, the attorney must obtain the facts needed to make the decision. Foster Lockhart, 9 F.3D 722, 726 [8th CIR. 1993] See, Also; Sanders v. Ratelle, 21 F.3D 1446, 1456 [9th CIR. 1994]

MR. Freeman #312428 was Prejudiced by Counsel Errors

The prejudicial effect of counsel's errors must be considered cumulatively, rather than individually. Williams v. Taylor, 529 U.S. 362, 120 S.C.T. 1495, 1515, 146 L.ED.2D 389 [2000] Basing that conclusion on Strickland

DEFENDANT

Failure to properly Suppress Evidence

Kimmelman v. Morrison, 477 U.S. 365, 375, 91 L.ED. 2D 305 [1986] where defense counsel's failure to litigate a fourth amendment claim competently, is the principal allegation of ineffectiveness. The defendant must also prove that his fourth amendment claim is meritorious and that there is a reasonable probability that the verdict would have been different absent the excludable evidence in order to demonstrate actual prejudice.

Loanman v. United States, 973 F.2D 107, 113 [20 CIR. 1992] Attorney's Failure to move for suppression of evidence constitutes Ineffective Assistance only when the fourth amendment claim is meritorious and absent the excludable evidence, there is a reasonable probability the outcome of the trial would have been different.

Counsel should have objected and suppress the tainted evidence and seek the argument for the appeal court.

Trial objections and errors

Counsel may be found deficient for failing to object to trial court error. Failure to object to inadmissible evidence, Evans v. State, 346 S.C. 151, 551 S.E.2D 260 (2001) for these errors, this case should be vacated as bias and prejudice.

DEFENDANT

Attachment FactsFailure to Investigate

Bobby v. Van Hook, 558 U.S. —, 175 L. ED. 2D 255, 259 [2009]

American Bar Association [ABA] standards are to be used only as "Guide" in reviewing whether an attorney's performance is reasonable; Reversing a finding of deficient performance where the lower court treated the ABA's standards as inexorable commands that attorneys must "fully" comply with.

United States v. Mooney, 497 F. 3D 397, 404 [4th CIR. 2007] Counsel in criminal cases are charged with the responsibility of conducting appropriate investigation, both factual and legal, to determine if matters of defense can be developed. Richardson v. United States, 379 F. 3D 485, 488 [4th CIR. 2004] Failure to investigate claim must be accompanied by "comprehensive showing as to what the investigation would have produced." The investigation in this case at best will show the evidence is tainted. And this fruit of the poisonous tree "Doctrine" taints all the evidence. Terry v. Ohio. If counsel had investigated the case and done a motion and properly suppress the evidence in a hearing. Defendant would not be in prison for a constitutional violation of the fourth amendment. Case should be vacated as bias and prejudice.

Karacus, K. Freeman #312428/M.A.U
Evans Correctional Inst.
20 Highway 9 West
Bennettsville, S.C.
29512



2017-CP-23-05152

Paul B. Wickensimer
Clerk of Court office
305 East North Street
Greenville, S.C.
29601

LEGAL MAIL USE ONLY

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Karacus K. Freeman, 312428

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

2017-CP-23-5952

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on September 18, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In June of 2015, the Greenville County Grand Jury indicted Applicant for trafficking heroin (2015-GS-23-8489). Scott D. Robinson, Esquire, represented Applicant. Applicant proceeded to trial on April 5 2016, before the Honorable Edward W. Miller and a jury. The jury found Applicant guilty as indicted. Judge Miller sentenced Applicant to imprisonment for a term of ten years.

Applicant filed a timely notice of appeal. Lara M. Caudy, Esquire of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on February 1, 2017. State v. Freeman, Op. No. 2017-UP-100 (S.C. Ct. App. filed March 8, 2017). The remittitur was returned to the circuit court on March 24, 2017.

Attached to this Return are the records of the Greenville County Clerk of Court regarding

the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the Applicant's appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel
2. Failure to properly suppress evidence
3. Failure to investigate

III.

Respondent submits all of Applicant's allegations are centered on ineffective assistance of counsel. Respondent would submit these allegations are without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the proceeding "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief.

Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

V.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI.

WHEREFORE, having made its Return, Respondent requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: DAM
ATTORNEYS FOR RESPONDENT

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Columbia, SC 29211
Telephone: (803) 734-3737

January 17, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-5952

KARACUS K. FREEMAN, 312428)

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:

Rodney W. Richey, Esquire
Post Office Box 10916
Greenville SC 29603

DATED this 17th day of January, 2018.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Karacus Korean Freeman	)	Case No(s) : 2017CP2305952
	)	
Applicant,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

June 20, 2018
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

RODNEY W. RICHEY, Esquire
Attorney for the Applicant

DESHAWN H. MITCHELL, Esquire
Attorney for the Respondent

Teresa B. Johnson, CVR-M-CM, RVR
Realtime Verbatim Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



I N D E XDIRECT CROSS REDIRECT RECROSS**Applicant's Witnesses:**

Karacus Freeman

by Mr. Richey 6

by Mr. Mitchell 10

Scott Robinson

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by Mr. Mitchell 18

Arguments of Counsel 23

Certificate of Reporter 28

EXHIBITS PAGENO.DESCRIPTIONID EV**PLAINTIFF EXHIBITS**

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(Proceedings begin on the 20th day of June, 2018
at approximately 10:22 a.m.)

THE COURT: Are you, Mr. Freeman?

MR. FREEMAN: Yes, ma'am.

THE COURT: All right. Okay. Good. I just
wanted to make sure I knew which one we were
doing. Okay.

MR. MITCHELL: May it please the Court,
Your Honor. This is 2017-CP-5952, Karacas
Freeman versus the State of South Carolina. The
applicant is presently confined in the South
Carolina Department of Corrections pursuant to
orders of commitment of the Greenville County
Clerk of Court. In June of 2015, the Greenville
County Grand Jury indicted Applicant for
trafficking heroin.

Mr. Scott D. Robinson represented the
applicant. The applicant proceeded to trial on
April 5th, 2016 before the Honorable Judge
Edward W. Miller, and a jury. The jury found
Applicant guilty as indicted. Judge Miller
sentence Applicant to imprisonment for a term
of 10 years.

Applicant filed a timely notice of appeal.

Remarks

1 The Office of Indigent Defense perfected the
2 appeal. The South Carolina Court of Appeals
3 affirmed Applicant's conviction on
4 February 1st, 2017; and the remittitur was
5 returned to the Circuit Court on March 24th,
6 2017.

7 He filed a PCR application on
8 September 18th, 2017 alleging ineffective
9 assistance of counsel. He is present in the
10 courtroom today and represented by Mr. Richey.

11 **THE COURT:** All right. Mr. Richey?

12 **MR. RICHEY:** We're ready to proceed.

13 **THE COURT:** Oh, certainly. Okay.

14 **MR. RICHEY:** Mr. Freeman.

15 **THE COURT:** If you'll come forward and be
16 sworn. Mr. Freeman, while you're coming up
17 here, I want to tell you, I really like your
18 name.

19 **MR. FREEMAN:** Thank you.

20 **THE COURT:** Karacus. Is it Karacus? Is
21 that how you say it?

22 **MR. FREEMAN:** Yes, ma'am.

23 **THE COURT:** Okay. All right. Listen: I'm
24 going to actually ask you to take the witness
25 stand, if you don't mind.

1 **THE CLERK:** Will you please place your
2 left hand on the Bible and raise your right
3 hand. (Pause.)

4 Best you can. I'm sorry.

5 **KARACUS FREEMAN**

6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Thank you. You may be seated
8 now. Please state your full name of the record.

9 **THE WITNESS:** Karacus Korean Freeman.

10 **DIRECT EXAMINATION**

11 **BY MR. RICHEY:**

12 **Q** Mr. Freeman, you are in the Department of
13 Corrections; is that correct?

14 **A** Yes, sir.

15 **Q** And what are you in the Department of
16 Corrections for?

17 **A** Trafficking heroin.

18 **Q** Okay. And were you convicted in Greenville
19 County?

20 **A** Yes, sir.

21 **Q** Who represented you on those charges?

22 **A** Scott D. Robinson.

23 **Q** And you filed an application for post-
24 conviction relief because you believe that
25 Mr. Robinson did not effectively represent you; is

1 that correct?

2 **A** Yes, sir.

3 **Q** And your issue -- let me pull this mic down
4 so you won't have to keep raising your head up so
5 much. Is that good?

6 **A** Yes, sir.

7 **Q** Okay. This is a case where it was a -- a
8 informant; correct?

9 **A** Yes, sir.

10 **Q** And at trial, the informant testified that
11 he met you and you had heroin; correct?

12 **A** Yes, sir.

13 **Q** And your issue is you believe that that
14 testimony should have been suppressed?

15 **A** Yes, sir.

16 **Q** Mr. Robinson did make a motion to suppress
17 it and he did tell the Court this person wasn't
18 reliable; correct?

19 **A** Yes, sir.

20 **Q** And was this case -- was that issue heard
21 by the appeals court?

22 **A** I'm not sure.

23 **Q** Okay. Well, let me ask -- put it this way:
24 You got an opinion on your case; correct?

25 **A** Yes, sir.

1 **Q** I'm going to --

2 Can I approach the witness, Your Honor?

3 **THE COURT:** Certainly.

4 **MR. RICHEY:** Okay.

5 **THE COURT:** And you can do it throughout.

6 **MR. RICHEY:** Okay. Thank you, Your Honor.

7 **BY MR. RICHEY:**

8 **Q** Mr. Freeman, this is your appeal; right?

9 The decision on your appeal; correct?

10 **A** Yes, sir.

11 **Q** And the Court of Appeals, they did not hear
12 your appeal because your issue was not preserved;
13 correct?

14 **A** Yes, sir.

15 **Q** And -- and you have a -- do you recall the
16 transcript -- first of all, Mr. Robinson did make the
17 motion and did argue it pretty good; correct?

18 **A** Yes, sir.

19 **Q** But the issue was that -- and I'm going to
20 refer to Page 76 of the transcript.

21 **A** No objection.

22 **Q** When the state sought to admit the drugs,
23 Mr. Robinson had no objection to it?

24 **A** Yes, sir.

25 **Q** And you believe that that issue was not

1 preserved for the Court of Appeals?

2 **A** Yes, sir.

3 **Q** Okay. You had -- you're asking this Court
4 to grant you a new trial so you can at least have
5 that issue reviewed by the appeals court?

6 **A** Yes, sir.

7 **Q** Okay. You believe that Mr. Robinson did not
8 effectively investigate your case?

9 **A** Correct.

10 **Q** What investigative avenues did you want him
11 to do?

12 **A** I mean, I was -- I'd rather him
13 cross-examine myself; the dude who supposedly set me
14 up; the female that was in the car with me, she
15 should have been present. I was never -- they never
16 presented any video, audios, no nothing. I feel like
17 he should've been -- got -- you know, just got that
18 together for me.

19 **Q** Now, I'm going to refer you to the
20 transcript. You recall that this was a case where a
21 phone call was supposed to have been made to you, but
22 it wasn't recorded and all of that; correct?

23 **A** Yes, sir.

24 **Q** So when you say he should've got a video,
25 did a video -- a video didn't really exist, did it?

1 They had limited evidence against you; right?

2 A Yes, sir.

3 Q Okay. But you think that he should've
4 interviewed those witnesses?

5 A Yes, sir.

6 Q Okay. And do you believe that hurt your
7 case?

8 A Yes, I believe it did.

9 Q Okay. And so you're asking for this Court
10 to grant you a new trial?

11 A Yes, sir.

12 Q And really, those are the issues you have
13 with Mr. Robinson; correct?

14 A Yes, sir.

15 Q Thank you. Answer any questions the
16 Attorney General has to you, please.

17 **CROSS-EXAMINATION**

18 **BY MR. MITCHELL:**

19 Q Good morning, Mr. Freeman. How are you?

20 A All right.

21 Q Good. I just have a few questions for you.

22 I know your issues seem to be the one of -- about the
23 suppression hearing and how it wasn't raised on
24 appeal. But what I want to touch on first is the
25 issue about Mr. Robinson failing to investigate. How

1 many times did you meet Mr. Robinson?

2 **A** From -- that I can remember, probably,
3 like, four or five.

4 **Q** Okay. And during these meetings, did you
5 talk to him about these witnesses that you wanted him
6 to call for you?

7 **A** We discussed the whole lot of things. But,
8 I mean, the whole time -- the whole discussion was
9 pretty much of me pleading to whatever the state was
10 -- that they -- the state wanted me to plead to.

11 **Q** Did you guys talk about the witnesses that
12 you're now talking about today?

13 **A** I mean, yeah. I mean, they was brought
14 about -- the conversation was brought upon -- I mean,
15 I stated -- he actually -- he actually got the
16 pictures and things like that. He got my fiancé to
17 send him all of that stuff, but he still never
18 presented none of this stuff in court.

19 **Q** What -- I'm sorry. I didn't mean to cut you
20 off.

21 **A** He asked me about the female, Kimberly,
22 that was in the car with me, but I wasn't able to
23 contact her. Me, being in County, there was no way I
24 could get in touch with her.

25 **Q** What would she have testified to?

1 **A** I mean, she would have testified to me
2 not -- the drugs that they're saying was in the car
3 was --

4 **Q** So there were no drugs in the car?

5 **A** There was something in the car, but there
6 was not drugs. What they said was drugs, was not
7 drugs.

8 **Q** What was it?

9 **A** I -- really, I couldn't tell you. They test
10 saying that it wasn't drugs. So that's why I'm
11 stating that it wasn't drugs. I can't tell you what
12 it was.

13 **Q** I know we talked about the suppression
14 motion that Mr. Robinson presented. Do you believe
15 that he argued to the best of his ability trying to
16 get the drugs suppressed?

17 **A** I mean he said what he did. But I mean, I
18 don't think it was to his best. I mean, I -- I -- I
19 heard of some of his work, and I actually sat in on
20 some of his work; and I don't think it was to his
21 best.

22 **Q** Very good.

23 **MR. MITCHELL:** Judge, that's all the
24 questions I have for this witness.

25 **THE COURT:** Okay. All right. Very well.

1 Mr. Richey, do you have any other questions
2 for this witness?

3 **MR. RICHEY:** No, ma'am. We'd call
4 Mr. Robinson.

5 **THE COURT:** All right. Sir, if you could
6 step down.

7 **MR. FREEMAN:** Yes, ma'am.

8 **THE COURT:** All right.

9 **MR. ROBINSON:** I can't go that fast, Your
10 Honor.

11 **THE COURT:** And let me just -- let me
12 just say to you: Mr. Robinson, if you would be
13 comfortable sitting down somewhere, I'm fine
14 with that, too.

15 **MR. ROBINSON:** I'm good, Your Honor.
16 Thank you. I'm getting a scooter.

17 **THE COURT:** Well, good. That would be
18 nice.

19 **MR. RICHEY:** We're going to do it just
20 like that.

21 **MR. ROBINSON:** You want to swear me?

22 **THE CLERK:** If you could just raise your
23 right hand, Scott.

24 **MR. ROBINSON:** Gotcha.

25 **SCOTT ROBINSON**

1 having first been duly sworn, testifies as follows:

2 **THE CLERK:** Thank you. Please state your
3 full name for the record.

4 **THE WITNESS:** Scott David Robinson.

5 **THE CLERK:** Thank you, sir.

6 **DIRECT EXAMINATION**

7 **BY MS. ROSS:**

8 **Q** Mr. Robinson ---

9 **A** Yes, sir.

10 **Q** --- do you recall representing,
11 Mr. Freeman?

12 **A** I sure do. It was a pleasure.

13 **Q** And that was the heroine case; correct?

14 **A** It was trafficking heroin.

15 **Q** I'm just going to get real quick to this:
16 You made suppression motion before that trial;
17 correct?

18 **A** I did.

19 **Q** To suppress the heroin?

20 **A** Yes.

21 **Q** And if you recall, this was a case where a
22 gentleman had gotten arrested. And pursuant to that
23 arrest, he offered information to the police officer.
24 Do you remember all of that?

25 **A** Yeah. He was a non-confidential informant.

1 He wasn't someone that was being paid by the police
2 to give information or had no agreement. They called
3 it a non-confidential informant.

4 Q And this informant, it was your position
5 that he wasn't reliable; correct?

6 A True. Yes.

7 Q Because they hadn't used him or anything?

8 A Yes.

9 Q And they didn't even have any type of
10 surveillance or anything going on; is that correct?

11 A They didn't. That's true.

12 Q And the actual phone number that he had
13 dialed to be Mr. Freeman's, they didn't have that
14 actual number; correct?

15 A They didn't. True.

16 Q It was basically a guy that they pulled out
17 of jail; he made a phone call; and they went and
18 stopped Mr. Freeman; correct?

19 A That's pretty -- I think that's a pretty
20 good or accurate representation. They made a call --
21 allegedly made a call to "K"; and that's how they
22 figured out Karacus and "K" were the same person.

23 Q You believe that the Court should suppress
24 that evidence; correct?

25 A I do.

1 **Q** Okay.

2 **A** I do. But the law does not favor -- there
3 are a couple of cases that are on point regarding a
4 non-confidential informant as far as liability and
5 things of that nature. But I'd base my argument on
6 there being no reasonable suspicion in this case.

7 **Q** All right. And you're aware -- I'm going to
8 hand you this. You are aware of these tricky rules
9 about objecting. Are you aware that the Court of
10 Appeals did not hear his case because you didn't make
11 -- let me say this -- there is a requirement,
12 apparently now, that when the state seeks to
13 introduce these drugs, you have to object again. Are
14 you familiar with that?

15 **A** I am now.

16 **Q** And that was the basis for the Court not
17 hearing this case?

18 **A** Yes. I understand that.

19 **Q** Okay. As to the investigation, did you meet
20 with Mr. Freeman as much as you believe you should
21 have?

22 **A** I do. I believe he is a good man. I think a
23 lot of him, of course. They kind of -- the state
24 didn't offer us anything. They were just -- they felt
25 they had such a strong case against Mr. Freeman. But

1 we had a great judge to go in front of for this kind
2 of case, of course.

3 You know, it is unfortunate -- I actually
4 went to where the car was, the vehicle that was a --
5 it was like a -- it was kind of a specific kind of
6 vehicle. It had like a stripe on it or so forth. But
7 I actually went to the shop and looked at this
8 vehicle. I'm not sure where it was. I think it was on
9 the westside of Greenville. It was a shop.

10 I went there with his -- I think it was
11 either his mother or girl. And I wanted to look at
12 the gear shaft in the middle. That's where the drugs
13 were poking out of and so forth. That's one of the
14 things that I did in my investigation.

15 As far as the girl goes -- the girl, if you
16 notice in the transcript in this case, the reason I
17 didn't call her in this case, two things: first,
18 Mr. Freeman at the -- when he was getting picked up
19 or whatever -- they were inspecting the car -- when
20 she was saying something, he did the valiant part and
21 said, "The drugs are mine." Kind of made a
22 spontaneous kind of admission, at that point.

23 Secondly, I wanted to preserve the ability
24 to, in this case, have the last argument. I really
25 didn't think that it would really help us to have her

1 get up there, be cross-examined and so forth, and
2 then go into this whole thing about him saying,
3 "Yes"; he is the person who said, "Yes. The drugs
4 were mine," and so forth. Those are the two reasons I
5 didn't look at that.

6 Q And so -- but you done all the other stuff
7 he asked you to do?

8 A Uh-huh. He's a very smart guy, very smart
9 guy. He knew what he was talking about. I did
10 everything that he wanted to do. Of course, I wish,
11 in hindsight, that they had offered us what I thought
12 the case deserved, which is a split sentence. Give
13 him probation. That's what I wanted: some
14 time-served, or something like that. That's what I
15 thought was the fairest thing. I don't think this
16 case should have gone to trial. I think they
17 should've offered something a little more reasonable
18 for him because he's not -- you know, he's got a
19 family; he's got a lot of good things going for him.

20 Q Thank you. Answer any questions the
21 Attorney General has for you.

22 A Sure.

23 CROSS-EXAMINATION

24 BY MR. MITCHELL:

25 Q Mr. Robinson, how are you?

1 **A** I'm doing very well.

2 **Q** I'm want to going to get a little close to
3 you because I want to take notes.

4 **A** All right.

5 **Q** How long have you practiced law here in
6 South Carolina?

7 **A** 20 years.

8 **Q** 20 years?

9 **A** Uh-huh.

10 **Q** In this case, you were retained to
11 represent Mr. Freeman?

12 **A** Retained.

13 **Q** Correct?

14 **A** Yes.

15 **Q** Let me ask you this: We've heard testimony
16 about how the charges arose already from your direct
17 examination by Mr. Richey.

18 **A** Right.

19 **Q** But how many times did you recall meeting
20 with Mr. Freeman?

21 **A** At least four or five, I believe. Here's
22 the thing: I can -- I can tell you what I think I
23 did.

24 **Q** Sure.

25 **A** You'd have to get the record just to see

1 exactly when I met him at the jail. As I recall, it
2 was at least four or five times.

3 Q Is it fair to say you met with him enough
4 times to be adequately prepared for trial?

5 A Yes.

6 Q Now, during these meetings, did you discuss
7 the indictments and the elements of the offenses ---

8 A Yes.

9 Q --- that he was facing? The possible
10 punishment he may face if he was convicted?

11 A Yes.

12 Q And also his constitutional rights?

13 A Oh, yes.

14 Q And the state's case burden of proof?

15 A Yes.

16 Q I know you said there wasn't much
17 investigation -- or I guess I shouldn't -- shouldn't
18 say it like that. How much investigation did you need
19 to do in this case?

20 A I did whatever was necessary for
21 Mr. Freeman to be given a fair trial, to be given a
22 fair shake, in this case. Everything that I did was
23 on his behalf to get the best possible resolution for
24 him. I would have -- I would have loved to have this
25 case plead; a fair, reasonable plea for him that

1 would not involve jail or something like that. I
2 think the way to have gone is something like a --
3 something that would help him and not give him a bad
4 record but allow him to be with his family, go to
5 school, do things like that and do well with himself.
6 But we were never given that opportunity. As a result
7 of that, it was going to be that we had to try the
8 case.

9 Q So no plea deal? I'm sorry, I did not mean
10 to cut you off.

11 A No.

12 Q No plea deal ever extended?

13 A No.

14 Q Okay. I think you testified, too, that you
15 didn't believe that his girlfriend would help you
16 much by testifying?

17 A As I said, there were two reasons why I
18 didn't think it was really anything to that,
19 unfortunately.

20 Q I think you said Mr. Freeman was a pretty
21 smart guy?

22 A He is a smart guy.

23 Q You ever have any issues or you ever
24 perceive him not to understand anything that you were
25 saying to him?

1 **A** No. As I said before, he's a very
2 intelligent guy. This is not -- I think that if --
3 when he gets out, I think that he could go back to
4 school and do something really good. That's what I
5 think. In my dealings with him, he's very articulate;
6 intelligent. And I think that is what he needs to do.
7 I think he would be a good -- well, good with
8 whatever he did.

9 **Q** Let me ask you this: I know you mentioned
10 something briefly about case law and how it's not --
11 wasn't necessarily in Mr. Freeman's favor in terms of
12 a non-confidential informant?

13 **A** There were two cases. The one that I
14 remember is a *Willard* case, which is a case. It was
15 almost on point in this case, I thought, as far as
16 the use of a non-confidential informant in this
17 matter. They went about it almost -- it was right in
18 line with how that case went. You know, Judge Miller
19 would have -- he's wonderful to try cases with. He
20 will really give the defendant and the defense a real
21 fair trial.

22 **Q** Let me ask you this: I know I heard
23 Mr. Richey ask you, or at least allude to the fact,
24 that the Court didn't address the merits of
25 Mr. Freeman's appeal. Based on your knowledge of the

1 case law, if the Court of Appeals had addressed it,
2 do you believe that Mr. Freeman would've been
3 successful in his appeal?

4 **A** No, I don't.

5 **Q** Thank you, Mr. Robinson. That's all the
6 questions I have for you.

7 **THE COURT:** Mr. Richey, any other
8 questions for this witness?

9 **MR. RICHEY:** No, ma'am.

10 **THE COURT:** All right.
11 Thank you, Mr. Robinson.

12 **MR. ROBINSON:** Thank you, Judge.

13 **MR. MITCHELL:** The state has no witnesses,
14 Your Honor. We would like to argue whenever we
15 get to that point.

16 **THE COURT:** Absolutely.
17 All right. Anything else from the
18 applicant?

19 **MR. RICHEY:** No, ma'am, Your Honor.

20 **THE COURT:** All right then. If y'all are
21 ready to do some brief summing up, I will be
22 happy to hear from you.

23 **MR. MITCHELL:** Your Honor, I think the
24 issues in this PCR boil down to two issues:
25 whether there was a failure to investigate,

1 which I think was sufficient testimony that was
2 presented by Mr. Robinson, that he investigated
3 the case and also the allegations, for why he
4 did not call the girlfriend in this case. He
5 stated the reasons for that.

6 I think the other larger issue is whether
7 the merits of the appeal were heard or not. The
8 appropriate standard in South Carolina is not
9 whether counsel was ineffective for failing to
10 preserve an issue, but whether the issue, had
11 it been preserved, whether it would be
12 meritorious if the Court of Appeals reviewed
13 the issues.

14 In this particular case, you heard
15 testimony from Mr. Robinson that, based on the
16 case law, he did not believe the issue would be
17 meritorious, had it reached the level of the
18 Court of Appeals to address it.

19 Also, included in the packet of information
20 is a brief from the state, which addresses the
21 issue on the merits.

22 **THE COURT:** Okay.

23 **MR. MITCHELL:** And I will leave that for
24 Your Honor to review. But I believe that had
25 the issue been properly preserved, it would not

1 have been meritorious.

2 **THE COURT:** All right. Thank you very
3 much.

4 Mr. Richey?

5 **MR. RICHEY:** Thank you, Your Honor. May it
6 please the Court. Your Honor, I'm going to
7 specifically just address the suppression part
8 of it. The other stuff -- I'll let the Court
9 decide on the investigative part. But Your
10 Honor, it's our position that this was an issue
11 that the Court of Appeals should've at least
12 had an opportunity to review.

13 There was a brief also from appellate
14 defense, in the Court's file, that actually
15 briefed this issue in terms, from the applicant
16 side. And in reading this brief, Your Honor,
17 they cite *State versus Green*. It talks about --
18 it's some issues in here that makes this a
19 real-contested argument. It's our position that
20 counsel should have objected at the proper
21 time. I understand the objection rules might
22 change every day, but that's what the Court
23 said.

24 I think it is a meritorious issue.

25 Mr. Robinson argued it. He actually talked

1 about the reliability of the informant. In
2 *State versus Green*, it talks about the
3 informant wasn't reliable, so the Court said
4 the cops cannot do a...

5 Your Honor, I believe that there's an issue
6 here; and I believe that the Court of Appeals
7 should've had an opportunity to hear it. I will
8 say there is a brief that the appellate
9 defender done that sets this out pretty
10 clearly. Thank you, Your Honor.

11 **THE COURT:** Mr. Freeman, I will tell you
12 this: In all candor, I have not read the brief
13 from the state, and I have not read appellate
14 defense's brief on this issue. I -- and I
15 certainly will not rule until I've done that.

16 **MR. FREEMAN:** Yes, ma'am.

17 **THE COURT:** So if you'll give me just a
18 couple of weeks, that will give me some time. I
19 really want to pour over this issue, and
20 probably for my law clerk to do some
21 independent research on it. But you could
22 anticipate hearing back from me within about
23 two weeks.

24 **MR. FREEMAN:** Yes, ma'am.

25 **THE COURT:** All right?

1 **MR. FREEMAN:** Yes, ma'am.

2 **THE COURT:** Good luck to you.

3 (The Court goes off the record at approximately
4 10:43 a.m.)

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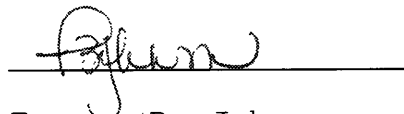
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CERTIFICATE

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 25th day of January, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.



Teresa B. Johnson

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Karacus K. Freeman, 312428

Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2017-CP-23-5952

ORDER OF DISMISSAL

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Paul Wickensmire CDO SCLE SC

This matter comes before the Court by way of an application for post-conviction relief filed on September 18, 2017 by Karacus K. Freeman (Applicant). Respondent made its Return on or about January 17, 2018. An evidentiary hearing into the matter was convened on June 20, 2018, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present and represented by Rodney W. Richey, Esquire. Respondent was represented by DeShawn H. Mitchell, Esquire of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Applicant's Trial Counsel Scott D. Robinson, Esquire also testified. This Court had before it a copy of the records of the Greenville County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's trial, the PCR application, Respondent's Return, Applicant's records from the Department of Corrections and Applicant's appellate records. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In June of 2015, the Greenville County Grand Jury indicted Applicant for trafficking heroin (2015-GS-23-8489).

Scott D. Robinson, Esquire, represented Applicant. Applicant proceeded to trial on April 5 2016, before the Honorable Edward W. Miller and a jury. The jury found Applicant guilty as indicted. Judge Miller sentenced Applicant to imprisonment for a term of ten years.

Applicant filed a timely notice of appeal. Lara M. Caudy, Esquire of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on February 1, 2017. State v. Freeman, Op. No. 2017-UP-100 (S.C. Ct. App. filed March 8, 2017). The remittitur was returned to the circuit court on March 24, 2017.

FACTUAL HISTORY

At approximately 7:42 p.m. on the evening of May 26, 2014, Officer Andrew Sturman of the Greenville Police Department arrested Robert Arnold, whom the officer knew had previously been arrested while in possession of marijuana and heroin, for trespassing at an apartment complex. (Tr. pp. 29-30; pp. 34-35; pp. 65-67). Officer Sturman then transported Arnold to the Greenville County Detention Center, searched him, and discovered three illegal prescription pills in his pocket. (Tr. pp. 30-31; pp. 67-68). In response, the officer spoke with Arnold about the pills, and Arnold agreed to make a phone call to his heroin supplier in exchange for assistance with his charges. (Tr. pp. 31-32; p. 68). Thereafter, with Officer Sturman listening in, Arnold placed a call on his cell phone to a person he identified as "K" between 8:40 p.m. and 9:00 p.m., asked "K" about purchasing some heroin, and inquired of "K" where he was located at that particular time. (Tr. pp. 32-36; pp. 68-69). Based on the call, Officer Sturman learned "K" was going to be in the vicinity of Joe Louis Street within the next fifteen to twenty minutes. (Tr. p. 33; p. 69). He further learned from Arnold the vehicle "K" typically drove was a white Monte Carlo with blue racing stripes and large rims. (Tr. p. 33; p. 70). Officer Sturman then quickly relayed that information to Officer Mauricio Reyes, a fellow officer working for the Greenville

Police Department, and Officer Reyes immediately responded to the area around Joe Louis Street to look for "K" and the white Monte Carlo.¹ (Tr. p. 35; pp. 38-39; pp. 70-71; pp. 74-75).

Thereafter, at approximately 9:18 p.m., Officer Reyes observed a white Monte Carlo with blue racing stripes and large rims turn off of Joe Louis Street onto another street, and he initiated an investigatory stop of that vehicle. (Tr. pp. 38-40; pp. 75-76). At that time, Officer Eric Koepke, a canine handler with the Greenville Police Department, arrived on the scene with his drug-detection dog, Valor, and he moved to assist Officer Reyes. (Tr. p. 41; pp. 47-49; pp. 87-89). Once the Monte Carlo stopped, Officer Reyes approached the vehicle, asked the driver, Applicant, Karacus Freeman, to step out of the car, and placed him in handcuffs once he did so. (Tr. pp. 40-42; pp. 76-77). Officer Reyes then asked Applicant for consent to conduct a search of the vehicle, Applicant declined to provide consent, and Officer Koepke had Valor conduct a sniff search of the Monte Carlo.² (Tr. p. 41; pp. 49-50, pp. 77-78; p. 91). During the sniff search, Valor alerted to the presence of drugs on several different occasions. (Tr. p. 41; pp. 50-51; p. 78; p. 91). Officer Reyes then conducted a search of the vehicle and located an open beer can in the center console along with a bag containing a chalky brown substance that appeared to be heroin hidden near the vehicle's gear shifter. (Tr. pp. 41-42; p. 46; pp. 78-79; p. 94).

After finding the bag containing the suspicious substance, Officer Reyes spoke with both Applicant, who he discovered had a name beginning with the letter "K," and a female passenger whom was also inside the Monte Carlo at the time of the stop, and each of them denied ownership of the bag. (Tr. pp. 42-43; p. 79). Officer Reyes then took the passenger into custody, and Applicant responded by becoming irate and claiming ownership of the bag. (Tr. p.

¹ The information was relayed to Officer Reyes at approximately 9:00 p.m. (Tr. p. 35; p. 39).

² Prior to having his drug-detection dog conduct the sniff search, Officer Koepke asked Applicant if there would be any reason why Valor would alert to the presence of the odor of narcotics, and Applicant responded he had just smoked marijuana before he got into the vehicle. (Tr. p. 50).

43; p. 80). After that, Officer Reyes secured the bag, which was ultimately determined to contain several grams of heroin, and placed Applicant under arrest.³ (Tr. p. 44; pp. 99-102).

Subsequently, Applicant was indicted for trafficking in heroin, and he proceeded to trial. (Tr. pp. 8-9; Indictments). At the outset of trial, Applicant moved to suppress the incriminating evidence discovered during the investigatory stop, and the trial judge conducted an in limine hearing on the matter. (Tr. p. 25). During the hearing, Officer Sturman testified about how Arnold provided information and arranged a drug transaction for the officers following his arrest for trespassing, and Officer Reyes and Officer Koepke testified about their ensuing investigatory stop of the vehicle Arnold stated would be involved in the arranged transaction, which resulted in the discovery of the heroin along with Applicant's arrest.⁴ (Tr. pp. 29-52). However, Officer Reyes candidly acknowledged during his testimony he did not observe Applicant engage in any overt criminal behavior prior to conducting the stop. (Tr. pp. 45-46).

Following the presentation of that testimony, defense counsel argued the incriminating evidence discovered during the investigatory stop should be suppressed based on an alleged absence of reasonable suspicion for the stop. (Tr. p. 52). In support of that contention, defense counsel asserted the officers did not observe any illegal activity or traffic violations prior to the stop, did not know anything about the reliability of Arnold, and did not corroborate any of the information provided by Arnold. (Tr. pp. 52-54). In rebuttal, the solicitor argued the stop was supported by reasonable suspicion in light of the fact the officers used Arnold, a non-confidential informant, to arrange a drug transaction while listening in on the call before locating Applicant

³ At the time of the investigatory stop, Applicant was only under arrest for an open container violation and for driving under suspension based on the fact he admitted during the stop he did not have a valid driver's license. (Tr. p. 40; p. 44).

⁴ Arnold also testified during the in limine hearing, stated he knew Applicant "a little bit," and acknowledged he had previously been arrested on multiple occasions for drug offenses. (Tr. pp. 26-27). However, he claimed he did not specifically remember either being arrested by Officer Sturman on May 26, 2014, or placing a phone call to Applicant in the presence of the officer. (Tr. pp. 27-28).

and the unique vehicle he was driving. (Tr. pp. 54-56). After considering the arguments of counsel, the trial judge concluded the investigatory stop was supported by reasonable suspicion and denied the suppression motion. (Tr. p. 56).

Thereafter, as the trial continued forward, the officers involved in the drug investigation that led to Applicant's arrest testified about the investigatory stop of the vehicle Applicant was driving and the discovery of the bag of heroin during that stop.⁵ (Tr. pp. 63-94). Additionally, Kelly Dixon, who had formerly worked as a forensic chemist for the Greenville County Department of Public Safety and who was an expert in the analysis of controlled substances, testified about her analysis of the substance recovered from the vehicle Applicant was driving at the time of the stop and confirmed that substance constituted over seven grams of heroin.⁶ (Tr. pp. 96-97; pp. 99-102). The solicitor then moved to introduce the heroin into evidence, and the heroin. After defense counsel responded: "No objection, Judge." (Tr. p. 100).

Subsequently, at the conclusion of trial, the jury convicted Applicant as indicted. (Tr. p. 124). Following the verdict, defense counsel moved to renew all of his earlier motions, and the trial judge reaffirmed his earlier rulings denying those motions. (Tr. pp. 125-126). The trial judge then sentenced Applicant to a ten-year term of imprisonment. (Tr. p. 127).

ALLEGATIONS

1. Ineffective assistance of counsel
2. Failure to properly suppress evidence
3. Failure to investigate

⁵ Arnold also testified during the evidentiary phase of trial and again denied remembering anything related to the events of Applicant's case while claiming to suffer from seizures. (Tr. pp. 63-64).

⁶ Dixon was the fifth witness to testify for the State during the evidentiary phase of trial. (Tr. p. 96).

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING**Applicant's Testimony**

Applicant testified that Trial Counsel represented him on his charges. He testified his case involved an informant who gave information to the police but he believed the informant was unreliable. Applicant testified he appealed his case to the South Carolina Court of Appeals arguing that the informant was not reliable. He testified the Court of Appeals issued an opinion stating the issue was not properly preserved for appellate review. Applicant testified when the drugs in his case were entered into evidence, Trial Counsel did not object which failed to preserve the issue. He testified Trial Counsel did not properly investigate his case. Applicant testified he wanted Trial Counsel to get videos for his case and also to interview witnesses for him.

On cross-examination, Applicant testified he met with Trial Counsel four or five times during the course of the representation. He testified they discussed his case during those meetings. Applicant testified he wanted his girlfriend to testify at trial that there were no drugs in his possession.

Trial Counsel's Testimony

Trial Counsel testified he represented Applicant on his charges. He testified during pre-trial proceedings, he made a motion to suppress based on the fact there was no reasonable suspicion for the traffic stop of Applicant. Trial Counsel testified there was also an informant involved who he believed was unreliable. He testified he believed the drugs that were found should have been suppressed but that the existing case law was not on their side. Trial Counsel testified Applicant was a good person but that the State had a good case against him. He testified in terms of investigation he went to the shop where Applicant's vehicle was during this incident

to gather more information. Trial Counsel testified he did not call Applicant's girlfriend to testify at trial because Applicant had already admitted to possessing the drugs and that he wanted to preserve the last argument. He testified he did not think the case should have gone to trial.

On cross-examination, Trial Counsel testified he had practiced law for twenty years. He testified he was retained to represent Applicant on his charges. Trial Counsel testified he met with Applicant four or five times during the course of his representation. He testified during those meetings he discussed the indictments, elements of the crimes, the possible punishments, Applicant's constitutional rights, and the State's burden of proof. Trial Counsel testified he did not recall a plea deal ever being extended. He testified during the course of his representation Applicant appeared to comprehend everything they discussed about his case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (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 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. 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. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the 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.

After careful review of the entire record, including the testimony presented at the evidentiary hearings, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action regarding any of his allegations of ineffective assistance of counsel. This Court finds as follows on the following grounds presented by Applicant at the evidentiary hearing:

Ineffective Assistance of Counsel

Failure to Investigate

Applicant alleges Trial Counsel was ineffective for failing to investigate his case. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel

could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) (“Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial.”). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant has failed to show what beneficial information could have been discovered had Trial Counsel done more investigation. Even so, Trial Counsel testified credibly that he reviewed all of the discovery. Additionally, Trial Counsel testified in terms of investigation he went to the shop where Applicant’s vehicle was during this incident to gather more information. Moreover, Trial Counsel testified he did not call Applicant’s girlfriend to testify at trial because Applicant had already admitted to possessing the drugs and that he wanted to preserve the last argument. Notwithstanding, this court finds Applicant has failed to produce any information that Trial Counsel would have found had he done more investigation. This Court finds Trial Counsel’s investigation was reasonable. Therefore, Applicant has failed to meet his burden to prove Trial Counsel was ineffective. This allegation is denied and dismissed with prejudice.

Failure to Preserve Issue for Appellate Review

Applicant alleged in his application ineffective assistance of counsel for failure to preserve the argument regarding the admission of incriminating evidence discovered during a search of his vehicle for appellate review. This Court finds that Applicant cannot show that he was prejudiced by Counsel’s failure to preserve the issue for appeal because he has failed to prove the issue would have been successful on appeal.

To establish trial counsel was ineffective for failing to preserve an issue for appellate review, Applicant must establish both deficiency and prejudice. Milledge v. State, 422 S.C. 366, 374, 811 S.E.2d 796, 800–01 (2018). Therefore, the inquiry does not end, and relief is not automatically granted, simply because an applicant establishes his counsel did not contemporaneously object and the issue was not preserved for appellate review, as an applicant must also establish prejudice.

The appropriate inquiry for determine whether an applicant was prejudiced by counsel's failure to contemporaneously object to the introduction of evidence is not merely whether the issue would have been preserved for appellate review, but rather, whether the appellate court would have reversed Applicant's convictions based on trial court error and granted him a new trial. Id. In Milledge, the South Carolina Supreme Court articulated the proper standard for determining whether an applicant established prejudice from counsel's failure to contemporaneously object to the admission of evidence following the denial of a pre-trial motion to suppress based on Fourth Amendment grounds, finding "the appropriate inquiry is whether the search conducted by the deputies was lawful under the Fourth Amendment, as that issue would have controlled the outcome on direct appeal. We further agree with the State that the search was supported by the deputies' reasonable, articulable suspicion, and thus Milledge was not prejudiced by counsel's failure to contemporaneously object." Id. at 375, 811 S.E.2d at 801. "In determining whether a PCR applicant has established prejudice, the PCR court does not act as a finder of fact and substitute its judgment for that of the trial court. Rather, in instances like the case before us, the PCR court must view the trial court's ruling through the same lens that would be applied on appeal, which here requires giving appropriate deference to the trial court's findings." Id., at 366, 380, 811 S.E.2d at 804 (citing State v. Khingratsaiphon, 352 S.C. 62, 70,

572 S.E.2d 456, 459–60 (2002) (explaining that on appeal from a Fourth Amendment motion to suppress, an appellate court will only reverse the trial court if there is clear error, and will affirm if there is any evidence to support the ruling)). “[T]he proper inquiry for determining prejudice in this case is whether there is evidence in the record to support the trial court’s finding the officer had reasonable suspicion. If so, an appellate court would necessarily have affirmed the trial court’s denial of the motion to suppress.” Milledge, 422 S.C. at 380, 811 S.E.2d at 804.

In this matter, Applicant complains that Trial Counsel did not preserve the argument regarding the admission of incriminating evidence discovered during a search of the vehicle. However, this court finds even if the issue was properly preserved for appellate review, the officers obtained reasonable suspicion to conduct the investigatory stop of the white Monte Carlo after the officers received information from a cooperating non-anonymous informant about his drug supplier, whom he identified as Applicant, and corroborated significant aspects of that information, including in regard to the unique details of the vehicle and its precise location at a specific time, before conducting the stop. Furthermore, based on the information received by the officers and the corroboration of that information prior to the stop, the officers reasonably believed heroin would be found in the white Monte Carlo Applicant was driving. As a result, the trial judge properly denied Applicant’s suppression motion with his ruling being supported by the evidence presented during trial and had the issue been preserved for appellate review Applicant would not have been successful.

Moreover, in the case at bar, the trial judge properly denied Applicant’s suppression motion because Officer Reyes’s decision to conduct an investigatory stop of the white Monte Carlo was reasonable under the totality of the circumstances and was supported by reasonable suspicion of criminal activity. Critically, Officer Reyes’s decision was reasonable because he

and his fellow officers obtained reliable information about a narcotics supplier's active involvement in illegal activity from a cooperating non-confidential informant and independently corroborated important aspects of that information. Based on the officers' corroboration of the information, it was reasonable for Officer Reyes to believe heroin would be located in the vehicle Applicant was driving at the time of the stop, which justified the investigatory stop of the vehicle. As a result, the trial judge – just like the trial judge in Pope – correctly declined to suppress the incriminating evidence discovered during the course of the investigatory stop. State v. Pope, 410 S.C. 214, 763 S.E.2d 814 (Ct. App. 2014) (holding the trial judge did not err in denying the motion to suppress the evidence discovered during and after the search of the stopped vehicle after concluding the officers' actions were justified by both reasonable suspicion and probable cause).

Looking to the specific information known to the officers prior to the stop, Arnold, the cooperating informant, arranged a drug transaction by phone with his narcotics supplier, whom he identified as “K,” while Officer Sturman listened in on the call as it was taking place. Arnold then provided information to the officer about the model, color, and unique identifying features of the vehicle “K” used along with the vehicle's expected location at a specific time. Although Officer Sturman had not previously worked with Arnold, it was reasonable for him and the other officers to rely on the information provided by Arnold because Arnold's admission to having a drug supplier was decidedly against his best interests and provided the officers with powerful evidence that could have been used against him in any future trial on charges related to the illegal pills recovered from his pocket after his arrest. See United States v. Harris, 403 U.S. 573, 583-584 (1971) (“People do not lightly admit to a crime and place critical evidence in the hands of the police in the form of their own admissions. Admissions of crime, like admissions against

proprietary interests, carry their own indicia of credibility – sufficient at least to support a finding of probable cause to search. That the informant may be paid or promised a ‘break’ does not eliminate the residual risk and opprobrium of having admitted criminal conduct.”); see also United States v. Tyler, 238 F.3d 1036, 1039 (8th Cir. 2001) (“Mr. Garza’s disclosures were presumptively credible because they were made against his penal interest. . . . After the police caught Mr. Garza with drugs in his possession, he admitted not only that he had obtained the drugs from Mr. Tyler but also that he had purchased drugs from Mr. Tyler on ‘numerous occasions’ over the previous years. Thus, Mr. Garza’s statements cannot be taken merely as blame-shifting because they admitted to criminal activities beyond those of which the police already knew him to be guilty.”); Lopez v. State, 292 Ga. App. 518, 521, 664 S.E.2d 866, 869 (Ga. Ct. App. 2008) (“[T]he admissions against penal interest of a known informant in the hands of police (even though that informant’s name is not disclosed at the trial of the accused) are valuable facts indicating that the informant is telling the truth and is reliable.”); see generally State v. Driggers, 322 S.C. 506, 514, 473 S.E.2d 57, 61 (Ct. App. 1996) (“Klepp-Egge also acted against his best interests by providing the police with information that possibly linked him to the crime.”). Additionally, the officers’ reliance on the information provided by Arnold, a non-confidential informant, was further justified because Arnold could have been held responsible if the information he provided proved to be false since his identity was known to the officers and he was in police custody. See Driggers, 322 S.C. at 511, 473 S.E.2d at 60 (“[A] non-confidential informant should be given higher level of credibility because he exposes himself to public view and to possible criminal and civil liability should the information he supplied prove to be false.”); cf. Rogers, 368 S.C. at 534-535, 629 S.E.2d at 682 (“In making his argument, Rogers relies on the case of State v. Green, 341 S.C. 214, 532 S.E.2d 896 (Ct. App. 2000), which relied

on the case of Florida v. J.L., 529 U.S. 266 . . . (2000), both of which held an anonymous tip provided insufficient indicia of reliability to justify an investigatory stop. We find Green and J.L. clearly distinguishable from this case at hand. Both Green and J.L. involved investigatory stops based on *anonymous* tips, wherein the courts found the anonymous tips provided insufficient indicia of reliability to make an investigatory stop.”). In fact, had Arnold provided false information to the officers, Arnold’s chances of achieving his desired objective of getting Officer Sturman to assist him with his pending charges would have been greatly diminished. Cf. United States v. Greenburg, 410 F.3d 63, 67 (1st Cir. 2005) (“[The special agent] knew the informant’s identity and therefore could hold the informant responsible if he provided false information. This tends to establish an incentive for the informant to tell the truth.”). Under those circumstances, Officer Reyes and the other officers justifiably relied on the information provided by Arnold, and Arnold’s reliability was sufficiently established to make the officers’ reliance on his statements entirely reasonable. See Pope, 410 S.C. at 225, 763 S.E.2d at 820 (“Harris was not a confidential informant and exposed himself to criminal liability should the information he supplied to officers prove to be false.”); see also Illinois v. Gates, 462 U.S. 213, 233 (1983) (“[An informant’s veracity and basis of knowledge] are better understood as relevant consideration in the totality-of-the-circumstances analysis that traditionally has guided probable cause determinations: a deficiency in one may be compensated for, in determining the overall reliability of a tip, by a strong showing as to the other, or by some other indicia of reliability.”); see generally State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013) (“The required reasonable suspicion can arise from an anonymous tip provided that the totality of the surrounding circumstances justifies acting on the tip.”).

However, beyond the inherent reliability of the information provided by Arnold under the

circumstances, the reasonableness of Officer Reyes's actions in conducting the investigatory stop was established by the officer's corroboration of significant aspects of the information provided by Arnold before he acted on that information. Critically, prior to the stop, Arnold informed the officers his narcotics supplier would be travelling in a white Monte Carlo with blue racing stripes and large rims in the vicinity of Joe Louis Street at approximately 9:15 p.m. to 9:20 p.m. Thereafter, around that approximate time, Officer Reyes and another officer observed a white Monte Carlo with blue racing stripes and large rims driving in the vicinity of Joe Louis Street at the time Arnold indicated that particular vehicle would be at that precise location based on his conversation with his drug supplier, which, notably, was overheard by Officer Sturman.⁷ See Willard, 374 S.C. at 134-135, 647 S.E.2d at 255 ("Although the informant in this case was not previously proven reliable, . . . he was more than a mere tipster. The informant correctly identified Willard's vehicle, knew Willard's telephone number, and mentioned drugs during the conversation with Willard. Although the informant's reliability had not previously been tested, a non-confidential informant is given a higher level of credibility because he exposes himself to liability should the information prove to be false. We thus find support to affirm the trial court's finding of reasonable suspicion for the stop." (citation omitted)); cf. State v. Foreshaw, 245 N.J. Super. 166, 175, 584 A.2d 832, 836 (N.J. Super. Ct. App. Div. 1991) ("After receiving the informer's tip, the officers properly corroborated the data provided. Just as the informer had predicted, the officers observed a silver-gray Eldorado bearing New Jersey license plates traveling southbound on the Turnpike. Inside the vehicle were two males and a female. As was also foretold, the vehicle exited the highway at Exit 4 and headed towards Camden. Once the

⁷ Notably, Arnold was able to accurately predict where the white Monte Carlo would be driving at a specific time despite the fact he had been in police custody for nearly two hours at the time of the investigatory stop. (Tr. p. 30; p. 39).

officers established that the informant had been correct, they had probable cause to believe that defendants' car contained contraband and as such properly stopped and searched the vehicle.""). Thus, before initiating the investigatory stop of the vehicle Applicant was driving, Officer Reyes verified the vehicle matched the highly unique characteristics of the vehicle described by Arnold in regard to model, color, identifying features, and location at a precise time. See Alabama v. White, 496 U.S. 325, 332 (1990) ("Because only a small number of people are generally privy to an individual's itinerary, it is reasonable for police to believe that a person with access to such information is likely to also have access to reliable information about that individual's illegal activities."); see also Gates, 462 U.S. at 244-245 ("It is enough, for purposes of assessing probable cause, that 'corroboration through other sources of information reduced the chances of a reckless or prevaricating tale,' thus providing 'a substantial basis for crediting the hearsay.' " (citation omitted)). Because Officer Reyes was able to corroborate those substantial details, including the information regarding the white Monte Carlo's precise location at a specific time, it was entirely reasonable for the officer to believe Arnold was also correct when he indicated the person driving the vehicle was involved in criminal activity and would be in possession of heroin. See White, 496 U.S. at 331 ("[B]ecause an informant is shown to be right about some things, he is probably right about other facts that he has alleged, including the claim that the object of the tip is engaged in criminal activity."); United States v. Draper, 358 U.S. 307, 313-314 (1959) ("Marsh[, the narcotics agent,] had personally verified every fact of the information given him by Hereford[, the informant,] except whether the petitioner had accomplished his mission and had three ounces of heroin on his person or in his bag. And surely, with every other bit of Hereford's information being thus personally verified, Marsh had 'reasonable grounds' to believe that the remaining unverified bit of Hereford's information – that Draper would have the

heroin with him – was likewise true. . . . [U]nder the facts and circumstances here, Marsh had probable cause and reasonable grounds to believe that petitioner was committing a violation of the laws of the United States relating to narcotic drugs at the time he arrested him.”); see also State v. Martinez, 150 N.C. App. 364, 369, 562 S.E.2d 914, 917 (N.C. Ct. App. 2002) (“Although Goff was not a known informant, the officers independently verified the information that he provided to them. Based on Goff’s information and the officers’ independent verification of that information, the officers had probable cause to believe that defendant and Zavala were committing a felony in their presence.”); see generally Gates, 462 U.S. at 241 (“Our decisions applying the totality-of-the-circumstances analysis . . . have consistently recognized the value of corroboration of details of an informant’s tip by independent police work.”). As a result, the investigatory stop of the vehicle Applicant was driving was entirely reasonable under the circumstances. See Pope, 410 S.C. at 226, 763 S.E.2d at 821 (“[T]he trial court did not err in denying the motion to suppress the evidence seized during the search of the vehicle because law enforcement had probable cause to believe the vehicle contained evidence of criminal activity.”).

In light of the fact the investigatory stop of the vehicle Applicant was driving was supported by reasonable suspicion and was not constitutionally improper, Applicant’s challenge to the propriety of that stop was – and is – meritless. See Foster, 269 S.C. at 378, 237 S.E.2d at 591 (“It is only unreasonable searches and seizures that are prohibited.”); cf. State v. Peters, 271 S.C. 498, 502-503, 248 S.E.2d 475, 477 (1978) (“[E]ven if there was not sufficient evidence to support the informant’s credibility based upon the officer’s independent knowledge concerning prior dealings with this informant, the officer’s direct observation of the Grand Prix automobile conforming in every respect to the informant’s tip would provide sufficient circumstances to assure the reliability of the informant’s information on this particular occasion. Corroboration of

this nature has been allowed to bolster the credibility of a confidential informant.”). As a result, the trial judge properly denied Applicant’s suppression motion, and his ruling was fully supported by the evidence presented during trial. See State v. Wright, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011) (“When reviewing a Fourth Amendment search and seizure case, an appellate court must affirm if there is any evidence to support the ruling.”). Therefore, Applicant cannot show that he was prejudiced by Counsel’s failure to preserve the issue for appeal because he has failed to prove the issue would have been successful on appeal. This allegation is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any violations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. An applicant has a right to an appellate counsel’s assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant’s behalf. See Rule 71.1 (g), SCRCR. Refer to Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice;
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 19 day of Oct, 2018.


LETITIA H. VERDIN
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

WITNESSES

M A Reyes

Greenville Police Department

9/1/2014

CRB 6/30/15

ARREST WARRANT NUMBER

2014A2320601575

ACTION OF GRAND JURY

TRUE BILL

Wayne H. Pearson

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Robert S. Statton

Foreperson of Petit Jury

Date: 4/5/16

DOCKET NO. 2014-GS-23-

SLO

009489

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2014 *2015*

THE STATE

vs.

KARACUS KOREAN FREEMAN

Indictment for

2361

TRAFFICKING HEROIN

VIOLATION § 44-53-0370

FILED

SEP 22 2014

Clerk of Court
Greenville County

QAC
ENTERED
ACT.

192
192

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING HEROIN

JUN 30 2015

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That KARACUS KOREAN FREEMAN did in Greenville County, on or about the 26th day of ^{MAY} ~~March~~, 2014, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 4 grams of Heroin. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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

SOLICITOR

BAR # 79870

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Karacus Korean Freeman

AKA:

Race: BLACK Sex: M Age: 29DOB: 1986 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Greenville, SC 29611-4170DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Drugs / Trafficking in Heroin, morphine, etc., 4 g or more, but less than 14 g - 1st offensein violation of § 44-53-0370(E)(3) of the S.C. Code of Laws, bearing CDR Code # 2361
☐ 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.

ATTEST:

Broun, Hunter80145
SC Bar#K. Freeman
Defendant[Signature]
Attorney for Defendant6339
SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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. 404 JRU☐ 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	\$	<u>100.00</u>
§ 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	\$	<u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	<u>150.00</u>
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<u>5.00</u>
3% to County (if paid in installments)		\$	<u>8.40</u>
TOTAL		\$	<u>288.40</u>

Clerk of Court/ Deputy Clerk Paul B. WhiteCourt Reporter: Hudgins

SCCA/217 (03/2011)

508041

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2308489A/W#: 2014A2320601575Date of Offense: 3/26/2014S.C. Code § : 44-53-0370(E)(3)CDR Code #: 2361

SENTENCE SHEET

Presiding Judge ED CW. WhiteJudge Code: 2130Sentence Date: 4-5-2016

ARREST WARRANT

2014A2320601575 10360

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

THE STATE

14-037497

against

Karacus Korean Freeman

Address:

Greenville, SC 29611-4170

Phone:

SSN:

Sex: M Race: B Height: 5 1 Weight: 130

DL State: SC

DL #:

DOB: /1986

Agency ORI #: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: M A Reyes - 0645

Offense: Drugs / Trafficking in Heroin, morphine, etc., 4 g or more, but less than 14 g - 1st offense

Offense Code: 2361

Code/Ordinance Sec: 44-53-0370(e)(3)(a)1

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The 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

Karacus Korean Freeman
05/01/2014

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville
426 North Main Street
P O Box 488
Greenville, SC 29601

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

Personally appeared before me the affiant M A Reyes

who

being duly sworn deposes and says that defendant Karacus Korean Freeman

did within this county and state on or about 3/26/2014

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in Heroin, morphine, etc., 4 g or more, but less than 14 g - 1st offense

I further state that there is probable cause to believe that the defendant named above committed the crime set forth and that probable cause is based on the following facts:

Affiant states that during a lawful traffick stop on N Textile St at Pendelton St the accused, Karacus Korean Freeman, did possess on or about his person 7.54 grams of a beige/ brown chalky substance. The substance was confirmed on 6/2/2014 through lab results to be Heroin. This offense did occur within the city of Greenville S.C.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

GREENVILLE 29601-

Affiant's Telephone

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 3/26/2014

defendant Karacus Korean Freeman

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Greenville

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in Heroin, morphine, etc., 4 g or more, but less than 14 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 7/3/2014

Signature of Issuing Judge

Phillip Tate

Judge Code: 8103

Judge's Address P.O. Box 488

Greenville, SC 29602

Judge's Telephone (864)467-6550

Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

Entered on

NCIC

Entered on

NCIC

105

**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.

Karacus Korean Freeman, Appellant.

Appellate Case No. 2016-000800

Appeal From Greenville County
Edward W. Miller, Circuit Court Judge

Unpublished Opinion No. 2017-UP-100
Submitted February 1, 2017 – Filed March 8, 2017

AFFIRMED

Appellate Defender Lara Mary Caudy, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia; and Solicitor William Walter Wilkins, III, of
Greenville, all for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003)
("In order for an issue to be preserved for appellate review, it must have been

raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."); *State v. Schumpert*, 312 S.C. 502, 507, 435 S.E.2d 859, 862 (1993) ("A ruling in limine is not a final ruling on the admissibility of evidence."); *id.* ("Unless an objection is made at the time the evidence is offered and a final ruling made, the issue is not preserved for review."); *State v. Burton*, 326 S.C. 605, 613, 486 S.E.2d 762, 766 (Ct. App. 1997) (holding a ruling made during an in camera hearing to determine the admissibility of the victim's sister's testimony was not sufficient to preserve the issue when, after the in camera hearing, testimony was given by two other witnesses, a break was taken, and then the victim's sister testified without objection).

AFFIRMED.¹

SHORT, WILLIAMS, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.