

VOLUME I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Edgefield County

Honorable Walton J. McLeod, IV, Circuit Court Judge

DAVID WALTER COON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-002224

APPENDIX

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1 State of South Carolina

Court of General Sessions

2 County of Edgefield

3
4
5 State)

6)
7 v.)

Transcript of Record

16-GS-19-101 - 105

16-GS-19-108 - 110

17-GS-19-072 - 073

8 David Walter Coon)

9 Defendant.)

10
11 January 10 - 12, 2017

Edgefield, South Carolina

12
13
14 B E F O R E:

15 The Honorable John C. Hayes, III, Judge; and a
16 jury.

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

18 Ervin J. Maye, Assist. Solicitor
19 Douglas W. Fender, II, Assist. Solicitor
Attorneys for the State

20 Erik J. Drylie, Assist. Public Defender
21 Attorney for the Defendant

22
23
24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

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1 (The following proceedings were held on
2 January 10, 2017.)

3 **THE COURT:** We're going to start our first
4 trial for the week, and it is the State versus David
5 Walter Coon.

6 Mr. Coon, would you stand so the jury can see
7 who you are?

8 And he is represented by Mr. Drylie. The State
9 is represented by Mr. Maye. And I'm going to ask
10 Mr. Maye to identify the individuals he has seated
11 with him and tell us a little bit about the charges
12 against -- there are several charges against
13 Mr. Coon involving drugs and a firearm and stolen
14 goods, but I'm going to let Mr. Maye tell you who's
15 with him at his table and a little bit more about
16 this case.

17 **MR. MAYE:** My name is Ervin Maye. I'm deputy
18 solicitor in the Eleventh Judicial Circuit. I work
19 for your elected Solicitor, Mr. Donnie Myers.
20 Seated with me here at the State's table assisting
21 me drawing the jury is Assistant Solicitor Al
22 Eargle, who also works here in Edgefield County;
23 Sheriff Adell Dobey, I know you know from here in
24 Edgefield County; Investigator James Smith and
25 Investigator Curtis Burton with the Edgefield County

1 Sheriff's Department are the individuals that are
2 seated at the table assisting us in selecting the
3 jury this morning.

4 Your Honor, for trial this morning, the State
5 of South Carolina would call for trial indictment
6 2016-GS-19-110, the State versus David Walter Coon,
7 an indictment for trafficking in methamphetamine.
8 It's been true billed by the Grand Jury of Edgefield
9 County.

10 Indictment 2016-GS-19-109, the State versus
11 David Walter Coon, an indictment for possession with
12 intent to distribute marijuana also true billed by
13 the Edgefield County Grand Jury.

14 Indictment 2016-GS-19-108, the State versus
15 David Walter Coon, an indictment for possession with
16 intent to distribute a Schedule IV controlled
17 substance, true billed by the Edgefield Grand Jury.

18 Indictment 2016-GS-19-102, the State versus
19 David Walter Coon, an indictment for possession of
20 an unlawful firearm, been true billed by the
21 Edgefield County Grand Jury.

22 Indictment 2016-GS-19-104, the State versus
23 David Walter Coon, an indictment for possession of
24 an unlawful firearm, true billed by the Edgefield
25 County Grand Jury.

1 Indictment 2016-GS-19-103, the State versus
2 David Walter Coon, an indictment for possession of
3 an unlawful firearm, true billed by the Edgefield
4 County Grand Jury.

5 Indictment 2016-GS-19-252, the State versus
6 David Walter Coon, an indictment for receiving
7 stolen goods, true billed by the Edgefield County
8 Grand Jury.

9 Indictment 2016-GS-19-101, the State versus
10 David Walter Coon, an indictment for receiving or
11 possession of stolen goods, true billed by the
12 Edgefield County Grand Jury.

13 Indictment 2016-GS-19-105, the State versus
14 David Walter Coon, an indictment for possession of
15 receiving stolen goods, true billed by the Edgefield
16 County Grand Jury.

17 Indictment 2017-GS-19-072, the State versus
18 David Walter Coon, an indictment for possession or
19 receiving stolen goods, true billed by the Edgefield
20 County Grand Jury.

21 Indictment 2017-GS-19-073, the State versus
22 David Walter Coon, an indictment for possession of
23 receiving stolen goods, true billed by the Edgefield
24 County Grand Jury.

25 **THE COURT:** Members of the jury panel, I have

1 elaborated a little on that. It's my understanding
2 that these all occurred on or about December 22nd of
3 2015 at a house on -- off of, not on, but off of
4 Rain Forest Lane here in Edgefield County. So I
5 have some questions to ask you and this time instead
6 of coming up and forming a line, if you have to
7 respond to any of these, just stand where you are
8 and we'll have a dialogue from where you are and
9 where I am.

10 First, are any of you related by blood or
11 marriage or are you a close personal friend or
12 acquaintance of any of the individuals to whom
13 you've just been introduced, including Mr. Coon; if
14 so, please stand?

15 No one stands.

16 Have any of you heard about this case from any
17 source whatsoever or have any of you formed or
18 expressed any opinion about any matter or issue
19 which would be involved in this case; if so, please
20 stand?

21 No one stands.

22 Were any of you members of the grand jury which
23 passed on this set of indictments at an earlier
24 time; if so, please stand?

25 No one stands.

1 If any of you are -- if you or a family member
2 have been involved with or are now involved in law
3 enforcement at any level or criminal prosecution at
4 any level, anything from an MP in the Army to Judge
5 Advocate General in the Army to air marshal or
6 anybody that has anything to do with law
7 enforcement, if you are related by blood or marriage
8 to somebody who serves in one of those two
9 capacities, please stand.

10 (Jurors stand.)

11 **THE COURT:** All right. And what I'd like you
12 to do this time is just tell me your name and number
13 and then while you're standing, something like,
14 Uncle Joe's a sheriff in Mecklenburg County or
15 whatever.

16 Yes, ma'am, you can go first.

17 **JUROR:** Margaret Carpenter, my cousin is on the
18 Edgefield County Police Department.

19 **THE COURT:** He is now?

20 **JUROR:** Yes, sir.

21 **THE COURT:** And he's your first cousin?

22 **JUROR:** He's actually my cousin's husband.

23 **THE COURT:** Your cousin's husband?

24 **JUROR:** Yes, sir. He's my neighbor as well.

25 **THE COURT:** I'm having a little trouble hearing

1 you.

2 **JUROR:** He's my neighbor as well.

3 **THE COURT:** Okay.

4 Yes, ma'am, your name and number.

5 **JUROR:** My name is Pam Cook. I don't know my
6 number.

7 **THE CLERK:** Number 31.

8 **JUROR:** My son-in-law is a magistrate here in
9 Edgefield County.

10 **THE COURT:** Yes, sir, your name and number?

11 **JUROR:** Larry Holley, number 70. My son-in-law
12 is in drug enforcement in Richmond County.

13 **THE COURT:** In Richland County?

14 **JUROR:** Richmond.

15 **THE COURT:** Richmond County. Remain standing
16 if you would.

17 Lady with the scarf on, looks like -- oh, no,
18 not scarf, but...

19 **JUROR:** I'm Jessica Johnson. My brother is a
20 police officer for Charlotte, Mecklenburg County.

21 **THE COURT:** All right. Remain standing.

22 Yes, sir.

23 **JUROR:** William Key, 85. My stepson is a
24 deputy with Aiken County Sheriff's Department and he
25 lives with me at my residence.

1 **THE COURT:** All right. If any of you, because
2 of that relationship, could not be fair and
3 impartial -- that is, to be a juror in the case
4 against Mr. Coon, you have to be fair to Mr. Coon,
5 you have to be fair to the State -- if any of you,
6 because of that relationship, believe you cannot be
7 fair and impartial, raise your right hand.

8 None do. All right. You may be seated. Thank
9 you.

10 Are any of you members of or contributors to
11 organizations such as Mothers Against Drunk Drivers,
12 Students Against Drunk Drivers, Citizens Against
13 Violence, Trooper's Association, Sheriff's
14 Association or Fraternal Order of Police; if so,
15 please stand?

16 No one stands.

17 Have any of you had any training in the field
18 of law? I started to say legal training, but I hope
19 all the training you've had is legal. But if any of
20 you have had any training in law or law enforcement
21 at college or post-grad or community colleges or
22 anything like that, juvenile justice or police
23 academy or anything, please stand if so.

24 No one stands.

25 Have any of you or a close personal friend been

1 the victim or considered yourself the victim of
2 something that you would consider to be a violent
3 crime? That is if you had in your life or a member
4 of your immediate family has had some event that
5 they either were the victims of or charged with some
6 violent offense, and I'm not going to ask you to be
7 personal about this, but if you fall into that
8 category, please stand.

9 (Jurors stand.)

10 **THE COURT:** Yes, sir. Again, I'm not going to
11 ask you the particulars, but you're standing because
12 of that question. Could you still, in spite of
13 having that in your history, be fair and impartial
14 to Mr. Coon and the State in this trial?

15 **JUROR:** Yes, sir.

16 **THE COURT:** All right. Your name and number?

17 **JUROR:** James Dixon and I do not know my
18 number.

19 **THE CLERK:** 42.

20 **THE COURT:** Thank you. You may be seated, Mr.
21 Dixon.

22 Yes, sir, your name and number.

23 **JUROR:** Jason James, number 75.

24 **THE COURT:** All right. Would you, in spite of
25 having a history that I just asked about, would you

1 still be able to be fair and impartial to Mr. Coon
2 and to the State in this trial?

3 **JUROR:** Yes, sir.

4 **THE COURT:** All right. Thank you. You can be
5 seated.

6 Have any of you or a member of your family --
7 again, this is one of those personal questions that
8 I have to ask, but I'm not going to ask you to go
9 into the particulars. Have any of you or a member
10 of your family been adversely affected by the use of
11 illegal drugs or the illegal use of legal drugs; if
12 so, please stand?

13 (Juror stands.)

14 **THE COURT:** All right. Yes, ma'am, again, I'm
15 not going to ask you about your personal history,
16 but because you stood, I will ask your name and
17 number first.

18 **JUROR:** Darlene Schoultz, not sure of my
19 number.

20 **THE CLERK:** 135.

21 **THE COURT:** Would you still, in spite of having
22 this event or part of your life, would you still be
23 able to be fair in this trial to Mr. Coon and to the
24 State?

25 **JUROR:** Yes.

1 **THE COURT:** Okay. Have a seat. Thank you.

2 Anything else from the State?

3 **MR. MAYE:** Nothing from the State, Your Honor.

4 Thank you.

5 **THE COURT:** Okay. I will have a list of

6 witnesses.

7 Anything from the defense, other than what
8 you've handed up and I've gone through and picked
9 out the ones I will --

10 **MR. DRYLIE:** Judge, we just ask that you make
11 the rest of the voir dire a court's exhibit part of
12 the record. We object to the ones that won't be
13 asked.

14 **THE COURT:** I'll be glad to. It will be
15 Court's Exhibit 1.

16 The following are possible witnesses in this
17 case. It's a right long list. I doubt that all
18 these people will testify, but even if they don't
19 testify, their names may come up during the trial.
20 So if any of you know any of these individuals or if
21 you're a close -- if you know any of these
22 individuals, and, particularly, if you're a close
23 personal friend, please stand. And I'm going to go
24 through the entire list and if anybody stands, I'll
25 come back and ask you individually which person's

1 name caused you to stand:

2 Brian Wade; then from the Edgefield County
3 Sheriff's Department, it looks like Jimmy Smith,
4 Curtis Morris, James Densmore and Roosevelt Young;
5 then from the Alcohol, Tobacco and Firearms
6 Division, Ricardo Prince; another Edgefield County
7 officer, Warren Miller; there are three SLED
8 officers, Jennifer Aycock, Shana Sorrels and Captain
9 Stewart Robertson; not involved with any of the law
10 enforcement agencies I've mentioned is a Stewart
11 Robinson, Fred Teeter, Chris Harmon, Jennifer
12 Dewitt, Jearl Guy Fletcher, Jose Negron, William
13 Cecil Allen and James Thomas Minor. Anybody related
14 or know those individuals?

15 (Jurors stand.)

16 **THE COURT:** I'm going to get to you in just a
17 minute. Even though you stood one time before, I
18 have to get your name and number for the record.

19 But lady -- if you'll tell me your name and
20 number.

21 **JUROR:** Theresa Williams, 172. Mr. Smith's
22 wife is a close personal friend of the family.

23 **THE COURT:** Would that -- in spite of that,
24 would you be able to be fair and impartial to the
25 State and Mr. Coon in this trial?

1 **JUROR:** No, sir.

2 **THE COURT:** You would not?

3 **JUROR:** Excuse me? I'm sorry. Repeat the --

4 **THE COURT:** Would you still be able to be fair
5 and impartial?

6 **JUROR:** Yes.

7 **THE COURT:** Okay. I misheard you. You can
8 have a seat.

9 Yes, sir, your name and number again.

10 **JUROR:** William Key, 85. I associate with
11 Mr. Smith with the volunteer fire department here in
12 Edgefield County.

13 **THE COURT:** In spite of that, would you still
14 be able to be fair and impartial for the State and
15 Mr. Coon in this trial?

16 **JUROR:** I could be.

17 **THE COURT:** All right. Thank you. You may be
18 seated.

19 Yes, ma'am, your name and number?

20 **JUROR:** Pam Cook, 31. Mr. Smith is a husband's
21 -- my husband's cousin.

22 **THE COURT:** First cousin or -- I know in the
23 South, we call anybody that's kin to you in 20
24 degrees cousin.

25 **JUROR:** He is the son of my husband's first

1 cousin.

2 **THE COURT:** Well, I'm going to excuse you then.
3 That's pretty close to -- we have certain degrees of
4 kinship and that's -- that's close enough. So just
5 remain with us, but be seated.

6 Anyone else?

7 (There was no response.)

8 **THE COURT:** Anyone on the jury panel who has
9 not already stood know of any reason whatsoever why
10 they could not or should not serve as a fair and
11 impartial juror in the trial of this case; if so,
12 please stand?

13 No one stands.

14 Now, the strikes are five and five or is it --
15 each side has an opportunity to strike, that's a
16 term we use for really excuse, up to five
17 individuals. We will draw 12 jurors and two
18 alternates. The five strikes apply for drawing the
19 12 jurors. As to each alternate, the State will
20 have one strike and the defense two.

21 The way we do this is if you will just stand
22 where you are and face first the table where
23 Mr. Maye is seated and he will say either excuse the
24 juror or present the juror. If you hear the words
25 excuse the juror, just simply take your seat. That

1 doesn't mean leave, just take your seat.

2 If you hear the words, present the juror, face
3 the table where Mr. Drylie and Mr. Coon are seated
4 and Mr. Drylie will say either swear the juror,
5 which if you hear those words, please come forward
6 and the bailiff will tell you where to take a seat
7 in the jury box. If Mr. Drylie says, excuse the
8 juror, again, that simply means you may take your
9 seat. So if you hear your name called, please just
10 stand where you are and follow those directions.

11 **MR. DRYLIE:** Can we approach briefly, Your
12 Honor?

13 **THE COURT:** Yes.

14 (Whereupon, a bench conference was held off
15 the record, in the presence of the jury panel, but
16 out of the hearing of the jury panel.)

17 **THE COURT:** Again, when you hear your name
18 called, please stand and follow those instructions.

19 **THE CLERK:** You'll just come straight up here
20 through the gate, stand right in front of this desk
21 right here --

22 **THE COURT:** Mr. Reel, I'm going to do it a
23 little different. Just let them stand where they
24 are. It's quicker and it doesn't make people walk
25 all over each other.

1 This is a new way we're doing it. The old way
2 is Mr. Reel's. I'm older than he is. So he wants
3 to do old school, but I find that if we do it the
4 old way and you've got people climbing over each
5 other and somebody comes up, it takes a lot of time.
6 So just stand where you are. I hate to overrule
7 Mr. Reel.

8 **THE CLERK:** That's fine. Go right ahead.

9 Juror number 42, James Dixon.

10 (Whereupon, James R. Dixon, Jr., a white
11 male, stood.)

12 **THE CLERK:** What sayeth the State?

13 **MR. MAYE:** Please present the juror.

14 **THE CLERK:** What sayeth the defense?

15 **MR. DRYLIE:** Please swear the juror.

16 **THE CLERK:** Juror number 75, Jason James.

17 (Whereupon, Jason T. James, a white male,
18 stood.)

19 **THE CLERK:** What sayeth the State?

20 **MR. MAYE:** Please present the juror.

21 **THE CLERK:** What sayeth the defense?

22 **MR. DRYLIE:** Please swear the juror.

23 **THE CLERK:** Juror number 16, Virginia Brewer.

24 (Whereupon, Virginia S. Brewer, a white
25 female, stood.)

1 **THE CLERK:** What sayeth the State?

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

3 **THE CLERK:** What sayeth the defense?

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

5 **THE CLERK:** Come on up.

6 Juror number 140, Carolyne Simms.

7 (Whereupon, Carolyne M. Simms, a white
8 female, stood.)

9 **THE CLERK:** What sayeth the State?

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

11 **THE CLERK:** What sayeth the defense?

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

13 **THE CLERK:** Juror number 128, Jonathan Reeves.

14 (Whereupon, Jonathan W. Reeves, a white
15 male, stood.)

16 **THE CLERK:** What sayeth the State?

17 **MR. MAYE:** Please excuse the juror from the
18 trial of this case.

19 **THE CLERK:** You may be seated.

20 Juror number 73, Elizabeth Houston.

21 (Whereupon, Elizabeth A. Houston, a white
22 female, stood.)

23 **THE CLERK:** What sayeth the State?

24 **MR. MAYE:** Please present the juror.

25 **THE CLERK:** What sayeth the defense?

1 **MR. DRYLIE:** Please swear the juror.

2 **THE CLERK:** Juror number 159, Eric Walker.

3 (Whereupon, Eric T. Walker, a black male,
4 stood.)

5 **THE CLERK:** What sayeth the State?

6 **MR. MAYE:** Please excuse the juror from the
7 trial of this case.

8 **THE CLERK:** You may be seated.

9 Juror number 102, Robert McMillian.

10 (Whereupon, Robert H. McMillian, a white
11 male, stood.)

12 **THE CLERK:** What sayeth the State?

13 **MR. MAYE:** Please present the juror.

14 **THE CLERK:** What sayeth the defense?

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

16 **THE CLERK:** You may be seated.

17 Juror number 157, Richter Vann.

18 (Whereupon, Richter S. Vann, a white male,
19 stood.)

20 **THE CLERK:** What sayeth the State?

21 **MR. MAYE:** Please present the juror.

22 **THE CLERK:** What sayeth the defense?

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

24 **THE CLERK:** Juror number 127, Michael Quilty.

25 (Whereupon, Michael T. Quilty, a white male,

1 stood.)

2 **THE CLERK:** What sayeth the State?

3 **MR. MAYE:** Please present the juror.

4 **THE CLERK:** What sayeth the defense?

5 **MR. DRYLIE:** Please swear the juror.

6 **THE CLERK:** Juror number 93, Myron T. Marshall.

7 (Whereupon, Myron T. Marshall, a white male,

8 stood.)

9 **THE CLERK:** What sayeth the State?

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

11 **THE CLERK:** What sayeth the defense?

12 **MR. DRYLIE:** Please excuse the juror.

13 **THE CLERK:** Juror number 68, Ray Hicks.

14 (Whereupon, Ray A. Hicks, a white male,

15 stood.)

16 **THE CLERK:** What sayeth the State?

17 **MR. MAYE:** Please present the juror.

18 **THE CLERK:** What sayeth the defense?

19 **MR. DRYLIE:** Please swear the juror.

20 **THE CLERK:** Juror number 52, Brandon Frye.

21 (Whereupon, Brandon G. Frye, a white male,

22 stood.)

23 **THE CLERK:** What sayeth the State?

24 **MR. MAYE:** Please excuse the juror from the

25 trial of this case.

1 **THE CLERK:** Juror number 144, Marshall Sipple.

2 (Whereupon, Marshall A. Sipple, a white
3 male, stood.)

4 **THE CLERK:** What sayeth the State?

5 **MR. MAYE:** Please present the juror.

6 **THE CLERK:** What sayeth the defense?

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

8 **THE CLERK:** Juror number 4, Shenil N. Armstead.

9 (Whereupon, Shenil N. Armstead, a black
10 female, stood.)

11 **THE CLERK:** What sayeth the State?

12 **MR. MAYE:** Please excuse the juror from the
13 trial of this case.

14 **THE CLERK:** Juror number 172, Theresa Williams.

15 (Whereupon, Theresa B. Williams, a white
16 female, stood.)

17 **THE CLERK:** What sayeth the State?

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

19 **THE CLERK:** What sayeth the defense?

20 **MR. DRYLIE:** Please excuse the juror.

21 **THE CLERK:** Juror 54, Amy Fulmer.

22 (Whereupon, Amy N. Fulmer, a white female,
23 stood.)

24 **THE CLERK:** What sayeth the State?

25 **MR. MAYE:** Please present the juror.

1 **THE CLERK:** What sayeth the defense?

2 **MR. DRYLIE:** Please swear the juror.

3 **THE CLERK:** Juror number 21, Lynn Campbell.

4 (Whereupon, Lynn M. Campbell, a black
5 female, stood.)

6 **THE CLERK:** What sayeth the State?

7 **MR. MAYE:** Please present the juror.

8 **THE CLERK:** What sayeth the defense?

9 **MR. DRYLIE:** Please swear the juror.

10 **THE CLERK:** Juror number 161, Reginald Walker.

11 (Whereupon, Reginald J. Walker, a black
12 male, stood.)

13 **THE CLERK:** What sayeth the State?

14 **MR. MAYE:** Please excuse the juror from the
15 trial of this case.

16 **THE CLERK:** Juror 23, Margaret Carpenter.

17 (Whereupon, Margaret J. Carpenter, a white
18 female, stood.)

19 **THE CLERK:** What sayeth the State?

20 **MR. MAYE:** Please present the juror.

21 **THE CLERK:** What sayeth the defense?

22 **MR. DRYLIE:** Please excuse the juror.

23 **THE CLERK:** Juror 71, Dawn Holmes.

24 (Whereupon, Dawn S. Holmes, a white female,
25 stood.)

1 **THE CLERK:** What sayeth the State?

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

3 **THE CLERK:** What sayeth the defense?

4 **MR. DRYLIE:** Begging the Court's indulgence.

5 (Pause.)

6 **MR. DRYLIE:** Please swear the juror.

7 **THE CLERK:** Two alternates, Judge?

8 **THE COURT:** Two alternates, yes.

9 **THE CLERK:** How many strikes on the --

10 **THE COURT:** One for the State and two each --
11 one for the State on each, two for the defense on
12 each.

13 **THE CLERK:** Juror number 39, Lucille Day.

14 (Whereupon, Lucille B. Day, a white female,
15 stood.)

16 **THE CLERK:** What sayeth the State?

17 **MR. MAYE:** Please present the juror.

18 **THE CLERK:** What sayeth the defense?

19 **MR. DRYLIE:** Please swear the juror.

20 **THE CLERK:** Juror 48, Karen Eggenberger.

21 (Whereupon, Karen M. Eggenberger, a white
22 female, stood.)

23 **THE CLERK:** What sayeth the State?

24 **MR. MAYE:** Please present the juror.

25 **THE CLERK:** What sayeth the defense?

1 **MR. DRYLIE:** Please swear the juror.

2 **THE COURT:** Any issues from the State involving
3 the striking of the panel?

4 **MR. MAYE:** None from the State, Your Honor.

5 **THE COURT:** Mr. Drylie, anything on behalf of
6 Mr. Coon involving the striking of the panel?

7 **MR. DRYLIE:** No motions, Your Honor.

8 **THE COURT:** Those of you who were not chosen,
9 I'm going to allow you to leave, call back tonight
10 after 6:00. And it's very important that you follow
11 the instructions on that blue card Mr. Reel has
12 given you, and it's very important that you follow
13 the instructions. If you're supposed to be here at
14 a certain time, please do because you'll be holding
15 us up if you're not.

16 Also, and I don't say this as a threat, but
17 it's part of my job description, if a juror is not
18 here and we don't know why, I have to ask the
19 sheriff to find out why. But we're easy to deal
20 with. If any of you have -- and I address this to
21 the sitting panel too. If any of you have any
22 reason that you can't be here on time, call the
23 clerk and let us know. We can deal with that. If
24 you -- hopefully, nobody will have car trouble or
25 health problems, but if we know why you're not here,

1 we can deal with that. If we don't, I have to ask
2 the sheriff to find out why you're not here. And,
3 again, I don't mean that as a threat, that's just my
4 job.

5 All right. You can be excused. Call back
6 tonight after 6:00.

7 (The remaining jury panel was excused.)

8 **THE COURT:** Those of you who were chosen, if
9 you'll give me your attention. We're not going to
10 administer the oath until two o'clock when I'll have
11 you come back. And the reason we're not starting
12 really into the meat of the trial until 2:00 is I
13 have certain legal matters to take care of outside
14 of your presence. And I don't know how long they'll
15 take, but they'll take at least until when we break
16 for lunch. There's no sense in having you go to the
17 jury room and sit for an hour and then come back out
18 and say, have a nice lunch. So I'm going to excuse
19 you till two o'clock.

20 Now, when you come back, I'll start off by
21 giving you some more instructions, but right now
22 I'll tell you a few things: One is I'll appoint the
23 foreperson when you get back and that person will be
24 the liaison between the jury and myself and preside
25 over the deliberations of the jury and ultimately

1 sign the unanimous verdict of the jury.

2 Even though you hadn't been sworn, you are a
3 member of this jury panel; as such, you cannot try
4 to make up your own mind or discuss the case among
5 yourselves until I instruct you to deliberate and
6 return a unanimous verdict. Prior to that time, you
7 don't have all the tools you need to make a fair and
8 reasonable decision, so don't try to make up your
9 mind and don't discuss any facet of the case among
10 yourselves.

11 Don't let anyone outside the courtroom discuss
12 this case with you. If anyone approaches you and
13 tries to discuss this case with you, tell them you
14 cannot do so as you are a juror and report back to
15 me if someone tries to talk to you about this case
16 and, hopefully, give me that person's identity so I
17 can take action against someone who has talked to a
18 seated juror.

19 Don't go on any electronic or digital media to
20 find out anything that could remotely deal with this
21 trial. Your verdict must be based solely on the law
22 as I give it to you and the facts as come through
23 the witness stand or exhibits, through testimony or
24 exhibits. So it's not fair, in fact, it's a
25 violation of the oath which you'll be taking, for

1 you to do any independent research. Don't go on any
2 Google or anything like that to find out about any
3 -- about Mr. Coon himself, about his lawyer, about
4 the State's lawyer, about me, about evidence, about
5 anything that could remotely deal with this trial.
6 That would not be fair and would be a violation of
7 your oath.

8 And my next remark may seem a little silly, but
9 I don't think it is, I wouldn't say, don't go on to
10 any social media and say, Guess what, I'm serving as
11 a juror here in Edgefield County this week. That
12 sounds pretty innocuous, but even if you don't say
13 what the case is about, somebody may reply with some
14 information that would not be healthy for your
15 service as a juror. So just stay away from that. I
16 know it's hard in this day and time.

17 I'm not saying don't go on social media, but
18 don't go on there and start discussing -- if
19 somebody says, what are you doing this week, don't
20 reply, I'm serving on a jury; don't reply, nunya,
21 nunya business. Y'all watch commercials too? But
22 just say, I'm busy; I'll let you know later, or
23 something.

24 Anything else the State wanted me to charge
25 before we break for lunch?

1 **MR. MAYE:** Nothing from the State, Your Honor.

2 Thank you.

3 **THE COURT:** Mr. Drylie?

4 **MR. DRYLIE:** Nothing from the defense, Your
5 Honor.

6 **THE COURT:** All right. They'll show you where
7 the jury room is.

8 **THE CLERK:** If you'll follow Mr. Bussey, he'll
9 show you where to report back at two o'clock.

10 **THE COURT:** All right. Have a pleasant lunch
11 and we'll see you back at two o'clock.

12 (The jury was excused for lunch.)

13 (Court's Exhibit Number 1, defense requested
14 voir dire, marked for identification.)

15 **THE COURT:** The defense has filed with the
16 Court a motion to suppress certain evidence -- well,
17 really, all the evidence based on an alleged defect
18 in the search warrant issued by the magistrate or
19 the issuing officer. And I haven't seen the search
20 warrant, so I don't know exactly who issued it. But
21 the motion is to suppress the evidence seized based
22 on the violation of Mr. Coon's Fourth Amendment
23 Right to be free from unreasonable search and
24 seizure.

25 So, Mr. Drylie, if you want to articulate your

1 grounds for that and then I'll call on the State if
2 we need to take evidence.

3 **MR. MAYE:** May it please the Court, Your Honor.
4 Can I switch gears here? I had the sheriff and this
5 crowd here helping me pick the jury. Can I take --
6 can we take a break for just a few minutes and let
7 me go get my things? I want to switch from my jury
8 drawing to my court-trying crowd.

9 **THE COURT:** All right. We'll take a break.
10 And we might as well go ahead and visit this issue
11 now. Mr. Coon is out on bail, right? Out on bond?

12 **MR. DRYLIE:** No.

13 **THE COURT:** He's not, okay. Well, that's not
14 an issue.

15 All right. We'll take about a ten-minute break
16 to -- I certainly want the State to be well armed to
17 respond to Mr. Drylie's well-articulated argument.

18 **MR. DRYLIE:** Thank you, Judge.

19 (Brief Recess.)

20 **MR. MAYE:** Your Honor, thank you. I appreciate
21 the Court's indulgence. We were going through
22 photographs and I think we're able to agree on a lot
23 of that, which is going to expedite some of this,
24 Your Honor.

25 **THE COURT:** Very good.

1 **MR. MAYE:** Thank you.

2 **THE COURT:** Mr. Drylie, you've got this motion
3 to suppress. I've read -- I hadn't read all of the
4 cases, but I read your brief, so I've kind of got an
5 overview, but let's go ahead and put on the record
6 and inform me exactly what the issue is regarding
7 the search warrant or the -- the subsequent search
8 and seizure.

9 **MR. DRYLIE:** Yes, Judge. Essentially, just to
10 layout the timeline in this case real quick, I
11 believe on December 10th, 2015, a man named Brian
12 Wade was arrested by the Aiken County Sheriff's
13 Department for some charges. On the 14th,
14 Investigator Ireland and Investigator Smith met with
15 Mr. Wade at the Aiken County Detention Center. On
16 the 15th, they applied for a search warrant. They
17 used a phrase in the search warrant, Confidential
18 Informant.

19 It's my understanding, from talking with the
20 solicitor, they absolutely never worked with this
21 informant before nor received any information from
22 him. I'm not aware of any investigation that was
23 done to corroborate the information that he had
24 given them.

25 Judge, I prepared a brief, as well as some

1 cases for the Court to review. State v. Johnson is
2 the case that I rely heavily on. I believe it's the
3 first case in your packet.

4 **THE COURT:** It is.

5 **MR. DRYLIE:** And, Judge, essentially, page --
6 this is based off of an informant leaving someone's
7 house at -- between 11:00 and 12:00 that night.
8 They got a search warrant hours later. The court
9 remanded to see about the reliability of the
10 informant because there was nothing in the search
11 warrant as far as reliability goes.

12 Here we have the exact same situation. There's
13 nothing in the search warrant that calls him a
14 reliable confidential informant. And I don't know
15 how they can call him reliable because they've
16 absolutely never worked with him before, nor was an
17 independent investigation done to corroborate it, as
18 far as I've been made aware at this point.

19 Judge, I point out on page three at the bottom
20 paragraph, it says, Although the affidavit states
21 that the informant saw the evidence in Johnson's
22 home within 72 hours of the issuance of the warrant,
23 it does not set forth any information as to the
24 reliability of the informant, nor was the
25 information corroborated.

1 Judge, I understand that there's a good faith
2 exception that they say it shouldn't apply here
3 because it's essentially a rubber stamp, that it's
4 not a neutral and detached magistrate ruling on it
5 at that point, but merely a law enforcement officer
6 who's engaged in the competitive enterprise of
7 ferreting out crime. And that's straight from the
8 case.

9 Judge, there's a series of other cases that
10 follow. We have State v. Thompson which talks about
11 confidential informants and the fact that
12 confidential informants are subject to stricter
13 scrutiny when it comes to reliability and veracity
14 because they're not holding their name out there for
15 the entire world to know.

16 Now, it was revealed before trial, but it
17 wasn't revealed until about a year after this, I
18 believe, December 16th was the day -- 2016, was the
19 day that his name was revealed to me. So he was a
20 confidential informant for a year, Judge.

21 And going into this case on page -- I believe
22 it's page six, it says, Our courts have determined
23 nonconfidential information and eyewitnesses have
24 more credibility than confidential informants. Here
25 we have a confidential informant. That's on the top

1 of page six in here.

2 You know, evidence of past reliability is not
3 usually required when information is provided by an
4 eyewitness because unlike a paid informer, the
5 eyewitness does not ordinarily have the opportunity
6 to establish a record.

7 Here we have something where it's subject to
8 greater scrutiny because it is a confidential
9 informant, and it was a confidential informant
10 looking to get out of trouble in Aiken County.

11 Judge, furthermore, in Philpot, which is the
12 next case in there, on the first page, it says, The
13 task of the magistrate when determining whether to
14 issue a warrant is to make a practical, common sense
15 decision as to whether, under the totality of the
16 circumstances set forth in the affidavit, there is a
17 fair probability that the evidence of a crime will
18 be found in a particular place. The decision
19 includes consideration of the veracity of the person
20 supplying the information and the basis of their
21 knowledge. In this case, there was no showing of
22 reliability of the confidential informant.

23 And, finally, I've got the State v.
24 Coin-Operated Game Machines. Judge, on page eight
25 on this case deals with the search issues. And it

1 says, Appellant directly asserts that a warrant
2 based solely on information provided by a
3 confidential informant must contain information
4 supporting the credibility of the informant and the
5 basis for -- of his knowledge.

6 Now, in this case, there was independent
7 verification by law enforcement officers, which I
8 don't believe we have here. And if we do, it's
9 never been given to me, especially because they met
10 with them on the 14th and applied for the search
11 warrant on the 15th.

12 I have several issues with the search warrant,
13 and I'll pass copies of the search warrant up for
14 you now.

15 **THE COURT:** Please.

16 **MR. DRYLIE:** Judge, this is the search warrant,
17 as well as the return attached to it.

18 **THE COURT:** Any objection from the State?

19 **MR. MAYE:** No, Your Honor. I'd like for you to
20 have a clean copy of the search warrant and I was
21 making sure that you did.

22 **THE COURT:** Thank you.

23 **MR. DRYLIE:** Judge, if you go through the
24 affidavit on this search warrant, it says, On
25 December 14th, 2015, a confidential informant told

1 investigators of the Edgefield County Sheriff's
2 Office that he'd been to a residence located at [REDACTED]
3 Rain Forest Lane. He details the stuff that he had
4 seen inside, essentially narcotics, C-4, and he gave
5 a drawing of the residence.

6 Judge, there's nothing in the affidavit that
7 says that this was reliable. Going on these cases,
8 Judge, I believe there would have to be something in
9 the affidavit as to his reliability.

10 Furthermore, Judge, when the confidential
11 informant was revealed to the defense, a rap sheet
12 was given. Judge, I don't know when they ran the
13 rap sheet for the first time on this confidential
14 informant, but he had actually been convicted in
15 2014 and 2015 of giving false information to police.
16 I believe that that should have been disclosed to
17 the magistrate; I don't know if it was.

18 And, finally, Judge, we don't have an exact
19 timeframe of when he was in the home. The warrant
20 -- the affidavit says within the past week, which is
21 kind of difficult to believe because on December
22 15th is when they made the application for the
23 warrant. On December 10th, he was arrested in
24 Aiken. So it would have had to be the 8th or the
25 9th.

1 However, in the incident report given to me by
2 Investigator Smith, he says in the past weekend.
3 Well, he couldn't have done it the 11th, the 12th or
4 the 13th because he was in jail. It would have had
5 to have been the weekend before, and then we're
6 starting to get into the issues of staleness.

7 So, Judge, my first argument is that the
8 warrant is unreliable based on the fact that they
9 didn't reveal any reliability or timeframes to the
10 magistrate. My second issue is staleness, which
11 isn't really addressed in the memo, but I did want
12 to raise it.

13 **THE COURT:** All right. And it appears from the
14 note on the affidavit of judge -- indicating that
15 oral sworn testimony was also taken.

16 **MR. DRYLIE:** That's correct, Judge. And I
17 talked with the magistrate and asked her what the
18 oral testimony was and it was the name of the
19 confidential informant, but it wasn't -- and my
20 understanding is that the oral testimony was
21 essentially that they met with Brian Wade in the
22 Aiken County Detention Center. But from our
23 conversation that I had with her, she didn't add
24 anything as to the reliability.

25 **THE COURT:** As to your second issue about this

1 confidential informant actually being in jail on
2 December 14th, I don't know that that is -- that
3 that day the informant said he'd been to the
4 residence in the past week and you say that that's,
5 based on the calendar, an impossibility because he
6 was in jail from when?

7 **MR. DRYLIE:** I believe he was arrested December
8 10th. It's possible, but it doesn't align up with
9 the incident report that I have.

10 **THE COURT:** All right. Well, we're looking at
11 the warrant now. I can't -- I don't know that I can
12 go behind the warrant. I mean, if you've got some
13 evidence, I'll certainly take a look at it, but I've
14 got to look at what the -- whether or not the
15 affidavit supports what the magistrate did. So I'll
16 call that -- turn it over to the State if they want
17 to present anything on this issue.

18 Mr. Maye, anything?

19 **MR. MAYE:** Your Honor, are you ready for us
20 to --

21 **THE COURT:** I am.

22 **MR. MAYE:** The State would call Investigator
23 James Smith to the stand in this case, Your Honor.

24 **THE COURT:** Please come up and be sworn.

25 *****

1 JAMES SMITH,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MAYE:

5 Q Investigator Smith, state your name for the
6 record, tell the Court about where you're employed,
7 your background in law enforcement.

8 A Investigator James Smith. I'm an investigator
9 with the Edgefield County Sheriff's Office. I
10 started in law enforcement in 1998. And in 2005, I
11 came to the Edgefield County Sheriff's Office. And
12 in 2006, I became an investigator.

13 Q Okay. Let me go back and let's talk about the
14 events around December the 14th of 2015 and how you
15 first got involved in this case. When did you first
16 become aware that there was any need for you to make
17 inquiry or begin any sort of investigation in this
18 case? What date was that?

19 A That would have been -- I believe it's that
20 morning or the day prior, Captain Wash came to us,
21 myself and Investigator Ireland, and said there was
22 a subject at Aiken County Detention Center that
23 wanted to talk to us about incidents that took place
24 in Edgefield County.

25 Q Okay. What day did you actually go over? Was

1 it December the 14th of 2015?

2 **A** It was the 14th of December, yes, sir, of 2015.

3 **Q** That you actually went over?

4 **A** Yes, sir.

5 **Q** Who did you actually speak with when you went
6 over to the Aiken County Detention Center?

7 **A** Myself and Investigator Ireland, we talked to
8 Mr. Walter Brian Wade.

9 **Q** Okay. You talked to Brian Wade?

10 **A** Yes, sir.

11 **Q** Was he in the jail at that time on charges?

12 **A** Yes, sir.

13 **Q** Okay. Those charges that I think were involved
14 in stolen vehicles, they had caught him with some
15 stolen vehicles?

16 **A** Yes, sir.

17 **Q** Okay. At that time, he had cooperated with the
18 SLED officers that had made arrests and assisted
19 them in getting vehicles back, hadn't he?

20 **A** Yes, sir.

21 **Q** Okay. So he was arrested for what type of
22 crime?

23 **A** Possession of stolen vehicles.

24 **Q** For possession of stolen vehicles?

25 **A** Yes, sir.

1 Q Okay. The South Carolina Law Enforcement
2 Division, the vehicle crimes division, had placed
3 him under arrest for that, correct?

4 A Yes, sir.

5 Q Okay. Did you learn at that point in time that
6 he had cooperated with SLED and assisted them in
7 getting back stolen vehicles other than the ones he
8 was stopped in?

9 A Yes, sir.

10 Q Okay. So he had given information to the South
11 Carolina Law Enforcement Division at that point in
12 time that had proven to be accurate and verified?

13 A Yes, sir.

14 Q And they had, in fact, recovered stolen
15 vehicles at that time?

16 A Yes, sir.

17 Q Okay. What -- please relate whatever
18 information that you gained -- and I'm going to ask
19 you this and we'll skip forward here. Based on the
20 information that you gathered from Brian Wade on the
21 14th, did you go down to the magistrate's office on
22 December the 15th in front of the Honorable Brenda
23 Carpenter?

24 A Yes, sir, I did.

25 Q Okay. Prior to you going there, did you

1 prepare a written affidavit?

2 A Yes, sir, I did.

3 Q Okay. Did you present that written affidavit
4 after being sworn by Judge Brenda Carpenter?

5 A Yes, sir.

6 Q She placed you under oath and you were sworn?

7 A Yes, sir.

8 Q Okay. You filled out the affidavit and
9 attested to it and signed your name in swearing to
10 the affidavit that you gave to Judge Carpenter at
11 that time?

12 A Yes, sir.

13 Q Okay. Additionally, you gave sworn oral
14 testimony to supplement the warrant; is that
15 correct?

16 A Yes, sir.

17 Q What did you do to memorialize or document --
18 what did you have Judge Carpenter do on the face of
19 this search warrant and the affidavit to record that
20 you gave supplemental oral testimony to support the
21 affidavit?

22 A On the bottom of the affidavit below our
23 signature is her handwriting. She wrote, Search
24 warrant issued upon service of sworn affidavit and
25 sworn supplemental oral testimony from affiant. She

1 wrote that in on the affidavit of the search
2 warrant.

3 **Q** Okay. So you filled out the affidavit, but
4 then you gave a -- you gave supplemental oral
5 testimony after being sworn by Judge Carpenter,
6 correct?

7 **A** Yes, sir.

8 **Q** Okay. Did you relate all of the information
9 that you gathered from the confidential informant,
10 or a person that you identified as a confidential
11 informant, did you relate all of that information to
12 Judge Carpenter while you were under oath in
13 supplement to your affidavit?

14 **A** Yes, sir.

15 **Q** Okay. You listed Brian Wade as being a
16 confidential informant in the affidavit, correct?

17 **A** Yes, sir.

18 **Q** When you gave supplemental testimony under oath
19 to Judge Carpenter, did you identify him and make
20 him a known witness?

21 **A** Yes, sir.

22 **Q** You told her his name. And what name did you
23 tell Judge Carpenter you had gotten the information
24 from?

25 **A** Walter Brian Wade.

JAMES SMITH (IN CAMERA) - DIRECT BY MR. MAYE

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1 **Q** Walter Brian Wade?

2 **A** Yes, sir.

3 **Q** Did you inform -- while you were under oath,
4 did you inform the magistrate of the information
5 that you had gathered in regard to him being
6 convicted or being charged with vehicle crimes?

7 **A** Yes, sir.

8 **Q** Did you relate the information that he had
9 given law enforcement, specifically the South
10 Carolina Law Enforcement Division, information
11 regarding the recovery of the stolen vehicles and
12 had cooperated with them?

13 **A** I related to it that she -- he cooperated with
14 investigation in Aiken County with reference to
15 recover the vehicles, yes.

16 **Q** And you gave her information indicating that
17 the information that he had already provided to them
18 had borne out and they were able to recover the
19 stolen vehicles?

20 **A** Yes, sir.

21 **Q** Okay. So at the time that you spoke with him,
22 he had already cooperated with law enforcement and
23 been successful in giving them information that led
24 to them recovering stolen vehicles?

25 **A** Yes, sir.

1 Q Okay. And you related that same information to
2 the magistrate?

3 A Yes, sir.

4 Q Okay. Please go through and -- well, let me
5 ask you this: Why did you list him as a
6 confidential informant in the written affidavit and
7 then identify him with supplemental oral testimony
8 in front of Judge Carpenter?

9 A I didn't want him identified to compromise him
10 or any investigation that was going on for Aiken
11 County. So while this was going on during the
12 beginning phases of it, his name would not be known.

13 Q Okay. You did disclose his name and all of the
14 information to the magistrate though, correct?

15 A Yes, sir. Yes, sir.

16 Q So she was, in fact, at the time that she
17 issued this search warrant, she was aware of his
18 identity, correct?

19 A Yes, sir.

20 Q Did you relate to Judge Carpenter that he had
21 been an eyewitness to the events that he described
22 to you?

23 A Yes, sir.

24 Q Okay. Please go through and tell the Court
25 everything that you disclosed to Judge Carpenter in

1 your supplemental oral testimony regarding the
2 information that you gathered from Brian Wade there
3 when you interviewed him.

4 **A** When under sworn testimony, I did tell Judge
5 Carpenter that Mr. Wade had been to the residence on
6 several occasions.

7 **Q** Which residence are we talking about?

8 **A** ■ Rain Forest Lane.

9 **Q** ■ Rain Forest Lane?

10 **A** Yes, sir.

11 **Q** Is that here in Edgefield County?

12 **A** Yes, sir, it is.

13 **Q** Did you relate that to the judge and tell her
14 where the property was in Edgefield County?

15 **A** Yes, sir. He relayed to us that residing at
16 that address was Mr. David Coon, who they called
17 Pop; his daughter, Heather Hall; and also another
18 gentleman that he identified as Biker Tim. That the
19 three of those lived at those residence.

20 He had been to that residence on several
21 occasions. While there at the residence, he has
22 personally seen numerous firearms to include assault
23 rifles, handguns, sawed-off shotguns, explosives,
24 large quantities {sic} in plastic bags of
25 methamphetamines and prescription-type pills. He

1 had seen two motorcycles at the residence that
2 appeared to have been painted over black. He had
3 saw a camouflage vehicle and a red pick-up truck, a
4 Nissan van that had been parked in the front yard of
5 the residence that had been used for target practice
6 at which he actually said he had shot guns with them
7 into that vehicle while he had been at the
8 residence.

9 Q Let me ask you this: Prior to going to the
10 magistrate in this case and preparing the affidavit
11 and giving the supplemental oral testimony, you met
12 with him on the 14th, correct?

13 A Yes, sir.

14 Q What did you do to corroborate and verify the
15 information about the location, the description that
16 he gave the location, the vehicles that were there,
17 the motorcycles? What did you do to independently
18 vet and verify what he had told you on the 14th?

19 A Deputies with the sheriff's office, mainly
20 including Deputy Florida, who's now Sergeant Florida
21 of the Edgefield County Sheriff's Office, had been
22 getting complaints about heavy traffic in and out of
23 Rain Forest Lane to include black motorcycles. He
24 had been riding -- watching the area for a while.
25 He would see black motorcycles go and come from the

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1 residence.

2 Prior to December the 14th, he actually went to
3 the residence on a --

4 Q Who actually went to the residence?

5 A Deputy Florida.

6 Q Did you meet -- prior to going to see Judge
7 Carpenter, did you meet with Deputy Florida and talk
8 with him about this?

9 A Yes, sir.

10 Q Okay. So what else did he tell you --

11 A Deputy Florida had been to the residence prior
12 to the 15th of December on a welfare check type
13 call, welfare check of the person he had went there
14 on. Well, actually while he was there, Mr. Coon was
15 present at the residence. Mr. Coon did take him in
16 and carry him through the residence.

17 He was -- Deputy Florida was able to give us a
18 detailed drawing of the residence which also matched
19 the detailed drawing of the residence that was given
20 to us by Mr. Wade when we interviewed him on the
21 14th. Deputy Florida said that he had seen the
22 motorcycles coming and going from the location. He
23 said, through prior calls, he did have knowledge
24 that Mr. Coon lived at the residence along with
25 Heather Hall.

1 **Q** Okay. So you were able to verify all of those
2 things that Brian Wade told you on the 14th through
3 Deputy Florida?

4 **A** Yes, sir.

5 **Q** Did you relate all of that in sworn
6 supplemental oral testimony to Judge Carpenter that
7 you had vetted and verified everything that Mr. Wade
8 had told you through Deputy Florida?

9 **A** Yes, sir.

10 **Q** Did you include in that the information about
11 the vehicles that were there, the camo vehicle, the
12 red pick-up truck, the motorcycles?

13 **A** Yes, sir.

14 **Q** Okay. Did you relate to her that you had
15 verified that the officers had also observed this
16 heavy traffic that Wade described?

17 **A** Yes, sir.

18 **Q** Okay. Did you relate to the magistrate that
19 you had verified through Deputy Florida in this case
20 the information that Wade gave you regarding the
21 names of the individuals that were there?

22 **A** Yes, sir.

23 **Q** Did you relate to her that the deputy had been
24 inside the residence, drawn you a diagram and you
25 had verified that with the description that Wade

1 gave you?

2 **A** Yes, sir. And that's also actually in the
3 written part of the affidavit of the search warrant
4 that the deputy's drawing of the sketch matched
5 Mr. Wade's.

6 **Q** Okay. So on the face of the written affidavit,
7 you did give some information where you had vetted
8 and corroborated the information by law enforcement?

9 **A** Yes, sir.

10 **Q** And you actually named Deputy Florida in the
11 written --

12 **A** I didn't -- I didn't name him in the written
13 affidavit. I just said a deputy of the Edgefield
14 County Sheriff's Office.

15 **Q** Okay. And that's who you were speaking of
16 specifically?

17 **A** Yes, sir.

18 **Q** Okay. Did you speak with Deputy Florida about
19 encountering these individuals that were there at
20 other locations other than down there at gas
21 stations and other places?

22 **A** Yes, sir. He stated that he had seen them
23 going and coming. One day he actually saw the
24 vehicles at the gas station, Greg's Gas Plus, which
25 is in Aiken County just over the county line, and he

1 pulled in and struck up a conversation with them to
2 try to learn more about the persons that were
3 staying at the residence down there.

4 Q Did you relate that same information in regard
5 to your supplemental sworn oral testimony to the
6 magistrate at that point in time?

7 A Yes, sir.

8 Q Okay. In fact -- please go forward and -- let
9 me ask you this: Wade was there, was it on the 6th
10 of December? Is that the information that you have?

11 A Yes, sir. He said it was the prior weekend
12 before he went to talk to him. It was around the
13 6th of December.

14 Q Okay. In between the time of the 6th going
15 forward to the 15th, when you got this incident
16 report, did you continue to get information from law
17 enforcement about whether or not they were seeing
18 this traffic, seeing these vehicles going from --
19 from the residence in the interim? After the 6th
20 and at the point in time that you went and got this
21 from the magistrate on the 15th, were you able to
22 verify that there was ongoing traffic and apparently
23 ongoing interest in an investigation on the part of
24 law enforcement at that residence?

25 A Yes, sir. The deputy said that up until the

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1 warrant was served, that there was continuous
2 ingoing and outgoing traffic, motorcycles coming in
3 and out and other persons coming in and out of ■
4 Rain Forest, the driveway going into ■ Rain Forest.

5 Q Did you relate that to the magistrate, at the
6 time that you got the search warrant on the 15th,
7 that this same traffic and ingress and egress into
8 the property was continuing and ongoing?

9 A Yes, sir.

10 Q Okay. What did Wade tell you about going
11 inside of the property and the events that took
12 place when he went inside of the property there?
13 What else did he relate to you?

14 A He stated that when he went inside the
15 property, he did observe plastic explosives, the
16 large quantities of the drugs in Ziploc-type bags.
17 He said he had actually traded vehicles and cash at
18 that residence in exchange for drugs. He stated
19 that he had seen the numerous guns. They would show
20 him a bunch of guns that was at the residence, and
21 that he did partake in -- in the vehicle, of
22 shooting at the vehicle. He stated he --

23 Q Now, let me ask you this: He told you he
24 participated in shooting a vehicle that was on the
25 property?

1 **A** Yes, sir.

2 **Q** Okay. What type of vehicle did he describe to
3 you that he had shot?

4 **A** It's a Nissan van.

5 **Q** A Nissan van?

6 **A** Yes, sir.

7 **Q** Okay. Had the deputy -- were you able to
8 verify that through Deputy Florida prior to giving
9 sworn testimony to the magistrate?

10 **A** Yes, sir. He had said he had saw the van in
11 the yard with a bunch of large bullet holes in it.

12 **Q** Okay. He had seen the van at times in the
13 yard?

14 **A** Yes, sir.

15 **Q** So you corroborated what Wade told you with
16 Florida prior to going to the magistrate. In your
17 sworn supplemental oral testimony, did you relate
18 that same information to Judge Carpenter about the
19 verification of the description of the van, the
20 bullet holes in the van and the account that you got
21 from Wade about they had shot that van up while he
22 was present?

23 **A** Yes, sir.

24 **Q** Okay. What else, if anything, did he tell you,
25 Wade, about engaging in drug transactions when he

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1 was there on the 6th?

2 A He said that he had traded transactions for
3 drugs to -- with Mr. Coon at the residence. He also
4 said that while he was there, he would talk with
5 Mr. Coon. Mr. Coon would tell him that there was
6 explosives planted all out through the property and
7 he could set them off as a distraction to get away
8 if he needed to.

9 Q Okay. Mr. Coon, he related to you that he had
10 actually gotten methamphetamine and received
11 methamphetamine from Coon and Wheeler during the
12 visit that he was there on the 6th; is that correct?

13 A Yes, sir.

14 Q You related that same information to Judge
15 Carpenter in your supplemental sworn oral testimony?

16 A Yes, sir.

17 Q Okay. What information did Brian Wade give to
18 you in regard to weapons that were on the property?
19 What descriptions of weapons and quantities of
20 weapons did he relate to you?

21 A He said it was a large quantity, sawed-off
22 shotguns, assault rifles, pistols, just, he said,
23 all kind of guns.

24 Q He related to you that he had actually fired
25 upon and shot this van at the residence, correct?

1 **A** Yes, sir.

2 **Q** Okay. And you were able to corroborate through
3 Florida that there were bullet holes in a van there
4 and that he had seen a similar -- as described by
5 Wade?

6 **A** Yes, sir.

7 **Q** And you related that to Judge Carpenter at the
8 time you got the warrant?

9 **A** Yes, sir.

10 **Q** Have you got a copy of the warrant affidavit
11 there?

12 **A** Yes, sir.

13 **Q** Please go through -- give the description of
14 the property that you sought in that affidavit there
15 that you gave to Judge Carpenter.

16 **A** Description of property sought including, but
17 not limited to, any and all unlawful narcotics,
18 firearms, explosives, stolen vehicles and other
19 items leading to the evidence of criminal
20 enterprise.

21 **Q** What description did you give her of the
22 premises or where you wished to search?

23 **A** ■ Rain Forest Lane, a white in color
24 double-wide mobile home with an older wooden front
25 porch located at the end of Rain Forest Lane. To

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1 locate ■ Rain Forest Lane, starting at the
2 intersection of Meeting Road and Murrah Road, travel
3 west on Murrah Road for approximately four-tenths of
4 a mile to Rain Forest, turn left on Rain Forest Lane
5 and travel approximately two-tenths of a mile to ■
6 Rain Forest Lane. Also to be searched at the
7 residence, any vehicles, outbuildings, wooded area
8 adjacent to the residence.

9 **Q** Okay. What did you actually relate in your
10 affidavit your reason for belief that the property
11 sought was on the premises and on the face of the
12 written affidavit, what information? Please provide
13 that to the Court.

14 **A** On December the 14th of 2015, confidential
15 informant told to investigators of the Edgefield
16 County Sheriff's Office that he has been to
17 residence located at ■ Rain Forest Lane in the past
18 week and has seen large quantities of heroin,
19 methamphetamine, along with automatic assault
20 rifles, sawed-off shotguns, C-4 explosives.

21 Informant stated that the C-4 explosives and the
22 assault rifles were in green military style boxes.

23 Informant stated he has bought narcotics from
24 residents. Informant stated he was told by
25 residents that the camo truck and red truck parked

1 at the residence were stolen and had been repainted.
2 Informant stated that a white male named David Coon
3 a/k/a Pops lives at residence along with his
4 daughter, Heather Hall, and a white male known as
5 Biker Tim.

6 Informant gave a detailed drawing of residence
7 matching sketch of residence that a deputy of the
8 Edgefield County Sheriff's Office gave. The deputy
9 had previously visited residence in which no action
10 was taken. This informant gives the affiant -- this
11 information gives the affiant reason to believe that
12 the confidential informant has been inside of
13 residence.

14 Q Okay. You presented that affidavit after
15 swearing to it to the magistrate, to Judge
16 Carpenter, on December the 15th of 2015?

17 A Yes, sir.

18 Q She noted on there that it was supplemented by
19 your oral testimony in her handwriting?

20 A Yes, sir.

21 Q Did, in fact, Judge Carpenter, on that date,
22 sign the search warrant and give it back to y'all
23 for execution?

24 A Yes, sir.

25 Q Was it executed within ten days by the

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1 sheriff's office?

2 **A** It was executed on December 22nd.

3 **Q** On December the 22nd?

4 **A** Yes, sir.

5 **Q** Let me ask you this: Once it was executed, was
6 a copy of the search warrant given to a person that
7 was on the premises at that time?

8 **A** Yes, sir. It was given to Tim Wheeler.

9 **Q** It was given to Tim Wheeler?

10 **A** Yes, sir.

11 **Q** Was he actually there at the residence at the
12 time that the search warrant was served?

13 **A** Yes, sir.

14 **Q** Okay. Was a copy of the return given back to
15 the magistrate within ten days in this case?

16 **A** Actually, it was returned the next day on the
17 23rd of December by --

18 **Q** The 23rd of December, the magistrate got the
19 written return?

20 **A** Yes, sir.

21 **Q** Okay. Did y'all inventory and detail all of
22 the items that y'all took and note them on the
23 return?

24 **A** I didn't personally, but they were listed on
25 the return and turned in on the return, a

1 supplemental pages of the return, which was done by
2 Investigator Ireland.

3 Q Okay. But you have vetted all of the items
4 that were seized in this case and you've seen all of
5 the evidence -- the items that were seized in this
6 case?

7 A Yes, sir.

8 Q They're listed on the return?

9 A Yes, sir.

10 Q And so you verified that and know that of your
11 own knowledge?

12 A Yes, sir.

13 Q Okay. So those items were all placed on the
14 return and the return was given on what date?

15 A The 23rd of December.

16 Q Okay. Did any person make any sort of request
17 for a copy of the return during that time period?

18 A As per Investigator Ireland who served the
19 warrant, did the return on it, no.

20 Q Okay. So no one made any demand for a copy of
21 the return outside -- and it was turned over to the
22 defense in this case pursuant to discovery, but
23 during that point in time with the person it was
24 served on, no demand was made?

25 A No, sir.

1 **Q** So in your supplemental oral testimony, in
2 fact, Brian Wade was not a confidential informant,
3 but he was a named witness to Judge Carpenter?

4 **A** Yes, sir.

5 **Q** Okay. And you related to her all of the
6 information that you have testified to here this
7 morning about the information that you got from him
8 in the vetting of it?

9 **A** Yes, sir.

10 **Q** You related all of that in your supplemental
11 sworn testimony?

12 **A** Yes, sir.

13 **Q** To Judge Carpenter?

14 **A** Yes, sir.

15 **MR. MAYE:** Thank you. Answer any questions the
16 defense has for you.

17 CROSS-EXAMINATION

18 BY MR. DRYLIE:

19 **Q** I'm just trying to get clear on a couple
20 things.

21 **A** Yes, sir.

22 **Q** On December 14th is when you went to meet with
23 Brian Wade in Aiken, correct?

24 **A** Yes, sir.

25 **Q** Okay. And you said on that day, he had already

1 told SLED about some other vehicles?

2 A Yes, sir. They had been working with him to
3 recover some vehicles in Aiken County.

4 Q What vehicles did they recover?

5 A I'm not aware of what they recovered.

6 Q Who was working on the case?

7 A I believe it was Agent DeQuawn Smith with the
8 State Law Enforcement Division in Aiken County.

9 Q Okay. Now, after meeting with Wade, you went
10 and applied for a search warrant, correct?

11 A The next day, yes, sir.

12 Q Okay. And what date did Wade tell you he had
13 been in the house?

14 A He said it was the prior week.

15 Q But now you're saying the 6th?

16 A It was around -- he said it was around the
17 prior week. He said it was around the 6th, but he
18 said it was the prior week.

19 Q Well, did he say the 6th or the prior week?

20 A Prior week.

21 Q Okay. Now, in your incident report, you put
22 last weekend, right?

23 A I didn't fill the incident report out;
24 Investigator Ireland did. So I'm not sure how --
25 actually what he worded in it. I don't have a copy

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1 of it in front of me.

2 Q So what day was Wade actually in the house?

3 A He said the prior week. And I listed in the
4 affidavit in the past week.

5 Q Okay. Now, do you have any documentation from
6 Deputy Florida's visit out to the house?

7 A No, sir.

8 Q Okay. There was never any report done or
9 anything?

10 A We tried to go through records and find the
11 report, but we could not find the report where he
12 went out there.

13 Q Where is the drawing that Wade gave you?

14 A I don't have it.

15 Q Where did it go?

16 A I don't have the packet, I'm not sure.

17 Q Now, at the time you met with Wade, you had
18 never worked with him before, correct?

19 A No, sir.

20 Q Okay. So you didn't know who he was?

21 A No, sir.

22 Q And you had no idea if there was any
23 information that he was giving to you was true or
24 not?

25 A At the time that he was giving it to us, we did

1 not.

2 Q Okay. Now, you put in the affidavit that you
3 had believed he had been inside the residence,
4 correct?

5 A Yes, sir.

6 Q Now, being inside the residence would be
7 different than knowing that drugs are there,
8 correct?

9 A Yes, sir.

10 Q Okay. Now, you called Wade a CI?

11 A Yes, sir.

12 Q In the affidavit?

13 A Yes, sir.

14 Q And that's because you didn't want people
15 knowing who he was?

16 A That's correct.

17 Q Okay. Did you run a rap sheet on Wade?

18 A Not before I talked to him, no, I did not.

19 Q Did you run a rap sheet before you went to get
20 the search warrant?

21 A No, sir, I did not.

22 Q So you knew nothing about his criminal
23 history --

24 A No, sir.

25 Q -- when you went to get the search warrant?

1 **A** No, sir.

2 **Q** So you didn't know he had been convicted of
3 giving false information to police?

4 **A** No, sir.

5 **Q** Twice?

6 **A** I didn't have any information about his
7 criminal history.

8 **Q** Wouldn't that be something to know if you were
9 relying on a confidential informant to get an
10 affidavit?

11 **A** I didn't run one before I went. All I had --
12 the information that I relayed to the magistrate was
13 about the stolen vehicles that they had recovered.

14 **Q** So on the 14th, you essentially just took Wade
15 at his word, right?

16 **A** Yes, sir.

17 **Q** Okay.

18 **MR. DRYLIE:** Beg the Court's indulgence for a
19 second.

20 (Pause.)

21 **Q** Now, when you went to -- when you went to meet
22 with Wade, he was trying to get out of trouble,
23 correct?

24 **A** He was cooperating with what he had. I'm not
25 sure what charges he had in Aiken County and what

1 other -- and the things -- what deals they had made
2 with him. We went because we were told by the
3 captain that he had information he wanted to share
4 about stuff in Edgefield County.

5 Q So he didn't make any sort of question about
6 what he could possibly do for him?

7 A And I wouldn't ask that in the first place
8 because that's for the prosecutors to decide not for
9 me.

10 Q I understand that, but did he ask you?

11 A No.

12 Q Okay. Did you find any explosives at the
13 residence?

14 A I was not present when the search warrant was
15 served, but they did not find any explosives as per
16 the return.

17 Q There was no heroin found at the residence
18 either, was there?

19 A Not that I'm aware of, no, sir.

20 MR. DRYLIE: I don't think I have any further
21 questions, Judge.

22 REDIRECT EXAMINATION

23 BY MR. MAYE:

24 Q Let me ask you this: They did locate a
25 blasting cap there at the residence, which is an

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1 explosive device. It's not C-4, but a blasting cap
2 is?

3 **A** Yes, sir. And that's listed on the return and
4 I have seen that in our evidence.

5 **Q** Okay. Let me ask you this: He asked you on
6 the 14th, did you take him at his word, but prior to
7 going to the magistrate on the 15th and giving sworn
8 supplemental oral testimony, you verified everything
9 that he said through Deputy Florida and corroborated
10 it, correct?

11 **A** As far as the description of the residence, the
12 vehicles there, the motorcycles and all, yes, sir.

13 **Q** So he gave you that information on the 14th.
14 You were able to corroborate and verify that
15 information prior to going and being sworn before
16 the magistrate on the 15th?

17 **A** Yes, sir.

18 **Q** Okay. And you also were able to corroborate
19 that he had given successful information to the
20 South Carolina Law Enforcement Division that had
21 enabled them to recover stolen vehicles based on the
22 cooperation and information that he had just
23 recently given; isn't that correct?

24 **A** Yes, sir.

25 **Q** And you related all of that to the magistrate

1 in sworn oral testimony prior to her issuing the
2 search warrant?

3 **A** Yes, sir.

4 **MR. DRYLIE:** Briefly.

5 **RECROSS-EXAMINATION**

6 **BY MR. DRYLIE:**

7 **Q** Now, you corroborated what the residence looked
8 like, right?

9 **A** Yes, sir.

10 **Q** But you didn't corroborate anything else?

11 **A** No, sir. The deputy that was there didn't see
12 the drugs or anything in the residence.

13 **Q** Okay. Now, he just asked you about the cars in
14 Aiken again, but you have no idea what that
15 information was, do you?

16 **A** Other than that they were cars that were
17 recovered.

18 **Q** You don't have an incident report or anything?

19 **A** No, sir.

20 **Q** And nothing's ever been turned over to us?

21 **A** Not that I'm aware of. I don't have it.

22 **THE COURT:** You can step down and have a seat
23 with counsel.

24 Anything else from the State?

25 **MR. MAYE:** Nothing else from the State on the

1 search warrant, Your Honor.

2 **THE COURT:** Any witnesses on behalf of the
3 defense?

4 **MR. DRYLIE:** No, Your Honor.

5 **THE COURT:** All right. Let me hear from the
6 defense as to -- I followed you on your case law, so
7 we're now down to the facts. What do you believe
8 regarding -- what is deficient as far as the facts
9 as related by the officer that leads you to believe
10 or to argue to the Court that the information
11 related by Mr. Wade does not have the indicia of
12 reliability?

13 **MR. DRYLIE:** Judge, I still stand by our
14 position that there's not reliability and that the
15 search warrant is deficient on its face. First, I'd
16 point out that, one, Wade had not worked with him
17 before. And I understand that he said that he gave
18 information to SLED, but he can't tell us what any
19 of that information is. Nothing's ever been turned
20 over to us.

21 **THE COURT:** Well, he did say what that
22 information was, that he reported -- he testified as
23 to the result of the information, that is, the
24 recovery of stolen cars.

25 **MR. DRYLIE:** But there's no specifics, Judge.

1 I believe personally, and this is a separate issue,
2 I believe that information should probably be Brady
3 material because it can be relevant to impeachment
4 of a witness that they're going to call, and we can
5 get into that in a moment.

6 But, Judge, I still believe that the search
7 warrant is not reliable. The only thing that they
8 can do, from talking with Deputy Florida and talking
9 with Wade, is say that this is what the house looks
10 like and that there's foot traffic there.

11 Now, there's plenty of cases out there that say
12 the foot traffic is not enough with a confidential
13 informant. You know, I can go into someone's house,
14 say what that house looks like, but it doesn't lead
15 me to say that there's drugs in there without them
16 having some further corroborating evidence. None of
17 that information about the drugs, the guns, the
18 explosives that they didn't find, the heroin that
19 they didn't find, was ever independently
20 corroborated by them.

21 Judge, I believe that this was a tip that
22 should have launched some sort of investigation, but
23 I don't believe that probable cause existed for the
24 warrant at the time.

25 Judge, I would like to, at this point, go ahead

1 and make, and I've got them all lined out, my memo,
2 as well as the cases that I passed up to the Court a
3 Court's Exhibit. I believe we have 1. I believe
4 that this would be 2 through 6.

5 **THE COURT:** Hand it to the court reporter, let
6 her have a minute to mark them.

7 **MR. DRYLIE:** Judge, I'd also point out, I
8 understand that they're saying now that he's not a
9 confidential informant, but, at the time, he
10 absolutely was a confidential informant and he was
11 for a year. He was trying to get out of trouble.

12 And, Judge, the cases that have been passed up
13 and presented, they lead us to say that veracity has
14 to come into question when you're relying on
15 information from a confidential informant. It's
16 under the totality of the circumstances. That's
17 something you have to look at because the
18 confidential informant's not holding his name out
19 there.

20 If I get up here in court and I accuse
21 Solicitor Maye of doing something, you know, I'm
22 holding my name out there saying that that happened,
23 you know, whereas I'd come under public scrutiny,
24 civil liability. None of that happens when you have
25 a confidential informant whose name's not out there.

1 Judge, this is a very barebones search warrant.
2 And I don't think that they had enough to establish
3 probable cause or to allow the magistrate to
4 conclude, under a totality of the circumstances,
5 that probable cause existed to enter the home.

6 Judge, I would go on to argue that the good
7 faith exception should not apply because it was
8 essentially a rubber stamp. And the cases that
9 we've passed up say that it shouldn't apply in that
10 situation.

11 **THE COURT:** All right. Do you have any cases
12 on your argument that the timeframe is too broad?

13 **MR. DRYLIE:** Judge, I believe that's pretty
14 much within the Court's discretion. You know, on
15 the 6th through the 22nd, it's about --

16 **THE COURT:** Well, it's really from the 6th to
17 the 14th.

18 **MR. DRYLIE:** 6th to the 15th.

19 **THE COURT:** 14th, I think, is the day of the
20 search warrant.

21 **MR. DRYLIE:** The 15th is the date of the search
22 warrant; 22nd is the date of the execution.

23 **THE COURT:** Right.

24 **MR. DRYLIE:** Judge, I would just point out that
25 it's supposed to be something that's so close in

1 time that -- give me one second, Judge.

2 **THE COURT:** Okay.

3 **MR. DRYLIE:** That, you know, looking at United
4 States v. Doyle, which is 650 F.3rd 460, A valid
5 search warrant may issue only upon allegations of
6 facts so closely related to the time of the issue of
7 the warrant as to justify a finding of probable
8 cause at that time.

9 Judge, I've seen a lot of cases reference 72
10 hours. I don't have anything that firmly says it
11 has to be within 72 hours.

12 **THE COURT:** That does seem to be the magic time
13 that they always put into a search warrant, but I
14 don't know that that's a requirement.

15 **MR. DRYLIE:** There's not a statute out there
16 that says that or anything like that.

17 Judge, and the last thing I want to point out,
18 in the search warrant, it says he had been in the
19 home within the past week. Today they're saying the
20 6th. The Fourth Circuit has said that dates are
21 imperative when we're doing these things to looking
22 at, you know, the probability of there actually
23 being the goods sought inside a particular place at
24 a particular time.

25 And, Judge, I still don't know what day of the

1 week he was in the home. He said the 6th at one
2 point and he said within the past week. I realize
3 we're talking about a couple of days, but a couple
4 of days is important when you put in your affidavit
5 in the search warrant "within the past week" if it
6 wasn't within the past week. Then we're into
7 something that's misleading and possibly knowingly
8 false.

9 And so, Judge, we'd say that the probable cause
10 didn't exist at this point and that the search
11 warrant should never have been granted and
12 everything should have been suppressed.

13 **THE COURT:** All right. Be glad to hear from
14 the State on what is the -- what satisfies the
15 requirement that the informant be reliable?

16 **MR. MAYE:** Your Honor, in this case, when Wade
17 spoke to the officer in this case, he just provided
18 the information and his name. Deputy Smith
19 indicated from his testimony that, as a tactical
20 consideration, not to disclose because he knew that
21 he had already cooperated with SLED and there were
22 ongoing investigations over in Aiken County, that he
23 listed him in his affidavit as -- in the barebones
24 of the written affidavit as a confidential
25 informant. He did not, I guess for lack of a better

1 term, talk to Wade as a confidential informant. He
2 took his name and information. He provided that
3 immediately to the magistrate.

4 And I know State versus Jones, 342 S.C. 121,
5 says, Nonconfidential informants as eyewitnesses
6 have more credibility than confidential informants.
7 And at the point in time that Wade talked to them,
8 he had an agreement with law enforcement that they
9 were going to keep him as a confidential informant.
10 In fact, they went straight to the magistrate, named
11 him, told them who he was and told them that he had
12 already cooperated with SLED and that there were
13 ongoing investigations going on in Aiken County. He
14 related and he told the magistrate that in this case
15 and had basically put that in the affidavit as a
16 tactical consideration.

17 He was a named eyewitness in this case at the
18 time the magistrate issued the search warrant. And,
19 certainly, his identity was made aware to the
20 officer in this case, and any decision about listing
21 him as a confidential informant was on the part of
22 the officer.

23 But, in this case, the reliability -- at the
24 time he went and talked to him on the 14th, he
25 didn't know him, but after talking to him, he was

1 able to verify with SLED that he had given them
2 reliable information that had led to the recovery --
3 successful recovery of stolen vehicles since the
4 time of his arrest and -- in between the time of his
5 arrest and the time that they talked to him. So he
6 vetted him and he verified him in that regard.

7 He then, after talking with him, came back with
8 Deputy Florida. They had each provided descriptions
9 of the inside of the house, the floor layout. They
10 matched up. He knew the names of the individuals
11 that were there. Deputy Florida knew those names
12 independently. He verified that. He gave them
13 descriptions of all of the vehicles, what color, to
14 include a camo pick-up, a red pick-up truck, the
15 black motorcycles. The deputy had actually been
16 inside the house. They corroborated and verified
17 everything that he said to them in regard to the
18 description -- the interior description of the
19 vehicles. All of those things were verified by
20 Deputy Florida.

21 Additionally, as to the staleness in this case,
22 the officer's already testified in this case that
23 prior to him going on the 15th or -- at that time,
24 on the 15th, that he was able to talk to the
25 officer, Florida, and verify that it was an ongoing

1 pattern of not only traffic coming and going in and
2 out of that road, but the same vehicles as described
3 by Wade were continuing right up until the time of
4 the warrant being sought on the 15th.

5 He continued to get intelligence from Officer
6 Florida and the officers that were working that
7 area, that it was an ongoing pattern of traffic
8 coming out and the specific vehicles were continuing
9 to go and come, basically continuing to verify what
10 Wade said right up until the point in time that he
11 went and sought the warrant.

12 This was a property that they were already
13 looking at because they were suspicious and that
14 information -- I mean, the investigation and the
15 sheriff's office continuing to look at this property
16 continued right up until the time of the execution
17 of the search warrant. And he related that
18 information to the magistrate subject to his sworn
19 oral testimony.

20 One of the things that is considered when
21 deciding whether or not an informant can be
22 considered reliable, State versus Driggers, 322 S.C.
23 506, is that, do they possess a special relationship
24 and capacity to gain knowledge?

25 In this case, this guy gave inculpatory

1 information to Smith in this case, which is an
2 exception to hearsay. It's got inherent reliability
3 in it. He inculpated himself by saying at the time,
4 with no agreements with law enforcement or anything
5 else, he said, I was there buying narcotics there,
6 he said, During this period of time, you know, if it
7 was the 6th or if it was in a week. He gave
8 inculpatory information which would be inherently
9 more reliable than him saying somebody else was
10 doing something wrong. He said, I was there; I was
11 buying narcotics; I was trading stolen goods.

12 The officer was able to verify that he was
13 trafficking in stolen goods, from SLED. Not only
14 had he helped them recover information, but he was
15 engaged in that unlawful enterprise. That in and of
16 itself gives an indicia of reliability as opposed to
17 pointing the finger at someone else. He subjected
18 himself to jeopardy by talking about his
19 participation in the ongoing criminal enterprise
20 that was taking place there at ■ Rain Forest Lane.

21 Your Honor, that's all the State would have. I
22 think that the information is fresh because it was
23 continued to be verified. I think that there's
24 overwhelming evidence in this case that Deputy Smith
25 vetted what he was told by Brian Wade prior to

1 seeking the search warrant. And we don't think, to
2 begin with, that he's a confidential informant. We
3 think that's he's a named eyewitness.

4 **MR. DRYLIE:** Judge, just to address the
5 Driggers point real quick, Driggers is completely
6 distinguishable. In Driggers, you had a man who was
7 a roommate with someone who wrote a signed statement
8 and put his name out there and said, my roommates
9 are doing X, Y and Z. You know, he had his name out
10 there as part of the affidavit, and I think that's
11 completely distinguishable between a situation where
12 someone whose name won't be out there.

13 Judge, going back to looking at Driggers, you
14 know, he's talking about the past reliability if
15 someone's an eyewitness, but he's ignoring the part
16 where we have got a confidential informant who is
17 given less level of credibility. In talking about a
18 paid informer, what's more valuable than someone's
19 freedom? This guy was trying to get out of trouble,
20 that's worth more than money.

21 Judge, also, I have an issue and I think I need
22 to address it now. I filed a motion yesterday for
23 supplemental discovery. Solicitor Maye came to me
24 with my motion, said that he had never -- that Wade
25 had never worked with them before.

1 Now, part A of my motion says, All information
2 including, but not limited to, dates, case notes,
3 incident reports and case names --

4 **THE COURT:** Don't go so fast. The court
5 reporter has to take this down.

6 **MR. DRYLIE:** I'm sorry. I can pass a copy up
7 to you -- I can pass that up to you.

8 **THE COURT:** Thank you.

9 **MR. DRYLIE:** Looking at part A of my motion,
10 All information including, but not limited to,
11 dates, case notes, incident reports, case names of
12 Brian Walter Wade, put his date of birth, previously
13 worked as a CI with the Edgefield County Sheriff's
14 Department or any other law enforcement agency.
15 Mr. Maye walked up to me and said, There are none.
16 And today there are some. SLED would obviously be
17 an example of him working with someone else.

18 At 10:30 yesterday morning, he came up to me
19 and said, There isn't any. And there obviously is.
20 And, Judge, I think we need that information.

21 **THE COURT:** Well, you asked for dates, case
22 notes, incident reports and case names. That's what
23 you asked for.

24 **MR. DRYLIE:** When he worked with the Edgefield
25 County Sheriff's Office or any other law enforcement

1 agency.

2 **THE COURT:** I know, but I'm looking at what you
3 asked for.

4 **MR. DRYLIE:** Yes, Your Honor. I'm sorry.

5 **THE COURT:** And, Mr. Maye, you say that --

6 **MR. MAYE:** Your Honor, he had never worked as
7 any -- to our knowledge, what he asked me is if he'd
8 ever worked as a confidential informant for
9 Edgefield or anybody else that we were aware of.
10 We're not aware of him ever working as a CI.

11 He confessed, after being arrested, on his
12 ownself. He wasn't a confidential informant in any
13 regard. He got caught with stolen vehicles and he
14 confessed to SLED that he was involved in
15 trafficking stolen vehicles. A confession after
16 arrest would certainly not be working as a
17 confidential informant.

18 I wasn't trying to conceal anything because
19 when -- I certainly tried to deal with the public
20 defender, Mr. Drylie, in good faith. He asked me if
21 he'd ever worked as a confidential informant in any
22 regard, he did not in any way. And I wasn't trying
23 to hide the ball there. I never even thought about
24 it in that regard.

25 We knew that he confessed, you know, himself

1 after getting caught, but they were aware that he
2 was in jail on the -- at the time -- I mean, that
3 was disclosed that he was in the Aiken Jail being
4 arrested for stolen goods. The fact that he
5 confessed over there and gave them information does
6 not make him a confidential informant, and,
7 certainly, we weren't trying to conceal that fact
8 from the defense in this case. We told them who he
9 was. We gave them the rap sheet. We told them that
10 he was over in the Aiken Jail on those very charges,
11 Your Honor. I was not asked for anything regarding
12 any incident reports in regard to what he got
13 charged with over in Aiken County.

14 I think pursuant to Rule 5, all we've got to
15 turn over is his convictions, in which we did. He
16 got convicted over there and he's in prison now for
17 the stolen goods. And they were certainly well
18 aware of that prior to this morning.

19 **MR. DRYLIE:** But can I briefly say something?
20 That's different than what he said here today,
21 because I believe, at one point, Mr. Maye said he
22 was involved in getting other cars back to SLED.
23 And so if he was involved in that, we'd have to know
24 about it. He's painted it as different than a
25 confession here in argument today in front of the

1 Court. And so it's either A or it's B. And so --
2 and I don't think he's trying to be malicious about
3 anything, but there's either information out there
4 or there isn't, and I think it's incredibly
5 important to making this decision.

6 **THE COURT:** Well, when you look at reliability,
7 you look at what was known to the officer and what
8 the officer considered and that's what I'm going to
9 look at. So whether or not any of this information
10 exists or not, and I -- this is certainly a good
11 grounds for an appeal because I've got something
12 very similar going on from York County. I find the
13 information requested, whether it exists or not, is
14 not relevant to what the -- the reliability as an
15 eyewitness or a confidential informant, Mr. Wade.

16 I think that the evidence, and we'll hear more
17 about this in just a minute, what we look at is what
18 the officer knew, not what he could have developed,
19 but what he knew and what he related to the
20 magistrate. So I think, as to number one, the State
21 says it does not have anything, and whether it does
22 or not, I find that there's -- that's not relevant.

23 All right. What about B? Or not number one,
24 letter A. All right, B says --

25 **MR. DRYLIE:** Judge, the only thing that remains

1 at this point is A. We've talked about B and C.
2 And the solicitor has told me that, you know, he
3 didn't make any promises to Wade, but they didn't
4 discuss the downward departure statute. I'll plan
5 to use that on cross later, but the only thing
6 that's germane at this point is A.

7 **THE COURT:** All right. Well, I find that the
8 State need not respond in any degree other than what
9 they've already responded.

10 Looking at the totality of the circumstances, I
11 deny the motion to quash the search and seizure on
12 the fruits that are gained there from the seizure.
13 I find that under the totality of the circumstances,
14 the search -- the affidavit and the subsequent
15 search warrant issued thereon was not stale, that
16 any delay was actually, I think, a conscientious
17 delay rather than a shoot from the hip, immediately
18 going to acquire something -- a search warrant. The
19 deputy took what I consider conscientious efforts to
20 verify and make sure that he could go before the
21 magistrate and state under oath that he felt there
22 was reliability in the information from Mr. Wade.

23 The reliability itself, whether he's an
24 eyewitness or a confidential informant, the
25 information obtained from SLED corroborates the

1 truthfulness of Mr. Wade as to the SLED
2 investigation in recovery of stolen vehicles. The
3 diagram I think is -- establishes reliability. The
4 names of the people related by Mr. Wade and the
5 verification of those by the officer and the traffic
6 -- or not the traffic, I'm not so concerned about
7 the traffic, but the verification of the color of
8 the vehicles and the makes of the vehicles that were
9 there, I find that all of that, looking at the
10 totality of circumstances, quite frankly some of
11 them independent of the others, but I am looking at
12 it in the totality, establish sufficient reliability
13 of Mr. Wade, whether you call him a confidential
14 informant, which he does in the affidavit, or an
15 eyewitness to support the issuance by the search
16 warrant -- or the search warrant by the magistrate.
17 And so,, therefore, I deny the motion to suppress.

18 **MR. DRYLIE:** Thank you, Judge. Can I just
19 briefly put a succinct objection on the record?

20 We understand your ruling. We would obviously
21 respectfully object specifically that the
22 information from SLED regarding cars that were
23 recovered I think would be relevant to this point,
24 as well as relevant to the future references in the
25 trial, that the warrant wasn't reliable, and on the

1 face of the affidavit, that it shouldn't have been
2 given.

3 **THE COURT:** Well, I'm certainly not offended by
4 you taking exception, although I think under the
5 rules, once you have made a motion and it's ruled
6 on, whatever the ruling is is the ruling. And I
7 know everybody goes to seminars and I know you have
8 to protect the record and everybody's told to say
9 this ten times even if one time will do. So I find
10 no offense in your taking exception. I don't think
11 it's necessary, but you're on the record as not
12 being happy with me.

13 **MR. DRYLIE:** Thank you, Judge.

14 **THE COURT:** All right. Now, what about Jackson
15 versus Denno issue?

16 **MR. MAYE:** We're ready to go forward on that at
17 any time.

18 **THE COURT:** Does anybody need a break?

19 **MR. MAYE:** I wouldn't mind having a brief
20 break, just to go to the restroom.

21 **THE COURT:** Let's take a five minute break.

22 (Brief recess.)

23 (Court's Exhibit Numbers 2 through 6 marked
24 for identification.)

25 **THE COURT:** All right. We have a question

1 about the statement of confession.

2 **MR. MAYE:** The State's ready, Your Honor. The
3 State would call Investigator Warren Miller to the
4 stand in regard to statements given by David Coon
5 December the 28th of 2015, January the 27th of 2016
6 and January the 4th of 2016.

7 WARREN TILLMAN MILLER, JR.,
8 having been duly sworn, testified as follows:

9 **THE CLERK:** State your full name, spell your
10 last name for the record.

11 **THE WITNESS:** My full name is Warren Tillman
12 Miller, Jr. My last name is M-i-l-l-e-r.

13 DIRECT EXAMINATION

14 BY MR. MAYE:

15 **Q** Tell the Court and state your rank where you're
16 employed, in what capacity that you're currently
17 employed.

18 **A** My name is Warren Miller. I work with the
19 Edgefield County Sheriff's Office. And I'm
20 currently a narcotics investigator.

21 **Q** Back in December of 2015 and the first part of
22 2016, when the statements by Mr. Coon that are at
23 issue for the purposes of this hearing, were you
24 employed in the same capacity?

25 **A** Yes, sir.

1 **Q** Okay. Let me ask you this: How did you get
2 involved in this case, Officer Miller? You're a
3 narcotics officer?

4 **A** Right.

5 **Q** Okay. What was your involvement in it prior to
6 the taking of any statements in this case?

7 **A** There had been a search warrant done at ■ Rain
8 Forest Lane in North Augusta, South Carolina. I
9 believe that would be the correct address. And at
10 the time they did a search warrant, they'd recovered
11 multiple guns and drugs there at the residence.

12 **Q** Was Mr. Coon placed under arrest? And at the
13 time that you encountered him on December the 28th
14 of 2015, was he in custody and charged?

15 **A** Yes, sir.

16 **Q** Okay. Prior to speaking with Mr. Coon, did you
17 go over a waiver of rights form with him prior to
18 speaking with him?

19 **A** I did.

20 **Q** Okay.

21 **MR. MAYE:** Your Honor, at this point in time,
22 I'm going to mark this, I guess, State's 1 for ID at
23 this case {sic}.

24 **THE COURT:** Okay.

25 (State's Exhibit Number 1, waiver of rights

1 form, marked for identification.)

2 BY MR. MAYE:

3 Q I'm going to show you what's been marked
4 State's 1 for identification only at this point in
5 time. Let me ask you this: Is this a copy or a
6 fair and accurate representation of the written
7 waiver of rights that you went through and you
8 executed for Mr. Coon there prior to speaking with
9 him on the 28th?

10 A That's correct.

11 MR. MAYE: Your Honor, I have a copy. And for
12 the purposes of the Court, I'm going to pass up our
13 exhibit to the Court in this case.

14 Q Who all was present when you talked to him on
15 the 28th?

16 A Myself and Agent Prince, Ricardo Prince with
17 the ATF, and Agent Sanford with the ATF.

18 Q Okay. Where were you when this took place?

19 A At the Edgefield County Sheriff's Office.

20 Q Okay. Prior to speaking with him, please go
21 through everything that you did to advise Mr. Coon
22 of his rights.

23 A I asked Mr. Coon if he wished to continue to
24 talk to us and he said he did. I then started
25 filling out the paperwork. I asked him his name.

1 He said, David Coon. I asked him how old he was.

2 He said he was 52. And I wrote that in the blank

3 here where it asks for his age and --

4 Q That's your handwriting and you filled this
5 out?

6 A That's correct.

7 Q Okay.

8 A I went down. It says, My address is, and I
9 asked him for his address. He said, ■ Rain Forest
10 Lane in North Augusta.

11 Q He provided you that and told you that's where
12 he lived?

13 A That's correct.

14 Q And that was the same address that the search
15 warrant was executed at?

16 A That's correct.

17 Q Okay. Keep going.

18 A I then asked the question, I have finished the
19 blank grade in school. I asked him which grade he
20 finished. He said, The 7th or about the 7th.

21 I asked him if he could read and write. He
22 said, A little bit. So I circled, Can read and
23 write -- or, Can read. Excuse me.

24 Then the next thing is, I have been told by
25 Investigator Miller, and I also put up under my name

1 Agent Sanford, Who I understand is a law enforcement
2 officer, that he -- which I circled he; you have he
3 or she -- Would like to question me concerning the
4 crime of possession of firearms and trafficking in
5 meth is what I wrote into the blank there.

6 **Q** Okay. What else did you relate to him there in
7 this written waiver of rights?

8 **A** Then I told him that this was his waiver of
9 rights; I was going to read them to him. And what I
10 did, I had a blank form and I gave him this form. I
11 told him that I would read them off to him. If he
12 understood them, to put his initials beside each
13 one. If he did not understand, to let me know so we
14 could explain them to him. And I went through each
15 one.

16 **Q** Go through each one of them and tell what he
17 did to indicate whether or not he understood each
18 one.

19 **A** All right. The first one, I have the right to
20 remain silent, that means I do not have to say
21 anything or answer any questions. He understood it
22 by putting his initials. The next one --

23 **Q** Did he sign that?

24 **A** Yes, sir.

25 **Q** Did he initial it?

1 A These are his initials, yes, sir.

2 Q Okay.

3 A Anything I say can be used against me in a
4 court of law. He initialled that.

5 I have the right to talk to a lawyer and to
6 have a lawyer here with me now to advise and help me
7 before and during questioning. He understood by
8 putting his initials there.

9 If I want to have a lawyer with me before and
10 during questioning, but cannot afford to pay a
11 lawyer, one will be provided to me at no cost before
12 and while I am questioned. He understood that by
13 putting his initials.

14 If I decide to answer questions now without a
15 lawyer here, I still have the right to stop
16 answering questions whenever I want to. He also
17 understood that by putting his initials.

18 I also have the right to stop answering
19 questions until I have talked to a lawyer. And,
20 again, he initialled that that he understood. He
21 never stopped during any of these questions that we
22 were going through. He always put his initials.

23 The next part after this is, I understand my
24 rights as explained by Officer Miller. I now state
25 that I do wish to answer questions at this time and

1 that I do not have a lawyer here before or during
2 questioning -- or, I do not wish to have a lawyer
3 here before and during questioning. My decision to
4 answer questions now without a lawyer is made freely
5 and is my own choice. No one has threatened or
6 coerced me in any way or promised me special
7 treatment. To show my decision, I am signing my
8 name in the space below.

9 And Mr. Coon then signed his name there in a
10 spot. It says, Signed, the date is 12/28/2015. The
11 time was approximately 1:51 P.M. and then my name as
12 a witness and the ATF agent was also a witness.

13 **Q** Okay. Let me ask you this: Did you also
14 document, memorialize this by recording it with a
15 audio recording device?

16 **A** The ATF had the recording device in which they
17 recorded all of this.

18 **Q** But all of it was recorded and you know that
19 and it was documented in this case, correct?

20 **A** That's correct.

21 **Q** Okay. And that's been turned over to the
22 defense in this case, the recording of that -- the
23 entire proceeding there?

24 **A** To my knowledge, yes, sir.

25 **Q** Okay. Let me ask you this: At any time in

1 your presence, you personally or anyone else in your
2 presence, did you ever threaten him?

3 **A** No, sir.

4 **Q** Did you do anything to attempt to coerce him to
5 get him to talk to you?

6 **A** No, sir.

7 **Q** Did you make any promises to him or offer any
8 hope of reward in exchange for him talking with you?

9 **A** No, sir.

10 **Q** Okay. At any point in time, did he indicate
11 that he wanted to stop talking or that he wanted a
12 lawyer?

13 **A** No, sir.

14 **Q** Okay. I know all of this was recorded on the
15 audio tape that's been turned over to the defense in
16 this case, but at any point in time when the audio
17 recording was off or in preparation of any of this
18 outside of the audio recording, were any threats,
19 promises, coercion, did y'all do anything in order
20 to influence him off tape?

21 **A** No, sir.

22 **Q** Okay. So the full dialogue between y'all was
23 captured on audio tape by the agent?

24 **A** Yes, sir.

25 **Q** Okay. You never promised him anything or did

1 anything to influence his decision to talk to you?

2 A No, sir.

3 Q Did anyone do so in your presence?

4 A No, sir.

5 Q Okay. Were you present throughout the course
6 of the remainder of the interview?

7 A Of this interview, yes, sir.

8 Q Okay. But he was primarily talking to the ATF
9 agent?

10 A That's correct.

11 MR. MAYE: As to this witness, Your Honor, as
12 to the issue of his statement and voluntariness, I
13 don't have anything else for Investigator Miller.
14 I'm going to offer him for cross-examination. I
15 have the ATF agent. I'm going to follow up with him
16 when he's through cross-examination.

17 THE COURT: Mr. Drylie.

18 MR. DRYLIE: Very briefly.

19 CROSS-EXAMINATION

20 BY MR. DRYLIE:

21 Q And Mr. Coon was in custody during all three
22 interviews, correct?

23 A That's correct.

24 Q He wasn't free to leave?

25 A No, sir.

1 **Q** Okay.

2 **A** Well now, he was -- at any time, he could have
3 stopped talking to us, of course, and we would have
4 took him back to his cell.

5 **Q** Exactly.

6 **MR. DRYLIE:** I don't have any further
7 questions.

8 **MR. MAYE:** And, Your Honor, there's one thing
9 based on that I will ask him and I apologize.

10 REDIRECT EXAMINATION

11 BY MR. MAYE:

12 **Q** Y'all talked to him on the 28th of December.
13 Y'all also talked to him on January the 27th of 2016
14 and audio recorded that; is that correct?

15 **A** Yes, sir.

16 **Q** And you talked to him on January the 4th, I
17 believe, as well -- hold on just a second --
18 December the 28th of 2015, January the 4th and
19 January the 27th, those are three times y'all talked
20 to him, correct?

21 **A** Two other times after the waiver of rights.

22 **Q** Okay. So you did a waiver of rights on
23 December the 28th, correct?

24 **A** Correct.

25 **Q** How did y'all end up back talking with him on

1 January the 4th and January the 27th? How did that
2 happen?

3 A He requested to talk to us.

4 Q He requested to talk to you?

5 A Yes, sir. Down at the detention center, they
6 have what they call a grievance form and he had
7 filled out a grievance form requesting to speak to
8 law enforcement.

9 Q Based on y'all being notified that, him wanting
10 to talk to y'all, did y'all go back to him and talk
11 to him?

12 A That's correct.

13 Q Okay. At that point in time, when you went
14 back to him on the 4th or the 27th, given the fact
15 that he had executed the written Miranda on the
16 28th, did you go back through and execute new forms?

17 A No, sir.

18 Q Okay. Did y'all indicate -- were each of those
19 subsequent interviews recorded as well?

20 A Yes, sir.

21 Q Did y'all indicate on the audio portion of it,
22 at least what he was explaining on the audio, that
23 y'all understood that he had requested to talk to
24 y'all? Is that contained in the audio portion of
25 it?

1 **A** I would have to go back and confirm that, but I
2 would -- I would assume that.

3 **Q** Okay. That's fine. You haven't reviewed it in
4 a while, but --

5 **A** No, sir.

6 **Q** -- if it's there on -- you certainly don't
7 dispute if it's there and recorded. Y'all did
8 document all of it and it's recorded?

9 **A** Yes --

10 **Q** Your interaction with him on the 4th and the
11 27th?

12 **A** Correct, because the only reason we went back
13 to talk to him is because he requested to speak to
14 us.

15 **Q** On the 4th and the 27th interviews, at any
16 point in time, did you threaten him?

17 **A** No, sir.

18 **Q** Did you make him any promises? Did you attempt
19 to coerce him to talk to you?

20 **A** No, sir.

21 **Q** Okay. Did you do anything to influence
22 decisions as to whether or not he talked with you
23 even though he had initiated the request?

24 **A** No, sir.

25 **Q** Okay. Did anyone else do so in your presence?

RICARDO PRINCE (IN CAMERA) - DIRECT BY MR. MAYE

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1 **A** No, sir.

2 **Q** Did y'all do anything off the recording or off
3 of the taped portion to do any of those things to
4 try to influence him or make him any promises?

5 **A** No, sir.

6 **Q** Okay.

7 **MR. MAYE:** I don't have anything else. Thank
8 you.

9 **MR. DRYLIE:** No questions.

10 **THE COURT:** All right. You can step down.
11 Call your next witness.

12 **MR. MAYE:** State would call Ricardo Prince of
13 Alcohol, Tobacco and Firearms.

14 RICARDO PRINCE,
15 having been duly sworn, testified as follows:

16 **THE CLERK:** Please be seated. State your full
17 name, spell your last name for the record.

18 **THE WITNESS:** My name is Ricardo Prince.
19 Spelling of my last name, P-r-i-n-c-e.

20 DIRECT EXAMINATION

21 BY MR. MAYE:

22 **Q** Agent Prince, where are you now employed?

23 **A** I work for the Bureau of Alcohol, Tobacco,
24 Firearms and Explosives. And I'm assigned to the
25 Greenville, South Carolina, field office.

1 **Q** Did you have an occasion to come and be
2 involved in the case of when the search warrant was
3 executed at ■ Rain Forest Lane here in Edgefield
4 County?

5 **A** Yes, sir.

6 **Q** What was your involvement in the case as the
7 search warrant was being executed?

8 **A** Yes. I was told that it's a possibility of
9 narcotics and sawed-off firearms being there, so I
10 came along to go with --

11 **Q** Did you actually go out on the search warrant
12 and all of that?

13 **A** Yes, sir, I was there.

14 **Q** Okay. Let me ask you this: For the purposes
15 of this hearing today, we're talking about the
16 interviews, are you talking with David Coon on
17 December the 28th, the 4th of January and the 27th
18 of January? Were you present for those interviews
19 of Mr. Coon?

20 **A** Yes, sir.

21 **Q** Okay. Who else was present with you when you
22 talked to Mr. Coon? Let's begin with December the
23 28th of 2015.

24 **A** It was my partner, Special Agent Dave Sanford,
25 and also Investigator Warren Miller.

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1 **Q** Let me ask you this: Did you do anything to
2 memorialize or document the conversation that you
3 had with him on December the 28th?

4 **A** Yes, sir. It's audio recorded.

5 **Q** Okay. And you've had a chance to sit down and
6 listen to that audio recording subsequent to that?

7 **A** Yes, sir.

8 **Q** Does it fairly and accurately reflect all of
9 the conversations that y'all had at that time?

10 **A** Yes, sir, it does.

11 **Q** I'm going to show you a copy in this case of a
12 written waiver of rights. There's another copy
13 that's marked as Court's Exhibit 1 for ID at this
14 point in time that the Judge has. I'm going to ask
15 you if you recognize your signature on that document
16 and if you were present when that written waiver of
17 rights was administered to Mr. Coon, the defendant
18 in this case?

19 **A** Yes, sir. I see my signature on here where I
20 was the witness and I remember Mr. Coon signing this
21 also.

22 **Q** Okay. To your recollection and memorializing
23 it with that written document, were his rights
24 provided to him and did he indicate that he
25 understood all of those written rights?

1 **A** Yes, sir. Investigator Miller read it to him.
2 He advised he understood, that he wanted to talk to
3 us. And before we even got to this, we explained
4 why we was there interviewing and talking to him.

5 **Q** Okay. Let me ask you this: While you were
6 there, did you threaten him in any way?

7 **A** No, sir.

8 **Q** Did you try to coerce him into talking with
9 you?

10 **A** No, sir.

11 **Q** Okay. Did you make any threats or hold out any
12 hope of reward in exchange for him talking with you
13 on that time?

14 **A** No, sir.

15 **Q** Okay. Did you do anything to influence whether
16 or not that he spoke with you at that time?

17 **A** No, sir.

18 **Q** Okay. The 28th of December, it was recorded on
19 audio, correct?

20 **A** Yes, sir.

21 **Q** At any point in time off camera, did y'all
22 threaten him or try to coerce him or do anything or
23 have any interaction with him that was not
24 memorialized on audio tape?

25 **A** No, sir.

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1 **Q** So, at no point in time, did you do any of
2 those things, but did anybody else threaten him or
3 coerce him or make him any promises in your
4 presence?

5 **A** No, sir, they didn't.

6 **Q** Okay. You talked to him on December the 28th.
7 How about on January the 4th of 2016? How did you
8 end up going back down to talk to Mr. Coon after the
9 initial written waiver of rights was executed on the
10 28th?

11 **A** One of the investigators called me and said
12 Mr. Coon had filed a grievance and in that
13 grievance, he requested to speak to myself and
14 investigators from Edgefield. And when I got down
15 here, before I started the interview on audio, I
16 advised Mr. Coon that he had been provided his
17 Miranda rights and did he still want to talk to me
18 and he said yes.

19 **Q** Okay. So, at each point in time that you went
20 back subsequent, you memorialized that he had
21 initiated or had indicated a desire to continue
22 communications with you?

23 **A** Yes, sir.

24 **Q** And reminded him that he'd previously been
25 mirandized?

1 **A** Yes, sir, I did.

2 **Q** Okay. And so that was both on the 4th and the
3 27th, before talking to him, you memorialized that
4 it was at his request and reminded him of the
5 previous Miranda warnings?

6 **A** Yes, sir.

7 **Q** Okay. Let's talk about the 28th. What did --
8 well, let me ask you this: As to the 4th and the
9 27th, at any point in time, did you make any
10 threats, promises, coerce him or did anybody do so
11 in your presence on the 4th or the 27th?

12 **A** No, sir.

13 **Q** Okay. Let's go to the first interview on the
14 28th in this case. Please tell us what he said in
15 regard to what his connection to the property was at
16 ■ Rain Forest Lane where you had been for the
17 execution of the search warrant. What did he say in
18 regard to that residence and his connection to it?

19 **A** He said that he lived there, the property was
20 in his name and his daughter's name.

21 **Q** When he filled out the written Miranda form
22 that you have already seen in this case, where did
23 he indicate that his address was?

24 **A** ■ Rain Forest Lane, North Augusta, South
25 Carolina, 29860.

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1 **Q** Okay. Did he tell you that he lived there at
2 the property?

3 **A** Yes.

4 **Q** Okay. You were there specifically because
5 there were allegations of explosives and sawed-off
6 or unlawful weapons there at the property, correct?

7 **A** Yes, sir.

8 **Q** What did Mr. Coon tell you in regard -- on the
9 28th, what did he tell you in regard to any
10 association or ownership that he had to any of the
11 unlawful weapons that were there that you took?

12 **A** He did say that he had a sawed-off shotgun on
13 the 28th, but he said the sawed-off he had was over
14 the legal length.

15 **Q** Okay. All right. Who else did he say resided
16 there at the residence at ■ Rain Forest Lane? Who
17 else did he tell you resided there?

18 **A** He said his daughter, Heather Hall, and I
19 believe he said she had a boyfriend. He didn't talk
20 much about him, but his -- we found out later his
21 name was Tim Wheeler.

22 **Q** And you did -- throughout the course, did he
23 make identifications of Biker Tim or Tim Wheeler
24 during your interviews of him?

25 **A** Yes.

1 **Q** Did he acknowledge that he was residing there
2 at the residence as well?

3 **A** Yes, sir.

4 **Q** Okay. During the times that you talked to him,
5 what did he eventually tell you about the ownership
6 of two of the sawed-off shotguns that were seized
7 there as a part of the search warrant that was
8 executed by the Edgefield Sheriff's Office that you
9 assisted in? What did he tell you in that regard?

10 **A** He said the two sawed-offs that was found in
11 bedroom number one, which is the master bedroom, he
12 say they did belong to him.

13 **Q** Okay. As you come into the double-wide, did
14 you go through and talk with him about which bedroom
15 was his, which bedroom was occupied by other people
16 in the property?

17 **A** Yes, I did.

18 **Q** Okay. What did you talk to him about in regard
19 to what you're referring to as the master bedroom or
20 what did he tell you when you interviewed him?

21 **A** He said when you first walk in, the bedroom on
22 the left was his bedroom and it was a master -- had
23 a master bathroom in it. So he identified that as
24 bedroom number one which belonged to Mr. Coon.

25 Bedroom number two, he said his brother slept

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1 there, which was one right across from where the
2 puppies was located.

3 In bedroom number three, he said his daughter,
4 Heather Hall, lived in that bedroom. And later on,
5 he said she also used it as a closet because there
6 was no bed in that bedroom number three. And it was
7 like some recently young puppies that had just been
8 born in that bedroom.

9 **Q** When the search warrant was executed, you
10 discussed with him during the time that he -- that
11 Mr. Wheeler and Mr. Hall {sic} were there, you told
12 him that, correct?

13 **A** Pretty much, yes.

14 **Q** Okay. What did he tell you in regard to the
15 ownership of the two sawed-off shotguns that were
16 under the barrel length, the legal barrel length in
17 South Carolina, or the overall length? What did he
18 tell you in regard to those two shotguns ultimately?

19 **A** He said they was his shotguns.

20 **Q** He said that he owned them and those two were
21 his?

22 **A** He owned the shotguns. And he said -- Coon
23 stated that he had traded someone a set of tools for
24 the firearm and he owned it for approximately a
25 month. This was the first firearm, which was the

1 Harrington and Richardson model 158. The second
2 firearm he said that he owned this firearm for a
3 couple of months also, which is identified as a
4 Winchester 20-gauge model 37.

5 Q Okay. In regard to unlawful narcotics, what
6 did he tell you in regard to his use of unlawful
7 narcotics, specifically methamphetamine?

8 A Mr. Coon said he'd get about -- he'd get about
9 ten grams of meth from Aiken. And he doesn't sell
10 it, he gives it away.

11 Q How frequently did he indicate, did he tell you
12 that he got ten grams?

13 A Per week.

14 Q Per week?

15 A And he paid \$80 per gram.

16 Q For it and he was getting ten grams a week?

17 A Yes.

18 Q Okay. What did he say in regard to his use of
19 it and giving it to other people? What did he
20 relate to you?

21 A He said he used it and he'd give it to anyone
22 who want to get high who come by.

23 Q But he said that he was distributing it by
24 giving it away?

25 A Yes.

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1 **Q** Okay. What did he tell you in regard to
2 protection of his property there? What means and
3 measures did you discuss and did he acknowledge that
4 he was utilizing in order to protect the property
5 there?

6 **A** He did mention having, like, booby traps set up
7 around the property. And sometimes he said he had
8 them, sometimes he'll go back and say he didn't have
9 them. But he did say he had booby traps set up and
10 if, you know, it came down to it, he could -- he
11 could set these explosives off and get away if he
12 needed to or if someone down there who ain't got no
13 business, they in for a surprise. He did tell me
14 that.

15 **Q** He vacillated back and forth, but he did tell
16 you that he had booby traps?

17 **A** Yes, sir.

18 **Q** And explosives set?

19 **A** Yes.

20 **Q** That would take care of people that would be
21 coming up on him there?

22 **A** Yes, sir.

23 **Q** Okay. Y'all did, in fact -- you were there for
24 the execution of the search warrant. You did find a
25 blasting cap there?

1 **A** Yes. And SLED Bomb Squad was there. They are
2 the ones who went in and cleared the house for
3 explosives. And when we found that, SLED took that
4 with them.

5 **Q** How about in regard to military style body
6 armor and bullet proof vests that you found there?
7 Did he acknowledge ownership of that to you when you
8 interviewed him?

9 **A** I believe he said something about body armor
10 for protection.

11 **Q** Okay. He said that he did have the body armor
12 for protection?

13 **A** Yes.

14 **Q** And you discussed with him y'all locating and
15 finding that body armor there?

16 **A** We did find some, yes, sir.

17 **Q** Okay. What did he tell you in regard to the
18 stolen motorcycles, the two stolen motorcycles, the
19 2006 Harley-Davidson 883, the Sportster, the smaller
20 one, and the 2006 Harley-Davidson, the Electra Glide
21 style one with the windshield and bags?

22 **A** He acknowledged that he rolled them and that
23 they were at his property.

24 **Q** Did he vacillate back and forth on the
25 ownership of those?

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1 **A** Yes.

2 **Q** Okay. Did he ultimately tell you that he had
3 utilized and ridden both of those motorcycles that
4 were on the property?

5 **A** Yes, sir, he did.

6 **Q** Okay. As to scales that were found inside the
7 house, did he acknowledge to you, when you talked
8 with him, that the digital scales were there and
9 that he was utilizing those digital scales?

10 **A** Yes, sir, he did.

11 **Q** What did he tell you that he was utilizing the
12 digital scales for?

13 **A** I think he said to make sure he don't get
14 cheated when he was buying drugs.

15 **Q** Okay. In regard to the ten grams a week that
16 he was talking about getting, did he tell you that
17 he went and got it or people brought it to him or
18 did he indicate that it happened sometimes one way
19 and sometimes another? What information did he
20 provide?

21 **A** He said sometimes he'd go get it and sometimes
22 it would be brought to him, so both.

23 **Q** Okay. As to the vehicles that were there, what
24 conversation did he have with you in regard to the
25 other stolen vehicles that were there on the

1 property? Did he acknowledge that there were other
2 vehicles on the property during the time that you
3 interviewed him?

4 **A** He did. He did. And he described the trucks,
5 but I have to look and see exactly what he said
6 about them. But he did acknowledge some vehicles
7 being -- other vehicles besides motorcycles being on
8 his property.

9 **Q** Okay.

10 **MR. MAYE:** Answer any questions the defense has
11 for you.

12 **THE WITNESS:** Yes, sir.

13 **CROSS-EXAMINATION**

14 **BY MR. DRYLIE:**

15 **Q** Now, during both of these interviews or all
16 three of these interviews, he was in custody,
17 correct?

18 **A** Yes, sir.

19 **Q** You stated you didn't do anything to coerce
20 him, right?

21 **A** Yes.

22 **Q** Now, his daughter, Heather Hall, was a
23 co-defendant in this case?

24 **A** She was.

25 **Q** And, at some point, did you say that, you know,

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1 you're going to have to choose between Heather and
2 Tim?

3 **A** Pretty sure in general conversations because
4 from the get-go, he said Heather didn't have
5 anything to do with it, but when I asked him
6 something about Tim, he wouldn't really say anything
7 about Tim. So I do remember probably telling him
8 that, but I wasn't forcing him to say anything. He
9 was there on his own free will.

10 **MR. MAYE:** And, Your Honor, I know that we're
11 in camera now, but I talked to this agent about
12 this, I just want to be sure that we reiterated it.
13 I don't want to get into any burden shifting issues
14 in this case. I've instructed this agent, at this
15 point in time, that we're certainly not going to
16 talk about his refusal to say anything or talk about
17 anything in front of the jury. But for the purposes
18 of in camera, I just wanted to make sure that I
19 addressed it at this point in time.

20 **THE COURT:** Okay. Well, he's asked him the
21 question, so he's stuck with the answer whether it's
22 opening the door --

23 **MR. DRYLIE:** And we're in camera at this time.

24 **MR. MAYE:** Yes, sir, but I was --

25 **THE COURT:** I got you. You're on the record.

1 **MR. MAYE:** I was predicting, yes, sir.

2 **MR. DRYLIE:** As far as the Denno issue, I don't
3 have any further questions.

4 **MR. MAYE:** Nothing else from this witness, Your
5 Honor.

6 **THE COURT:** You can step down.

7 Is that it?

8 **MR. MAYE:** Your Honor, that's it. He -- there
9 were three times that he gave statements. I'm
10 unaware of anything else.

11 **THE COURT:** Well, let me first: Do you have
12 any witnesses you want to present?

13 **MR. DRYLIE:** No, Your Honor.

14 **THE COURT:** Let me hear from him first as to
15 where the defects are as far as requirements under
16 Miranda.

17 **MR. DRYLIE:** Judge, we admit that he was
18 mirandized during all of these, but we -- we'd say
19 that he was in custody. Judge, they did bring his
20 daughter up to try and talk to him. We think that
21 there was some measure of coercion in trying to use
22 his family and we'd ask that these statements be
23 suppressed.

24 **THE COURT:** All right. I deny that motion. I
25 find that the motion -- that he was, in fact, given

1 his Miranda -- the Miranda warnings or the warnings
2 as required by the case of Miranda, that he was told
3 he had a right to remain silent and that if he
4 answered any questions or anything he said, whether
5 it was questions or not, could be used against him
6 in a court of law, that he had a right to talk to an
7 attorney and have one present to advise him before
8 and during questioning and that if he could not
9 afford one, the State would be provided -- well, it
10 doesn't say the State, but says, One will be
11 provided to me at no cost and while I am questioned.
12 And he was warned that, or not warned, but advised
13 that he had a right to stop answering questions
14 whenever he wanted to if he did, in fact, choose to
15 answer questions at that time and that he had the
16 right to stop answering questions until such time as
17 he had talked to a lawyer.

18 I find that he freely, voluntarily, knowingly
19 and intelligently, understanding those rights,
20 waived them, and that's a written waiver on State's
21 Exhibit Number 1.

22 I find in addition that there's no evidence
23 that he was in any way threatened or coerced. I
24 don't believe bringing up the daughter is sufficient
25 to call that coercion, that no promises were made,

1 no hope of reward, never indicated while he was
2 making all three of these statements that he wanted
3 an attorney. In fact, the second and third, the 4th
4 and the 27th of January of 2016, were interviews
5 that he requested.

6 So I find by a preponderance of the evidence,
7 which is a burden I have at this point, that the
8 requirements of Miranda were -- have been met. He
9 was advised as to his Fifth and Sixth Amendment
10 Rights and that he freely, voluntarily, knowingly
11 and intelligently waived them.

12 I will, of course, charge the jury that they
13 have a right to review the statements under the
14 burden of proof standard being beyond a reasonable
15 doubt, but I overrule -- or deny the motion to
16 suppress any or all of the three statements.

17 Is that everything before lunch?

18 **MR. DRYLIE:** I will have one more issue. I
19 don't know if you want to address it now or when we
20 get back from lunch.

21 **THE COURT:** Well, why don't we go ahead and
22 break for lunch and try to be back at, let's say,
23 2:15, that gives us a little less than an hour. The
24 jury's coming back at 2:00 and they'll just have to
25 wait for a few minutes.

1 You want to just give me a preview, a coming
2 attraction sort of thing.

3 **MR. DRYLIE:** Judge, with regard to the ten
4 grams of weed that was said that he purchased from
5 Aiken, I'd have a 404(b), as well as a 403 argument.
6 Those two go together with that. It's obviously not
7 talking about the drugs that were found at his
8 house. In fact, throughout the interviews and has
9 come out in testimony, he denied ownership of the
10 drugs in his house. So I think that that would take
11 us to 404(b) where a prior bad act and then we'd
12 have to look at whether it's overly prejudicial as
13 opposed to probative.

14 I don't think it's at all probative because of
15 the drugs in his house and the specific crimes that
16 he's been charged with, but it is extremely
17 prejudicial when you get to the fact that he -- is
18 going to hear that he purchased ten grams of weed in
19 Aiken and he was a user of methamphetamine, and so
20 that would be essentially what it is.

21 **MR. MAYE:** Your Honor, I can briefly say
22 trafficking encompasses conspiracy and encompasses
23 an ongoing criminal enterprise in this case.
24 Certainly, given the fact that he's admitting on an
25 ongoing basis that he's getting ten grams a week in

1 this case, that would certainly be relevant
2 evidence. A person getting ten grams a week would
3 amass and accumulate a quantity. If they weren't
4 using it all or if they weren't giving it all away,
5 it would certainly give them an opportunity to
6 accumulate drugs there.

7 He's talking about an ongoing pattern of giving
8 away and distributing narcotics, which we maintain
9 would certainly be relevant evidence as to whether
10 or not he was trafficking methamphetamine. To have
11 him say there were -- to have us say there were 700
12 grams there in the house, he's saying and telling
13 the officers he's getting ten grams every week and
14 that that's not relevant evidence in this case, Your
15 Honor, we would certainly maintain would be a
16 stretch.

17 We certainly think that the probative value of
18 that would outweigh the prejudicial effect. And
19 these are statements of the defendant in this case
20 given after Miranda warnings, Your Honor. To
21 suppress them on the basis of that being more
22 prejudicial than probative, we just think would be a
23 tremendous stretch, Your Honor, respectfully.

24 **MR. DRYLIE:** Judge, I would point out, he's got
25 charges over in Aiken for that, too, that are still

1 pending. I don't know if the warrants have ever
2 actually been served, but he was picked up over in
3 Aiken and so it would --

4 **THE COURT:** I'll take a look at the rule.

5 Now, the trafficking charge is 400 grams of
6 meth. So was that the amount found or is that one
7 of these adding together so many --

8 **MR. DRYLIE:** They found 713 grams and then I
9 think an additional two grams in the house.

10 **THE COURT:** All right. So it's possession of
11 more than 400, but it's 700, okay.

12 **MR. DRYLIE:** That's the drugs --

13 **MR. MAYE:** Yes. It's like 771 or something; I
14 can't remember, Your Honor.

15 **THE COURT:** We'll briefly address that when we
16 come back at 2:15. But have a pleasant lunch and
17 we'll see you at 2:15.

18 **MR. DRYLIE:** Thank you, Judge.

19 (Whereupon, there was a luncheon recess.)

20 **THE COURT:** Anything else on the issue of the
21 buying ten grams of weed and giving it away?
22 Anything further on that?

23 **MR. DRYLIE:** Just what I said before the break,
24 Your Honor.

25 **THE COURT:** Anything else from the State?

1 **MR. MAYE:** Nothing else, Your Honor.

2 **THE COURT:** I'm not going to allow the State to
3 go into that for several reasons: One is that
4 evidence of other bad acts would have to be proven
5 by clear and convincing evidence if they're not
6 subject to conviction. And there's no question
7 these were not subject to conviction. And,
8 arguably, they could be evidence of something under
9 403, either a -- I mean, under 404, common scheme or
10 plan, but I find that even if it were admissible
11 under 404, for other reasons that would not be
12 admissible under 403 as I believe the prejudicial
13 value outweighs the probative value.

14 All right. Ready for the jury?

15 **MR. DRYLIE:** Judge, real quick, could we just
16 ask that the witnesses be sequestered?

17 **THE COURT:** All right. We'll sequester the
18 witnesses.

19 **MR. DRYLIE:** With the exception of Investigator
20 Smith.

21 **THE COURT:** Case agent can stay in.

22 **MR. DRYLIE:** And then I have that one objection
23 to put on the record from the jury qualifications.

24 **THE COURT:** That's right. You did call it to
25 my attention. Did that -- well, you can tell me, I

1 wasn't watching close enough to know if that
2 particular witness, if she came up.

3 **MR. DRYLIE:** She did, Your Honor, and I used a
4 strike on her.

5 **THE COURT:** Which one was that? You struck
6 McMillian, white male, white male. Frye, Brandon --
7 no.

8 **MR. DRYLIE:** I believe it was juror --

9 **THE COURT:** 172.

10 **MR. DRYLIE:** 172.

11 **THE COURT:** Yeah, that's the only female you
12 struck.

13 **THE CLERK:** He struck Margaret Carpenter also.

14 **MR. DRYLIE:** It was 172, Judge. And just from
15 my objection on the record that we discussed up
16 there, she stated that she was close friends with
17 Investigator Smith's wife. He's the -- he's one of
18 the primary officers on this case. We thought she
19 should have been struck for cause.

20 **THE COURT:** All right. And I denied that
21 motion. And I do see Margaret Carpenter down at the
22 bottom. I had so many lines drawn on there, I
23 couldn't see it, but I see where you struck her
24 also.

25 But that was timely called to my attention at

1 side bar, and I said, at the time, that she had
2 indicated that she could be fair and impartial and
3 she does not fall into one of the automatic
4 exclusions. And I mentioned the fact that jurors
5 have a right to serve unless there's some reason
6 that that right should be infringed on, and I found
7 that that was not the case with Ms. Williams.

8 All right. State ready?

9 **MR. MAYE:** State's ready, Your Honor. Thank
10 you.

11 **MR. DRYLIE:** Defense is ready.

12 **THE COURT:** All right. Bring in the jury.

13 (The jury returns to the courtroom.)

14 **THE COURT:** Mr. Vann, I'm going to ask you to
15 be foreman of the jury. Mr. Bailiff will tell you
16 where to sit as foreperson.

17 Now that everybody's comfortably seated, please
18 stand and the Clerk will administer the oath.

19 (The jury was duly sworn at 2:26 P.M.)

20 **THE CLERK:** Is there any member of the jury
21 panel that was unable to take the oath; if so,
22 please stand?

23 No one stood.

24 **THE COURT:** I'm going to chat with you for just
25 a few minutes. And we do have limited seating

1 assignments. By that, I mean, the foreperson will
2 always sit there. The alternate will always sit
3 there. The rest of you just sit wherever you happen
4 to come in. If you come in in a line, of course,
5 there's no other assigned seating, so just sit where
6 you kind of fit into the line.

7 Mr. Coon is charged with several charges that
8 we went over earlier and to these charges, to all of
9 these charges, he has entered pleas of not guilty.
10 That places on the State the burden of proving his
11 guilt beyond a reasonable doubt before you, as a
12 trial jury in this case, could convict him for one
13 or more or any of the offenses for which he is
14 charged.

15 He is presumed innocent of these charges. He
16 does not have to prove his innocence. He is, as I
17 said, presumed innocent and that presumption is a
18 substantial and important right that's in his favor.
19 So he does not have to prove anything, the State has
20 to prove, before he can be convicted, is -- as to a
21 charge of Mr. Coon's guilt beyond a reasonable
22 doubt.

23 I have several jobs: One is that I'm the
24 logistics person. I make sure that we take breaks.
25 I make sure that, hopefully, that you can hear and

1 see the witnesses.

2 And my second job is that I rule on questions
3 of admissibility of evidence. This morning I told
4 you we had some legal matters to take up outside of
5 your presence, and that's what we've been doing
6 while you've been out. And it went a little longer
7 than I'd thought and that's why it's almost 2:20
8 before we got started.

9 My third job is that I'm the sole judge of the
10 law in this case. You must take, accept and apply
11 the law as I charge it. This is true even if you
12 think I charged the law in error or even if you
13 think the law should be different than what I charge
14 you. You have to accept and apply it as I charge
15 it.

16 I am the sole judge of the law, but you, the
17 trial jury, are the sole judges of the facts.
18 You're not to infer from anything I say or do at any
19 time during this trial as being an indication of an
20 opinion of mine on the facts. I'm not allowed to,
21 as a trial judge, formulate or express to a jury any
22 opinion on the facts. It's solely your job, as
23 trial jury in this case, to examine the evidence, to
24 weigh the evidence, determine the truth, look at the
25 evidence -- let me start over.

1 It is solely your prerogative to listen to the
2 witnesses, determine which witnesses are credible in
3 your opinion. It is up to you to judge the truth,
4 the value and the weight to be given any testimony
5 by any witness. In judging the believability, use
6 the things that I just talked about, use those
7 things that you in your day-to-day life find or
8 indicate as the truthfulness in an individual. And
9 you can use certain evaluators like how a witness
10 acts on the stand, a witness' demeanor, whether a
11 witness had an opportunity to actually know those
12 things about which they testify, look and see
13 whether a witness has any reason to help or hurt one
14 side or the other. And you can look at
15 consistencies or inconsistencies and hesitations of
16 a eyewitness and determine the -- which witnesses
17 are believable.

18 I've already told you about not discussing the
19 case. I did not tell you, and I don't believe, that
20 this case will receive any news coverage, but if it
21 does, do not let yourself be exposed to it, don't
22 read, watch or listen to anything that could
23 remotely deal with this case.

24 In just a moment, the attorneys have the right,
25 but no obligation, to come before you and make what

1 we call opening statements. These statements are
2 sort of blueprints or the outlines of the trial.
3 The attorneys are not, at this time, trying to
4 convince you what your verdict will be. It's
5 premature for them to do that. They will, at a
6 later time, have an opportunity to stand before you
7 and say, based on the law that they will know that
8 I'm going to charge and the facts as you determine
9 them to be, what verdict they believe you should
10 render in this case. That's not what they're doing
11 now.

12 We take breaks about every hour and a half. I
13 find that is a good time to take a break, but if any
14 of you need a break at any time, simply raise your
15 right hand and with no questions asked, we'll take a
16 break. And I extend that to counsel and Mr. Coon.
17 We want to move the case along. We're not in such a
18 hurry that we will not want someone to take a break
19 if they need it.

20 If you can't see or hear, let me know, cup your
21 ear, a voice raising gesture or a nudging gesture,
22 and I'll try to correct that because it's not fair
23 to ask you to resolve this case and not give you the
24 opportunity to see and hear those things that are
25 important for your consideration.

1 So, at this time, I'm going to call on counsel.

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

3 OPENING STATEMENT

4 **MR. MAYE:** Ladies and gentlemen, I'm going to
5 again introduce myself to you. My name is Ervin
6 Maye and I work for the Eleventh Circuit Solicitor's
7 Office. For the past 25 years, I've been helping
8 Solicitor Donnie Myers take care of McCormick,
9 Edgefield and Saluda Counties. So it's certainly my
10 privilege today to be here in Edgefield County
11 representing the State of South Carolina.

12 I said for about 25 years, I've been working
13 for Solicitor Myers. By the time this trial is
14 over, we're going to have a new Solicitor sworn in.
15 Your new Solicitor will be Rick Hubbard. So I hope
16 I'll be continuing to work for the solicitor's
17 office and working for Solicitor Hubbard by the time
18 this trial concludes.

19 I know why I'm up here, because this is my job.
20 All of the 12 of you that are going to go back in
21 that jury room and deliberate and the alternates
22 that may or not be participating in the ultimate
23 deliberation, all of y'all had a lot of other places
24 y'all could have been today. And I doubt if y'all
25 had sat and listed a couple of weeks ago of all of

1 the great places that you would have liked to have
2 been this week, this probably wouldn't have been on
3 anybody's top ten list.

4 I talk about this all the time in front of
5 juries, but I doubt when any of you went down to the
6 mailbox and you got that summons from your Clerk of
7 Court over here, Mr. Reel, I doubt anybody was
8 skipping and jumping for joy as they come back from
9 the mailbox or they went from the post office box
10 back to their car. But I will tell you this is
11 vitally important.

12 This is the last compulsory public service that
13 we have. If you go out here and look on the square,
14 there are all sorts of monuments to people that had
15 some really serious public service, things that we
16 used to require citizens to do. A lot of people got
17 compelled to come away from Edgefield County here
18 and serve and fallen in wars, they're drafted.

19 They tell me predating that, that before DOT
20 went around and worked on the roads and scrapped the
21 roadways and dug the ditches, they tell me that
22 citizens used to have to either go out and work on
23 the roads themselves for a period of time or they
24 had to pay a tax and get somebody to work in their
25 place. There were a lot of things that were a price

1 of citizenship, but this is the last one. And
2 Winston Churchill said that a citizen has no higher
3 duty than service on a jury during peacetime, and
4 that is certainly true. Been a lot of jurors that
5 have sat here in Edgefield County and this is an
6 historic courthouse here.

7 And I will tell you the State of South Carolina
8 has the burden of proof in this case and we welcome
9 it. And what we're going to do in this case is
10 we're going to prove the allegations in the
11 indictment here by calling witnesses to the stand.
12 They're going to get up here. And you're going to
13 hear from a number of witnesses in this case because
14 you've already heard that there are a number of
15 charges in this case pending and leveled against the
16 defendant over here seated in the blue shirt,
17 Mr. David Coon. Published some of them to begin
18 with.

19 And I tell you up front, we've got the burden
20 of proof and we welcome it. And we're going to
21 prove this case beyond a reasonable doubt by putting
22 the evidence in, by the testimony that you're going
23 to hear from the witnesses. And the way this works
24 is at the conclusion of all the evidence in this
25 case and after the State's put everything in and

1 you've heard all there is to hear in this case, the
2 Judge up here, Judge Hayes, is going to charge you
3 with what the law is in this case and you're going
4 to apply that law to the facts that we put forth in
5 this case and come back and render a verdict.

6 Now, the word verdict means, literally,
7 veredicto. It means to speak the truth and that's
8 all that we're going to ask that any of you do in
9 this case. You listen to the evidence in this case
10 and come back with a verdict that speaks the truth.

11 But I'm going to tell you about the charges.
12 The Judge is going to go through great detail and
13 tell you all about what the law is in this case, but
14 I'm going to tell you up front, what's driving the
15 train in this case, the most serious thing that
16 we're up here about is the charge against Mr. Coon
17 for trafficking in methamphetamine.

18 Now, the Judge will talk to you, there are
19 different kind of drug offenses. And y'all have
20 been watching TV. You've got the collective wisdom
21 of the 12 of you that are going to go back in that
22 jury room and deliberate. You know there are all
23 sorts of drug offenses. There's just possessing
24 something, merely having it, simply possession --
25 simple possession of something.

1 There are other charges in the law where they
2 talk about possessing something with intent to
3 distribute. And sometimes through other evidence,
4 if you've got more than a certain weight of a drug
5 or if you've got scales and weapons and all sorts of
6 different things that can rise to the evidence of
7 showing that you not only had something, but you had
8 it and you intended to distribute it, that's another
9 level.

10 But what we're talking about in this case is
11 trafficking. And there are certain possessory
12 levels of having a drug that are so high that they
13 fall under the specter of being a trafficker in this
14 case. And, specifically, in this case, what the
15 State is going to prove here is that Mr. Coon was
16 involved in trafficking more than 400 grams of
17 methamphetamine. I submit to you you're going to
18 hear from the facts in this case that he had about
19 713 grams of methamphetamine at a residence here in
20 Edgefield County.

21 The residence that you're going to hear about
22 is here in Edgefield County. You're going to hear
23 all about the location, that it's ■ Rain Forest
24 Drive. And you'll hear that off the road that you
25 turn to get to this, it's a rough, perilous dirt

1 road, up and down rutted. You go back a couple --
2 by a couple of mobile homes, and back out way in the
3 woods sits a double-wide mobile home that Mr. Coon,
4 the defendant in this case, was staying in. He was
5 renting it along with his daughter and another
6 couple of individuals were staying there.

7 Now, you're going to hear that this thing
8 unfolded through a long and tortured route to get to
9 Mr. Coon in this case, but it's actually fairly
10 simple. There's a guy that you're going to hear
11 about in this case, his name is Brian Wade. And
12 he's going to tell you in this case he's from over
13 in the Valley in Aiken.

14 The one thing that the 12 of you all have in
15 common in this case is you're from here in
16 Edgefield, and you'll know a lot of the places that
17 we're talking about, but Mr. Wade grew up over in
18 the Valley in Aiken. And, at one point in time, he
19 went in the military for a little bit, but he got in
20 trouble and he got bounced out. And he's going to
21 tell you, he's going to come up here and testify
22 that he got back out of the military and he fell in
23 with a rough crowd, started messing with drugs,
24 started messing with stolen vehicles, started
25 getting in trouble and started a descent downhill.

1 What you're going to hear about in this case is
2 that on December the 10th of 2015, Brian Wade was
3 over in Aiken County, and SLED, the South Carolina
4 Law Enforcement Division, was looking at him about
5 stolen vehicles, because that's what he was doing.
6 He was involved in going out and stealing vehicles
7 and dealing with stolen vehicles. And then he was
8 in turn getting rid of them, either selling them or
9 trading those stolen vehicles for drugs in this
10 case, that he was making money however he could. If
11 he could make it stealing vehicles, he was, if he
12 could trade for drugs and sell drugs, use the drugs.
13 You're going to hear about the downward spiral that
14 he went on.

15 But what you're going to hear in this case is
16 that he gets caught on December the 10th, 2015, over
17 in Aiken County and they catch him red-handed
18 driving a stolen vehicle. An agent from SLED
19 pinches him on that. And while he's sitting down
20 there in the jail, he's in trouble and he knows it.
21 They've got a variety of charges against him. He's
22 going to be the first witness you're going to hear
23 from in this case from the State.

24 He's going to tell you that he was in jail, he
25 knew he was in trouble, he was caught. And as often

1 the case, when people get caught, if they've got
2 information they think will benefit them, they share
3 it with law enforcement.

4 And you're going to hear that's exactly what
5 happened, that on December the 14th of 2015, two
6 detectives from Edgefield County Sheriff's Office,
7 one of which you'll hear from in this case,
8 Detective Jimmy Smith, and a detective named Phil
9 Ireland that worked for Sheriff Dobey, they went
10 over to Aiken County because they got word that
11 there was a person over in the Edgefield County
12 Detention Center that had information involving
13 criminal activity that was taking place right here
14 in Edgefield County. So as trained investigators,
15 they went over and they talked with Mr. Wade.

16 And I submit to you what you're going to hear
17 in this case, Mr. Wade is going to tell you what he
18 told them in this case. You're going to hear all
19 about what Investigator Smith did as a result of
20 getting all that information. But what Mr. Brian
21 Wade said to him was basically, he said, Look, I got
22 caught on the 10th in this stolen vehicle and I'd
23 been stealing vehicles and getting in trouble for
24 that, but I'm going to tell you about a serious
25 criminal enterprise that's going on in Edgefield

1 County down at ■ Rain Forest Lane.

2 He told them that he had been taking the
3 vehicles that they'd been stealing from over around
4 Aiken County and other places and that he'd been
5 coming down to ■ Rain Forest Lane and dealing with
6 Mr. David Coon, the defendant in this case. He'd
7 taken these stolen vehicles down there and trading
8 them for methamphetamine. And that he'd been going
9 back down -- back and forth through there taking
10 vehicles over a long period of time and that in
11 exchange for the stolen vehicles, he was getting
12 methamphetamine from Mr. David Coon.

13 Told them there was also another guy living
14 there that you're going to hear about in this case,
15 a guy they called Biker Tim or Tim Wheeler, that he
16 was staying there. You're going to hear that in
17 addition to Tim Wheeler living there in this
18 double-wide out at ■ Rain Forest Lane, Heather
19 Hall, whose David Coon's daughter in this case, his
20 own daughter was staying there with them, the two of
21 them. She was Tim Wheeler's girlfriend and they
22 were staying together in the double-wide. They were
23 staying in one bedroom. He was staying in a
24 bedroom. And they're all hanging out there at this
25 trailer.

1 What he's going to tell you is he was going
2 down there taking stolen vehicles, trading them for
3 meth. He found out that he could get a good deal
4 from Mr. Coon if he'd go down there and deal with
5 him if he was going to deal with somebody for meth,
6 that he'd get a more favorable exchange rate on what
7 he was taking, and so he goes down there. And
8 you'll hear that he went on December the 6th of
9 2015. He catches up with Mr. Coon over at a hotel
10 in Aiken County and they kind of feel each other out
11 and talk about, you know, what they're going to do.

12 But they eventually go back to where Mr. Coon
13 was living over on Rain Forest Lane, back to this
14 double-wide that same day on December 6th. He's
15 going to tell you that they just kind of hang around
16 and Mr. Coon's just kind of bragging and showing him
17 everything that he's got going on there. He shows
18 him a huge variety of weapons that he's got there,
19 sawed-off shotguns, all kind of rifles, all kind of
20 pistols, all kind of handguns.

21 You're going to hear that he's kind of bragging
22 and carrying on that he knows all about explosives
23 and he's got booby traps all out through the woods
24 on this dirt road going down to Rain Forest Lane and
25 that if anybody comes down there, he's got a

1 surprise for them. He's got booby traps that are
2 going to take care of anybody that's coming down
3 there. And he puffs and he tells him all of the
4 different things that he's got going on there.

5 They, in fact, get these sawed-off shotguns out
6 and they go out into the yard there where there's a
7 green Nissan Quest Van, not a real old one, but it's
8 sitting out in the yard, kind of all the tires off
9 of it up on blocks. Mr. Wade's going to tell you
10 they get these sawed-off shotguns out and they blast
11 the side of that green van there up in the front of
12 that property. And he's going to tell you after
13 they hang around and they talk about guns and they
14 shoot these sawed-off shotguns at the trailer, that
15 they end up back inside.

16 Now, he's going to tell you that day that he
17 was out there, it started off they were all there.
18 Mr. Coon was there, Tim Wheeler was there, Heather
19 Hall was there. And he's going to tell you that
20 each of the three of them, that he knew them and
21 they all knew what was going on in this case. I
22 mean, they're living out there in this double-wide
23 mobile home and they are steadily trading stolen
24 items for methamphetamine and other drugs, pills and
25 different things. And there's traffic in and out of

1 there all the time.

2 Now, that's significant in this case because
3 you're going to hear when Detective Jimmy Smith
4 starts vetting what he hears from Mr. Wade, that he
5 goes out to see if he can match up what he's telling
6 him. And sure enough, the sheriff's department's
7 already onto what they see as a highly unusual
8 pattern of traffic just in and out of this rough,
9 dirty, up and down little bumpy road back to this
10 trailer. Cars are in and out all the time,
11 motorcycles in and out all the time, just like Grand
12 Central Station going up and down that dirt road.
13 So they're already wise that something's going on in
14 this case.

15 So he tells them that they finish that day out
16 of talking about the guns and explosives and
17 shooting and they end up back in the trailer. He is
18 going to tell you in this case that Mr. Coon tells
19 him, Well, you know, you seem like the kind of guy
20 that we can deal with. We know you've been bringing
21 the vehicles to us and trading, but, you know, we
22 can take it up a level and what we're going to do,
23 if you can do this, is we're going to front you some
24 methamphetamine for you to sell.

25 And he gets a quantity of methamphetamine from

1 there and he's going to move into a different thing
2 rather than just bringing these stolen vehicles and
3 trading them for meth with Mr. Coon and Mr. Wheeler
4 and Ms. Hall there. What he's going to do is
5 they're going to front him methamphetamine and let
6 him go out and sell it, basically him getting it on
7 credit. And they agree that he's going to get
8 fronted the drugs. Once he gets paid for it, he's
9 going to come back in and he's basically going to be
10 a dealer or a distributor for them, as a trafficker
11 would do, because they need people to go out and
12 distribute the product in addition to people just
13 coming and buying it basically on a retail basis.
14 He's going to tell you, in fact, he does get fronted
15 the drugs there that day and he leaves.

16 Now, in the interim, just a few days later on
17 the 10th, he gets arrested. And, of course, he
18 tells what he knows and he sits down with
19 Investigator Smith and he lays this whole thing out,
20 tells him all about the guns, the threats of the
21 explosives in this case, getting fronted the drugs,
22 all of the drug trafficking that's going on down
23 there at this property, the stolen vehicles that are
24 getting taken down there and traded, lays it all out
25 for him.

1 But you're going to hear Investigator Smith,
2 like I said, he didn't just take him at his word, he
3 knows that he's in trouble in this case, but he vets
4 what he's got to say. You'll hear that he went out
5 and talked with some of the resident deputies in
6 that area that are patrolling, and sure enough, he
7 was able to corroborate a lot of those things. He
8 was able to verify that what he was saying that he
9 had a basis of knowledge for.

10 Once he did that, once he talked to the
11 deputies about what they had seen versus what this
12 guy, Mr. Wade, had seen, talked about the layout of
13 the inside of the trailer, he verified that with a
14 deputy that had actually been out there on another
15 call and knew what the trailer was like. So he was
16 able to compare all of those things, that he was
17 dead on the money.

18 Based on that, he went down to Judge Brenda
19 Carpenter, who's a summary judge, a magistrate, here
20 in Edgefield County, and he prepared a search
21 warrant affidavit. Because what he wanted to do,
22 based on the information that he had gotten from
23 Mr. Wade and that he was able to verify from the
24 deputies, this ongoing and continuing pattern of
25 traffic and coming and going down there, he went to

1 the magistrate and he prepared a search warrant
2 affidavit. And he basically laid out the
3 information to the judge in this case what he had
4 been told by Mr. Wade over in Aiken, the great
5 detail he gave him about the unlawful activity that
6 was going on, the information about the explosives,
7 the information about the weapons, the information
8 about the stolen vehicles. He laid it all out for
9 the magistrate.

10 Now, he did a written affidavit, but in
11 addition to that, didn't want to let everybody know
12 in this case that it was Mr. Brian Wade necessarily,
13 he lists him in the affidavit as a confidential
14 informant in the written affidavit. But you'll hear
15 that he was sworn in front of the magistrate and he
16 provided all sorts of additional sworn testimony
17 before the magistrate that the magistrate recorded
18 and wrote right on the face of the warrant in this
19 case, that it was supplemented by all of this
20 information.

21 And he basically just sat down and told her
22 everything that he knew about what was going on down
23 there. Told them who Mr. Wade was, all the
24 information that he'd given him, that he'd been able
25 to vet and verify with the deputies about all of

1 this corroborating evidence about the trafficking,
2 the vehicles going back and forth there. And based
3 on all the information that he gave her, the judge
4 issued a search warrant. She signed it and had
5 authorized them to go down and search that property.

6 And so you're going to hear in this case that
7 on December the 22nd of 2015, that the sheriff's
8 office went down there, but because of all the
9 information that they had about booby traps and
10 explosives and stolen vehicles and guns and drugs
11 that was going on down at this Rain Forest Drive
12 arrest, they didn't go by themselves. They got the
13 Bureau of Alcohol, Tobacco and Firearms to send a
14 couple of special agents down here. They got the
15 South Carolina Law Enforcement Division SWAT Team to
16 come down with specialized weapons and defensive
17 equipment that they could deal with to go out and
18 potentially serve a warrant on a location that's
19 booby trapped and has explosives and where people
20 have all of these weapons and guns.

21 And you will hear on that day, that they got
22 together in a very organized and concerted effort,
23 the sheriff's department, ATF, SLED, and they went
24 down that road and they went out through the woods
25 and they circled in and they raided this residence

1 there at Rain Forest Lane. And you're going to hear
2 that they went in and they executed that search
3 warrant in accordance with the law with what Judge
4 Carpenter told them they could do.

5 And low and behold, what did they find there?
6 A green van shot up with bullet holes in the front
7 yard, sawed-off shotguns, rifles, pistols, blasting
8 caps, all sorts of things, body armor. They found
9 all sorts of things in this residence, exactly the
10 same things that Brian Wade had described to them
11 that they would find. He even gave them a layout of
12 where all the bedrooms were and they found the
13 things in the places that they expected to find
14 them.

15 You're going to additionally hear that they
16 found in this case, when they went out and executed
17 the search warrant, 713 grams of methamphetamine,
18 two great 'ol big half-gallon Ziploc bags that were
19 in a closet in the house there. You're going to
20 hear that they found 22 Hydrocodone tablets there,
21 that they found marijuana. They found three
22 sawed-off shotguns. They found a stolen Mossberg
23 shotgun.

24 In the front yard of the property was a great
25 'ol big tow-behind camper like you would pull to go

1 down to the beach or to stay at a campground, a
2 great 'ol big Zeppelin camper that was stolen.
3 You're going to hear that there were two stolen
4 Harley-Davidson motorcycles. And you're going to
5 even hear Mr. Wade in this case, he's going to tell
6 you which one Mr. Coon was riding and which one he
7 was seeing him on and which one Mr. Wheeler was
8 riding of the stolen Harley-Davidsons.

9 They found a 2005 half-ton Chevrolet pick-up
10 truck there, a big 'ol red pretty late model pick-up
11 truck, that was stolen there. They found an
12 absolutely huge stash of weapons there. And you're
13 going to see the photographs and all the things that
14 they found as a result of the search warrant.

15 Now, additionally, you're going to hear some
16 information because after they got him into custody
17 and they gave him his rights -- now, Mr. Coon gave
18 them some statements in this case and he admitted
19 some of this. He admitted to possession of some of
20 the sawed-off or stolen shotguns. He admitted to
21 having scales there. You will hear all about the
22 statement that he gave, and you'll hear the
23 information when ATF interviewed him.

24 There's a whole laundry list of things here
25 that he's charged with. He's charged with

1 trafficking. He's charged with possession with
2 intent to distribute marijuana. What we've got to
3 prove in this case is that he had marijuana and it
4 was in a quantity and in accompanying with all of
5 these other things, scales and weapons and money and
6 all the things that they found in the residence
7 there, that it was possession with intent to
8 distribute marijuana. The State will prove it to
9 you..

10 You're going to hear involving those 22
11 Hydrocodone tablets, they were unlawful to have
12 without a prescription, that they were selling and
13 trafficking out of there, that he's charged with
14 possession with intent to distribute a Schedule IV
15 controlled substance. You'll hear from a chemist
16 from the South Carolina Law Enforcement Division
17 that tested a lot of these things. She's going to
18 tell you she tested those 22 tablets and that
19 they're Hydrocodone. She's going to tell you she
20 tested the 713 grams of the substance they believed
21 was methamphetamine, and it is, in fact,
22 methamphetamine.

23 You're going to hear that he's got three
24 charges, possession of those three sawed-off
25 shotguns, either that the barrel was too short on

1 them or that the overall length of the shotgun was
2 too short on them in violation of state law. And
3 like I told you, the Judge is going to go through
4 and tell you what the elements of the crimes are
5 that we've got to prove. But, again, you don't
6 leave your common sense at home. People know what
7 you're talking about with a sawed-off shotgun. And
8 you'll see that some of the ones that we're going to
9 present evidence are cut off to just barely over a
10 hand length.

11 He's charged with possession of that stolen
12 camper that we've talked about, the great 'ol big
13 tag camper that was there in the front yard of the
14 property, charged with possession of a 2006
15 Harley-Davidson motorcycle. For those of you who
16 know anything about motorcycles, we're going to
17 prove one of them is a little Sportster 883
18 Harley-Davidson and the other one is a great 'ol big
19 Electra Glide, one of those ones with a big
20 windshield and the bags on it, but there were two
21 2006 stolen Harley-Davidson motorcycles there.

22 Lastly, what we're going to prove is among that
23 cash of weapons that wouldn't necessarily be illegal
24 but for the fact that they were stolen, was a
25 Mossberg shotgun as well that was stolen from

1 another place in South Carolina. And I submit to
2 you some of it is going to be tedious because every
3 item that's stolen up here, we're going to bring the
4 owner up here and he's going to say, This is my item
5 that got taken from me at some point in time that
6 Mr. David Coon or any of the rest of them down there
7 at that place here in Edgefield County had no
8 business having. It was stolen and they were in
9 possession of their stolen items.

10 Ladies and gentlemen, we're going to get right
11 to it momentarily. Again, I told you we've got the
12 burden of proof, we welcome it. All that we ask
13 that the 12 of you do is listen to all of the
14 evidence in this case and at the conclusion of the
15 evidence and being charged with the law by the
16 Judge, come back with a verdict that speaks the
17 truth.

18 **MR. DRYLIE:** Good afternoon.

19 Follow the money. If you follow the money in
20 this case, it's going to lead you to the guilty
21 party.

22 Sometimes you don't know what's going on in
23 your own home. That's the situation that David Coon
24 found himself in during late December of 2015. He
25 hadn't been spending much time at home. His

1 girlfriend had just given birth to a child and he
2 was basically living with her.

3 Now, David is a 53-year-old man. He's a
4 painter by trade. He's a father. And in December
5 of last year, he didn't know what was going on in
6 the home he had rented for him and his daughter.
7 You see, earlier that year, a man named Tim Wheeler
8 moved into the home and he began dating his
9 daughter. Now, Mr. Wheeler had known Tim for some
10 time because they rode motorcycles together, but
11 David had no idea the amount of trouble that Tim was
12 going to bring into his home.

13 Now, you've heard that there are a number of
14 indictments against David here today. You're going
15 to hear about some sawed-off shotguns and you're
16 going to hear that David said that two of them were
17 his. Now, the reason that David had these sawed-off
18 shotguns, and you're going to hear this from the
19 agents, is that he made walking sticks out of them.
20 They found a walking stick in the home that was made
21 out of a sawed-off shotgun, the handle of the
22 walking stick is the beginning of the gun. He had
23 not completed the other guns, but that's why he had
24 those guns in his home.

25 You're going to hear about some stolen property

1 that was located at ■ Rain Forest Lane. You're not
2 going to hear anyone say that David knew those items
3 were stolen.

4 You're going to hear from Brian Wade, who I
5 submit to you has more reason to lie than anyone in
6 this courtroom. He got arrested, he got in trouble
7 and he immediately wanted to try and get out of
8 trouble and so he decided to pin everything on
9 David.

10 And you're going to hear about a whole lot of
11 drugs, the largest quantity being around 700 grams
12 of methamphetamine. You're going to hear that David
13 has consistently told agents that those drugs
14 weren't his, they didn't belong to him and he didn't
15 know about it. He hadn't been staying at home; he
16 had been staying with his girlfriend.

17 You know, Solicitor Maye just went into the
18 search warrant that was served on the house on
19 December 22nd. What he didn't tell you was that
20 David wasn't there. David had not been living
21 there. He had not been spending a lot of time
22 there.

23 What else he didn't tell you was that Tim
24 Wheeler was there when they did the search warrant,
25 didn't tell you that Tim Wheeler had \$7,000 cash on

1 him when they served that search warrant. Follow
2 that money. David was arrested in a hotel in Aiken
3 with his girlfriend a couple days later. He had
4 about \$300 on him. If you follow that money, it's
5 going to lead you to the guilty party in this case.

6 Now, David did not know that Tim was
7 trafficking these drugs out of his house. He did
8 not know about the methamphetamine. He did not know
9 about the pills. David does not live like the
10 majority of us in this courtroom, but that is not a
11 reason to find him guilty, that is not a reason to
12 judge him here.

13 I want to talk to you for a minute about this
14 trial process. At first, the State's going to call
15 witnesses. They're going to come up here, they're
16 going to take the stand and they're going to
17 testify. It's your job to judge their credibility.
18 It's your job to judge what you believe. You are
19 the sole judge of the facts, the 12 of you. All I'm
20 asking is that you keep an open mind throughout this
21 trial and listen to what the witnesses say and see
22 if the State actually proves what they just said
23 that they're going to prove.

24 Now, I want you to evaluate the evidence as you
25 hear it throughout this trial, follow the evidence

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1 where it leads you, follow the money.

2 My name is Erik Drylie and I represent David
3 Coon. And at the close of this case, we're going to
4 ask you to return a verdict of not guilty. Thank
5 you.

6 **THE COURT:** Call your first witness.

7 **MR. MAYE:** The State calls Brian Wade.

8 WALTER BRIAN WADE,

9 having been duly sworn, testified as follows:

10 **THE CLERK:** Please be seated. State your full
11 name and spell your last name for the record.

12 **THE WITNESS:** My name is Walter Brian Wade,
13 W-a-d-e.

14 DIRECT EXAMINATION

15 BY MR. MAYE:

16 **Q** Mr. Wade, speak up over here so everybody can
17 hear you in the courtroom. Tell the ladies and
18 gentlemen of the jury what do you go by? You gave
19 your full name, but what do you go by?

20 **A** I go by Brian.

21 **Q** Brian Wade?

22 **A** Yes, sir.

23 **Q** Brian, tell the ladies and gentlemen of the
24 jury where are you originally from?

25 **A** Me? I'm from -- I was born in Prince George,

1 Maryland. I grew up in the Valley in South
2 Carolina.

3 Q You grew up over in Aiken County in the Valley?

4 A I did, yes, sir.

5 Q Okay. How old are you now, Brian?

6 A I'm 31.

7 Q Thirty-one years old?

8 A Yes, sir.

9 Q Okay. Where did you go to elementary school,
10 middle school and high school and all?

11 A I went to Byrd Elementary in Graniteville. I
12 went to Leavelle McCampbell in middle and I went to
13 Midland Valley High School.

14 Q Okay. Have you got family that are in the area
15 around the Valley section of Aiken?

16 A I do. I have, you know, all of my siblings
17 are.

18 Q All of your siblings are there. How many
19 siblings do you have, Brian?

20 A I've got a sister and three stepsisters.

21 Q A sister and three stepsisters. How about your
22 father? What kind of work does your mother and
23 father do?

24 A My father is a plant manager at AB Beverage and
25 my mother's a insurance lawyer at Tom Murphy's Law.

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1 **Q** Okay. Now, what did you do when you first got
2 out of high school, Brian? What year did you finish
3 going to high school?

4 **A** I graduated 2004 and then I went into the
5 military.

6 **Q** Okay. What branch of the military did you go
7 in, Brian?

8 **A** I went into the Army.

9 **Q** You got -- you went into the Army?

10 **A** Yes, sir.

11 **Q** Okay. What was your MOS or what did you do
12 when you were in the Army?

13 **A** I was a 14 Sierra. I was an Avenger crew
14 member, air defense artillery.

15 **Q** Okay. Where all were you stationed when you
16 were in the military?

17 **A** I went to Fort Sill, Oklahoma, for basic, you
18 know. Then I went to El Paso, Texas, Fort Bliss for
19 AIT. My first duty station was Camp Casey, Korea.
20 And I, you know, finished out, you know, my last
21 duty station was, you know, Camp Liberty.

22 **Q** Okay. Now, Brian, you actually ended up
23 getting bounced out of the military, didn't you?

24 **A** Yes, sir.

25 **Q** You did something stupid. What did you do?

1 **A** Me and my friends played a joke on another
2 soldier, you know. We ordered, you know, a
3 substantial amount of food to one person in the room
4 with his, you know, debit card and they didn't take
5 it very well.

6 **Q** You got court-martialed for it, didn't you?
7 And you got put completely out of the military for
8 pulling that stunt, didn't you?

9 **A** Yes, sir.

10 **Q** Okay. Brian, once you ended up getting
11 terminated from the military, tell them what you did
12 when you came back to the Valley and came back to
13 your life after you got put out of the military.

14 **A** Shortly after, I met my child's mother and we
15 stayed together for a while, but --

16 **Q** Okay. Now, you had a young lady that you had
17 had a child with previously; is that correct?

18 **A** I had, yes, sir.

19 **Q** Okay. How old is that kid now?

20 **A** She's 12 years old.

21 **Q** She's 12 now?

22 **A** Yes, sir.

23 **Q** Okay. Let's just go on and kind of get into
24 your personal life. Brian, when did you first start
25 using drugs in this case or when did you first start

1 using?

2 A Probably about the age of 13.

3 Q What did you start using when you were 13?

4 A Marijuana and meth.

5 Q And meth?

6 A Yes, sir.

7 Q When you were 13?

8 A Yes, sir.

9 Q Did you manage to get yourself cleaned up
10 enough to get into the Army and be able to perform
11 and all while you were in the Army?

12 A Yes, sir, I did.

13 Q Were you able to walk away and leave that
14 behind at that point in time?

15 A At that point in time, yes, sir.

16 Q Okay. After you got put out of the Army and
17 you came back to the Valley, what did you do when
18 you got back here?

19 A You know, I started landscaping. Like I said,
20 I got with my child's mother, and after that, you
21 know --

22 Q Did things start to kind of take a downturn for
23 you again at that point in time?

24 A Yes, sir.

25 Q Did your drug problem become increasingly

1 taking control of your life?

2 A Yes, sir, it did.

3 Q Okay. Let's go -- kind of fast forward, you're
4 back, you've gotten back into drugs again, your
5 life's taken a downturn. Let's talk about the
6 events leading up to December the 10th of 2015 when
7 you got caught with some stolen vehicles. Let's
8 talk about what you were doing involving drugs and
9 stolen vehicles just prior to that time. What was
10 your life revolving around in the months before
11 December the 10th of 2015, Brian?

12 A You know, it was, you know, day-to-day, you
13 know. I live, you know, daily using meth, you know,
14 using -- getting stolen vehicles, you know, too, you
15 know.

16 Q And so you were involved -- you admit you were
17 involved in stealing vehicles?

18 A I did, yes, sir.

19 Q And you were involved in both using and selling
20 meth when you could; is that correct?

21 A Yes, sir.

22 Q You'd use some; you'd sell some?

23 A Yes, sir.

24 Q And you were pretty heavy into stolen vehicles
25 at that time. You were getting any stolen vehicle

1 you could at the time and you were swapping it out,
2 weren't you?

3 **A** Yes, sir.

4 **Q** When you got these vehicles, the stolen
5 vehicles, what were you doing involving swapping the
6 stolen vehicles out and who were you dealing with?

7 **A** You know, basically, anybody that would take
8 them, you know, that would trade them, you know,
9 either for cash or, you know, drugs.

10 **Q** Okay. Let me ask you this: On December the
11 10th of 2015, the SLED vehicle crimes unit, they
12 caught up with you, didn't they?

13 **A** Absolutely.

14 **Q** What happened? Tell the ladies and gentlemen
15 of the jury what happened that day.

16 **A** You know, I was on the way, you know, you
17 know --

18 **Q** You had a stolen vehicle, didn't you?

19 **A** I did. I did. Yes, sir. And, you know, I was
20 caught, you know, and --

21 **Q** You tried to run a little bit and you caught a
22 series of charges, didn't you? You got charged with
23 possession of stolen vehicle. They got you for
24 attempting to elude them and escaping, didn't they?

25 **A** Yes, sir.

1 Q Or trying to escape?

2 A Yes, sir.

3 Q I mean, they caught you; you didn't get away.
4 What are all the charges that you got there that
5 SLED put on you?

6 A Possession of stolen vehicle, receiving stolen
7 goods, possession of meth.

8 Q Okay. All right. And so when you get caught
9 there, they put you in Aiken County Jail, don't
10 they?

11 A Yes, sir.

12 Q Okay. And so you've got information, at that
13 point in time, you believe that'll be beneficial to
14 Edgefield County possibly, don't you?

15 A Yes, sir.

16 Q Okay. Now, once you got caught, you cooperated
17 with SLED in helping them get back stolen vehicles
18 that you were involved in, didn't you?

19 A Yes, sir, I did.

20 Q And they recovered other stolen vehicles, not
21 just the one that you stole, but other vehicles that
22 you were involved in stealing, correct?

23 A Yes, sir.

24 Q And so you provided assistance to them?

25 A I did.

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1 **MR. DRYLIE:** Objection; leading.

2 **THE COURT:** I sustain the objection. Rephrase
3 your question.

4 BY MR. MAYE:

5 **Q** What did you do in regard to talking to Jimmy
6 Smith and Phil Ireland from Edgefield County? What
7 did you tell them when they came over to see you in
8 the jail in Aiken County?

9 **A** You know, DeQuawn Smith, you know, when SLED
10 caught me with the vehicle, you know, he know I got
11 caught with drugs. And he said, you know, if
12 there's anything that I could do to, you know, help
13 them, you know, and tell them where I got the drugs,
14 you know, or the stolen vehicles, you know, I take
15 him to, you know, that he could call somebody and,
16 you know, and they could help me better.

17 **Q** Okay. Once Jimmy Smith got there, did he
18 identify himself as a detective from Edgefield?

19 **A** He did.

20 **Q** Okay. Tell the ladies and gentlemen of the
21 jury what you told them had happened, what your
22 involvement with David Coon and Mr. Wheeler and
23 Ms. Hall and Ms. Dewitt, the people that were there
24 at that Rain Forest Drive address, tell them what
25 you told him.

1 **A** I told him, you know, that they asked me, you
2 know, where I'd got the meth from and I told them
3 that, you know, I had gotten it from him, Mr. Coon.

4 **Q** David Coon?

5 **A** Yes, sir.

6 **Q** Let's stop for one thing and just get this out
7 of the way right now. Is David Coon, the person
8 that we're talking about, is he present here in the
9 courtroom today?

10 **A** Yes, sir.

11 **Q** Could you point him out or report what's he --
12 what's he wearing, where is he seated for the
13 record?

14 **A** He's wearing a blue shirt, you know, furthest
15 {sic} on the far table.

16 **Q** Sitting at this table over here in the blue
17 shirt?

18 **A** Yes, sir.

19 **MR. MAYE:** Your Honor, I just ask that the
20 record reflect he's identified the defendant, David
21 Coon, in this case.

22 **Q** So you told them that the meth that you had,
23 that you had gotten from Mr. Coon?

24 **A** Yes, sir.

25 **Q** Okay. What else did you tell them about what

1 kind of arrangement that you have involving stolen
2 vehicles and all with Mr. Coon?

3 **A** I was dating a girl named Terrin, you know.
4 And she told me, you know, if we could, you know,
5 get stolen vehicles, you know, or cash, you know,
6 that she could get it, you know, at a, you know,
7 better price than anybody that, you know, I could.
8 If we could take the stolen vehicles to him, you
9 know, he would trade them out for either money or
10 meth.

11 **Q** Did you start doing that, in fact, prior to
12 December the 10th and getting caught?

13 **A** Yes, sir, I did prior.

14 **Q** Okay. And so you were taking the stolen
15 vehicles down and who were you dealing with?

16 **A** Like I say, you know, before that one incident,
17 you know, it was basically my girlfriend was dealing
18 with Mr. Coon. She would go in and come back out.

19 **Q** Okay. Let's talk about over at the Sleep Inn
20 on December the 6th of 2015. Tell the ladies and
21 gentlemen of the jury everything that you did that
22 day in your encounter with the defendant in this
23 case, Mr. David Coon. What happened?

24 **A** We got -- me and my girlfriend had gotten
25 dropped off and --

1 Q Where did y'all get dropped off at?

2 A The Sleep Inn off of 25.

3 Q The Sleep Inn off 25?

4 A Yes, sir.

5 Q Over in Aiken County?

6 A Yes, sir.

7 Q Okay. Who was there when you got there?

8 A It was him and his girlfriend.

9 Q When you're talking about him, who is him?

10 A Mr. Coon.

11 Q Mr. Coon and his girlfriend were there?

12 A Yes, sir.

13 Q Okay. What was the next thing that happened,

14 Brian?

15 A You know, we got dropped off and, you know,

16 after checkout, we left with him and his girlfriend

17 in their vehicle.

18 Q Okay. What kind of vehicle was he driving?

19 A It was a camouflage F-150.

20 Q Camouflage F-150?

21 A Yes, sir.

22 Q Where did y'all go once y'all left the Sleep

23 Inn over there, you, Terrin, Mr. Coon and

24 Ms. Mitchell? Where did y'all go?

25 A We went to his home.

1 Q Where would you describe his home? What kind
2 of place is that?

3 A He had a double-wide that was back off in the
4 woods off a dirt road.

5 Q Here in Edgefield County?

6 A Yes, sir.

7 Q Okay. Tell the ladies and gentlemen of the
8 jury what it's like going down to this double-wide,
9 what it looks like, how you get there when you turn
10 off the road, describe it.

11 A You know, it's a bumpy dirt road, potholes,
12 leading a couple hundred yards into the woods.

13 Q Okay. Did he tell you -- did he identify that
14 as the place that he lived when he got down there?

15 A Yes, sir.

16 Q Okay. Once y'all get down there to the
17 double-wide -- in fact, let me show you this.

18 **MR. MAYE:** I want to mark this as a State's
19 Exhibit for ID.

20 (State's Exhibit Number 2, aerial
21 photograph, marked for identification.)

22 Q Before we talk about this any further, I want
23 you to take a look at this. I want you to look at
24 the area around that are -- the areas that are
25 depicted on what's been marked as State's 2 for ID,

1 a structure here, camper there {indicating}. Let me
2 ask you: Does that pretty much fairly and
3 accurately reflect how you come in to the Rain
4 Forest Drive address that he took you to?

5 **A** Yes, sir.

6 **Q** Okay. So that fairly and accurately reflects
7 the layout, correct?

8 **A** (Witness nodded head.)

9 **MR. MAYE:** At this time, Your Honor, unless
10 there's any objection, I'm going to move to admit
11 this into evidence.

12 **MR. DRYLIE:** No objection.

13 **THE COURT:** In without objection.

14 (State's Exhibit Number 2, aerial
15 photograph, admitted into evidence.)

16 BY MR. MAYE:

17 **Q** So, Brian, just come down here where the
18 jury could --

19 **A** (Witness leaves the witness stand.)

20 **Q** Brian, if the driveway is coming in this way,
21 is this basically the layout -- point out where the
22 trailer is, basically, in here.

23 **A** (Witness complies.)

24 **Q** It's here?

25 **A** Yes, sir.

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1 Q Okay. And there was a camper that was there at
2 the property there, too, at that time?

3 A Yes, sir.

4 Q Okay. And so this is a double-wide here?

5 A (Witness nodded head.)

6 Q Okay. Go back and retake the stand.

7 THE COURT: All right. You've got to answer
8 yes or no, not just nod or shake your head. So I
9 didn't hear an answer to the question about the
10 double-wide.

11 BY MR. MAYE:

12 Q Is that the location of the double-wide where
13 he took you?

14 A Yes, sir.

15 Q Okay. Thank you.

16 A (Witness resumes the witness stand.)

17 Q I want you, if you will -- I'm going to show
18 you something I'm going to mark here, another
19 State's Exhibit for ID.

20 (State's Exhibit Number 3, diagram, marked
21 for identification.)

22 Q I want you to take a look at this, what's been
23 marked as State's 3 as ID. Is this basically a
24 floor plan or a layout of the double-wide that you
25 went in on that day? Does that look like that

1 fairly and accurately reflects the interior layout
2 of the double-wide showing the location of the
3 bedrooms and the various rooms in the double-wide?

4 **A** Yes, sir.

5 **MR. MAYE:** Your Honor, I'm going to offer this
6 into evidence without objection as State's Exhibit
7 Number 3.

8 **THE COURT:** Any objection?

9 **MR. DRYLIE:** No objection.

10 **THE COURT:** In without objection.

11 (State's Exhibit Number 3, diagram, admitted
12 into evidence.)

13 BY MR. MAYE:

14 **Q** Brian, we'll talk about the exact layout of the
15 inside of the trailer. But let me ask you this:
16 Once y'all get down there to the trailer, what
17 happens? What do y'all do that day? Kind of go
18 through step-by-step what y'all did.

19 **A** We got there. We went into the trailer, you
20 know. You know, as you walk in, you can see he had
21 multiple guns.

22 **Q** There were guns in plain view and in sight?

23 **A** Absolutely, yes, sir.

24 **Q** Okay. Where did you go once you went inside
25 the front room there in the trailer? Where did you

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1 go?

2 A We went to his room.

3 Q Okay. When you go into the trailer, where are
4 you talking about is his room? Which one is that?

5 A When you walk in, it's the room to the left
6 when you immediately walk in.

7 Q Okay. So the room to the left. So if we're on
8 State's 3 here, point out to me where his bedroom
9 would have been if the front steps are here when you
10 come in.

11 A Right here {indicating}.

12 Q Okay. So this was his room in the trailer?

13 A Yes, sir.

14 Q What happens next, Brian?

15 A You know, we was just -- we just talked, you
16 know, about the guns that he had, you know, people
17 that we knew, you know. And he asked me, you know,
18 if I would want to shoot any guns that he had.

19 Q Okay. Did he show you a variety of guns?

20 A Yes, sir.

21 Q Was it a large quantity of guns?

22 A Yes, sir.

23 MR. MAYE: I want to mark this for
24 identification as well.

25 (State's Exhibit Number 4, photograph,

1 marked for identification.)

2 Q Now, Brian, you were in the military, correct?

3 A I was.

4 Q You have familiarity with weapons based on your
5 military training, correct?

6 A Yes, sir.

7 Q I want you to look at State's 4 and ask if you
8 can look at the weapons that are contained in the
9 picture. And I'll ask you if these weapons are
10 familiar to you and if they fairly and accurately
11 reflect the weapons that you viewed there at
12 Mr. Coon's trailer on that day?

13 A Yes, sir.

14 Q You're certain about that? Those fairly and
15 accurately reviewed -- those are the weapons that he
16 showed you? Some of them are very distinctive,
17 aren't they?

18 A Yes, sir.

19 MR. MAYE: At this point in time, I'm going to
20 move to admit this in evidence.

21 MR. DRYLIE: I'd object to lack of foundation
22 on this picture, Judge.

23 THE COURT: I overrule the objection.

24 (State's Exhibit Number 4, photograph,
25 admitted into evidence.)

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1 BY MR. MAYE:

2 Q Brian, come down here, if you will.

3 A (Witness leaves the witness stand.)

4 Q These are the weapons that you saw. He
5 basically -- did he have a show and tell and
6 basically just show you the weapons that he had
7 there?

8 A Yes, sir, most of them.

9 Q He showed you, okay. What kind of guns did you
10 actually go out and shoot? You can retake the
11 stand, and tell the ladies and gentlemen of the jury
12 about the guns. Describe the ones that you actually
13 shot.

14 A (Witness resumes the witness stand.)

15 The ones we shot were sawed-off shotguns.

16 Q Okay. Now, you had been in the military, but
17 had you ever shot a sawed-off shotgun before?

18 A When I was younger, but not really in the
19 military.

20 Q Uh-huh. Was it a very controllable weapon when
21 you shot it?

22 A It's not. It's not.

23 Q Okay. Let me ask you this: When you went and
24 you shot the sawed-off shotgun, what did y'all do?

25 What did y'all shoot or where did you fire the

1 shotgun outside the trailer?

2 **A** One, you know, we shot towards the woods and,
3 you know, and then we both had one we shot towards,
4 you know, at a van that was --

5 **Q** So he had multiple sawed-off shotguns?

6 **A** Oh, yes, sir.

7 **Q** Okay. And you said one you shot where?

8 **A** We shot, you know, one, you know, directed
9 towards the woods. And, you know, me and him
10 together shot one, you know, at a van that was
11 sitting in his front yard.

12 **Q** Y'all shot at and struck a van?

13 **A** Yes, sir.

14 **Q** As you were shooting.

15 **MR. MAYE:** Mark this for ID, please.

16 (State Exhibit Number 5, photograph, marked
17 for identification.)

18 **Q** I'm going to show you State's 5. I'm going to
19 ask you, does that fairly and accurately reflect the
20 van that you shot at and the damage that each one of
21 you did when you fired those sawed-off shotguns at
22 the van?

23 **A** Yes, sir, that is it.

24 **MR. MAYE:** Your Honor, at this time, he's
25 indicated that this fairly and accurately reflects

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1 the van that he shot and that's the van there. I'm
2 going to move to admit this into evidence.

3 **MR. DRYLIE:** I'd object for lack of foundation.

4 **THE COURT:** In over objection.

5 (State's Exhibit Number 5, photograph,
6 admitted into evidence.)

7 BY MR. MAYE:

8 **Q** What was the result of you pulling the trigger
9 on that sawed-off shotgun? What happened when you
10 did that when you shot the van and all? What
11 happened to it?

12 **A** The handgrip -- like I said, one gun was too,
13 you know, it was so powerful, you know, when I shot,
14 you know, the handgrip stayed in one hand and the,
15 you know, the gun part came, you know, apart from
16 the other end of it.

17 (State's Exhibit Numbers 6 and 7,
18 photographs, marked for identification.)

19 **Q** Brian, I'd like for you to look at State's 6
20 and 7. And I'm going to ask you, do these two
21 photographs, 6 and 7, accurately reflect sawed-off
22 shotguns that y'all were shooting out there at that
23 van on that day?

24 **A** Yes, sir, they are.

25 **Q** You're certain of that, those are the weapons?

1 **A** Yes, sir.

2 **Q** Are they each distinctive in their modification
3 and, in fact, some of the damage to the weapons?

4 **A** Yes, sir.

5 **MR. MAYE:** I'm going to move to admit 6 and 7
6 into evidence, if there's any objection.

7 **MR. DRYLIE:** Judge, I object again. If I can
8 be heard for just a second on this one. Those are
9 obviously pictures taken when law enforcement
10 covered the scene with rulers there. Obviously, he
11 can't identify several of the items in that picture,
12 and I think there's a lack of foundation at this
13 point.

14 **THE COURT:** Let me see it.

15 (Pause.)

16 **THE COURT:** I'll allow them in over objection.

17 **MR. MAYE:** Thank you, Your Honor.

18 (State's Exhibit Numbers 6 and 7,
19 photographs, admitted into evidence.)

20 BY MR. MAYE:

21 **Q** Brian, come down off the stand and let's talk
22 about 6 and 7.

23 **A** (Witness leaves the witness stand.)

24 **Q** Which one of these two sawed-offs is the one
25 you were talking about that sustained damage to the

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1 grip of these two?

2 **A** This one.

3 **Q** This one's the one?

4 **A** Yes, sir.

5 **Q** When you fired this one --

6 **THE COURT:** Which exhibit is that?

7 **MR. MAYE:** And that is 7, Your Honor. He's
8 identified State's Exhibit 7.

9 BY MR. MAYE:

10 **Q** What actually happened when you pulled the
11 trigger on this one?

12 **A** I was holding it here {indicating} and the gun,
13 this part, stayed in my left hand, you know.

14 **Q** Uh-huh.

15 **A** And the other part, you know, came apart from
16 it.

17 **Q** And the damage that is -- I mean, that is
18 evident on here, is that consistent with what you're
19 talking about?

20 **A** Yes, sir.

21 **Q** Okay. State's 6, you saw that sawed-off and it
22 was fired as well?

23 **A** Yes, sir.

24 **Q** Did you fire that one or who fired that one?

25 **A** I fired that one.

1 Q You fired this one as well?

2 A Yes, sir.

3 Q Did both of you shoot each of these there that
4 afternoon?

5 A Yes, sir.

6 Q Okay. Go back and retake the stand.

7 A (Witness resumes the witness stand.)

8 Q Brian, once y'all shoot guns and kind of hang
9 around there for a while, what happens next?

10 A You know, we were just talking and that's when,
11 I believe, his daughter, Heather Hall, and the man,
12 you know, Timothy Wheeler that she was, you know,
13 dating at that period, woke up, you know, came out.
14 And her and my girlfriend, Terrin, had went to the
15 store and that's when we, you know, we talked about,
16 you know, the meth that, you know, he would let me
17 get.

18 Q Who would let you get? Let's stop and let's
19 just kind of take this a little bit at the time.

20 A Yes, sir.

21 Q You said they were there, Timothy Wheeler?

22 A Yes, sir.

23 Q Okay. And Heather Hall?

24 A Yes, sir.

25 Q Did you know Ms. Hall? Had you known her over

1 the years?

2 A I've known her, yes, sir.

3 Q You knew her for some period of time and knew
4 who she was?

5 A Yes, sir.

6 Q Okay. And who did you learn Tim Wheeler was to
7 her, Ms. Hall?

8 A I just, like I said, throughout, you know,
9 everybody knew that they were dating.

10 Q That was -- they were boyfriend and girlfriend?

11 A Yes, sir.

12 Q Okay. Were they all -- was it obvious that
13 they were all, from the clothing, from the things
14 that you saw there, was it obvious that the three of
15 them were living there?

16 A Oh, yes, sir. Yes, sir.

17 Q Okay. So who did you talk to involving when
18 the conversation turned to drugs? Go through with
19 as much specificity as you can and tell them who was
20 involved in the conversation and what your
21 conversations were.

22 A When the conversation started, you know,
23 beginning about the meth, you know, it was with
24 Mr. Coons {sic} and Mr. Wheeler.

25 Q You had conversation with Mr. Coon and

1 Mr. Wheeler about methamphetamine?

2 A Yes, sir.

3 Q Previously, when you'd gotten meth from that
4 address, what had you traded for it or what had
5 you -- did you get currency or did you get vehicles
6 or how did you obtain that?

7 MR. DRYLIE: I'd object at this point under
8 404, the previous question.

9 THE COURT: I sustain the objection.

10 BY MR. MAYE:

11 Q Okay. Let me ask you this: On that day, what
12 conversation did y'all have involving drugs that day
13 to be given to you at that location, at ■ Rain
14 Forest Lane, here in Edgefield County?

15 A We talked, you know. He had, you know, shown
16 me a quarter ounce that, you know, I could get, you
17 know.

18 Q Who showed you the quarter ounce?

19 A Mr. Coons.

20 Q Mr. Coon showed you a quarter ounce of meth and
21 said you could get it?

22 A Yes, sir.

23 Q What was the deal to be then?

24 A The deal was, you know, if I brought back the
25 money that we agreed on, that, you know, we could

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1 get, you know, I could get more.

2 Q Okay. Tell me what you saw the meth come out
3 of or how it was packaged.

4 A It was in a Ziploc bag.

5 (State's Exhibit Number 8, photograph,
6 marked for identification.)

7 Q I'm going to show you what's been marked
8 State's 8 for identification at this point in time.
9 Is this consistent with the type of packaging that
10 you saw that they had methamphetamine there at that
11 location?

12 A Yes, sir.

13 Q It is?

14 A It is.

15 MR. MAYE: I'm going to move to admit State's 8
16 into evidence at this point in time.

17 MR. DRYLIE: Judge, I would object. There's a
18 whole bunch of stuff in here that has not been
19 identified.

20 THE COURT: All right. Let me let the jury go
21 to the jury room while we take this matter of law up
22 and this will give us a chance to take a little
23 break.

24 (The jury retires to the jury room.)

25 MR. MAYE: Your Honor, I can short circuit

1 this. I'll just ask him to identify this. I'll put
2 that photograph in through another witness. I've
3 already identified it for identification, but we
4 haven't published it to the jury. I'll put it in
5 through another witness. His objection is there are
6 other items in there at the same point in time, so I
7 won't offer it at this point in time into evidence.

8 Does that take care of the objection?

9 **MR. DRYLIE:** That does.

10 **MR. MAYE:** Thank you, Your Honor. Sorry, I
11 should have said that before they'd --

12 **THE COURT:** Well, it's probably a good time to
13 take a break anyway. We'll take about a ten-minute
14 break.

15 (Brief Recess.)

16 (The jury returns to the courtroom.)

17 **THE COURT:** You may continue.

18 BY MR. MAYE:

19 **Q** Mr. Wade, let's back up just a little bit.

20 When you got picked up originally by SLED, what all
21 charges did you get?

22 **A** I got possession of stolen vehicle, receiving
23 stolen goods, escape, possession of meth.

24 **Q** You got possession of meth. You're going to
25 have to speak up.

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1 **THE COURT:** Yeah, you're going to have to speak
2 up. I'm having a little trouble hearing him, but I
3 figured it was just because I was behind him. But
4 speak up a little bit.

5 **BY MR. MAYE:**

6 **Q** Talk where I can hear you, that way everybody
7 else can.

8 **A** All right.

9 **Q** You -- actually, you've got a 2014 conviction
10 for giving false information to law enforcement,
11 correct? You got convicted of that in '14?

12 **A** Yes, sir.

13 **Q** In '15, you got a conviction for grand larceny
14 and giving false information involving a stolen
15 vehicle, correct?

16 **A** Yes, sir.

17 **Q** You got convicted of failure to stop for a blue
18 light over there, didn't you? And you got convicted
19 of not larceny, but use of a vehicle without owner's
20 consent over there, right?

21 **A** I did.

22 **Q** Okay. And even after you gave this
23 information, you got time over there, didn't you?

24 **A** I did, yes, sir.

25 **Q** How much time did you get -- were you sentenced

1 to in Aiken?

2 A I got sentenced to ten years, but it was a
3 split sentence, five in the department of SCDC and
4 then five on probation when I got home.

5 Q Okay. And so as you sit here today, you're
6 actually an inmate in the South Carolina Department
7 of Corrections, correct?

8 A I am.

9 Q Okay. At the time you pleaded and your charges
10 were disposed of in Aiken, did the prosecutor's
11 office over here deal with that or did they deal
12 with that in Aiken?

13 A They dealt with it in Aiken.

14 Q In Aiken?

15 A Yes, sir.

16 Q Insofar as you personally, did you ever have
17 any dealings with the prosecutor's office over here
18 or law enforcement over here once you gave that
19 initial cooperation --

20 A No, sir.

21 Q -- over there?

22 A No, sir, I didn't.

23 Q They prosecuted you in Aiken and you were
24 convicted and you caught time?

25 A They did, yes, sir.

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1 **Q** Okay. As you sit here today, has anybody made
2 you any direct promises as to what we're going to do
3 with your charge beyond possibly reviewing your
4 charges afterwards to see if your sentence could be
5 modified?

6 **A** Yes, sir.

7 **Q** That's all?

8 **A** That's it.

9 **Q** Okay. So you did not receive any assistance
10 for your cooperation in Aiken County when they dealt
11 with it?

12 **A** No, sir, I didn't.

13 **Q** Okay. Okay, Mr. Wade, when we left off, we
14 were talking about them fronting you drugs. Now,
15 what was the next thing that happened after you got
16 drugs from Mr. Wheeler and Mr. Coon? Now, what was
17 the very next thing that happened?

18 **A** Like I say, you know, we just had the
19 conversation, you know, after the drugs, you know,
20 if I brought more, you know, you know, if I brought
21 money, the money back, that, you know, I could get
22 more.

23 **Q** Okay.

24 **A** You know, it could only go up from there.

25 **Q** Okay. What happened next?

1 **A** After that, you know, basically, that was it.
2 You know, I got --

3 **Q** Did you leave with the drugs at that point in
4 time?

5 **A** Yes, sir, he dropped me off.

6 **Q** Okay. And you were caught just a few days
7 later over in Aiken County?

8 **A** Yes, sir, I was.

9 **Q** Correct?

10 **A** Yes, sir.

11 **Q** Okay. Let me ask you this: What conversations
12 did you have with Mr. Coon involving what, if any,
13 security measures that he had? I mean, he had drugs
14 and weapons there. What security measures did he
15 discuss with you that he had at his residence?

16 **A** Like I said, he had wireless, you know,
17 cameras, you know --

18 **Q** He said that he had wireless cameras?

19 **A** I seen -- I seen the TV from where, you know,
20 the cameras were pointed towards his driveway.

21 **Q** So you saw he had TV surveillance. What else
22 did he tell you about?

23 **A** You know, he had -- he told me that he had C-4,
24 you know, around the perimeter. You know, in case,
25 you know, something would happen, you know, he'd

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1 have, you know, an opportunity to get away.

2 Q You're a military man. Help me with C-4, what
3 is that?

4 A It's an explosive.

5 Q It's an explosive. He claimed to have an
6 explosive planted?

7 A Yes, sir.

8 Q Okay. Did you actually see that stuff or did
9 he just tell you he had that stuff?

10 A I didn't see it, no, sir.

11 Q Okay. All right. What did you see in the area
12 of weaponry there? Is what you already described
13 what you saw there?

14 A Yes, sir. I seen -- I seen pistols, sawed-off
15 shotguns, assault rifles.

16 Q Okay. Let me ask you this: I'm going to show
17 you a photograph here.

18 MR. MAYE: I'd like to mark this for ID,
19 please.

20 (State's Exhibit Number 9, photograph,
21 marked for identification.)

22 Q I'm going to show you State's 9. I want you to
23 just hold on to that for a second.

24 Did you know Mr. Coon as somebody that rode
25 motorcycles?

1 **A** Yes, sir.

2 **Q** Okay. I want you to look at State's 9 and ask
3 you, does that fairly and accurately reflect a
4 photograph, a fair and accurate representation, of a
5 motorcycle that you seen Mr. Coon riding?

6 **A** Yes, sir.

7 **Q** Okay. And you're positive that's the
8 motorcycle that he was riding?

9 **A** Yes, sir.

10 **Q** Okay. Did you see it at the residence when you
11 were there that particular day?

12 **A** I did.

13 **Q** Okay. And so 9 shows the motorcycle that was
14 at the residence and one you've seen him riding?

15 **A** Yes, sir.

16 **MR. MAYE:** I'm going to move to admit this in
17 evidence at this time.

18 **MR. DRYLIE:** Without objection.

19 **THE COURT:** In without objection.

20 (State's Exhibit Number 9, photograph,
21 admitted into evidence.)

22 **BY MR. MAYE:**

23 **Q** So this black Harley-Davidson is one that he
24 was riding, correct?

25 **A** Yes, sir.

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1 **MR. MAYE:** I need to mark these next two for
2 ID, please.

3 (State's Exhibit Numbers 10 and 11,
4 photographs, marked for identification.)

5 **Q** I'm going to show you what's been marked as
6 State's Number 10. What does Number 10 show? What
7 is that a photograph of?

8 **A** That's another motorcycle.

9 **Q** Was that motorcycle there at the house as well?

10 **A** It was, yes, sir.

11 **Q** Okay. Who typically rode the motorcycle that's
12 obtained in 10? Who had you seen riding that one?

13 **A** Mr. Wheeler.

14 **Q** You saw Tim Wheeler riding that one?

15 **A** Yes, sir.

16 **Q** But that one was there at Mr. Coon and
17 Wheeler's residence as well?

18 **A** It was.

19 **MR. MAYE:** Any objection to admit this in
20 evidence I'm offering at this time?

21 **MR. DRYLIE:** No objection.

22 **THE COURT:** In without objection.

23 (State's Exhibit Number 10, photograph,
24 admitted into evidence.)

25 BY MR. MAYE:

1 **Q** I'm going to show you what's been marked as
2 State's Exhibit 11 at this point in time for ID. I
3 ask you to look at the two conveyances or vehicles
4 that are in this photograph and ask you if you can
5 identify those?

6 **A** Yes, sir, I can.

7 **Q** What are those vehicles that are in those
8 photographs?

9 **A** Chevy Stepside Short-bed and a camper.

10 **Q** And a camper. Are those the ones that were on
11 the property there when you were out there?

12 **A** They were, yes, sir.

13 **Q** Are those the ones that you described to law
14 enforcement when you met with Mr. Smith?

15 **A** It is, yes, sir.

16 **MR. MAYE:** Any objection?

17 **MR. DRYLIE:** No objection.

18 **THE COURT:** In without objection.

19 (State's Exhibit Number 11, photograph,
20 admitted into evidence.)

21 **BY MR. MAYE:**

22 **Q** Who drove the red short-bed Chevrolet with the
23 fancy wheels on it? Who was driving that? Who did
24 you see operating and driving that vehicle?

25 **A** I seen his daughter, Heather Hall.

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1 Q Heather Hall drove that one?

2 A Yes, sir.

3 Q Okay. What vehicle did Mr. Coon drive? What
4 did he operate?

5 A He was driving a camouflage F-150.

6 Q Camo F-150?

7 A Yes, sir.

8 Q Okay. From your conversations with Ms. Hall
9 and Mr. Wheeler and Mr. Coon, was it obvious to you,
10 from your conversations, that each of them were
11 aware of the drug trafficking that was going on at
12 the residence?

13 A Yes, sir.

14 Q Okay. And you're certain of that?

15 A Yes, sir.

16 Q What specific conversation did you have with
17 Ms. Hall in this -- in that regard? Did you have a
18 conversation regarding security of the property and
19 concerns that she had?

20 A She had, you know, previously the night before,
21 you know, said the night before that they, you know,
22 you know, seeing as that he was at the hotel with
23 his girlfriend, that she had heard people around the
24 house, you know, and that she had gotten a pistol,
25 you know, that day and was, you know, that they had

1 went out there thinking that they had heard people
2 outside.

3 **Q** With Mr. Coon, Mr. Wheeler and Ms. Hall, did
4 they each have conversations with you indicating
5 that they had security concerns about having drugs
6 and weapons there at the property?

7 **MR. DRYLIE:** Objection; leading.

8 **THE COURT:** I sustain the objection.

9 BY MR. MAYE:

10 **Q** I'll rephrase. What conversation -- what did
11 Mr. Coon tell you about his concerns about security
12 there?

13 **A** You know, he just, like I say, you know, he had
14 enough, you know -- no, he didn't really have any
15 concerns about, you know, security; it was more of,
16 you know, Hall and Wheeler.

17 **Q** Hall and Wheeler had those concerns?

18 **A** Yes, sir.

19 **Q** What did he tell you that he had in place as
20 countermeasures?

21 **MR. DRYLIE:** Objection; asked and amounted.

22 **MR. MAYE:** I'll withdraw it.

23 **THE COURT:** Okay.

24 BY MR. MAYE:

25 **Q** Let me ask you this: Is all the testimony that

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1 you've given up here to the jury describing the
2 events as you laid them out, is your testimony true?

3 **MR. DRYLIE:** Objection; bolstering.

4 **THE COURT:** I sustain the objection.

5 BY MR. MAYE:

6 **Q** Let me ask you this: Have you been promised
7 anything specifically in exchange for your
8 testimony?

9 **MR. DRYLIE:** Objection; asked and answered.

10 **THE COURT:** I overrule the objection.

11 **THE WITNESS:** No, sir, I haven't.

12 BY MR. MAYE:

13 **Q** Okay. You do know that your sentence could be
14 reviewed on the back side of this based on your
15 cooperation?

16 **A** Yes, sir, I've heard.

17 **Q** Okay. All right. And you would certainly hope
18 that that happened, would you not?

19 **A** Absolutely.

20 **MR. MAYE:** Okay. Answer any questions the
21 defense has for you. Thanks.

22 CROSS-EXAMINATION

23 BY MR. DRYLIE:

24 **Q** Afternoon.

25 **A** How are you?

1 **Q** Now, just so I can track real quick, on
2 December 6, you were at the Sleep Inn with your
3 girlfriend, right?

4 Okay. And Mr. Coon --

5 **COURT REPORTER:** Did he answer?

6 **MR. DRYLIE:** I thought he said yes. I'm sorry.

7 **THE COURT:** You have to answer with words.

8 **THE WITNESS:** Yes, sir. I apologize.

9 Yes, sir. I got dropped off there, me and my
10 girlfriend did.

11 BY MR. DRYLIE:

12 **Q** Mr. Coon was there with his girlfriend?

13 **A** Yes, sir.

14 **Q** Okay. Now, the solicitor had just asked you,
15 you're currently incarcerated, correct?

16 **A** I am.

17 **Q** And he asked you about a series of charges you
18 had, correct?

19 **A** Yes, sir.

20 **Q** He asked you about the possession of
21 methamphetamine?

22 **A** Yes, sir.

23 **Q** And you have a conviction on your record for
24 grand larceny?

25 **A** I do.

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1 Q And a conviction for receiving stolen goods?

2 A I do, yes, sir.

3 Q And two convictions for giving false
4 information to police?

5 A I do, yes, sir.

6 Q He didn't ask you, but you actually have a
7 conviction on your record for escape as well, don't
8 you?

9 A Yes, sir.

10 Q Okay. You don't want to be in prison?

11 A No one does.

12 Q Exactly.

13 Now, you and Solicitor Maye had a conversation
14 about a downward departure statute, correct?

15 A Yes, sir.

16 Q What's that mean to you?

17 A You know, actually, you know, if I can, you
18 know, help with, you know, giving information, you
19 know, about, you know, the Coon case, you know, that
20 maybe after, you know, my sentence, you know, they
21 could over, you know, overlook it, you know, and
22 maybe they could help me.

23 Q And you could get out of prison earlier?

24 A Like I say, you know, he said there's a
25 possibility. He said there was no guarantees. He

1 said just to get up here and tell the truth and, you
2 know.

3 **Q** But that's what you're hoping for?

4 **A** Of course, you know.

5 **Q** Now, December 6, you state that you had a
6 conversation with Mr. Coon and he fronted you some
7 methamphetamine, correct?

8 **A** Yes, sir.

9 **Q** You got arrested on December 10th?

10 **A** Yes, sir.

11 **Q** Where was that methamphetamine?

12 **A** You know, it was in the vehicle.

13 **Q** Well, you were charged with possession and you
14 state that he gave you a quarter ounce. Where did
15 the rest of it go?

16 **A** You know, selling it and doing it.

17 **Q** Where did the money go?

18 **A** Hotels. Like I said, sir, I was homeless at
19 the point in time. You know, I was living in stolen
20 vehicles and hotels at the point in time.

21 **Q** So you're saying from December 6th to December
22 10th, you can't account for where the money or the
23 rest of the methamphetamine that Mr. Coon supposedly
24 gave you went?

25 **A** You know, I can tell you what I did with it,

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1 but I have no receipts, no, sir.

2 Q Okay. Now, just briefly --

3 MR. DRYLIE: No further questions actually,
4 Your Honor.

5 THE COURT: Any redirect?

6 MR. MAYE: Nothing. Thank you.

7 THE COURT: Mr. Wade, you can step down. Thank
8 you. They'll escort you.

9 You can call your next witness.

10 MR. MAYE: State would call Chris Harmon to the
11 stand.

12 CHRIS HARMON,
13 having been duly sworn, testified as follows:

14 THE CLERK: Please have a seat. State your
15 full name, spell your last name for the record.

16 THE WITNESS: Chris Harmon, H-a-r-m-o-n.

17 DIRECT EXAMINATION

18 BY MR. MAYE:

19 Q Mr. Harmon, where are you from?

20 A North Augusta.

21 Q You live over in North Augusta?

22 A Yes, sir.

23 Q Let me ask you this: Do you own some property
24 around ■ Rain Forest Lane?

25 A Yes, sir, I do.

1 **Q** Okay.

2 **MR. MAYE:** I'm going to mark this for
3 identification at this point in time.

4 (State's Exhibit Number 12, blowup diagram,
5 marked for identification.)

6 **Q** I'm going to show you what's been marked as
7 State's 12 for ID. If you would -- let me ask you,
8 does this fairly and accurately reflect a portion of
9 the road system around Edgefield County, just a
10 portion of Edgefield County here?

11 **A** Yes, sir.

12 **MR. MAYE:** Okay. At this point in time, I've
13 showed it to the defense. Any objection to
14 admission of this portion of the county map?

15 **MR. DRYLIE:** No, Your Honor.

16 **THE COURT:** In without objection.

17 (State's Exhibit Number 12, blowup diagram,
18 admitted into evidence.)

19 BY MR. MAYE:

20 **Q** Tell me about ■ Rain Forest Lane. What kind
21 of property is that to you?

22 **A** It's a rental property that I've had for a few
23 years.

24 **Q** It's a rental property?

25 **A** Yes, sir.

1 **Q** Describe the structure. What kind of piece of
2 property is it?

3 **A** It's a mobile home, double-wide, on a private
4 piece of land, two acres.

5 **Q** You've got two acres in there?

6 **A** Yes.

7 **Q** Tell the ladies and gentlemen of the jury
8 what's the road like going back in there to this
9 trailer.

10 **A** At this point in time, it's rough. You know,
11 it's unmaintained. It gets rough down in there.

12 **Q** Okay. It's a fairly rough road to get there?

13 **A** Yeah.

14 **Q** Okay. You own it, correct?

15 **A** Yes, sir.

16 **Q** Let's go back to December of 2015 in this case.
17 I'm going to stop you here, but I'm going to ask you
18 to come up here. Show the ladies and gentlemen of
19 the jury on State's 12 where the courthouse is on
20 this map and how you go to get to that property at
21 Rain Forest Lane. Just get off the stand there.

22 **A** (Witness leaves the witness stand.)

23 **Q** Point out where the courthouse is.

24 **A** The courthouse is going to be up here
25 {indicating}.

1 Q The blue dot there on the map?

2 A That's right.

3 Q Okay. If you're leaving here and you want to
4 drive the way you would go to get to your property
5 on Rain Forest, how would you do that?

6 A Going to be down Sweet Water Road and then turn
7 on Mealing and then come down and turn on Murrah and
8 then Rain Forest Lane will be down here in the
9 corner.

10 Q Okay. Is there a little blue dot there? Is
11 that the approximate location of where the trailer
12 is?

13 A Yes, sir.

14 Q Okay. And before you go down there, already in
15 evidence is State's 2, is that aerial close to
16 showing what it looks like there where the trailer
17 is?

18 A Yes, sir.

19 Q Okay.

20 A (Witness resumes the witness stand.)

21 Q Okay. Back in December of 2015 and the months
22 prior to then, who did you have that property rented
23 to and who were you dealing with?

24 A I had dealt with Mr. Coon and his daughter,
25 Heather Hall, and there was a third individual which

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1 I hadn't seen for months.

2 Q Okay. That was involved in renting it from
3 you?

4 A Yes.

5 Q Okay. Well, look in the courtroom, is
6 Mr. Coon, the person you're talking about, is he
7 present here in the courtroom?

8 A Yeah. He's sitting over here.

9 Q In the blue shirt?

10 A Yes, sir.

11 Q And so you dealt with him involving the rental.

12 A I hadn't -- the last two months, I did not see
13 him probably. His daughter had paid me.

14 Q Okay. Involving paying you, you didn't see
15 him?

16 A Right.

17 Q Did you go down there on a daily basis and see
18 who was staying there day by day?

19 A No. When I went down there on December 1st,
20 you know, I noticed there was more vehicles and it
21 was supposedly her boyfriend's or somebody else.
22 But other than that, you know, I didn't see nobody
23 else besides her at that time.

24 Q You saw her there at that time?

25 A Yeah.

1 **Q** And you saw vehicles around there at that time?

2 **A** Right. Yeah. There was, I think, three trucks
3 there.

4 **MR. MAYE:** Okay. Answer any questions that the
5 defense has for you. Thank you, Mr. Harmon.

6 **MR. DRYLIE:** No questions.

7 **THE COURT:** Thank you, Mr. Harmon. You can be
8 excused.

9 **THE WITNESS:** Okay. Thank y'all.

10 **THE COURT:** Call your next witness.

11 **MR. MAYE:** Thank you, Your Honor. State would
12 call James Smith, Jimmy Smith, from the Edgefield
13 County Sheriff's Office.

14 JAMES SMITH,

15 having been duly sworn, testified as follows:

16 **THE CLERK:** Thank you, sir. You may be seated.
17 Please state your full name and spell your last name
18 for the record. Make sure you pull up close to the
19 mic.

20 **THE WITNESS:** Investigator James Smith,
21 S-m-i-t-h.

22 DIRECT EXAMINATION

23 BY MR. MAYE:

24 **Q** Mr. Smith, tell the ladies and gentlemen of the
25 jury where you're employed, how long you've been

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1 employed where you're working right now.

2 **A** I'm an investigator with the Edgefield County
3 Sheriff's Office. I came here in 2005 and made
4 investigator in 2006.

5 **Q** Okay. You worked at other agencies prior to
6 working --

7 **A** Yes, sir. I've got 18 years in. I started in
8 Saluda County in 1998, then went to Johnston and
9 served six years before I came to Edgefield County.

10 **Q** Let's talk about December of 2015 and your
11 involvement in this case. When was the first time
12 that you had any involvement in this case? And tell
13 the ladies and gentlemen of the jury what you did
14 and where you went.

15 **A** I was informed by our captain, Captain Wash of
16 the sheriff's office, that there was a subject in
17 jail at Aiken County Sheriff's Office that wanted to
18 speak with us involving crimes that occurred in
19 Edgefield County. He sent myself and Investigator
20 Ireland to Aiken County to interview him, and we
21 went there on December the 14th of 2015.

22 **Q** Okay. Once you went over to Aiken County
23 December of 2014, who, if anybody, did you talk to
24 when you were over there?

25 **A** We talked to Mr. Walter Brian Wade.

1 Q Okay. Did you gather information from him at
2 that point in time?

3 A Yes, sir.

4 Q Okay. What area of the county, specifically,
5 did you gather information about?

6 A ■ Rain Forest Lane, which is located off of
7 Murrah Road in the southern section of Edgefield
8 County.

9 Q Okay. Let me ask you this: Based on all of
10 the information that you collected from him there,
11 did you have subsequent conversations, don't go into
12 what they said, but did you have subsequent
13 conversations with deputy sheriffs that were road
14 deputies that were working in that area?

15 A Yes, sir, I did, mainly Deputy Florida.

16 Q Deputy Florida?

17 A Yes, sir.

18 Q Did you speak with him about that location and
19 that property?

20 A Yes, sir.

21 Q Okay. Did you -- after speaking to Deputy
22 Florida and talking with him about the area around
23 that property and gathering all of the information
24 that you gathered from Brian Wade, what was the next
25 thing that you did? Once you gathered the

1 information from those sources, what was the next
2 thing that you did?

3 **A** I prepared an affidavit for a search warrant.
4 And on the 15th of December of 2015, I went to Chief
5 Magistrate Brenda Carpenter at the Edgefield County
6 Magistrate's Office and obtained a search warrant
7 for that residence at ■ Rain Forest.

8 **Q** Let me ask you this: Did you prepare a search
9 warrant affidavit for the magistrate before you went
10 to go and get that search warrant? And what form --
11 how do you get a search warrant? What did you do in
12 order to obtain that?

13 **A** We obtain, it's a written affidavit. It
14 contains the description of the house, where it's
15 located at, what we're looking for, as well as the
16 reason why we believe that it's there.

17 **Q** Okay. Let me ask you this: Where did you say
18 -- what did you describe to the magistrate there in
19 your affidavit? What did you describe as the
20 location that you were going to look at?

21 **A** In the affidavit, it was --

22 **MR. DRYLIE:** Objection. I don't believe that's
23 been admitted in evidence. I think he's reading
24 straight off of the affidavit.

25 **THE COURT:** I can't hear you.

1 **MR. DRYLIE:** I said, Judge, I'd object. He's
2 reading straight off of the affidavit. I don't
3 think that's been -- I don't think that's
4 admissible.

5 **THE COURT:** Well, don't -- unless you need it
6 to refresh your memory, you can't just read off
7 the --

8 BY MR. MAYE:

9 **Q** Don't publish it, but tell -- please tell what
10 you told --

11 **THE COURT:** And to the extent that that was an
12 objection, it's sustained.

13 **MR. MAYE:** Thank you, Your Honor.

14 **THE WITNESS:** We explained to her that ■ Rain
15 Forest Lane was a white in color double-wide mobile
16 home, mileage of how to get to the residence from a
17 set location, and that's what -- and that and any
18 outbuildings, vehicles and property around the
19 residence.

20 BY MR. MAYE:

21 **Q** Okay. Did you have items that you were
22 specifically looking for at that time and did you
23 relate that to the magistrate?

24 **A** Yes, sir.

25 **Q** What type of items were you searching for?

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1 **A** Guns, explosives, illegal narcotics, and we
2 listed any other thing involving criminal
3 enterprise.

4 **Q** Okay. In addition to the information in the
5 affidavit that you gave to the magistrate on that
6 day, did you supplement that with oral testimony in
7 addition to what you had in writing? And what's the
8 procedure for doing that?

9 **MR. DRYLIE:** Objection. I'm not sure how this
10 is relevant to the proceeding that we're currently
11 in.

12 **THE COURT:** I overrule the objection.

13 BY MR. MAYE:

14 **Q** Please describe what you do in that regard.

15 **A** We have the prepared affidavit. She swears us
16 in as the -- you know, we're sworn in front of her,
17 is the testimony the truth, yes. And then also
18 after being sworn in, I also did give her oral
19 testimony in addition to the written affidavit.

20 **Q** Okay. Did you tell her everything that you
21 knew about the case at that point in time?

22 **A** Yes, sir.

23 **Q** Did you tell her the information that you had
24 collected from Mr. Wade?

25 **A** Yes, sir.

1 **Q** Did you tell her the information that you had
2 collected from the deputies that were residents in
3 that area?

4 **A** Yes, sir.

5 **Q** Okay. Did you identify to her the source of
6 the information that you obtained, both the deputy's
7 name and the name of the person that you had talked
8 to over there? Did you tell them who that -- did
9 you tell them actually who that was?

10 **A** Yes, sir.

11 **Q** Okay. Without going into any of the details,
12 did you tell her what process that you had gone
13 through in attempting to vet the information or to
14 judge the reliability of it?

15 **A** Yes, sir.

16 **MR. DRYLIE:** Judge, I have a brief matter of
17 law.

18 **THE COURT:** Okay. I'll let the jury go to the
19 jury room just a minute while we take up a matter of
20 law.

21 (The jury retires to the jury room.)

22 **THE COURT:** All right. The jury's out.

23 **MR. DRYLIE:** This won't take but a minute.

24 Judge, at this point, I renew my pretrial objection.
25 I probably should have done it three questions ago

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1 and I just didn't. But I would renew all the
2 pretrial objections we had with regard to the search
3 warrant with reliability. I know we talked about it
4 before, but I think if I don't object now, that this
5 issue is waived.

6 **THE COURT:** All right. You're basically
7 renewing your motion to suppress, did it in limine.
8 Now, at this point, when it's being presented,
9 you're moving to suppress the fruits of the search
10 warrant, the results of the search warrant, and that
11 motion is denied.

12 **MR. DRYLIE:** Thank you.

13 **THE COURT:** I think that covers it.

14 **MR. DRYLIE:** I think we're good now, but I know
15 if I don't do it now, they tell me it's waived.

16 **THE COURT:** You're right. You're right.
17 All right. Let's bring them back in.

18 **MR. MAYE:** And, Your Honor, I'm not going to
19 have him go into anything other than the mechanics
20 of it, so I'll stay away from that. Thank you.

21 **THE COURT:** All right.

22 (The jury returns to the courtroom.)

23 **THE COURT:** You may proceed.

24 BY MR. MAYE:

25 **Q** Mr. Smith, did you tell the magistrate

1 everything that you had done to investigate up to
2 that point in time and all the information that you
3 had gathered? Did you convey that to the
4 magistrate?

5 **A** Yes, sir.

6 **Q** Did you do that all in writing or did you do
7 part of it in supplementing it with oral testimony?

8 **A** Part in writing, part in supplemental oral
9 testimony.

10 **Q** What was done to memorialize the fact that you
11 supplemented that with oral testimony?

12 **A** Under the affidavit in the -- Judge Carpenter's
13 handwriting, she wrote on there that it was issued
14 under sworn affidavit and oral testimony.

15 **Q** Were you sworn when you did the affidavit and
16 when you gave that testimony before the magistrate?

17 **A** Yes, sir.

18 **Q** After you made that showing and gave that sworn
19 testimony and submitted the affidavit, did the judge
20 find probable cause and give you a search warrant
21 for ■ Rain Forest Lane?

22 **A** Yes, sir.

23 **Q** What day did Judge Carpenter sign that search
24 warrant?

25 **A** December the 15th, 2015.

JAMES SMITH - DIRECT BY MR. MAYE

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1 Q You had talked to Brian Wade on what day?

2 A December the 14th, 2015.

3 Q When did you talk to the investigating dep --
4 or the resident deputies and all? Did you talk to
5 them in the interim?

6 A It would have been in the morning of the 15th
7 of December prior to going -- speaking with Judge
8 Carpenter.

9 Q Okay. Once Judge Carpenter issued a valid
10 search warrant for that property, was -- did the
11 sheriff's office carry out and execute that search
12 warrant?

13 A Yes, sir.

14 Q What day did they go and execute the search
15 warrant at Rain Forest Lane?

16 A December the 22nd of 2015.

17 Q Okay. Was a return of the items that were
18 taken pursuant to that search warrant, was it
19 prepared listing the items that were taken and was
20 that given back to the magistrate within ten days?

21 A Yes, sir, the next day, the 23rd of December.

22 Q The 23rd of December y'all gave the return back
23 to the magistrate?

24 A Yes, sir. Investigator Ireland actually signed
25 the warrant serving it and he did a return on the

1 23rd.

2 Q And it was turned back into the magistrate that
3 same day, the 23rd?

4 A Yes, sir.

5 Q Okay. Did y'all serve a person there on the
6 property with a copy of the search warrant at the
7 time? Was a person served there?

8 A I was not present when it was served, but it
9 says on the warrant that a copy of the warrant was
10 left at the house. Investigator Ireland served it.
11 And in the residence when they went there, they
12 found a subject named Mr. Wheeler at the residence
13 and Ms. Hall.

14 Q And they were served with a copy of the search
15 warrant?

16 A Yes, sir. It says, A copy of the warrant was
17 left with the house.

18 MR. MAYE: Please answer any questions that the
19 defense has for you.

20 MR. DRYLIE: I don't have any questions, Judge.

21 THE COURT: You may step down and be excused.
22 Call your next witness.

23 MR. MAYE: State would call Officer Curtis
24 Morris to the stand.

25 *****

CURTIS MORRIS - DIRECT BY MR. MAYE

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1

CURTIS MORRIS,

2

having been duly sworn, testified as follows:

3

THE CLERK: Thank you, sir. Have a seat.

4

State your full name, spell your last name for the

5

record and make sure you come up closer to the mic.

6

THE WITNESS: Curtis Morris. Last name

7

spelling, M-o-r-r-i-s.

8

MR. MAYE: Madame Court Reporter, I'd like to

9

mark these State's for ID.

10

(State's Exhibit Numbers 13 through 21,

11

photographs, marked for identification.)

12

DIRECT EXAMINATION

13

BY MR. MAYE:

14

Q Please tell the ladies and gentlemen of the

15

jury, Officer Morris, what you do with the sheriff's

16

office, how long you've been employed, in what

17

capacity you're involved in this case.

18

A I've been employed for Edgefield County

19

Sheriff's Office since 2005, approximately 11,

20

almost 12 years. I'm currently the crime scene

21

investigator and evidence custodian for the

22

sheriff's office.

23

Q Okay. Did you have an opportunity to go out on

24

December the 22nd of 2015, when a search warrant was

25

executed by the sheriff's office, ATF and SLED, at

1 ■ Rain Forest Lane here in Edgefield County?

2 A Yes, sir, I did.

3 Q What did you do in your capacity as a crime
4 scene officer for Edgefield County? What steps did
5 you take to document what y'all did that day?

6 A First off was photographing the scene itself,
7 the trailer at ■ Rain Forest Lane. After
8 photographs were taken, the scene was completely
9 secure, was to collect the evidence itself.

10 Q Okay. Did you go around and collect items of
11 evidence in that case and did you take photographs
12 of the inside of the trailer as you were collecting
13 items of evidence?

14 A Yes, sir, to both questions.

15 Q Okay. I'd like for you to look at the
16 following photographs. And I'm going to give you
17 numbers 13 for ID, 14 for ID, 15 for ID, 16, 17, 18,
18 19, 20, 21, and 8 that's already been marked for
19 identification.

20 A Yes, sir.

21 Q Do those photographs fairly and accurately
22 reflect the items that you photographed and took
23 there from the house and the areas around the house
24 that you photographed there on that day?

25 A Yes, sir.

CURTIS MORRIS - DIRECT BY MR. MAYE

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1 **Q** You're absolutely certain you've looked at each
2 and every one of them and they all fairly and
3 accurately show items that were there at the
4 property and the photographs that you made on that
5 day?

6 **A** Yes, sir.

7 (Pause.)

8 **MR. MAYE:** I'd ask if there's any objection
9 prior to me publishing them. I move to admit them
10 into evidence at this time.

11 **THE COURT:** Any objection?

12 **MR. DRYLIE:** No objection, Your Honor.

13 **THE COURT:** All right. And that's numbers what
14 through -- I know 8 and then the next in sequence,
15 you don't have to go over all of them, just what
16 number first through last.

17 **MR. MAYE:** I have 13 to 21, and one previously
18 marked for identification, State's 8, now all into
19 evidence.

20 **THE COURT:** All right. All without objection.

21 (State's Exhibit Numbers 8 and 13 through
22 21, photographs, admitted into evidence.)

23 BY MR. MAYE:

24 **Q** Investigator Morris, if you would, come down
25 from the stand. I'd like for you to look at State's

1 2. Is that an aerial of the ■ Rain Forest Lane
2 where you went and secured items of evidence?

3 A (Witness leaves the witness stand.)

4 Yes, sir.

5 Q Okay. I'd like for you to look, at this point
6 in time, at State's Number 3. Is that an
7 approximate floor plan of the mobile home there at
8 ■ Rain Forest Lane?

9 A Yes, sir.

10 Q I'd like to show you State's 8 in this case.
11 Did you take this photograph --

12 A Yes, sir.

13 Q -- at the scene?

14 A Yes, sir.

15 Q State's 21, did you take that?

16 A Yes, sir.

17 Q Was this taken into evidence from the trailer?

18 A Yes, sir.

19 Q State's 20?

20 A Yes, sir, I took this photograph.

21 Q And this fairly and accurately reflects items
22 that were inside the trailer?

23 A Yes, sir.

24 Q State's 19?

25 A Yes, sir.

1 **Q** That fairly and accurately reflects items that
2 you photographed inside the trailer?

3 **A** Yes, sir.

4 **Q** State's 18, does that fairly and accurately
5 reflect items that you photographed inside the
6 trailer at Rain Forest Lane?

7 **A** Yes, sir.

8 **Q** State's 17?

9 **A** Yes, sir.

10 **Q** That shows items that you photographed inside
11 the trailer?

12 **A** Yes, sir.

13 **Q** That same day?

14 **A** Yes, sir.

15 **Q** State's 16, does that show items that you
16 photographed there inside the trailer?

17 **A** Yes, sir.

18 **Q** 15, does that show items that you took
19 photographs of that were retrieved from inside of
20 the trailer?

21 **A** Yes, sir.

22 **Q** State's 14, does that show the item that was
23 taken from inside the trailer?

24 **A** Yes, sir.

25 **Q** State's 13, is that another view of that item

1 that you took from inside of the trailer?

2 A Yes, sir.

3 Q I'm going to show you State's 11, this red --
4 describe the two vehicles that are there. And let
5 me ask you, were those on the property at the date
6 that you executed the search warrant and carried it
7 out and describe what they are?

8 A Yes, sir. The first one is a red Chevrolet
9 truck and the other one is a -- I don't know the
10 brand name -- a white camper trailer.

11 Q A tag camper trailer?

12 A Yes, sir.

13 Q And that was there as well?

14 A Yes, sir.

15 Q Okay. State's 5, what does that show? It's
16 already in evidence.

17 A Yes, sir. The van that was parked in the front
18 yard that had been shot up.

19 Q You photographed that as well?

20 A Yes, sir.

21 Q State's 10, this Electra Glide style motorcycle
22 there, did you take this photograph there?

23 A Yes, sir.

24 Q 10?

25 A Yes, sir.

CURTIS MORRIS - DIRECT BY MR. MAYE

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1 Q And that was on the property as well?

2 A Yes, sir.

3 Q State's 9, the smaller, this Sportster-size
4 Harley-Davidson motorcycle, did you take those
5 photograph -- did you take this picture?

6 A Yes, sir.

7 Q Does it fairly and accurately reflect the
8 motorcycle that was there at the scene that day?

9 A Yes, sir.

10 Q This photograph of State's 4 depicting all of
11 these weapons that are laid out on this table, were
12 all of those weapons seized from the property there
13 at Rain Forest Lane?

14 A Yes, sir, they were.

15 Q Now, State's 7 and State's 6, you took some
16 weapons and you allowed the Alcohol, Tobacco and
17 Firearms Division to take some weapons. Do you
18 recognize the weapon that was in 6 and 7? Was that
19 photographed and does it fairly and accurately
20 depict weapons that were there in the trailer?

21 A Yes, sir.

22 Q Okay. Any weapon that was suspected of being
23 sawed-off or unlawful, who was that turned over to?

24 A The ATF, sir.

25 Q The ATF agent on scene took those?

1 **A** Yes, sir.

2 **Q** Let me ask you about a Mossberg 12-gauge
3 shotgun model 88, serial number MV88839 Alpha.

4 **A** Yes, sir.

5 **Q** Did you seize that weapon there at the scene?

6 **A** Yes, sir.

7 **Q** Do you have that weapon here today?

8 **A** Yes, sir.

9 **Q** Could -- is it in a secured fashion?

10 **A** Yes, sir.

11 **Q** Could you retrieve it now?

12 **A** With the Court's permission.

13 **MR. MAYE:** Your Honor, I'd ask that the officer
14 be able to --

15 **THE COURT:** Yes, we can.

16 Let me tell the jury, though, we do have a
17 protocol that can apply to -- any weapon that's
18 brought into the courtroom is checked at least twice
19 by courtroom personnel, law enforcement officer, to
20 make sure that it is safe and cannot be fired. So I
21 don't want you to be alarmed.

22 But I'll allow you to get it as long as it
23 meets the protocol.

24 **THE WITNESS:** Yes, Your Honor.

25 **MR. MAYE:** Please retrieve it.

CURTIS MORRIS - DIRECT BY MR. MAYE

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1 (Pause.)

2 (State's Exhibit Number 22, Mossberg
3 Shotgun, marked for identification.)

4 BY MR. MAYE:

5 Q State's 22, this is the weapon that you
6 actually seized from inside the residence, this
7 Mossberg?

8 A Yes, sir.

9 MR. MAYE: At this point in time, Your Honor,
10 I'm going to move to admit this in evidence, State's
11 22, subject to any objection.

12 MR. DRYLIE: No objection.

13 THE COURT: In without objection.

14 (State's Exhibit Number 22, Mossberg
15 Shotgun, admitted into evidence.)

16 BY MR. MAYE:

17 Q Please go back and take the stand.

18 A (Witness resumes the witness stand.)

19 Q Let me ask you this: Y'all took -- what did
20 you do with the vehicles that were there? Were they
21 removed -- did the sheriff's office remove those
22 vehicles from the property based on your activities
23 with the sheriff's office there?

24 A Yes, sir.

25 Q Okay. The 2006 Harley-Davidson motorcycle, VIN

1 1HD1FCW126Y673417, was that vehicle removed there
2 from the property on that day?

3 A Yes, sir.

4 Q You have already testified in this case that
5 that Mossberg 12-gauge model 88 shotgun, serial
6 number MV88839 Alpha, is the one that you placed in
7 evidence?

8 A Yes, sir.

9 Q The Zeppelin camper, VIN
10 Y-Delta-Tango-291277-Zulu-400913, was taken by the
11 sheriff's office from the scene there, correct?

12 A Yes, sir.

13 Q The 2006 Harley-Davidson motorcycle, VIN
14 1HD4CJM1X6K405022, was taken there from the scene,
15 correct?

16 A Yes, sir.

17 Q A 2005 Chevrolet C-1500 pick-up, VIN
18 1GCEC14X35Z197758, was also taken from the scene
19 there, was it not?

20 A Yes, sir.

21 Q You documented that and as a crime scene
22 technician, you were the one that was responsible,
23 correct?

24 A Yes, sir.

25 Q As to Harrington and Richardson Topper M48,

CURTIS MORRIS - CROSS BY MR. DRYLIE

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1 serial H22 or 23330, you did not take that one,
2 correct? That was given to ATF?

3 **A** Yes, sir.

4 **Q** As to a Harrington and Richardson Topper model
5 158 with no serial number, a deleted serial number
6 in this case, you did not take custody of that, but
7 you allowed ATF to take that?

8 **A** Yes, sir.

9 **Q** As to a Winchester 12-gauge shotgun model 37
10 Alpha, serial number C520219, you did not take that,
11 but ATF took it, correct?

12 **A** Yes, sir.

13 **MR. MAYE:** Please answer any questions that
14 defense has for you.

15 **THE WITNESS:** Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. DRYLIE:

18 **Q** Good afternoon.

19 **A** Afternoon, sir.

20 **Q** Just briefly. You can't say who brought any of
21 these items onto that property, can you?

22 **A** No, sir.

23 **Q** You don't have any firsthand knowledge of that?

24 **A** No, sir.

25 **MR. DRYLIE:** No further questions.

1 **THE COURT:** Any redirect?

2 **MR. MAYE:** Nothing. Thank you.

3 **THE COURT:** You can step down and be excused.

4 Appreciate your time. Thank you.

5 Call your next witness.

6 **MR. MAYE:** State would call Investigator

7 Roosevelt Young to the stand.

8 ROOSEVELT YOUNG,

9 having been duly sworn, testified as follows:

10 **THE CLERK:** Thank you, sir. Please be seated.

11 State your full name, spell your last name for the
12 record.

13 **THE WITNESS:** Roosevelt Young, Y-o-u-n-g.

14 DIRECT EXAMINATION

15 BY MR. MAYE:

16 **Q** Investigator Young, please state to the ladies
17 and gentlemen of the jury, tell them what you go by,
18 tell them what your job is over at the sheriff's
19 office.

20 **A** I'm an investigator in narcotics. I've been
21 there since November of '95.

22 **Q** Been there since November of 1995?

23 **A** Yes, sir.

24 **Q** Okay. Let me ask you this: What specifically
25 do you help Sheriff Dobey with? What's your unit

ROOSEVELT YOUNG - DIRECT BY MR. MAYE

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1 that you're over? What do you specifically work on
2 for him?

3 **A** Investigate any controlled substances, illegal
4 marijuana, stuff of that nature.

5 **Q** Do you run the drug unit for the sheriff?

6 **A** I do.

7 **Q** Okay. Let me ask you this: Based on your
8 involvement here as the drug supervising officer,
9 did you go out for the December search warrant at
10 Rain Forest Lane?

11 **A** Yes, sir.

12 **Q** Okay. Let me ask you this: Typically, with
13 your involvement, what do you do when there's drug
14 evidence or a investigation has a component of drug
15 -- or unlawful drugs in it? What do you typically
16 do and what did you do in this case?

17 **A** In this particular case, I went to that
18 residence on the morning of December the 22nd and my
19 sole purpose was to collect any controlled
20 substances that was found there.

21 **Q** Okay. Let me ask you this: Did you, in fact,
22 based on the search warrant that was issued by Judge
23 Carpenter, seize drug evidence there?

24 **A** Yes, sir, I did.

25 **Q** Okay. Do you have those items here? Have you

1 secured those and kept custody of those?

2 **A** Yes, sir, I have.

3 **Q** Could you retrieve them now? Thank you.

4 (Pause.)

5 **MR. MAYE:** I would like to mark those various
6 items for identification.

7 (State's Exhibit Numbers 23 through 25
8 marked for identification.)

9 **Q** I'd like you to look at the items that are
10 marked 23 through 25. I want you to examine those.

11 **A** (Witness complies.)

12 **Q** Are those, 23 through 25, items of suspected
13 unlawful narcotics that you seized there pursuant to
14 the search warrant on December the 22nd of 2015 at
15 ■ Rain Forest Lane?

16 **A** Yes, sir.

17 **Q** Okay. What do you do or what steps do you go
18 through once you seize an item? And go through each
19 one of those items and talk about where they were in
20 the residence, where you seized them.

21 **A** This is the plastic ammo container with tools
22 written on it, it was located in bedroom number
23 three. Inside of the plastic container was the bags
24 of meth and pills that you can see in there and also
25 had a quantity of marijuana.

1 Q What you suspected, at that time, was
2 marijuana?

3 A Yes, sir.

4 Q Okay. Where were all of those items seized in
5 the residence?

6 A In bedroom number three.

7 Q Could you come down and show us on this chart
8 where that is? And that is State's Number 3.

9 A (Witness leaves the witness stand.)

10 Yes, sir. This is bedroom number three here in
11 the closet area.

12 Q Okay. Just take something, take a pen, and
13 mark that, if you're going to call that bedroom
14 number three, and mark the closet area.

15 A (Witness complies.)

16 Q And you're going to call this three?

17 A (Witness indicating.)

18 Q All right.

19 A (Witness resumes the witness stand.)

20 Q Once you seize those items of suspected drug
21 evidence, the items that you suspected were
22 narcotics, the pills and the substance you
23 identified as suspected methamphetamine, what did
24 you do with those items? Did you secure them at
25 that point in time?

1 **A** Yes, sir.

2 **Q** What steps do you take to do that?

3 **A** We photographed them, everything in its
4 entirety, the box with the contents in it, and
5 sealed it inside of a BEST kit and transported --

6 **Q** What is a BEST kit? What is that?

7 **A** It's basically a kit that SLED has that you
8 have to fill out and seal it and send it to them
9 before they will analyze it and let you know exactly
10 what you have.

11 **Q** Let me ask you this: What's the number of the
12 BEST kit that you sealed up there? And if you need
13 to open any of the items to see what you need to on
14 that, that's fine.

15 **A** It's going to be on that folder behind you.

16 **Q** (Solicitor hands document to witness.)

17 **A** The BEST kit number for these items here was
18 B238619.

19 **Q** Okay. You secured those items and secured them
20 in a BEST evidence kit with that serial number,
21 correct?

22 **A** Yes, sir.

23 **Q** What did you do with them once you took them
24 from the residence?

25 **A** Put them inside the evidence drug safe at my

ROOSEVELT YOUNG - DIRECT BY MR. MAYE

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1 office.

2 Q Okay. When did you transfer those to another
3 location and where did you take them and who did you
4 turn it over to?

5 A December the 23rd, I took it to SLED. The
6 day -- let me back up. The 22nd, December the 22nd
7 of 2015, was the day of the search warrant and I
8 took it to the evidence drug safe, which is located
9 in the office. And on December the 23rd, I
10 transported it to SLED.

11 Q Who did you turn it over to at SLED?

12 A Ms. Jennifer Aycok.

13 Q On that same day?

14 A Yes, sir.

15 Q Let me ask you this: During the time that you
16 had it, did you change it or alter it in any way?

17 A No, sir.

18 Q Okay. The other item that you suspected was
19 marijuana there that you seized, did you seal that
20 up in an evidence bag?

21 A Yes, sir.

22 Q Okay. What did you do to document the sealing
23 and seizing of the item that you suspected to be
24 marijuana there that you took from the trailer?

25 A I notated it in my incident report and turned

1 it over to Deputy Densmore with the sheriff's office
2 who is a certified SLED analyst.

3 **Q** Okay. Marijuana, y'all test that yourself
4 internally at the sheriff's office?

5 **A** Yes, sir, we do.

6 **Q** Okay. What date did you seize the item that
7 you suspected was marijuana from the trailer?

8 **A** Same date, December the 22nd, 2015.

9 **Q** When did you transfer that to the officer for
10 testing, and identify that officer?

11 **A** It was turned over to Mr. James Densmore on
12 January the 28th.

13 **Q** During the time that you had it, did you change
14 or alter it in any way?

15 **A** No, sir. That simply stayed in the evidence
16 safe till we transferred it to him.

17 **MR. MAYE:** Begging the Court's indulgence.

18 (Pause.)

19 **MR. MAYE:** Answer any questions the defense has
20 for you.

21 CROSS-EXAMINATION

22 BY MR. DRYLIE:

23 **Q** Afternoon.

24 **A** Good afternoon.

25 **Q** Now, you were involved in the collection of

1 these drugs, correct?

2 **A** Yes, sir.

3 **Q** But you don't know firsthand who brought the
4 drugs onto that property, correct?

5 **A** No, sir, I don't.

6 **Q** Okay. Now, the items in front of you, were any
7 of them tested for fingerprints?

8 **A** (Witness reviewing documents.)

9 **Q** Let me simplify this. Did you recover -- were
10 any fingerprints recovered off any of those items?

11 **A** No, sir, it wasn't.

12 **Q** Any touch DNA?

13 **A** No, sir.

14 **Q** Okay. Have you ever observed David Coon on the
15 property at ■ Rain Forest Lane?

16 **A** No, sir, I haven't.

17 **Q** Okay. Now, you were involved in several
18 interviews with Mr. Coon, correct?

19 **A** Yes, sir.

20 **Q** Okay. Were you present for all three?

21 **A** I think two of them.

22 **Q** Two of them. At any point, did Mr. Coon take
23 ownership of any of those drugs?

24 **A** No, sir.

25 **MR. DRYLIE:** No further questions.

1 **THE COURT:** Anything else?

2 **MR. MAYE:** Begging the Court's indulgence.

3 (Pause.)

4 **MR. MAYE:** Nothing else. Thank you.

5 **THE COURT:** You can step down and be excused.

6 We appreciate your time.

7 Call your next witness.

8 **MR. MAYE:** State would call Ricardo Prince of
9 Alcohol, Tobacco and Firearms.

10 RICARDO PRINCE,

11 having been duly sworn, testified as follows:

12 **THE CLERK:** Thank you, sir. You may be seated.
13 State your full name, spell your last name for the
14 record, please.

15 **THE WITNESS:** It's Ricardo Prince. Last name
16 is P-r-i-n-c-e.

17 DIRECT EXAMINATION

18 BY MR. MAYE:

19 **Q** Agent Prince.

20 **A** Yes, sir.

21 **Q** Please tell the ladies and gentlemen of the
22 jury where you are employed, what agency, how long
23 you've been working there, in what capacity you're
24 employed.

25 **A** I currently work for the Bureau of Alcohol,

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1 Tobacco, Firearms and Explosives. I'm an ATF
2 special agent. I'm stationed in Greenville, South
3 Carolina. I've been employed there approximately 32
4 months.

5 Q Did you have an occasion to come out and assist
6 the Edgefield County Sheriff's Department and SLED
7 with an investigation of suspected unlawful weapons
8 at ■ Rain Forest Lane here in Edgefield County?

9 A Yes, sir.

10 Q Did you help them carry out and execute a
11 search warrant of that residence there?

12 A Yes, sir.

13 Q Let me ask you this: Did you, in fact, go with
14 them on the search warrant on that day?

15 A Yes, sir.

16 Q Okay. Did you seize, at that time, three
17 weapons that you suspected were unlawful weapons
18 that were shortened shotguns or sawed-off shotguns,
19 unlawful weapons in South Carolina?

20 A Yes, sir, I did.

21 Q Okay. Could you tell us about the weapons that
22 you seized there? Could you describe them and --

23 MR. MAYE: Beg the Court's indulgence.

24 (State's Exhibit Numbers 26 through 49,
25 photographs, marked for identification.)

1 **Q** I'd like you to look, Agent Prince, at the
2 photographs, State's 26 through 49.

3 **A** Okay.

4 **Q** Let me ask you this: Do those photographs that
5 you have reviewed with those numbers, all of the
6 photographs between those series of numbers there,
7 including in between those, do they fairly and
8 accurately reflect photographs of three weapons that
9 you took and seized there at ■ Rain Forest Lane?

10 **A** Yes, sir.

11 **Q** Okay. Do they also fairly and accurately
12 represent standard inch measurement scale sticks
13 around those items that you placed in order to
14 measure them and to carry out measurements of the
15 weapons?

16 **A** Yes, sir.

17 **Q** So all of that fairly and accurately reflects
18 the weapons and the measurements that were taken?

19 **A** Yes, sir.

20 (Pause.)

21 **MR. DRYLIE:** No objection.

22 **THE COURT:** Are you offering them into
23 evidence?

24 **MR. MAYE:** I'm going to offer all of these in
25 evidence, Your Honor.

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1 **THE COURT:** Any objection?

2 **MR. DRYLIE:** No objection.

3 **THE COURT:** In without objection.

4 (State's Exhibit Numbers 26 through 49,
5 photographs, admitted into evidence.)

6 BY MR. MAYE:

7 **Q** Agent Prince, did you bring those weapons with
8 you here today to the courthouse?

9 **A** I did, yes, sir.

10 **Q** Do you have them -- do you work with the
11 sheriff's office or can you work with the sheriff's
12 office in securing them so they cannot be fired in
13 accordance with our court protocol?

14 **A** I already did.

15 **Q** You did?

16 **A** Yes, sir.

17 **Q** Could you retrieve them if you have them here
18 at the courthouse?

19 **A** Sure.

20 **Q** Thank you.

21 (State's Exhibit Numbers 50 through 52,
22 shotguns, marked for identification.)

23 **Q** Agent, I'd like for you to look at those three
24 items marked as State's Exhibit for ID at this point
25 in time and ask you if those are the weapons that

1 you seized from ■ Rain Forrest Lane?

2 **A** Yes, sir, they are.

3 **MR. MAYE:** At this time, I'm going to move --

4 **Q** You haven't changed or altered them in any way
5 other than performing measurement tests on them?

6 **A** That's all.

7 **MR. MAYE:** At this point in time, I'm going to
8 offer those weapons into evidence subject to any
9 objection.

10 **THE COURT:** Any objection?

11 **MR. DRYLIE:** No objection, Your Honor.

12 **THE COURT:** Admitted without objection.

13 (State's Exhibit Numbers 50 through 52,
14 shotguns, admitted into evidence.)

15 BY MR. MAYE:

16 **Q** Can you give me the serial numbers and give me
17 the description of each of those items there that
18 you have? And I'll hand you these photographs if
19 you need to refer to any of those.

20 **A** Okay. This one right here is called a
21 Harrington and Richardson 12-gauge model 158. The
22 serial number is 2876576. And also on my paperwork
23 when I took custody of this, I named it exhibit
24 number 2.

25 **THE COURT:** What number is it for trial?

1 **THE WITNESS:** Sir?

2 BY MR. MAYE:

3 **Q** Our State's number, the little red tag on it
4 there.

5 **A** This is Number 50.

6 **Q** State's 50?

7 **A** State's 50.

8 **Q** The serial number of that weapon is?

9 **A** It's 2876576.

10 **Q** Okay. Describe that weapon for us, if you
11 will, and tell us about the length of the barrel and
12 the overall length.

13 **A** This is a sawed-off shotgun, the barrel length
14 is 13 inches and 7/8th inch. Overall, it's 19
15 inches and 7/8th of an inch. State law requires
16 that a shotgun barrel length should be at least --

17 **MR. DRYLIE:** I object, Your Honor.

18 **THE COURT:** Beg your pardon?

19 **MR. DRYLIE:** I'd object to him going into the
20 state law part.

21 **THE COURT:** Well, he's an ATF agent.

22 **MR. DRYLIE:** I understand --

23 **MR. MAYE:** I can ask him this, Your Honor.

24 **THE COURT:** Okay.

25 BY MR. MAYE:

1 Q Is the overall length of that weapon less than
2 26 inches?

3 A Yes, sir, it is.

4 Q Is the barrel length less than 18 inches?

5 A Yes, sir.

6 Q Okay. And you're certain of that and you
7 conducted measurements and you have photographs
8 there with a scale stick showing that those items --

9 A Yes, sir.

10 Q -- less than 26 overall, and the barrel length,
11 less than 18 on that weapon?

12 A Yes, sir.

13 Q So on both counts, it's less than those
14 amounts?

15 A Yes, sir.

16 Q Go to the next weapon.

17 A Okay. This firearm right here is a Winchester
18 20-gauge single-shot shotgun. The model number is
19 37AU. The serial number is C-Charlie-520219. And
20 the barrel length on this firearm is 5 and 1/4th
21 inch. Overall of this firearm together is 12 inches
22 and 7/8th of an inch.

23 Q So it's overall less than 26 and the barrel
24 length is less than 18?

25 A Yes, sir.

1 **Q** Okay. The next weapon you have and give us the
2 State's number.

3 **A** State number on the item I just had was 52.

4 **Q** Okay.

5 **A** The last firearm, the State number is item --
6 Exhibit 51. This is a Harrington and Richardson
7 12-gauge single-barrel shotgun, model M48. The
8 serial number is 8-Henry-23330. The barrel length
9 of this firearm is 18 and 5/8th inches. The overall
10 length of this firearm is 24 and 1/4th inches.

11 **Q** So the barrel length is over 18 inches, but the
12 overall length of the weapon is less than 26 inches?

13 **A** Yes, sir.

14 **Q** Okay. Thank you.

15 You took those there at the scene, correct?

16 **A** Well, they went back to the sheriff's office,
17 and I collected them from the evidence guy at the
18 sheriff's office through a chain of custody.

19 **Q** But you know that those are the same weapons
20 that you saw there when y'all went in on the raid?

21 **A** Yes, sir.

22 **Q** Okay.

23 **MR. MAYE:** Your Honor, I'd like to take a brief
24 moment just to make sure that I have this witness in
25 compliance with the previous ruling of the Court.

1 Can we take a break in camera outside the presence
2 of the jury?

3 **THE COURT:** All right. Let the jury go to the
4 jury room just for a few minutes and we'll take a
5 refresher break.

6 (The jury retires to the jury room.)

7 **THE COURT:** The jury's out. I'm going to ask
8 you to take those photographs up that are on the
9 ledge up there. I think they're kind of
10 distracting. I think some of the jurors are sort of
11 craning their neck to see them. And, of course,
12 they're in evidence so they have a right to see
13 them, but I think a different time would be better.

14 **MR. MAYE:** Thank you.

15 I just wanted to make sure -- Agent Prince was
16 sequestered. I wanted to make sure, the Court had
17 previously issued a ruling in this case that we were
18 not going to talk about, in his statement or
19 confession, we were not going to talk about the fact
20 that he admitted to you that he was getting ten
21 grams a week of drugs. And we're not going to talk
22 about the dollar amount of those drugs that he was
23 getting. The Court has previously ruled that that
24 is inadmissible. And I wanted to make sure I
25 advised this witness before we went into the

1 statement.

2 The only thing that you're able to talk about
3 in this case -- you're not allowed to talk about
4 that. And by stipulation and agreement with the
5 defense, I agreed that we were not going to talk
6 about the silencer that was seized there. I know
7 that you brought that. That was never taken out.
8 The jury did not see it. It was sealed in that box.
9 We're not going to talk about the silencer.

10 And you're not to give testimony in this case
11 about his admissions that he was getting ten grams a
12 week, what the dollar amount was. I am going to ask
13 you the questions that you previously testified to
14 about what he told you about the weapons in this
15 case, what he told you about the scales that were in
16 the house. Those questions that I am going to ask
17 you about, I want to ask you to publish to the jury
18 again, but I would advise you that the Court has
19 ruled in that regard and I don't want you to talk
20 about the silencer or the Court's ruled that
21 inadmissible about the drug use that he talked about
22 and the giving away of the drugs, okay?

23 **THE WITNESS:** Yes, sir, I understand.

24 **THE COURT:** And sort of housekeeping, it's a
25 little after 5:00. I think, unless you've got some

1 witness that's lined up that can't be here tomorrow,
2 I think we'll probably stop after this witness and
3 start back at --

4 **MR. MAYE:** That was my plan.

5 **THE COURT:** -- start back at 9:30.

6 All right. Let's bring in the jury.

7 (The jury returns to the courtroom.)

8 **BY MR. MAYE:**

9 **Q** Agent Prince, let me ask you this: Did you
10 have an occasion, after you seized those weapons,
11 did you have an occasion to return back to Edgefield
12 County and speak with David Coon, the defendant in
13 this case?

14 **A** Yes, sir.

15 **Q** Okay. Did you come on December the 28th of
16 2015 and speak with him?

17 **A** Yes, sir.

18 **Q** Prior to speaking with him, I'm going to ask
19 you -- previously, I had a waiver of rights that I
20 marked for State's ID only. I'm going to show you
21 what's been marked as State's Exhibit 1 for
22 identification at this point in time. I'm going to
23 hand you this. I'm going to ask you, if you will,
24 prior to speaking to him, was Mr. Coon advised of
25 his rights under Miranda?

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1 **A** Yes, sir, he was.

2 **Q** In what fashion was he advised of his rights?

3 **A** Investigator Warren Miller read this waiver of
4 rights to him. And Mr. Coon pretty much put his
5 initials. And at the end, he put his signature. He
6 said he understood it. And I witnessed Warren doing
7 this.

8 **Q** That's your signature on there, your original
9 signature on there?

10 **A** Yes, sir, as a witness.

11 **Q** Let me ask you this: Please go through and
12 tell what was provided to him pursuant to the waiver
13 of rights, if you would -- well, let me ask you this
14 -- I'm going to move to admit this into evidence at
15 this time -- that's the written waiver of rights
16 that was executed with Mr. Coon on that day,
17 correct?

18 **A** Yes, sir, it was.

19 **MR. MAYE:** Okay. I'm going to move to admit
20 this into evidence. It's marked State's 1 for ID.
21 I'm going to move to admit it into evidence.

22 **MR. DRYLIE:** No objection.

23 **THE COURT:** In without objection.

24 (State's Exhibit Number 1, waiver of rights
25 form, admitted into evidence.)

1 BY MR. MAYE:

2 Q Please just publish State's 1, tell them what
3 y'all did to carry that out and how he indicated
4 that he understood his rights.

5 A Okay. Investigator Warren started out with
6 David Coon. It says, I, David Coon, I'm 52 years
7 old. My address is ■ Rain Forest Lane, North
8 Augusta, South Carolina, 29860. I have finished the
9 7th grade in school and I can read. I have been
10 told by Investigator Miller, who I am understand is
11 a law enforcement officer, that he would like to
12 question me concerning the crimes of possession of
13 firearms and trafficking methamphetamines.

14 This officer has also explained to me that I
15 understand that the first one is I have the right to
16 remain silent, that means I do not have to say
17 anything or answer any questions. Number two is
18 anything I say can be used against me in a court of
19 law. Number three, I have the right to talk to a
20 lawyer and to have a lawyer here with me to advise
21 and help me before questioning and during
22 questioning. Number four, if I have -- if I want to
23 have a lawyer with me before and during questioning,
24 but cannot afford to pay a lawyer, one would be
25 provided to me at no cost before and while I am

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1 questioned. Number five, if I decide to answer
2 questions now without a lawyer here, I still have
3 the right to stop answering questions whenever I
4 want to. And number six, I also have the right to
5 stop answering questions until I have talked to a
6 lawyer.

7 We went through these with Mr. Coon. He put
8 his initial on one through six. And then at the
9 bottom, it says, I understand my rights as explained
10 to me by Detective Miller. I now state that I do
11 wish to answer questions at this time and that I do
12 not wish to have a lawyer here before or during
13 questioning.

14 And at the end, it reads, My decision to answer
15 questions now without a lawyer is made freely and is
16 my own choice. No one has threatened or coerced me
17 in any way or promised me special treatment. To
18 show my decision, I am signing my name in the space
19 below. And Mr. Coon signed it and he dated
20 12/28/2015.

21 **Q** Let me ask you this: Did you have an occasion
22 to go back and talk to him again at his request on
23 January the 4th of 2016?

24 **A** Yes, sir. One of the investigators called me
25 and said Mr. Coon had filled out a grievance and he

1 was requesting me to come back down and speak with
2 him, so I did do that.

3 Q How about on January the 27th of 2016? Did you
4 come back and give him an interview at his request
5 again then?

6 A Yes, sir. Mr. Coon requested me to come down
7 and I spoke with him again, yes.

8 Q So you went a total of three times to speak
9 with him?

10 A Yes, sir.

11 Q The first time he was advised of his Miranda
12 warnings in writing, correct?

13 A Yes, sir. That's true.

14 Q At any point in time at any of those three
15 visits, did you threaten him or coerce him in any
16 way to try to get him to talk?

17 A No, sir.

18 Q Okay. Did you make him any promises or did you
19 hold out any inducements or award to him if he spoke
20 to you?

21 A No, sir.

22 Q Did you do anything to try to influence whether
23 or not he spoke to you or not?

24 A No, sir.

25 Q At each time that you reinitiated contact with

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1 him, the two subsequent times that you went back,
2 did you advise him that he had been advised of
3 Miranda warnings and advised him that you understood
4 that he, Mr. Coon, had asked you, Agent Prince, to
5 come there?

6 **A** Yes, sir, I did.

7 **Q** Okay. Did you tape record each of those three
8 interviews?

9 **A** Yes, sir, I did, all three.

10 **Q** All three?

11 **A** Yes, sir.

12 **Q** Okay. Let me ask you this: As to him residing
13 at the ■ Rain Forest Lane address, where did he
14 write down he lived on the written waiver of rights
15 or where did he provide to you that he lived?

16 **A** He filled out this form with ■ Rain Forest
17 Lane, North Augusta, South Carolina, 29860.

18 **Q** Okay. What did he tell you about who lived at
19 the property?

20 **A** He said he lived there and his name is on the
21 lease with his daughter, Heather Hall.

22 **Q** Okay. What did he tell you in regard to the
23 sawed-off shotguns that were located at ■ Rain
24 Forest Lane? What did he initially tell you; then
25 what did he subsequently tell you about the

1 sawed-off weapons?

2 **A** Initially, he told me that he had a sawed-off
3 shotgun, but that shotgun was over the legal limit.
4 And later on, he told me that the two firearms
5 that's in question, which is Exhibit 50 and 52, he
6 said they were his sawed-off shotguns.

7 **Q** Okay. What did he tell you about scales that
8 were in the house that y'all found at the house
9 pursuant --

10 **MR. DRYLIE:** Objection.

11 **THE COURT:** I overrule the objection on the
12 scales.

13 BY MR. MAYE:

14 **Q** What did he tell you in regard to digital
15 scales that were in the house?

16 **A** That they were his.

17 **Q** That the scale -- the digital scales were his?

18 **A** Yes, sir. The ones that was found in his room,
19 yes.

20 **Q** Okay. What did he tell you about security
21 measures that he had at the house or what did he
22 tell you about the security measures that he had
23 taken for his property there?

24 **A** Mr. Coon said he had booby traps set up around
25 his property. And if anyone come or if he needed to

1 escape, he could set off the booby traps and get
2 away.

3 **Q** Okay. What did he tell you about body armor
4 that he had there on the property?

5 **A** He said he had the body armor for protection.

6 **Q** Okay. What did he tell you about the
7 motorcycles that were there on the property?

8 **A** He told me that he had drove on the motorcycles
9 before and he knew that they was on his property.

10 **Q** Okay. Did he alternately give you information
11 -- did he give you differing information at various
12 times? Have you talked to him in regard to the
13 motorcycles?

14 **A** He did. He said he had drove the motorcycles.
15 He said he didn't know who the owners were. And
16 later on, he said he did know who the owners were.

17 **Q** What did he tell you that the purpose that he
18 had the scales in the house were for?

19 **A** Basically so he wouldn't get cheated when he
20 was making a drug transaction.

21 **Q** Okay.

22 **MR. MAYE:** Please answer any questions that the
23 defense has for you.

24 **THE WITNESS:** Yes, sir.

25 *****

1 CROSS-EXAMINATION

2 BY MR. DRYLIE:

3 Q At any point during your three hour
4 conversations with Mr. David Coon, did he take
5 ownership of the drugs that are in question in this
6 case right there?

7 A Which drugs?

8 Q The methamphetamine and the pills found inside
9 the green ammo box at the house at ■ Rain Forest
10 Lane?

11 A He didn't.

12 Q Okay. Now, you just answered the question, So
13 he wouldn't get cheated when he was making drug
14 transactions, correct?

15 A Yes.

16 Q Now, Mr. Coon told you that he was an addict
17 and that he used meth, correct?

18 A Yes, he did.

19 Q Okay. And it wasn't -- he did say that he was
20 not selling meth, correct?

21 A He told me that, yes.

22 Q Okay. Now, we've gone through -- you talked
23 with Mr. Coon for about three hours, correct?

24 A I'm not sure approximately how long, but I
25 spoke with him on three different occasions.

1 Q It was between probably two and a half to three
2 hours would you say?

3 A It's possible, yes.

4 Q Okay. Now, during your conversations with him,
5 did he tell you that he had been staying with his
6 girlfriend in Aiken?

7 A He did in a motel, something like that, yes.

8 Q And that she had just had a baby?

9 A He said something about a baby, but I think he
10 said the baby wasn't his or something like that.
11 He's not sure if the baby his, but she did have a
12 baby, yes.

13 Q And he was staying over there with her,
14 correct?

15 A Yes.

16 Q Okay. Now, going to the sawed-off shotguns,
17 did you find in the house a walking stick made out
18 of a sawed-off shotgun?

19 A It was. I did see that, yes.

20 Q Okay. Did he tell you that those other two
21 guns that he had, that he was planning on turning
22 those into walking sticks?

23 A He did mention that, yes, sir.

24 Q Okay. Now, throughout your investigation, and
25 I know you did a lot of work on this case, did you

1 get information that Mr. Wheeler carried the green
2 ammo box around?

3 **A** Yes, sir, I did.

4 **Q** And Mr. Wheeler carried the green ammo box and
5 that's where the methamphetamine, the pills and the
6 drugs were found?

7 **A** Yes, sir.

8 **Q** Now, when y'all went to serve the search
9 warrant, David Coon wasn't at the residence,
10 correct?

11 **A** He wasn't.

12 **Q** Okay. You found him at a hotel. Where was the
13 hotel again?

14 **A** Well, Aiken County found him the next day, and
15 it was in Aiken County, I believe off Exit 22.

16 **Q** And he was there with his girlfriend?

17 **A** He was there with his girlfriend, yes.

18 **Q** Okay. Now, when y'all executed the search
19 warrant, do you remember how much money you found in
20 Timothy Wheeler's wallet?

21 **A** Yes, sir. It was \$7,373.

22 **Q** And the occupants of the house when you
23 executed the search warrant were Timothy Wheeler,
24 Heather Hall and Jennifer Dewitt?

25 **A** Yes, sir.

1 **Q** Now, the drugs that were found in the house
2 weren't found in what I guess we're calling bedroom
3 one, the master bedroom, correct?

4 **A** Correct.

5 **Q** They were found in bedroom three?

6 **A** Bedroom number two -- well, bedroom number
7 three, yes, where the dogs were. It was --

8 **Q** In the closet area?

9 **A** It was, like, laying out, like, where the dogs
10 were, yes.

11 **Q** Inside the green ammo box?

12 **A** Yes.

13 **Q** That Timothy Wheeler carried around?

14 **A** Yes.

15 **MR. DRYLIE:** No further questions.

16 **MR. MAYE:** Your Honor, I have a matter of law
17 before cross-examination {sic} to take up outside
18 the presence of the jury.

19 **THE COURT:** All right. Let me let the jury go
20 to the jury room again. I'll go ahead and tell you
21 that this will be the last witness for the day.
22 We're not through quite yet, so don't leave, but go
23 to the jury room. We'll send for you in just a
24 minute.

25 (The jury retires to the jury room.)

1 **THE COURT:** All right. The jury's out, yes,
2 sir.

3 **MR. MAYE:** Your Honor, I, as always, am very
4 respectful of Your Honor. I want to make sure I'm
5 abiding by your ruling.

6 I was very surprised that the defense in this
7 case asked him -- I had to admonish this witness not
8 to say anything about his previous statements to him
9 that he was getting ten grams a week of
10 methamphetamine and that he was giving it away. And
11 then the defense directly asked him in response to
12 the information about the scales, that he told you
13 that he was not selling meth.

14 Your Honor, it's our position that he's opened
15 the door at this point in time, that he was rewarded
16 with an answer in this case, the agent saying, Yes,
17 that is what he told me; he told me he was not
18 selling meth. He full well knows that he had told
19 the agent previously that he was not selling meth,
20 that he was giving it away, he was getting large
21 quantities of it on a weekly basis and then giving
22 it away.

23 It's certainly my position at this point in
24 time that he's opened the door for me to explore
25 that on cross-examination or redirect examination

1 with this agent that he told you he was not selling
2 meth, but he, in fact, told you he was giving it
3 away on a consistent basis, that he was getting
4 drugs in on a consistent basis and that he was
5 giving it away, Your Honor. I believe they've
6 opened the door for it. I think it's fair game now
7 for me to question him about that on direct. I'll
8 respect any ruling of the Court, Your Honor.

9 **MR. DRYLIE:** Judge, I don't think we've opened
10 the door as far as the ten grams of weed goes.
11 Judge, that question was directly related to the
12 agent's answer of --

13 **THE COURT:** I don't think he wants to go into
14 the ten grams of weed. I thought --

15 **MR. MAYE:** I do not.

16 **THE COURT:** I think that what he wants to go
17 into is you asked him if he was selling and he --
18 you asked the witness whether or not your client
19 said he was selling it and the answer was, no, he
20 said he was not selling it. What the State wants to
21 ask him is, well, he says he was not selling, but he
22 did say he was distributing, giving it away. Isn't
23 that --

24 **MR. MAYE:** Correct, Your Honor. I'm not going
25 to ask him about the ten grams, but I will say that

1 he said he was giving it away.

2 **THE COURT:** So he's saying you opened the door
3 by asking if he distributed it by one method,
4 basically selling, and that that opened the door for
5 a full disclosure by the witness that he -- that
6 Mr. Coon said that he didn't -- he said he wasn't
7 selling, but that he did say he was giving it away.

8 **MR. DRYLIE:** I understand what the Court's
9 saying. What concerns me is what Solicitor Maye
10 said consistently when he was doing that. And I
11 think when we do that, we're going into the other
12 Court ruling about the ten grams and the having it
13 weekly, so --

14 **MR. MAYE:** I won't do that. I'll just ask him,
15 He told you he wasn't selling it; he told you he was
16 giving it away, didn't he?

17 **THE COURT:** I think that's as far as you can
18 go.

19 **MR. MAYE:** I'll do that.

20 **THE COURT:** I think that's as far as you can go
21 and that's still over your objection. I mean, if
22 you're still objecting.

23 **MR. DRYLIE:** I'm objecting.

24 **MR. MAYE:** Thank you, Your Honor.

25 **THE COURT:** Bring in the jury.

RICARDO PRINCE - REDIRECT BY MR. MAYE

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1 (The jury returns to the courtroom.)

2 **THE COURT:** You may proceed.

3 REDIRECT EXAMINATION

4 BY MR. MAYE:

5 **Q** You were just asked by defense in this case
6 whether or not he told you he was not selling meth,
7 correct?

8 **A** Yes, sir.

9 **Q** What did he tell you, though, in regard to
10 meth? How did he say he was distributing it?

11 **A** He said he was giving it away to anyone who
12 want to get high.

13 **Q** He said he was giving it away?

14 **A** Yes, sir.

15 **MR. MAYE:** Nothing else. Thank you.

16 **THE COURT:** Recross?

17 **MR. DRYLIE:** No redirect -- recross.

18 **THE COURT:** This witness can step down.

19 And can this witness be excused?

20 **MR. MAYE:** Yes. Thank you.

21 **THE COURT:** You can be excused. Appreciate
22 your time. Thank you.

23 Members of the jury panel, we'll stop for the
24 day. Keep in mind the things I've told you about
25 not discussing the case, not going online, not

1 reading anything or listening to anything. So have
2 a pleasant evening. We'll see you back at 9:30.

3 I'll tell you, tomorrow the new Solicitor in
4 this circuit is getting sworn in in Lexington at
5 three o'clock. I probably will not go, but I know
6 the people that work for him want to. So what we'll
7 do is we'll probably work from 9:30 till about 12:30
8 or 1:00. We'll take breaks, but we'll probably stop
9 about 1:00 tomorrow so people that want to go to
10 Lexington for the swearing in at three o'clock can
11 do that. So I hope that'll help you in your
12 planing, and we'll see you back at 9:30 in the
13 morning.

14 (The jury was excused for the day.)

15 **THE COURT:** Anything we need to cover before we
16 stop for the day?

17 **MR. MAYE:** No, sir, Your Honor. I'm going to
18 ask, we've got \$67,000 of meth laying there. I
19 don't know how we're going to secure that. Are you
20 going to secure that in a safe or --

21 **THE CLERK:** Curtis Morris has got a room back
22 there. I gave him a key to it. We will lock the
23 door and he will put evidence tape on it to secure
24 it.

25 **MR. MAYE:** I just want to make sure that we

1 / were doing what we needed to do in regard to the
2 drugs and the firearms.

3 **THE COURT:** Okay. We'll see you in the morning
4 at 9:30.

5 **MR. MAYE:** Thank you.

6 **MR. DRYLIE:** Thank you, Judge.

7 (The proceedings were concluded for January
8 10, 2017.)

9 (The following proceedings were held on
10 January 11, 2017.)

11 **THE COURT:** State ready?

12 **MR. MAYE:** State's ready, Your Honor.

13 **THE COURT:** Defense ready?

14 **MR. DRYLIE:** We're ready, Your Honor.

15 **THE COURT:** Let's bring in the jury.

16 (The jury enters the courtroom at 9:48 A.M.)

17 **THE COURT:** Good morning. Call your next
18 witness.

19 **MR. MAYE:** The State would call Jennifer
20 Aycock.

21 JENNIFER AYCOCK,

22 having been duly sworn, testified as follows:

23 **THE CLERK:** Please state your full name, spell
24 your last name for the record and make sure you get
25 a little bit closer to the mic.

1 **THE WITNESS:** My name is Jennifer Aycock,
2 A-y-c-o-c-k.

3 DIRECT EXAMINATION

4 BY MR. MAYE:

5 **Q** Ms. Aycock, let me ask you, back in December of
6 2015, where were you employed?

7 **A** With the South Carolina Law Enforcement
8 Division, commonly known as SLED.

9 **Q** Okay. What were your job responsibilities at
10 SLED there? What department did you work in? What
11 did you do for SLED?

12 **A** I was a forensic technician assigned to the
13 evidence control department. Our main
14 responsibilities were to log in, package and
15 transfer evidence for forensic analysis.

16 **Q** Okay. Let me ask you this: I'm going to show
17 you what's been already marked in this case as
18 State's Exhibit 24 at this time. Let me ask you to
19 take a look at this, and I'm going to ask you if
20 certain items of suspected drug evidence were
21 dropped off with you in your capacity as an intake
22 custodian for SLED?

23 **A** Okay. I can identify that I did handle this
24 package due to the unique lab number that is
25 assigned to it. Every case that comes into our

JENNIFER AYCOCK - DIRECT BY MR. MAYE

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1 laboratory is assigned a unique lab number and each
2 item within that case is assigned an item number.
3 According to my chain of custody, I did handle this
4 December 23rd, 2015.

5 **THE COURT:** Slow down a little bit.

6 **THE WITNESS:** Sorry.

7 BY MR. MAYE:

8 **Q** Okay. What day was that brought into you?

9 **A** According to my chain of custody, it was
10 December 23rd, 2015.

11 **Q** Okay. Who brought that and dropped it off
12 there with you at SLED?

13 **A** Roosevelt Young with the Edgefield County
14 Sheriff's Office.

15 **Q** Okay. During the time that you had it, did you
16 change or alter it in any way?

17 **A** No, I did not.

18 **Q** Okay. Did you handle it in accordance with the
19 procedures at SLED in putting it into the,
20 basically, the pipeline to be tested by the
21 laboratories at SLED?

22 **A** Yes, sir. After I handled it, I placed it into
23 our secure evidence room until it was requested by
24 the analyst.

25 **MR. MAYE:** Okay. Please answer any questions

1 the defense has for you. Thank you, Ms. Aycock.

2 **MR. DRYLIE:** No questions.

3 **THE COURT:** You can step down and be excused.

4 We appreciate your time.

5 **THE WITNESS:** Thank you, sir.

6 **THE COURT:** Call your next witness.

7 **MR. MAYE:** Thank you, Your Honor. They're
8 going to go get the next witness that's subject to
9 sequestration.

10 **MR. FENDER:** State calls Jearl Guy Fletcher.

11 JEARL GUY FLETCHER,

12 having been duly sworn, testified as follows:

13 **THE CLERK:** Thank you, sir. You may be seated.

14 Please state your full name, spell your last name
15 for the record. Make sure you get up closer to the
16 mic.

17 **THE WITNESS:** My first name is Jearl,
18 J-e-a-r-l, middle name Guy, last name Fletcher.
19 Birth date [REDACTED] 1961.

20 DIRECT EXAMINATION

21 BY MR. FENDER:

22 **Q** Mr. Fletcher, can you tell the jury a little
23 bit about yourself, what general area you live in
24 and that kind of thing?

25 **A** I moved here from Washington, DC area in 2007.

1 I currently live in Jacksonville -- Jackson, South
2 Carolina, where I bought a house to renovate so I
3 could experience the bottom up house renovation and
4 restoration.

5 Q At one point, did you buy a Harley-Davidson
6 motorcycle?

7 A Memorial day weekend 2006, I bought it new from
8 Patriot Harley-Davidson in Virginia near where I
9 lived at the age of 45.

10 Q How much did you pay for that motorcycle?

11 A It was in the range of about 10,200. And
12 during that first year and a half, I added another
13 maybe 1200 to 1500 in chrome parts to make it
14 exactly the way I wanted it. Unfortunately, I don't
15 have it any longer.

16 Q When did you first notice that it was missing?
17 What happened? Can you tell the jury about that?

18 A That was -- it was parked in my home in a shed,
19 a drive-through shed. I had to take it off the road
20 because I was concentrating on using my money and
21 funds that I had saved up from businesses in
22 Washington to work on the house and to possibly open
23 another business here. It was in July, the last
24 week of July, that it -- showed back up at my house
25 and I looked and there it was gone. So I called the

1 sheriff to have it reported.

2 **Q** So you had the motorcycle stored at your home
3 and somebody took the motorcycle from your house?

4 **A** Yes.

5 **Q** Did any of your buddies have keys and
6 permission or anything?

7 **A** No.

8 **Q** So it was stolen from you?

9 **A** I don't lend out my car or my bike ever.

10 **Q** Did you immediately report this theft to law
11 enforcement?

12 **A** Yes.

13 **Q** Did you give them a VIN number of that
14 motorcycle?

15 **A** The VIN number, I have it here.

16 **Q** Could you please read it to the jurors?

17 **A** 1HD463M1X6K405022. And when I gave you the
18 number 3, it could be a J. It's not too clear on
19 here. I don't have the original title because what
20 was left of it, I had to sell for salvage.

21 **Q** So you sold your bike once it was given back to
22 you?

23 **A** Well, at the point that I received it back, it
24 had been cut up and destroyed literally and then
25 parts unrelated to a Harley-Davidson had been welded

JEARL GUY FLETCHER - DIRECT BY MR. FENDER

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1 onto it, customized blue and gray paint job was
2 completely crusted over with maybe a quarter of an
3 inch of various spray paints. I had to scrap
4 several layers off with the guy at the yard where it
5 was towed just to get the VIN number so I could
6 actually identify it because it was unidentifiable
7 in appearance.

8 Q Somebody covered up the VIN number?

9 A Yes.

10 Q How much did you say you paid for all that
11 chrome?

12 A The total was probably close to \$12,000 for
13 everything.

14 Q Somebody had stripped it?

15 A It was all gone, everything, yes.

16 Q What kind of motorcycle did you say this was?

17 A 883SLC Sportster. Specifically, I bought a
18 lighter bike that was with a lot of torque and a
19 heavy back so I could use the switchbacks on the
20 mountain roads like 212 and 50 of crossing the Blue
21 Ridge Mountains.

22 Q 883 Harley, right?

23 A Yes.

24 Q Does this appear to be that 883 Harley?

25 A That's what I received back, that was the bike

1 that was returned to me.

2 **Q** That had been stripped?

3 **A** Completely stripped. There's not even --
4 there's not even a fender or a wheel that was left.

5 **Q** Can I get you to write your name on there for
6 me?

7 **A** (Witness complies.)

8 **Q** At the time that your motorcycle was taken from
9 you in 2015, do you have any idea what the fair
10 market value might be?

11 **A** I kept it in very good condition and mileage on
12 the bike was about 5 to 6,000 miles total. And at
13 minimum, \$4500 would be a less than fair value.

14 **Q** Could you please write that on that picture,
15 please?

16 **A** (Witness complies.)

17 **MR. FENDER:** The record to reflect that he's
18 identifying State's Exhibit 9.

19 Please answer the defense attorney's questions.

20 **MR. DRYLIE:** No questions, Your Honor.

21 **THE COURT:** You can be -- appreciate your time.
22 Thank you. You can be excused.

23 **THE WITNESS:** Thank you.

24 Call your next witness.

25 **MR. FENDER:** State calls Jose Negron.

JOSE NEGRON - DIRECT BY MR. FENDER

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1 JOSE NEGRON,

2 having been duly sworn, testified as follows:

3 **THE CLERK:** Thank you, sir. You can be seated.
4 Please state your full name and spell your last name
5 for the record.

6 **THE WITNESS:** Jose Negron, N-e-g-r-o-n.

7 DIRECT EXAMINATION

8 BY MR. FENDER:

9 **Q** Mr. Negron, do you live in the Aiken area?

10 **A** Yes, sir.

11 **Q** Around 2008, did you purchase a Harley-Davidson
12 motorcycle?

13 **A** Yes, sir.

14 **Q** Can you tell the jurors just a little bit about
15 that bike?

16 **A** I went to Daytona, pay \$18,000 cash for it.
17 Was a baby, it was my baby, so.

18 **Q** So you paid \$18,000 for this motorcycle?

19 **A** Yes, sir.

20 **Q** After you bought this motorcycle, did you keep
21 it at your home there in Aiken?

22 **A** Yes, sir, keep it in a shed.

23 **Q** Can you tell the jurors a little bit about that
24 shed, kind of how you kept that motorcycle?

25 **A** It was under lock. It was an aluminum shed.

1 Q Did the motorcycle go missing?

2 A Yes, sir, it got missing. On a rainy night, I
3 was in the home for two days, I came back and it was
4 gone.

5 Q Did you notice it was missing on a Saturday?

6 A Yes, sir.

7 Q Can you tell us about that day, you know, what
8 happened, what you remember?

9 A I came in from a friend's house, went inside
10 the house, was going to ride because it was a nice
11 day, got my helmet. And when I go into my shed, the
12 lock was put on, but it was cut. So I open it. I
13 went like, okay, let me go around and see if I put
14 it some other place or somebody play a joke, but it
15 was gone. I called Aiken County after that.

16 Q So somebody cut the lock and took your bike
17 from the shed?

18 A I guess so, yes, sir.

19 Q And did you immediately report that to law
20 enforcement?

21 A Oh, yes, sir.

22 Q Do you have the VIN number of that motorcycle?

23 A Yes, sir, I do.

24 Q Could you please read it for the jurors?

25 A It's 1HD1FCW126Y673417.

JOSE NEGRON - DIRECT BY MR. FENDER

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1 Q After you reported it missing, did you have --
2 did you also report it to your insurance company?

3 A Yes, sir.

4 Q Did they pay you out for that bike?

5 A Yes, sir.

6 Q How much did they pay you?

7 A \$16,000.

8 Q 16,000 and you said you paid 18,000?

9 A I pay 18 and some change.

10 Q What kind of Harley-Davidson did you say it
11 was?

12 A It was a 2006 Ultra Classic burgundy.

13 Q Does this appear to be the motorcycle as you
14 described?

15 A If you put a trunk in it and change the color,
16 yes, sir.

17 Q Can you please write your name on that for me?

18 A (Witness complies.)

19 Q You said they gave you \$16,000; is that
20 correct?

21 A Fifteen, 16 something.

22 Q Could you please write that on there as well?

23 A (Witness complies.)

24 Q On December 22nd of 2015, was that motorcycle
25 worth over \$2,000?

1 **A** My motorcycle?

2 **Q** Yes, sir.

3 **A** If I had it, yeah, I would say.

4 **MR. FENDER:** Please answer the defense
5 attorney's questions.

6 **MR. DRYLIE:** No questions, Your Honor.

7 **THE COURT:** Sir, you can be excused. We
8 appreciate your time. Thank you.

9 **THE WITNESS:** Thank you.

10 **MR. FENDER:** State calls Fred Teeter.

11 FRED TEETER,

12 having been duly sworn, testified as follows:

13 **THE CLERK:** Thank you, sir. You can be seated.
14 Please state your full name for the record and spell
15 your last name.

16 **THE WITNESS:** My name is Fred Teeter,
17 T-e-e-t-e-r.

18 DIRECT EXAMINATION

19 BY MR. FENDER:

20 **Q** Mr. Teeter, are you from the Greenwood area in
21 South Carolina?

22 **A** I'm sorry? You're going to have to get closer.

23 **Q** Are you from the Greenwood area?

24 **A** Yes. I live in Greenwood, South Carolina.

25 **Q** Do you also have a home in the Columbia area?

FRED TEETER - DIRECT BY MR. FENDER

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- 1 **A** I have a home in Columbia.
- 2 **Q** All right. About five years ago, did you buy a
- 3 Chevy truck?
- 4 **A** I'm sorry?
- 5 **Q** Did you buy a truck five years ago?
- 6 **A** Yes. I bought a red pick-up approximately five
- 7 years ago.
- 8 **Q** Can you tell the jurors a little bit about that
- 9 truck, you know, what it looked like, that kind of
- 10 stuff?
- 11 **A** It was red. It had some custom features to it.
- 12 It had been changed. The wheels had been changed on
- 13 it. And it was a 19 -- I'm sorry -- 2005 red
- 14 pick-up.
- 15 **Q** Where did you keep that truck at?
- 16 **A** In Columbia. I kept it usually in the yard
- 17 beside my residence there.
- 18 **Q** Did that truck get taken from you?
- 19 **A** The truck was taken from its premises, yes, in
- 20 Columbia, South Carolina.
- 21 **Q** When was it taken?
- 22 **A** It was taken on 4/18 or 19 at approximately --
- 23 after 12 o'clock at night, between 12 o'clock and...
- 24 **Q** Do you have the VIN number?
- 25 **A** Yes, I do.

1 **THE COURT:** He can tell us what year.

2 **THE WITNESS:** 1GCC519X2V8163691.

3 BY MR. FENDER:

4 **Q** And, Mr. Teeter, what year was that truck
5 taken?

6 **A** It was taken in '15, 2015.

7 **Q** Did you get the truck back?

8 **A** No, I did not.

9 **Q** Did you have any of your personal belongings in
10 that truck?

11 **A** I had a cell phone or my son had a cell phone
12 and some other personal -- maybe an older camera and
13 everything.

14 **Q** Did you report the truck stolen to law
15 enforcement?

16 **A** Yes, sir. It was reported stolen the morning
17 after the incident.

18 **Q** So right after it was taken from you?

19 **A** Yes, right after it was taken.

20 **Q** Did any of your buddies have the keys or
21 anybody else have the truck?

22 **A** No one had a key, no.

23 **Q** So it was stolen from you. Do you know about
24 how much it was worth when it was taken?

25 **A** Somewhere between 75 and 8,000.

FRED TEETER - DIRECT BY MR. FENDER

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1 **Q** Does this appear to be your truck?

2 **A** Yes, uh-huh.

3 **Q** Could you please write how much you think it
4 was worth at the time it was taken from you on
5 there?

6 **A** (Witness complies.)

7 **Q** And if you could, please write the value on
8 there.

9 **A** (Witness complies.)

10 **Q** Are these the unique rims that you described?

11 **A** Yeah. Those are the rims that I'd put on the
12 truck, yes.

13 **Q** And this is the red Chevrolet that you're
14 talking about here?

15 **A** Yes.

16 **MR. FENDER:** Please answer the defense
17 attorney's questions.

18 **MR. DRYLIE:** No questions, Your Honor.

19 **THE COURT:** Mr. Teeter, you can be excused. We
20 appreciate your time. Thank you so much.

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

22 **MR. FENDER:** State calls William Allen.

23 WILLIAM C. ALLEN,

24 having been duly sworn, testified as follows:

25 **THE CLERK:** Thank you, sir. You may be seated.

1 Please state your full name, spell your last name
2 for the record.

3 **THE WITNESS:** William C. Allen, A-l-l-e-n.

4 **DIRECT EXAMINATION**

5 **BY MR. FENDER:**

6 **Q** Mr. Allen, can you tell the jurors a little bit
7 about, you know, where you're from, who you are and
8 that kind of thing?

9 **A** I live in Windsor. I'm a mechanic.

10 **Q** At one point, did you own a camper?

11 **A** Yes, sir.

12 **Q** Can you tell the jurors a little bit about that
13 camper?

14 **A** It was a '07 Zeppelin made by Keystone, a 28
15 foot -- no, 30 foot.

16 **Q** Is this the kind of camper that you pull behind
17 a pick-up truck?

18 **A** Yes, sir, it's a tag along.

19 **Q** Do you have the VIN number?

20 **A** Yes, sir.

21 **Q** Can you please read that for the jurors?

22 **A** 4YDT291277Z400913.

23 **Q** Did you store this camper at your house?

24 **A** Yes.

25 **Q** Can you tell the jurors a little bit about how

1 you kept the camper?

2 **A** I'd built a camper shed for it and it stayed
3 right there in my yard locked up under the camper
4 shed.

5 **Q** Did it go missing?

6 **A** Yes, sir.

7 **Q** Can you tell us just a little bit about, you
8 know, what happened?

9 **A** October of 2015, I get a call from my son.
10 He'd just got home from school. He called me up and
11 said, Dad, where's the camper? I said, Son, don't
12 be messing with me. He said, It's not there. I
13 said, Well, go out there and see what you can see.
14 And he went out there and found the lock that was
15 busted there laying on the ground with a piece of
16 metal that they had used to bust the lock off. I'd
17 left work and come on home and called Aiken County
18 on the way home.

19 **Q** So somebody had broken that lock?

20 **A** Yeah.

21 **Q** And you immediately reported this to law
22 enforcement?

23 **A** Yes.

24 **Q** What kind of camper did you say you had?

25 **A** It was an '07 Zeppelin, fiberglass sides.

1 Q Does this appear to be your camper?

2 A Yes, sir.

3 Q If you could, would you write your name on
4 State's Exhibit 11?

5 A (Witness complies.)

6 Q Mr. Allen, how much do you estimate that camper
7 was worth at the time it was stolen from you?

8 A It was worth a lot more to me than the
9 insurance gave me for it.

10 Q I understand that. How much did you pay for
11 it?

12 A I don't remember exactly. Insurance gave me 17
13 for it.

14 Q 17,000, all right. Would you please write
15 17,000 on that exhibit?

16 A (Witness complies.)

17 Q On December the 22nd, 2015, was the fair market
18 value of that camper over \$2,000?

19 A Yes.

20 MR. FENDER: Please answer the defense
21 attorney's questions.

22 MR. DRYLIE: No questions.

23 THE COURT: Thank you. You can be excused. We
24 appreciate your time. Thank you so much.

25 THE WITNESS: Thank you.

JAMES T. MINOR - DIRECT BY MR. FENDER

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1 **THE COURT:** Call your next witness.

2 **MR. FENDER:** State calls James Minor.

3 JAMES T. MINOR,

4 having been duly sworn, testified as follows:

5 **THE CLERK:** Thank you, sir. You may be seated.

6 Please state your full name, spell your last name
7 for the record.

8 **THE WITNESS:** James T. Minor, M-i-n-o-r.

9 DIRECT EXAMINATION

10 BY MR. FENDER:

11 **Q** Mr. Minor, can you tell the jurors just a
12 little bit about who you are, where you're from,
13 type of work and everything?

14 **A** I was living in Vaucluse, South Carolina, when
15 the theft occurred. I'm an over-the-road pipe
16 fitter, sprinkler fitter. And I reside in
17 Ninety-Six, South Carolina.

18 **Q** So you spent time away from home with your
19 work?

20 **A** Yes, sir, weeks at a time.

21 **Q** At one point, did you buy a Mossberg 12-gauge?

22 **A** Yes, sir, I did.

23 **Q** Can you tell us a little bit about that gun?

24 **A** I used to be a collector of firearms and I
25 bought this particular shotgun off a friend of mine,

1 Eddie Hartless, lived in Aiken, South Carolina.

2 Q Do you remember about when you bought it?

3 A Probably around 2011, in that general area.

4 Q How much did you pay for that gun?

5 A Three hundred dollars.

6 Q Can you tell the jurors a little bit about, you
7 know, what that gun looks like?

8 A It was a Mossberg Defender shotgun. It was
9 painted black. It was a tactical shotgun, had a
10 pistol grip and it was pump.

11 Q Do you still have that gun?

12 A No, sir, I do not.

13 Q What happened to it?

14 A It was stolen along with about 50 other guns.

15 Q When did that happen?

16 A February of 2012.

17 Q How did you notice that your gun was stolen?
18 Can you tell us a little bit about that moment?

19 A I used to have a hidden gun room in my house
20 where I had all my firearms and ammunition stored
21 at. I come home one day and I noticed a handgun
22 that I had outside of this room was missing. So I
23 opened up the false back in my closet and all of my
24 guns were -- had been stolen.

25 Q Somebody had taken your guns from your home?

JAMES T. MINOR - DIRECT BY MR. FENDER

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1 **A** Yes, sir.

2 **Q** Does this appear to be your gun?

3 **A** Yes, sir. I had two exactly like that, a 12
4 and a 20 model of both of those guns.

5 **Q** This is the Mossberg 12?

6 **A** Yes, sir.

7 **Q** If you would, would you please write your name
8 on this evidence tag for us?

9 **A** (Witness complies.)

10 **Q** You said you paid \$300 for this gun?

11 **A** Yes, sir.

12 **Q** Do you know about how much it was worth at the
13 time it was stolen from you?

14 **A** They were selling for about 400 back then. I
15 don't know what it's worth now.

16 **Q** All right. Could you please write that on the
17 tag please?

18 **A** (Witness complies.)

19 **MR. FENDER:** Please answer the defense
20 attorney's questions.

21 **MR. DRYLIE:** Beg the Court's indulgence for a
22 moment while I talk to the solicitor.

23 (Pause.)

24 **MR. DRYLIE:** No questions, Your Honor.

25 **THE COURT:** All right. Thank you, Mr. Minor.

1 You can be excused. We appreciate your time.

2 **THE WITNESS:** Thank you, sir.

3 **THE COURT:** Call your next witness.

4 **MR. MAYE:** May it please the Court, Your Honor.

5 May we take a break for just a moment? I have
6 another witness from the South Carolina Law
7 Enforcement Division. I want to see if they're
8 here. If not, we'll call somebody else.

9 **THE COURT:** All right. We'll take about a
10 ten-minute break or a break until the witnesses make
11 -- we're sure the witness is here.

12 (The jury retires to the jury room.)

13 **MR. MAYE:** Thank you, Your Honor.

14 **THE COURT:** We'll be at ease for a few minutes.
15 Let me know when you --

16 **MR. MAYE:** Thank you, Your Honor.

17 (Brief recess.)

18 **THE COURT:** State ready?

19 **MR. MAYE:** State's ready.

20 **THE COURT:** Bring in the jury. Defense ready?

21 **MR. DRYLIE:** We are.

22 **THE COURT:** I didn't mean to ignore you.

23 (The jury returns to the courtroom.)

24 **THE COURT:** Call your next witness.

25 **MR. MAYE:** The State would call James Densmore

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1 of the Edgefield County Sheriff's Office to the
2 stand.

3 JAMES RUSSELL DENSMORE,
4 having been duly sworn, testified as follows:

5 **THE CLERK:** Thank you, sir. You may be seated.
6 Please state your full name, spell your last name
7 for the record.

8 **THE WITNESS:** James Russell Densmore,
9 D-e-n-s-m-o-r-e.

10 DIRECT EXAMINATION

11 BY MR. MAYE:

12 **Q** Officer Densmore, tell the ladies and gentlemen
13 of the jury where you're from, where you're
14 employed, how long you've been in law enforcement.

15 **A** I'm from North Augusta, South Carolina, started
16 my law enforcement career in 2005 with the Edgefield
17 Police Department until I came to the Edgefield
18 County Sheriff's Office in 2013.

19 **Q** Let me ask you this: As part of your duties
20 for the sheriff of Edgefield County, have you been
21 certified as a marijuana analyst or given
22 particularized training to help you make
23 identification of substances you believe to be
24 marijuana?

25 **A** Yes, I have.

1 **Q** Please describe to the jury what kind of
2 specialized training and experience that you have in
3 that regard.

4 **A** When I first certified as a marijuana analysis
5 was in 2009. It was a 16-hour course in two days at
6 SLED, which is South Carolina Law Enforcement
7 Division. And you have a classroom portion the
8 first day and then the second day was a lab results.
9 First day, I had to score 80 percent or better on a
10 written test. After that, we went to the lab the
11 next day where they gave you a hundred samples,
12 unknown samples, that you had to be a hundred
13 percent correct on every sample and that certifies
14 you.

15 And then every three years after that, you have
16 to go back and recertify. And when you recertify,
17 you have the same classroom portion, but it's only
18 an eight-hour course and you have to test 50 unknown
19 samples and be a hundred percent accurate with the
20 50 unknown samples.

21 **Q** When you first took that course, were you
22 qualified as a marijuana analyst by the South
23 Carolina Law Enforcement Division? Did you meet the
24 qualifications to become qualified by them?

25 **A** Yes, I did.

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1 **Q** Okay. Have you been recertified since that
2 initial training that you have?

3 **A** Yes, sir, twice.

4 **Q** You have twice been recertified by SLED?

5 **A** Yes, sir.

6 **Q** Okay. Let me ask you this: Back in February
7 of 2016, were you certified -- did you have a valid
8 certification?

9 **A** Yes.

10 **Q** Let's say from the time period from December of
11 2016 on through February, did you have a valid
12 certification? Were your credentials intact and
13 valid at that time?

14 **A** Yes, I did.

15 **MR. MAYE:** At this point in time, Your Honor,
16 I'm going to offer Officer James Densmore of the
17 Edgefield County Sheriff's Department as an expert
18 witness in the area of marijuana identification. I
19 will certainly offer him to the defense in this case
20 for any voir dire they have as to his expert
21 qualifications in that field.

22 **THE COURT:** Any voir dire?

23 **MR. DRYLIE:** No voir dire. No objection to him
24 being --

25 **THE COURT:** I find he's qualified.

1 Members of the jury panel, generally,
2 individuals can only testify to facts that they
3 observed with one of their five senses. Usually
4 it's something somebody's heard or said. It could
5 be taste, touch or smell. However, where an
6 individual has training, experience and knowledge in
7 a particular area, that person can be qualified as
8 an expert and testify as an expert. That is while
9 witnesses can generally only testify to facts, an
10 expert can take facts and from those facts, reach an
11 opinion.

12 Now, the opinion is not binding on you as a
13 trial jury because it's up to you to determine the
14 facts in this case. It's allowed in evidence to
15 assist you. The example I usually use is that of a
16 physician. If I have a child and the child has a
17 fever, I can feel the fever, if the child is
18 throwing up, the child is listless, all of those
19 things, I can come in and testify to all of that,
20 but I couldn't tell you what was wrong with the
21 child because I'm not an expert. I could take the
22 child to the doctor and the doctor would see those
23 exact same things and reach an opinion. In
24 medicine, it's sometimes called a diagnosis. But
25 the doctor could take those objective facts and from

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1 that, render an opinion, the child has the flu or
2 whatever. So that's sort of an example.

3 This is not a medical doctor, but that's an
4 example that an expert can testify as to opinions in
5 addition to other witnesses who can only testify as
6 to facts.

7 BY MR. MAYE:

8 **Q** Officer Densmore, if you will, I'm going to
9 hand you an item that's been marked State's 25 at
10 this point in time. And I'm going to ask you if
11 this was submitted to you for identification, that
12 it was suspected marijuana, and if it was submitted
13 to you in order for you to perform analysis on it?

14 **A** Yes, it was.

15 **Q** When was it submitted to you?

16 **A** On January 28, 2016.

17 **Q** Who gave it to you then?

18 **A** Investigator Miller.

19 **Q** Investigator Miller gave it to you?

20 **A** Yes, sir.

21 **Q** Okay. In what form did he give it to you? Was
22 it sealed up or --

23 **A** It was sealed.

24 **Q** It was sealed?

25 **A** In this evidence bag.

1 Q Okay. Let me ask you this: Was the seal
2 intact at the time that you got it?

3 A Yes, it was.

4 Q Okay. Did it appear that the seal had been
5 broken, had been changed or altered in any way or it
6 was intact?

7 A It had not been tampered with.

8 Q Who did it indicate had originally gotten it
9 and sealed the evidence bag?

10 A Lieutenant Young.

11 Q Lieutenant Roosevelt Young?

12 A Yes, sir.

13 Q Okay. And so when you got it, it was still
14 under seal?

15 A Yes, sir.

16 Q Okay. Let me ask you this: What do you do --
17 please share with the ladies and gentlemen of the
18 jury what you did to conduct an analysis of that in
19 order to determine whether or not it was marijuana.

20 A Of course, the first thing I do is I cut the
21 bag open and remove the sample from the bag. If
22 anything inside the bag is sealed, I'll cut that
23 open with scissors. I wear gloves when I'm testing
24 because I have to use chemicals when I test. Of
25 course, I don't want any of that on my hands. Then

1 I'll take it and I'll weigh it.

2 Normally, we take a -- we take a scale that has
3 a -- that's been certified to be able to give true
4 weight. We set something on it, we hit a button to
5 tare it. I'll add the sample to whatever I'm using,
6 normally it's called a weigh boat. I put it on a
7 weigh boat and weigh just the sample. I'll write
8 that down and I'll convert -- it measures in grams
9 to start with, then I'll convert that to ounces.

10 Then I take it and I look at it through a
11 microscope. We use a reflective. There's three
12 different types of scopes you can use, but we use a
13 reflective that just shines the light on the sample.
14 Look through it through a microscope and I'm looking
15 for three hairs. Marijuana is very distinctive. It
16 has three hairs. There's two -- this is part of the
17 two tests you have to go through to get a positive
18 for marijuana.

19 Q Is marijuana unique in the whole plant kingdom
20 for that?

21 A It is.

22 Q There's no other plant that has that
23 characteristic?

24 A No. It has cystolithic hairs, unicellular
25 hairs and multicellular hairs. If you can identify

1 that all three of those are there, that's positive
2 for the microscopic tests. And then you use a
3 chemical test. If you don't mind, I'm going to
4 refer to my notes. It's called the Duquenois-Levine
5 reagent. And what you mix with the Duquenois-Levine
6 reagent is vanillin, ethanol or ethyl alcohol, and
7 acetaldehyde.

8 You want me to spell that?

9 **COURT REPORTER:** Yes, please.

10 **THE WITNESS:** A-c-e-d-a-l-d-e-h-y-d-e {sic}.
11 Then you take one -- just a little bit of the
12 sample, you don't need much, just like a little
13 small speck, sit it down in a glass tube, will put
14 enough to dampen the sample. And then you'll take
15 hydrochloric acid and add it to that and you sit it
16 down for a second and it'll change to purple. If it
17 changes to purple, you'll have a positive -- along
18 with the microscopic test, you have a positive for
19 marijuana. And then if it changes purple, you have
20 a positive for marijuana.

21 Then you have a third chemical which is
22 chloroform which you'll take and you'll put --
23 you'll add to it after it turns purple and it gives
24 you like a little pink islet in the center and that
25 gives you a positive reading for marijuana.

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1 Now, if it doesn't change purple, doesn't give
2 you the pink islet, it doesn't test positive. You
3 have to say it's not a positive case. And if it
4 doesn't have one of the hairs, you have to say it's
5 not a positive.

6 BY MR. MAYE:

7 Q When you conducted your microscopic test on
8 that substance that was submitted to you that was
9 suspected to be marijuana, did you get a positive
10 test on the microscopic? Did it pass and indicate
11 to you that it was marijuana?

12 A It did, both samples.

13 Q Okay. How about the chemical test on each of
14 the samples?

15 A It was positive.

16 Q So you got a positive test on both the
17 microscopic and the chemical test?

18 A Yes.

19 Q Okay. Well, let me ask you this: To a
20 reasonable degree of scientific certainty, do you
21 have an expert opinion as to whether or not the
22 sample of suspected plant-like material there that
23 was submitted to you as to whether or not that's
24 marijuana or not?

25 A Yes, it is marijuana.

1 Q That's your -- to a reasonable degree of
2 scientific certainty, that's your expert opinion,
3 that subject is marijuana?

4 A Yes, sir.

5 Q That substance is marijuana?

6 A Yes, sir.

7 Q Okay. What's the weight?

8 A The weight --

9 Q Of what you tested?

10 A There was two bags inside of it. The -- it was
11 inside a Ziploc vacuum-sealed bag. It weighed 13.9
12 grams, which was 0.49 ounces. And the other one was
13 just in a clear plastic bag, which is right there
14 {indicating}. It's got like a Ziploc top. And it
15 was 15.6 grams at 0.55 ounces.

16 Q Tell me -- tell me the total weight of that,
17 even if you have to add it up. What's the total
18 weight of that?

19 A Twenty-eight -- well, it will be, I think, 29.5
20 grams.

21 Q Twenty-nine point five grams. What date did
22 you test it?

23 A On the first of February --

24 Q February the 1st of 2016?

25 A -- 2016.

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1 **Q** Take that Sharpie and write on that bag 29.5
2 grams.

3 **A** (Witness complies.)

4 **Q** And I'd like for you to write, if that's
5 correct, that you tested it on February the 1st of
6 2016?

7 **A** Yes, February 1st of 2016.

8 **Q** And sign your name to it.

9 **A** (Witness complies.)

10 **MR. MAYE:** Your Honor, at this time, I would
11 offer State's Exhibit Number 25 into evidence. It's
12 been offered just basically for identification at
13 this point in time. I'm going to offer it into
14 evidence.

15 **MR. DRYLIE:** I'd object to the chain at this
16 point. I believe we're missing a link.

17 **THE COURT:** All right. Let me let the jury go
18 to the jury room while we take up a legal matter.

19 (The jury retires to the jury room.)

20 **THE COURT:** What's the concern about the chain?

21 **MR. DRYLIE:** Judge, Investigator Roosevelt
22 testified that he had taken the drugs from the
23 residence. Officer Densmore has testified that he
24 received the drugs from Investigator Warren Miller
25 who hasn't testified. So, at that point, we're

1 still -- there's a gap there.

2 **THE COURT:** What does the State have to say
3 about that?

4 **MR. MAYE:** Your Honor, under State versus
5 Brockmeyer, I have Investigator Miller. I certainly
6 can call him. I have every link of the chain.
7 We've identified every link of the chain. It was
8 testified to, you know, that Roosevelt Young sealed
9 it in a bag. It was testified to by this witness
10 that he got it out of a sealed bag, the seal did not
11 appear to be tampered or altered with in any way.

12 I think it gets back to those arguments about,
13 you know, that the State just has to prove it to a
14 reasonable certainty and identify the links in the
15 chain in this case. I have him. I can certainly
16 call him. But, at this point in time, Your Honor,
17 given the fact that we've got testimony that it was
18 sealed in an evidence bag, it was transferred, that
19 we have the dates of the transfers, I think that to
20 -- satisfying Brockmeyer, that we have covered that.
21 And I would respectfully request that we be allowed
22 to admit it into evidence.

23 **THE COURT:** Well, I don't have notes on
24 Brockmeyer in front of me, but going back to State
25 versus Taylor in 2004, the Court of Appeals held

1 that the identity of each person in the chain, if
2 the identity of each person in the chain handled the
3 evidence is established and the manner of handling
4 is reasonably demonstrated, there is no abuse of
5 discretion in admitting it absent proof of
6 tampering, bad faith or ill motive. So I find that
7 the State has sufficiently established the chain of
8 custody.

9 So we'll bring the jury back in.

10 (The jury returns to the courtroom.)

11 **THE COURT:** Over objection, I have ruled that
12 the State can introduce into evidence the -- what
13 number is it?

14 **MR. MAYE:** It's State's Number 25, Your Honor.

15 **THE COURT:** State's Number 25, the alleged
16 marijuana.

17 (State's Exhibit Number 25, marijuana,
18 admitted into evidence.)

19 **MR. MAYE:** Please answer any questions that the
20 defense has for you, Officer Densmore. Thank you.

21 CROSS-EXAMINATION

22 BY MR. DRYLIE:

23 **Q** Good morning.

24 **A** Good morning.

25 **Q** Now, how long have you been with the Edgefield

1 County Sheriff's Office?

2 **A** September of 2013.

3 **Q** Did you participate in the execution of this
4 search warrant that's at issue in this case?

5 **A** I was working that day and I was down the road,
6 but I was not any part of the search warrant itself.

7 **Q** So before the marijuana came to the Edgefield
8 County Sheriff's Office, you have no idea who
9 handled it, correct?

10 **A** Other than what's --

11 **Q** Other than Investigator Young?

12 **A** Right.

13 **Q** Okay. So you can't say who touched that bag or
14 whose marijuana that was, correct?

15 **A** No, just what it says on the bag.

16 **MR. DRYLIE:** No further questions.

17 **THE COURT:** All right. Redirect?

18 **MR. MAYE:** Nothing. Thank you.

19 **THE COURT:** You may be excused. We appreciate
20 your time. Thank you.

21 Call your next witness.

22 **MR. MAYE:** The State would call Shana Sorrels
23 of the South Carolina Law Enforcement Division.

24 *****

25 *****

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1 SHANA SORRELLS,
2 having been duly sworn, testified as follows:

3 THE CLERK: Thank you, ma'am. You may be
4 seated. Please state your full name and spell your
5 last name for the record.

6 THE WITNESS: Shana Sorrells, S-o-r-r-e-l-l-s.

7 DIRECT EXAMINATION

8 BY MR. MAYE:

9 Q Ms. Sorrells, if you would, tell the ladies and
10 gentlemen of the jury where you're employed, how
11 long you've been there and what your area of
12 specialty is.

13 A I have been employed at the South Carolina Law
14 Enforcement Division, which is more commonly known
15 as SLED. I've been there for just under 11 years.
16 And I am -- for the first eight years, I was a
17 forensic toxicologist. And since then, I have been
18 a forensic chemist in the drug analysis department.

19 Q Let me ask you this: Tell us about your
20 educational background.

21 A I have a bachelor's degree in chemistry from
22 the University of South Carolina. I also have my
23 master's degree in chemistry from the University of
24 South Carolina.

25 Q Okay. What specialized training do you have in

1 the area of forensic chemistry and drug
2 identification?

3 **A** I was given an intense in-house training in the
4 toxicology department where we have to identify
5 drugs and quantitate the amount in blood and urine
6 and other bodily fluids. I have attended multiple
7 seminars and multiple training sessions across the
8 U.S. The most prominent one in the chemistry world
9 is the Orchanstein {phonetic} School of Drugs and
10 Alcohol where we study how alcohol and other drugs
11 affect the body, how to quantitate them and how to
12 analyze them.

13 I then went to the drug analysis department
14 where I was taught to analyze substances, not in
15 bodily fluids, just powder substances that are
16 submitted to us. That was also an in-house
17 training. And before I'm allowed to work cases, I
18 have to work under a senior analyst, take multiple
19 tests and do multiple, what we call, mock trials,
20 which is where they -- I sit up on the stand, a fake
21 stand, and they sit there and quiz me.

22 **Q** Have you successfully completed all of that
23 training? And have you been working as a drug
24 analyst and an expert for SLED in forensic
25 chemistry?

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1 **A** I have. I completed all of that training and
2 we are also given multiple competency tests from
3 outside agencies. And I have successfully completed
4 every competency test that I have been given.

5 **Q** Day in, day out, do you test substances for
6 SLED to determine what those substances are that are
7 suspected to be narcotics and unlawful drugs?

8 **A** Every day, yes.

9 **Q** Have you previously been and testified in the
10 courts of the state of South Carolina as an expert
11 witness in the area of forensic chemistry and drug
12 identification?

13 **A** Yes, I have.

14 **MR. MAYE:** Okay. At this point in time, Your
15 Honor, I'm going to offer her as an expert witness
16 in the area of forensic chemistry and drug
17 identification, of course, subject to any voir dire
18 that the defense would care to engage in.

19 **THE COURT:** Any voir dire?

20 **MR. DRYLIE:** No voir dire. No objection.

21 **THE COURT:** I find she's qualified also as an
22 expert in the area tendered.

23 **BY MR. MAYE:**

24 **Q** Agent Sorrells, I'm going to hand you what's
25 been marked at this time for ID State's Exhibit

1 Number 24. I'd like for you to take a look at this
2 and see if you can identify it and tell me what your
3 involvement with that substance was.

4 **A** This is the -- well, the outer package is the
5 package that I placed the evidence in. This is the
6 evidence that was submitted to me for analysis.

7 **Q** Okay. Let me ask you this: When you get those
8 items for analysis, how are they packaged and what
9 are you looking for in the area of tamper resistance
10 of the seals and that sort of thing? What do you do
11 when you first get it? What do you look at and
12 note?

13 **A** The first thing we get, I won't say all the
14 time, but the majority of the time, if you see this
15 bag here that has been placed in the outer bag, this
16 is what's known as a BEST kit or Best Evidence
17 Sample Testing Kit. This kit is tamper evident, not
18 tamper proof. It is -- that way, if you can see the
19 blue lining on the bottom, if it has been tampered
20 with in any way, shape or form and resealed, those
21 lines would not match up, they never would.

22 So this bag, we can tell whether it has been
23 tampered with. We check and make sure that there
24 are no holes in the bag, that the blue lines all
25 match up to where they are supposed to be and that

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1 it has been successfully sealed and initialled by
2 the submitting officer. In this case, this bag was
3 not tampered with when I got it, it was sealed
4 properly. If there had been some type of tampering
5 or some type of evidence that showed that something
6 was wrong with the bag, I would have made note of it
7 and analysis would have stopped.

8 **Q** Okay. So once you got it, you checked to make
9 sure that the tamper-resistant seal was intact.
10 What did you do in order to conduct your scientific
11 examination of the materials that were submitted to
12 you?

13 **A** Of the materials that were submitted, the first
14 thing we do is make sure that our paperwork matches
15 up, that the names match what we expect it to be.
16 Then every piece of evidence, if it is a -- in this
17 case, the first thing I looked at was this
18 crystalline substance that was submitted to me. It
19 is submitted in different sampling bags.

20 This evidence, the first thing that is done
21 with a crystal substance is it's weighed outside of
22 all of the outer packaging. So none of
23 the packaging was -- all of it's taken out of the
24 packaging and weighed separately. Then a color test
25 is done, different chemicals are used. And based

1 off of when you add -- let me see if I can explain
2 this.

3 When you add a sample to certain chemicals,
4 they change colors. In this case with the crystal
5 substance, part of the sample was placed into one of
6 the acids that we have and it turned orange, which
7 then indicated that I might have methamphetamine.

8 At that point, a smaller sample is taken and
9 it's run on the gas chromatography mass
10 spectrometer. In that case, we can get a -- with
11 the GC mass spec, as I'm going to call it, it gives
12 you a fingerprint. Every drug has a specific
13 fingerprint, a specific ion breakdown so that we can
14 determine based off of what time the drug comes out
15 on the instrument, what the retention time is and
16 that fingerprint of the ions that we see, that we
17 can confirm what the drug is. In this case, it was
18 determined to be methamphetamine.

19 I then went to -- if you can see, I don't know
20 if you can, there are several tablets in the case.
21 We -- to help us out with that, because there are so
22 many different drugs out there, we look at the
23 markings on the tablet and try to determine, based
24 off of the markings, what we expect it to be. And I
25 say expect it to be because sometimes they are not

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1 what the tablet markings say.

2 But, in this case, I counted however many
3 tablets were submitted, checked the markings. And
4 one of the markings had, for the little round
5 tablets up front, it had -- it identified it as
6 hydrocodone. Hydrocodone is a Schedule II drug.
7 That was the highest schedule drug of all the
8 tablets that we had. I ran that on, again, the gas
9 chromatography mass spectrometer. And, again, based
10 off of the retention time and the ion fingerprint,
11 it was determined that those tablets were
12 hydrocodone.

13 **Q** How many hydrocodone tablets were there?

14 **A** There were 22.

15 **Q** Twenty-two hydrocodone tablets?

16 **A** Yes.

17 **Q** Okay. Well, let me ask you this, I'll stop you
18 here: To a reasonable degree of scientific
19 certainty, the crystalline substance in the larger
20 bags there, what is your expert opinion as to what
21 that crystalline substance is?

22 **A** Based off of the color test and the GC mass
23 spec, it was determined it is methamphetamine.

24 **Q** Okay. To a reasonable degree of scientific
25 certainty, the 22 tablets that you just spoke of,

1 what is your expert opinion as to what those 22
2 tablets are?

3 **A** Based off of the markings and, again, the gas
4 chromatography mass spectrometer, it is hydrocodone.

5 **Q** Okay. Did you weigh the methamphetamine? You
6 said that you stripped off all of the packaging, so
7 you're not weighing the packaging?

8 **A** Right.

9 **Q** What is the weight of the methamphetamine that
10 was submitted to you, the total weight?

11 **A** The total weight, there were three separate
12 bags submitted, and the total weight of the three
13 bags combined is 713.57 grams.

14 **Q** 713.57, okay. What I'd like for you to do, if
15 you will, is write on that bag, there's a Sharpie
16 right there, I just want you to write on the outside
17 of the bag 713.57 grams.

18 **A** (Witness complies.)

19 **Q** Of meth. And 22 hydrocodone tablets, Schedule
20 II.

21 **A** (Witness complies.)

22 **Q** Sign your name on that bag, if you would.

23 **A** (Witness complies.)

24 **Q** And just write the date under your name.

25 **A** It's the 11th, correct?

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1 **Q** I'm going to have to look. I asked you
2 something I didn't know. Yes.

3 **A** Okay. Good. That's what I wrote.

4 **MR. MAYE:** Your Honor, at this time, I'm going
5 to move to admit into evidence State's Exhibit
6 Number 24 into evidence as a State's Exhibit. It's
7 previously been marked for identification, subject
8 to any objection by the defense.

9 **MR. DRYLIE:** No objection.

10 **THE COURT:** In without objection.

11 (State's Exhibit Number 24, methamphetamine
12 and pills, admitted into evidence.)

13 **MR. MAYE:** Agent Sorrels, please answer any
14 questions that the defense has for you.

15 CROSS-EXAMINATION

16 BY MR. DRYLIE:

17 **Q** Good morning.

18 **A** Good morning.

19 **Q** Just briefly, you were just involved in the
20 testing of these substances, correct?

21 **A** That is correct.

22 **Q** So you have no idea where they were before they
23 got to you other than the fact that Investigator
24 Young dropped them off with Ms. Aycock?

25 **A** That is correct.

1 **Q** So you don't know who handled them or who got
2 them, correct?

3 **A** That's correct.

4 **MR. DRYLIE:** No further questions.

5 **MR. MAYE:** Nothing else for this witness, Your
6 Honor. Thanks. I ask that she be released.

7 **THE COURT:** All right. You can be excused. We
8 appreciate your time. Thank you.

9 **THE WITNESS:** Thank you so much.

10 **THE COURT:** Call your next witness.

11 **MR. MAYE:** Your Honor, I think that we're at
12 the point in time when I need to take a break at
13 this point in time and I'll inform the Court of our
14 progress. Thank you.

15 **THE COURT:** We'll let the jury take another
16 break and we'll see where we are when you come back.

17 (The jury retires to the jury room.)

18 **THE COURT:** We'll be at ease for a few minutes
19 then.

20 **MR. MAYE:** Thank you, Your Honor.

21 (Brief Recess.)

22 **THE COURT:** I understand we're through today.
23 So we'll bring the jury back in and let them loose
24 till 9:30 in the morning, 9:30. Let them loose
25 isn't a good way to say it, but excuse them.

1 (The jury returns to the courtroom.)

2 **THE COURT:** Members of the jury panel, I met
3 with the attorneys over the break. And while it's a
4 little earlier than I thought we would go to, we're
5 at a good place to stop and start back at 9:30
6 tomorrow morning. With that being said, I believe
7 we will still have this case to you around lunch
8 time tomorrow for your consideration. Again, I was
9 going to stop early so that individuals who wish
10 could go to new Solicitor Hubbard's swearing in this
11 afternoon, that's in Lexington, but this is a little
12 earlier than I had planned. But, procedurally,
13 we're in good shape.

14 So we'll see you back at 9:30 in the morning.
15 You're not yet in a position to make up your mind or
16 discuss the case and don't let yourself be exposed
17 to anyone talking about the case, anything through
18 digital, electronic or any kind of media or the
19 newspaper or any press. Thank you. Have a good
20 afternoon and evening.

21 (The jury was excused for the day.)

22 **MR. MAYE:** Your Honor, I'll tell you now and I
23 will put on the record, I intend to nol pros
24 indictment 2016-GS-19-108 or let you direct a
25 verdict, that's possession of Xanax. I haven't been

1 focused on that and I didn't put anything in the
2 record about that and I'm going to nol pros it.

3 **THE COURT:** My clerk noticed she testified to
4 hydrocodone. He noted that to me. I think that's
5 what --

6 **MR. MAYE:** I knew that. There were other drugs
7 in that bag that are like six months drug -- I mean
8 -- and this is one of the ones -- I intend to nol
9 pros this one. I'm not going to ask that that be
10 submitted to the jury. I can either nol pros it or
11 we can -- or you can direct a verdict on that.

12 **THE COURT:** Well, he hadn't made a motion for
13 directed verdict, but I think maybe --

14 **MR. MAYE:** I will probably just nol pros it.

15 **THE COURT:** Do you object to that or would you
16 rather me -- would you rather have a directed
17 verdict which would ice it up?

18 **MR. DRYLIE:** I don't object to the nol pros.

19 **THE COURT:** Okay. Then just nol pros it.

20 **MR. MAYE:** Thank you. I'll do that, Your
21 Honor. Thank you.

22 (The proceedings were concluded for January
23 11, 2017.)

24 (The following proceedings were held on
25 January 12, 2017.)

1 **THE COURT:** State ready?

2 **MR. MAYE:** State's ready.

3 **THE COURT:** Defense ready?

4 **MR. DRYLIE:** Not quite, Judge. We've got a
5 couple issues.

6 **THE COURT:** Certainly.

7 **MR. DRYLIE:** Real quick, I was just given a
8 statement that looks like it was completed at 9:18
9 this morning. There are a couple things in this
10 statement that I'm anticipating is from the State's
11 next witness that I think would be inadmissible, and
12 I want to go over that before we get the jury in
13 rather than object at the time and have to send them
14 right back out.

15 **THE COURT:** Can I have a copy?

16 **MR. DRYLIE:** Absolutely. I've got copies.

17 **THE COURT:** Okay.

18 **MR. DRYLIE:** Judge, there's some hearsay issues
19 within the statement.

20 **MR. MAYE:** I can probably -- I don't mean to
21 interrupt, but I instructed the public defender
22 here, I don't intend to ask about any statements
23 that the defendant made, given, you know, we've got
24 to give them copies of statements that the defendant
25 made. I'm going to direct her not to say anything

1 that Mr. Coon said in the way of statements. I'm
2 going to specifically ask her questions about her
3 conduct in this, but as to anything that he said to
4 her, I'm just going to omit that given the 11th hour
5 of some of the disclosures by this witness to us, if
6 that expedites things.

7 **MR. DRYLIE:** That'll expedite things. And,
8 also, the Solicitor and I had agreed before the
9 trial that we weren't going into any of the
10 motorcycle club aspects of this case and I just want
11 to make sure this witness doesn't do that either.

12 **MR. MAYE:** I'll make sure -- when she gets on
13 the stand, Your Honor, I would like to put her on
14 the stand prior to bringing the jury out and I'm
15 going to tell her that -- basically admonish her not
16 to go into anything he said or not to talk about the
17 biker gang and stuff. I thought that to go into the
18 biker gang, that I would have to establish some
19 nexus between the crime and the gang and I wasn't
20 going to do that as an officer of the court.

21 **THE COURT:** Why don't we bring her in and swear
22 her, let you do that, then let her go back out and
23 bring her back in when the jury's in.

24 **MR. MAYE:** No worries, Your Honor. That'll be
25 fine. Thank you.

1 **MR. DRYLIE:** Thank you, Judge.

2 JENNIFER NICOLE DEWITT,

3 having been duly sworn, testified as follows:

4 **THE CLERK:** Please be seated.

5 **MR. MAYE:** Ms. Dewitt, at this point in time,
6 you're not going to have to answer questions
7 immediately. We're going to let you go back out and
8 bring the jury in and let you come back out again.

9 Ms. Dewitt, in accordance with my agreement
10 with the defense in this case, do not talk about the
11 biker gang aspects of it, don't mention the gang.
12 You said in here, you know, about who was the
13 president of the gang and that they were in a
14 motorcycle club or gang, don't talk about that. You
15 can talk about the things in here that you did and
16 the actions of people, don't go into anything he
17 told you.

18 I'm going to have you just omit the stuff about
19 the \$16,000, that you heard them discussing those,
20 because those are statements of him. I don't want
21 you to go into anything he said, just the conduct
22 and activity there, nothing about the biker gang and
23 nothing about anything that he said or threats he
24 might have made to you, okay?

25 **THE WITNESS:** Yes, sir.

1 **THE COURT:** Just for the record, when he said
2 he, he was pointing to Mr. Coon. So you understand
3 that what he was asking has to do with Mr. Coon?

4 **THE WITNESS:** Yes, sir.

5 **THE COURT:** Okay. I figured you did, but I
6 just wanted the record to be correct. All right.
7 You may step down.

8 **MR. DRYLIE:** And anything anyone else --

9 **THE COURT:** I'm sorry. I almost cut Mr. Drylie
10 out. I'm sorry.

11 **MR. DRYLIE:** And anything any of the other
12 co-defendants said would obviously be hearsay and we
13 would object to that as well.

14 **MR. MAYE:** No worries. Thank you.

15 **THE COURT:** You can go back out. Thank you.
16 When you come back in, they'll swear you in again.

17 (The witness leaves the courtroom.)

18 **THE COURT:** Ready for the jury?

19 **MR. MAYE:** We are ready for the jury.

20 **THE COURT:** All right. Bring in the jury.

21 (The jury enters the courtroom at 9:50 A.M.)

22 **THE COURT:** Call your next witness.

23 **MR. MAYE:** The State would call Jennifer Dewitt
24 to the stand.

25 *****

JENNIFER NICOLE DEWITT - DIRECT BY MR. MAYE

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1 JENNIFER NICOLE DEWITT,
2 having been duly sworn, testified as follows:

3 THE CLERK: Thank you, ma'am. You may be
4 seated. Scoot up close to the mics. State your
5 full name and spell your last name.

6 THE WITNESS: Jennifer Nicole Dewitt,
7 D-e-w-i-t-t.

8 DIRECT EXAMINATION

9 BY MR. MAYE:

10 Q Ms. Dewitt, tell the ladies and gentlemen of
11 the jury where you're originally from.

12 A Graniteville.

13 Q Graniteville. How old are you?

14 A Thirty-three.

15 Q Okay. Did you grow up over in Graniteville?

16 A Yes, sir.

17 Q Okay. Where all did you go to school over
18 there?

19 A Byrd Elementary and Leavelle McCampbell.

20 Q Let me ask you this: On December the 22nd of
21 2015, when a search warrant was executed at a
22 double-wide mobile home here in Edgefield County at
23 Rain Forest Drive, were you present and an occupant
24 of that mobile home?

25 A Yes, sir.

1 **Q** Let me ask you this: How did you come to be
2 there? Who did you know there at ■ Rain Forest
3 Drive here in Edgefield County? How did you get
4 over there that day and how did you end up being
5 there when they busted in with a search warrant?

6 **A** A friend of mine asked me to ride with him, and
7 we ended up going to the home over on Rain Forest.

8 **Q** Let me stop you here for a second. Who was the
9 person that originally took you over there and how
10 far before December the 22nd of 2015 was that?

11 **A** I went over there with a guy named Nicholas
12 Scott and it was two or three months before December
13 22nd. And when I was at the home, I saw Heather and
14 I knew her.

15 **Q** You knew Heather Hall?

16 **A** Yes, sir.

17 **Q** Mr. Coon's daughter?

18 **A** Yes, sir.

19 **Q** Okay. What had y'all gone over there for?

20 **A** The guy that I was with wanted to buy drugs.

21 **Q** He wanted to buy drugs?

22 **A** Yes, sir.

23 **Q** Okay. Did you end up starting to hang out
24 there and stay there, at least on a semiregular,
25 basis?

JENNIFER NICOLE DEWITT - DIRECT BY MR. MAYE

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1 **A** Yes, sir.

2 **Q** Okay. Ms. Dewitt, now when they raided the
3 place, they got all kinds of stuff and a large
4 quantity of drugs. What was your involvement and
5 what did you start doing in regard to the drugs and
6 the traffic that was coming in and out of there?
7 What was your role in this?

8 **A** I'm a drug addict obviously. I was there. I
9 was getting high. I'm an addict. I mean, maybe I
10 shouldn't have been, but that's what I was doing, I
11 was getting high. I mean, if people would come to
12 the door when I was there, I'd answer the door, let
13 people in.

14 **Q** Okay. How did you know that people were coming
15 down the driveway and all of that?

16 **A** There's cameras.

17 **Q** There were cameras?

18 **A** Uh-huh.

19 **Q** Okay. What did you do in regard to monitoring
20 the cameras or what was your role?

21 **A** I'd sit there and watch them sometimes, open
22 the door, let people in.

23 **Q** Okay. And once the people came in, what would
24 happen when they came in once they'd come down the
25 driveway to the trailer?

1 **A** They would either come in to see Mr. Coon or
2 Mr. Wheeler and they'd go talk to them, either at
3 the kitchen table or at the bedroom.

4 **Q** Either one?

5 **A** Uh-huh.

6 **Q** Would sometimes it'd be Mr. Coon and sometimes
7 it would be Mr. Wheeler?

8 **A** Yes, sir.

9 **Q** Okay. Who all was staying there and living
10 there at the time with you -- I mean, at the
11 trailer?

12 **A** Mr. Coon, Mr. Wheeler and Ms. Hall.

13 **Q** Okay. Y'all were all staying there?

14 **A** Uh-huh.

15 **Q** Okay. How would the people let you know who
16 they wanted to deal with, either Mr. Coon or
17 Mr. Wheeler? What would they do --

18 **A** They would just ask for --

19 **Q** -- to let you know?

20 **A** They would ask for one or the other when they
21 came to the door.

22 **Q** They would ask for one or the other?

23 **A** Uh-huh.

24 **Q** Okay. When they came and asked for them, what
25 happened when they would come?

JENNIFER NICOLE DEWITT - DIRECT BY MR. MAYE

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1 **A** I would go let Mr. Coon or Mr. Wheeler know
2 they had company and either they would go in the
3 bedroom or go sit at the kitchen table.

4 **Q** Okay. What would you see or observe when the
5 people came in?

6 **A** They would just come in and walk to the back
7 and talk to them and sometimes when they --

8 **COURT REPORTER:** Can you slow down a little
9 bit?

10 **THE COURT:** Yes, slow down a little bit. I'm
11 sorry.

12 BY MR. MAYE:

13 **Q** Repeat that slowly.

14 **A** Sometimes when they would go back to the back
15 or the table, they would come back out and I would
16 get high with them when they came back out from
17 talking. They would have drugs.

18 **Q** The customers, sometimes you would get high
19 with them as well?

20 **A** Uh-huh.

21 **Q** Would you sometimes share in the drugs that
22 they had purchased?

23 **A** Yes, sir.

24 **Q** Okay. Let me ask you this: Did you see them
25 bring money? Did you see money there at times that

1 the customers were bringing?

2 **A** I've seen money on the kitchen table. When
3 they were, like, sitting at the kitchen table
4 talking, there'd be money on the table or drugs on
5 the table.

6 **Q** And so you saw drugs there as well; is that
7 correct?

8 **A** Uh-huh.

9 **Q** Okay. I'm going to show you what's been marked
10 as State's 23. Take a look at that. Do you
11 recognize that box?

12 **A** Yes, sir.

13 **Q** Tell us about that box.

14 **A** It was a box that Mr. Wheeler would sometimes
15 take with him when people came over. If he was at
16 the kitchen table, he would bring it out with him
17 and put it on the table.

18 **THE COURT:** Kind of keep slow. The court
19 reporter has to take this down, so slow down a wee
20 bit please, ma'am.

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

22 **BY MR. MAYE:**

23 **Q** And you recognize that's the box?

24 **A** Uh-huh.

25 **MR. MAYE:** I'm going to move to admit it into

JENNIFER NICOLE DEWITT - DIRECT BY MR. MAYE

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1 evidence at this time, Your Honor. I haven't done
2 so at this point time. It's been ID'd. Any
3 objection?

4 **MR. DRYLIE:** No objection.

5 **THE COURT:** In without objection.

6 (State's Exhibit Number 23, plastic
7 container, admitted into evidence.)

8 BY MR. MAYE:

9 **Q** Let me ask you this: What type of vehicles and
10 things did you observe around there?

11 **A** There were two motorcycles.

12 **Q** Let me stop you right here. You're talking
13 about motorcycles. Let me show you a picture,
14 State's 9 and 10, in evidence at this point in time.
15 Those the two motorcycles we're talking about?

16 **A** Yes, sir.

17 **Q** Okay. What other kind of vehicles were there?

18 **A** There was a red Chevrolet pick-up truck.

19 **Q** State's 11, is that the pick-up truck you're
20 talking about?

21 **A** Yes, sir.

22 **Q** Okay. What else is depicted in there?

23 **A** The camper.

24 **Q** Did you see that camper there?

25 **A** Uh-huh.

1 Q Okay. I'm going to show you State's 5. You
2 recognize that?

3 A That was the van that was sitting in the front
4 yard.

5 Q Van in the front yard?

6 A Uh-huh.

7 Q Who all would operate and use these various
8 vehicles? Who had you seen doing that?

9 A Mr. Coon and Mr. Wheeler drove the motorcycles,
10 and the Chevrolet pick-up was Mr. Wheeler's.

11 Q Okay. You saw him operating that?

12 A Yes, sir.

13 Q Okay. What did Ms. Hall do there? Did she
14 perform a similar function that you did there as
15 well?

16 A I mean, she would stay out in the living room.
17 Maybe we'd hang out. We'd talk. She was my friend.

18 Q She was your friend?

19 A Yes, sir.

20 Q Okay. In regard to serving as a lookout and
21 being there and answering the door and all, did she
22 do those things as well?

23 A Uh-huh.

24 Q Okay. I want to show you State's 24 that's in
25 evidence in this case. Will you take a look at

1 that?

2 **A** (Witness complies.)

3 **Q** You see the Ziploc bags and things that are in
4 there?

5 **A** Uh-huh.

6 **Q** What would you and Ms. Hall do in regard to
7 obtaining supplies and things that y'all utilize
8 there at the trailer?

9 **A** When we were at the grocery store, we would
10 pick up bags, but not -- we would pick up Ziploc
11 bags when we went to the grocery store, but we
12 wouldn't make special trips for them when we went
13 grocery shopping or whatnot.

14 **Q** But the bags that y'all were utilizing, you
15 would buy one when you went to the grocery store?

16 **A** Uh-huh.

17 **Q** Okay. Did y'all do the typical things that you
18 needed to do to keep up a household? Did y'all go
19 buy groceries and run errands and do those sorts of
20 things?

21 **A** Yes, sir.

22 **Q** Okay. What was the relationship between
23 Mr. Wheeler and Ms. Hall?

24 **A** They were dating.

25 **Q** They were dating?

1 **A** Yes, sir.

2 **Q** Okay. Where all did everybody stay in the
3 trailer?

4 **A** When you first walked in, to your left, was
5 Pop's room. You go through the living room and
6 kitchen and dining room, there's two other bedrooms,
7 Mr. Wheeler and Ms. Hall's room.

8 **Q** Which bedroom did they stay in?

9 **A** The one to the right.

10 **Q** Okay.

11 **A** When you go down the hallway, there's, like, a
12 bedroom, a bathroom and then another bedroom.

13 **Q** I'm going to show you State's 3 here. Take a
14 look at that. If you came in the front door here --

15 **A** If you came --

16 **COURT REPORTER:** I can't hear her.

17 **BY MR. MAYE:**

18 **Q** Wait a second. Just very slowly.

19 **A** When you come in the front door, you would go
20 through the living room and the dining room and
21 there was, like, a den or whatever you want to call
22 it. And then go right to this hallway and right
23 here to the right was their bedroom.

24 **Q** Okay. That's where Mr. Wheeler and Ms. Hall
25 stayed?

JENNIFER NICOLE DEWITT - DIRECT BY MR. MAYE

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1 **A** Uh-huh.

2 **Q** Where did Mr. Coon stay? Where was his
3 bedroom?

4 **A** Right when you come in the front door.

5 **Q** Here {indicating}?

6 **A** Uh-huh.

7 **Q** Where did you stay when you were there?

8 **A** I had slept in one of the bedrooms before, but
9 the puppies and the dogs got moved in there and
10 that's where the dogs and the puppies were and
11 Heather's clothes. I had slept on a couch, but I
12 had slept in the bedroom.

13 **Q** You had slept in the bedroom and that's where
14 the puppies and all were?

15 **A** Yes, sir.

16 **Q** Okay. And you stopped when the puppies were
17 moved into that bedroom?

18 **A** Yes, sir. I slept on the couch.

19 **Q** Where did they usually keep the green box
20 there, the ammo style box?

21 **A** In Mr. Wheeler's room.

22 **Q** He usually kept it in his room?

23 **A** Uh-huh.

24 **Q** Okay. Now, Ms. Dewitt, when the police came
25 that day, you got charged with a lot of various

1 crimes, didn't you?

2 A Yes, sir.

3 Q As you sit here now, you have trafficking
4 charges, you have the whole litany of charges that
5 were levied against the folks that were there,
6 correct?

7 A Yes, sir.

8 Q Okay. You were actually there that day,
9 correct? Who else was present at that time?

10 A Me, Mr. Wheeler and Ms. Hall.

11 Q Okay. When was the last time that you'd seen
12 Mr. Coon there prior to them coming?

13 A I think the day before.

14 Q He'd been there the day before?

15 A Or that night, yes, sir.

16 Q Okay. Ms. Dewitt, you know you've got some
17 very serious charges levied against you?

18 A Yes, sir.

19 Q Okay. Has anybody made you any specific
20 promises of exactly what's going to happen to your
21 charges as you sit here today?

22 A No, sir.

23 Q You're actually sitting here on a bench warrant
24 right now, aren't you?

25 A Yes, sir.

JENNIFER NICOLE DEWITT - CROSS BY MR. DRYLIE

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1 **Q** For failing to come to court?

2 **A** Yes, sir.

3 **Q** Okay. Ms. Dewitt, one time in the past, you
4 got in trouble and you got a conviction in 2015 for
5 possession of methamphetamine; is that right?

6 **A** Yes, sir.

7 **Q** That was over in Aiken County, right?

8 **A** Yes, sir.

9 **Q** Okay.

10 **MR. MAYE:** Ms. Dewitt, answer any questions the
11 defense has for you. Thank you.

12 **THE WITNESS:** Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. DRYLIE:

15 **Q** Good morning.

16 **A** Good morning.

17 **Q** When did you get picked up on your bench
18 warrant?

19 **A** I came in yesterday.

20 **Q** Yesterday.

21 **A** I turned myself in.

22 **Q** You turned yourself in yesterday?

23 **A** Yes, sir.

24 **Q** Now, you met with police shortly after that
25 search warrant was executed, correct?

1 A Yes, sir.

2 Q And you told them that everything you said was
3 true, right?

4 A Yes, sir.

5 Q But some of it wasn't true, right?

6 A I said to -- what was true, I believed was true
7 at the time. I might not have got everything in the
8 correct order, but I said what was true to me.

9 Q Well, today you testified that you had been
10 there for a month or two, correct?

11 A Yes, sir.

12 Q And when you met with police, you told them you
13 had been there four or five days?

14 A Yes, sir, because I was there on and off. So
15 to me, that was telling the truth. I had altogether
16 been there a few months, but it was on and off; it
17 wasn't day by day by day.

18 Q So to you, four or five days is the same as a
19 month or two?

20 A No, sir. It's just not consecutive back to
21 back.

22 Q Now, the solicitor asked you about some charges
23 that you had, correct?

24 A Yes, sir.

25 Q Now, the most serious of those charges is

- 1 trafficking in methamphetamine, correct?
- 2 **A** Yes, sir.
- 3 **Q** It carries 25 to 30 years?
- 4 **A** Yes, sir.
- 5 **Q** And then you have quite a litany of receiving
6 stolen goods charges, correct?
- 7 **A** Yes, sir.
- 8 **Q** And each of those carry up to three years?
- 9 **A** Yes, sir.
- 10 **Q** As well as possession of sawed-off shotguns?
- 11 **A** Uh-huh.
- 12 **Q** And each of those carries up to ten years,
13 correct?
- 14 **A** Yes, sir.
- 15 **Q** So altogether you're facing around 90 years?
- 16 **A** Yes, sir.
- 17 **Q** You don't want to go to prison, do you?
- 18 **A** No, sir.
- 19 **Q** Now, you gave the police a statement that was
20 somewhat different from the statement you originally
21 gave them, correct?
- 22 **A** I don't think so.
- 23 **Q** When did you last give the police a statement?
- 24 **A** Um...
- 25 **Q** Was it 9:18 this morning?

1 **A** Yes, sir.

2 **Q** After you got booked in on a bench warrant?

3 **A** Yes, sir.

4 **Q** After you saw the inside of a jail?

5 **A** Yes, sir.

6 **Q** After you didn't show up for court?

7 **A** Yes, sir.

8 **Q** And you don't want to stay in jail, do you?

9 **A** Well, no, sir, I don't.

10 **Q** You'd say whatever you can to get out of there
11 at this point?

12 **A** No, sir. I'd only say the truth.

13 **MR. DRYLIE:** No further questions.

14 **THE COURT:** Redirect?

15 **MR. MAYE:** Nothing else. Thank you.

16 **THE COURT:** Ms. Dewitt, you can step back out.
17 They'll escort you back out.

18 **MR. MAYE:** The State would call Investigator
19 Warren Miller to the stand.

20 WARREN TILLMAN MILLER, JR.,
21 having been duly sworn, testified as follows:

22 **THE CLERK:** Thank you, sir. You may be seated.
23 Please state your full name and spell your last name
24 for the record.

25 **THE WITNESS:** My full name is Warren Tillman

WARREN TILLMAN MILLER, JR. - DIRECT BY MR. MAYE

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1 Miller, Jr. Last name is M-i-l-l-e-r.

2 DIRECT EXAMINATION

3 BY MR. MAYE:

4 Q Investigator Miller, please tell the ladies and
5 gentlemen of the jury about your background in law
6 enforcement, about your employment here for Sheriff
7 Dobey, tell them about what your specialized role is
8 for him.

9 A I have approximately 20 years in law
10 enforcement, 19 of that has been here in Edgefield.
11 And for the, approximately, last 17 years, I've been
12 in narcotics.

13 Q Who do you work with usually on a daily basis?

14 A On a daily basis, it would be with Lieutenant
15 Young.

16 Q Okay. Do the two of you basically comprise the
17 narcotics unit here?

18 A Yes, sir.

19 Q Okay. During that time, Deputy -- or,
20 Investigator Miller, about how many meth cases do
21 you think you've worked?

22 A We've probably worked over a hundred at least.

23 Q Okay. In all your time in working here in
24 Edgefield, have you ever encountered that much
25 finished product --

1 **MR. DRYLIE:** Objection.

2 **THE COURT:** Rephrase your question. Start
3 over.

4 BY MR. MAYE:

5 **Q** How many cases do you think you've worked?

6 **A** Over a hundred.

7 **Q** Over a hundred?

8 **A** Yes, sir.

9 **Q** What is significant about this cash of
10 methamphetamine in 24, State's 24?

11 **MR. DRYLIE:** Objection.

12 **THE COURT:** I sustain the objection.

13 **THE WITNESS:** This would be --

14 **MR. MAYE:** Hold on a second.

15 **THE COURT:** I sustained the objection.

16 BY MR. MAYE:

17 **Q** Let me ask you this, Investigator Miller: All
18 of the events here that occurred out at Rain Forest
19 Lane, at that address, what county is that in?

20 **A** It's in Edgefield.

21 **Q** Okay. So all of the seizures and everything
22 you did, what county did that occur in?

23 **A** All of this took place here in Edgefield
24 County.

25 **Q** Okay. Let me ask you this: Please tell the

WARREN TILLMAN MILLER, JR. - DIRECT BY MR. MAYE

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1 ladies and gentlemen of the jury, State's 23, what
2 were all the contents that were in this box when
3 y'all raided that place on December the 22nd? What
4 all was inside of it?

5 A What all was inside of the box here was three
6 large plastic Ziploc bags that contained a quantity
7 of a crystal-type substance, that substance did test
8 positive for methamphetamine; a plastic bag that
9 contained 42 white oblong-shaped pills; an
10 amber-colored medicine bottle that contained 22
11 gold-colored round pills; another bottle containing
12 48 yellow-colored oblong pills; a small red-colored
13 Ziploc bag that contained seven green-colored pills;
14 and two plastic bags containing a quantity of a
15 green plant like substance that did test positive
16 for marijuana. There was also some digital scales
17 inside the green box here.

18 Q There were digital scales as well?

19 A Yes, sir.

20 Q Okay. Let me ask you this: Were you present
21 when David Coon was initially interviewed on
22 December the 28th of 2015? And I'm going to show
23 you State's 1 in this case.

24 A Yes, sir, I was.

25 Q What did you do while you were there?

- 1 **A** What I did, I asked -- on this form, you have
2 several questions and I provided the form. I asked
3 Mr. Coon the questions. He's the one that gave me
4 the information to fill out on here and then he put
5 his initials by some of the questions that I asked
6 him.
- 7 **Q** Did he indicate that he understood his rights
8 at that time?
- 9 **A** He did.
- 10 **Q** Okay. And so you actually administered that
11 written waiver of rights?
- 12 **A** I did.
- 13 **Q** Okay. Did he agree to talk to you after being
14 advised of his rights?
- 15 **A** He did. He even signed the bottom of the form
16 stating that he wished to talk to law enforcement.
- 17 **Q** Okay.
- 18 **A** Without an attorney.
- 19 **Q** When you talked to him, what did he tell you
20 about the scales that were in that box?
- 21 **A** Told us that he kept scales so that he didn't
22 get cheated when he made purchases, drug purchases.
- 23 **Q** Okay. And where were those scales?
- 24 **A** There was two sets inside that green box.
- 25 **Q** The scales you asked him about were in the box?

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1 **A** Correct.

2 **Q** Okay. How recently did he tell you that he had
3 been in the residence? Y'all raided it December the
4 22nd of 2015. How recently did he say he'd been
5 there?

6 **A** He said he had been there on the 21st, and
7 later that night, his daughter took him to a motel.

8 **Q** Okay. Let me ask you this: What price range,
9 based on your transactions in your experience, what
10 price range have you seen per gram of
11 methamphetamine here in Edgefield?

12 **A** It'll sell anywhere from 50 to a hundred
13 dollars a gram is what we've dealt with.

14 **Q** What's the variables in that, pretty good range
15 from \$50 a gram to a hundred dollars a gram?

16 **A** Yes, sir. It's just like any business, supply
17 and demand. And usually it depends on the quantity
18 of drugs that someone has and the quality of the
19 drug also plays a big part in that.

20 **Q** Okay.

21 **MR. MAYE:** Please answer any questions the
22 defense has for you, Investigator Miller. Thank
23 you.

24 ****

25 ****

1 CROSS-EXAMINATION

2 BY MR. DRYLIE:

3 Q Good morning.

4 A Yes, sir.

5 Q Now, have you ever actually seen David Coon at
6 the residence of ■ Rain Forest Lane?

7 A No, sir, I haven't.

8 Q Okay. Now, you identified the contents that
9 were inside the green box. Who has been associated
10 with the green box based on your investigation?

11 A Who has been associated with it?

12 Q Hadn't Timothy Wheeler been the one that was
13 carrying the green box around?

14 A Mr. Wheeler and Ms. Hall and Mr. Coon have all
15 been associated with the green box.

16 Q Based on your investigation, hasn't everyone
17 said that Timothy Wheeler carried the green box
18 around?

19 A That has been said, yes, sir.

20 Q Okay. Not one person has said that Mr. Coon
21 carried the green box around, correct?

22 A That's correct.

23 Q Okay. Do you have any fingerprints on the
24 green box from Mr. Coon?

25 A No, sir.

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1 **Q** Do you have any fingerprints on the Ziploc bags
2 from Mr. Coon?

3 **A** No, sir.

4 **Q** How about on the bottles?

5 **A** No, sir.

6 **Q** Do you have any touch DNA from the green box on
7 Mr. Coon?

8 **A** No, sir.

9 **Q** Do you have any touch DNA on the bottles from
10 Mr. Coon?

11 **A** No, sir.

12 **Q** How about on the plastic bags?

13 **A** No, sir.

14 **MR. DRYLIE:** No further questions.

15 **THE COURT:** Redirect?

16 **MR. MAYE:** Just a couple.

17 REDIRECT EXAMINATION

18 **BY MR. MAYE:**

19 **Q** You didn't perform those tests on any of this,
20 did you?

21 **A** I didn't. Now, there was a fingerprint test
22 done on the green box. And it came back negative.
23 It didn't have anybody's fingerprints that were
24 readable.

25 **Q** Didn't have anybody's fingerprints on it?

1 **A** That's correct.

2 **Q** Okay. Deputy Miller, you've been working cases
3 a long time. Is that unusual at all?

4 **A** No, sir.

5 **MR. DRYLIE:** Objection.

6 **THE COURT:** I sustain the objection. Go to the
7 next question.

8 **MR. MAYE:** I don't have anything else. Thank
9 you.

10 **THE COURT:** Recross?

11 **MR. DRYLIE:** No, Your Honor.

12 **THE COURT:** Investigator, you can step back
13 out. Thank you. Appreciate your time.

14 Anything else from the State?

15 **MR. MAYE:** State rests at this time, Your
16 Honor. Thank you.

17 **THE COURT:** Members of the jury panel, the
18 State has rested. That means the State has
19 presented its evidence. And, at this point, we have
20 to take a break before we move forward. So I'm
21 going to let you take a break while we take up some
22 legal matters outside your presence.

23 (The jury retires to the jury room.)

24 **THE COURT:** All right. The jury is dismissed.
25 Anything from the State?

1 **MR. MAYE:** Nothing from the State, Your Honor.

2 Thank you.

3 **THE COURT:** Mr. Drylie, on behalf of Mr. Coon?

4 **MR. DRYLIE:** Judge, we'd move for a directed
5 verdict at this point on each and every one of the
6 charges. Specifically, as to the receiving stolen
7 goods, there's been no showing that he knew any of
8 the goods were stolen. As to the others, we don't
9 think that there's, in a light most favorable to the
10 State, that there's substantial evidence to send
11 this charge to the jury.

12 **THE COURT:** Well, I deny the motion. I find
13 that there is a lot of direct evidence regarding
14 these charges and substantial circumstantial
15 evidence regarding these charges which the jury
16 could, and I'm not saying they will, conclude that
17 the State has carried its burden of proof beyond a
18 reasonable doubt as to each and every and all of
19 these charges. So I deny the motion for a directed
20 verdict.

21 Mr. Coon, can you hear me?

22 **DEFENDANT:** Uh-huh.

23 **THE COURT:** All right. We've reached the point
24 in the trial where you have a right to present a
25 defense if you wish. You do not have to call

1 witnesses, but you have a right to call witnesses on
2 your behalf if you would like. You are presumed
3 innocent on this set of charges and you need not
4 prove your innocence. The State must prove you
5 guilty beyond a reasonable doubt. But you have a
6 right to call witnesses if you like.

7 You have a right to testify and you have a
8 absolute right to remain silent. If you testify,
9 you'll be cross-examined after you testify on your
10 own behalf. The State will have the right to
11 cross-examine you.

12 And any impeachable offenses, Mr. Maye?

13 **MR. MAYE:** Your Honor, beg the Court's
14 indulgence. Let me retrieve his rap sheet. I tell
15 you what, Your Honor, even if he has, I'll decline
16 to impeach him on any record at all if he testifies.

17 **THE COURT:** All right.

18 But you would have -- if you testify, you'll be
19 under oath -- I'm going to let you talk to him.
20 We're going to take a break and I'll let you talk to
21 Mr. Drylie as long as you need, but right now, I
22 just need to make sure you understand if you
23 testify, you'll be cross-examined by the State.

24 **DEFENDANT:** I don't want to testify.

25 **THE COURT:** All right. Well, I've got to make

1 -- sure you understand what rights you're giving up and
2 then I'll entertain that.

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** If you do -- you've told me you
5 don't intend to testify and if that's the way it
6 ends up, I'll tell the jury that you have exercised
7 your constitutional right to remain silent. I will
8 tell them they cannot use that against you in any
9 way whatsoever. I will tell them they cannot even
10 discuss or, in fact, render their own consideration
11 the fact that you exercised your constitutional
12 right to remain silent. I will remind the jury that
13 you are presumed innocent, need not prove your
14 innocence. The State must prove your guilt beyond a
15 reasonable doubt. Do you understand all of that?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** Now, exercise of the right to
18 testify or remain silent is yours. You can talk to
19 your attorney. We're going take a break, and you've
20 already told me you've reached that decision, but
21 I'm going to give you a few more minutes. And when
22 we come back, I'm going to ask you to -- again,
23 whether you want to testify or not. It's not my
24 decision, it's not your attorney's, it's certainly
25 not the State's. And we'll see where we are.

1 I'm turning to counsel now. Under the new
2 Beaty decision, I'm, quite frankly, a little
3 confused I have to admit, but it appears to me that
4 if there's no presentation by -- no evidence placed
5 in, there's been nothing to this point, no exhibits
6 or anything that's been placed in by the defense,
7 that they would be entitled, I don't think Beaty has
8 changed this, to final closing. Anybody think
9 that's not the law?

10 **MR. MAYE:** I read it and I couldn't tell you on
11 that. I don't have any problem with that, Your
12 Honor. They didn't put up any evidence. I know of
13 nothing that would -- I didn't read anything in
14 there that would indicate that I get to put up reply
15 evidence on when they don't put up evidence at all.

16 **THE COURT:** I don't either but --

17 **MR. MAYE:** I didn't read it that way.

18 **THE COURT:** So you'll -- if Mr. Coon exercised
19 his right to remain silent, you will have last
20 closing argument.

21 **MR. DRYLIE:** I believe that's correct, Your
22 Honor.

23 **THE COURT:** All right. Well, we'll take a
24 break and we'll come back. If Mr. Coon does not
25 testify, the State's already rested, I'll let the

1 defense rest on the record. But since motions have
2 been made and Mr. Coon, if he does, in fact, choose
3 to continue to exercise his right to remain silent,
4 we will go forward with the closing arguments and my
5 charge.

6 Now, for the record, my charge has been given
7 to the attorneys and they've had an opportunity to
8 look at it -- I take that back. We'll give them a
9 copy. It's pretty standard.

10 I will note that in the charge, I use the word
11 truth or truthfulness. In going back to Beaty, I'm
12 not sure I can use those words. So if you see the
13 word truth or truthfulness, I'm not going to use
14 that term. At least in one place, I'll use
15 believability as opposed to truthfulness. It
16 doesn't make sense to me, but I follow what those in
17 Columbia say. So I want to give you that. You have
18 looked at the verdict form; is that correct?

19 **MR. FENDER:** Yes, Your Honor.

20 **MR. DRYLIE:** I have to -- Your Honor, I think
21 there might be one missing, at least in the copy
22 that I got.

23 **THE COURT:** Well, he withdrew the Alprazolam.

24 **MR. DRYLIE:** But the hydrocodone, my
25 understanding, was still there.

1 **THE COURT:** No, he didn't -- I didn't think he
2 was charged with hydrocodone.

3 **MR. MAYE:** He was charged with Schedule II
4 hydrocodone and Schedule IV, which would have been
5 the Xanax and all. And I just -- I didn't put up
6 any evidence -- tactically, I didn't put up any
7 evidence on the Xanax. I just put it up on the
8 hydrocodone and the meth, which were the more
9 serious ones. I have not proessed the Schedule IV
10 charge, but he still does face a Schedule II
11 hydrocodone, my understanding.

12 **THE COURT:** Well, here's the issue, I did not
13 see that in the -- if I can have the indictments, if
14 you'll tell me which number that is, I didn't see
15 that quite frankly. Look and see what indictment
16 number that is, please.

17 (Pause.)

18 **THE CLERK:** All I have is the marijuana and the
19 meth.

20 **THE COURT:** All we have is an indictment for --

21 **MR. MAYE:** That's fine.

22 **THE COURT:** And that's why it's not there
23 because we don't have any indictment on this.

24 **MR. DRYLIE:** That's fine by us obviously.

25 **MR. MAYE:** No worries.

1 **THE COURT:** Well, we won't see a charge on a
2 controlled substance because, again, we didn't know
3 that was an issue. And, apparently, from the
4 indictments I have, it's not.

5 **MR. MAYE:** I probably mixed them up, so that's
6 no problem.

7 **THE COURT:** All right. We'll take a break.

8 (Brief Recess.)

9 **THE COURT:** I'm told that Mr. Coon has
10 determined that he will now enter a plea of guilt
11 with this group of indictments. Is that correct,
12 Mr. Drylie?

13 **MR. DRYLIE:** That's correct, Your Honor.

14 **THE COURT:** All right. Would you bring him
15 around and the Clerk will swear him in?

16 DAVID WALTER COON,
17 having been duly sworn, testified as follows:

18 **THE COURT:** Mr. Coon, you're 53 I understand?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** And how far did you go in school?

21 **DEFENDANT:** Sixth, seventh grade.

22 **THE COURT:** All right. And what do you do for
23 a living?

24 **DEFENDANT:** Painting. I own a painting
25 business.

1 **THE COURT:** And you're represented by
2 Mr. Drylie?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** Satisfied with his service?

5 **DEFENDANT:** Uh-huh.

6 **THE COURT:** You've got to say yes or no.

7 **DEFENDANT:** Yes, sir.

8 **THE COURT:** I know we get used to talking to
9 each other, but we've got to have a record of this.
10 Now, several of the offenses that I'm going to
11 go over today with you are what we call property
12 crimes, and I will tell which ones they are. But if
13 I say something is a property crime, what that means
14 is that if in your lifetime, you receive three
15 property crimes, the third would automatically carry
16 up to ten years in jail and be a felony. Some
17 property crimes, like shoplifting, only carry 30
18 days, but if someone commits that as their third
19 property offense, they would be looking at ten years
20 and a felony. Do you understand that?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** When I get to the trafficking in
23 methamphetamine, and I believe this is the only one
24 that is a violent offense, but if I mention that an
25 offense is a violent offense, what that means is

1 that while you are incarcerated, you will not be
2 eligible for any particular -- you will not be
3 eligible for programs which nonviolent offenders may
4 participate in, that is, you're restricted to
5 certain opportunities, I guess I'd call them, you're
6 restricted from them as opposed to nonviolent
7 offenders being able to utilize those.

8 There's also a most serious offense. A most
9 serious offense is the type offense which if in your
10 lifetime, you receive three -- two most serious
11 offenses or a combination of three serious and most
12 serious offenses, you'll be subject to being
13 incarcerated for life without parole, that is a true
14 life sentence.

15 When I get to the trafficking in
16 methamphetamine, it is also, in addition to being
17 violent, it is not -- I've got it marked as serious
18 here. It's marked most serious.

19 **MR. MAYE:** I thought it was most serious.

20 **MR. DRYLIE:** I think it's serious.

21 **MR. MAYE:** And I may have been in error on
22 that, Your Honor. I thought trafficking 400 was
23 most serious.

24 **THE COURT:** I'm going to change that on that
25 indictment. I'm looking at my notes, and I'm going

1 to mark out where it has been marked as most serious
2 and mark where it is serious. Any objection to
3 that?

4 **MR. MAYE:** Nothing, Your Honor. I did not
5 check that.

6 **MR. DRYLIE:** No, Your Honor.

7 **THE COURT:** All right. So it's not a most
8 serious offense, but it is a serious offense, but
9 the same thing applies, that is, if you in your
10 lifetime, receive three serious or a combination of
11 three serious and most serious offenses, you'd be
12 looking at a true life sentence, that is life
13 without parole.

14 But as to the trafficking, it also is a parole
15 ineligible offense which means you have to serve at
16 least 85 percent of whatever sentence you receive
17 before you would be eligible for any early release,
18 and were you -- it's a felony also. And were you to
19 be released early, it would be into a community
20 supervision program which would be similar to
21 probation, that is, it would have -- you'll be on
22 the streets, but you'd have certain conditions you
23 have to comply with. And were you to violate those
24 conditions, you'd be put back in jail and ultimately
25 -- the penitentiary and ultimately serve the

1 original time that you had been sentenced to.

2 This particular methamphetamine charge is not
3 available for any probation or suspension sentence.

4 Now, I'll go through the charges. You're
5 charged with receiving stolen goods, that being a
6 2005 Chevy pick-up, on or about December 22nd, 2015.
7 Receiving stolen goods carries up to three years in
8 jail. It is not a felony. Do you understand that
9 as to the receiving stolen goods charges?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** How do you plead to that --

12 **DEFENDANT:** Guilty.

13 **THE COURT:** -- the Chevy truck?

14 **DEFENDANT:** Guilty.

15 **THE COURT:** You're charged also with receiving
16 stolen goods, that second being a 2006
17 Harley-Davidson motorcycle. Again, that carries up
18 to three years in jail. How do you plead to the
19 charge with the 2006 Harley-Davidson?

20 **DEFENDANT:** Guilty.

21 **THE COURT:** You're charged also with receiving
22 stolen goods, that being a 2006 Harley-Davidson with
23 a different VIN number from the one that I just went
24 over. The one I went over, last four digits were
25 4022 with the VIN. This one is VIN last four digits

1 3417. How do you plead to that charge?

2 **DEFENDANT:** Guilty.

3 **THE COURT:** You're charged with another
4 receiving stolen goods. And, of course, all of
5 these, as I said, carry up to three years in jail.
6 And this indictment charges you with being in
7 possession of a 2007 Zeppelin camper. How do you
8 plead to that?

9 **DEFENDANT:** Guilty.

10 **THE COURT:** The next receiving stolen goods
11 alleges that you were in possession of a Mossberg
12 12-gauge shotgun on December 2nd, 2015. How do you
13 plead to that?

14 **DEFENDANT:** Guilty.

15 **THE COURT:** Now, I did not say this, so I'm
16 going to ask as to all five of these, they alleged
17 that not only were these stolen vehicles, but that
18 you knew or should have known that they were stolen.
19 Do you understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** And is that -- in pleading to those
22 five, you are pleading to that?

23 **DEFENDANT:** Yes, sir.

24 **THE COURT:** All right. You're charged with
25 possession of unlawful firearm which carries up to

1 ten years in jail and is a felony. The first one is
2 a -- that I'm going over is a Harrington and
3 Richardson Topper model 158. How do you plead to
4 that charge?

5 **DEFENDANT:** Guilty.

6 **THE COURT:** The next possession of unlawful
7 firearm is a Winchester 12-gauge model 37A. How do
8 you plead to that charge?

9 **DEFENDANT:** Guilty.

10 **THE COURT:** The next is a Harrington and
11 Richardson Topper model M48 12-gauge shotgun, and
12 that is the second Hunter {sic} and Richardson
13 Topper. How do you plead to that charge?

14 **DEFENDANT:** Guilty.

15 **THE COURT:** Now, each of those charged you with
16 unlawful firearm, that means that the firearm that I
17 referenced had a maximum length of less than 26
18 inches or a barrel length of less than 18 inches.
19 You understand that?

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** And you understood that when you
22 were pleading to those unlawful firearm charges?

23 **DEFENDANT:** Uh-huh. Yes, sir.

24 **THE COURT:** Okay. Thank you.

25 You're charged with trafficking in

1 methamphetamine greater than 400 grams or more, and
2 I'll go over that one last. You're charged with
3 possession with intent to distribute marijuana,
4 which is a felony that carries up to five years in
5 jail. And it's alleged that that occurred here in
6 York County -- Edgefield County, on or about
7 December 22nd, 2015, when you unlawfully possessed
8 marijuana with intent to distribute it. Do you
9 understand that charge and the potential penalty?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** Now, the trafficking in
12 methamphetamine charge alleges that on December
13 22nd, 2015, you were in possession -- well, let me,
14 since this is -- I'm going to read the entire
15 indictment on this particular one because it is the
16 most substantial of the charges against you.

17 That indictment alleges that you here in
18 Edgefield County, on December 22nd, 2015, knowingly,
19 intentionally, willfully or did unlawfully sell,
20 manufacture, cultivate, deliver, purchase or bring
21 into this state or provide financial assistance or
22 otherwise aid, abet, attempt or assist, conspire or
23 participate with others to sell, manufacture,
24 cultivate, deliver, purchase or bring into this
25 state or you were knowingly in actual or

1 constructive possession and/or knowingly attempted
2 to become in actual or constructive possession of
3 more than 400 grams of methamphetamine, a controlled
4 substance. The indictment alleges that this is in
5 violation of section 44-53-375(C) (5) of our South
6 Carolina Code of Laws. Do you understand that?

7 **DEFENDANT:** Yes, sir.

8 **THE COURT:** How do you plead to that?

9 **DEFENDANT:** Guilty.

10 **THE COURT:** Any recommendation?

11 **MR. MAYE:** Your Honor, I'm going to -- for a
12 factual recitation, I'm going to rely on the
13 evidence that's been put forth in the State's case
14 in this -- I'm going to leave sentencing up to Your
15 Honor. You're a jurist with vast experience.

16 I only note he has a fairly minimal prior
17 record. He's got a trespassing in '95; a simple
18 assault and battery in '96; a DUS in 1996; a
19 resisting arrest, a one year -- the A section of the
20 nonviolent resisting, looks like he got a conviction
21 for that in '96; DUI in '97; simple assault and
22 battery in 2011. That's basically his prior record
23 prior to the charges before you, Your Honor.

24 **THE COURT:** My law clerk was telling me --
25 thank you -- that I did not ask you whether or not

1 you pled guilty to the marijuana charge. I went
2 over it and then didn't ask you if you pled guilty.

3 **DEFENDANT:** Yes, sir, I'm guilty. I'm guilty
4 to all of them.

5 **THE COURT:** Okay. I've gone over the
6 trafficking in methamphetamine in the event of a
7 plea of guilty, that carries up to 25 to 30 years
8 and is a felony. You have pled to that now.

9 Has anyone made you any promises or threatened
10 you in any way or coerced you in any way to get you
11 to plead guilty to this set of charges?

12 **DEFENDANT:** No, sir.

13 **THE COURT:** And you're satisfied with the way
14 Mr. Drylie's handled your case?

15 **DEFENDANT:** Yes, sir.

16 **THE COURT:** Are you today under the influence
17 of any intoxicants?

18 **DEFENDANT:** No, sir.

19 **THE COURT:** Are you entering a plea today to
20 this set of charges freely and voluntarily?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** Mr. Coon, as you know, you have a
23 right to a trial by jury; in fact, we've had two and
24 a half days of jury trial. You have a right to --
25 you're presumed innocent, which I have talked to you

1 about. And the State must prove your guilt beyond a
2 reasonable doubt before you could be convicted of
3 any of these charges.

4 Again, you have the right to a jury trial.
5 We're in the midst of a jury trial. I've told you
6 that the State has to prove your guilt beyond a
7 reasonable doubt and that you are presumed innocent
8 and need not prove your guilt. You understand all
9 that?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** Now, you have a right to confront
12 the witnesses against you, that is, see, hear,
13 question and cross-examine the witnesses, which your
14 attorney has done. You understand you have that
15 right?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** You have the right to remain
18 silent. And I just went over that in detail with
19 you within the last hour. Do you understand you
20 have that right?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** You also have the right, and I kind
23 of alluded to this, but I didn't go into detail,
24 have a right to have the State compel by process any
25 witnesses you believe would testify on your behalf

1 to come into court and testify on your behalf. Do
2 you understand you have these rights?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** I advise you, Mr. Coon, that when
5 you enter a plea of guilt to a charge, that as to
6 the charge, you're giving up these rights and you're
7 also giving up any defense that you might have to
8 the charge. Do you understand that?

9 **DEFENDANT:** Yes, sir.

10 **THE COURT:** Knowing all of those things, I ask
11 you again, how do you plead to trafficking in
12 methamphetamine greater than 400 grams?

13 **DEFENDANT:** Guilty.

14 **THE COURT:** How do you plead to the five
15 receiving stolen goods charges? How do you plead to
16 those?

17 **DEFENDANT:** Guilty.

18 **THE COURT:** All five?

19 **DEFENDANT:** All five.

20 **THE COURT:** How do you plead to the three
21 possession of unlawful firearm charges?

22 **DEFENDANT:** Guilty.

23 **THE COURT:** To all three?

24 **DEFENDANT:** All three.

25 **THE COURT:** And how do you plead to possessing

1 with intent to distribute marijuana?

2 **DEFENDANT:** Guilty.

3 **THE COURT:** Now, usually at this point, I ask
4 the State to give me the recitation of the facts and
5 ask for you to confirm the facts, but I've heard two
6 days of trial. So I'm going to ask you, you've
7 heard the evidence that the State has presented?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** Do you agree with that evidence?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** All right. Anything you want to
12 add about the facts before I --

13 **MR. MAYE:** They speak for themselves. That's
14 about as full a recitation as we could have possibly
15 been through on the facts, Your Honor.

16 **THE COURT:** I find that the facts support these
17 pleas. I find that they're freely, voluntarily,
18 knowingly and intelligently entered, entered with
19 advice of competent counsel with whom you're
20 satisfied. I find that the facts support your
21 pleas, and you have signed pleas of guilt. I'll be
22 glad now to hear from your attorney and then from
23 you. With one other question: How long have you
24 been in jail?

25 **DEFENDANT:** A year and a month.

1 **MR. DRYLIE:** December 23rd, I believe, 2015,
2 and I'll add up the days.

3 **THE COURT:** We'll calculate the days.

4 All right. Let me hear from the State
5 regarding sentences, although you've already made
6 some comments, but --

7 **MR. MAYE:** Your Honor, the facts speak for
8 themselves. You've got his prior record. You can
9 see what's going on here. I mean, this was -- I
10 mean, it's pretty obvious. I mean, they just,
11 basically, were running a pawnshop. I mean, a --
12 basically, just a wholesale place where you could
13 come get methamphetamine and other drugs and you
14 could bring anything that you could roll in there,
15 drive in there, cash. They would -- were bartering
16 and trading.

17 This was a source of tremendous activities.
18 One of the neighbors there said it was just, you
19 know, Grand Central Station. There were people in
20 all the time. Yard was full of stolen goods. The
21 -- all of the evidence that we have in this case
22 points to this being a pretty massive operation.
23 That's the largest seizure of finished
24 methamphetamine that we have ever encountered in
25 this county.

1 The -- certainly, you have the range of
2 sentencing at your discretion to address the gravity
3 of the defense. I know you're an experienced jurist
4 and I leave it to your wise discretion.

5 **THE COURT:** All right. Mr. Drylie.

6 **MR. DRYLIE:** Judge, I'll just tell you briefly
7 about Mr. Coon. He's 53 years old. He does have a
8 daughter whose name you've heard throughout this
9 case, she's here in the courtroom today. She wanted
10 to see him and he wanted to see her.

11 **THE COURT:** I'll be glad to hear from her if
12 she'd like to speak.

13 **MR. DRYLIE:** Okay.

14 Now, I do want to let you know one thing that I
15 found pretty interesting about Mr. Coon, he tells me
16 he had nine years clean in Cocaine Anonymous and
17 Alcoholics Anonymous. His wife died and he fell off
18 the wagon. I think his record kind of supports that
19 because he doesn't have much of a record up until --
20 or at all. You know, they're pretty minor charges
21 from the 90s and then he's got a simple assault from
22 2011. He's never been in major trouble, anything
23 like this at all before, Judge.

24 Judge, what we'd ask the Court to consider is
25 concurrent sentences on everything. And we'd ask

1 for the minimum on the trafficking meth. Obviously,
2 that's 25 years that he's going to have to do 80
3 percent of. He'd be well over 70 if he got out of
4 prison.

5 Judge, I've talked to him about all of this.
6 He understands that by pleading guilty, he's waiving
7 all of his defenses, that one of the things he's
8 waiving is any search and seizure --

9 **DEFENDANT:** I want to get this paper out of my
10 pocket. I've got something I want to give to the
11 Judge. Can you pass that up to the Judge?

12 Give me a minute. It ain't like I'm going
13 nowhere. I just give you 25 years of my life, man.

14 **MR. DRYLIE:** Judge, I will tell you, you know,
15 he's been very -- he's a very likable guy under
16 different circumstances. And I think Lieutenant
17 Young would agree with me on that who's sitting over
18 there.

19 (Pause.)

20 **DEFENDANT:** You could have sentenced me before
21 you locked me up.

22 **THE COURT:** Go ahead.

23 **MR. DRYLIE:** Judge, he did have a letter that
24 he wanted to pass up to you, and I'll go ahead and
25 do that now.

1 **THE COURT:** I'm told it's 385 days.

2 **MR. MAYE:** Judge, whatever you'd like to do.

3 It doesn't matter to me. I have no dog in that
4 fight.

5 (The Clerk hands document to the Judge.)

6 **THE COURT:** All right.

7 **MR. DRYLIE:** And, Judge, I believe he wants to
8 address the Court.

9 **THE COURT:** All right. Yes, sir.

10 **DEFENDANT:** Your Honor, you know I'm guilty.
11 You know, one day a wise little girl she told me,
12 she said, you know, it takes a strong man to step up
13 to the plate and accept what somebody else has left
14 behind. And I just felt like that was a good time
15 to say it, you know. And I apologize to the state
16 of Edgefield, South Carolina.

17 **THE COURT:** All right.

18 **MR. DRYLIE:** Judge, we've got 387 days that
19 he's been incarcerated.

20 **THE COURT:** All right. We've got 385, but I'll
21 give you 387. Does your daughter want to say
22 anything?

23 **MR. DRYLIE:** Did you want to say anything?

24 **THE COURT:** She'll have to come up here if she
25 does.

1 **DEFENDANT:** You think I can get a hug around
2 the neck?

3 **THE COURT:** I'm going to have to leave that to
4 law enforcement. You're not in my custody. So
5 we'll see --

6 **DEFENDANT:** You know, where am I going?

7 **THE COURT:** Let's finish this up, Mr. Coon.
8 I've got here a statement that I'll make part of the
9 record. And in this, I'm going to just summarize
10 it, he takes, as he's already pled, responsibility
11 for all of the drugs, guns and stolen property and
12 states that his co-defendants had no knowledge of
13 what was found inside or on the outside of ■ Rain
14 Forest Lane. That's what this says; is that
15 correct, Mr. Coon?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** All right. Mr. Coon, anything else
18 you want to say?

19 **DEFENDANT:** SFFS.

20 **THE COURT:** I don't know what that means.

21 **DEFENDANT:** That's fine, SFFS.

22 **THE COURT:** All right. On the trafficking
23 methamphetamine, the sentence is 25 years. All of
24 the others are to run concurrent, three years on
25 each of the receiving stolen goods, ten years on

1 each of the unlawful weapons, unlawful firearms, and
2 five years on the possession of marijuana with
3 intent to distribute.

4 Thank you.

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

6 **THE COURT:** Thank you, Mr. Coon.

7 (Defendant leaves the courtroom.)

8 (Court's Exhibit Number 7, letter, marked
9 for identification.)

10 (The jury returns to the courtroom.)

11 **THE COURT:** Members of the jury, I have to
12 apologize a little bit for keeping you back so long,
13 but if you look out, you'll see that the landscape
14 has changed as Mr. Coon is not present anymore.
15 Mr. Coon decided, after two and a half days of
16 trial, to enter pleas of guilty to all of these
17 charges. So he has entered pleas of guilty; I've
18 accepted them. I have sentenced him.

19 The minimum that he could be sentenced to under
20 the trafficking of methamphetamine is 25 years, and
21 I sentenced him to that. I sentenced him to the
22 maximum on all the others to run concurrent. They
23 carry -- the gun charges carried ten years each, the
24 stolen goods carried three years and marijuana
25 carried five. So I sentenced him to concurrent

1 sentences on all of those with a 25-year sentence.

2 Under the laws of this state, he'll have to
3 serve 85 percent of that 25 years before he is
4 eligible for any release. Usually, on most charges,
5 individuals are, nonviolent offenses, eligible to be
6 paroled after a quarter of their sentence. Violent
7 offenders have to serve at least a third and then
8 there's a certain category that are serious offenses
9 that one has to serve at least 85 percent.

10 But I appreciate your service. This finishes
11 all your service for this week, and I'm going to let
12 you go and thank you for your patience. And I've
13 enjoyed my week here. I've been staying with my
14 former brother-in-law, who's a good friend of --
15 who's Mr. Vann's brother, Larry. And I know Larry
16 and Cindy very well. I did not know that when I
17 appointed him, but they told me that quick. So I
18 enjoyed working with you and you can leave. Tell
19 Larry and Cindy I said hello.

20 (The jury was excused.)

21

22 END OF PROCEEDINGS

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Edgefield County, South Carolina, on the 10th - 12th of January, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 31, 2017

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

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FORM 5
 EDGEFIELD COUNTY
 CLERK OF COURT
 CHARLES L. KEEL
 IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT
 STATE OF SOUTH CAROLINA
 County of Edgefield 2017 MAY 02 AM 10:38
David Walter Coon #371019
 Full name and prison number (if any) of Applicant
 v.
 State of South Carolina
 POST-CONVICTION RELIEF
 S.C. Code Ann. § 17-27-45

INSTRUCTIONS - 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 may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, take 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 MCI / 386 Redemption Way, McCormick
South Carolina 29899
2. Name and location of Court which imposed sentence Edgefield General
Sessions Court, P.O. Box 34, Edgefield, S.C. 29824
3. Name(s) of co-defendant(s) (if any) Timothy Wayne Wheeler
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) Too extensive for this space, see next
(b) _____

Attachment Form 5

4. The indictment number or numbers upon which and the offenses for which sentence was imposed:

- a. 2016-GS-19-101 - Receiving stolen Goods
- b. 2016-GS-19-102 - Possession of an unlawful firearm
- c. 2016-GS-19-103 - Possession of an unlawful fire
- d. 2016-GS-19-104 - Possession of an unlawful f
- e. 2016-GS-19-105 - Receiving stolen Goods
- f. 2016-GS-19-106 - Receiving stolen Goods
- g. 2016-GS-19-106 - Receiving stolen goods
- h. 2016-GS-19-107 - Receiving Stolen goods
- i. 2016-GS-19-108 - Possession with intent to distribute a schedule IV controlled substance
- j. 2016-GS-19-109 - Possession with intent to distribute Marijuana
- k. 2016-GS-19-110 - Trafficking Methamphetamine
- l. 2016-GS-19-072 - Receiving stolen Goods
- m. 2016-GS-19-073 - Receiving stolen Goods
- n. 2016-GS-19-252 - Receiving Stolen Goods
- o. Warrant # 2017A1910100088 - Detainer

5. The date upon which sentence was imposed and the terms of the sentence:

- a. January 15, 2017 3 years concurrent
- b. January 15, 2017 10 years concurrent
- c. January 15, 2017 10 years concurrent
- d. January 15, 2017 10 years concurrent

Attachment Form 5

- e. January 15, 2017 3 years concurrent
- f. January 15, 2017 Not pros
- g. January 15, 2017 Not pros
- h. January 15, 2017 Not pros
- i. January 15, 2017 Not pros
- j. January 15, 2017 5 years concurrent
- k. January 15, 2017 25 years concurrent
- l. January 15, 2017 3 years concurrent
- m. January 15, 2017 3 years concurrent
- n. January 15, 2017 3 years concurrent
- o. Detainer

5. ~~(a)~~ _____
 The date upon which sentence was imposed and the terms of the sentence:
 (a) January 15, 2017 - _____
~~(b)~~ _____
~~(c)~~ _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty Trial 1/12/17 ended plea 1/15/17
~~(b)~~ after a plea of not guilty January 12-15, 2017
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. N/A
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. N/A
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. N/A
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) Too extensive for this space, see next page
 (b) _____

Attachment Form 5

10. State concisely the grounds on which you based your allegation that you are being held in custody unlawfully:

a. That Applicant was denied his 4th and 6th amendment rights, ^{when} counsel failed to evaluate the balanced assessment of a confidential informant, because of the error in the affidavit that pertain to probable cause; Applicant's outcome would have been different.

b. Applicant's substantial and procedural rights was violated, when trial counsel was ineffective for not investigating and challenging the Respondent inmate confidential informant, prior to going to trial, Applicant's outcome would have been different.

c. Nol pros / initialing vindictive prosecution

Attachment Form 5

11. State concisely and in the same order the facts which support each of the grounds set out in (

The Facts

On December 14, 2015, investigator P. Ireland reported that Investigator James Smith had received word that an inmate in Aiken CDC wanted to speak with investigator, Inv. Smith and Inv. Ireland, about criminal activity off of Murrah Rd in Edgefield. At that time Inv. Smith and Inv. Ireland went to Aiken CDC to speak with this inmate who wishes to remain anonymous.

This inmate confidential informant informed Inv. Smith and Inv. Ireland that there was no traffic at the resident off on Murrah Rd, which [did] not include deliveries. A one way in and one way out. The traffic only slow down in the morning time 8:00 am to mid morning and that may only be once or twice a week.

Outside this anonymous information given, there was no prior surveillance or surveillance done of that residence. The police did not observe or corroborate the predictive information "illegal conduct is a foot, at the resident. The investigating officers had no reasonable articulate suspicion to get a search wa-

because this anonymous tip was uncorroborated. It lack reliability and veracity.

Within hours after speaking to this inmate, Inv. James Smith presented the following affidavit to (Magistrate) Court:

"On December 14th, 2015, a confidential informant told to investigators of Edgefield County Sheriff's office that he has been Residence ... in the past week and" has seen

see Attach Supplemental Incident Report, Affidavit.

The magistrate was not informed that there affidavit was based on an uncorroborated anonymous tip but inferred as a state agent without alleging any source of past reliability. Inv. Smith did not inform the Court, in its affidavit that this confidential informant a 'anonymous' tip by a inmate at Aiken CDC. On the contrary, this inmate has + (2) prior offense in given false testimony to the police.

As an objective standard, there was no other factors to support a finding of reasonable suspicion except the locate. Had counsel investigated these matters, the outcome of Applicant case would have been different;

violating Applicant 4th and 6th Amendment
rights, State v. Philpot 454 S.E.2d 905, 907
State v. Adolph 441 S.E.2d 832 (1994) and
v. Martin 556 S.E.2d 706 (2001).

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Attached page: To extensive for this
- (b) space
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds in (10):
- (a) See Attached page: To extensive for this
- (b) space
- (c) _____
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? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

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) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (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? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

Yes, institution paralegal - Applicant cert read

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. Eric Drylie Esquire
206 East Main Street
Lexington, S.C. 29022
 ii. _____
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. At trial ending with a plea
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

Reversed and vacated sentence and conviction. As an alternative grant a new trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Edgefield)

VERIFICATION

I, David L. Coon #371019, 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.

David L. Coon

SWORN to and subscribed before me this 11th
day of May, 2017.

Michael Camare
(L.S.)
Notary Public

My Commission Expires: July 09, 2026

CLIFFFIELD C.
CLERK OF C.
CHARLES

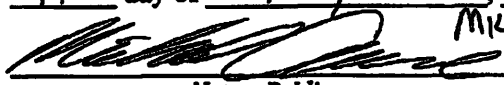
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, David L. Coon #371019, 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.


Applicant

SWORN or affirmed to and subscribed before me this

11th day of May, 2017.
 Michael Canare
Notary Public

My Commission Expires: July 09, 2026

STATE OF SOUTH CAROLINA

County of Edgefield

2017 MAY 12 AM 10:38

David Walter Coon #371019

Applicant

IN THE OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Case No:

2017-CP-10

v.

SUMMONS

State of South Carolina
Respondent

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

McCormick, South Carolina

5/11/17

RECEIVED

MAY 10 2017

Referred to

Answered

PCR / PB

N. D. Coon

David Walter Coon #371

McCormick Inst. 2-2-155

386 Redemption Way

McCormick, S.C.

STATE OF SOUTH CAROLINA
County of Edgefield

CLERK OF THE COURT OF COMMON PLEAS
CHARLES H. REET
ELEVETH JUDICIAL CIRCUIT
2017 MAY 12 AM 10:38

David Walter Coon #371019
Applicant.

Case No: 2017-CP-19-1

v.

Affidavit of Service

State of South Carolina
Respondent

I, David Walter Coon, who being duly sworn that he served the Post-Conviction Relief Application in this action on Charles H. Reet, clerk of Court, P.O. Box 34, Edgefield, S.C. 29824 and upon John McIntosh, Attorney General Office, 1000 Assembly Str. Room 519, Columbia, S.C. 29 by depositing it into the U.S. Mail service this 30 2017,

David Coon

David Walter Coon
MCC.T. Cell #133-
386. Releempt. in L.
McCruck, S.C. 298

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	
	)	
David Walter Coon, #371019,	)	Case No. 2017-CP-19-135
	)	
Applicant,	)	
	)	RETURN AND PARTIAL MOTION
v.	)	TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, in making its return and partial motion to dismiss to the application for post-conviction relief (PCR) filed May 12, 2017, asserts applicant's third ground for relief should be summarily dismissed as it is not a cognizable claim in a PCR action. In support, respondent would show the Court:

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections (SCDC) following guilty pleas to multiple offenses. The Edgefield County grand jury indicted applicant in April 2016 for trafficking methamphetamine, possession with intent to distribute marijuana, three counts of receiving stolen goods, and three counts of possession of an unlawful firearm. (Attachment 1; Indictment Nos. 2016-GS-19-101, -102, -103, -104, -105, -109, -110, -252). The grand jury indicted applicant on an additional two counts of receiving stolen goods during January 2017 term. (Attachment 1; Indictment Nos. 2017-GS-19-072, -073).

On January 12, 2017, applicant appeared before the Honorable John C. Hayes, III, to plead guilty.¹ Erik Drylie, Esquire, represented applicant. Judge Hayes sentenced applicant

¹ A transcript of the plea hearing has been ordered, but not yet provided by the court

concurrent terms of three years' imprisonment for each of the stolen goods charges, five years for the marijuana charge, ten years for each of the weapons charges, and twenty-five years for the trafficking charge, with credit for time served. (Attachment 1, Attachment 2).

Applicant did not appeal his plea or sentence.

Attachments

Attached and incorporated by reference are the following documents:

1. Edgefield County Clerk of Court Records
2. SCDC Records
3. PCR Application

PCR Action

Applicant filed a *pro se* PCR action on May 12, 2017 with the Edgefield County Clerk of Court alleging the following claims of error:

Ineffective assistance of plea counsel:

1. Counsel "failed to evaluate the balanced assessment of a confidential informant because of the error in the affidavit that pertains to probable cause. Applicant's outcome would have been different"
2. Counsel was ineffective in failing to investigate and challenge "the respondent's inmate confidential informant prior to going to trial; Applicant's outcome would have been different"

Prosecutorial misconduct:

1. "Nol pros/initialing vindictive prosecution"

Attached to the application is a memorandum in support in which applicant argues:

information given by the confidential informant:

[T]here was no prior surveillance or surveillance done of [the residence off Murrah Road]. The police did not observe or

Respondent intends to incorporate the transcript once it becomes available, and before this matter proceeds to an evidentiary hearing. *See* S.C. Code Ann. § 17-27-70(a) ("If the application is accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."). Respondent reserves the right to amend the return upon receipt of the transcript or other relevant records.

corroborate the predictive information that illegal conduct was afoot at the residen[ce]. The investigating officers had no reasonable articulate suspicion to get a search warrant because this anonymous tip was uncorroborated. It lack[ed] reliability and veracity.

Applicant further alleges the magistrate was not informed the affidavit for the search warrant was based on "an uncorroborated anonymous tip" or that the confidential informant was an inmate at the Aiken County Detention Center. Applicant also asserts the inmate informant has two previous charges of giving "false testimony" to police. Applicant argues, had plea counsel investigated these matters, the outcome of his case would have been different.

Standard for Relief

To establish a claim of ineffective assistance of plea counsel, a PCR applicant must show (1) counsel's performance was deficient, and (2) the deficiency prejudiced the applicant. *Stalk v. State*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 593 (2009) (citing *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (holding the two-part test in *Strickland v. Washington*, 466 U.S. 668 (1984) applies to guilty plea challenges based on ineffective assistance of counsel)). An applicant who pled guilty on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing counsel's representation fell below an objective standard of reasonableness and there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty but would have insisted on going to trial. *Wolfe v. State*, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997) (citing *Hill*, 474 U.S. at 56-57).

At all times during the PCR action, the applicant maintains the burden of establishing that he is entitled to relief. Rule 71.1(e), SCRPC; *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 886 (2007). Moreover, there is "a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case."

Morris v. State, 371 S.C. 278, 282, 639 S.E.2d 53, 55 (2006); *see also Moorehead v. State*, 327 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) ("Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.").

Claims of Ineffective Assistance of Counsel are Without Merit

Respondent submits applicant's allegations of ineffective assistance of plea counsel are without merit, and applicant cannot satisfy either prong of *Strickland*. First, plea counsel could not be deficient for failing to challenge the search warrant where the record shows there were sufficient facts in the affidavit, supplemented with sworn testimony by Investigator James Smith (Smith), to establish probable cause to issue the warrant.² (Attachment 1); *see also State v. Viard*, 276 S.C. 147, 149, 276 S.E.2d 531, 532 (1981) (holding the affidavit supporting a search warrant must contain sufficient underlying facts and information upon which the magistrate can make a determination of probable cause). The home, types of drugs, weapons, and other items investigators expected to find, were described with extreme detail in the affidavit. (Attachment 1). The informant also provided a drawing and directions which sufficiently met the requirements of knowledge of a deputy who previously responded to a call at the home to give Smith reason to believe the informant had been inside. (Attachment 1). Regardless, by pleading guilty, applicant specifically waived his right to contest the search warrant and any other evidence the State may

² Some of the facts applicant cites to in the attachment to his application came from a second confidential informant who came forward after the search warrant was issued on December 1, 2015. On December 17, 2015, an informant at the Edgefield County Detention Center spoke to the investigators and gave many of the same details as the first informant; however, he added information about the number of people who stopped by the home. (Attachment 1). Specifically, the second informant stated there was a lot of traffic going to the home "24-7" which did not include deliveries, there was only "one way in and one way out" of the property, and the "traffic only slows down in the morning" between eight o'clock and mid-morning. (Attachment 1).

have presented against him at trial. *See McMann v. Richardson*, 397 U.S. 759, 766 (1970) (holding the plea is also a waiver of trial and a waiver of the right to contest the admissibility of any evidence the State might have offered against the defendant).

Second, plea counsel was not deficient for failing to investigate the first confidential informant. Applicant's bare assertion that the informant had two prior charges of providing "false testimony" to the police is insufficient to warrant relief as applicant fails to provide proof of the charges. *See* S.C. Code Ann. § 17-27-40 ("Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct."); *see also Strickland*, 40 U.S. 689 (holding courts must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance).

Finally, respondent submits applicant cannot demonstrate prejudice sufficient to warrant relief on either claim of ineffective assistance of counsel where he simply states, "Had counsel investigated these matters, the outcome of Applicant's case would have been different." *See Moorehead*, 329 S.C. at 334, 496 S.E.2d at 417 (finding no prejudice where claims of failure to investigate are supported only by mere speculation as to the result). Applicant himself admits in his application that the State dropped four charges in exchange for his guilty plea, demonstrating he benefited from his decision to plead rather than go to trial. *See Parke v. Raley*, 506 U.S. 29 (1992) (holding key to the analysis of the nature of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant").

Respondent submits applicant cannot satisfy either prong of *Strickland*. However, the claims of ineffective assistance of plea counsel likely raise questions of fact the record cannot

conclusively refute. *Sharper v. State*, 279 S.C. 264, 266, 305 S.E.2d 247, 249

Therefore, respondent requests an evidentiary hearing to fully resolve the issues.

Summary Dismissal Warranted on Prosecutorial Misconduct Claim

Respondent submits the Court can dismiss applicant's third ground for relief based on the record before it. *See* S.C. Code Ann. § 17-27-70(b) (providing summary dismissal is appropriate if the court is satisfied, on the basis of the application, the return, and the record, the applicant is not entitled to relief and no purpose would be served by further proceedings). When considering a motion for summary judgment made by the State, the court must view the facts in the light most favorable to the applicant. *Wilson v. State*, 348 S.C. 215, 217, 559 S.E.2d 581, 582 (2002); *Al-Shabazz v. State*, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (2000). Moreover, the court shall take account of substance of the application, rather than its form. S.C Code Ann. § 17-27-70(b). The record before the Court by way of this return shows applicant is not entitled to the claim in ground three.

In applicant's third ground, he alleges "Nol pros/initialing vindictive prosecution." Such claims of prosecutorial misconduct are proper for direct appeal and are not cognizable in a PCR action. *See* S.C. Code Ann. § 17-27-20(b) ("[PCR] is not a substitute for nor does it affect the remedy incident to the proceedings in the trial court, or of direct review of the sentence on conviction."); *Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) ("[T]he post-conviction relief procedure is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.").

Further, applicant has made no showing of vindictive prosecution because he has not presented any evidence to demonstrate the decision to prosecute him was based on any animus toward him as required. *See United States v. Wilson*, 262 F.3d 305, 316 (4th Cir. 2001).

to demonstrate actual vindictiveness, a defendant must show the government harbored vindictive animus and the superseding indictment was brought solely to punish him) (citation omitted). *State v. Langford*, 400 S.C. 421, 435 n.6, 735 S.E.2d 471, 479 n.6 (2012) (noting a solicitor "has discretion in choosing how to proceed with a case, including whether to prosecute in the trial place and whether she takes it to trial or offers a plea bargain). Applicant cannot object to show animus, especially here where the State dropped four charges in exchange for a plea.

Accordingly, the Court should summarily dismiss this claim because it is not cognizable in a PCR action and should be dismissed as a matter of law.

Conclusion

WHEREFORE, having made its return, respondent requests the Court hold an evidentiary hearing on the two claims of ineffective assistance of counsel. Respondent respectfully moves for summary dismissal of applicant's third ground pursuant to S.C. Code Ann. § 17-27-70(b) on the basis that the allegation should be dismissed as a matter of law.

Each and every allegation contained within the application not previously explained, admitted, qualified, or explained is hereby denied.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

SHERRIE BUTTERBAUGH

Assistant Attorney General
S.C. Bar No. 101477

P.O. Box 11549
Columbia, SC 29211
(803) 734-6305

BY: 
SHERRIE BUTTERBAUGH

ATTORNEYS FOR RESPONDENT

July 13, 2017.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF EDGEFIELD	)	
	)	2017-CP-19-135
DAVID COON, #371019,	)	
Applicant,	)	
	)	AMENDED APPLICATION FOR
v.	)	POST-CONVICTION RELIEF
	)	
STATE OF SOUTH CAROLINA	)	
Respondent.	)	

1. Place of Detention: Lee Correctional Institution.
2. Name and location of Court which imposed sentence: Edgefield County Court of General Sessions, Edgefield County Courthouse, Edgefield, South Carolina.
3. Name(s) of co-defendant(s): Timothy Wheeler, Heather Hall.
4. The indictment number or numbers upon which and the offense or offenses for which sentence was imposed:
 - a. 2016-GS-19-110 Trafficking in Methamphetamine 400 grams or more – 25 years;
 - b. 2016-GS-19-101 Receiving Stolen Goods over \$2,000 – 3 years;
 - c. 2016-GS-19-102 Possession of an Unlawful Firearm – 10 years;
 - d. 2016-GS-19-103 Possession of an Unlawful Firearm – 10 years;
 - e. 2016-GS-19-104 Possession of an Unlawful Firearm – 10 years;
 - f. 2016-GS-19-105 Receiving Stolen Goods over \$2,000 – 3 years;
 - g. 2016-GS-19-109 PWID Marijuana – 5 years;
 - h. 2016-GS-19-252 Receiving Stolen Goods \$2,000 or less – 3 years;
 - i. 2017-GS-19-72 Receiving Stolen Goods over \$2,000 – 3 years;
 - j. 2017-GS-19-73 Receiving Stolen Goods over \$2,000 – 3 years.
5. The date upon which sentence was imposed and the terms of the sentence:
 - a. Plea and sentencing January 12, 2017. See above section (4) for sentences. All sentences ordered to be run concurrently.
6. A finding of guilty was made after a plea of guilty.
7. Did you appeal the judgment of conviction or the imposition of sentence? Yes.
8. If you answered "yes" to (6), list
 - a. The name of each Court to which you appealed:
 - i. Court of Appeals.
 - b. The result in each such Court to which you appealed:
 - i. Dismissal.
 - c. The date of each such result:
 - i. December 1, 2017.

- d. If known, the citations of any written opinion or orders entered pursuant to such results:

i. Order in Appellate Case No. 2017-001538.

9. If you answered "no" to (7), state your reasons for not so appealing: N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- a. Ineffective assistance of trial counsel – counsel failed to communicate plea offers to the Applicant.
- b. Ineffective assistance of trial counsel – counsel was ineffective for improperly coerced the Applicant to enter an involuntary guilty plea.
- c. Ineffective assistance of trial counsel – counsel was ineffective for failing to sufficiently explain to the Applicant that a guilty plea would constitute a waiver of the legal issues raised and argued in the jury trial.
- d. Ineffective assistance of trial counsel – counsel was ineffective for failing to object. The Court sentenced the Applicant to a three year sentence on indictment 2016-GS-15-252 for the charge of Receiving Stolen Goods less than \$2,000, an offense which carries a maximum penalty of 30 days in jail pursuant to South Carolina Code Section 16-13-180.

11. State concisely and in the same order the facts which support each of the grounds set out in (10).

- a. As described above.
- b. As described above.
- c. As described above.
- d. As described above.

12. Prior to this application have you filed with respect to this conviction:

- a. Any petition in a State Court under South Carolina Law? No.
- b. Any petitions in State or Federal Courts for habeas corpus or post-conviction relief? No.
- c. Any petitions in the United States Supreme Court for certiorari other than petition, if any, already specified in # 7? No.
- d. Any other petitions, motions or applications in this or any other Court? No.

13. If you answered "yes" to any part of (12), list with respect to each petition, application:

- a. The specific nature thereof: n/a.
- b. The name and location of the Court in which each was filed: n/a.
- c. The disposition thereof: n/a.
- d. The date of each such disposition: n/a.
- e. If known, citations of any written opinions or orders entered pursuant to each such disposition: n/a.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No.

15. If you answered "yes" to (14) identify:

- a. Which grounds have been presented: n/a.
- b. The proceedings in which each ground was raised: n/a.

16. If any ground set forth in (9) 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: All issues in Section (9) are being presented for the first time.

17. Were you previously represented by an attorney at any time during the course of:

- a. Your arraignment and plea? Yes.
- b. Your trial, if any? Yes.
- c. Your sentencing? Yes.
- d. Your appeal, if any, from the judgment of conviction or imposition of sentence? Yes.
- 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. Erik J. Drville, Children's Law Center, 1600 Hampton Street, Columbia, South Carolina 29208.
- b. The proceedings at which each such attorney represented you:
 - i. Trial, plea, sentencing and appeal.

19. State clearly the relief you seek in filing this application: Reverse convictions and remand for new trial.

20. Are you now under sentence from any other court that you have challenged? No

Respectfully submitted,


 Kristy Goldberg
 Attorney for Plaintiff

Law Office of Kristy Goldberg, LLC.
 1720 Main Street, Suite 303
 Columbia, SC 29201
 Phone (803) 667-6633
 kristy@kristygoldberglaw.com

Columbia, South Carolina

This 16 th day of October, 2018

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

DAVID COON, #371019,
Applicant,

v.

STATE OF SOUTH CAROLINA
Respondent.

IN THE COURT OF COMMON PLEAS

2017-CP-19-135

CERTIFICATE OF SERVICE

I certify that on this date I served the Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this Notice to the State Attorney General's Office, by delivering a copy of this motion via U.S. Mail said copy to the Office of the Attorney General, Post Office Box 11549, Columbia South Carolina 29211.


Kristy Goldberg
Attorney for Plaintiff

Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 303
Columbia, SC 29201
Phone (803) 667-6633
kristy@kristygoldberglaw.com

Columbia, South Carolina

This 16th day of October 2018

1 STATE OF SOUTH CAROLINA

2 COURT OF COMMON PLEAS

3 COUNTY OF EDGEFIELD

4 -----x

5 DAVID WALTER COON,)

6 Applicant,)

7)
8 vs.)

9 STATE OF SOUTH CAROLINA,)

10 -----x

Transcript of Record
2017-CP-19-00135

11 November 7, 2018
12 Lexington, South Carolina

13 B E F O R E:

14 The Honorable Walton J. McLeod, IV, Judge.
15

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

17 Kristy Goldberg, Esq.
18 Attorney for the Applicant

19 Kelly Oppenheimer, Esq.
20 Attorney for the State
21
22
23

24 Court Reporter: Bethanie Creppon

25 Transcribed by: Bobbi Fisher, RPR

I N D E X

WITNESS	PAGE
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E X H I B I T S

(Exhibits on file at the clerk's office)

EXHIBIT	ID	RCD
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P R O C E E D I N G S

MS. OPPENHEIMER: May it please the Court, Your Honor.

THE COURT: Yes, ma'am.

MS. OPPENHEIMER: This is David Walter Coon versus the State of South Carolina, Docket No. 2017-CP-19-135. During its April 2016 term, the Edgefield County grand jury indicted Applicant for trafficking methamphetamine, possession with intent to distribute marijuana, three counts of receiving stolen goods, and three counts of possession of an unlawful firearm.

Thereafter, during its January 2017 term, the grand jury indicted Applicant for two additional counts of receiving stolen goods. Erik J. Drylie represented him on these charges.

On January 10th, 2017, Applicant proceeded to a jury trial before the Honorable John C. Hayes, III. On the third day of trial and after the State had rested, Applicant then entered a guilty plea to all charges. Judge Hayes sentenced him to a term of imprisonment of 25 years for trafficking methamphetamine, five years for PWID marijuana, three years for each count of receiving stolen goods, and ten years for each count of possession of an unlawful firearm.

On March 20th, 2017, Applicant filed a pro se notice of appeal by written order dated December 1st, 2017. The Court of Appeals dismissed Applicant's appeal for failing to timely

1 serve the notice of appeal, as required by Rule 203(b)(2) of
2 the appellate court rules. The remittitur was issued on
3 December 20th, 2019.

4 On May 12th, 2017, Applicant filed this application for
5 post-conviction relief, alleging ineffective assistance of
6 counsel. Respondent made its return and partial motion to
7 dismiss on July 13th, 2017. Thereafter, through his counsel,
8 Applicant filed an amended application raising additional
9 grounds of ineffective assistance of counsel to include:

10 Counsel failed to communicate plea offers to the
11 applicant;

12 Counsel was ineffective for improperly coercing the
13 applicant into an involuntary guilty plea;

14 Counsel was ineffective for failing to sufficiently
15 explain to the applicant that a guilty plea would constitute a
16 waiver of the legal issues raised and argued in the jury
17 trial;

18 Counsel was ineffective for failing to object when the
19 Court sentenced the applicant to a three-year sentence on
20 Indictment No. 2016-GS-19-252 for the charge of receiving
21 stolen goods less than \$2,000, an offense which carries a
22 maximum penalty of 30 days in jail pursuant to South Carolina
23 Code Section 16-13-180.

24 Applicant is present today and is represented by Kristy
25 Goldberg. And before I turn it over to Ms. Goldberg, the

1 State would consent to relief with respect to Indictment No.
2 2016-GS-19-252. That is an indictment for receiving stolen
3 goods less than \$2,000. Based on our review of the section
4 that Ms. Goldberg cited in her amendment and based on a review
5 of the sentencing sheet, it does appear that Mr. Coon was
6 sentenced to three years, and that would be a sentence that is
7 not statutorily permitted, so we would consent to relief on
8 that indictment only.

9 THE COURT: The consent to relief, that would be changing
10 the sentence to 30 days to run concurrent with everything
11 else?

12 MS. OPPENHEIMER: It would be for a new trial or plea on
13 that sentence, Your Honor.

14 THE COURT: Okay.

15 MS. OPPENHEIMER: Or on that indictment, Your Honor.

16 THE COURT: Okay. Ms. Goldberg?

17 MS. GOLDBERG: Thank you, Your Honor. May it please the
18 Court. As the State referenced, I did file an amended
19 application that's clocked on October 18th of 2018. I believe
20 I emailed it to your chambers in response to the State's
21 email. Does Your Honor have that amended application?

22 THE COURT: I do have the amended application before me
23 now, with a cover letter dated October 16th, 2018.

24 MS. GOLDBERG: That would be it.

25 The allegations that we are going forward on are on that

1 page 2, under Section 10, and as stated, the State has agreed
2 to remand on that issue, D, regarding the one indictment, so
3 we're only proceeding and presenting testimony on A through C.

4 So, at this time, I will call Mr. Coon to the stand.

5 THE COURT: Has Mr. Coon been apprised of the risk he has
6 by -- depending on what type of relief he gets from a PCR,
7 that he may be exposed to a different sentence?

8 MS. GOLDBERG: Your Honor, Mr. Coon is aware that, if his
9 cases were to be overturned, it would be remanded for a new
10 trial and all of the trial rights and options and consequences
11 and risks would exist. He is doing a 25-year mandatory
12 minimum sentence at this time anyway.

13 THE COURT: So he'd be sentenced to the mandatory
14 minimum.

15 MS. GOLDBERG: Yes.

16 THE COURT: All right. Thank you.

17 DAVID WALTER COON,

18 being first duly sworn, testified as follows:

19 THE APPLICANT: I do.

20 DIRECT EXAMINATION

21 BY MS. GOLDBERG:

22 Q All right, sir. State your name for the record.

23 A David Coon.

24 Q How do you spell your last name?

25 A C-o-o-n.

1 Q Mr. Coon, where are you currently housed?

2 A In Lee County Correctional Institution.

3 Q And what sentence are you serving?

4 A Twenty-five years.

5 Q You have more than one conviction that you're serving
6 sentences on; correct?

7 A Yeah.

8 Q Are all of those sentences running concurrently?

9 A Yeah.

10 Q The greatest of those would be the 25-year sentence?

11 A Yeah.

12 Q How long have you now been incarcerated?

13 A Since January -- or December 23rd of '15.

14 Q That's when you were originally arrested?

15 A Uh-huh.

16 Q And then when was your trial?

17 A January something. I can't remember the date.

18 Q 2017?

19 A Yeah.

20 Q During that approximately a year and a month that your
21 charges were pending, were you in jail the entire time?

22 A Uh-huh.

23 Q Now, prior to this arrest and this trial, had you ever
24 been in trouble before?

25 A No, ma'am.

1 Q What type of things had you been in -- let me put it this
2 way: Had you ever been in SCDC before?

3 A No, never.

4 Q Had you ever been on probation before?

5 A Never.

6 Q Had you ever been arrested before?

7 A Just speeding ticket and assault and battery.

8 Q Were all of your prior arrests things handled in
9 magistrate's court?

10 A Yeah.

11 Q Did you ever have an attorney for any of those?

12 A No. No, ma'am.

13 Q Did you ever file an appeal for any of those?

14 A Huh-uh.

15 Q Did you have any experience with how appeals work?

16 A No, ma'am.

17 Q How far did you go in school?

18 A 7th grade.

19 Q Are you currently able to read and write?

20 A Very little.

21 Q Have you always been able to do that through your
22 adulthood or is that recently that you've learned?

23 A I've always -- I've learned it over the years.

24 Q Okay. Do you have a history of mental health issues?

25 A Yes, ma'am.

1 Q And what have you been diagnosed with?

2 A Bipolar, paranoia schizophrenic. I hear voices.

3 Q On the charges that you're now serving a sentence on, who
4 was your attorney?

5 A Erik Drylie.

6 Q Was he appointed or retained?

7 A Appointed.

8 Q Was he the only attorney you ever had on these charges?

9 A Yes.

10 Q Was he the only attorney you've ever had, period?

11 A Yes.

12 Q Now, after your arrest in December of 2015, do you recall
13 when you first heard from him or met with him?

14 A Well, yeah. They told me they'd give me a lawyer. I
15 spoke with him the first time. He didn't really say too much
16 and then told me he'd be back in touch with me. Every time we
17 went for court, for the -- to be -- bond, that's when he'd
18 come.

19 Q You had a couple of bond hearings?

20 A Mm-hmm. And I seen him maybe three times.

21 Q At bond hearings?

22 A Mm-hmm.

23 Q Would he come to the jail sometimes, too, to meet with
24 you?

25 A Yeah.

1 Q Would he -- when he met with you, would he discuss the
2 case with you, the facts of the case and what the evidence
3 was?

4 A Yeah. He said it's a lot of drugs, and you know, it's a
5 lot of time.

6 Q While he would come and meet with you, did he ever relay
7 any plea offers to you?

8 A Not to my knowledge. It was 25 years or 30. You know
9 what I'm saying?

10 Q Never told you that there was a plea offer for anything
11 less?

12 A Not that I recall.

13 Q Did you want a plea offer?

14 A Well, it depended on what it was.

15 Q What would you have -- what did you want?

16 A Well, considering my first time ever in any trouble, you
17 know, in my life, never been in no trouble, I figured might
18 get ten years or something like that.

19 Q You thought a ten-year plea offer might have been
20 reasonable?

21 A Yeah.

22 Q If he had extended a ten-year plea offer to you from the
23 State, would you have accepted that?

24 A I might have.

25 Q Even if it was maybe higher, 15 years, would you have

1 accepted that?

2 A Yeah. That's a lot better than 25 at my age.

3 Q Now, you had one major concern with your case; correct?

4 A Uh-huh.

5 Q What was that?

6 A That was the search warrant.

7 Q What was your concern with that?

8 A The guy that they got the evidence from to get the search
9 warrant, he'd been charged with two counts of giving false
10 information to the police officer and been charged before. So
11 how can they take his word if they didn't -- you know, if they
12 didn't have his word, they wouldn'ta had me. You know? How
13 can they do that? That's like me, I can't go on a jury.

14 Q Now, did you discuss that concern with your lawyer?

15 A Uh-huh.

16 Q Did he present that argument in court?

17 A He mentioned it.

18 Q At the beginning of trial?

19 A Yeah.

20 Q Go ahead and finish. What were you going to say?

21 A But he just mentioned it, and that was about it. You
22 know what I'm saying? The judge ruled or whatever they do. I
23 don't know.

24 Q The judge ruled on it?

25 A Yeah. And...

1 Q And the judge, obviously, let the trial continue?

2 A Right.

3 Q He didn't -- he didn't suppress what came from the search
4 warrant?

5 A Right.

6 Q Is there anything specific that you think your lawyer
7 should have done differently in the way he did argued that, or
8 did he leave out any information, or did he do the best he
9 could to argue that?

10 A Well, like there again, you know, I'm law illiterate.
11 You know what I'm saying? So I'm taking his word for what
12 it's worth. You know what I'm saying? So I feel like -- I
13 personally feel like it could have been fought a little bit
14 better.

15 Q But is there anything specific that you can say should
16 have been done differently, other than just a belief that it
17 could have been done better?

18 A No.

19 Q Okay. Now, you heard the Attorney General say that,
20 after about two and a half to three days of trial, the State
21 rested, and then you entered a guilty plea; right?

22 A Yes, ma'am.

23 Q Now, at the time of your guilty plea, was the State
24 offering a plea offer for you to do that?

25 A No. What was told to me was if my daughter -- see, my

1 daughter was involved with it too.

2 Q She was arrested also?

3 A Yes, arrested also. And they was telling me that she's
4 going to get 25 years.

5 Q Who told you your daughter would get 25 years?

6 A Erik. Mr. Drylie and Roosevelt Young. Said she's
7 looking at 25 years, somebody's going to take these charges.
8 So as the father that I was, I stood up and said I'll take all
9 the charges.

10 Q Is this something that Mr. Drylie talked to you about
11 before the trial started or on the same day that you pled?

12 A This was going on the whole time. I would see him, and
13 if I seen Roosevelt, well, you know it's a lot of time, a lot
14 dope. You know, your daughter's looking at time, you know.

15 Q Okay. Regarding you personally, when you pled guilty,
16 was the State recommending any particular sentence? Were you
17 offered anything? Were you guaranteed anything?

18 A No.

19 Q So after the State rested, why did you plead guilty?

20 A Because I was caught up, you know, in the mix. I didn't
21 know whether to plead guilty, let the Court -- you know, the
22 jury to decide the case, but I didn't -- I wanted to plead
23 guilty because I didn't want to see my daughter get 25 years.

24 Q You thought -- am I correct that you're saying that you
25 believed, if you didn't plead guilty, your daughter would get

1 25 years?

2 A Uh-huh.

3 Q Why didn't you plead at the beginning of trial versus
4 after the State rested?

5 A Because, like I say, I was going with Mr. Drylie, on his,
6 you know, "leave it up to me." You know, I really didn't know
7 which way to go, you know.

8 Q Okay. Did you want to fight the search warrant issue?

9 A Yeah. Oh, yeah.

10 Q Okay. Do you believe there was anything inappropriate
11 that was said or took place regarding getting you to plead
12 guilty?

13 A Well, just like I say, them telling me, you know, what
14 her chances of her getting 25 too.

15 Q If you don't plead.

16 A If I don't plead. So, you know, that's why I waited
17 until the last minute. When the State rested the case, that's
18 when I said, Well, just, you know -- because if they're going
19 to give me 25, why give her 25?

20 Q Okay. What ultimately happened with your daughter's
21 case?

22 A She got five years and was charged with the same things
23 we was charged with. And I get a mandatory 25.

24 Q Right. When you entered a guilty plea, did your lawyer
25 explain to you that, once you enter that guilty plea, you

1 wouldn't be able to continue fighting the search warrant issue
2 in an appellate court?

3 A No.

4 Q He didn't explain that to you?

5 A No.

6 Q Did you -- if you had known that, would you have still
7 pled guilty?

8 A No.

9 Q You would have continued on and gotten the jury verdict?

10 A Uh-huh.

11 Q And then would you have tried to fight the search warrant
12 on appeal?

13 A Oh, yeah. That search warrant, that's the whole thing,
14 the whole key.

15 Q After your plea on January 12th, did you and your
16 attorney talk about filing an appeal or your rights to an
17 appeal?

18 A Uh-uh.

19 Q And during your guilty plea, the transcript reflects that
20 the judge never mentioned your right to appeal at all. Do you
21 agree with that?

22 A Right.

23 Q At that time, at the time of the plea, at the time of
24 your trial, did you know what an appeal was?

25 A No, ma'am. Like I say, I'm law illiterate.

1 Q After your guilty plea, did you know that you still had a
2 right to appeal?

3 A Later on.

4 Q How did you find that out?

5 A By people in the jail, you know, when I got to prison.

6 Q And is that when you filed the pro se notice of appeal?

7 A Uh-huh. And then I didn't know who to get all the
8 paperwork and this, that, and the other to. That's why it got
9 thrown out because I couldn't get it there in time.

10 Q Did anyone -- your attorney or the Court -- ever tell you
11 when an appeal would have needed to be filed by?

12 A Uh-uh.

13 Q What were you trying to do by filing that notice of
14 appeal?

15 A Trying to get some kind of help so, you know, something.

16 Q Any particular legal issues you were going to try and
17 challenge?

18 A Yeah, search warrant.

19 Q All right.

20 MS. GOLDBERG: And, Your Honor, for the record, I have
21 printed out all of the records from Mr. Coon's appeal, just
22 the document where he -- the pro se document where he filed
23 notice of appeal and the court records where it was ultimately
24 dismissed, and I've made them Plaintiff's Exhibit No. 1 for
25 the record, and I'll hand that up to your Court. I'm not

1 going to go through all them.

2 THE COURT: This is the court exhibit?

3 MS. GOLDBERG: Yes.

4 MS. OPPENHEIMER: State has no objection, Your Honor.

5 THE COURT: Do we have an extra copy?

6 MS. GOLDBERG: That's the Court's -- I do have an extra
7 copy.

8 THE COURT: I'd rather just leave this with the court
9 reporter.

10 (Plaintiff's Exhibit 1 was marked for identification and
11 received into evidence.)

12 BY MS. GOLDBERG:

13 Q All right, Mr. Coon. Is there anything else you needed
14 to add about the allegations that we filed in this case?

15 A No, ma'am.

16 Q Okay. All right. Thank you. Please answer
17 Ms. Oppenheimer's questions.

18 THE COURT: Cross-examination.

19 MS. OPPENHEIMER: May it please the Court, Your Honor.

20 THE COURT: Yes, ma'am.

21 CROSS-EXAMINATION

22 BY MS. OPPENHEIMER:

23 Q Did you ever give Mr. Drylie any leads or witnesses to
24 investigate?

25 A Yeah.

1 Q Okay.

2 A You're talking about --

3 Q What did you tell him to investigate?

4 A What are you talking about? Like people he can talk to?

5 Q Yeah.

6 A I told him he could talk to a girlfriend of mine.

7 Q And do you recall him raising in his motion to suppress
8 that you weren't actually at the house when the search warrant
9 was served, that you were with that girlfriend; correct?

10 A Uh-huh.

11 Q So he did present that to the Court; correct?

12 A Yes.

13 Q And he did have a lengthy hearing on the motion to
14 suppress the search warrant; correct?

15 A I guess you could call it lengthy.

16 Q Well, the State offered the investigator to testify and
17 he cross-examined that witness; correct?

18 A The who now?

19 Q Do you recall the State, in that motions hearing, calling
20 the investigator?

21 A No.

22 MS. OPPENHEIMER: Your Honor, the motion hearing begins
23 on page 32 of the transcript, and it concludes approximately
24 page 87, for your reference.

25 THE COURT: Thank you.

- 1 Q So you do remember that motion to suppress a little bit;
2 right?
- 3 A Yes.
- 4 Q And your attorney did raise the issue of the CI; correct?
- 5 A Right.
- 6 Q And you do remember him telling the Court that he had
7 these two prior convictions of lying to the police; correct?
- 8 A Right.
- 9 Q So he did present that to the Court; correct?
- 10 A He did.
- 11 Q And the Court just ruled against y'all?
- 12 A Yeah. I guess, yeah, that's what happened.
- 13 Q And you first proceeded to trial; right?
- 14 A Hmm?
- 15 Q You first proceeded to trial?
- 16 A I don't understand what you're saying.
- 17 Q You first decided that you wanted a jury trial; correct?
- 18 A Right.
- 19 Q And after the State had presented all of its witnesses
20 and all of its evidence, you decided to plead guilty; correct?
- 21 A Yes, ma'am.
- 22 Q And you testified earlier that you made the decision to
23 plead guilty to save your daughter; correct?
- 24 A Right, off of the words that Drylie and Roosevelt Young
25 told me, that she'd get 25 years.

1 Q And do you recall telling Judge Hayes that you were
2 satisfied with Mr. Drylie?

3 A Yeah, I mean -- yeah, I remember that.

4 Q And you told him twice that you were satisfied; correct?

5 A If he asked me a question, I answered the question.

6 MS. OPPENHEIMER: Your Honor, that's on pages 340 and 348
7 of the transcript, for your reference.

8 Q And do you recall the Court asking you if you agreed with
9 the evidence that the State had presented at trial?

10 A Yeah.

11 Q And you said that you agreed; correct?

12 A Yeah, you're right.

13 Q And you told Judge Hayes that you were pleading guilty
14 because you are, in fact, guilty; correct?

15 A Yeah.

16 Q And you told him that no one had promised you anything,
17 held out any hope for reward, threatened you, or coerced you;
18 correct?

19 A Yeah.

20 Q And you told the Court that you were pleading freely and
21 voluntarily; correct?

22 A Yes.

23 Q And you also decided to plead guilty after you had been
24 advised of your right to testify; correct?

25 A Yeah.

1 Q And you decided that you didn't want to present your side
2 of the story; correct?

3 A Yeah.

4 Q And, obviously, you were aware of your right to a jury
5 trial; correct?

6 A Yeah, well, either a jury trial --

7 Q And Judge Hayes also reiterated your rights at that trial
8 with you, correct, when you decided to plead guilty?

9 A Mm-hmm.

10 Q And you told him that you understood each of those
11 rights?

12 A Right, yeah.

13 Q And you understood that you were waiving those rights by
14 pleading guilty; correct?

15 A Yeah.

16 MS. OPPENHEIMER: I beg the Court's indulgence.

17 Your Honor, may I approach the witness?

18 THE COURT: Certainly.

19 Q Mr. Coon, do you recognize this document that I'm handing
20 you?

21 A Yeah. I mean, I recall that. I had it notarized.

22 Q Is that a letter that you wrote to the Court?

23 A Yeah. Yep. It's me accepting all full responsibility of
24 all the guns, everything, weapons, drugs, blasting caps, and
25 everything.

1 Q And you wrote that letter?

2 A Yeah, I wrote it, yeah.

3 Q And you gave it to Judge Hayes during your plea --

4 A Yes, I did.

5 Q -- correct?

6 A Mm-hmm.

7 MS. OPPENHEIMER: Your Honor, at this time, the State
8 would move to admit this letter as Defendant's Exhibit No. 1.

9 MS. GOLDBERG: No objection.

10 THE COURT: So admitted.

11 (Defendant's Exhibit No. 1 was marked for identification
12 and received into evidence.)

13 THE COURT: Do you have another copy of it, by chance?

14 MS. OPPENHEIMER: That was provided to me by Ms. Goldberg
15 this morning. I don't know if she --

16 THE COURT: I can get a copy.

17 MS. OPPENHEIMER: Thank you, Your Honor.

18 Beg the Court's indulgence one moment.

19 No further questions, Your Honor.

20 THE COURT: Redirect?

21 MS. GOLDBERG: No, Your Honor.

22 THE COURT: I have a quick question.

23 MS. GOLDBERG: Yes, sir.

24 THE COURT: Just in the record, Mr. Coon, as you were
25 pleading, the Court asked you if there was anything else you

1 wanted to say when you were pleading. You said the letters
2 S-F-F-S.

3 THE APPLICANT: Mm-hmm.

4 THE COURT: Can you tell me what that means?

5 THE APPLICANT: Silent forever, forever silent.

6 THE COURT: Okay. Thank you.

7 MS. GOLDBERG: Nothing further from the applicant.

8 MS. OPPENHEIMER: State calls Mr. Drylie.

9 THE COURT: Okay.

10 ERIK DRYLIE,

11 being first duly sworn, testified as follows:

12 THE WITNESS: I do.

13 DIRECT EXAMINATION

14 BY MS. OPPENHEIMER:

15 Q Good morning, Mr. Drylie. Will you please state your
16 name for the record.

17 A Erik, E-r-i-k, Drylie, D-r-y-l-i-e.

18 Q And how long have you been practicing law?

19 A I was sworn in in November of 2011.

20 Q And at the time of Mr. Coon's trial, where were you
21 employed?

22 A The 11th Circuit Public Defender's Office.

23 Q Is it fair to say that a majority of your practice has
24 been criminal law?

25 A Pretty much all of it, until July of this year.

1 Q And were you appointed or retained in this case?

2 A Appointed.

3 Q Do you recall when?

4 A Sometime at the end of December of '15 or January of --
5 the beginning of January 2016.

6 Q Did you file any Brady or Rule 5 motions?

7 A I did.

8 Q And did you review the discovery material with Mr. Coon?

9 A I did.

10 Q What was in those discovery materials?

11 A This case started off as a search warrant where there was
12 a house where Mr. Coon was living with Timothy Wheeler,
13 Heather Hall, and Jennifer Dewitt, and the search warrant was
14 based on a confidential informant as well as a lot of foot
15 traffic and some different other things. They found guns,
16 some stolen goods, as well as a large quantity of
17 methamphetamine at the house. Mr. Coon was not present at the
18 house. He wasn't arrested until a few days later.

19 Q And did you try to suppress the contents of that search
20 warrant prior to trial?

21 A I did.

22 Q And what arguments did you make?

23 A We argued that because the search warrant was based on a
24 CI, that there had to be an indicator of reliability based
25 before they could issue the search warrant. The record

1 indicated that the search warrant application was supplemented
2 with some oral testimony from Investigator Jimmy Smith, and so
3 the Court -- the Court ruled that the search warrant was
4 allowed.

5 Q And do you recall raising the issue that the CI had two
6 prior convictions for lying to law enforcement?

7 A I do.

8 Q And did you have any other problems with the CI or
9 concerns with the CI?

10 A I believe he had pending charges, not in Edgefield County
11 but in Aiken County. And that's what -- he gave them
12 information when he was booked into the Aiken County Detention
13 Center, and they reached over to Edgefield, and Edgefield came
14 and talked to him.

15 Q All right. And did you review this motion to suppress
16 with Mr. Coon prior to trial?

17 A I did.

18 Q And did you explain to him what you would be arguing?

19 A I did.

20 Q Did you do any independent investigation?

21 A I did. We actually hired a private investigator on this
22 case for anyone that David wanted us to talk to. We
23 interviewed his girlfriend. I don't remember her name off the
24 top of my head. She was actually in prison at the time.

25 We went and tried to interview all the people that we

1 could. Now, most of the people involved with this we
2 represented by counsel, and obviously, we couldn't talk to
3 them. Their attorney wouldn't give us permission. And there
4 was kind of a weird fact going on where the same attorney was
5 representing two of them for a while, and so he had reached
6 out to talk to me and asked if David was planning on taking
7 responsibility for everything because that's what they had
8 told him. And I said that's not -- I told him that I couldn't
9 really discuss that, but that was not the indication that I
10 had gotten from David.

11 Q Okay. And let's talk about that a little bit. Mr. Coon
12 initially decided to go to trial; correct?

13 A He did. And for the first eight or nine months that I
14 represented him, he was -- he wanted to go to trial. And he
15 really wanted to get out of the detention center, which is why
16 we had two bond hearings, you know, one fairly early on and
17 one six months later.

18 And the reason the trial went in January of '17 was that
19 Judge Dickson ruled at our October bond hearing that, if the
20 trial was not tried by January of 2017, then Mr. Coon got out
21 on bond.

22 Q All right. And you stated that, for the first eight or
23 nine months that you represented him, Mr. Coon wanted to go to
24 trial. Did his tune change ever?

25 A It did. Before the trial started, he told me he wanted

1 to see everyone that was going to testify against him and then
2 he was going to plead guilty. We had a lot of conversations
3 about how, if he was trying to help his daughter out, he
4 probably needed to do it earlier and also that, at trial,
5 there probably wouldn't be any sort of plea offer extended.

6 And so after -- there was a weird time in this case where
7 there was a question of whether it was going federal or not,
8 and so that's why there wasn't a whole lot of movement on it
9 and no plea offers for a while.

10 After the October bond hearing, when it was said that the
11 case was not going federal, the solicitor did extend a plea
12 offer that I communicated with Mr. Coon. And I want to say it
13 was in December of that year that he extended that plea offer
14 and said he would have him brought up to Lexington to plead if
15 he wanted to take the plea offer.

16 Q Was that in December of 2016?

17 A Yes.

18 Q And what was that plea offer for?

19 A Seventeen years.

20 Q And you communicated that to Mr. Coon?

21 A I did.

22 Q Did he want to take it?

23 A He did not.

24 And then, before we were getting ready for trial, you
25 know, Edgefield being so small, a lot of times, they would

1 bring the -- if I needed to meet with someone, they would
2 actually bring them up to the courthouse, which is where my
3 office was, and we'd meet with them up there.

4 We met with him a whole bunch getting ready for the
5 trial, and he told me at one of our meetings -- and the
6 investigator was there -- that he would plead to 12 years. I
7 communicated that to the assistant solicitor, and he said, No,
8 absolutely not.

9 Q So when Mr. Coon talks about he would have taken a 10- or
10 a 15-year plea offer, those offers never came; correct?

11 A They did not.

12 Q And you attempted to get him a better deal than the 17
13 years offered?

14 A Yes.

15 Q Did you tell Mr. Coon that you were in negotiations with
16 the solicitor?

17 A I did.

18 Q And did he understand that you were trying to get a lower
19 offer?

20 A He did.

21 Q And did you discuss with him the elements of the charges
22 and the State's burden of proof at trial?

23 A I did.

24 Q Did you discuss potential sentences?

25 A I did.

1 Q And did you discuss Mr. Coon's version of the facts?

2 A I did.

3 Q What did he say happened?

4 A Well, his story kind of changed throughout, because in
5 the beginning, he said he didn't know anything about it and he
6 wasn't there. You know, and then once we got closer, he just
7 wanted me to present the best case that I could, and then I
8 informed him that, you know, that I thought one of the things
9 we should argue is that, you know, he wasn't there. That was
10 the best case that he had, you know, if he wanted to go trial.

11 Later on, he said that he wanted to take full
12 responsibility, but he didn't want to do it until after he saw
13 everyone testify against him.

14 Q Was there any particular reason he wanted to see everyone
15 who would testify against him?

16 A I don't know. You know, I think part of it was he wanted
17 to get a preview of the case because his co-defendant was
18 going to trial the next week. Part of it, I think, he just
19 wanted to see who everyone was or what they were going to say.

20 So --

21 Q All right. And did you inform Mr. Coon what the
22 consequences of his plea would be?

23 A I did. And I told him that, by pleading, that, you know,
24 we'd be waiving any appellate issues we had with the search
25 and seizure. I think it's actually in the transcript where I

1 start to say it on the record and then I got cut off. But
2 that it is in there that I informed him that we'd be waiving
3 those appellate issues because we don't have conditional
4 guilty pleas.

5 Q And did he seem to understand your conversations with
6 him?

7 A He did.

8 Q And did he ever tell you he didn't understand anything?

9 A No.

10 Q Did you explain to him his constitutional rights other
11 than the right to a trial by jury?

12 A I did.

13 Q And did you -- did he fully understand that he would not
14 proceed with the trial if he pled guilty?

15 A He did.

16 Q And he understood that he would not be able to present a
17 defense or not be able to testify; correct?

18 A He did.

19 Q And whose decision was it to plead guilty?

20 A It was his.

21 Q Did you ever force him to plead guilty?

22 A No. At that point, it didn't make a whole lot of sense
23 to me.

24 Q Did you ever threaten his daughter in order to get him to
25 plead guilty?

1 **A** No. And at that point, she actually wasn't represented
2 by counsel because the attorney that was representing the two
3 defendants got relieved off of one of them in order to try the
4 other one, and so, you know, I wouldn't have discussed her
5 situation with him.

6 You know, I did discuss with him that, Hey, if, you know
7 -- you know, as a father, if you want to try and help your
8 daughter out, you know, and take responsibility, then we
9 should do it earlier, not later.

10 **Q** And that was based on things that he was communicating to
11 you --

12 **A** Yes.

13 **Q** -- throughout?

14 And just to clarify, who was Mr. Coon's daughter?

15 **A** Heather Hall.

16 **Q** And was she living at the residence with him?

17 **A** She was.

18 MS. OPPENHEIMER: Beg the Court's indulgence.

19 No further questions, Your Honor.

20 MS. GOLDBERG: Thank you, Your Honor. May it please the
21 Court.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. GOLDBERG:

25 **Q** Good morning.

1 **A** Good morning.

2 **Q** Mr. Drylie, you testified that, at some point in
3 December, the State extended a plea offer of 17 years.

4 **A** Correct.

5 **Q** And I think you said that the solicitor offered to bring
6 Mr. Coon over to the courthouse.

7 **A** Well, he offered -- so in December, we didn't have court
8 in Edgefield again until January, and he extended that offer
9 because he wanted to know if he had to get ready for trial or
10 not. So he offered to bring him up to Lexington if he wanted
11 to take it.

12 **Q** To the Lexington Courthouse.

13 **A** Yes.

14 **Q** If he wanted to take it.

15 **A** But many times, I would meet with Mr. Coon up in the
16 Edgefield County Courthouse because my office is there, and
17 the detention center down there doesn't really have an
18 attorney room. You just meet in the magistrate's office. And
19 especially when getting ready for trial, I didn't like to do
20 that. So I had the investigators bring Mr. Coon up to the
21 courthouse so we could meet in one of the attorney rooms up
22 there.

23 **Q** So where were you physically when you informed Mr. Coon
24 of the 17-year plea offer?

25 **A** I believe down at the jail.

1 Q At the Edgefield jail?

2 A At the jail, yes.

3 So I remember when Irvin called me, because I was driving
4 back from McCormick, and so I went and saw him, I believe, the
5 next day to tell him about that.

6 Q And what was Mr. Coon's response?

7 A That he didn't want to take that, that it was too much
8 time.

9 Q Did he say at that meeting what he wanted instead?

10 A He wanted to go to trial. It wasn't until right before
11 trial when he decided that -- when he told me that he had
12 planned to plead guilty at the end of the State's case.

13 Q And when you say "right before trial," that would mean?

14 A Probably a week before or a couple of weeks before.

15 Q The search warrant issue that you argued at trial, did
16 you think you had a good argument?

17 A I thought it was a good argument.

18 Q Is -- was -- did you talk with Mr. Coon specifically
19 about how that argument could not be argued further if you
20 pled guilty?

21 A I did. And I think in the transcript I said -- and
22 Mr. Coon starts to speak as I'm saying "search and seizure."
23 But, you know, I told him that, you know, if you pled guilty,
24 you don't get to argue this issue on appeal.

25 Q Had you planned to put up a defense at all in this case?

1 **A** Not really. If he had wanted to testify -- and we
2 practiced, you know, a couple of questions, like, in case he
3 wanted to testify, but he told me that he didn't want to
4 testify, and he planned to plead guilty once the State rested.

5 **Q** So when he pled guilty, it was at the moment where the
6 next step would have been closing arguments?

7 **A** Yes, or the judge would have asked him one more time if
8 he wanted to testify.

9 **Q** Did you -- what benefit did Mr. Coon receive by entering
10 a guilty plea at that time?

11 **A** None.

12 **Q** Did you explain that to him?

13 **A** Yes.

14 **Q** Did you advise him that it was in his -- did you -- let
15 me figure out how to phrase this.

16 Did you advise him that he would receive any benefit by
17 pleading guilty?

18 **A** No.

19 **Q** Did you advise him that he should plead guilty?

20 **A** I told him I would do what he wanted me to do. You know,
21 and if he wanted me to go through -- because this had been an
22 ongoing conversation throughout the week and the week leading
23 up. If he wanted to go through part of the trial and then
24 plead guilty, that's fine. If he wanted to go through the
25 whole trial, we could do that, too. But, you know, after the

1 State rested, I went back to the holding cell to talk to him,
2 and he stated that he wanted to plead guilty now.

3 Q Did you advise him that it was actually not in his best
4 interest to plead guilty?

5 A Well, yes, because I told him we couldn't continue with
6 the appellate search issue.

7 Q Was Mr. Coon an educated man?

8 A He was not.

9 Q Did you have difficulty communicating with him during
10 your representation?

11 A No. He seemed to understand all of our conversations,
12 and my investigator also met with him several times.

13 His biggest thing was he wanted to get out of jail.

14 Q Did you talk with Mr. Coon about filing an appeal after
15 the plea?

16 A I told him that we had ten days to appeal it, and he
17 never asked me to appeal it. I actually saw him the next week
18 when he showed up to testify at the co-defendant's trial, and
19 he never asked me to appeal it then. And I also continued to
20 represent Mr. Coon after this trial for something that
21 happened during the trial, and so I had seen him a couple of
22 times after that, and never once did he ask me to file an
23 appeal.

24 Q Did the State ever express to you that, if Mr. Coon pled
25 guilty, his daughter would receive a benefit?

1 **A** No. But Irvin did say to me that, you know, he was going
2 after Mr. Coon and Mr. Wheeler more than the girls.

3 **Q** Regardless of what happened?

4 **A** Regardless of what happened. That he was interested in
5 those two that, according to the narcotics officers, he
6 believed that those two were the two that were behind the
7 large amount of methamphetamine and the stolen guns.

8 **Q** Did you tell Mr. Coon that, if had pled guilty at any
9 time, that it would help save his daughter?

10 **A** No. We had conversations about whether he wanted me to
11 pursue that route and see, you know, if there was something
12 that -- that if he pled guilty and took responsibility, if it
13 could benefit his daughter, but he never asked me to inquire
14 of it with the State, and I never told him that, Hey, if you
15 plead guilty, your daughter is going to get X amount of years.

16 **Q** Okay.

17 MS. GOLDBERG: Beg the Court's indulgence.

18 Nothing further.

19 THE COURT: Redirect?

20 MS. OPPENHEIMER: No further questions, Your Honor.

21 THE COURT: You may step down, sir.

22 THE WITNESS: Thank you.

23 MS. OPPENHEIMER: May Mr. Drylie be released from his
24 subpoena?

25 THE COURT: You're free to go, Mr. Drylie.

1 MS. GOLDBERG: No objection.

2 THE COURT: All right. You're free to go, Mr. Drylie.

3 MS. GOLDBERG: If I could have one second, Your Honor.

4 THE COURT: Certainly.

5 MS. GOLDBERG: Your Honor, if I could, based on the
6 testimony of Mr. Drylie, if I could recall Mr. Coon in reply
7 for just two questions.

8 THE COURT: Okay.

9 DAVID WALTER COON,

10 being previously duly sworn, continued to testify as
11 follows:

12 RECALLED DIRECT EXAMINATION

13 BY MS. GOLDBERG:

14 Q All right. Mr. Coon, you are still under oath. Do you
15 understand that?

16 A Yes.

17 Q All right, Mr. Coon. Did Mr. Drylie ever relay a 17-year
18 plea offer to you?

19 A No.

20 Q If he had relayed a 17-year plea offer, would you have
21 accepted that offer?

22 A Yeah, probably so.

23 MS. GOLDBERG: Thank you. No further questions.

24 MS. OPPENHEIMER: Nothing on cross, Your Honor.

25 THE COURT: Mr. Coon, you step down.

1 All right. I'll certainly offer the attorneys to say
2 anything in closing but it's not required.

3 MS. GOLDBERG: Your Honor, I think the testimony is
4 clear.

5 THE COURT: All right.

6 MS. OPPENHEIMER: That's all right with us, Your Honor.

7 THE COURT: I'll have it under advisement. Thank you.

8 MS. GOLDBERG: Thank you, Your Honor.

9 MS. OPPENHEIMER: Thank you.

10 (The above hearing concluded.)
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1 CERTIFICATE OF TRANSCRIBER

2 CASE: David Walter Coon v State (2017-CP-19-00135)

3 DATE OF PROCEEDING: 11/7/2018

4
5 I, Bobbi J. Fisher, do hereby certify that the
6 foregoing transcript is a true and correct record of the
7 recorded proceedings; that said proceedings were transcribed
8 to the best of my ability from the audio recording and
9 supporting information; and that I am neither counsel for,
10 related to, nor employed by any of the parties to this case,
11 and I have no interest, financial or otherwise, in its
12 outcome.

13
14
15 Bobbi Fisher

16 Bobbi J. Fisher, SC Official Court Reporter,

17 NCRA Registered Professional Reporter/Transcriber

18
19
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23
24
25

State of
South Carolina
County of Edgefield

General Sessions
Clerk of Court of
Edgefield County

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MAR 20 2017

SC Court of Appeal

Court of Appeals

re: Motion For A Sentencing
Reconsideration / Appeal

- VS -

DAVID COON

This Syllabus Petitioner states that he was not nor has he been afforded his Constitutional rights and that under Strickland vs. Washington, Cherry vs. State, and Comax vs. State are some of the violations done. He the Syllabus Petitioner states he can't read nor write and was grossly under the influence of Drugs and alcohol when these charges accrued. And because of his illiterate disfunctions and his total lack of education he feels this being his very first charge it should have been lesser included and he might should have been evaluated by mental health and possible screened for an alternative sentencing he asks that he be giving his just day in court. He knows there was a crime but he feels cause of his inability to read and write and lack of all of his Education he should be granted a reduced or even a Alternative sentencing. He thanks this Court for his chance.

Thanks Respectfully,

name: DAVID COON 371019

Date: 3-16-17



DAVID COON 371019
FIR 164

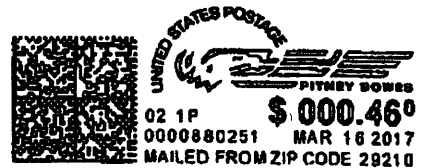
Mailroom
Kirkland Correctional Institution
4344 Broad River Road
Columbia, S.C. 29210

COLLIER
SC 2017
16 MAR 17
PM 11

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MAR 20 2017

SC Court of Appeals



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MAR 16 2017

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MAILROOM

South Carolina Court of Appeals
Jenny Atwood Kitchens clerk
post office box 1629
Columbia SC 29211

29211-162929



r

THE DEPARTMENT OF CORRECTIONS HAS NOT
INSPECTED OR CENSORED THIS ITEM, THEREFORE THE
DEPARTMENT DOES NOT ASSUME RESPONSIBILITY FOR
ITS CONTENTS.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
www.sccourts.org

July 21, 2017

David Coon, 371019
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: The State v. David Coon
Appellate Case No. 2017-001538

Dear Mr. Coon:

This will acknowledge receipt of your documents dated March 16, 2017, in the above entitled matter. According to Rule 203 of the South Carolina Appellate Court Rules, a notice of appeal must include the name of the court from which the appeal is taken; the judge's name; the lower court docket number; the date of the order being appealed; a statement of when the appealing party received the decision from which the appeal is taken; the name of the appealing party; and the names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each. A copy of the order being challenged on appeal, and a certificate of service showing the notice has been timely served on all respondents must accompany the notice of appeal.

Within ten (10) days of the date of this letter, you must provide the Court with the following:

- (1) A notice of appeal containing all information required in Rule 203, SCACR.
- (2) Proof of service naming the documents served and showing you timely served all parties to the appeal.

(3) A copy of the court order being challenged on appeal.

Failure to provide the requested items will result in dismissal of your appeal.

If you intend to proceed with this appeal pro se, the fact that you are not an attorney does not relieve you of the responsibility to perfect your appeal in accordance with the South Carolina Rules of Appellate Procedures.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

July 25, 2017

Dear Clerk of Court

In acknowledgment to a notice letter dated July 21, 2017, that has

advised me to comply to

a Notice of Appeal, ^{under} Rule 203;

I, David Coon, do not do the

mechanics of law, nor ~~am~~ ^{am} I

assisted by attorney. Under

this duress and the ^{lack of} document,

to assist in this (Notice of

Appeal), withdraw such action

in Appellate Case No. 2017-001538

and proceed Post Conviction

Relief. *David Coon*

DAVID COON 371019
 MLI 306 Redemption way
 McCormick SC 29899

RECEIVED

AUG 03 2017

SC Court of Appeals
 SC Court of Appeals Clerk Court of Appeals
 Post Office Box 11629
 Columbia SC 29211



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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www.sccourts.org

August 16, 2017

Mr. Erik Joseph Drylie, Esquire
Public Defender's Office
202 East Main Street
Lexington SC 29072

Re: The State v. David Coon
Appellate Case No. 2017-001538

Dear Counsel:

On March 20, 2017, the Court received a *pro se* notice of appeal from Mr. Coon. According to the public index search you were the most recent counsel for Mr. Coon, and we believe that the notice of appeal that was received may be trying to appeal his conviction and sentence imposed on January 12, 2017. Pursuant to Rule 264(a), SCACR, you are considered counsel of record until a motion to be relieved is granted by this Court, or until the Office of Appellate Defense screens the case.

Within ten (10) days of the date of this letter, you must provide the Court with the following, or this appeal may be dismissed:

- (1) A notice of appeal containing all information required in Rule 203, SCACR.
- (2) Proof of service naming the documents served and showing you timely served all parties to the appeal.
- (3) A copy of the court order being challenged on appeal.

For your convenience we have attached a copy of the notice of appeal filed by Mr. Coon.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: David Coon, 371019
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire
Robert Michael Dudek, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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www.sccourts.org

September 14, 2017

Mr. Erik Joseph Drylie, Esquire
Public Defender's Office
202 East Main Street
Lexington SC 29072

Re: The State v. David Coon
Appellate Case No. 2017-001538

Dear Counsel:

This is the second letter from this Court attempting to cure the following deficiencies. On March 20, 2017, the Court received a *pro se* notice of appeal from Mr. Coon. According to the public index search you were the most recent counsel for Mr. Coon, and we believe that the notice of appeal that was received may be trying to appeal his conviction and sentence imposed on January 12, 2017. Pursuant to Rule 264(a), SCACR, you are considered counsel of record until a motion to be relieved is granted by this Court, or until the Office of Appellate Defense screens the case.

Within ten (10) days of the date of this letter, you must provide the Court with the following:

- (1) A notice of appeal containing all information required in Rule 203, SCACR.
- (2) Proof of service naming the documents served and showing you timely served all parties to the appeal.
- (3) A copy of the court order being challenged on appeal.

Failure to provide the requested items will result in dismissal of the appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: David Coon, 371019
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire
Robert Michael Dudek, Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

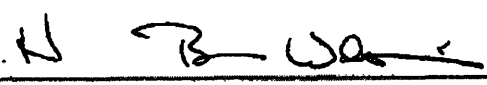
David Coon, Appellant.

Appellate Case No. 2017-001538

ORDER

This court has sent Appellant's counsel Erik Joseph Drylie two letters requiring counsel to cure deficiencies in Appellant's pro se notice of appeal. To date, counsel has not responded to our letters.

Within ten days, counsel shall provide the court with the following: (1) an amended notice of appeal; (2) proof of service of the notice of appeal showing timely service on Respondent; and (3) a copy of the sentencing sheet or court order being challenged on appeal.



FOR THE COURT

Columbia, South Carolina

cc:

John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire
Robert M. Madsen, Esquire
Erik Joseph Drylie, Esquire
Robert Michael Dudek, Esquire

FILED

Nov. 16, 2017

RECEIVED

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

NOV 29 2017

SC Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of General Sessions

HONORABLE JOHN C. HAYES CIRCUIT COURT JUDGE

Case No.: 2016-GS-19-00105, 2016-GS-19-00109,
2016-GS-19-00110, 2016-GS-19-00101
2016-GS-19-00102, 2016-GS-19-00103
2016-GS-19-00104, 2016-GS-19-00252
2017-GS-19-00072, 2017-GS-19-00073

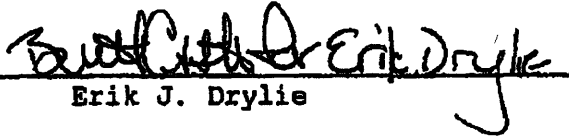
The State,.....Respondent.

V.

David Walter Coon,.....Appellant.

NOTICE OF APPEAL

David Walter Coon, appeals his sentence in this case. The plea commenced on January 12, 2017. The Honorable John C. Hayes presided over the plea and imposed sentence. The court reporter was Stacy L. Sheppard, 100 Lunsford Lane Lexington, SC 29072


Erik J. Drylie

Eleventh Circuit Public Defender's Office
202 East Main Street
Lexington, SC 29072
(803)-957-8873

OTHER COUNSEL OF RECORD:

Ervin J. Maye,
Assistant Solicitor
Lexington County Courthouse
Lexington, SC 29072

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

NOV 29 2017

APPEAL FROM EDGEFIELD COUNTY
Court of General Sessions

SC Court of Appeals

HONORABLE John C. Hayes, Circuit Court Judge

Case No.: 2016-GS-19-00105, 2016-GS-19-00109,
2016-GS-19-00110, 2016-GS-19-00101,
2016-GS-19-00102, 2016-GS-19-00103,
2016-GS-19-00104, 2016-GS-19-00252,
2017-GS-19-00072, 2017-GS-19-00073,

The State, ... Respondent.

V.

David Walter Coon, ... Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Robert Dudek, by depositing a copy of it in the United States Mail, postage prepaid, on November 29, 2017 addressed to Robert Dudek, Chief Appellate Defender PO Box 11433, Columbia, SC 29211



Erik J. Drylie

Eleventh Circuit Public Defender's Office
202 East Main Street
Lexington, SC 29072

OFFICE OF THE PUBLIC DEFENDER

ELIZABETH FULLWOOD
LEXINGTON PUBLIC DEFENDER
202 EAST MAIN ST.
LEXINGTON, SC 29072
TELEPHONE (803) 987-8873
FAX (803) 987-1443

ELEVENTH JUDICIAL CIRCUIT
LEXINGTON, SALUDA, EDGEFIELD,
AND MCCORMICK COUNTIES

ROBERT M. MADSEN
CIRCUIT PUBLIC DEFENDER

BENNETT CASTO
TRI-COUNTY PUBLIC DEFENDER
POST OFFICE BOX 1852
MCCORMICK, SC 29835
TELEPHONE (864) 852-8885
FAX (864) 852-8884

November 29, 2017

The Honorable Jenny Abbott Kitchens
Clerk of Court for Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
NOV 29 2017
SC Court of Appeals

Re: The State vs. David Walter Coon, - appeal

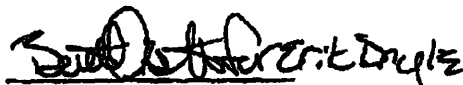
Dear Ms. Kitchens:

Please find enclosed an original and one (1) copy of a Notice to Appeal in the above matter for filing in your office. Please file the original and return the date/time stamped copy to me in the envelope provided.

I am, by copy of this letter, serving a copy of this Notice to Appeal on Robert M. Dudek, together with my Certificate of Service.

Thank you for your assistance in this matter. With kind regards, I am

Sincerely,


Erik J. Drylle

Eleventh Circuit Public Defender's Office

ENC

CC: Ervin J. Maye,
Assistant Solicitor

Lexington County Courthouse
Lexington, SC 29072

Robert M. Dudek,
Chief Appellate Defender
P O BOX 11433
Columbia, SC 29211

David Walter Coon
S.C. Department of Corrections

PUBLIC DEFENDER'S OFFICE
ATTORNEY'S
BENNETT CASTO and ERIK DRYLIE
Public Defender's for Edgefield, McCormick, & Saluda Counties
ATTORNEY AND COUNSELOR AT LAW

MAILING ADDRESS:
PO Box 1852
McCormick, SC 29835
TEL: (864) 852-9555

PHYSICAL ADDRESS:
133 South Mine Street
McCormick, SC 29835
864-852-0071

self@wctel.net

FACSIMILE TRANSMITTAL COVER PAGE

Date: November 29, 2017

To: South Carolina Court of Appeals

Attention:

Ms. Kitchings

FAX #

803-734-1839

From: Tri-County Public Defender's Office, by Susan

• pages including cover sheet *34*

Message:

Thank You

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NOV 29 2017

SC Court of Appeals

This Facsimile message is privileged and confidential. It is intended solely for the use of the individual named above. If you are not the intended recipient, or the person responsible to deliver it to the intended recipient, you are hereby advised that any dissemination, distribution or copying of this communication is prohibited. If you have received this facsimile message in error, please immediately notify the sender by telephone and return the original message to the sender by United States mail.

Please forward all correspondence to:

The South Carolina Court of Appeals

The State, Respondent,

v.

David Coon, Appellant.

Appellate Case No. 2017-001538

RECEIVED

DEC - 4 2017

ATTORNEY GENERALS
OFFICE

The Honorable John C. Hayes, III
Edgefield County

Trial Court Case No. 2016GS1900105, 2016GS1900102,
2016GS1900110, 2016GS1900104, 2016GS1900072,
2016GS1900109, 2016GS1900101, 2016GS1900103,
2016GS1900252, 2016GS1900073

ORDER

Appellant has failed to timely serve the notice of appeal, as required by Rule 203(b)(2) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Clare Allen, Deputy
CLERK

Columbia, South Carolina

cc:

David Coon, 371019

John Benjamin Aplin, Esquire

Alan McCrory Wilson, Esquire

Erik Joseph Drylie, Esquire

Robert Michael Dudek, Esquire

Robert M. Madsen, Esquire

FILED

December 1, 2017



RECEIVED

DEC 21 2017

ATTORNEY GENERALS

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11829
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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1880
FAX: (803) 734-1839
www.sccourts.org

December 20, 2017

The Honorable Charles L. Reel
PO Box 34
Edgefield SC 29824

REMITTITUR

Re: The State v. David Coon
Lower Court Case No. 2016GS1900105, 2016GS1900102,
2016GS1900110, 2016GS1900104, 2016GS1900072, 2016GS1900109,
2016GS1900101, 2016GS1900103, 2016GS1900252, 2016GS1900073
Appellate Case No. 2017-001538

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: David Coon, 371019
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire
Erik Joseph Drylie, Esquire
Robert Michael Dudek, Esquire
Robert M. Madsen, Esquire

EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. REEL

2018 NOV 13 PM 12:10 1-8-17

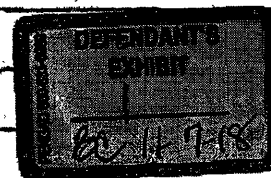
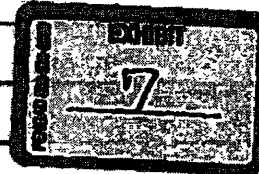
Statement to the Court and the Honorable

Judge Hayes;

I, David Walter Coon declare under the penalty of perjury that the following is true and correct.

I accept full responsibility for all drugs, guns and stolen property found in the home and on the outside of home. My co-defendants in this case had no knowledge of what was found inside or on the outside of my home (32 Rainforest Ln)

Signature: D. Coon
Date: 1-8-17



EDGEFIELD COUNTY
CLERK OF COURT
STATE OF SOUTH CAROLINA CHARLES L. REEL IN THE COURT OF COMMON PLEAS
COUNTY OF EDGEFIELD) FOR THE ELEVENTH JUDICIAL CIRCUIT

2018 DEC 10 PM 2:28

David Walter Coon, #371019,

Case No. 2017-CP-19-135

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER GRANTING POST-CONVICTION
RELIEF IN PART AND DENYING ALL
OTHER CLAIMS**

This matter comes before this Court by way of an application for post-conviction relief filed May 2, 2017, by David Walter Coon (Applicant). The State (Respondent) made its return and partial motion to dismiss on July 13, 2017, requesting an evidentiary hearing be held on Applicant's allegations of ineffective assistance of counsel. Thereafter, through his counsel, Applicant filed an amended application for post-conviction relief on October 16, 2018. An evidentiary hearing into the matter was convened on November 7, 2018, at the Marc H. Westbrook Judicial Center before the Honorable Walton J. McLeod, IV. Applicant was present at the hearing and represented by Kristy G. Goldberg, Esquire. Assistant Attorney General Kelly Oppenheimer of the South Carolina Attorney General's Office represented Respondent.

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant's application with respect to indictment number 2016-GS-19-252 (receiving stolen goods less than \$2,000) should be granted, as Applicant's three year sentence for this indictment is beyond the statutory limits. With respect to all other indictments and allegations, this Court further finds, Applicant has failed to establish any constitutional violations and denies this application with prejudice.

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
WHICH IS ON FILE IN THE OFFICE OF THE
CLERK OF COURT OF EDGEFIELD COUNTY, SC

Page 1 of 21

Charles L. Reel

CHARLES L. REEL, CLERK OF COURT
OF GENERAL SESSIONS AND
COMMON PLEAS, E.C.S.C.

12-10-18
DATED

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Edgefield County Clerk of Court. During its April 2016 term, the Edgefield County Grand Jury indicted Applicant for two counts of receiving stolen goods, more than \$2,000 but less than \$10,000 (2016-GS-19-101; -105), three counts of possession of an unlawful firearm (2016-GS-19-102; -103; -104), one count of possession with intent to distribute (PWID) marijuana (2016-GS-19-109), one count of trafficking methamphetamine, more than 400 grams (2016-GS-19-110), and one count of receiving stolen goods, less than \$2,000 (2016-GS-19-252). Subsequently, during its January 2017 term, the Grand Jury indicted Applicant for two additional counts of receiving stolen goods, more than \$2,000 but less than \$10,000 (2017-GS-19-072; -073). Erik J. Drylie, Esquire, represented Applicant on these charges. On January 10, 2017, Applicant proceeded to a jury trial before the Honorable John C. Hayes, II. On the third day of trial, January 12, 2017, and after the State rested, Applicant entered a guilty plea to all charges.¹ Judge Hayes accepted the pleas and sentenced Applicant to a term of imprisonment of twenty-five years for trafficking methamphetamine, five years for PWID marijuana, three years for each count of receiving stolen goods,² and ten years for each count of possession of an unlawful firearm. The sentences were to be served concurrently.

On March 20, 2017, Applicant filed a *pro se* notice of appeal. By written order dated December 1, 2017, the South Carolina Court of Appeals dismissed Applicant's appeal for failing to timely serve the notice of appeal as required by Rule 203(b)(2), SCACR. The remittitur was issued on December 20, 2017.

¹ Applicant pled guilty as indicted to all charges.

² Including indictment number 2016-GS-19-252, an indictment for receiving stolen goods, less than \$2,000.

STATEMENT OF FACTS

After being arrested for possession of a stolen vehicle, receiving stolen goods, and possession of methamphetamine in Aiken County, Walter Brian Wade informed law enforcement he had information which would be beneficial to Edgefield County officers. Trial Tr. 159-60, 201. Thereafter, Wade spoke with Investigator Jimmy Smith, and he informed Investigator Smith he had gotten methamphetamine from Applicant. Trial Tr. 161-62, 194. He also told Investigator Smith Applicant would trade cars for money or methamphetamine. Trial Tr. 163. Wade also described an instance, on December 6, 2015, where he went to Applicant's home with Applicant and his girlfriend, where he observed a variety of different guns and vehicles and also shot a sawed-off shotgun with Applicant at a van parked in Applicant's front yard. Trial Tr. 164-72, 185-88.

Based on the information Wade provided, Investigator Smith prepared an affidavit for a search warrant of ■ Rain Forest Lane³, in which he described the property for which he was looking as: guns, explosives, illegal narcotics, and other things involving criminal enterprise. Trial Tr. 203-05. Investigator Smith took this affidavit to the magistrate and supplemented it with oral testimony, in which he relayed the information he had received from Wade and other deputies, as well as identified the sources of the information. Trial Tr. 203, 205-06. The magistrate then issued the search warrant for the residence on December 15, 2015. Trial Tr. 208.

Later, on December 22, 2015, law enforcement officers executed the search warrant at Applicant's residence. Trial Tr. 209, 212. At the residence at that time were multiple vehicles, including a red Chevrolet truck, a white camper trailer, a van parked in the front yard which had been shot up, an Electra Glide style motorcycle, and a Sportster-size Harley Davidson

³ Applicant and his daughter were renting that residence. Trial Tr. 195, 198, 245.

motorcycle.⁴ Trial Tr. 216-17. Several unlawful weapons were also found, including three sawed-off shotguns. Trial Tr. 217, 231-37. In addition to the weapons and vehicles, methamphetamine⁵, prescription pills⁶, and marijuana⁷ were found inside a plastic ammunition container. Trial Tr. 223-24, 327.

As a result, Applicant was taken into custody. Agent Ricardo Prince, of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, spoke with Applicant on January 4, 2016, and January 27, 2016, because Applicant requested to speak with him. Trial Tr. 243-44. In these interviews, Applicant told Agent Prince he had a sawed-off shotgun, but it was over the legal limit. Trial Tr. 246. Applicant also took ownership of the digital scales which were found at his house, explaining he had them so he would not get cheated when making drug transactions. Trial Tr. 246-47.

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following allegations:

1. That Applicant was denied his 4th and 6th amendment rights, which counsel failed to evaluate the balanced assessment of a confidential informant, because of the error in the affidavit that pertain[s] to probable cause; Applicant's outcome would have been different[;]
2. Applicant's substantial and procedural rights was [sic] violated, when trial counsel was ineffective for not investigating and challenging the Respondent inmate confidential informant prior to going to trial, Applicant's outcome would have been different[; and]
3. Nol [sic] pros/initialing vindictive prosecution.

⁴ All of the vehicles found at Applicant's residence were identified at trial by their original owners. Trial Tr. 264, 267, 269-71, 274.

⁵ The total weight of the methamphetamine found was 713.57 grams. Trial Tr. 300.

⁶ Twenty-two tablets were found. Trial Tr. 299.

⁷ The total weight of the marijuana found was 29.5 grams. Trial Tr. 288.

In his amended application for post-conviction relief, Applicant raised the following additional grounds:

1. Ineffective assistance of trial counsel – counsel failed to communicate plea offers to the Applicant[;]
2. Ineffective assistance of trial counsel – counsel was ineffective for improperly coercing the Applicant to enter an involuntary guilty plea[;]
3. Ineffective assistance of trial counsel – counsel was ineffective for failing to sufficiently explain to the Applicant that a guilty plea would constitute a waiver of the legal issues raised and argued in the jury trial[; and]
4. Ineffective assistance of trial counsel – counsel was ineffective for failing to object when the Court sentenced the Applicant to a three year sentence on indictment 2016-GS-19-252 for the charge of Receiving Stolen Goods less than \$2,000, an offense which carries a maximum penalty of 30 days in jail pursuant to South Carolina Code Section 16-13-180.

At the evidentiary hearing, Applicant proceeded forward on the allegations raised in his amended application for post-conviction relief, as well as the allegations in his original application concerning the confidential informant and search warrant.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented the testimony of Erik J. Drylie, Esquire (Counsel). This Court also had before it a copy of Applicant's trial and eventual plea transcript, the records of the Edgefield County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and the records from this current post-conviction relief application.

During the evidentiary hearing, Applicant testified on his own behalf. Applicant testified he went through the seventh grade in school and can read and write very little. He also testified he has a history of mental illness and has been diagnosed with bipolar disorder and paranoid schizophrenia. He testified he remained in jail the entire time leading up to trial. He further

testified he had never been in trouble before, and he had never been to the Department of Corrections before. He elaborated he had only ever received a speeding ticket and charged with assault and battery prior to his trial, and all of his prior incidents were handled in magistrate's court, without an attorney or an appeal therefrom. Applicant testified he did not understand his appellate rights.

Applicant also testified he was arrested in December of 2015, and Counsel was appointed to represent him. He explained Counsel was the first attorney he has ever had. He further testified he met with Counsel when he went to court for bond hearings, and they also met at the jail. Applicant elaborated he and Counsel would discuss the facts of the case, and Counsel would tell him there were a lot of drugs found at the house and Applicant was facing a lot of time. He further elaborated during these meetings he told Counsel to talk to his girlfriend.

He further testified the only plea offer he ever received was for twenty-five to thirty years imprisonment. He explained he wanted to plead guilty, if he could get less time. He further explained he would have accepted a plea offer for up to fifteen years.

Applicant testified the State obtained a search warrant based on information from a witness who had convictions for giving false information. He further testified he and Counsel discussed this, and Counsel argued this to the trial court. He explained Counsel raised the issue of the confidential informant and that he had lied to the police to the trial court. He also testified Counsel filed the motion to suppress based on the fact Applicant was with his girlfriend at the time of the execution of the search warrant and not at the house. Applicant testified, however, the trial court denied his motion to suppress the drugs based on the search warrant. He elaborated he thought the motion could have been argued better. He further elaborated he was illiterate, so he was taking Counsel at his word. Applicant also testified he wanted to fight the

search warrant issue, and Counsel did not discuss he would not be able to appeal this issue if he pled guilty.

He also testified after two-and-a-half or three days at trial and after he had been advised of his right to testify and to present a defense, he entered a guilty plea. He explained his daughter was also involved, and he was told she would also get twenty-five years. He further explained he pled guilty in order to save his daughter. He elaborated he pled guilty because he was caught up in the mix and because he did not want his daughter to get twenty-five years. Applicant further elaborated he did not plead guilty at the beginning of trial because he put his trust in Counsel. Applicant further testified at the time he pled guilty, the State had not made any offers.

Applicant further testified at the plea, he told the trial court he was satisfied with the services of Counsel, and told the court twice he was satisfied with Counsel. He further testified he agreed with the evidence the State had presented at trial. Applicant also testified he informed the trial court he was pleading guilty because he was, in fact, guilty and no one had promised him anything, held out any hope of reward, threatened, or coerced him in order to get him to plead guilty. Applicant also testified he informed the trial court he was pleading guilty freely and voluntarily. He further testified he was advised of each of his rights at trial by the trial court, and he understood each of those rights. He explained he understood he was giving up those rights by pleading guilty. Applicant further testified at the time of his plea, he wrote a letter⁸ to the trial court taking full responsibility for all of the drugs and weapons found at his home.

Applicant testified he did not discuss an appeal with Counsel. He further testified he did not know what an appeal was, but he filed a *pro se* notice of appeal. He explained no one told

⁸ A copy of this letter was introduced at the hearing without objection as Defendant's Exhibit #1.

him how to file an appeal, and he just wanted help. He further explained he wanted to challenge the search warrant on appeal.

Following Applicant's testimony, Applicant rested. Respondent then presented the testimony of Counsel. Counsel testified he was appointed to represent Applicant at the end of 2015 or early 2016. He testified he filed *Brady*⁹ and Rule 5, SCRCrimP, motions, and reviewed the discovery materials with Applicant. He further testified he reviewed all of the evidence, which law enforcement recovered from Applicant's house with Applicant. Counsel also testified he reviewed the elements of the charges and the State's burden of proof at trial with Applicant. He testified they also reviewed potential sentences Applicant was facing.

Counsel testified in December 2016, the State made a seventeen-year plea offer. He explained he conveyed that plea to Applicant at the jail, which Applicant rejected. He further explained Applicant rejected this offer because it was for too much time, and Applicant wanted to proceed to trial. He further testified Applicant wanted a plea for a twelve-year sentence. Counsel testified he asked the Assistant Solicitor about this possibility, but the Assistant Solicitor told him he would not offer a twelve-year sentence. He explained he attempted to get a better deal than seventeen years, but the State would not budge.

Counsel also testified he and Applicant discussed Applicant's version of the facts, but Applicant's story changed throughout Counsel's representation of him. He explained Applicant initially told him he was not involved, but Applicant later admitted his involvement and wanted to take full responsibility after seeing everyone who would testify against him at trial. Counsel further explained Applicant did not want to plead guilty until immediately before the trial, approximately two to three weeks beforehand. He testified because of this, there were no defenses available, and they would have to present their best case at trial. He also testified he

⁹ *Brady v. Maryland*, 373 U.S. 83 (1963).

hired a private investigator to help with the case, who interviewed Applicant's girlfriend, who was also in prison. Counsel explained the private investigator interviewed everyone he could, but all of Applicant's co-defendants were represented by counsel, which prevented Counsel and the investigator from talking to the co-defendants.

He testified he moved to suppress the evidence found at Applicant's home based on the search warrant with the confidential informant, which he believed was a good issue. He explained the warrant was supplemented with oral testimony from Investigator Smith. He further explained he argued the information provided by the confidential informant was not reliable, and he raised an issue of the confidential informant's prior record.

Counsel also testified Applicant wanted a trial and also wanted to get out of jail pending trial, so they had many bond hearings. He further testified the case was tried in January 2017 because the Honorable Edgar W. Dickson indicated if the case was not tried by then, then Applicant would be granted bond.¹⁰ Counsel further testified Applicant wanted to hear the witnesses against him, then plead guilty. Counsel explained he told Applicant the decision to wait to plead would hurt their ability to get any plea offers and would also hurt their ability to help Applicant's daughter.

He further testified he explained the consequences of the plea to Applicant. He testified he explained to Applicant there were no conditional guilty pleas in South Carolina, so Applicant would be unable to appeal the search warrant issue after the plea. He further testified he informed Applicant he would have ten days to appeal, and he saw Applicant the next week at his co-defendant's trial, but Applicant never asked Counsel to file an appeal on his behalf. Counsel also testified he explained to Applicant he would not proceed with the trial if Applicant decided to plead guilty and also explained to Applicant he would neither present a defense nor testify if

¹⁰ At the time, Applicant had appeared for multiple bond hearings, and his case had still not been called for trial.

he pled guilty. He testified Applicant appeared to understand what Counsel was explaining to him. He further testified although Applicant was not well educated, Counsel had no issue talking to Applicant; and Applicant appeared to understand their conversations.

Counsel testified it was Applicant's decision to plead guilty, and Counsel did not force him to plead guilty. In fact, Counsel testified it did not make sense for Applicant to plead guilty at that point in the trial. He also testified he did not threaten Applicant's daughter and also did not discuss her case with Applicant. He explained he told Applicant if he wanted to help his daughter, he would need to help her earlier not later. Counsel further explained he never told Applicant a plea would save his daughter and also never told Applicant if he pled, his daughter would receive a lighter sentence. He further testified Applicant received no benefit from the plea, and he could not understand why Applicant wanted to plead guilty after the State's full case.

Respondent then rested its case, and Applicant again testified in reply. Applicant testified Counsel never conveyed the seventeen-year plea offer to him. He further testified had Counsel conveyed that offer, he would have accepted it.

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 further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

Applicant's allegations are two-fold: (1) ineffective assistance of counsel for failing to communicate plea offers, for failing to sufficiently explain to Applicant a guilty plea would

constitute a waiver of the legal issues raised and argued at trial, and for failing to object to the three year sentence on indictment 2016-GS-19-252; and (2) involuntary guilty plea.

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant 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 trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, at 441, 334 S.E.2d at 813.

The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, at 441, 334 S.E.2d at 813. The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." *Cherry*, at 117, 385 S.E.2d at 625 (citing *Strickland*). 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*, at 117-18, 386 S.E.2d at 625. In order to satisfy the prejudice prong of this test following a guilty plea, the applicant "must show that there is a reasonable probability that, but for counsel's errors, he

would not have pleaded guilty and would have insisted on going to trial.” *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

After careful review based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action. Below are this Court’s findings in regards to each of Applicant’s allegations of ineffective assistance of counsel.

Counsel’s alleged failure to communicate plea offers to Applicant

Applicant alleges Counsel was ineffective for failing to convey a plea offer. In particular, Applicant alleges Counsel never informed him of the State’s December 2016 offer, through which Applicant could plead guilty in exchange for a seventeen-year sentence. In order to prevail on a claim counsel was ineffective for failing to convey a plea offer, the applicant must show: (1) plea counsel’s failure to communicate the State’s initial plea offer constituted deficient performance and (2) the applicant was prejudiced by the deficient performance, in other words there was a reasonable probability that but for this deficient performance, the applicant would have accepted the original plea offer. *Davie v. State*, 381 S.C. 601, 675 S.E. 416 (2009).

Applicant testified Counsel never conveyed the December 2016 plea offer to him. He testified had he known of such an offer, he would have accepted it. Counsel, however, testified he communicated this offer to Applicant, and Applicant rejected it, stating the offer was for too lengthy of a sentence. Moreover, Counsel testified Applicant would have pled in exchange for a twelve-year sentence, and he attempted to negotiate with the Assistant Solicitor. Counsel further testified, however, the Assistant Solicitor was unwilling to budge from the seventeen-year offer and refused to offer a twelve-year plea. This Court finds Counsel’s testimony very credible, whereas Applicant’s testimony is not credible. It is apparent Counsel communicated all offers to

Applicant, and Applicant rejected those offers. This Court, therefore, finds Applicant has failed to establish Counsel was deficient.

Similarly, this Court finds Applicant has wholly failed to establish any resulting prejudice from this alleged deficiency. In order to establish prejudice from an alleged failure to convey a plea offer:

[A] defendant must demonstrate a reasonably probability that: (1) he “would have accepted the earlier plea offer had [he] been afforded effective assistance of counsel;” (2) “the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it,” and (3) “the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or sentence of less prison time.”

Collins v. State, 422 S.C. 250, 262, 810 S.E.2d 871, 877 (2018) (quoting *Missouri v. Frye*, 566 U.S. 134, 147 (2012)). Here, Counsel testified Applicant did not accept any offers prior to trial because the offer was not for what Applicant was hoping. Moreover, Applicant made the conscious decision to plead guilty after the State had rested its case and after Applicant had seen all of the witnesses who testified against him. Based on the foregoing, there is no indication Applicant would have accepted the plea offer to seventeen years imprisonment. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to challenge the search warrant

Applicant contends Counsel was ineffective for failing to challenge the search warrant. Specifically, Applicant contends Counsel should have challenged the search warrant on the basis the confidential informant was not reliable, as he had two prior convictions of providing false information to law enforcement.

Applicant admitted Counsel argued this point to the trial court during his motion to suppress the evidence, but believed the motion “could have been argued better.” Applicant

wholly fails to set forth what benefit would have been realized if Counsel had argued this motion further and further fails to establish anything further he wanted Counsel to argue. Indeed, during the hearing on his motion to suppress the evidence, Counsel specifically argued the search warrant was defective because law enforcement had never worked with this confidential informant before, had not received any information from him before, and there was no investigation done to corroborate the information given. Trial Tr. 33-34. Counsel further argued there was nothing in the affidavit of the search warrant to establish the information given was reliable. Trial Tr. 39. Furthermore, Counsel highlighted the fact the confidential informant had been convicted in 2014 and 2015 for giving false information to law enforcement. Trial Tr. 39. Based on the foregoing, this Court finds Applicant has failed to establish any deficiency on the part of Counsel.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from the alleged deficiency. When determining whether probable cause exists to issue a warrant, the Supreme Court of the United States has stated:

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

Illinois v. Gates, 462 U.S. 213, 238 (1983). Additionally, "sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of other." *Id.* at 239. Indeed, "[A] warrant based solely on information provided by a confidential informant must contain information supporting the credibility of the informant and the basis of his knowledge. However, independent

verification by law enforcement officers cures any defects.” *State v. Dill*, 423 S.C. 534, 542, 816 S.E.2d 557, 562 (2018) (quoting *State v. 192 Coin-Operated Video Game Machs.*, 338 S.C. 176, 192, 525 S.E.2d 872, 881 (2000)). In addition to the search warrant affidavit, sworn oral testimony is also permissible in determining whether or not probable cause exists. *Id.* (citing *State v. Weston*, 329 S.C. 287, 292, 494 S.E.2d 801, 803 (1997)).

Here, Captain Walsh, of Aiken County, approached Investigator James Smith, of the Edgefield County Sheriff's Office, and told him a subject in the Aiken County Detention Center, Walter Brian Wade, wanted to talk to him about incidents in Edgefield County. Trial Tr. 42. Wade was in the detention center on charges of possession of stolen vehicles and had previously cooperated with the South Carolina Law Enforcement Division (SLED) in retrieving those stolen vehicles, as well as others¹¹. Trial Tr. 43-44. After speaking with Wade, Investigator Smith prepared a written affidavit, which he presented to the magistrate along with sworn oral testimony. Trial Tr. 45. In this information, Investigator Smith told the magistrate Wade had been charged in Aiken County on unrelated charges but had also cooperated with them, and the information Wade provided to them helped SLED recover stolen vehicles. Trial Tr. 46-47. Furthermore, Investigator Smith informed the magistrate Wade was an eyewitness to the events he described, specifically that he had been to ■ Rain Forest Lane (the residence), where Applicant, his daughter, and Tim Wheeler lived, on several occasions and had observed numerous firearms and large quantities of methamphetamine and prescription drugs. Trial Tr. 48-49. Wade also described two motorcycles, which were painted over black, a camouflage vehicle, a red pickup truck, and a Nissan van parked in the front yard that had been used for target practice¹² at the residence. Trial Tr. 50. Additionally, the Sheriff's Office had been

¹¹ The information Wade provided to SLED was proven to be accurate and verified. Trial Tr. 44.

¹² Wade had used the van for target practice with Applicant. Trial Tr. 56.

getting complaints about heavy traffic, including black motorcycles, in and out of Rain Forest Lane. Trial Tr. 50. Based on the complaints received, Sergeant Florida watched the area for a while and observed black motorcycles coming and going from the residence. Trial Tr. 50. Sergeant Florida also observed the van riddled with bullet holes in the front yard. Trial Tr. 56. Moreover, Sergeant Florida went to the residence on December 15th regarding a welfare check, and Applicant, who was there at the time, took Sergeant Florida inside the residence. Trial Tr. 51. After that visit, Sergeant Florida drew a diagram of the residence, which matched Wade's diagram of the residence. Trial Tr. 51.

Because the information Wade had provided to SLED was proven to be accurate and because it did assist them in their investigation, sufficient information was provided Wade was a credible informant. Moreover, Wade specifically described the residence and even drew a diagram of it, which was confirmed by Sergeant Florida's observations of the residence both inside and out. Still further, Wade explicitly described the van and described using it for target practice, which was confirmed through Sergeant Florida's observations. Based on all the foregoing, sufficient information was presented to the magistrate to verify the credibility of Wade and the basis of his knowledge. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to convey the consequences of the plea

Applicant further alleges Counsel was ineffective for failing to sufficiently explain the consequences of his plea. In particular, Applicant contends Counsel was ineffective for failing to explain to Applicant a guilty plea would constitute a waiver of the legal issues raised and argued at trial, specifically the issue concerning the search warrant and the confidential informant. Conditional guilty pleas are not recognized in South Carolina. *State v. Rice*, 401 S.C. 330, 331,

737 S.E.2d 485, 485 (2013) (citing *State v. Truesdale*, 278 S.C. 368, 370, 296 S.E.2d 528, 529 1982)). "Rather, in South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." *Id.* at 331-32, 737 S.E.2d at 185-86.

Here, Counsel testified he explained the consequences of the plea to Applicant, specifically highlighting there were no conditional guilty pleas in South Carolina. In conjunction with that conversation, Counsel testified he explicitly informed Applicant he would not be able to appeal the search warrant issue after pleading guilty. Applicant appeared to understand these conversations. Accordingly, this Court finds Applicant has failed to establish Counsel was deficient.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from this alleged deficiency. Counsel testified it was not until two to three weeks prior to trial that Applicant decided he wanted to plead after the State had rested its case. In fact, Applicant was emphatic he wanted to see everyone who would testify against him prior to pleading guilty. Applicant made a conscious decision to plead guilty after first proceeding to trial, and did so knowing he would not be able to appeal any issues which had been raised and argued at trial. This allegation must be denied and dismissed with prejudice.

Illegal Sentence

Applicant contends his sentence for indictment number 2016-GS-19-252, an indictment for receiving stolen goods, less than \$2,000, exceeds the statutory limits for a person convicted of such an offense. The Court agrees. A trial court has broad discretion in imposing criminal sentences within the limits prescribed by law. *State v. Franklin*, 267 S.C. 240, 226 S.E.2d 896 (1976); *Clark v. State*, 259 S.C. 378, 192 S.E.2d 209 (1972). The courts normally have no discretion to correct a sentence given within statutory limits. Here, Applicant was indicted for

and pled guilty to receiving stolen goods, less than \$2,000. *See* 2016-GS-19-252. A person convicted of such an offense “must be fined not more than one thousand dollars or imprisoned *not more than thirty days*.” S.C. Code Ann. § 16-13-180(C)(1) (emphasis added). Applicant was sentenced to a term of imprisonment of three years for this offense. Such a sentence is well outside the statutorily prescribed limits. Accordingly, this Court finds Applicant’s sentence for indictment number 2016-GS-19-252 must be vacated and this case shall be remanded for resentencing.

Involuntary Guilty Plea

Applicant further alleges his guilty plea was not voluntarily made. This Court finds Applicant’s guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty pleas and the evidence presented at the post-conviction relief hearing. *Roddy v. State*, 339 S.C. 29, 528 S.E.2d 418 (2000). A defendant’s knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.” *Id.* at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. *Id.* However, the overarching concept remains “a guilty plea should only be accepted where the record evidences ‘an affirmative showing that it was intelligent and voluntary.’” *Boykin v. Alabama*, 395 U.S. 238, 242 (1969) (internal quotation omitted); *Parke v. Raley*, 506 U.S. 20, 29 (1992). This is because “waivers of constitutional rights not only must be

voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.” *Brady v. United States*, 397 U.S. 742, 748 (1970).

Key to the analysis in reviewing a plea for voluntariness is looking to “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *Raley*, 506 U.S. at 29 (quoting *Alford*, 400 U.S. at 31). In order to find a guilty plea was knowingly and voluntarily entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. *Boykin*, 395 U.S. at 244. Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, an applicant’s right to contest the validity of such a plea is “usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (citing *Blackledge v. Allison*, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” *Id.* (citing *Crawford v. United States*, 519 F.2d 347 (4th Cir. 1975)); see also *Edmonds v. Lewis*, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving his guilty plea was involuntarily made. This Court finds Applicant’s plea was entered into freely and voluntarily. The record before this Court reflects the trial court thoroughly reviewed all of Applicant’s constitutional rights with him, including his right to a jury trial. Trial Tr. 348-49. Applicant indicated he understood his constitutional rights and, understanding he would be waiving those rights, entered a guilty plea. Trial Tr. 350. Indeed, at the time Applicant decided to plead guilty, he had already exercised his right to proceed to a jury trial and had also been advised of his right to testify. See Trial Tr. 333-36. Applicant further indicated no one had promised him anything, threatened him, or coerced him in order to get him

to plead guilty. Trial Tr. 348. Additionally, Applicant indicated he was entering these guilty pleas freely and voluntarily. Trial Tr. 348.

Additionally, Counsel testified he and Applicant reviewed all discovery materials, the elements which the State would be required to prove at trial, the potential punishments, and his constitutional rights. Counsel further testified after his discussions with Applicant and after initially proceeding to trial, Applicant ultimately made the decision to enter the guilty pleas.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. Consequently, this allegation must be denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant's sentence for receiving stolen goods \$2,000 was outside the statutorily prescribed limits and the sentence must be vacated and remanded for resentencing. Regarding Applicant's other convictions, sentences, and allegations, this Court finds Applicant has not established any constitutional violations or deprivations 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 notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-

conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That Applicant's sentence for indictment number 2016-GS-19-252 be vacated, and the case remanded for resentencing;
2. That this application with respect to all other allegations and convictions for post-conviction relief must be denied and dismissed with prejudice; and
3. The Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED this 5 day of DECEMBER 2018.


WALTON J. MCLEOD, IV
Presiding Judge
Eleventh Judicial Circuit

LEXINGTON, South Carolina

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

2015A1910100755

ACTION OF GRAND JURY

TRUE BILL

Shirley Campbell
For person of Grand Jury

Date: MAR 30 2016

VERDICT

in of Petit Ju

DOCKET NO. 2016-GS-19- 101

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

^{3940 JPH}
CDR#3470

Indictment for

RECEIVING STOLEN GOODS

MYERS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)

INDICTMENT FOR
 RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, buy or receive certain personal goods of William Cecil Allen described as follows: a 2007 Zeppelin Camper 30 foot VIN#4YDT291277Z400913 of the value of more than Two Thousand Dollars(\$2,000.00) but less than Ten Thousand Dollars (\$10,000.00), such goods having been feloniously taken and carried away with intent to deprive the owner thereof permanently of such goods, and the said defendant knowing such goods to have been stolen, in violation of §16-13-0180 of the South Carolina Code of Laws, as amended, with punishment provided for in §16-13-0180(b) 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.


 ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

2015A1910100759

ACTION OF GRAND JURY

BILL

For person of Grand Jury
Date: MAR 30 2016

VERDICT

For person of F

DOCKET NO. 2016-GS-19- 102

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

**THE STATE
vs.**

DAVID WALTER COON

CDR#0315

Indictment for

**POSSESSION OF AN UNLAWFUL
FIREARM**

DONALD V. V

DR

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

**INDICTMENT FOR
POSSESSION OF AN UNLAWFUL FIREARM:**

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, unlawfully store, keep, possess, or permit another to store, keep, or possess a firearm, described as follows: A Harrington/Richardson Inc. Topper Model M48, 12 gauge shotgun serial # H23330 the barrel of the shotgun was sawed off making the length of the shotgun less than 26 inches, in violation of §16-23-230 of the South Carolina Code of Laws, 1976, as amended.

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

DH
ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

2015A1910100760

ACTION OF GRAND JURY

TRUE BILL

Forfeiture of Grand Jury
Date: MAR 3 11 11 AM

VERDICT

DOCKET NO. 2016-GS-19- 103

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#0315

Indictment for

POSSESSION OF AN UNLAWFUL
FIREARM

INDICTOR

Forfeiture
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

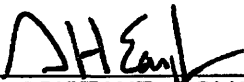
INDICTMENT FOR

POSSESSION OF AN UNLAWFUL FIREARM

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, unlawfully store, keep, possess, or permit another to store, keep, or possess a firearm, described as follows: a Winchester Inc., 12 gauge shotgun Model 37A with serial # C520219, the barrel of the shotgun was sawed off making the length of the shotgun less than 26 inches, in violation of §16-23-230 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 made and provided.


ASSISTANT SOLICITOR

WITNESSES

ECSD

IRELAND

ARREST WARRANT NUMBER

2015A1910200161

ACTION OF GRAND JURY

BILL

Sherrice Campbell

Foreperson of Grand Jury

Date: MAR 30 2016

VERDICT

DOCKET NO. 2016-GS-19- 104

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#0315

Indictment for

POSSESSION OF AN UNLAWFUL
FIREARM

WYERS,

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
COUNTY OF EDGEFIELD	)	POSSESSION OF AN UNLAWFUL FIREARM

At a Court of General Sessions, convened on March 30, 2016 the Grand Jury of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, unlawfully store, keep, possess, or permit another to store, keep, or possess a firearm, described as follows: a Harrington and Richardson, Inc. Topper Model 158, 12 gauge shotgun with no serial number available, the barrel of the shotgun was sawed off making the length of the shotgun less than 26 inches, in violation of §16-23-230 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 cases made and provided.


ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

2015A1910100751

ASSIGN OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Grand Jury

Date:

DOCKET NO. 2016-GS-19- 105

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

3840 JK
CDR#3470

Indictment for

RECEIVING STOLEN GOODS

RONALD V. MYERS, SOLIC

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

INDICTMENT FOR
RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, buy or receive certain personal goods of Jearl Guy Fletcher, described as follows: a 2006 Harley Davidson motor cycle VIN#1HD4CJM1X6K405022, of the value of more than Two Thousand Dollars(\$2,000.00), but less than Ten Thousand Dollars (\$10,000.00) such goods having been feloniously taken and carried away with intent to deprive the owner thereof permanently of such goods, and the said defendant knowing such goods have been stolen, in violation of §16-13-0180 of the South Carolina Code of Laws, as amended, with punishment provided for in §16-13-0180(b) 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.


ASSISTANT SOLICITOR

WITNESSES

ECSD

YOUNG

ARREST WARRANT NUMBER

2015A1910100730

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 30 2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-19- 108

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#0189

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE A SCHEDULE IV
CONTROLLED SUBSTANCE

DONALD V. MYERS, SOLICITOR

Handwritten:
Nelf Pro
G. Maye
ASL
1/11/17

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	
COUNTY OF EDGEFIELD	)	POSSESSION WITH INTENT TO DISTRIBUTE
		A SCHEDULE IV CONTROLLED SUBSTANCE

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, knowingly, intentionally, willfully, and unlawfully possess with intent to distribute Alprazolam (generic for Xanax), a Schedule IV controlled substance under the provisions of §44-53-190 et. Seq. and, in violation of §44-53-370(b)(2), Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

WITNESSES

ECSD

YOUNG

ARREST WARRANT NUMBER

2015A1910100721

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 30 2016

VERDICT

Foreperson of

Date:

DOCKET NO. 2016-GS-19- 109

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#0186

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA

DOCKETED : FILED : CLERK

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	
COUNTY OF EDGEFIELD	)	POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, knowingly, intentionally, willfully, and unlawfully possess with intent to distribute Marijuana, a Schedule I(d) controlled substance under the provisions of §44-53-190 et. Seq. and, in violation of §44-53-370(b)(2), Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

WITNESSES

ECSD

YOUNG

ARREST WARRANT NUMBER

2015A1910100718

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: MAR 30 2016

VERDICT

Fo
D:

Petit Jury

DOCKET NO. 2016-GS-19- 110

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#0370

Indictment for

TRAFFICKING METHAMPHETAMINE

DONALD

US, SOLIC

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	
COUNTY OF EDGEFIELD	)	TRAFFICKING METHAMPHETA

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, knowingly, intentionally, willfully and unlawfully sell, manufacture, cultivate, deliver, purchase or bring into this state, or provide financial assistance or otherwise aid, abet, attempt or assist, conspire or participate with others to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession of, and/or knowingly attempt to become in actual or constructive possession of more than four hundred (400) grams of Methamphetamine, a controlled substance, in violation of and with penalties provided for in §44-53-375(C)(5), 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.


 ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury.

Date JAN 09 2017

VERDICT

erson of Po

DOCKET NO. 2017-GS-19-

072

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

JANUARY TERM 2017

THE STATE

vs.

DAVID WALTER COON

CDR#3470

3740 JCH

Indictment for

RECEIVING STOLEN GOODS

C. V. MYE

ICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

INDICTMENT FOR
RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on January 9, 2017 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, buy or receive certain personal goods of Fred Teeter described as follows: A 2005 Chevy C1500 pickup VIN#1GCEC14X35Z197758 of the value of more than Two Thousand Dollars (\$2,000.00) but less than Ten Thousand Dollars (\$10,000.00), such goods having been feloniously taken and carried away with intent to deprive the owner thereof permanently of such goods, and the defendant knowing such goods to have been stolen, in violation of §16-13-0180 of the South Carolina Code of Laws, as amended, with punishment provided for in §16-13-0180(b) 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.



ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date JAN 09 2017

VERDICT

of Petit J

DOCKET NO. 2017-GS-19-

073

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

JANUARY TERM 2017

THE STATE

vs.

DAVID WALTER COON

3740
CDR#3470

Indictment for

RECEIVING STOLEN GOODS

DONALD

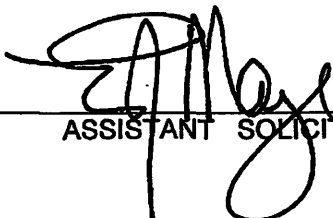
STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)

INDICTMENT FOR
 RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on January 9, 2017 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, buy or receive certain personal goods of Jose Negron, described as follows: a 2006 Harley Davidson motor cycle VIN#1HD1FCW126Y673417 of the value of more than Two Thousand Dollars (\$2,000.00) but less than Ten Thousand Dollars (\$10,000.00), such goods having been feloniously taken and carried away with intent to deprive the owner thereof permanently of such goods, and the said defendant knowing such goods to have been stolen, in violation of §16-13-0180 of the South Carolina Code as amended, with punishment provided for in §16-13-0180(b) 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.


 ASSISTANT SOLICITOR

WITNESSES

ECSD

DORAN

ARREST WARRANT NUMBER

2015A1910100756

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: MAR 30 2016

VERDICT

DOCKET NO. 2016-GS-19- 252

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

vs.

DAVID WALTER COON

CDR#3425

Indictment for

RECEIVING STOLEN GOODS

V. MYE

ICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)

INDICTMENT FOR
 RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on March 30, 2016 the Grand Jurors of Edgefield County present upon their oath:

That DAVID WALTER COON, did in Edgefield County on or about December 22, 2015, buy or receive certain personal goods of James Thomas Minor, described as follows: a Mossberg 12 gauge shotgun Model 88 serial #MV88839A, of the value of less than Two Thousand Dollars(\$2,000.00), said goods having been feloniously taken and carried away with intent to deprive the owner thereof permanently of such goods, and the said defendant knowing such goods to have been stolen, in violation of §16-13-0180 of the South Carolina Code of Laws, as amended.

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield
STATE VS.
David Walter Coon

AKA:

Race: Sex: M Age: 52

DOB: 1963 SS#

Address:

City, State, Zip: North Augusta, SC 29860

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: RSG \$2000, 10,000in violation of § 16-15-150 A of the S.C. Code of Laws, bearing CDR Code # 3590
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by

ATTEST

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention

for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1/12/17

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and
by the State Department of Corrections. 381 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 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
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$3.75
TOTAL	\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2016GS1900101

A/W#: 2015A1910100755

Date of Offense: 12/22/2015

S.C. Code § : 16-13-0180(A)

CDR Code #: 3599

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2049Sentence Date: 1/12/17

STATE OF SOUTH CAROLINA

COUNTY OF Edgefield
STATE VS.

David Walter Coon

AKA:

Race: Sex: M Age: 52

DOB: 1963 SS#

Address:

City, State, Zip: North Augusta, SC 29860

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Poss of Unlawful Firearmin violation of § 16-23-230 of the S.C. Code of Laws, bearing CDR Code # 0315☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ § 17-25-15

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation

ATTORNEYS:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceedand/or to pay a fine of \$; provided that upon the service of days/months/yr.of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/12/12☒ 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. 387 days☐ 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 (C 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 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS17

A/W#: 2015A1910100759

Date of Offense: 12/22/2015

S.C. Code § : 16-23-0230

CDR Code #: 0315

SENTENCE SHEET #9

☐ CONVICTED OF or ☒ LEADSThe charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation

ATTORNEYS:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceedand/or to pay a fine of \$; provided that upon the service of days/months/yr.of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/12/12☒ 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. 387 days☐ 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 (C 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 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS17

A/W#: 2015A1910100759

Date of Offense: 12/22/2015

S.C. Code § : 16-23-0230

CDR Code #: 0315

SENTENCE SHEET #9

☐ CONVICTED OF or ☒ LEADS

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield
STATE VS.
David Walter Coon

AKA:

Race: Sex: M Age: 52DOB: -1963 SS#:

Address:

City, State, Zip: North Augusta, SC 29860

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Poss of Unlawful Firearmin violation of § 16-23-230 of the S.C. Code of Laws, bearing CDR Code #

☒ 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)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or pay

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and awarded by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2016GS190016A/W#: 2015A1910100760Date of Offense: 12/22/2015S.C. Code § : 16-23-0230CDR Code #: 0315

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSThe charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or pay

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and awarded by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender

Other: _____

☐ Appointed PD or appointed other

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge John D. HarrisJudge Code: 2016GS190016Sentence Date: 1/16/17

0-10 Fel.

STATE OF SOUTH CAROLINA

COUNTY OF Edgefield

STATE VS.

David Walter Coon

AKA:

Race: White Sex: M Age: 52

DOB: 1963 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: North Augusta, SC 29860

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Poss of Unlawful Firearm

in violation of § 16-23-230 of the S.C. Code of Laws, bearing CDR Code # 0315

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-a

w/minor 1st or Lewd Act)

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:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1/12/17☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and
by the State Department of Corrections. 287 Jail☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-2.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-0 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS1900104

A/W#: 2015A1910200161

Date of Offense: 12/22/2015

S.C. Code § : 16-23-0230

CDR Code #: 0315

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEA☐ Mandatory GPS(CSC ☐ §17-25-a

w/minor 1st or Lewd Act)

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:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detentionfor a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1/12/17☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and
by the State Department of Corrections. 287 Jail☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-2.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-0 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.§ 47.12 requires \$500 be paid to Clerk:
during probation.

Presiding Judge

Judge Code: 2048

Sentence Date: 1/12/17

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Edgefield

VS.

David Walter Coon

AKA:

Race:

Sex: M

Age:

52

DOB:

-1963

SS#:

Address:

City, State, Zip:

North Augusta, SC 29860

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

☐ CONVICTED OF or☒ PLEA

in violation of § 16-13-180 A of the S.C. Code of Laws, bearing CDR Code #

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention

for a determinate term of

3

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

of \$

; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

1/12/17

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 26-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$100.00

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 56-1-286 (DUI Breath Test)

\$25

\$

Proviso 47.9 (Public Def/Prob)

\$500

\$

§ 14-1-212 (Law Enforce. Funding)

\$25

\$25.00

§ 14-1-213 (Drug Court Surcharge)

\$150

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

Proviso 90.5 (SCCJA Surcharge)

\$5

\$

3% to County (if paid in installments)

\$3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS1900105

A/W#: 2015A1910100751

Date of Offense: 12/22/2015

S.C. Code § : 16-13-0180(A)

CDR Code #: 3599

SENTENCE SHEET #3

Presiding Judge

Judge Code:

Sentence Date:

2017/1/12/17

0-5 Feb.

STATE OF SOUTH CAROLINA

COUNTY OF
STATEEdgefield
VS.

David Walter Coon

AKA:

Race: Sex: M Age: 52

DOB: 1963 SS#

Address:

City, State, Zip: North Augusta, SC 29860

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: PWID Marijuana

in violation of § 44-53-320b2 of the S.C. Code of Laws, bearing CDR Code #

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-11The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defend.)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by:

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed
and/or to pay a fine of \$; provided that upon the service of days/months/years and/orof \$; 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: 1/12/17
☒ 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. 347 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 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
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$ 8.25
TOTAL	\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESS.

INDICTMENT/CASE#: 2016G-51961...A/W#: 2015A1910100721Date of Offense: 12/22/2015S.C. Code § : 44-53-0370(b)(2)CDR Code #: 0186

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 44-53-320b2 of the S.C. Code of Laws, bearing CDR Code # 0186The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defend.)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by:

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed
and/or to pay a fine of \$; provided that upon the service of days/months/years and/orof \$; 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: 1/12/17
☒ 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. 347 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 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
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$ 8.25
TOTAL	\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/m. pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel

§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: Sentence Date: 1/12/17

25-30 FOL.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield
STATE VS.

David Walter Coon

AKA:

Race: Sex: M Age: 52

DOB: 1963 SS#: [REDACTED]

Address:

City, State, Zip: North Augusta, SC 29860

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Trafficking Meth greater than 400 grams ☐ CONVICTED OF or ☐ PLEAin violation of § 44-53-350 of the S.C. Code of Laws, bearing CDR Code # 0370☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by [REDACTED]

ACQUITT:

[REDACTED] Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 797 days☒ 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 (C... Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$25.00
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$8.25
TOTAL		\$283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2016-65-19-11A/W#: 2015A1910100718Date of Offense: 12/22/2015S.C. Code § : 44-53-0375(C)(5)CDR Code #: 0370

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEAin violation of § 44-53-350 of the S.C. Code of Laws, bearing CDR Code # 0370☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by [REDACTED]

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 797 days☒ 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 (C... Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$25.00
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$8.25
TOTAL		\$283.25

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

John C. H.
2/4/17
1/12/17

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield
 STATE VS.
David Walter Coon

INDICTMENT/CASE#: 2017GS1900072A/W#: 2017GS1900072Date of Offense: 1/9/2017S.C. Code §: 16-13-0240CDR Code #: 3470

AKA:

Race: White Sex: M Age: 53DOB: -1963 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: North Augusta, SC 29860DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: PSG (\$2000 - \$10,000)in violation of § 16-13-240 of the S.C. Code of Laws, bearing CDR Code # 34☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Solidator

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceedand/or to pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and/orof \$ [REDACTED]; 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: 1/12/17☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-13

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-2 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ [REDACTED] plus 20% fee: [REDACTED] \$ [REDACTED][REDACTED] days/hours Public Service Emp...Payment Terms: [REDACTED]Obtain GED ☐☐ Set by SCDPPPS [REDACTED]Attend Voc. Rehab. or Job Corp. [REDACTED]Recipient: [REDACTED]May serve W/E beginning [REDACTED]Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ [REDACTED] beginning [REDACTED]\$ [REDACTED] paid to Public Defender FundOther: [REDACTED]

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

☐ Appointed PD or appointed other counsel,§ Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge

Judge Code:

Sentence Date:

0-3 m. 20.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Edgefield
STATE VS.
David Walter Coon

INDICTMENT/CASE#: 2017GS1900073

A/W#: 2017GS1900073

Date of Offense: 1/9/2017

S.C. Code §: 16-13-0240

CDR Code #: 3470

AKA:

Race: White Sex: M Age: 53

DOB: 1963 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: North Augusta, SC 29860

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: RS6 (2000-10,000)

in violation of § 16-13-240 of the S.C. Code of Laws, bearing CDR Code # 3470

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-2 (CSC w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by " "

ATTEST

[Signature] Solicitor [Signature] SC Bar# [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County D.

for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 days/months/years and/or pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and/or pay a fine of \$ [REDACTED]; plus costs and assessments as applicable*; the balance is suspended with probation for [REDACTED]

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: 1/12/17

☒ 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. 387 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-23-135.

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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms: [REDACTED]

☐ Set by SCDPPPS [REDACTED]

Recipient: [REDACTED]

*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 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Chark Raul

Court Reporter: Stacy Sheppard

SCCA/217 (07/2016)

[REDACTED] days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. [REDACTED]

May serve W/E beginning [REDACTED]

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly pmts. of \$ [REDACTED] beginning [REDACTED]

\$ [REDACTED] paid to Public Defender

Other: [REDACTED]

☐ Appointed PD or appointed other counsel, §Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]

Judge Code: 2049

Sentence Date: 1/12/17

U-3 m.32.

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Edgefield

VS.

David Walter Coon

AKA:

Race:

Sex: M

Age:

52

DOB:

-1963

SS#:

Address:

City, State, Zip: North Augusta, SC 29860

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: RS6 less than \$2000in violation of § 16-13-180 A of the S.C. Code of Laws, bearing CDR Code # 3425☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 16-13-180 AThe charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's attorney)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Centerfor a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or pay of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1/12/17
☒ 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. 387 hours☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-1

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSION

INDICTMENT/CASE#: 2016GS1900252

A/W#: 2015A1910100756

Date of Offense: 12/22/2015

S.C. Code § : 16-13-0180(A)

CDR Code #: 3425

SENTENCE SHEET

☐ CONVICTED OF or

100066

SC Bar#

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Centerfor a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or pay of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1/12/17
☒ 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. 387 hours☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-1

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date: