

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

LORGIO D. MORALES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000072

APPENDIX

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	)	2015-GS-23-3018
COUNTY OF GREENVILLE	)	2015-GS-23-3019
	)	2015-GS-23-3020
	)	2015-GS-23-4086
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
LORGIO DANILO MORALES,	)	
DEFENDANT.	)	
_____	)	

February 5 and 6, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE; and a Jury

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

KATRYNA BEVIS OWENS, ESQ.
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SCOTT DAVID ROBINSON, ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

(Court's Exhibit)

C-1 Jury Note

64

*Exhibit was retained by Investigator John Garrett of the
Greenville County Sheriff's Office.

P R O C E E D I N G S

MONDAY, FEBRUARY 5, 2018

(WHEREUPON, State's Exhibit Numbers 1 through 66 were
premarked for identification.)

(WHEREUPON, proceedings commenced at 11:25 a.m.)

THE COURT: All right. What do y'all want to tell me
before we pick this jury? Nothing? Okay.

MS. OWENS: Your Honor, very briefly from the State,
the State intends to admit some evidence regarding
fingerprint analysis, and it occurred to me that there may
be some difficulty describing to the jury from where the
examiner retrieved a standard of this defendant's
fingerprints, so I kind of wanted to discuss that ahead of
trial to figure out if there was a sanitized way to
discuss fingerprints being on file, so to speak. I know
that's an inartful and delicate arena, so I just ---

THE COURT: What, did they come out of the FBI
database or something?

MS. OWENS: It's my understanding that the defendant
was arrested here in Greenville in November of 2011 for a
DUI offense and booked at that time. That is the first
time that I'm able to verify that his fingerprints would
have been accessible in the local Greenville County
database.

1 THE COURT: Well, I just wouldn't -- Mr. Robinson,
2 what's your position?

3 MR. ROBINSON: I think it can be done the way she's
4 talking about in terms of just -- I don't know exactly how
5 to do it, actually, to be honest. I'm not sure exactly
6 how to do it.

7 THE COURT: This same problem has been going on for
8 years. You just don't mention it. You just don't talk
9 about it.

10 MS. OWENS: Okay. On that subject, the defendant has
11 stipulated that his fingerprints were found inside this
12 location. That may minimize some of the difficulty. I
13 just wanted the Court to know that I'm trying to avoid
14 discussing that issue, but there is certainly a
15 possibility that it will become relevant. And ---

16 THE COURT: How? You've got to watch out for putting
17 his character at issue, you know.

18 MS. OWENS: Oh, certainly, Your Honor.

19 Just briefly to describe sort of the landscape of the
20 case, when deputies executed the search at this particular
21 location, no one was on scene, and the great weight of the
22 evidence that the State will present over the course of
23 the trial is this defendant's fingerprints found at
24 various locations inside this building. So if there is
25 some suggestion by way of the defendant's case that he is

1 not a resident of Greenville, South Carolina or that he
2 had ties to a different part of the country, from a
3 geographical perspective, it certainly may become relevant
4 that he was in Greenville at least in November of 2011.

5 THE COURT: Well, if he gets up and testifies that he
6 wasn't here, then you cross-examine him on it.

7 MS. OWENS: Certainly, certainly.

8 THE COURT: He opens the door.

9 MS. OWENS: I will apprise the Court before heading
10 down any of those roads should those doors become open. I
11 just wanted to at least get some direction about how to
12 handle that issue. I've instructed the latent print
13 examiner not to use words like "on file" or a database.
14 I'm hopeful that we can avoid getting into too much detail
15 about exactly why we had his fingerprints.

16 THE COURT: Well, I think, you know, the only
17 reasonable conclusion is that they were in some database,
18 but it doesn't have to be -- it could have been a
19 workplace database.

20 MS. OWENS: Certainly.

21 THE COURT: So just don't get into why the State had
22 them.

23 MS. OWENS: Sure.

24 THE COURT: Okay. Anything else?

25 MR. ROBINSON: Your Honor, we have three stipulations

1 that we've entered into ---

2 THE COURT: Okay.

3 MR. ROBINSON: --- that will hopefully save some
4 time.

5 THE COURT: Okay.

6 MR. ROBINSON: And I don't know when you want us to
7 hand those up to the Court, but we did those just a few
8 moments ago, to make the Court aware.

9 And also, Judge, I have a motion to suppress at some
10 point ---

11 THE COURT: Okay.

12 MR. ROBINSON: --- that I'd like to make as far as
13 the warrant, the search warrant.

14 THE COURT: Well, how about if we pick this jury
15 first.

16 MR. ROBINSON: Yes, sir.

17 THE COURT: We don't have to swear them. Let's get
18 them picked, okay?

19 (Pause.)

20 THE COURT: Mr. Robinson, is it Lorgio Danilo
21 Morales?

22 MR. ROBINSON: Yes, sir.

23 (Pause.)

24 THE COURT: Do y'all have any voir dire? Do you have
25 a witness list, Mr. Robinson?

1 MR. ROBINSON: No witnesses.

2 MS. OWENS: Your Honor, does your standard voir dire
3 include any questions of the pool regarding their
4 particular attitudes toward drug use? I don't have a
5 proposed specific written voir dire, but ---

6 THE COURT: No.

7 MS. OWENS: --- considering the nature of the case,
8 I'd request, and if you want me to prepare something in
9 writing, I'd be happy to do that. It just occurred to me
10 that that may be prudent to inquire as to whether anyone's
11 personal attitudes about drug use would inhibit their
12 ability to follow the Court's instructions and give both
13 the State and the defendant a fair trial.

14 THE COURT: Well, write something up and show it to
15 Mr. Robinson, see what it is you . . .

16 (Pause.)

17 THE COURT: And you don't object to this,
18 Mr. Robinson?

19 MR. ROBINSON: Judge, while I like the handwriting
20 that Ms. Owens has, I think it may be prejudicial to my
21 client going into the fact about marijuana, use of
22 marijuana and so forth.

23 THE COURT: Well, she doesn't mention any specific
24 drug. I mean, she could be talking about Tylenol, for all
25 I know.

1 MR. ROBINSON: That's true. That's true.

2 MS. OWENS: Quite frankly, Your Honor, it's the
3 State's position that the question would equally ferret
4 out anyone who had such strong feelings that they would be
5 inclined to not give the defendant a fair trial.

6 THE COURT: I don't think it's really commenting on
7 the facts, which is what I would be concerned about, so I
8 don't mind asking it. They will have already heard the
9 indictments that would be published, so they'll know what
10 it's about.

11 (Pause.)

12 MR. ROBINSON: Your Honor?

13 THE COURT: Yeah.

14 MR. ROBINSON: Before we start, I've spoken to
15 Ms. Owens about this, is it all right with the Court, I
16 have a hard time walking around, is it okay if I examine
17 people and talk to the jury from my desk?

18 THE COURT: Sure. How about your opening statement?

19 MR. ROBINSON: I can do it -- just if the Court's
20 okay, I can do it from my desk, Your Honor, if that's
21 okay. Or I can have Randy wheel that up there to the
22 thing. I can struggle to get over there. It's up to the
23 Court.

24 THE COURT: Well, you want to make your opening
25 statement from your desk, from the table? How about if

1 you go lean on their machine, would that be all right?

2 Scott, I don't want to ---

3 MR. ROBINSON: Yes, sir.

4 THE COURT: Okay.

5 MR. ROBINSON: Judge, I had a trial with Judge
6 McIntosh a while ago, and that's what I did when I was in
7 Anderson. It didn't really -- it helps me. I have a hard
8 time ---

9 THE COURT: I know.

10 MR. ROBINSON: --- and so forth with that, just
11 walking.

12 THE COURT: All right.

13 MR. ROBINSON: If that's okay with the Court.

14 THE COURT: That's fine. Just tell them -- I don't
15 want to -- I presume the State's position is they don't
16 want some sort of unfounded sympathy, so -- but you need
17 to tell them why. Or I'll tell them ---

18 MR. ROBINSON: Yes, sir.

19 THE COURT: --- that you have a current medical issue
20 that will limit your mobility. How about that?

21 MR. ROBINSON: Perfect. Thank you, Judge.

22 (Pause.)

23 (WHEREUPON, the jury panel entered the courtroom at

24 11:41 a.m.)

25 THE COURT: Okay. Ladies and gentlemen, welcome up

1 to Courtroom Number 4. And I qualified you all to serve
2 generally for the week as jurors under our law, and now
3 we're going to qualify you to serve as jurors on this
4 particular case. So please remember you're still under
5 oath, and please provide truthful, full, complete answers
6 to the questions that I will propound to you in just a
7 moment.

8 Before I do that, though, let me introduce this case
9 to you. There are four indictments in this matter. The
10 first one alleges that Lorgio Danilo Morales did, in
11 Greenville county, on or about the 23rd day of April 2012,
12 without an agreement or permission from Duke Energy,
13 willfully and unlawfully withdraw and appropriate for his
14 own use an electric current from the wires of said gas and
15 electric power company in violation of the statutes and
16 laws of this state.

17 The second indictment alleges that Lorgio Danilo
18 Morales did, in Greenville county, on or about the 24th
19 day of April 2012, willfully, knowingly and unlawfully
20 alter, tamper with or bypass a meter which has been
21 installed for the purpose of measuring the use of
22 electricity, gas or water for the purpose of growing or
23 manufacturing controlled substances in violation of our
24 laws.

25 The third indictment alleges that Lorgio Danilo

1 Morales did, in Greenville county, on or about the 23rd
2 day of April 2012, knowingly manufacture marijuana in
3 violation of our laws.

4 And the final indictment alleges that Lorgio Danilo
5 Morales did, in Greenville county, on or about the 23rd
6 day of April 2012, knowingly sell, manufacture, deliver or
7 bring into the state of South Carolina, or did knowingly
8 provide financial assistance or otherwise aid, abet,
9 attempt or conspire to sell, manufacture, deliver or bring
10 into the state or was knowingly in actual or constructive
11 possession of more than 100 pounds of marijuana or 100 to
12 1,000 marijuana plants, all in violation of our statutes
13 and laws in South Carolina.

14 Now, to these indictments, Mr. Morales has pled not
15 guilty, and as such, certain rights attach which belong to
16 each and every person in this country who is charged with
17 a criminal offense, and that is that he is presumed to be
18 innocent of each offense unless and until the charging
19 body, in this case the State of South Carolina, can prove
20 to a jury beyond any reasonable doubt each and every
21 element of each offense that he is charged with. Please
22 keep that in mind throughout the course of these
23 proceedings.

24 The other thing that I would inform you at this time
25 is that these indictments which I have published to you

1 are not evidence, and you should make no presumption or
2 take any inference from the fact that these indictments
3 have issued. They are just the formal pieces of paper
4 which allow this case to wind its way through our justice
5 system to arrive here in court for resolution, and that
6 resolution should be based on the evidence presented in
7 this courtroom and the law as I will give it to you. So
8 please keep that in mind as well throughout the course of
9 these proceedings.

10 Now, before I go into the qualification questions, at
11 this time, I would ask the attorneys to identify
12 themselves and their client.

13 Ms. Owens?

14 MS. OWENS: May it please the Court, Your Honor.
15 Good morning, ladies and gentlemen. My name is Katryna
16 Owens. I'm a criminal prosecutor here in Greenville
17 county for the 13th Circuit Solicitor's Office.

18 THE COURT: Thank you, ma'am.

19 Mr. Robinson?

20 MR. ROBINSON: Good morning. My name is Scott
21 Robinson. I'm a criminal defense attorney in Greenville.
22 And this is my client, Lorgio Morales.

23 DEFENDANT MORALES: Good morning. My name is ---

24 THE COURT: No. Okay.

25 DEFENDANT MORALES: --- Lorgio Morales. I'm the

1 defendant.

2 JURY QUALIFICATION

3 THE COURT: Thank you.

4 Ladies and gentlemen, is there any member of the jury
5 panel who is related by blood or marriage or who has a
6 business, personal or social relationship with any of the
7 attorneys involved in this case or any member of the 13th
8 Circuit Solicitor's Office? If so, please stand.

9 (No response.)

10 THE COURT: Is there any member of the jury panel
11 related by blood or marriage or who has a business,
12 personal or social relationship with Mr. Lorgio Danilo
13 Morales? If so, please stand.

14 (No response.)

15 THE COURT: I'm going to read a list of potential
16 witnesses and I'll need to know the same about these
17 folks: Investigator John Garrett with the Sheriff's
18 Office; Deputy Cheri Lyda with the Sheriff's Office;
19 Deputy Shane Reece with the Sheriff's Office; Deputy Chris
20 McCalmont with the Sheriff's Office; Deputy Joe Parrish
21 with the Sheriff's Office; Deputy Ashleigh Swanson with
22 the Sheriff's Office; Deputy Rob Curtis with the Sheriff's
23 Office; Deputy David Whitlock with the Sheriff's Office;
24 Chris Gary with Greenville County forensics; Jonathan
25 Hamilton with Greenville County forensics; Sergeant Dar

1 Shaw with Greenville County forensics; Kara Bennick with
2 Property and Evidence Control; Kelly Dixon; Eric McFalls;
3 Steve Scott; Larry Barron, formerly with the Parker Fire
4 Department; Trooper Christopher Lee with the South
5 Carolina Highway Patrol; Mark Poag, formerly with the Drug
6 Enforcement Agency; Jason Randall; Jack Hine; Camilo
7 Rodriguez Gonzalez. Is there any member of the jury panel
8 who is related by blood or marriage or who has a business,
9 personal or social relationship with any of those
10 potential witnesses whose names I have just read? If so,
11 please stand.

12 All right. Yes, sir. If you would, please tell me
13 your name and number.

14 JUROR NUMBER 64: David Allen Gross, Number 64.

15 THE COURT: Okay. And who is it that you are
16 familiar?

17 JUROR NUMBER 64: John Garrett is a lifelong friend
18 of mine.

19 THE COURT: All right. And would the fact that he is
20 a lifelong friend of yours prevent you from being fair and
21 impartial to either the State or the defendant?

22 JUROR NUMBER 64: No, sir.

23 THE COURT: Could you judge this case based solely on
24 the merits of the evidence presented in this courtroom and
25 the law as I would give it to you?

1 JUROR NUMBER 64: Yes, sir.

2 THE COURT: All right. Thank you, sir.

3 Okay. Is there any member of the jury panel who has
4 any knowledge about the events that are alleged in these
5 indictments? If so, please stand.

6 (No response.)

7 THE COURT: Is there any member of the jury panel,
8 family member or close, personal friend who has ever been
9 charged with or a victim of these types of offenses? If
10 so, please stand.

11 (No response.)

12 THE COURT: Is there any member of the jury panel who
13 is aware of any bias or prejudice towards either the State
14 or the defense? If so, please stand.

15 (No response.)

16 THE COURT: Is there any member of the jury panel who
17 is a contributor to or a member of a group whose primary
18 concern is the promotion of law enforcement or victims
19 rights? Examples would be MADD, SADD or CAV. If so,
20 please stand.

21 (No response.)

22 THE COURT: Is there any member of the jury panel who
23 has any personal feelings or opinions about illegal drug
24 use that would prevent them from following the law and the
25 Court's instructions and to give both the State and the

1 defendant a fair trial? Does anyone have those feelings
2 that are so strong that they would prevent you from doing
3 that? If so, please stand.

4 (No response.)

5 THE COURT: Is there any juror who knows of any
6 reason whatsoever why you shouldn't serve in this case
7 with particular emphasis on your ability to be fair and
8 impartial to both the State and the defense and to judge
9 this case based solely on the merits of the evidence
10 presented in this courtroom and the law as I would give it
11 to you? If you can't do that, please tell us now.

12 (No response.)

13 THE COURT: All right. Anything further from the
14 State?

15 MS. OWENS: Nothing from the State, Your Honor.

16 THE COURT: From the defense?

17 MR. ROBINSON: No, sir, Judge.

18 THE COURT: Okay. Well, let me talk to the lawyers
19 up here very quickly, please.

20 And throughout the trial, Mr. Robinson has a current
21 physical condition which has limited his mobility, so
22 y'all please be aware of that.

23 (WHEREUPON, a bench conference was held off the record.)

24 JURY SELECTION

25 THE COURT: All right. Ladies and gentlemen, when

1 your name is called, we just ask you to stand in place and
2 just await further instructions.

3 THE CLERK: Juror Number 12, Ralph Belcher.

4 (WHEREUPON, Ralph Belcher, a black male stood.)

5 THE CLERK: What says the State?

6 MS. OWENS: Please excuse Mr. Belcher.

7 THE CLERK: You may be seated. You have been excused
8 from this case.

9 Juror 128, Christopher Pratt.

10 (WHEREUPON, Christopher Pratt, a white male, stood.)

11 THE CLERK: What says the State?

12 MS. OWENS: Please present Mr. Pratt.

13 THE CLERK: What says the defense?

14 MR. ROBINSON: Please excuse Mr. Pratt.

15 THE CLERK: You may be seated, sir. You've been
16 excused from this case.

17 Juror 129, Robert Quarles.

18 (WHEREUPON, Robert Quarles, a black male, stood.)

19 THE CLERK: What says the State?

20 MS. OWENS: Please present Mr. Quarles.

21 THE CLERK: What says the defendant?

22 MR. ROBINSON: Please seat Mr. Quarles.

23 THE CLERK: Mr. Quarles, if you'd please come and
24 have a seat in the jury box.

25 THE COURT: Bring your belongings with you if you

1 have any.

2 THE CLERK: Juror Number 111, Marjorie Metts.

3 (WHEREUPON, Marjorie Metts, a white female, stood.)

4 THE CLERK: What says the State?

5 MS. OWENS: Please present Ms. Metts.

6 THE CLERK: What says the defense?

7 MR. ROBINSON: Please excuse this juror.

8 THE CLERK: You may be seated. You've been excused
9 from this case.

10 Juror 171, Blain Young.

11 (WHEREUPON, Blain Young, a white female, stood.)

12 THE CLERK: What says the State?

13 MS. OWENS: Please present Ms. Young.

14 MR. ROBINSON: Please seat this juror.

15 THE CLERK: All right. Thank you.

16 Ma'am, please come, bring your things, have a seat in
17 the jury box.

18 Juror 117, Timothy Monahan.

19 (WHEREUPON, Timothy Monahan, a white male, stood.)

20 THE CLERK: What says the State?

21 MS. OWENS: Please excuse Mr. Monahan.

22 THE CLERK: You may be seated, sir. You've been
23 excused from this case.

24 Juror 49, Danny Fowler.

25 (WHEREUPON, Danny Fowler, a white male, stood.)

1 THE CLERK: What says the State?

2 MS. OWENS: Please present Mr. Fowler.

3 THE CLERK: What says the defendant?

4 MR. ROBINSON: Please excuse this juror.

5 THE CLERK: You may be seated, sir. You've been
6 excused from this case.

7 Juror Number 3, Michael Arnold.

8 (WHEREUPON, Michael Arnold, a Hispanic male, stood.)

9 THE CLERK: What says the State?

10 MS. OWENS: Please present Mr. Arnold.

11 THE CLERK: What says the defendant?

12 MR. ROBINSON: Please seat this juror.

13 THE CLERK: Sir, if you'll please bring your things,
14 come have a seat in the jury box.

15 Juror 119, Dominick Morabito.

16 (WHEREUPON, Dominick Morabito, a white male, stood.)

17 THE CLERK: What says the State?

18 MS. OWENS: Please excuse Mr. Morabito.

19 THE CLERK: You may be seated, sir. You have been
20 excused from this case.

21 Juror Number 122, Mark Nowell.

22 (WHEREUPON, Mark Nowell, a white male, stood.)

23 THE CLERK: What says the State?

24 MS. OWENS: Please present Mr. Nowell.

25 THE CLERK: What says the defendant?

1 MR. ROBINSON: Please excuse this juror.

2 THE CLERK: You may be seated, sir. You've been
3 excused from this case.

4 Juror 145, Mark Sturgis.

5 (WHEREUPON, Mark Sturgis, a white male, stood.)

6 THE CLERK: What says the State?

7 MS. OWENS: Please present Mr. Sturgis.

8 THE CLERK: What says the defendant?

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: Sir, please come have a seat in the jury
11 box.

12 Juror Number 137, Russell Seiter.

13 (WHEREUPON, Russell Seiter, a white male, stood.)

14 THE CLERK: What says the State?

15 MS. OWENS: Please present Mr. Seiter.

16 THE CLERK: What says the defendant?

17 MR. ROBINSON: Please seat this juror.

18 THE CLERK: Sir, please come have a seat in the jury
19 box.

20 Juror 147, Catherine Talley.

21 (WHEREUPON, Catherine Talley, a white female, stood.)

22 THE CLERK: What says the State?

23 MS. OWENS: Please present Ms. Talley.

24 MR. ROBINSON: Please seat this juror.

25 THE CLERK: Ma'am, please come have a seat in the

1 jury box.

2 Juror 52, Yohny Garcia.

3 (WHEREUPON, Yohny Garcia, a white male, stood.)

4 THE CLERK: What says the State?

5 MS. OWENS: Please excuse Mr. Garcia.

6 THE CLERK: You may be seated, sir. You have been
7 excused from this case.

8 Juror 20, Elena Brown.

9 (WHEREUPON, Elena Brown, a black female, stood.)

10 THE CLERK: What says the State?

11 MS. OWENS: Please present Ms. Brown.

12 THE CLERK: What says the defendant?

13 MR. ROBINSON: Please seat this juror.

14 THE CLERK: Ms. Brown, please bring your things, come
15 have a seat in the jury box.

16 Juror 126, Belinda Pike.

17 (WHEREUPON, Belinda Pike, a black female, stood.)

18 THE CLERK: What says the State?

19 MS. OWENS: Please present Ms. Pike.

20 THE CLERK: What says the defendant?

21 MR. ROBINSON: Please seat this juror.

22 THE CLERK: Ma'am, please come have a seat in the
23 jury box.

24 Juror Number 139, Nora Shore.

25 (WHEREUPON, Nora Shore, a white female, stood.)

1 THE CLERK: What says the State?

2 MS. OWENS: Please present Ms. Shore.

3 THE CLERK: What says the defendant?

4 MR. ROBINSON: Please seat this juror.

5 THE CLERK: Please, ma'am, come have a seat in the
6 jury box.

7 Juror Number 8, Sergio Balboa.

8 (WHEREUPON, Sergio Balboa, a Hispanic male, stood.)

9 THE CLERK: What says the State?

10 MS. OWENS: Please present Mr. Balboa.

11 THE CLERK: What says the defendant?

12 MR. ROBINSON: Please seat this juror.

13 THE CLERK: Sir, please come have a seat in the jury
14 box.

15 Juror 73, Holly Hardin.

16 (WHEREUPON, Holly Hardin, a white female, stood.)

17 THE CLERK: What says the State?

18 MS. OWENS: Please present Ms. Hardin.

19 THE CLERK: What says the defendant?

20 MR. ROBINSON: Please seat this juror.

21 THE CLERK: Ma'am, please come have a seat in the
22 jury box.

23 Juror 120, John Mosser.

24 (WHEREUPON, John Mosser, a white male, stood.)

25 THE CLERK: What says the State?

1 MS. OWENS: Please excuse Mr. Mosser.

2 THE CLERK: All right. You may be seated. You have
3 been excused from this case.

4 Juror 65, Frank Gunther.

5 (WHEREUPON, Frank Gunther, a white male, stood.)

6 THE CLERK: What says the State?

7 MS. OWENS: Please present Mr. Gunther.

8 THE CLERK: What says the defendant?

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: Sir, please come have a seat in the jury
11 box.

12 THE COURT: All right. One alternate, one and one.

13 THE CLERK: Juror Number 27, James Christeson.

14 (WHEREUPON, James Christeson, a white male, stood.)

15 THE CLERK: What says the State?

16 MS. OWENS: Please present Mr. Christeson.

17 THE CLERK: What says the defendant?

18 MR. ROBINSON: Please seat this juror.

19 THE CLERK: Sir, please come have a seat in the jury
20 box.

21 THE COURT: All right. Any exception or objection to
22 the jury as impaneled from the State?

23 MS. OWENS: Nothing from the State, Your Honor.

24 THE COURT: From the defense?

25 MR. ROBINSON: No, sir, Judge.

Thank you.

INTRODUCTORY REMARKS

I want to tell you, we have a dispute about the facts in this case which requires this jury trial. And you all, your job is to listen to the evidence presented in this case and the law as I give it to you and come to a

1 conclusion which will resolve the dispute.

2 I would remind you, once again, that the indictments
3 that I read to you are not evidence and you should make no
4 presumption or take any inference from the fact that
5 they've issued. They're just the documents that allow
6 this case to wind its way through our system to arrive
7 here in court for resolution based on evidence and the
8 law.

9 I also remind you that every person in this country
10 who is charged with a crime is presumed to be innocent
11 unless and until the State can prove to a jury beyond any
12 reasonable doubt each and every element of each offense
13 that that person is charged with. Please remember that
14 throughout the course of these proceedings.

15 I want to tell you that I divide a trial into five
16 parts so that you all have a procedural road map to know
17 where you are and what's coming next. We're kind of in
18 the first part right now, but I really describe the first
19 part as the opening statements to you by the attorneys in
20 which they make brief and nonargumentative statements to
21 you about the case. And just it's unusual, but
22 Mr. Robinson does have this current condition, and so I'm
23 going to allow him to make his opening statement to you
24 all from his table, counsel table. It's not normal or
25 usual, but this is an unusual circumstance this week for

1 that.

2 The second part of a trial is the meat and potatoes
3 of each case, and that is the presentation of the evidence
4 in the case. And evidence will come to you generally in
5 one of three ways. The most commonly thought of way is
6 through oral testimony from the witness stand. The second
7 most common way that I think of is through the
8 introduction of tangible items or documents. And the
9 third most common way is when the parties agree that some
10 fact is so beyond dispute that you should accept it as
11 true, and that's what we call a stipulation. Those are
12 the three forms of evidence that are generally introduced,
13 and I don't know what combination this trial has, but it
14 will come to you in one of those three ways.

15 The third part of the trial will be at the conclusion
16 of the evidence when all the evidence has been presented
17 and the lawyers will make their closing arguments to you.
18 So it's an opening statement and a closing argument. And
19 in the closing argument, the attorneys argue to you and
20 advocate their position and urge you to resolve this
21 dispute in their favor.

22 The fourth part of the trial will be when I charge
23 you on the law, when I tell you what the law is as it
24 applies to this case.

25 And then the fifth part of the trial will be when you

1 all retire to your jury room to deliberate this matter and
2 to come to a conclusion that resolves the dispute.

3 So those are the five parts. They're not of equal
4 length, but you'll have an idea of where you are and
5 what's coming next if you can remember that little
6 procedural road map.

7 I'm sure I'll ask you to do a number of things
8 throughout the course of the trial, but there are three
9 very important things that I will ask you to do, and the
10 first is to keep an open mind. We go through the process
11 of qualifying you all to serve to ensure that we have a
12 fair and impartial jury that will judge this case based
13 solely on the merits of the evidence and the law as I give
14 it to you and not on some outside influence. So keep an
15 open mind throughout the course of the trial, and don't
16 come to a conclusion until you are in your jury room
17 deliberating, ready to resolve the case.

18 The second thing I ask you to do is very simple,
19 sometimes very difficult, and that is to pay attention.
20 If you let your mind wander during the course of the
21 trial, you might miss an answer, you might miss some body
22 language from a witness who's answering a question or what
23 we call a witness's demeanor, and in the conclusion of the
24 trial, if you miss that, it might become important, and
25 you would be at a disadvantage in your deliberations if

1 you had not paid attention to that.

2 And then finally, the last thing I ask you to do and
3 instruct you to do is not to discuss this case, the facts
4 of this case with anyone until you are free to deliberate
5 the case at the conclusion of the trial. That means when
6 we break for lunch and you go have lunch with a coworker
7 or a friend or a family member, you can't talk about the
8 facts of the case there, you can't talk about the facts of
9 the case with the bailiffs, you can't talk about the facts
10 of the case among yourselves until the conclusion of the
11 trial. And the reason for that is that even an innocent
12 comment from someone who you like and trust might
13 influence your state of mind as to the outcome of this
14 case, and we don't care what someone outside of this
15 courtroom thinks. We're only interested in what you
16 people hear and perceive and decide. And if you were to
17 allow that to happen, it would be unfair to these parties,
18 it would be unfair to your fellow jurors, and it would be
19 unfair to yourself to allow someone who is not making the
20 sacrifices that each of you are making to have any input
21 in the outcome of this case.

22 So don't talk about it, can't go on social media, you
23 can't look something up on the Internet, you can't go
24 visit some location that you might hear about. Everything
25 that you're going to need to hear to resolve this dispute

1 you will hear in this courtroom, and that will be subject
2 to constitutional scrutiny and protection. So that's why
3 we ask you and instruct you not to talk about it.

4 I will tell you that you all are the sole judges of
5 the facts in this case. A trial judge is not allowed to
6 have an opinion about the facts in this case, so don't
7 think by anything I might say or do throughout the trial I
8 have such an opinion. It is up to you all to determine
9 what to believe, what not to believe, what you feel is
10 correct and true and what is incorrect or not true. It's
11 up to you all to make those decisions.

12 That same law makes me the sole judge of the law in
13 the case, so if you think you have some idea as to what
14 the law is or what the law ought to be and it differs from
15 what I tell you what the law is during the trial and at
16 the conclusion of the trial, you're going to swear an oath
17 after a few moments to set aside your own opinion and
18 apply the law precisely as I state it to you.

19 Now, you saw me ask the attorneys to approach. We
20 had what would be commonly called a bench conference out
21 of your hearing. I may do that again, or I may ask you
22 all to leave the courtroom so we can discuss some matter
23 out of your presence. I will tell you that we are not
24 trying to deceive you in any way, but we may be trying to
25 keep something from you. It could be that we're talking

1 about a piece of evidence that's disputed and should not
2 be admitted in the trial, and you can understand why you
3 shouldn't hear about it. We also, in these conferences,
4 sometimes talk about logistics, about how long a witness
5 is going to be, when to break for lunch and all that sort
6 of thing.

7 So I think that covers everything. But what I'm
8 going to ask you to do now is to go back to your jury room
9 and make your first decision in this case, and that is who
10 you want to be your foreperson. And the foreperson is the
11 moderator of discussions at the conclusion of the trial
12 and the spokesperson here in the courtroom should that
13 become necessary. If y'all can't make that decision, I'm
14 happy to help you out. I have a very scientific method:
15 my hand over my eyes and just put my finger down on the
16 list and one of you is the foreperson. But I like to give
17 y'all an opportunity. Honestly, if you have trouble with
18 it, I'll help you out.

19 So at this time -- and we do have a matter to take up
20 outside of your presence -- we're going to excuse you to
21 your jury room. And the foreperson has to come from the
22 first 12, not from the alternate. And we'll get back with
23 you as quickly as we can, and at that time place you under
24 oath and have some brief opening statements.

25 All right. Thank y'all very much.

1 (WHEREUPON, the jury exits the courtroom at 12:12 p.m.)

2 THE COURT: All right. I understand you have a
3 motion, Mr. Robinson.

4 MR. ROBINSON: I do, Your Honor.

5 THE COURT: What is it?

6 MR. ROBINSON: Your Honor, this is a motion to
7 suppress the evidence that was seized in the building.
8 This is based on the search warrant being faulty in this
9 case. I'm going to hand up to the Court a copy of the
10 search warrant, if I can have . . .

11 THE COURT: Okay. Thank you.

12 MR. ROBINSON: And, Judge, this is an argument under
13 the exigent circumstances exception to the warrantless
14 searches in the case. If the Court can direct its
15 attention to the -- it looks like the sixth line down.
16 Based on the exigent circumstances, it ---

17 THE COURT: What page are you looking at?

18 MR. ROBINSON: This is the second page of the
19 affidavit, Your Honor.

20 THE COURT: The second page of the -- of the
21 affidavit.

22 MR. ROBINSON: Yes.

23 THE COURT: I only see one page. So what are you
24 looking at?

25 MR. ROBINSON: It's the -- where the officer's

1 talking about he says based on the exigent circumstances.
2 That's where I am.

3 THE COURT: Okay.

4 MR. ROBINSON: First of all, Judge, there wasn't an
5 exigent circumstance in this matter. He observed the
6 building. They shut the power off to the building. There
7 was a rush of air in this case. But what he talks about
8 here, he says there's still possibly power to the property
9 and the threat of a fire hazard.

10 The officer in this case, there was no fire hazard in
11 this manner, no fire going on. There were a number of
12 people walking around and looking at what was going on,
13 but there was no fire, there was no fire hazard taking
14 place at this time. And, Judge, because of that, we don't
15 believe that there was an exigent circumstance in this
16 case to allow him to get into this building without a
17 warrant in this matter.

18 THE COURT: This is a warrant.

19 MR. ROBINSON: This was done after they got into the
20 property, Judge.

21 THE COURT: Okay. Well, this is argument. Are you
22 going to put up any evidence?

23 MR. ROBINSON: I would have to call the officer that
24 did the search warrant in this case.

25 THE COURT: Well, this is your motion.

1 MR. ROBINSON: Judge, I would call Officer Jonathan
2 Reece.

3 THE CLERK: Sir, if you'll please come forward.
4 Please place your left hand on the Bible and raise your
5 right hand.

6 WHEREUPON,

7 JONATHAN SHANE REECE

8 After having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Please be seated.
10 Would you please state your name for the record.

11 THE WITNESS: Jonathan Shane Reece.

12 THE CLERK: Thank you.

13 MR. ROBINSON: May it please the Court.

14 THE COURT: Yeah.

15 DIRECT EXAMINATION

16 BY MR. ROBINSON:

17 Q Officer Reece, you are the one that did the search
18 warrant in this case; is that correct?

19 A Yes, sir. I did obtain the search warrant.

20 Q Now, you say in the search warrant -- I'm going to
21 give you a copy of the search warrant.

22 THE COURT: Here. I'll give you my copy.

23 THE WITNESS: Thank you, sir.

24 BY MR. ROBINSON:

25 Q You talk in this search warrant about there being an

1 exigent circumstance; is that correct?

2 A Yes, sir.

3 Q Now, would you agree with me that there was no fire
4 at that point?

5 A There was heat emitting from the building, there was
6 melting wires leading into the building, and my job as a
7 deputy sheriff is the protection of life and property.
8 And at that point in time, I believed there to be an issue
9 of a possible fire inside.

10 Q Was there actually a fire that occurred?

11 A No, sir. Not that I saw.

12 Q Okay.

13 A Other than the melting wires leading into the
14 building.

15 Q And to clarify, you entered without a warrant, didn't
16 you?

17 A I did, sir.

18 Q You did.

19 So as far as the exigent circumstance, didn't you ask
20 the owner of the property that was at the scene if he
21 thought that there was a fire hazard here? Didn't you ask
22 him something like that?

23 A I don't know if I asked the owner of the property,
24 but I did ask if anyone resided inside the building. And
25 I was told by I believe several people that they believe

1 someone did reside inside.

2 Q Okay. But the exigent circumstance that you had in
3 this case was not related to smelling anything. It was
4 the fact that you thought that there was possibly a fire
5 hazard, correct?

6 A Yes, sir. Due to the melting wires leading into the
7 building.

8 Q Okay. Please describe to the Court what you thought
9 was a fire hazard in this case.

10 A Heavy loaded wires running into the building melting
11 the wiring leading into the building which, I mean, I've
12 seen wires melt and cause a fire before, and that's what I
13 believed was occurring at the time.

14 Q But you had no -- when you did this warrant, there
15 was no evidence that any sort of -- any evidence is going
16 to be destroyed; is that correct? You didn't know of any
17 evidence at that point, correct?

18 A I don't understand the question exactly.

19 Q Okay. You didn't know if there was any evidence that
20 was going to be destroyed, true?

21 A No.

22 Q You weren't in the building yet, were you?

23 A No. This warrant was obtained after the building --
24 I entered the building. Once I entered the building and
25 cleared it to the best of my abilities, for safe reasons,

1 I backed out and got the search warrant.

2 Q Now, you weren't in hot pursuit of anyone at that
3 time, were you?

4 A No. It was exigent circumstances. We entered the
5 structure to ensure there was no one within and no fire
6 going on inside. Once we go inside the building, we
7 observe the living quarters and the grow room, and for
8 officer safety reason, seeing the living quarters and the
9 illegal grow, we exited and surrounded the building,
10 conducted a perimeter and got a search warrant for the
11 SWAT team.

12 Q So the sole issue for you -- what you say is an
13 exigent circumstance is that you thought there was a fire
14 hazard, correct?

15 A Yes, sir.

16 Q And that's it. Okay.

17 Now, another question I have for you, the return in
18 this case. Now, the date on the affidavit that you
19 prepared has the 23rd of April 2012. Do you see that?

20 A Yes, sir.

21 Q Now, the return in this case, which is the -- what is
22 the date of the return, if you can tell the Court?

23 A You're talking about was signed by the judge on the
24 bottom left-hand corner?

25 Q Yeah.

1 A It's March 3rd, 2015.

2 Q March 3rd of twenty ---

3 A Twenty -- that looks like a 5, but that's not my
4 handwriting, sir.

5 Q So ---

6 A Maybe a 2.

7 Q Now, you understand there's a ten-day rule on the
8 getting the return back. You understand that, correct?

9 A Yes, sir. I do.

10 Q Okay.

11 A I did not scribe or execute the warrant.

12 Q Okay. But you would agree with me that the affidavit
13 that you signed off on has April 23rd, 2012, and the
14 return is dated March 3rd of two thousand either -- I
15 don't know what that means. 2015.

16 Who was the officer that prepared this return?

17 A I believe it was Investigator Whitlock.

18 Q Okay. But you would agree it's either going to be
19 March 15th or March 13th, correct?

20 A No. The search warrant was returned it appears to be
21 March 3rd.

22 Q March of two thousand ---

23 A I believe that's an error, but it's -- that looks
24 like a 5 to me, but it's March of 2012.

25 Q Okay. But ---

1 A March 3rd of 2012.

2 Q Okay. Let me ask you this. You know the months as
3 far as the -- as far as the months go, it goes April --
4 what's the next month after that?

5 A May.

6 Q And what does the return say as far as when the
7 return was signed off on?

8 A March.

9 Q That's the month before that, correct?

10 A Yes, sir.

11 Q So you'd agree with me then this return is defective,
12 isn't it?

13 A I believe it was an error on the return judge who
14 signed this, from what it appears. This looks like where
15 the judge would sign the day that it was returned, and for
16 some reason put March.

17 Q Well, I mean, but you would agree with me, just this
18 on its face is defective. You would agree with that,
19 wouldn't you?

20 A I agree that I obtained the warrant on
21 April 23rd, 2012, and turned it over to Vice and Narcotics
22 investigators to scribe and execute. And from what I see,
23 it looks like some type of error, clerical error.

24 Q So you do agree there was an error made here,
25 correct?

1 A Yes, sir. It appears there was an error made on the
2 return.

3 Q And in your experience, the return has to be signed
4 within how many days?

5 A Ten days.

6 Q Ten days. Okay.

7 And you would agree with me that this return on its
8 face indicates that it was not returned within ten days.

9 A They didn't go back in time and return it.

10 Q Not the question. The question is, on its face, this
11 return is faulty or defective, correct?

12 A What is written down here's wrong. Yes, sir.

13 MR. ROBINSON: Okay. That's all the questions I have
14 for this witness, Your Honor.

15 MS. OWENS: Your Honor, very briefly.

16 THE COURT: Yeah.

17 CROSS EXAMINATION

18 BY MS. OWENS:

19 Q Deputy Reece, just to follow up on a little bit more
20 of those emergency circumstances, were you on scene when
21 Duke Power cut electricity to the building?

22 A No, ma'am. I wasn't.

23 Q Were you advised by the other deputies who were on
24 scene exactly what happened?

25 A Yes.

1 Q Did their description of what they -- of what they
2 experienced form the basis for the affidavit that you
3 prepared for the magistrate?

4 A Yes.

5 Q What did they describe to you happened when the power
6 was terminated?

7 A That the building was humming like a beehive upon
8 their arrival, which would indicate some type of large
9 machinery inside or some type of electric something
10 inside. They cut the power, and a huge gust of hot air
11 they felt come from the building. That's what was relayed
12 to me by Investigator Lyda.

13 Q Now, when you made entry either initially or later
14 after the search warrant was obtained, did you hear any
15 equipment still running?

16 A I believe there was lights still in there. And it's
17 been five years now. I can't remember if I heard
18 equipment still run, but there was still power inside that
19 building, from what I could tell.

20 Q Were you able to determine whether that power was the
21 source of some supplemental generators or from separate
22 and distinct power lines run to that building?

23 A No, ma'am.

24 MS. OWENS: Okay. I don't have any additional
25 questions for Deputy Reece.

1 MR. ROBINSON: I have some recross, Your Honor.

2 THE COURT: All right. Briefly.

3 REDIRECT EXAMINATION

4 BY MR. ROBINSON:

5 Q But when you answered the prosecutor's questions, all
6 those things occurred after you got into the building
7 without a warrant, correct?

8 A The -- what I was relayed by Investigator Lyda
9 happened before we entered the building. I entered the
10 building, again, for exigent circumstances, the melting
11 wires. We entered. We did see power still on within the
12 building once we went inside, which would indicate to me
13 that Duke Power had missed a hookup, which again, there
14 could still be a fire hazard. We entered, saw the living
15 quarters, saw the marijuana plants, and then backed out
16 for officer safety.

17 MR. ROBINSON: That's all I have, Judge. Thank you.

18 THE COURT: Okay. All right. Anything else?

19 MR. ROBINSON: That's the defendant's case as far as
20 with the motion to suppress, Your Honor.

21 THE COURT: Tell me why I should suppress it.

22 MR. ROBINSON: Well, Judge, I would submit to the
23 Court this is -- what he's talking about as far as a fire
24 hazard, though, is he's not qualified to say what's a fire
25 hazard, what's not a fire hazard. There's no fire,

1 there's no hazard to be concerned about. This is not an
2 exigent circumstance that would permit him to get into
3 this building without a warrant in this case. Because
4 when he testified a moment ago on direct with the
5 prosecutor, everything that he talked about occurred after
6 they went without a warrant in this case. And it's our
7 position or my position, Judge, that this was not an
8 exigent circumstance that permitted him to go in without a
9 warrant in this case.

10 THE COURT: Well, he's called to the scene because of
11 alleged theft of power. The Duke Energy employee stated
12 that the facility was illegally hooked up and pulling
13 large amounts of power and was unsafe. He saw, it was
14 confirmed that what he was told was that the wiring was
15 melting. So he didn't go there to look for marijuana. He
16 went there to check on the power.

17 Under the totality of the circumstances, I'm going to
18 find that he -- his actions were reasonable and that this
19 search warrant is not defective, and I'm going to allow to
20 proceed. Okay?

21 MS. OWENS: Your Honor, can I just add for the
22 record?

23 THE COURT: Yeah.

24 MS. OWENS: It would be the State's position in
25 addition that as a matter of threshold inquiry, I don't

1 know that the defendant has established that he has a
2 reasonable expectation of privacy in this building and
3 therefore no standing. I just wanted to add that, that I
4 would relay to the Court.

5 THE COURT: Okay. All right. Anything else before
6 we get this jury in, swear them and you do your brief,
7 nonargumentative opening statements? Anything?

8 MS. OWENS: Nothing from the State, Your Honor.

9 THE COURT: Let's see. Are they ready?

10 THE BAILIFF: They should be.

11 THE COURT: Okay. What I think we'll do is do these
12 brief and nonargumentative opening statements and break
13 for lunch, okay?

14 How long is your first witness anyway? Was that your
15 first witness?

16 MS. OWENS: No. Deputy Reece was my second. My
17 first witness was the initial deputy on scene.

18 THE COURT: Okay.

19 MS. OWENS: Possibly ten minutes of direct.

20 THE COURT: Okay.

21 MR. ROBINSON: Not a priority, Judge. I'm just
22 kidding.

23 (Pause.)

24 (WHEREUPON, the jury entered the courtroom at 12:29 p.m.)

25 THE COURT: All right. Mr. Gunther, thank you for

1 agreeing to serve.

2 And at this time, I would ask our clerk to place you
3 all under oath. Please stand.

4 THE CLERK: Please stand and raise your right hand
5 for the oath. The proper response is "I will."

6 (WHEREUPON, the jury is duly sworn.)

7 THE CLERK: Thank you. Please be seated.

8 THE COURT: Ms. Owens.

9 OPENING STATEMENTS

10 MS. OWENS: Thank you, Your Honor. May it please the
11 Court.

12 Good afternoon, ladies and gentlemen. As I told you
13 just a few moments ago, my name is Katryna Owens. I'm a
14 prosecutor here in Greenville county.

15 Before we begin the trial of this case, I want to
16 very briefly tell you three things: what this case is
17 about, what the State is required and intends to prove,
18 and how we intend to prove it.

19 On April 23rd, 2012, deputies with the Sheriff's
20 Office responded to a warehouse on Old Piedmont Highway in
21 Greenville county. They got a call from Duke Power to
22 come to the scene and help them.

23 Duke Power described that power was being diverted
24 from lines into this warehouse and that they needed the
25 Sheriff's Office to help cut that electricity. When Duke

1 Power cut the electricity, a wave of hot air left that
2 warehouse as well as the smell of marijuana.

3 What deputies found when they entered that warehouse
4 was an enormous operation to manufacture marijuana. They
5 found eight separate rooms of marijuana plants in various
6 stages of growth, they found packaging rooms, they found
7 drying rooms, and they also found living quarters. This
8 trial is about how the police connected this defendant,
9 Mr. Morales, to that operation.

10 Now, as you've heard from the judge, the defendant is
11 charged with four separate crimes. The first of those is
12 manufacturing marijuana. And the judge will give you
13 instructions at the end of this trial, but generally, the
14 State's required to prove two things to prove that
15 anyone's guilty of manufacturing marijuana. First, that
16 manufacture was happening. The State has to prove that
17 the defendant prepared, processed, propagated or, in any
18 way, produced marijuana.

19 And second, as you might expect, the State's required
20 to prove that that substance was, in fact, marijuana. The
21 statute defines marijuana as any variety of the marijuana
22 plant, its seeds, its resin, its product.

23 The defendant is also charged with trafficking in
24 marijuana more than 100 pounds or more than 100 plants.
25 In this case, you'll hear over the course of the trial we

1 have both.

2 The State has to prove that the defendant sold,
3 distributed, manufactured or assisted, financial or
4 otherwise, conspired, attempted to sell, manufacture or
5 deliver marijuana.

6 The State has to prove that the quantity of that
7 marijuana that was sold, delivered or manufactured or that
8 the defendant conspired to sell, deliver or manufacture
9 was greater than 100 pounds or more than 100 plants.

10 The defendant is charged with tampering with an
11 electric meter for the purpose of manufacturing a
12 controlled substance. The State has to prove that the
13 defendant altered an electric meter, and that the purpose
14 of that tampering, that manipulation, was to manufacture a
15 controlled substance. In this case, that controlled
16 substance is marijuana.

17 And finally, the defendant is charged with theft of
18 electric current, which is exactly what it sounds like,
19 that the power meter was bypassed or diverted to take
20 electricity from Duke Energy without it being detected by
21 the standard meter.

22 Now, that sounds like a whole lot of information, but
23 as you'll see over the course of this trial, the evidence
24 is very straightforward, and the trial of this case is
25 likely to be very brief.

1 You'll hear first from the deputies who responded out
2 to that scene on April 23rd when Duke Power called 9-1-1.
3 They'll tell you what they saw, they'll tell you what
4 they ---

5 MR. ROBINSON: Objection, Your Honor.

6 THE COURT: What?

7 MR. ROBINSON: Hearsay.

8 THE COURT: This is opening statement. I overrule.

9 But I'll just tell you that what the lawyers tell you
10 is not evidence. It's just their statement about what
11 they believe the evidence will show.

12 Go ahead.

13 MS. OWENS: Thank you, Your Honor.

14 These deputies will tell you what they saw, what they
15 did, and what they discovered once they went inside this
16 warehouse on Old Piedmont Highway.

17 You'll hear testimony from the investigators from the
18 Vice and Narcotics Division of the Sheriff's Office who
19 went inside and dismantled this operation. They'll be
20 able to describe for you what each of these pieces of
21 equipment meant for the operation, how they contributed to
22 the manufacture, and they'll also be able to tell you
23 exactly what they found inside in terms of pounds and
24 plants.

25 And finally, you'll hear testimony from forensic

1 fingerprint examiner Chris Gary. Mr. Gary is going to
2 tell you that he examined fingerprints that were collected
3 from all over the rooms in this warehouse, and he's going
4 to testify that at least 30 of those fingerprints match
5 this defendant.

6 As I told you, the evidence in this case, while
7 lengthy at times and perhaps meticulous, will be
8 straightforward, and at the end of this trial, the State
9 feels confident that you will agree that a manufacturing
10 operation was underway inside this warehouse. The only
11 question for you will be to determine whether Mr. Morales
12 participated in that manufacture. And at the end of this
13 trial, I'll have an opportunity to speak to you, again,
14 about the evidence that you've seen and ask you to find
15 him guilty of those crimes.

16 Thank you.

17 THE COURT: All right. Mr. Robinson?

18 MR. ROBINSON: Good afternoon. As I said, my name is
19 Scott Robinson.

20 This case really comes down to four words, really.
21 And the words are: fingerprints don't prove guilt.

22 The prosecution's case, as she just talked about,
23 basically is that there were a lot of fingerprints
24 belonging to Mr. Morales so he must be guilty of these
25 charges. Well, that's their case, but let's talk about

1 what the evidence will show.

2 There were probably, according to the officers, a lot
3 of fingerprints out there. They had several different
4 names of different people whose fingerprints were seen out
5 there. Several different people were out there that had
6 fingerprints belonging to them.

7 But the property was not owned by Lorgio. He didn't
8 lease the property, didn't work for anybody that owned
9 that property, didn't have anything to do with the
10 equipment, didn't purchase the equipment, not leased to
11 him, nothing. All they have are 30 fingerprints of
12 Mr. Morales along with at least two other persons'
13 fingerprints and a host of people, numerous people,
14 according to the detectives, whose fingerprints were also
15 out there. But, again, the four words that you need to
16 remember are: fingerprints don't prove guilt.

17 Let me tell you a little bit about Lorgio. Lorgio is
18 a Cuban-American. His parents came here, emigrated here.
19 He has two daughters.

20 MS. OWENS: Objection Your Honor.

21 THE COURT: What?

22 MS. OWENS: It's inappropriate material for opening
23 statement.

24 THE COURT: He can introduce a little bit. Don't get
25 carried away with it.

1 Go ahead.

2 MR. ROBINSON: Of course.

3 He has two daughters and one son.

4 Ladies and gentlemen, when you came in here today,
5 you may have watched the news, got on the Internet and
6 seen where the police have arrested someone and said,
7 Well, they got the guy. They must have gotten him or her.
8 You made that assumption that the person who was arrested
9 or in court is guilty. That's not an assumption that has
10 any place in this courtroom.

11 The presumption in this case is that Mr. Morales is
12 innocent, and the State has to prove every element of
13 their case to you beyond a reasonable doubt. If you pay
14 attention to the evidence and use your common sense and
15 listen to those four words as I described to you, you will
16 find Lorgio Morales not guilty.

17 Thank you.

18 THE COURT: All right. Go ahead and call your first
19 witness.

20 MS. OWENS: Certainly, Your Honor.

21 May it please the Court. The State calls Deputy
22 Cheri Lyda.

23 Deputy, please come up and be sworn.

24 THE CLERK: Ma'am if you will please place your left
25 hand on the Bible and raise your right hand.

1 WHEREUPON,

2 CHERI LYDA

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please be seated.

5 And would you please state your name for the record.

6 THE WITNESS: My name is Cheri Lyda.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. OWENS:

10 Q Deputy, I'm going to stand way back here so I can be
11 confident that everybody in the jury can hear you, all
12 right?

13 A Yes, ma'am.

14 Q Tell the jury, where do you work?

15 A I work for the Greenville County Sheriff's Office.

16 Q How long have you been with the Sheriff's Office?

17 A I started as a dispatcher in 2002 and went to Uniform
18 Patrol in 2009.

19 Q What's your current assignment?

20 A I'm an investigator in Crimes Against Children.

21 Q Back in April of 2012, what was your assignment at
22 the Sheriff's Office?

23 A I worked Uniform Patrol.

24 Q Generally speaking, what's the role of a deputy who
25 works on Uniform Patrol?

1 A To respond to calls of service from dispatch, and
2 when the times are slow and we're not getting calls for
3 services, to roam our beat area, just to -- just check on
4 everything.

5 Q What area of the county was your area, so to speak?

6 A Area 7.

7 Q Where is that geographically in the county?

8 A It's the west side of Greenville. It's over Grove
9 Road to, say, White Horse Road area.

10 Q Do you recall how you became involved in the
11 investigation that is the subject of this trial?

12 A Yes. The date of April 24th, I was given a call from
13 dispatch that Duke Energy wanted Uniform Patrol to come
14 sit at the incident location while they had to break the
15 lock on a fenced-in warehouse that was taking power. So
16 they wanted deputies there to sit while they entered that
17 property and cut the fence gate.

18 Q And at that point, what was your understanding of
19 your role on the scene that day?

20 A I was just going to sit there and watch them enter
21 the property and cut the lines or stop the power lines and
22 then be done.

23 Q So what happened? What was going on when you
24 arrived?

25 A When I arrived, Duke Energy was there. I got in my

1 car and spoke with them for a few minutes just because we
2 just had time to casually have conversation because they
3 were waiting on the boom truck from Duke Energy to come
4 out that would reach the power pole. During that time, we
5 were standing near the building, and I, you know, heard
6 some loud humming, and I asked questions, you know, what
7 happened? You know, what's that loud hum? Have you ever
8 heard that?

9 No.

10 And that's just kind of how we -- we started our
11 conversation.

12 Q Had you ever been to this particular location before?

13 A No.

14 Q Do you remember where -- the address of where you
15 responded?

16 A It was Old Piedmont Highway.

17 Q And is that location inside Greenville county?

18 A Yes, ma'am.

19 Q All right. So when this boom truck finally arrived,
20 what happened?

21 A They cut the gate, the lock that was on the gate, and
22 the boom truck went into where the power pole was. Myself
23 and some other people were just standing around.

24 While I was standing there, I noticed people coming
25 over to the fence from businesses on either side of the

1 warehouse. So while the boom truck was setting up, I went
2 over there and spoke with them and asked them, you know,
3 what does this warehouse do, and they didn't know. And I
4 said, Do you ever see anybody here?

5 They stated ---

6 MR. ROBINSON: Objection, Your Honor. Hearsay.

7 THE COURT: Don't say what other people told you.

8 THE WITNESS: Oh, okay.

9 BY MS. OWENS:

10 Q That's fine, Deputy.

11 Where were you physically standing?

12 A Next to the building.

13 Q And were you in that same location when the Duke
14 Energy staff terminated electricity to the building?

15 A Yes.

16 Q What do you remember happening at that point?

17 A When we were standing there, and as soon as they cut
18 the line, a rage of hot air just blew over me from the
19 building from a hole that was in a glass pane. And there
20 was also the fire marshal was there, and I asked him, you
21 know, what would that be.

22 Q Well, without describing what anybody told you, what
23 did you decide to do at this point?

24 A At that point, the first thought that came to my mind
25 was that that -- where did that heat come from from inside

1 that building. So my fear was that something was
2 extremely hot inside the building.

3 Q At this point, did you have any information about
4 what was inside this warehouse or what type of business
5 might be inside?

6 A No, ma'am.

7 Q Did you, at that point or at any point in your
8 career, have any experience with drug investigations?

9 A No.

10 Q I'm going to show you State's Exhibits 1 through 9.
11 If you would, just look through those photos briefly.

12 A (Reviews exhibits) Okay.

13 Q Do you recognize those photographs?

14 A Yes, ma'am.

15 Q How do you recognize them?

16 A That was the building.

17 Q Are they an accurate representation of how that
18 warehouse looked on April 23rd of 2012?

19 A Yes.

20 MS. OWENS: Your Honor, at this time, the State
21 offers Exhibits 1 through 9.

22 MR. ROBINSON: No objection.

23 THE COURT: All right. Without objection.

24 (WHEREUPON, State's Exhibit Numbers 1, 2, 3, 4, 5, 6,
25 7, 8 and 9 were admitted into evidence.)

1 BY MS. OWENS:

2 Q Starting with State's Exhibit 1, could you describe
3 for the jury what's depicted in State's Exhibit No. 1?

4 A That's the front of the warehouse.

5 Q Were you standing in this (indicating) area of the
6 building at the time that Duke Energy staff cut the power?

7 A No. I was standing more to the right.

8 Q I'm showing you State's Exhibit 2. Does that better
9 depict ---

10 A A little more to the right.

11 Q Around the corner?

12 A There's windows. It's around the corner.

13 Q State's Exhibit 3 traces around the back side of the
14 property?

15 A When you look at the building, when you drive onto
16 the property, there's -- there's some roll-up doors where
17 you showed that first picture, and then it kind of turns
18 or L's off a little bit and then goes straight, and
19 there's windows to the far right. Well, there's also a
20 metal building that's in front, so from the road, you see
21 the metal building, and then you see the warehouse. So
22 I'm not sure that you can see where I was exactly
23 standing.

24 Q Well, that's fine.

25 Where did you -- how did you ultimately decide to go

1 inside? Physically, how did you ultimately enter the
2 building?

3 A Through a loose board that was on the outside of the
4 building.

5 Q Did you go inside alone?

6 A No, ma'am.

7 Q With whom did you enter that building?

8 A With two other Uniform Patrol deputies.

9 Q Once you got inside, do you remember whether you
10 could hear anything or see anything of note?

11 A When we got inside, no. I did not -- don't recall
12 hearing anything. I thought -- as to the question is to
13 hear anything or see anything, I saw tons of -- several --
14 I would say a hundred garbage bags that were right at the
15 entry of where we entered into the building.

16 What -- my reasoning for entering the building was to
17 make sure there was nothing hot and there was nothing that
18 could catch on fire inside the building. I was also
19 worried that someone might be inside the building.

20 When I entered the building, I first saw that there
21 was -- there was marijuana in the building, and as soon as
22 we saw that and saw the room where there was some living
23 quarters, we left the building, me and the other two
24 deputies did, the same way that we came in.

25 Q Were you ever able to locate the source of this

1 intense heat that you described?

2 A No.

3 Q Did you locate anybody inside that warehouse?

4 A When I went -- when I asked for assistance to go
5 inside the warehouse, it was merely to do a protective
6 sweep just to see that there was no sign of anything that
7 could catch on fire. It was mainly just to preserve the
8 -- the building or life inside the building.

9 When I -- when we entered into the building and I
10 first saw the room of growing marijuana, you know, it --
11 it -- it startled me, to be honest, at first, because I
12 had never seen anything like that. And then I saw living
13 quarters. I was more anxious to get out of that building
14 than to be in there and look any further for a person
15 because, you know, that was more like something I had seen
16 on TV, you know. And when we left the building, we knew
17 we needed a lot more people, and at that point, to obtain
18 a search warrant.

19 Q So how long do you think you were inside that
20 warehouse?

21 A Three minutes maybe, four minutes.

22 Q So once you saw the limited amount that you did
23 see ---

24 A Yes.

25 Q --- and you left the warehouse, what happened next?

1 A Deputy Reece, now Investigator Reece, we contacted
2 our sergeant and lieutenant, and he put a search warrant
3 together. And also, our SWAT team was called to actually
4 clear the building before the search warrant was done.

5 Q Did you participate in the search that happened after
6 that?

7 A No.

8 Q Did you do anything else as part of this
9 investigation?

10 A No. I just did my -- my initial report as to how we
11 got to that. Because I -- I didn't know anything about
12 drugs or -- or anything like that. I just -- how I got to
13 that stage.

14 MS. OWENS: Okay. Thank you very much. If you
15 would, answer any questions Mr. Robinson may have for you.

16 THE WITNESS: Yes.

17 MR. ROBINSON: I have no questions, Your Honor.

18 THE COURT: All right. Thank you, ma'am. You can
19 step down.

20 THE WITNESS: Thank you.

21 THE COURT: All right. Ladies and gentlemen, as I
22 told you, we try to break from about 1:00 to 2:30, and
23 it's not quite 1:00. Let's break for lunch. How about
24 2:15? Okay. Great. We'll see y'all back at 2:15.

25 Remember not to discuss the case or do any

1 independent investigation. And you get to see the back
2 way out now. All right. Thank you.

3 (WHEREUPON, the jury exits the courtroom at 12:52 p.m.)

4 THE COURT: All right. Anything before we break?

5 MS. OWENS: Nothing from the State, Your Honor.

6 MR. ROBINSON: Nothing, Judge.

7 THE COURT: Is Mr. Morales out on bond?

8 MS. OWENS: He is. I will share with the Court that
9 Mr. Morales has consistently appeared at every court
10 appearance. The State has no objection to him remaining
11 on bond for the duration of the trial into its resolution.

12 THE COURT: Okay. If you don't come back, there will
13 be a price to pay for that.

14 All right. See you all at 2:15.

15 (WHEREUPON, a recess is taken at 12:53 p.m.)

16 (WHEREUPON, Court's Exhibit Number 1 was marked for
17 identification.)

18 (WHEREUPON, proceedings reconvened at 2:20 p.m.)

19 THE COURT: I just spoke with Juror Number 126. She
20 is complaining that her employer wants her to come to
21 work, respiratory therapist at the GHS, and with the flu
22 season, she says they're critically short. I denied her
23 request. Okay? We'll just see how it plays out. Okay?

24 Anything before we bring them?

25 MS. OWENS: I don't believe so, Your Honor.

1 I will tell you that I have some concerns about
2 getting witnesses here. For whatever reason, we've had
3 some difficulty getting everyone here on time. I am
4 optimistic that we can get the State's case presented by
5 the close of business today. I may have to be a little
6 bit flexible.

7 THE COURT: Well, why are you hedging your bets?

8 MS. OWENS: I just want to keep the Court apprised.

9 THE COURT: Okay. Are you ready to go now?

10 MS. OWENS: Yes, sir, Your Honor.

11 THE COURT: Okay.

12 (WHEREUPON, the jury entered the courtroom at 2:23 p.m.)

13 THE COURT: All right. Yes, ma'am.

14 MS. OWENS: May it please the Court, Your Honor. The
15 State calls Investigator Shane Reece.

16 Investigator, if you'd please come up and be sworn.

17 THE CLERK: Sir, if you would, please place your left
18 hand on the Bible and raise your right hand.

19 WHEREUPON,

20 JONATHAN SHANE REECE

21 After having been duly sworn, testified as follows:

22 THE CLERK: Thank you. Please be seated, and please
23 state your name for the record.

24 THE WITNESS: Jonathan Shane Reece.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. OWENS:

Q Investigator Reece, where are you employed?

A The Greenville County Sheriff's Office.

Q How long have you been with the Sheriff's Office?

A Almost ten years.

Q What's your current assignment at the Sheriff's Office?

A I'm a master deputy in the Vice and Narcotics Investigative Unit.

Q How long have you been in the Narcotics Division?

A I believe almost four years.

Q Back in 2012, what was your assignment?

A I was assigned the Uniform Patrol Division under Charlotte Platoon.

Q And do you remember becoming involved in the investigation that's the subject of this trial?

A I do.

Q Could you please describe for the jury how it is you became involved.

A I was notified by Investigator Lyda, or at the time Deputy Lyda, to respond to the scene to assist her. Upon my arrival at the scene, I spoke with her and she advised me there was a large humming coming from the building. When the power was cut, an extreme heat blast came from

1 the building.

2 Q So what did the two of you decide to do?

3 A We received information that there was possibly some
4 people living inside the warehouse structure. We also
5 observed there to be melting wires coming from the
6 structure based on the power pole overhead lines going
7 into the building were melting. Based on that, we made
8 the decision to make entry into the warehouse, make sure
9 nobody else was inside, make sure no fire hazard presence
10 inside.

11 We found a wooden panel, like a panel door, opened it
12 up. At the time, I had no clue what I was crawling over
13 because, again, I was a road deputy back then.

14 We crawled over heat flashing, which is used in
15 marijuana manufacturing. Crawled over that, basically
16 took a left, went over some hydroponics soil, which are
17 clay pellets which are also used in marijuana
18 manufacturing. Again, I had no clue what they were at the
19 time.

20 Go in, go down -- there's like a fake wall to my
21 right. Go down a little ramp to like a basement area.
22 There's a -- ballasts which are here on the floor.
23 There's living quarters to the left and a marijuana grow
24 room to the right. At that point in time, I've seen
25 enough movies to know that there's possibly people in here

1 protecting this. I made the decision to leave and call
2 the -- obtain the search warrant and call the Greenville
3 County SWAT team to clear the structure.

4 Q Now, you mentioned that there were power ballasts on
5 the floor.

6 A Yes, ma'am.

7 Q What else did you notice in that hallway?

8 A Standing water. There was standing water. I believe
9 there was some power still on within the structure. But
10 standing water, power ballasts and plywood used as a walk
11 path over the water, which I assumed the water was runoff
12 from the marijuana grow.

13 Q So at that point, did you and, at that point, Deputy
14 Lyda both leave the warehouse at the same time?

15 A At that point, based on the totality of everything,
16 it was -- it was something illegal occurring, there could
17 possibly be people in there, so we made the decision to
18 back out, surround the building and call the Greenville
19 County SWAT team.

20 Q So what happened next?

21 A I wrote the warrant in my patrol vehicle, responded
22 to Judge -- the county magistrate Judge Foster, presented
23 her with the facts of the investigation. She signed the
24 warrant, and I returned back to the scene.

25 At that point, Vice and Narcotics, which I wasn't a

1 part of at the time, was on scene. SWAT also were
2 staging. I presented the Narcotics Unit with the
3 warrant, SWAT executed the warrant, basically entered and
4 cleared the structure and turned it over to Vice and
5 Narcotics.

6 Q How long do you think you were on scene that day?

7 A Again, it was my aspiration at the time to be a Vice
8 and Narcotics investigator, so I stayed the entire
9 16 hours that I could.

10 Q Did you participate in the search?

11 A No. I just observed.

12 Q Okay. I would like you to look at some photographs
13 and see if you can describe for the jury what it is is
14 depicted in these photographs.

15 I'm showing you State's Exhibit 1 here on this
16 projector.

17 A Just like Investigator Lyda said, that is the front
18 of the building that faces Old Piedmont Highway. That
19 would be probably the first part of the building you see
20 when you pull into the drive from the gate that they
21 opened.

22 Q There appears to be a neighboring structure next to
23 this main building. Do you recall whether that building
24 was a separate business?

25 A It's a completely separate business. We spoke with

1 them at the fence line. I believe that's -- they were
2 part of the crowd Investigator Lyda said was forming.

3 Q And this is State's Exhibit 2. In relation to
4 State's Exhibit 1, what do we see here?

5 A Basically, if you swing the camera that took the
6 first pictures to the right just a little bit, that's the
7 right side of the front of the building facing Old
8 Piedmont Highway.

9 Q So are these two pictures together the stretch of the
10 front of the building?

11 A Yes. Yes, ma'am.

12 Q Okay. Now State's Exhibit 3, can you tell us what we
13 see here?

14 A This would be the right side. If you continue on,
15 which I think it's Picture 4, that's where we were
16 standing when I arrived, where Cheri was standing -- or
17 Investigator Lyda was standing when I arrived on scene.

18 Q I want to show you State's Exhibit 4.

19 A All right.

20 Q Does this better depict where everybody was staged?

21 A Yes. This -- I think this is where the heat source
22 come from, from those windows there when she observed it.
23 That's where we were all staged at.

24 Q Is this the area in which the two of you made entry?

25 A Yes. Slightly to the left of the white truck there's

1 a -- the building was extremely boarded up. There was
2 nothing -- no doors accessible or anything from the
3 exterior, but there was two wooden panel doors that were
4 dilapidated like a storage area. We were able to move
5 that and enter through there.

6 Q All right. And just to round out the building, I'm
7 going to show you State's Exhibit 5.

8 A I believe that's the back of the structure.

9 Q State's Exhibit 6 also depicts a part of the
10 building?

11 A Back of the structure or the far left side.

12 Q State's Exhibit 7?

13 A The far end of the left side, I believe.

14 Q Okay. And could you tell us what we see here in
15 Number 8?

16 A The back left corner area. Because I think -- well,
17 the investigator taking pictures is just starting at one
18 side and sweeping around.

19 Q Now, these windows are boarded with plywood. Was
20 that typical of all of the windows on the structure?

21 A Yes. It was a -- you couldn't -- I mean, it was --
22 there was no obvious entry point to the structure.

23 Q And finally, State's Exhibit 9, can you tell us what
24 this is?

25 A Far left -- like if you're looking at the building,

1 that is the left side because that's the building where
2 the neighboring businesses came to. That's the far left
3 side, I believe.

4 Q So from this perspective, would ---

5 A Straight ahead is Old Piedmont Highway.

6 Q Okay. All right. After you assisted that day, did
7 you have any other role in the investigation?

8 A No, I did not.

9 MS. OWENS: Okay. I don't have any additional
10 questions at this time. If you would, answer any
11 questions that Mr. Robinson has for you.

12 MR. ROBINSON: May it please the Court.

13 THE COURT: Yeah.

14 CROSS EXAMINATION

15 BY MR. ROBINSON:

16 Q Investigator Reece, have you got your report with
17 you?

18 A I do not.

19 Q You do not. I'm going to ask Ms. Owens to do me a
20 favor and bring a copy of your report to you.

21 I want you to turn to page 2 of your report.

22 A Page 2. Yes, sir.

23 Q Yes, sir. Now, you would agree that on page 2 of
24 your report, you mention a hole in the building; is that
25 correct?

1 A Yes.

2 Q Okay.

3 A That's where I believe Investigator Lyda said the
4 heat came from was that hole in the window.

5 Q Okay. And as far as the size of this hole, how big
6 a hole are we talking about?

7 A I would have to look at a picture. It's been
8 five-plus years. But I think it's something like that
9 (gesturing), maybe, if I remember correct. A volleyball
10 maybe. Maybe smaller or larger. It wasn't substantial,
11 or I would have remembered it being.

12 Q Now, you testified a few moments ago about the wood
13 panels ---

14 A Yes.

15 Q --- wood panel doors. You said that there are two
16 dilapidated wood panel doors; is that right?

17 A Yes. To the left of where that -- where the
18 clandestine lab truck was.

19 Q And that's where y'all went through ---

20 A Yes, sir.

21 Q --- to get into the place; is that right?

22 A Yes, sir.

23 Q And you would agree that every other window around
24 this building had wood panels; is that correct? Same type
25 of wood panels?

25 Mr. Chris Gary, if you will, please come up and be

1 sworn.

2 THE CLERK: Sir, would you please place your left
3 hand on the Bible and raise your right hand.

4 WHEREUPON,

5 CHRISTOPHER GARY

6 After having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please be seated. And would
8 you please state your name for the record.

9 THE WITNESS: Christopher Adam Gary.

10 THE CLERK: Thank you.

11 MS. OWENS: Your Honor, before we begin the
12 examination of this witness, the State would like to offer
13 at this time State's Exhibit Number 66, which is a
14 stipulation that is relevant to this witness's testimony.

15 THE COURT: Okay.

16 MR. ROBINSON: No objection.

17 THE COURT: That's a stipulation. Yeah. Go ahead.

18 MS. OWENS: At this time, I'd like to publish it for
19 the jury.

20 THE COURT: Publish, please.

21 MS. OWENS: (As read) The State and the Defendant
22 hereby agree the following statements are true and
23 uncontested findings of fact in the trial in this case:
24 Forensic technicians processed the scene at [REDACTED] Old
25 Piedmont Highway and collected from locations throughout

1 the building latent fingerprints. The fingerprints and
2 the locations from which they were collected were
3 recorded on latent print cards identified as items DS1,
4 JFH1, JG1, JG2 and JG3. These fingerprint cards were
5 submitted for comparison to latent print examiner
6 Christopher Gary.

7 Mr. Gary compared the submitted cards to this
8 defendant's fingerprints. 30 of the fingerprints
9 collected from the [REDACTED] Old Piedmont Highway warehouse
10 belong to this Defendant, Lorgio Danilo Morales.

11 DIRECT EXAMINATION

12 BY MS. OWENS:

13 Q With that in mind, Mr. Gary, could you please tell
14 the jury where you work.

15 A Yes. I work for the Greenville County Department of
16 Public Safety in the Forensic Division where I'm currently
17 assigned to the latent print section.

18 Q How long have you worked in that capacity?

19 A I started in 2009, and I've been there for about
20 approximately nine years now.

21 Q Generally speaking, what are your responsibilities?

22 A I examine latent fingerprint cards, which are
23 fingerprints that are found at crime scenes, I analyze
24 them for their quality, I compare them to any known
25 standards, known fingerprint standards that we may have,

1 and I issue reports based on my findings.

2 Q Now, the jury just heard about your analysis in this
3 case and that you compared some fingerprints that were
4 collected from the warehouse. I'd like to direct your
5 attention to -- well, before we get into that, could you
6 tell the jury a little bit about how you participated in
7 the collection of fingerprints back in April of 2012?

8 A Yes. So this case was a little bit different where I
9 actually attended the location where the fingerprints were
10 lifted. It was a fairly large crime scene, and several
11 technicians, two sergeants, myself and another technician
12 attended to help collect any latent fingerprint evidence
13 that may be there.

14 We split up into two teams, myself and Sergeant
15 Hamilton. And the other team was Sergeant Shaw and Lees
16 Davis. We went room from room, and we analyzed any
17 equipment that was there for possible textures that would
18 be consistent with fingerprints being left at the scene.
19 We processed any -- any of those items with black
20 fingerprint powder, which is kind of the dust that you may
21 see in television. The dust then adheres to the moisture
22 that's left behind from the fingers, and then we can lift
23 those fingerprints, and we can analyze them in the lab
24 later.

25 Once we collected all the fingerprints from the scene

1 that we found, we sealed them in a latent fingerprint
2 envelope, and we brought them back to the lab for
3 analysis.

4 Q Did you record on those cards from where you took the
5 prints the locations from which they were collected?

6 A Yes, I did.

7 Q And generally speaking, how did you and your team go
8 about labeling? As we've heard, this was a warehouse with
9 many rooms. How did you approach the task of labeling
10 each of these cards so that you would be able to recall
11 the location from which they came?

12 A Well, first off, the first thing we do when we go to
13 a crime scene is we take a lot of photographs.
14 Photographs speak a thousand words. So with the
15 photographs, we're able to recall a little bit better.

16 If I remember correctly, each room we had labeled
17 with numbers -- or with letters. Room N, Room O, those
18 are a couple of the rooms I remember being in dusting for
19 latent fingerprints. In those rooms, we also -- we have a
20 standard fingerprint card in our lab. On this fingerprint
21 card, we have the location of the offense. We would write
22 that down along with the item that we're actually
23 processing such as a light socket or a light fixture or a
24 lamp hood.

25 If we receive a fingerprint off of that item, we

1 would then use tape, just kind of like scotch tape but
2 it's specifically designed to lift fingerprints. We would
3 then lift the fingerprint off of the item and place it
4 onto that fingerprint card. On the other side of the
5 fingerprint card, we would draw a diagram of the item that
6 we're actually lifting the fingerprint off of as well as
7 write a description of the item. So, for instance, like I
8 just said, if we were talking about a light socket, we
9 would write out that it was from a light socket in Room N,
10 and it was -- we would draw a diagram to correspond with
11 that description.

12 Q Well, let's jump right into it. Can you start for
13 the jury describing exactly which prints matched this
14 defendant? And if you prepared a report that would assist
15 you, you can certainly review that.

16 A Yes, I can.

17 So in this case, I made 30 identifications to a
18 Mr. Lorgio Morales. And I'm going to go through each of
19 the latent print locations where we recovered
20 fingerprints, and those fingerprints were the ones that
21 were identified. I'll start with the ones that were
22 submitted by Sergeant Hamilton and myself.

23 Latent Lift Number 3, and that was from item A3, and
24 that was an AC unit fuse box, and that was identified as
25 being the right thumb of the following individual.

1 Q Now, before we get too far, and I don't want to
2 belabor this process, I know this will be tedious, but is
3 Item A3 from Room A?

4 A No, it is not. Actually, it could be. I don't
5 remember that. That would have to be in the forensic
6 officer's report.

7 Q Okay.

8 A What we were doing, we had quite a few items to
9 process in the rooms. There were lamp hoods, there were
10 buckets, there were fuse boxes and air-condition units.
11 What we were doing is we were bringing them out. We
12 would kind of label them and put them to the side so that
13 as we processed them, we wouldn't get them confused so we
14 could have a more standardized method to this large
15 quantity of items that we were having to process. So once
16 we labeled them, we also were just doing that for more our
17 purposes. Really what we're looking for is what the items
18 were off of such as the AC, the air-condition unit fuse
19 box.

20 Q Okay. So let's move to that next print.

21 A Okay. The next print was found on an air-condition
22 unit fuse box lid. That was Latent Lift Number 4, and it
23 was identified to being the right thumb.

24 Latent Lift Number 6 was from an air-condition unit
25 fuse box lid, and it was identified as being made by the

1 left middle finger.

2 Latent Lift Number 9 from the air-condition unit fuse
3 box lid was identified as being made by the left thumb
4 finger.

5 Latent Lift Number 18, and that was from an
6 air-condition unit side, that was identified as being made
7 by the right thumb.

8 Latent Lift Number 19, and that was from the interior
9 side of the electrical panel, was identified as being made
10 by the right palm.

11 Latent Lift Number 24 was from a fuse box lid on the
12 interior edge, and that was identified as being made by
13 the right thumb finger.

14 Latent Lift Number 27, that was from an air-condition
15 top edge, and it was identified as being made by the
16 Number 3, which is the right middle finger.

17 Latent Lift Number 34, it was from underneath the
18 side of a lamp hood, and that was identified as being made
19 by the right thumb finger.

20 Latent Lift Number 38, which was from the interior
21 edge of a fuse box lid, it was identified as being made by
22 the left thumb.

23 Latent Lift Number 40, that was from a light socket.
24 It was identified as being made to -- the left index
25 finger.

1 Latent Lift Number 41, that was also from a light
2 socket. It was identified as being made by the Number 9,
3 which is the left ring finger.

4 Latent Lift Number 44, that was from a light socket
5 as well, and it was identified as being made by a left
6 middle finger.

7 Latent Lift Number 47, that was also from a light
8 socket, and it was identified as being made by the left
9 palm.

10 Latent Lift Number 49, that was also from a light
11 socket, and it was identified as being made by the left
12 palm as well.

13 Latent Lift Number 50, which is from a light socket
14 as well, was identified as being made by the Number 8, the
15 left middle finger.

16 Latent Lift Number 53, which is also from a light
17 socket, was identified as being made by the Number 8,
18 which is the left middle finger.

19 Latent Lift Number 54, which is also from a light
20 socket, was identified as being made by the Number 8, left
21 middle finger.

22 Latent Lift Number 55, which was also from a light
23 socket, was identified as being made by the left thumb.

24 Latent Lift Number 56, which is also from a light
25 socket, was identified as being made by the left thumb.

1 Latent Lift Number 58, also from a light socket, was
2 identified as being made by the right palm.

3 Latent Lift Number 62, which was from the light
4 socket -- a light socket as well, was identified as being
5 made from the left middle finger.

6 Q Now, let me stop you right there just to clarify
7 before we move on from these light sockets. Does your
8 report reflect how many different light sockets you were
9 able to lift fingerprints from?

10 A One second. (Reviews document) I don't know the
11 exact number of how many light sockets fingerprints were
12 lifted from total, but the ones that were identified, it
13 appears that there were 11 different light sockets that he
14 was identified on.

15 Q Okay. Well, then let's keep moving on with the rest
16 of these matches. What else were you able to develop this
17 defendant's fingerprints from?

18 A Okay. The following latent prints, these were the
19 ones that were lifted by Sergeant Shaw and Lees Davis, you
20 have Latent Number 4. That was from a screen of a
21 portable Philips DVD player, and it was identified as
22 being made by the Number 8 left middle and the left ring
23 fingers.

24 Latent Lift Number 5, it was from the top handle of a
25 toilet just from -- off of Room H, and that was identified

1 as being made by the right middle finger.

2 Latent Lift Number 6, and that's from the exterior
3 of the left door to the stainless cooler that was in
4 Room H, is identified by being the Number 7 left index
5 finger.

6 Latent Lift Number 7, it was from the side of the
7 left door to the stainless cooler, and that was identified
8 as being made by the left middle and left ring fingers as
9 well.

10 Latent Lift Number 8, also from the left side -- the
11 left door, excuse me, of the stainless cooler in Room H,
12 it was -- it was identified as being made by the left
13 index and left middle fingers.

14 Latent Lift Number 10 was from the back of a CO2
15 atmospheric controller that was found in a desk drawer in
16 Room H, and it's identified as being made by the right
17 index finger.

18 Latent Lift Number 11, and that's from the back side
19 of a CO2 atmospheric controller also found in the same
20 desk drawer in Room H, and that's identified as being made
21 by the right middle finger.

22 I have one more latent that was submitted from Deputy
23 John Garrett, and it was labeled Latent Lift Number 7, and
24 it was from a light fixture in Room N that he had labeled
25 N2. And it was identified as being made by the left

1 little finger.

2 And all of those identifications were to Lorgio
3 Danilo Morales, Junior.

4 Q Now, as you were listing off the number of those
5 prints, for example, Latent Print Number 7, Latent Print
6 Number 11, I noticed that there were a lot of numbers that
7 were omitted. Were there some fingerprints to which you
8 were not able to match any person?

9 A Yes. That is correct.

10 Q Do you have any sense of just how many latent prints
11 were lifted from the warehouse total?

12 A Yes, I do. In total, there were 90 latent
13 fingerprints that were lifted from the warehouse, and 30
14 of those were identified to Mr. Morales.

15 MS. OWENS: Okay. I don't have any additional
16 questions. If you would, answer any questions that
17 Mr. Robinson may have for you.

18 MR. ROBINSON: May it please the Court.

19 THE COURT: Yep.

20 CROSS EXAMINATION

21 BY MR. ROBINSON:

22 Q So there were 60 other latent prints found at the
23 scene that were unknown; is that correct?

24 A No, sir. They're not unknown. There were 60 other
25 latent prints. Some of them were identified to other

1 individuals.

2 Q Okay. So let's talk about the individuals that
3 you're talking about. Do you got your file in front of
4 you?

5 A Yes, I do.

6 Q Okay. You would agree that you got prints from a
7 Rodriguez Gonzalez; is that correct?

8 A One second, please.

9 Q Uh-huh.

10 A (Reviews document) Yes. That is correct.

11 Q Let's go through where you found those prints. Okay.
12 Let's start at the first page and go to the second page,
13 and tell the jury where you found those prints.

14 A Okay. We have Latent Lift Number 36, and it was
15 found underneath the edge of a lamp hood, and it was
16 identified as being made by the right little finger.

17 We have Latent Lift Number 39 that was from the front
18 of a dehumidifier, and it was identified as being made by
19 the left ring finger.

20 Latent Lift Number 48, which is from a light socket,
21 is identified as being made by the Number 6, left thumb
22 finger.

23 Latent Lift Number 59, also from a light socket, is
24 identified as being made by the left index finger.

25 The following latent lift was submitted by Sergeant

1 Shaw and Lees Davis, and it was labeled Latent Lift
2 Number 4, and it was from a portable Philips DVD player
3 that was in Room H, and it was identified as being made by
4 the right thumb finger.

5 The following latent prints were submitted by John
6 Garrett, Deputy John Garrett. It's Latent Lift Number 1.
7 It was from a light fixture in Room N, and it was
8 identified as being made by the left middle finger.

9 Latent Lift Number 2 from a light fixture in Room N
10 was identified as being made by the left index finger.

11 Latent Lift Number 3, from a light fixture in Room N,
12 it was identified as being made by the left thumb.

13 Latent Lift Number 4, also from a light fixture in
14 Room N, was identified as being made by the left ring
15 finger.

16 Latent Lift Number 5 from light fixture, Room N, and
17 it was identified -- that was -- latent was identified as
18 being made by the left thumb finger.

19 And Latent Lift Number 6 was from -- was from a light
20 fixture in Room N, was identified as being made by the
21 left index and left middle fingers, and those
22 identifications were to a Camilo Rodriguez Gonzalez.

23 Q Okay. I believe if you count those, that comes out
24 to around how many? How many is that? How many latent
25 prints?

1 A I believe that -- that is actually 11
2 identifications.

3 Q So we've got 71 prints that we know of, and you said
4 there are 90 prints. Was there also a Thomas Woods that
5 you got prints from?

6 A Yes. That is correct.

7 Q And tell the jury what prints you got from Thomas
8 Woods?

9 A That latent print was submitted by Sergeant Shaw and
10 Lees Davis. It was labeled Latent Lift Number 1. It was
11 from the exterior side of an empty FoodSaver box that was
12 found in Room H, and it was identified as being made by
13 the right index, right middle and right ring fingers.

14 Q So that totals 72 known fingerprints that you can
15 identify, correct? That includes Morales, Mr. Rodriguez
16 Gonzalez and Mr. Woods. That's a total of 72 prints.

17 A That's incorrect.

18 Q That's incorrect. Okay.

19 A There were 30 to Mr. Morales ---

20 Q Right.

21 A --- 11 to Rodriguez ---

22 Q Okay.

23 A --- and the one to Woods. My calculation, that's 42.

24 Q Okay. And how many remaining then? 48?

25 A 48, yes.

1 Q So 48 unknown prints?

2 A No, sir. There was one more identification that was
3 made.

4 Q Okay. Who was that?

5 A That was to an officer Kurt Jacobson.

6 Q Okay. How many unknown prints were there?

7 A Now we're looking at 48, if my -- or 47, if my math
8 is correct.

9 MR. ROBINSON: So 47 unknown prints. All right.

10 That's all the questions I have. Thank you.

11 MS. OWENS: Nothing on redirect, Your Honor.

12 THE COURT: All right. Thank you. You can step
13 down.

14 MS. OWENS: The State calls Investigator David
15 Whitlock.

16 Investigator, if you will, please come up and be
17 sworn.

18 THE CLERK: Sir, please place your left hand on the
19 Bible and raise your right hand.

20 WHEREUPON,

21 WILLIAM DAVID WHITLOCK

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. Please be seated. Please
24 state your name for the record.

25 THE WITNESS: William David Whitlock.

DIRECT EXAMINATION

BY MS. OWENS:

Q Investigator, where do you work?

A The Greenville County Sheriff's Office.

Q What's your responsibility at the Sheriff's Office?

A Currently, I'm full-time on a federal task force for violent crime housed out of the Greenville County Narcotics Unit.

Q How long have you worked in that particular capacity?

A With ATF, for the past two and a half years. I've been in the Greenville County Sheriff's Office Narcotics Unit since 2010.

Q Were you working with the Narcotics Division in April of 2012 then?

A I was.

Q Have you -- well, generally speaking, what are your responsibilities as an investigator in the Narcotics Division?

A First and foremost, it's complaints for drug activity, vice-related activity. They come from citizens much like yourself. From those type of complaints, we use a variety of tools to be able to actually confirm those complaints, whether it's drug activity that's taking place. We conduct controlled buys using informants. We do undercover operations where we ourselves attempt to

1 make purchases of illegal substances, obtain search
2 warrants, a vast array of -- the end goal of the day being
3 tried to limit the amount of drug activity in Greenville
4 county.

5 Q In your tenure with the Narcotics Division, have you
6 ever investigated manufacturing marijuana cases or
7 marijuana grows, as they're called?

8 A Yes. Approximately more than 20.

9 Q Any of this size?

10 A Oh, no.

11 Q In at least your career, is this the largest grow
12 that you've investigated in Greenville county?

13 A By far. Yes, ma'am.

14 Q How did you become involved in the investigation of
15 this case?

16 A Again, I was assigned to the Narcotics Unit. We'd
17 received a call from Uniform Patrol stating that they
18 believe they had a large building where they were in the
19 process of obtaining a search warrant. And they had an
20 odor of marijuana coming from the building, and they
21 requested our assistance.

22 Q So what was going on when you got on scene?

23 A By the time I got on scene, the SWAT team had been
24 activated. It was unknown if anybody was inside the
25 building as well as the rest of the Narcotics Unit at the

1 time, approximately 10 to 12 narcotics investigators at
2 that time as well as several Uniform Patrol deputies were
3 arriving on scene, set up a perimeter. It was unknown if
4 anyone was inside the building, and it was truly unknown
5 to exactly the magnitude of what we had at that time.

6 Q We've heard a couple of witnesses mention that there
7 were these SWAT officers out there. Is that customary in
8 a case like this?

9 A Well, anytime that you're dealing with illegal
10 narcotics, you're going to have people that can't just
11 call the Better Business Bureau if they have a problem, so
12 typically, there's a lot of violence associated with
13 illegal drugs. We didn't know what was in, we didn't know
14 if it was booby-trapped, we didn't know if the person that
15 was still inside that building may be willing to protect
16 it using violent force. So anytime there's that type of
17 unknown, particularly with a building that size, the SWAT
18 team is just better equipped to handle that situation than
19 we were.

20 Q Now, is their responsibility on scene to help you
21 search and dismantle the evidence that you find?

22 A Typically, no.

23 Q What is their limited function there on scene?

24 A To secure that building and ensure that there's no
25 one inside, and then once they deemed it secure over

1 searching it once and then coming back on a second
2 clearing search just to verify their first approach to the
3 building, then they will hand that building back over to
4 us.

5 Q Now, were you on scene while this was happening?

6 A Yes, ma'am.

7 Q Okay. After you learned the building was safe to
8 enter and was clear, what did you do?

9 A Well, initially, the building being that size, the
10 marijuana being emitting from the building, the odor of
11 marijuana coming from the building to be of that
12 magnitude, our first priority was just air quality. So we
13 have a meth lab team, or most all the narcotics
14 investigators are certified to be able to do that, which
15 means that's when you see them in like the plastic Tyvek
16 suits. They have air just like a fireman will have.

17 And so they went in initially and just set an air
18 monitor at the top just to make sure it was actually safe
19 for someone to come in there without any type of breathing
20 assistance. Once that happened, I was deemed to be the
21 scribe of that location, and then we began the process of
22 documenting exactly what we saw and how everything was
23 there before anything was touched or manipulated.

24 Q Now, what do you mean when you characterize yourself
25 as a scribe?

1 A Well, a scribe is the person that comes to any search
2 warrant. Anytime we go in someone's house, a building or
3 anything like that, the end goal is criminal prosecution
4 if there was a law that was broken. So it was my job at
5 the time to make sure that the building, anything we found
6 inside of it was -- it was documented as best as possible
7 so I could re-create it for you here today.

8 Q So was your role on scene then to record an
9 inventory, so to speak, of all of the evidence that was
10 located on this property?

11 A Yes. Initially, I do my very best to be able to
12 record exactly what the building, the layout looks like.
13 And then once we label each part of the room such as if
14 we're going to search this room, I would put where the
15 jury box was, I would put where the prosecution or the
16 defense, everyone is sitting. Once that's taken care of,
17 we'll do initial photographs before anyone starts
18 searching, and then once the search actually begins, it's
19 then my role to document where that item was exactly
20 found.

21 Q As part of that process, did you prepare a sketch of
22 the building to reference each of the rooms as they were
23 dismantled?

24 A Yes, ma'am. Not to scale, but there was -- there was
25 one produced.

1 Q I'm going to show you State's Exhibit 31. Do you
2 recognize that item?

3 A Yes, I do.

4 Q What is it?

5 A That's the hand sketch that I prepared for the case
6 file for Investigator Garrett.

7 Q Is that an accurate representation of the building as
8 you illustrated it that day at the time of the search
9 warrant?

10 A It is.

11 MS. OWENS: Your Honor, at this time, I would offer
12 State's Exhibit 31.

13 MR. ROBINSON: No objection.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibit Number 31 was admitted into
16 evidence.)

17 BY MS. OWENS:

18 Q Investigator, before we get into the details of the
19 room-by-room contents, I'm going to put Exhibit 31 on the
20 screen and ask, if you would, describe for the jury what
21 is depicted. Just one second. I might be able to zoom
22 in.

23 Okay. Could you describe what we see here? Let's
24 start with where you made entry.

25 A Okay. So if you were on Piedmont Highway and you're

1 looking at [REDACTED] Piedmont Highway, you would be at the very
2 top of the screen. So as you're looking at it, you would
3 be kind of looking towards the dock area there. We always
4 typically start with outside of the building, so the one
5 that you're -- the side of the building you're looking at
6 from the roadway, we consider that Side 1. And we go into
7 a clockwise manner, Side 2, Side 3, Side 4.

8 So as you see at the very top of the screen, that's
9 Side 1. As you come over to my side of the screen, that's
10 2, 3 and 4. There were garage roll-up-style doors.

11 Where you see the word "dock" there, that was just
12 like a shipping. This was a large commercial building.
13 It looked to be sort of like a machine factory or
14 something along those lines.

15 So we had those two garage roll-up doors. There was
16 another more of a -- to my best recollection, it would be
17 where anyone would be visiting the building or anything
18 during the actual working hours. Once, this was a
19 legitimate operation sometime in the past, would have
20 entered down where we would consider like the 3-4 corner,
21 which would be in that far -- as you're looking in that
22 left corner, there would be a door there. And once you
23 open that door, you'd be looking at the top floor. And
24 that top floor was just a concrete pad that stretched
25 pretty much the entire area or the entire size of the

1 building.

2 So you would be coming into that door looking at a
3 concrete pad with several HVAC units directly in front of
4 you, and directly to your left would have been a cement
5 walkway that would have led down to that bottom floor.

6 Q So is this sketch that's depicted here in State's
7 Exhibit 31 the lower level of the warehouse?

8 A Yes.

9 Q Okay. Could you walk us through where -- generally
10 speaking, what all of these labels mean?

11 A Sure. So what you have is, again, we're entering the
12 building in that bottom left corner. Once you see there,
13 we're going to take that ramp and we're going to start
14 walking at a downward angle until it finally goes to the
15 bottom floor where all these rooms that you see.

16 As you're going down that ramp, there were two locked
17 cages to the left, just metal cages. They're almost like
18 a closet, a little larger than that, had a metal cage over
19 the top of that. And then as you proceed past there,
20 you'll see it's Room H, and Room H was a very long room.
21 It was set up like a college dorm. Just -- it's just
22 stuff everywhere. You could tell that's where someone
23 lived. That's where someone had been living for quite a
24 while, everything from a refrigerator to food that had
25 been kind of eaten and crumpled around, TV. You could

1 tell that someone in their off-time had been sleeping
2 there, beds in the room, anything that you would need, a
3 restroom and everything there on the left side.

4 If you look -- if you're coming down that same
5 hallway and instead of going left, you go right, it's an
6 entire size of this warehouse has now been converted
7 through either demolition of the concrete structure that
8 was there before or by putting up wood or plywood-type
9 barriers to formulate different rooms, and that becomes an
10 entire marijuana grow operation for the entire bottom of
11 that floor.

12 Q So is each of the rooms that's labeled here on the
13 sketch a grow room that contains marijuana plants?

14 A Nine of those rooms were -- had marijuana being grown
15 in various stages. And what I mean by that is if we went
16 right now to Lowe's or anything, it's that time of year to
17 get your little seedlings, you put them in those little
18 bitty planters, stick them up, and all of a sudden you get
19 a little sprout that starts to pop up. We had everything
20 from that all the way up into several foot tall full
21 marijuana stalks that were producing buds at the time.
22 And then we also had -- Room K was also a drying room.

23 So you had the entire operation of marijuana grow
24 literally from the seed all the way to getting the final
25 product, to drying that product out, and then we also

1 found several vacuum seal bags of the product being ready
2 for distribution. So literally, from A to Z, an entire
3 marijuana grow operation, which by itself is odd to find
4 every single step, certainly not at this size.

5 Q And we'll get into a discussion room by room of what
6 was located in each of these divided areas. But before
7 any searching or dismantling or touching of any kind
8 began, was there video recorded?

9 A Yes. When I entered, investigator Joe Parrish also
10 entered right alongside of me. So as I'm just taking my
11 notes, which is what you're seeing right there, just
12 drawing a crude sketch to kind of see how -- where we're
13 going, where we're at, how many rooms we're dealing with,
14 Investigator Parrish has just a handheld video camera
15 trying to document it as well for the same purpose, to be
16 able to re-create it in a courtroom.

17 Q I'm going to show you State's Exhibit 10. Do you
18 know what that item is?

19 A Yes. This is a CD copy of the video that was taken
20 that day.

21 Q And is what's recorded on that video a fair and
22 accurate representation of what was inside the warehouse
23 at [REDACTED] Old Piedmont Highway on April 23rd?

24 A Yes, ma'am.

25 MS. OWENS: Your Honor, at this time, I'd offer

1 State's Exhibit 10.

2 MR. ROBINSON: No objection.

3 THE COURT: All right.

4 (WHEREUPON, State's Exhibit Number 10 was admitted into
5 evidence.)

6 MS. OWENS: With the Court's permission, I'd like to
7 publish this video.

8 THE COURT: Yes.

9 (WHEREUPON, State's Exhibit 10, a video, was played
10 in open court.)

11 BY MS. OWENS:

12 Q Now, Investigator Whitlock, if you could help us
13 understand what we're seeing, what is being depicted in
14 the video right now?

15 A Okay. We went in that door, so you see our cages to
16 the left there. And then we're going down. You're going
17 to see the first door that would have led into all those
18 grow rooms, for lack of a better term or for simplicity's
19 purpose. So there's the one door that would take us to
20 the right, enters into those rooms, and then to the left
21 as you're seeing just beyond those tomato cages, that
22 would be the Room H where's it's the living quarters.

23 Through here you see where that's not typical of a
24 machine shop or any other metal fabrication place or
25 whatever was there prior. Everything that you're seeing

1 there is going to be electric wires. You're going to see
2 the HVAC, the ductwork that's coming through to be able to
3 remove the air plus pump more air back into the room.
4 You're seeing the pipes where it's going to bring water as
5 well as the nutrient rich water which is then placed along
6 some of those barrels as well.

7 Again, there is more of a mature marijuana grow room
8 there.

9 So Investigator Parrish is roughly my height, 5'10"
10 to 5'11", and as soon as you walk into the room, they're
11 already as tall as we are.

12 Q And what is that? And we'll get into the details
13 here shortly, but did you record exactly how many plants
14 were inside each room before the rooms were dismantled?

15 A Yes.

16 (WHEREUPON, State's Exhibit 10, a video, continued to play
17 in open court.)

18 A So you can see, a marijuana plant grows much along
19 the same size as a tomato would grow which is the reason
20 you see so many of those tomato cages that were out there
21 in the hallway when we first came in. You can tell that
22 the operation was set up for a continued and ongoing use.

23 (WHEREUPON, State's Exhibit 10, a video, continued to play
24 in open court.)

25 A That's mature budding of the marijuana plant. So

1 those -- the little fuzzy balls that are kind of in
2 between the leaves there, that's what's dried out and
3 that's what becomes the consumable product.

4 (WHEREUPON, State's Exhibit 10, a video, continued to play
5 in open court.)

6 A Those are all the ballasts. You'll hear me refer to
7 those. That's converting over the electricity. So you
8 get a 110 outlet that comes out of something. Those
9 ballasts are there to be able -- because those types of
10 hood, the air purifiers, the returns, everything else is
11 using much more electricity than even a commercial
12 building normally would, so each one of those are designed
13 to be able to pump more power back into that building to
14 make it continue to go.

15 Q Is this a distinct room than the one we just saw?

16 A Yes. Each -- every time that you see a breezeway or
17 a doorway going in, that's a separate room.

18 Again, various states of maturity. The bucket
19 itself, you're not going to see like a sprinkler system.
20 The majority of these plants we would deem a hydroponics
21 grow, which means that it's the root system is constantly
22 emerged in a -- in water, and then the nutrients are being
23 supplied by the different chemicals.

24 If we were to start a tomato grow today, then those
25 tomatoes are going to have a lifecycle where they're going

1 to come up, they're going to be dormant. The idea is if
2 you want to continue to produce marijuana is that you need
3 to have an optimum situation where it's constantly
4 producing the bud for you. You want it to be in a
5 constant grow.

6 Also increases the THC which makes the marijuana
7 itself more profitable if you can get a higher THC
8 content, which is the actual chemical compound that
9 produces the high.

10 You see a light ballast and then you see the ductwork
11 that comes through. Again, that's to produce -- at this
12 point in time, the power's been cut, so we're having to
13 produce our own light to this. Prior to that, all the
14 heat and everything would have been radiating which is the
15 reason that so much of the odor was being pushed out of
16 that building is because when we hit the power, there was
17 nothing there to maintain that optimal atmosphere for
18 those plants to grow, so at this point in time, we're
19 having to do our own power there. But just a few minutes
20 prior to this, all those lights would have been lit up,
21 again, to produce just an optimal 24/7/365 growing
22 atmosphere for those plants to continue to grow, to
23 continue to thrive, to continue to produce THC.

24 Q Will that process accelerate the rate at which the
25 plants mature?

A Certainly, because there you're going to cut away the dormant cycle. Just right now, my own personal garden's dead. In a few month, hopefully, it starts to come back up. We're cutting all that out right now.

(WHEREUPON, State's Exhibit 10, a video, continued to play
in open court.)

A Those are all blowers. You don't want too much humidity, you don't want too little, so all those HVAC units that were sitting up on the very top floor when we first came in, they're all pushing and pulling air in and outside of that building and all those different rooms to make sure it stays at a nice temperature where those plants are in an optimal ability to grow.

All that's extra. . . There would be no way for me to tell you exactly when all that was replaced, but, again, that's going to be all your electrical wires. That's your tubing for the water, for the fertilizer, everything to start being pumped into those different rooms into those buckets that's holding all the hydroponic grows.

(WHEREUPON, State's Exhibit 10, a video, continued to play
in open court.)

A So that's, obviously, not someone that actually commercially had someone come in with a legitimate business and did that. No -- no legitimate electrician would come in and put a combination of commercial outlets,

1 residential outlets and the wires, some grounded, some
2 not. You can tell that it was definitely an elaborate
3 setup. Someone definitely knew the very basic idea of
4 what they needed to accomplish. It just wasn't done in
5 anything that were a licensed electrician would ever come
6 and do that.

7 (WHEREUPON, State's Exhibit 10, a video, continued to play
8 in open court.)

9 A And all of those blue tubs are going to be buckets of
10 -- some of those are buckets of just water, some of those
11 are buckets with water with different fertilizers in
12 there. So when you hear things like an atmospheric
13 controller or when you hear things such as an O2 regulator
14 or anything, those plants are constantly being monitored
15 to make sure, because every single leaf on those plants
16 are money, so everything's getting constantly monitored to
17 see exactly what that plant needs to continue to thrive.

18 Once the -- once you get to a mature plant like this,
19 some of those programs can be just set to an automatic
20 dial, and you can feed and water, you can feed them water
21 with fertilizer, and you can set that up if you have a
22 good basis of knowledge in growing marijuana.

23 (WHEREUPON, State's Exhibit 10, a video, continued to play
24 in open court.)

25 Q What are these units that we see here on the wall?

1 A I believe those are -- you have a combination of
2 ballasts, you're going to have a combination of the
3 environmental controllers.

4 (WHEREUPON, State's Exhibit 10, a video, continued to play
5 in open court.)

6 A More ballasts there. Some of the ballasts just don't
7 have the covers on them. Other ones are actually
8 programmed in because, again, the atmospheric controllers
9 could be both pumping water as well as regulating air.
10 Turn the fans on, turn the fans off, try to pump in
11 humidity, trying to remove it.

12 (WHEREUPON, State's Exhibit 10, a video, continued to play
13 in open court.)

14 A You have an air filter. Not going to speculate why
15 that was there, but, again, while you're producing this
16 THC, you're also getting mold and that sort of stuff.
17 You're in the very bottom of the building, so you're going
18 to need things actually for human survival as well because
19 too much of what this plant is producing can also become
20 toxic just from being in the room with it.

21 (WHEREUPON, State's Exhibit 10, a video, continued to play
22 in open court.)

23 A Most of those bags are clippings. When you have a
24 male plant, a female plant, you don't want the two to try
25 to procreate, so anytime that you're finding the male

1 plant come in, you want to make sure that you're clipping
2 that plant out of there, because that plant is not only
3 producing buds, it's producing more plants. So any time
4 that the male plant would come off, you'd clip that. If
5 it started -- just like pruning your bushes at home. You
6 want to be able to prune it back because the plant is
7 going to grow better at the core.

8 Juvenile plants, again, if we wanted to go to Lowe's,
9 Walmart right now and we just bought one of the little
10 seed trays or anything, they give you the plastic top to
11 put on there to be able to keep the heat in because the
12 seeds need more heat. That's that, just at a much more
13 complex style.

14 (WHEREUPON, State's Exhibit 10, a video, continued to play
15 in open court.)

16 Q Do these buckets have those pods as you described
17 rather than soil?

18 A Yes. That's where -- and it's the transition. So,
19 you know, we started in that one room that we just saw
20 where they have the plastic containers on top. Once they
21 grow to a certain level of maturity, you replace those
22 into the big buckets. You want to maintain just to let
23 that root kind of suck up.

24 When you hear me later on talk about the individual
25 plants, there's no scientific version that compares with

1 the law in exactly what we were looking for. What we
2 deemed a plant was an individual plant with its own root
3 system.

4 (WHEREUPON, State's Exhibit 10, a video, continued to play
5 in open court.)

6 Q Do you recall what this room appeared to be for?

7 A That is -- should be Room K, going completely off
8 memory, but it's definitely a drying rack and then those
9 lines that come over.

10 So what you would see initially is the plant would
11 just be hung upside down. They would pump in a lot of
12 heat and try to remove all the humidity out of there. And
13 you just want to take a plant that's -- that's just very
14 sappy. It's not water, but it's just very sticky, very
15 sappy. That's the THC that's inside that plant. Because
16 we've used this hydroponics method, so it's actually a
17 little bit higher THC than what you would have, you know,
18 seen in the sixties or the seventies or anything. We just
19 dried marijuana.

20 So what they'll do is hang it upside down, get it as
21 dry as possible. Once that happens, they'll take that
22 plant, put it on all those screens right there and just
23 run it across to be able to try to remove any of the dead
24 plant material, and then what's left over, they'll be able
25 to take, seal and package.

1 (WHEREUPON, State's Exhibit 10, a video, continued to play
2 in open court.)

3 A That little bucket right there would be -- that's the
4 -- it's not Styrofoam. It's just a core that just if you
5 want to go right now and you would actually go to your
6 Home Depot or something, you'd buy the plant sort of
7 already going. Sometimes they're already in soil,
8 sometimes they're in that little pod there that's just
9 designed to absorb water for you. That's just that being
10 removed off that little seedling, and then that way, you
11 can drop it into the actual soil.

12 Like I said before, that's -- mostly those bags are
13 clippings. So . . .

14 (WHEREUPON, State's Exhibit 10, a video, continued to play
15 in open court.)

16 A There's another hazard, obviously, for both humans
17 that are in there as well as a hazard for if you were the
18 person trying to cultivate this marijuana, you'll see some
19 of the sprayers. A lot of those are just for insects and
20 that sort of stuff. If your financial gains were being
21 made of whether or not you're able to grow marijuana, you
22 don't want an insect problem to come in there, so various
23 insect pesticides used as well in conjunction with a
24 fertilizer compound that's much higher than typically you
25 would use for anything that you had at home or anything

1 like that.

2 Q Now, these lights in this room appear to be just
3 naked bulbs. Is there some strategic advantage to using
4 the bare bulb as opposed to the hoods that we saw in the
5 other rooms?

6 A Typically, you're going to see that with much more of
7 a mature plant. So those are already kind of up, they're
8 producing. You just need to maintain at that point in
9 time because a lot of those plants, again, as you can see,
10 are quite high. And it just depends on the level of
11 knowledge of the person that's growing that marijuana.

12 So some of those ballasts where you see the big hood
13 that comes over there, it's going to magnify that light.
14 Depending on what type -- what type of strain of marijuana
15 he's using, you could want that. It needs a lot more
16 heat, and, obviously, it's being checked on frequently
17 because if some of those plants were drying out, then you
18 want to have less. You want to be able to put more
19 humidity in. If they were not drying out or if they were
20 producing and you're trying to see mold grow on them, then
21 you would come into a room where you would remove as much
22 air as possible and you'd have as little light.

23 (WHEREUPON, State's Exhibit 10, a video, continued to play
24 in open court.)

25 A This is definitely not the Ronco version. This is

1 not a set-it-and-forget-it kind of thing. You've got to
2 be in there quite often. It would be hard to speculate if
3 it was daily. Obviously, there's living quarters there,
4 but this is a very labor-intensive process.

5 Q So despite the fact that some of the process is
6 automated with timers and schedules, does this operation
7 require an actual human monitor?

8 A Absolutely.

9 (WHEREUPON, State's Exhibit 10, a video, continued to play
10 in open court.)

11 A More juvenile plants.

12 I think our video spun around. I'm not sure if we're
13 going to another one or if we're coming out of the other
14 one, but that's the juvenile plants is there, somewhat
15 recently been planted in that room.

16 (WHEREUPON, State's Exhibit 10, a video, continued to play
17 in open court.)

18 A Washer and dryer. I'm not sure if the machine shop
19 had that for its employees several years prior when it was
20 in operation, but it looked relatively new.

21 (WHEREUPON, State's Exhibit 10, a video, continued to play
22 in open court.)

23 A The shampoo, the trash bag and the rubbish that's
24 down there, it doesn't tell us much on the investigation
25 except for now you'll notice that it's not a lot of decay

1 in that. And if we were to fill the trash can right now
2 and come back in six months, I doubt even the trash would
3 still look like that. You're going to have some decay,
4 you're going to have some dirt that's collected on top of
5 it. Just general maintenance of the place.

6 Like I said, you see that even the shampoo bottle
7 there is not brand-new, but at the same time, it looks
8 like the place is being used, it's being occupied at least
9 somewhat frequently.

10 (WHEREUPON, State's Exhibit 10, a video, continued to play
11 in open court.)

12 A You're back into Room -- it's going to be Room H.
13 Like I said, a very long room. I'm not sure if the video
14 is going to be able to depict that. But you're --
15 basically, if we were to enter that building right now,
16 there's two doors that would allow you into Room H. We'd
17 bypass the first door we would come to, and we'd enter
18 that second door on the left.

19 And then so you're seeing here, again, it's just
20 there's a lot of items. There's just a lot of -- the
21 smaller bottle of fertilizer, that sort of thing. There
22 were a lot of manuals on how to use fertilizer, different
23 methods of growing marijuana.

24 And then as we were -- as the camera panned back to
25 the left from where you're at right now, obviously, that's

1 just your normal toilet scale.

2 As we pan back from the left from this and you would
3 see where the beds were, TV.

4 So that's just more fertilizer.

5 So the juvenile plants, you don't -- again, it would
6 be speculation, but you would not necessarily want your
7 computer program or your electronics to be able to monitor
8 what's going on to a very, very fragile sapling, a very
9 young juvenile plant, so a lot of that is typically in
10 smaller rows, at least that we've seen, typically
11 monitored and administered by hand.

12 Q Now, you described that we're in the living quarters,
13 and that you noticed a lot of food items and other general
14 items for someone who would be living in this particular
15 location.

16 A Yes.

17 Q Did you take note of whether any of those food items
18 were long expired or out of date?

19 A No. They were -- off of memory and reading my report
20 recently, some of those bags were actually open for
21 consumption recently. Again, reminded me of my
22 11-year-old's room often.

23 That's the package. That's the final product. So
24 we've seen from sapling, we've seen from juvenile to
25 mature plant, we've seen a drying room, and what you're

1 seeing right there is a Space Bag making the final
2 product.

3 So, again, if you're trying to do the hydroponics
4 method, what -- you're trying to force that plant to grow
5 at optimum rate, produce optimum THC, you can never fully
6 dry it. A lot of times, you'll see if it's in smaller
7 quantities, they'll actually -- it's very common for you
8 to be able to buy that. It'll be in a jar instead of a
9 bag, whereas typically, you just see like a little
10 plastic baggies kind of tied onto itself. The SpaceSaver,
11 the reason they would do that in this instance is just try
12 to remove as much air as possible because if there's a
13 little bit of THC, that oil, you don't want your product
14 to mold and spoil before it ever gets to the final
15 consumer.

16 Q Now, were each of those boxes that we saw set up on
17 those mattresses in that place when the search began?

18 A Yes. There's been nothing that's been changed other
19 than the SWAT team possibly opening that door. But no
20 items have been moved. Nothing that a person couldn't
21 hide in.

22 Q Do you recall how many mattresses were in this room?

23 A I don't right off. Obviously, that's a bunk bed. I
24 believe there was one more to the side. Obviously, you
25 see two pairs of tennis shoes and some slippers there.

1 There's a -- there it is over to the side.

2 (WHEREUPON, State's Exhibit 10, a video, continued to play
3 in open court.)

4 A And then right off again, so now you're coming up the
5 cages, so now you're coming back up to where that initial
6 entranceway would be when we entered.

7 (End of video playback of State's Exhibit 10.)

8 Q It was a little bit of a wobbly overview, but now
9 that we've seen the overview, let's take this room by
10 room. I'm going to start with State's Exhibit 32. Do you
11 recognize what's depicted in that photograph?

12 A Yes. This would be an accurate representation of as
13 soon as you walk in to that door, which would have been
14 down in that bottom corner from the diagram you just
15 showed, when you open that door, if there was some light
16 in there, this is basically what you would have saw. And
17 what you're looking at is mostly three-ton units..

18 So most residential homes, my home to include, has a
19 three to three-and-a-half ton HVAC unit outside of it.
20 But what you're seeing here is that there's 13. And it's
21 13 not on the outside of a building. This is the first
22 floor of this building, so it obviously was manufacturing
23 done specifically for the purposes of that marijuana grow.
24 And then you see the return ductwork that's coming back up
25 to those HVAC units that's been drilled directly through

1 the concrete floor.

2 Q So is what's depicted in State's Exhibit 32 an
3 accurate representation of that ground floor level?

4 A Yes, ma'am. Room A.

5 MS. OWENS: Your Honor, at this time, I'd offer
6 State's Exhibit 32.

7 MR. ROBINSON: No objection.

8 THE COURT: Okay.

9 (WHEREUPON, State's Exhibit Number 32 was admitted into
10 evidence.)

11 BY MS. OWENS:

12 Q I know you were just describing it as you were
13 looking at the photograph, but if you could, explain for
14 the jury what's depicted here.

15 A It's a little easier to see what's -- the
16 photograph's directly in front of you, but you're seeing
17 those returns.

18 So that's just ductwork. It's the same thing that's
19 either in your attic or below your house at your own home.
20 It's been drilled directly through. That's -- that's a --
21 I wouldn't want to try to guess exactly how thick that
22 concrete floor is, but that was a machine shop at one
23 point in time, and they were okay with storing very large
24 mechanical pieces on top of it. It's been drilled
25 directly through the concrete to those returns, and then

1 back off into the shadows over there would be the 13 HVAC
2 units, averaging, again, about three ton. So it would be
3 enough for most residential houses.

4 Q So do these ventilation units go down into the
5 ceiling then of what we will see in the basement?

6 A Correct. Yes. So all that ductwork on the video
7 would be originating from there.

8 Q All right. And this is Room ---

9 A A.

10 Q -- A.

11 I'm going to show you State's Exhibits 33 and 34. Do
12 you recognize what's depicted in those photographs?

13 A Yes. So this is the beginning and about midway down
14 -- I believe the hallway was labeled B, and this is going
15 to be that concrete ramp hallway that leads to -- you're
16 looking straight ahead when you come in that door. This
17 would be to the immediate left.

18 Q So are both State's Exhibits 33 and 34 then accurate
19 representations of that entry hallway as you described
20 Room B?

21 A Yes, ma'am.

22 MS. OWENS: Your Honor, I'd offer State's Exhibit 33
23 and 34.

24 MR. ROBINSON: No objection.

25 THE COURT: Okay.

22 Q Moving on from that entry ramp, I'm going to show you
23 State's Exhibits 35 through 39. Take a look at those
24 photographs and tell me whether you recognize what they
25 depict.

1 A Yes. 35 is going to be still in those hallways.
2 That's the electric conduit coming down from the very top
3 where the electricity -- the junction box is all in 35.

4 And then, again, you start seeing in 36 just the
5 different electric wires getting -- come down, to a
6 piece of plywood that is there being that it will be
7 marked that way. If you mark it 4 on this and that wire
8 has to go up into a ceiling, back down, drop through a
9 room, run to another room, then you mark that end with a
10 4, you can come back and figure out where your problem is
11 if all of a sudden one of your lamps or anything starts
12 coming off.

13 Q Well, to save you from having to visit on each of
14 these photographs twice, generally speaking, do those
15 photographs represent that hallway area as you described
16 immediately off of the entry ramp of what was labeled
17 Room B?

18 A Yes, ma'am.

19 Q Are they an accurate representation of the equipment
20 that existed in that area on April 23, 2012?

21 A Yes.

22 MS. OWENS: Your Honor, at this time, I would offer
23 State's Exhibits 35, 36, 37, 38 and 39.

24 MR. ROBINSON: No objection.

25 THE COURT: Okay.

1 (WHEREUPON, State's Exhibit Numbers 35, 36, 37, 38 and 39
2 were admitted into evidence.)

3 BY MS. OWENS:

4 Q Let's take a look at State's Exhibit 35. Can you
5 tell us, again, where this is in relation to the hallway
6 that we just left?

7 A I believe that hallway is -- and there's two
8 hallways, again, because it's a -- the Hallway B, the
9 first one that comes down, is the ramp, and it leads off.
10 And there's a first right turn, and there's one at the
11 very end of that. And it ends up being a horseshoe, which
12 kind of cuts through all the middle of those rooms.

13 So that -- all the hallway is where all the ballasts,
14 in this case, you're looking at an electrical junction,
15 because, again, you're dealing with a lot of fertilizer
16 and water that's on the floor, so you wouldn't want a lot
17 of your electrical junction to be there where all your
18 water was. Pretty smart move to move that out to a
19 hallway trying to protect yourself from being
20 electrocuted.

21 Q Is this typical of the electrical systems that were
22 wired throughout the entire operation?

23 A Yes.

24 Q All right. Let's move on to State's Exhibit 36.
25 Again ---

1 A So the version of that, you'll see the one plug-in
2 down there is labeled 8 on the actual plywood itself.
3 Some of those junction boxes are labeled 4, 3. Again,
4 those are just to -- it's coming from a hallway, but then
5 you have nine grow rooms, a dry room. You have a lot of
6 things that are moving, a lot of things that are taking
7 power, so it's just in case. You could follow that wire
8 without having to trace it by hand.

9 Q And State's Exhibit 37?

10 A Those are going to be all those controllers that are
11 coming through to be able to -- the atmospheric
12 controllers, the water being able to be pumped and the
13 fertilizer being able to be pumped. Sometimes you need
14 water without fertilizer, sometimes you need both,
15 sometimes you need the monitor checked for air. And
16 that's kind of the brain of the whole operation right
17 there.

18 Q And State's Exhibit 38, can you tell us what we see
19 here?

20 A All those are what we call ballasts. And, again,
21 that's just converting that electricity back over to be
22 able to pump a lot more electricity than that 110 outlet
23 would only give you.

24 Q Now, do you recall whether there was standing water
25 in this hallway?

25 Q Could you describe for the jury what we see in

1 State's Exhibit 40?

2 A Those are producing marijuana plants. Those are
3 mature producing buds at that time. And then on top of
4 that, that's what you would see the -- the hoods. A very
5 large lightbulb would be in that producing a lot of heat,
6 again, to try to make those produce as much as possible as
7 often as possible.

8 Q And would this have been the first grow room that you
9 encountered as you -- as photographs were taken of the
10 entire operation?

11 A Yes.

12 Q All right. And can you describe what we see here in
13 State's Exhibit 41?

14 A That is the end to the electrical junctions that was
15 out in the hallway. That's what they're like into the
16 room. So they get plugged right back in, and then you
17 have the actual individual items being plugged into that
18 board. So you'll have the one from the hallway feeding
19 into the main electrical circuit, and then you have that
20 feeding all the different ballasts, lights, whatever's in
21 that specific room.

22 Q And finally, with respect to State's Exhibit 42, did
23 you find this taped to the wall in that particular grow
24 room?

25 A We did.

1 And that is a weekly to monthly schedule of exactly
2 what needs to happen for that individual room. So you
3 have one that's, again, it's not in the drying season yet
4 so you'll see where it needs to be flushed, which I took
5 to mean that it just needs -- the water needs to be
6 changed out, so you don't want that stagnant water to stay
7 in there. And then as you see that, there's different
8 times where it's just kind of reminding you to stay on
9 schedule because someone has to go in there to make sure
10 that the operation is producing the plants the way they're
11 supposed to be done.

12 Q Moving to the next grow room, I'm going to show you
13 State's Exhibits 43 through 45. Take a look at those
14 photographs. Do you recognize what's depicted in those
15 photographs?

16 A (Reviews documents) Yes.

17 Q Actually, before we move on to the second room, it
18 may be easiest to visit on the contents of that first
19 room. Do you recall taking inventory of the marijuana
20 plants that were inside each of these rooms?

21 A Yes.

22 Q Did you physically oversee the removal of the plants
23 from their pots?

24 A I, obviously, did not pull every single plant that
25 was out, but as those plants were being removed, I was

1 standing inside the room, and I specifically saw each and
2 every one of those plants come out. And there was a root
3 ball attached to each one. Again, that's how we counted a
4 plant to be there. If it was a little small sapling that
5 was just kind of coming out of the dirt, it didn't have an
6 actual root ball, something that shows it was growing and
7 it was going to become a plant, then we didn't count it.

8 Q Did you record how many marijuana plants were removed
9 from that first grow room that we see here depicted in
10 State's Exhibits 40, 41 and 42?

11 A I did.

12 Q Do you recall how many were removed from that room?

13 A I recall the total amount of plants coming from the
14 entire operation, but specifically to the room, I'd have
15 to review my notes.

16 Q Did you prepare a report at the time you completed
17 this search?

18 A I did.

19 Q Would reviewing that report help refresh your memory?

20 A Certainly.

21 (Reviews document) To answer your question, the first
22 room we came to we labeled as Room D, and in that room,
23 there were 55 marijuana plants.

24 Q Okay. And did you also take an inventory of how much
25 equipment and the type of each item that was located

1 inside each of those respective rooms?

2 A Yes, we did.

3 Q Okay. And I don't know that it's necessary that we
4 get into how much equipment was seized from each room, but
5 nonetheless, inventory was taken?

6 A Correct.

7 Q Let's move to the next grow room now. You just
8 reviewed State's Exhibits 43, 44 and 45. Are those an
9 accurate representation of the contents of that next room
10 that was searched?

11 A Yes.

12 MS. OWENS: Your Honor, at this point, I'd offer
13 State's Exhibits 43 through 45.

14 MR. ROBINSON: No objection.

15 THE COURT: Okay.

16 (WHEREUPON, State's Exhibit Numbers 43, 44 and 45 were
17 admitted into evidence.)

18 BY MS. OWENS:

19 Q Can you tell us what we see here in State's
20 Exhibit 43?

21 A Anywhere from juvenile to mature marijuana plants.

22 Q Do you recall how this room would have been labeled?

23 A The second room that we encounter was Room E, echo,
24 and there were 52 marijuana plants in that room.

25 Q Okay. And State's Exhibit 44, could you tell the

1 jury what that depicts?

2 A It's hard to see that from -- without being able
3 to ---

4 Q That's fine. I'll take it off the projector and let
5 you look at it up close. I know that lighting is dark.

6 A Yes. This room has just been recently moved over.
7 So it's beside -- we didn't count that as a grow room
8 because those plants went from juvenile to mature or they
9 went from mature into the drying room. So you see a lot
10 of empty buckets on the bottom of it, and, obviously, it
11 was a grow at some point in time in the near past.

12 Q And State's Exhibit 45?

13 A Much like the first photo of a calendar of sorts.
14 Obviously, not being there, I couldn't tell you if that
15 was like a weekly, monthly calendar or if it was a diagram
16 of the room itself and then you would just say that we put
17 these plants in here at this point in time and you would
18 separate it that much. That way, if the Room 9, those
19 plants had been there for three weeks, we just all remove
20 those and it kind of keeps you on schedule that way. But
21 it's a handwritten ledger to keep you on schedule for the
22 marijuana grow operation.

23 Q And forgive me if you've already answered this
24 question, but how many plants were removed from Room E,
25 that grow room?

1 A 52.

2 Q Okay. Moving to the next room, I'm going to show you
3 State's Exhibits 46 and 47. Do you recognize what's
4 depicted in those photographs?

5 A Yes.

6 Q Do those depict an accurate representation of Room F
7 before it was searched and then subsequent to the search?

8 A Yes.

9 Q Let's start with State's Exhibit 46. Could you
10 describe for the jury what's depicted in this photograph?

11 A Again, that's a fully operational grow room with
12 mature marijuana plants.

13 Q And finally, 47?

14 A That's what it looks like when we're done with it and
15 we've removed all the illegal contraband.

16 Q Do you know how many plants were removed from Room F?

17 A Room F had 55 marijuana plants.

18 Q I'm going to show you State's Exhibit 48. Do you
19 recognize what's depicted in that photograph?

20 A Yes.

21 Q Is it an accurate representation of the next grow
22 room as you found it on April 23rd of 2012?

23 A Yes.

24 MS. OWENS: The State offers State's Exhibit 48.

25 MR. ROBINSON: No objection.

1 (WHEREUPON, State's Exhibit Number 48 was admitted into
2 evidence.)

3 BY MS. OWENS:

4 Q Could you describe for the jury what's depicted in
5 State's Exhibit 48?

6 A Mature marijuana grow, mature marijuana plants.
7 There were 50 plants in Room G.

8 Q Okay. Moving to Room H, I'm going to show you
9 State's Exhibits 49 through 53. What do those photographs
10 depict?

11 A It's an accurate representation of Room H, the living
12 quarters.

13 Q Are these photographs taken before any items were
14 removed, searched or otherwise manipulated?

15 A Yes.

16 MS. OWENS: Your Honor, at this time, I would offer
17 State's Exhibit 49, 50, 51, 52 and 53 into evidence.

18 MR. ROBINSON: No objection.

19 THE COURT: Okay.

20 (WHEREUPON, State's Exhibit Numbers 49, 50, 51, 52 and 53
21 were admitted into evidence.)

22 BY MS. OWENS:

23 Q Could you describe for the jury what's depicted here
24 in State's Exhibit 49?

25 A That would be Room H. If -- as you were entering the

1 front door or that -- that initial door we entered, come
2 down the ramp, the first door on the left.

3 So the first door on the left has much more of true
4 living quarters. It doesn't have all the little bottles
5 of fertilizer and that sort of stuff where they're just
6 reading up on what exactly they were doing. This was
7 beds, a couple boxes of chips, DVD player. That's just
8 someplace to be able to sit and relax.

9 Q Is this the room in which the bathroom was located?

10 A Yes. You would go -- from that angle, you would look
11 to the right, and we'd go a very long room, and then the
12 bathroom would be the very end of that.

13 Q I know you described some of this when we were
14 watching the video, but just to be clear, what is in these
15 boxes?

16 A All those boxes are the finished product, the dried
17 marijuana in SpaceSaver bags where the air has been
18 suctioned out to be able to try to have it last as long as
19 possible.

20 Q Did you, at some point after these photographs were
21 taken, remove and measure and take inventory of everything
22 that was in those boxes?

23 A Yes, ma'am.

24 Q State's Exhibit 50, can you tell us what we see in
25 that photograph?

1 A That would be if you stood where we just took that
2 first picture and we look right. So that's the long
3 portion of that room.

4 Q State's Exhibit 51, do you know what this depicts?

5 A It's the different angle of the same.

6 Q Okay. 52, what does this show?

7 A The bathroom at the very end.

8 Q And finally, State's Exhibit 53?

9 A That's just underneath like the -- the countertop.
10 Most of the right side of that room, there's just a lot of
11 countertop space, and it was anywhere from like a
12 microwave where you'd be able to get a Hot Pocket in there
13 to a lot of fertilizer bottles and that sort of thing.

14 Q I know it's difficult to see in this picture, but
15 were the items in this photograph collected at some point
16 during the search? I'm going to let you take a look at
17 State's Exhibit 53 close up.

18 A Yes. You have the SpaceSaver bags of marijuana prior
19 to being put in a box.

20 Q Did you collect those items from Room H?

21 A Yes.

22 Q I'm going to show you State's Exhibit 27. Do you
23 recognize that item?

24 A I do.

25 Q How do you recognize it?

1 A It has my initials on the packaging, and it has the
2 labels that I gave to that room.

3 Q Did you seal it yourself?

4 A I was -- yes. My initials are on the inside.

5 Q And so where did you deposit it until today's trial?

6 A In the Greenville County Property and Evidence.

7 Q Any indication that that package has been tampered
8 with since the time that you submitted it?

9 A No.

10 Q Is that what it looked like at the time that you
11 turned it in to Property and Evidence?

12 A There's a lot of age. It would have been a little
13 greener, a little more lively. But we're dealing -- even
14 if it's dried out, we're still dealing with a, at one
15 point in time, living organism. So it's just decaying in
16 a few years in some plastic.

17 Q Likewise, I'm going to show you State's Exhibit 28.
18 Do you recognize that item?

19 A Yes. From the same room, my initials, David
20 Whitlock, DW are on the inside of the package. It shows
21 the date that we placed this in there, and it's listed at
22 5.9 grams, which would have been how much this weighed.

23 And, again, at one point in time, this would have
24 been green plant material that would have been used for
25 personal consumption. It's not enough to where it was

1 bagged like the others, but there were also some
2 indications of marijuana roaches where marijuana is
3 actually being consumed by whoever it was that was inside
4 that Room H.

5 Q Now, in State's Exhibit 53, the photograph, do those
6 accurately represent how those bags looked at the time
7 they were seized as compared to their degraded state
8 today?

9 A Yes. Obviously, much more green. We were inside of
10 the marijuana grow, so it was in plentiful supply. This
11 is what a plant looks like when you put it in plastic and
12 wait a few years.

13 Q I'm going to show you State's Exhibit 29. Do you
14 recognize that item?

15 A Yes. It also has my initials with a room label for
16 RH, Room H. This would be the third item that we would
17 have bagged from there.

18 We don't have any specific strategy of how we label
19 these. I resulted back to just old military training in
20 something this big is that we -- these item numbers come
21 from where I was at. So Room H, RH, third item that I
22 picked up.

23 Q And likewise, was it in recognizably marijuana
24 condition at the time of its seizure as compared to its
25 degraded state today?

1 A It would have looked like the bag that's depicted
2 there. So yeah. A bit crusty, if I could open.

3 Q If you'd like to review it to verify that that's the
4 same item.

5 A (Review's exhibit) This may be a little fresher than
6 the others, than the larger of the bags. Again, very
7 decomposed.

8 Q All right. And finally, let's move to State's
9 Exhibit 30. Do you recognize that item?

10 A (Review's exhibit) Green plant material, yes.

11 Q And is that the item that you collected from Room H
12 during your search on April 23, 2012?

13 A Yes. Again, it has the room label and the time and
14 date that we collected it.

15 Q Moving back into the substance of the operation, the
16 next room, I'll show you State's Exhibits 54, 55 and 56.
17 Do you recognize what's depicted in those photographs?

18 A Yes, ma'am. I do.

19 Q As you recall, which room was this room?

20 A I apologize.

21 This is Room I.

22 Q And as you characterized it when we were watching the
23 video, what was the function of Room I?

24 A Room I, that's the seedlings. That's the very
25 immature grows.

1 So if you take the seeds from various strands of
2 marijuana, you put those into the little smaller pods, you
3 need to be able to cover those with some sort of plastic
4 and then be able to keep a lot of heat in those because
5 just like any other seed that we'd go buy right now, that
6 heat makes it grow a little bit faster.

7 And in this room, Room I, there would have been 247
8 of those juvenile plants.

9 Q Are State's Exhibits 54, 55 and 56 accurate
10 representations of the contents of Room I on April 23rd of
11 2012?

12 A Yes, ma'am.

13 MS. OWENS: Your Honor, at this time, I would offer
14 State's Exhibits 54, 55 and 56.

15 MR. ROBINSON: No objection.

16 THE COURT: Okay.

17 (WHEREUPON, State's Exhibit Numbers 54, 55 and 56 were
18 admitted into evidence.)

19 BY MS. OWENS:

20 Q With respect to State's Exhibit 54, what's depicted
21 in the photograph?

22 A You see on one side of the room where the smaller
23 plastic bins are on the bottom there, those all contain
24 the juvenile marijuana plants.

25 Q And likewise, 56, what's depicted here?

1 A It's the other side of the room. The fans that are
2 -- the temperature outside -- outside of the actual
3 plastic container needs to stay a little bit ambient, but
4 you want to keep the heat in there with the actual plant
5 itself.

6 And just the other side of the room, more juvenile
7 plants.

8 Q And finally, what's depicted here in State's
9 Exhibit 56?

10 A When those plants get picked up, you'll see the
11 little pods that I was talking about. It's just like a
12 combination of Styrofoam and things to be able to make
13 sure that plant's attracting and absorbing as much water
14 as possible around the root ball that's forming.

15 Q Are these the 247 plants removed from Room I?

16 A Yes, ma'am.

17 Q Moving to the next room, State's Exhibit 57, do you
18 recognize what's depicted in that photograph?

19 A Yes.

20 Q What is depicted in State's Exhibit 57?

21 A That is going to be Room J, and it's going to be
22 juvenile plants. Typically you would have went from I to
23 J. You would have went to a seedling that's just, you
24 know, maybe the size of your hand, tops, and then as
25 that's starting to grow, you're starting to move it over.

1 Q And is what's depicted in State's Exhibit 57 an
2 accurate representation of Room J?

3 A Yes, ma'am.

4 MS. OWENS: Your Honor, at this time, the State
5 offers Exhibit 57.

6 MR. ROBINSON: No objection.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Number 57 was admitted into
9 evidence.)

10 BY MS. OWENS:

11 Q And I'll show you State's Exhibits 58 and 59. Do you
12 recognize what's depicted in those photographs?

13 A Room K.

14 Q Are these photographs an accurate depiction of what
15 was inside Room K at the time of your search?

16 A Yes.

17 MS. OWENS: Your Honor, at this time, the State
18 offers Exhibits 58 and 59.

19 MR. ROBINSON: No objection.

20 THE COURT: Okay.

21 (WHEREUPON, State's Exhibit Numbers 58 and 59 were
22 admitted into evidence.)

23 BY MS. OWENS:

24 Q With respect to 58, what's depicted in this
25 photograph?

1 A That's the drying room. So, again, you're going to
2 have -- the strings go from one side to another. You're
3 going to have items that are in there designed to be able
4 to remove as much air as possible to keep it flowing out
5 of there and hang those plants up to be able to dry them
6 out as best as possible in that picture.

7 Q And finally, State's Exhibit 59, what do we see here?

8 A More of the strings. So you're going to have more
9 room to be able to hang up more plants, but then to the
10 bottom left of that picture, you see a drying rack. So
11 once they're as dry as possible, the plants are moved over
12 and it's sort of just like a large grinder to be able to
13 get the needless plant material off there.

14 Q Moving on to Room L, do you know what the contents of
15 Room L contained?

16 A Room L contained 49 marijuana plants.

17 Q Were there any photographs of Room L taken?

18 A I'm not sure.

19 Q Nonetheless, was Room L captured on the video as
20 recorded before any of the searching began?

21 A Yes.

22 Q Okay. Moving on to Room M, I've shown you State's
23 Exhibits 60 through 62, have you had an opportunity to
24 look at those photographs?

25 A Yes.

1 Q Are those photographs an accurate depiction of the
2 contents of Room M, as in Mike, on the day of your search?

3 A Yes, ma'am.

4 MS..OWENS: Your Honor, the State offers Exhibits 60,
5 61 and 62.

6 MR. ROBINSON: No objection.

7 (WHEREUPON, State's Exhibit Numbers 60, 61 and 62 were
8 admitted into evidence.)

9 BY MS. OWENS:

10 Q I'm showing State's Exhibit 60 on the projector here.
11 Could you describe for the jury what's depicted?

12 A A lot of electrical wires going into more of the
13 free-floating lights, and juvenile to mature marijuana
14 plants.

15 Q So are these units at the top of the photograph here
16 lightbulbs?

17 A Some of those are, yes.

18 Q Okay. State's Exhibit 61, what do we see in this
19 photograph?

20 A Those are the saplings growing up. Some of them have
21 gotten almost to a mature state. Some of those are still
22 relatively juvenile.

23 Q And finally, State's Exhibit 62, also inside Room M,
24 what do we see here?

25 A You've got to be able to power all those lights. So

5 Q Finally, I'm going to show you State's Exhibit 63.
6 Do you recognize what's depicted in State's Exhibit 63?

8 Q Is it an accurate representation of the room that it
9 depicts as you found it in April of 2012?

11 MS. OWENS: With the Court's permission, the State
12 offers State's Exhibit 63.

14 THE COURT: Okay.

17 BY MS. OWENS:

20 A You can see the plants are much taller. So when you
21 hear me say juvenile and mature, it's just is that plant
22 growing, is it getting taller, is it actually producing
23 buds that are able to be consumed.

24 These are getting taller. Those are marijuana plants
25 along with a dehumidifier, a few fans and more of the

1 lightbulbs.

2 Q Now, did you take inventory of how many plants were
3 inside Room M?

4 A Yes. 85 marijuana plants.

5 Q And I don't believe I asked you, but do you know how
6 many plants were collected from Room M?

7 A 69 for a total of 687 marijuana plants, each of those
8 being its own independent plant with a root ball being
9 able to sustain life by itself.

10 Q Now, when it came time to actually dismantle these
11 rooms and begin the process of destroying and seizing this
12 evidence, did you keep all 687 plants?

13 A No.

14 Q Why?

15 A All the plants are still living, so there would be no
16 way -- we would have to continue the marijuana operation
17 for whoever was growing it to be able to sustain its life,
18 and even in that case and the evidence that was brought
19 here before, it's not going to last until we're coming
20 into court. So all of those would have just been a large
21 just pile of decomposed plant material. It would have
22 molded. There's health hazards because, again, these
23 plants are not being grown just out in the wilderness,
24 it's not being grown in someone's back yard. It's being
25 pumped full of fertilizer and everything else, so as it

1 decomposes, just like any living organism, it starts to
2 off-gas, it starts to put out to the environment
3 everything that was contained into it. It's a hazard.

4 Q So is there a protocol in place to deal with seizures
5 of this magnitude?

6 A Yes, ma'am. We sampled each room. So what we would
7 do is go in and we would find just random clippings from a
8 variety of plants inside the room, no rhyme or reason as
9 to what part of the room we got it from, but it was just
10 to be able to have some portion of that room to be able to
11 send to our lab. And that way, we could determine that it
12 was, in fact, illegal marijuana, that it contained THC.

13 Q Did you collect sample clippings from each of the
14 individual grow rooms inside this grow house?

15 A Yes, ma'am.

16 Q I'm going to show you State's Exhibits 11 through 19.
17 Do you recognize those items?

18 A Yes, ma'am.

19 Q How do you recognize them?

20 A The room label as well as I used a different -- where
21 you see RH for Room H, you're going to see Sample D, so
22 it's SPD, and then you'll see the number that was listed
23 for that room itself, D, E.

24 Q With respect to each of those Exhibits 11 through 19,
25 did you personally oversee the packaging of those

1 clippings?

2 A The clipping and the packaging of all, yes, ma'am.

3 Q And what did you do with those envelopes after all of
4 the clippings were collected?

5 A These were collected and they were placed into
6 Property and Evidence of Greenville County for lab
7 analysis.

8 Q Now, in addition to the actual living plants that
9 were located in each of these rooms, we've seen
10 photographs and video, a great deal of equipment. What
11 did you do with all the equipment?

12 A Well, to put it as best I can, we would have to build
13 a completely new Property and Evidence room, probably
14 double the size that we currently have to be able to take
15 all those different ballasts and all those hoods.

16 So what we did was first we called DHEC. Not knowing
17 some of those lights, if you have a job where you deal
18 with computers and that sort of stuff that has to be
19 recycled, they're called e-waste. So there's mercury,
20 that sort of stuff that's in a lot of these items. So the
21 first thing we do is contact DHEC to have one of their
22 representatives come to the scene to tell us kind of what
23 we were dealing with.

24 Again, you had a lot of narcotics investigators.
25 We're not experts in electronics. We don't know what

1 something may contain, and we don't want to be more
2 harmful to the environment than what this has already
3 been.

4 So once they were there, they determined that
5 everything was okay to be destroyed except for many of the
6 lights had a sodium metal inside the lights, so those
7 individual lightbulbs were packaged and they were turned
8 over for DHEC for proper disposal. Everything else was
9 brought -- the Greenville County Environmental Control has
10 very large dumpsters the size of an 18 wheeler trailer,
11 and that was brought out to scene. And we filled it up
12 one and a half times with the various items that was there
13 and then had it sent off for destruction because we
14 literally had no place to be able to put something of that
15 size and magnitude.

16 Q Did you record an inventory of how much equipment was
17 removed from each room and the warehouse total?

18 A Yes, ma'am. We recorded initially, just doing our
19 room diagram, what was inside each room, and then just to
20 double-check my numbers, I stood on the dock, and every
21 single ballast and everything else we threw away I came on
22 and took an ongoing count of everything we were tossing
23 into that dumpster.

24 Q Did you keep a representative sample of some of the
25 equipment that was seized?

1 A Yes, ma'am. I did.

2 Q Why?

3 A To be able to show exactly what we were dealing with
4 instead of pictures or anything else to be able to show
5 into a courtroom exactly what we were dealing with.

6 Q With that in mind, I'm going to do my best to show
7 you State's Exhibit 20. Do you recognize that item?

8 A Yes, ma'am.

9 Q How do you recognize it?

10 A It's a ballast like many others. It has the initials
11 that I would have given. This one specifically came from
12 Room E, dating by the type of labeling system that I used,
13 RE1, and then it has the case number and it has the
14 initials like all the other evidentiary items.

15 Q And I know you discussed a little bit about the
16 significance of this particular piece of equipment, but
17 what role does this number of ballasts, the large quantity
18 we've seen in the pictures and the video, what is the
19 function of that item in terms of the overall operation?

20 A Typically, if we go to a home and we just see a
21 normal marijuana grow at someone's residence, you may see
22 one, maybe two of these. You saw several dozen in every
23 hallway, and there were more hanging onto the walls and
24 stuff. So the amount is a lot of electricity which means
25 that this was constantly consuming electricity.

1 Q And does this particular item, is it representative
2 of the power that is constantly being supplied to the
3 operation?

4 A Yes. Again, your 110 outlet is just not going to run
5 that many fans, that many lightbulbs that are at the
6 level, the amount of systems being used to pull the
7 humidity back out. That's an enormous amount of
8 electricity being used by one single place. That's like
9 your car audio system where you want your subwoofers and
10 everything just on steroids.

11 Q All right. We'll keep moving. I'm going to show you
12 State's Exhibit 21. Do you recognize this item?

13 A Yes.

14 Q How do you recognize it?

15 A It's going to be a lamp that's used in typical
16 marijuana grows or any vegetable or plant grow. But
17 specifically in this item, there was several of these
18 found throughout the marijuana grow, and that's just --
19 it's a lightbulb, and then to make sure you're getting
20 every bit of use out of that lightbulb, you see the metal
21 lining on the inside of that hood. And that hood is just
22 a direct -- all the light goes 360. It's to take this
23 half of it and direct it back down to the plant.

24 Q Did you record an inventory of how many of these type
25 of lighting systems were collected from the warehouse?

1 A Yes. We're going to go room by room on that. But
2 just in Room D, for example, there were 24 just in Room D.

3 Q Do you know from which room this particular item was
4 collected?

5 A I didn't see the actual item number that was on the
6 back of it. It's Room L.

7 Q How many of these lights were just in Room L,
8 according to your report?

9 A 33.

10 Q All right.

11 A I'm sorry. I didn't pull everything out. 199. I
12 apologize.

13 Q Of those lighting hoods?

14 A Of the bulbs for the light, yes.

15 Q Okay. I'm going to show you State's Exhibit 22. Do
16 you recognize this item?

17 A Yes.

18 Q Do you know from where it came inside this operation?

19 A Also Room L.

20 Q What is it?

21 A Just a -- it's a blower. It's an air -- air
22 controller to be able to push air in, push air out. So
23 all those HVAC units that you saw in Room A that air needs
24 to get from the HVAC unit down, so that HVAC unit is
25 pushing it through. Those are helping that air be able to

1 return back and circulate. You don't want dead air. You
2 want the air to be able to move. You've got to remember
3 we're basically in the basement of a commercial building.
4 There's not any free-flowing air throughout this
5 structure.

6 Q All right. State's Exhibit 23, do you recognize this
7 item?

8 A Yes.

9 Q How do you recognize it?

10 A The RL3 that was on top. And it's -- that's the
11 dial.

12 So that's just your controller. So that's telling
13 all the other items -- one of the pieces that are telling
14 the other items how to work. That one in particular, you
15 can put your hoses and everything that goes through that,
16 and it kind of monitors as it's sending fertilizer and
17 that sort of stuff from one end to the other.

18 Q So for lack of a better word, is this sort of an
19 automater?

20 A Yes.

21 Q And how many of these were removed from this
22 building?

23 A 23 air controllers removed.

24 Q I'll show you State's Exhibit 24. Do you recognize
25 this item?

1 A Also Room L. And this is just going to be another
2 dial that's for everything else. It's another controller.

3 Q How do you recognize it?

4 A The RL4 that's on the very top of it, and then the
5 dials tell you that that is designed to be able to keep
6 the operation itself moving.

7 Q Was this previously affixed to some larger unit?

8 A Yes.

9 Q Do you know how many of these you removed from that
10 warehouse?

11 A I don't have those specifically numbered. Oh, from
12 -- three from Room L.

13 Q Nonetheless, was an atmospheric controller device
14 critical to the operation and success of each of these
15 grow rooms?

16 A Yes.

17 Q I'll show you State's Exhibit 25. Do you recognize
18 this item?

19 A From Room N. Yes.

20 Q What is this item?

21 A All the other items are done on that list, so that
22 handwritten sketch that you would see this needs to happen
23 at this point in time or this day, that's the timer that
24 controls all of that. So the -- we just -- the
25 electricity would initially come to that, and then

1 whenever that timer went off, it says all right, it's time
2 for this machine to work, it would kick on. Same as you
3 would have at your home for many different reasons.

4 Q Whether it's irrigation, atmospheric control, or
5 lighting?

6 A Anything that would need electricity, yes.

7 Q Were there a large quantity of timers throughout that
8 warehouse?

9 A Yes.

10 Q And then finally, State's Exhibit 26-A and 26-B, do
11 you recognize those items?

12 A Yes. From Room M. And those are the Titan controls
13 specifically designed that you would get for a greenhouse
14 or anything that would actually be able to automate the
15 exact same systems to be able to push the fertilizers and
16 everything else through the room.

17 Q Are these devices designed to regulate not only just
18 general atmospheric control, but also carbon dioxide?

19 A Yes. Again, I'm not a scientist, but I can remember
20 from seventh grade science that plants use your carbon
21 dioxide and your sunlight. So we're producing sunlight
22 through all those bulbs, so these are making sure that our
23 carbon dioxide has enough for the plant to grow, but not
24 enough for a human to be killed by running into the room.

25 Q About how many investigators would you estimate were

1 on scene to assist in this search?

2 A Over 20.

3 Q How long do you think y'all were out there?

4 A Two days.

5 Q And you mentioned dumpsters full. How much waste was
6 produced as part of dismantling this operation?

7 A Thousands.

8 Q Thousands of?

9 A Thousands of ballasts, hoods, the -- the -- would
10 eventually be labeled as miscellaneous drug paraphernalia.
11 In and of itself, each one of those items are not illegal.
12 You can go to a number of places around town and be able
13 to buy that. It's the bringing it all together that made
14 those items specifically illegal for what they were being
15 designed, what they were being used for.

16 Again, we had to -- to put it into better terms for
17 you, instead of guesstimating, we actually had that same
18 tractor-trailer that came to haul these items off go
19 through a weigh station on the way down to a controlled
20 demolition and be able to weigh it that way.

21 Q So after helping dismantle, record and otherwise deal
22 with all of this material, did you take all of the
23 collected evidence to the Property and Evidence division?

24 A Yes.

25 Q Did you have any other involvement in the

1 investigation beyond that?

2 A Only at a period of time somewhat afterwards we had
3 to go back and destroy some of the clippings and some of
4 the initial plants that we'd taken.

5 Q Beyond that, did you subsequently substantively
6 participate in the investigation?

7 A No.

8 MS. OWENS: Thank you, sir. If you would, answer any
9 questions that Mr. Robinson has for you.

10 MR. ROBINSON: May it please the Court.

11 THE COURT: How long do you anticipate your cross to
12 be?

13 MR. ROBINSON: Not very long.

14 THE COURT: Okay. Go ahead.

15 CROSS EXAMINATION

16 BY MR. ROBINSON:

17 Q Investigator Whitlock, let's turn to page 7 in your
18 report. Are you there?

19 A I'll catch up with you, sir. I'm here.

20 Q Okay. On page 7 of your report, you mention two
21 handwritten ledgers were found in Room H; is that correct?

22 A That's right.

23 Q And you also mention on page 7 that miscellaneous
24 paperwork with dates and grow procedures were found in
25 Room G; is that right?

1 A Yes.

2 MR. ROBINSON: Okay. That's all I have. Thank you.

3 THE COURT: All right. Anything else?

4 MS. OWENS: No redirect, Your Honor.

5 THE COURT: Thank you, sir. You can step down.

6 All right. Mr. Foreman, ladies and gentlemen, let's
7 just take a short break, okay? Don't talk about the case.
8 We'll get back with you in about ten minutes.

9 (WHEREUPON, the jury exits the courtroom at 4:18 p.m.)

10 THE COURT: Of your 21 witnesses, who's next?

11 MS. OWENS: Your Honor, I have exactly one witness
12 left. The State will be prepared to rest.

13 THE COURT: Okay. All right. We'll just take a ten
14 -- you really faked me out at 21.

15 MS. OWENS: Have to be prepared for all in potential
16 scenarios.

17 THE COURT: Okay. That's the way to be, just like a
18 Boy Scout.

19 All right. Take a break. Ten minutes.

20 (WHEREUPON, a recess is taken at 4:19 p.m.)

21 (WHEREUPON, the jury entered the courtroom at 4:37 p.m.)

22 THE COURT: All right. Call your next witness.

23 MS. OWENS: Your Honor, before the State calls the
24 next witness, I have a stipulation to publish.

25 THE COURT: All right.

1 MS. OWENS: State's Exhibit Number 64 states that (as
2 read) the State and the Defendant hereby agree that the
3 following statements are true and uncontested findings of
4 fact in the trial of this case: Number one, 125 pounds of
5 processed and packaged marijuana was collected from Room H
6 at [REDACTED] Old Piedmont Highway on April 23rd through the
7 24th, 2012. Analysis of the plastic packaging material
8 yielded no fingerprints suitable for comparison. The
9 marijuana was securely stored until destruction of the
10 material became necessary. The items were destroyed
11 pursuant to statutory directives of Section 44-53-485 of
12 the South Carolina Code of Laws.

13 Two, State's Exhibits 20 through 26 are items
14 collected from [REDACTED] Old Piedmont Highway on April 23rd
15 through the 24th, 2012, and have been securely stored
16 since their collection until released for trial. The
17 items are in substantially the same condition as at the
18 time of their collection.

19 Three, State's Exhibits 27 through 30 are packages of
20 marijuana collected from Room H at [REDACTED] Old Piedmont
21 Highway on April 23rd through the 24th, 2012. The items
22 have been securely stored since their collection until
23 released for trial. The items are in substantially the
24 same condition as at the time of their collection.

25 At this time, Your Honor, I'd also publish State's

1 Exhibit 65, which is a separate stipulation that states
2 (as read): The State and the Defendant hereby agree the
3 following statements are true and uncontested findings of
4 fact in the trial of this case: Marijuana plants were
5 collected from rooms inside [REDACTED] Old Piedmont Highway on
6 April 23rd through the 24th, 2012. The 687 marijuana -
7 plants removed from the warehouse were securely stored
8 until destruction of the plants became necessary.

9 In accordance with South Carolina Code
10 Section 44-53-485, representative samples of the items
11 were collected before the items were destroyed. Those
12 representative samples are identified as State's
13 Exhibits 11 through 19 which were analyzed by Chemist
14 Kelly Dixon on May 15, 2012, and were determined to be
15 marijuana as defined by South Carolina Code Section
16 44-53-110.

17 Your Honor, at this time, the State moves Exhibits 11
18 through 19, 20 through 26 and 27 through 30 into evidence.

19 THE COURT: Any objection?

20 MR. ROBINSON: No objection, Judge.

21 THE COURT: All right. No objection.

22 (WHEREUPON, State's Exhibit Numbers 11, 12, 13, 14, 15,
23 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and
24 30 were admitted into evidence.)

25 MS. OWENS: And at this time, the State calls

1 Investigator John Garrett.

2 THE COURT: All right.

3 MS. OWENS: Investigator, if you would, please come
4 up and be sworn.

5 THE CLERK: Sir, if you would, please place your left
6 hand on the Bible and raise your right hand.

7 WHEREUPON,

8 JONATHAN GARRETT

9 After having been duly sworn, testified as follows:

10 THE CLERK: Thank you. Please be seated. Please
11 state your name for the record.

12 THE WITNESS: My name is Jonathan Garrett.

13 DIRECT EXAMINATION

14 BY MS. OWENS:

15 Q Investigator, where do you work?

16 A Greenville County Sheriff's Office.

17 Q How long have you been with the Sheriff's Office?

18 A 16 years.

19 Q What's your current assignment?

20 A I'm a bomb technician assigned to the Bomb Squad
21 Arson Unit.

22 Q Have you had any other assignments during your tenure
23 at the Sheriff's Office?

24 A I have. I started with the Sheriff's Office in 2001,
25 and shortly thereafter in 2002, I went to Narcotics, and I

1 stayed in Narcotics for 14 years, eight years in which I
2 was assigned to the United States Drug Enforcement
3 Administration's task force.

4 Q Before coming to the Sheriff's Office, did you have
5 any law enforcement experience?

6 A I started my law enforcement career in 1992 with
7 Greenville Police Department. I was assigned to Uniform
8 Patrol till 1996. 1996 I transferred over to the
9 Greenville County Forensic Division as a crime scene
10 investigator processing crime scenes. In 1998, I left
11 there and went to Texas, joined the United States Border
12 Patrol where I was a patrol agent in Del Rio, Texas until
13 2001. I came back home to Greenville, and I've been
14 working here ever since.

15 Q Between your time at Greenville City Police
16 Department, Border Patrol, the Forensics Division and your
17 16 years at the Sheriff's Office, have you ever
18 investigated any marijuana grows?

19 A 16. This was Number 13.

20 Q Were any of those as large as this one?

21 A They just -- none of them were.

22 Q Well, let's discuss how you became involved in the
23 grow that's the subject of this trial. What was your
24 assignment in April of 2012 with the Sheriff's Office?

25 A I just left the DA task force and went back to

1 Narcotics, to my home division in Greenville County. And
2 I was working regular street-level, mid-level drug
3 investigation.

4 Q As an investigator with the Narcotics Division of the
5 Sheriff's Office, how do you become involved in any
6 particular case?

7 A Sometimes you're on call and get called out to
8 things. Other times it's a case you're already involved
9 in and you get information that -- like this. If I had
10 been involved in this before, it had been discovered or
11 deputies were working it, and I'd be called to it.

12 On this day, I knew Uniform Patrol had been called
13 out to some kind of situation with Duke Power, and they
14 were obtaining a search warrant for a suspected grow. And
15 they called myself and several other investigators to
16 respond to the location to assist with a search and
17 processing of the scene.

18 Q Did you immediately go out to that warehouse?

19 A I did.

20 Q What did you do when you got there?

21 A Well, I met with I think it was Sergeant Keerams
22 [phonetic] in charge of the unit at the time, and I got
23 volunteered to be the lead investigator, at which time I
24 asked for some help from Investigator Whitlock because
25 I've seen how he processes and documents a scene. So he

1 graciously volunteered to take over, document and process
2 the units and the crime scene.

3 Q When you arrived, had the building already been
4 secured?

5 A SWAT was securing it then. In fact, they were -- I
6 was trying to get information. I didn't realize that --
7 the situation that was informed to me was that power had
8 been dropped off of a power line, big power line
9 underground and where they suspected it was coming up and
10 providing power to this warehouse that they cut the power.
11 And a lot of the SWAT guys were putting on their night
12 vision because they had the equipment to clear a building
13 that big in the dark. We didn't.

14 Q Were there any DEA agents out there?

15 A Yes. There were some DEA agents. I just come off
16 the DEA task force, and I informed some of them that we
17 were going to a grow and it was fairly significant. And I
18 know we had been working several grow investigations with
19 the DEA, and I wasn't sure if this one was involved. And
20 several of them responded also.

21 Q Did they help you search the building?

22 A They did.

23 Q How did the search of this warehouse begin?

24 A On the top floor, the first thing we noticed was
25 these air-condition, heat and air-condition units, and

1 them going through the cement floor into the bottom
2 floors. We did an initial walk-through after SWAT had
3 cleared it just to get our bearings of what we had and get
4 the magnitude how big it was.

5 They cleared the building, and then we took over and
6 started setting up lights and stuff because it was late in
7 the evening. And we first started going from room to room
8 trying to get a game plan of what we had and how we were
9 going to process it, which we come up with I guess sort of
10 a triage of what we're going to do. Was going to document
11 it first with video and photographs. And we did that
12 until dark, at which time we had to call a mobile command
13 unit out, and we called for additional people to secure
14 overnight. And they stayed overnight. We had to keep
15 deputies there around the building. And we stayed there
16 until daylight the next morning, and that's when we
17 started processing methodically.

18 Working in the Forensics Division, I normally process
19 my own scenes and collect my own fingerprints on smaller
20 stuff, meth labs and smaller grows and things like that.
21 But I could see we needed help here, so I called the
22 Forensics Division, and they allotted me three or four
23 crime scene technicians to come out and help.

24 Q Now, given your experience working these type of
25 cases and your tenure working drug investigations

1 generally, were you able to tell how long these plants had
2 been inside this warehouse?

3 A I suspected months, but I didn't know how much the
4 construction was doing or had been done. But after doing
5 a background investigation and trying to figure out who
6 owned the building, I talked to a gentleman next door, or
7 he was next door watching. His name was Mr. Randall. And
8 he stated that he had purchased the building in 2009 from
9 Key Realty, a lease company in Mauldin, and had since that
10 time been subleasing it to a male subject named Ishmael
11 Cornona [phonetic]. And Key Realty was the contact, and
12 he had not made any contact. He was letting the rental
13 company do all the handling for the leasing of the
14 building since 2009.

15 Q Now, before we get into the details of the
16 investigation that followed the search there that day or
17 over the course of these two days, did you -- are you able
18 to determine whether the most mature plants, the plants
19 that we see in Rooms D, E, F and G, would 12 weeks have
20 been enough time for them to reach maturity under optimal
21 conditions?

22 A I think so. As a garden, you know, you can plant a
23 tomato plant in early spring and just only several months
24 later, corn and everything else. But that's what our
25 guess was in knowing that's about how mature they grow.

1 I've seen stalks, you know, in other conditions that grow
2 out of control as high as this room, but these were, I
3 think, max five or six feet.

4 Q Are you able to tell whether those plants had yielded
5 any finished products before arriving at their current
6 state?

7 A Are you talking about was it grown, cultivated and
8 harvested there?

9 Q Let me rephrase that because I think that was
10 unclear. When a marijuana plant is mature and is yielding
11 product whether in the form of buds or any other optimal
12 product to be harvested, can it be used again to yield
13 another crop in the future?

14 A It can.

15 Q Okay. Are you able to tell from any of the plants
16 that were inside this warehouse whether they had
17 previously yielded any prior harvest?

18 A I know some of them had been -- buds had been clipped
19 and other buds were getting ready to be, and they were
20 moved to different parts of the building for processing.

21 Q So in your estimation, how long do you think that
22 this enterprise had been ongoing?

23 A I think since -- looking at the construction, since
24 2009. But there was document -- or schedules on the wall
25 since -- from February. So between before February,

1 obviously, of that year, 2012, but as early as 2009.

2 Q Okay. Now, I just want to talk about specifically
3 Room H, these living quarters. Do you remember searching
4 that room?

5 A I do.

6 Q Do you recall how many beds were set up in that room?

7 A Four.

8 Q Based on your understanding and what you observed
9 there that day as far as your experience, how many people
10 do you think it would have required to keep this operation
11 running successfully?

12 A I think more than two.

13 Q Given the amount of finished product that you located
14 right there in Room H as well as what you observed in the
15 other rooms in terms of perspective yield, are you able to
16 give any estimation about the value of this kind of
17 operation?

18 A Roughly. It changes year to year. But indoor
19 hydroponics grow is usually two or three thousand dollars
20 a pound, and usually outdoor what they call swag or
21 regular weed, I think in the past, has been between five
22 and a thousand dollars a pound. But these have gone up.
23 The more THC and the more potent it is, the more
24 expensive.

25 Based on what we had there, it was 126 pounds of

1 finished product in plastic bag -- well, that was outside
2 a plastic bag, because we weighed it after we took one of
3 the bags out of the bags and we processed those for
4 fingerprints. A couple hundred thousand dollars just
5 sitting in the living area. I'd say at least two hundred
6 thousand.

7 Q You mentioned that after the first day, all those
8 plants were removed, the site was secured overnight and
9 you returned the next morning. What happened first the
10 next morning?

11 A The next morning we went through and photographed
12 everything, labeled the rooms A through whatever so we'd
13 have some kind of orientation and documentation system of
14 what came from where and what was going to be processed.

15 As they were dismantled, the first -- a group went
16 through and took samples from each room and they were
17 labeled to be tested. Then we removed the plants and
18 started counting our root systems to get our final number
19 for each room. After that, we started counting other
20 equipments: ballasts, hoods, lights, bulbs, things like
21 that to get an inventory.

22 We call environmental into it, and they brought a
23 dumpster in. And we got an order through the Solicitor's
24 Office because this is evidence, we just can't destroy it,
25 that we would give them a pending inventory of what we've

1 taken and where it was going to be destroyed. And they
2 were placed in a dumpster, and we witnessed them with a
3 bulldozer and a bucket crush all these items that we're
4 not going to seize of sample items.

5 Q Well, before we ended up destroying and dismantling,
6 I was hoping you could explain a little bit about your
7 role in the fingerprinting process, that forensic process.

8 A Yeah. I volunteered to do the living quarters
9 because I was intrigued by it. I've never seen a grow
10 with people living in it or that scenario. So I
11 volunteered to start in Room H, I think was the living
12 quarters, and started processing.

13 First, I was intrigued with the packaged marijuana.
14 So we meticulously took every bit of the marijuana out and
15 put it in the bags and counted them so we'd have bags to
16 send to the lab. Those bags were taken to the forensic
17 lab for processing because they have to fume. I think you
18 may have seen it on television before, but they'll fume
19 it, and it enables the print to be crystallized onto the
20 bag where you don't have a suitable surface such as metal
21 or this plastic here, it's kind of rough and textured. It
22 helps with that process.

23 And then I started processing all the items in that
24 living area that I thought were suitable for fingerprints,
25 which are metal surfaces, appliances, CDs, toiletry items

1 and things of that nature.

2 Q Do you feel like, between you and the other forensic
3 technicians, that you covered every surface in the
4 warehouse?

5 A There's still dust on that stuff. We processed from
6 that morning till late to that evening. It was the
7 biggest scene I've ever processed, I mean, as far as
8 items. I mean, hundreds of items we processed all day and
9 kept going through powder, having stuff brought out to us.
10 But ---

11 Q Well, moving from that day, after forensics was
12 complete, after all of the items were either seized or
13 destroyed, I want you to tell the jury a little bit about
14 how the investigation proceeded from there. Were you able
15 to identify who owned this building?

16 A Yeah. The actual owner was Jason Randall.

17 Q Did you have an opportunity to speak with him?

18 A I did.

19 Q Were you able to develop any evidence that he was
20 involved in this illegal operation?

21 A I was not.

22 Q Based on your conversation with Jason Randall, the
23 owner of the building, where did the investigation lead?

24 A He said that he bought it ---

25 MR. ROBINSON: Objection, Your Honor. Hearsay.

1 THE COURT: Yeah. Don't ---

2 THE WITNESS: I agree.

3 I received documentation from Key Real Estate in
4 Mauldin that he purchased the property in 2009, and that
5 he was currently leasing it -- or Key Real Estate was
6 handling the real estate, and they were leasing it to a
7 guy named Ishmael Cornona, and sometimes it was spelled
8 Corona.

9 BY MS. OWENS:

10 Q Were you able -- focusing just on Mr. Cornona, were
11 you able to locate an address for him?

12 A No.

13 Q Were you able to locate a driver's license number?

14 A What they had on file from a Mexican driver's
15 license.

16 Q Do you have access to Mexican ---

17 A I have absolutely no access to that. But they took
18 that as the ID that they used for it.

19 I checked tax records, I checked prior incident
20 reports for the name, I checked the Solicitor's Office if
21 he's ever gotten a ticket in Greenville county, I did a
22 criminal history on several ways of his birthday range,
23 and I got absolutely no hits. It appeared to be a
24 fictitious name to me, and it was taken at face value with
25 his driver's license that they had taken.

1 Q So were you ever able to connect Ishmael Cornona to
2 this conspiracy other than being on the commercial lease?

3 A No, I wasn't.

4 Q You mentioned earlier, you testified a moment ago
5 that there was someone else that was a party to this
6 lease.

7 A Yes. Jack Hine and Corona. Mr. Randall said it was
8 represented to him as ---

9 MR. ROBINSON: Objection, Your Honor. Hearsay.

10 THE COURT: Yeah.

11 BY MS. OWENS:

12 Q Regardless of what you learned from Mr. Randall
13 specifically, what did your investigation reveal about
14 Jack Hine?

15 A He was the contact for Mr. Randall when he needed to
16 contact anyone about the business. On the day in question
17 when the Sheriff's Office was out there, according to
18 Mr. Randall, he attempted to contact Mr. Hine several
19 times after discovering the Sheriff's Office was on the
20 land that he owned that he was leasing. And he was unable
21 to contact him, which was unusual, and he has not been
22 able to contact him since.

23 Q Were you ever able to reach Jack Hine?

24 A I was not.

25 Q Were you able to ever connect Mr. Hine to this

1 conspiracy other than that he was a party to the
2 commercial lease of the building?

3 A I was not.

4 Q Did you learn as part of your investigation how
5 either Ishmael Cornona or Jack Hine paid rent on this
6 building?

7 A Yes. With a money order of -- used a money order
8 along with \$5,000 US currency to put a binder on the
9 property. They had an option of buying it later for
10 \$240,000, but they leased it for \$2,500 a month with the
11 option to purchase.

12 Q Now, was that money order traceable in any way?

13 A Yes. It came back to Los Garcias, LLC located at
14 [REDACTED] White Horse Road. It's a wire drop money order
15 remittent location.

16 Q So did that help advance your investigation in any
17 way?

18 A No, it did not. It doesn't ask for proper
19 identification.

20 Q Well, let's talk about the people that you did charge
21 as being involved in this case. Who did you ultimately
22 charge with the manufacturing marijuana operation?

23 A Lorgio Morales, and a Mr. Camilo Garcia Rodriguez.
24 And I base that on the fingerprints I lifted from the
25 scene that were positively identified.

1 Q Now, we've heard from some witnesses already that the
2 marijuana plants as well as all the equipment that you
3 removed from the warehouse were stored in a number of
4 boxes and then ultimately destroyed.

5 A Uh-huh.

6 Q Why?

7 A You can't hold the vegetation that long. It produces
8 a mold. Plus we'd found spiders in it also when we were
9 processing it, and safety reasons, after a certain period
10 of time, the Property and Evidence section has to use
11 respirators, and it puts off spores that are harmful. And
12 even in plastic, if you open it, the spores would release.
13 So we take representative samples and get permission from
14 the Solicitor's Office to go ahead and destroy if we have
15 an accurate weight from the lab.

16 Q Now, was there ever any information that materialized
17 that helped advance this investigation any further beyond
18 charging this defendant and Mr. Rodriguez Gonzalez?

19 A No, it did not. We didn't get any cooperation from
20 anybody I thought we might encounter in the future.

21 MS. OWENS: All right. I don't have any additional
22 questions for you. If you would, answer any questions
23 that Mr. Robinson might have for you.

24 MR. ROBINSON: May it please the Court.

25 THE COURT: Yeah.

CROSS EXAMINATION

BY MR. ROBINSON:

Q I want to talk for a second about your investigation in this property. You recall that Investigator Whitlock identified a handwritten ledger and notes that were found in one of the rooms. Did you listen to that?

A Did I look through it?

Q No. Did you hear that, that he had recovered items from one of the rooms, handwritten ledger and notes? You heard that, correct?

A Correct.

Q And you did get those, is that correct, as far as your investigation?

A That's correct.

Q Did you ever go and look through to find out if there were any names that you could trace or anything like that?

A I looked through it and didn't find any names that were identifiable. They looked more like numbers and weights and months.

Q And how about the notes?

A I don't recall the notes.

Q You don't recall the notes?

A I don't recall. Do you have a picture of them? I noticed numerous paperwork in the garbage and stuff, but . . .

1 Q As the lead investigator in this case, it was your
2 responsibility to know pretty much everything about this
3 case; is that correct?

4 A I tried to learn as much as I could.

5 Q But according to Investigator Whitlock, there was a
6 handwritten ledger and notes that were taken from the
7 scene, one of the rooms.

8 A I remember that.

9 Q You remember that. Okay.

10 Can you tell the jury what happened to this ledger
11 and the notes?

12 A They were destroyed. As far as other paperwork, I
13 think it was ledgers, and it had months and dates on it.
14 Some of the stuff that was taken off the walls that we saw
15 earlier were notes and papers that were also ---

16 Q And you had an opportunity to look at these; is that
17 correct?

18 A That's correct.

19 Q Okay. And Mr. Morales's name or anything was not ---

20 A I don't recall.

21 Q Now, when you went to the scene itself, you saw
22 ballasts, you saw lights, you saw Mrs. Owens bring up --
23 tow up a lot of different items to the front there for
24 Officer Whitlock to look at.

25 A Correct.

1 Q Did you ever go and see -- did you ever take the
2 serial numbers off these items and trace to see where they
3 were bought or who would have them?

4 A I did not.

5 Q So you have no information in your investigation
6 that Mr. Morales had anything to do with purchasing this
7 equipment, true?

8 A Not purchasing.

9 Q Okay. You have no information -- you have no
10 evidence that the property was leased by Mr. Morales.

11 A No.

12 Q It was actually leased by Mr. who?

13 A A subject I don't think exists, but Ishmael Cornona.

14 Q Okay. And you have no record of Mr. Morales ever
15 purchasing this equipment that we're talking about,
16 correct?

17 A No, sir.

18 Q You have no idea really where this equipment came
19 from; is that correct?

20 A I know where it was. I don't know where it came
21 from.

22 Q That's about all you know. Okay.

23 A That's correct.

24 Q Now, you mentioned when you first testified a moment
25 ago about the number of items that were recovered from the

1 scene. Would this be in the hundreds or the thousands of
2 items recovered?

3 A Items?

4 Q Yeah.

5 A In Mr. Whitlock's testimony or ---

6 Q No. You just testified a moment ago that there were
7 numerous items that were recovered from the scene from the
8 location.

9 A Uh-huh.

10 Q Was it hundreds? thousands? What was it?

11 A Talking about equipment or marijuana?

12 Q The equipment. Equipment ---

13 A Hundreds. I'd say hundreds.

14 Q Hundreds of items. Okay.

15 A Uh-huh.

16 Q Okay. Now, the power to the property, that was not
17 in Mr. Morales's name either, was it?

18 A No. In fact, it was being bypassed. It wasn't going
19 through a meter. It was being stolen. That's why we're
20 here. I mean, it was going underground, wire about that
21 (gesturing) big.

22 Q Okay. And you said that you have a forensic
23 background; is that right?

24 A That's correct.

25 Q Okay. No fingerprints were ever taken of the meter

1 or the -- or anything that would indicate who did that or
2 anything, were there?

3 A Yes, sir. We got fingerprint matches off the panel,
4 the electric panel.

5 Q But none of that -- but none of that matched
6 Mr. Morales, did it?

7 A I'm pretty sure they did. I know we got one off an
8 electrical panel interior door, I thought. But, I
9 mean ---

10 Q Well, we're talking -- what I'm talking about is the
11 outside.

12 A There was no meter. They bypassed the meter, went
13 underground ---

14 Q Okay.

15 A --- came up inside the building.

16 Q Okay.

17 A Where normally there's a meter on the outside, we
18 bypassed that.

19 Q Okay. There was also a J&I Construction; is that
20 right?

21 A Yes, sir.

22 Q That's who rented the building, right?

23 A That's what was relayed to me by Mr. Randall.

24 Q Did you ever get -- did you ever get like the
25 corporate documents, like who the options ---

1 A There are none.

2 Q There are none?

3 A I suspect it's Jason [sic] Hine and Ishmael Cornona,
4 J&I. It sounds fictitious to me.

5 Q What is it again?

6 A J&I.

7 Q J&I?

8 A Which would be the Jack Hine and the Ishmael, J&I.
9 That's what I suspected at the time.

10 Q The papers that you destroyed, the ledger and the
11 various documents, did that have anything regarding who
12 owned the property, was leasing the -- anything like that?

13 A That's -- I'm -- I'm a trash man. When I go through
14 a search warrant, the first thing I do is go through the
15 garbage cans and I look for documents for anything of
16 evidentiary value: water bills, power bills, Internet
17 bills. None. Those would -- you know, a ledger with
18 numbers on it, we just had no labels of what they
19 represented, wasn't of evidentiary value at the time and
20 still aren't now, but . . .

21 MR. ROBINSON: That's all the questions I have.
22 Thank you.

23 MS. OWENS: Your Honor, and I have no additional
24 questions, but if I could have just a moment.

25 THE COURT: All right.

1 (Pause.)

2 MS. OWENS: Your Honor, according to my records, I
3 believe that while I asked Investigator Whitlock about
4 State's Exhibits 46 and 47, I don't believe that I moved
5 those into evidence. I just wanted to make that motion at
6 this point. I believe there's been foundation testimony
7 with respect to these photographs.

8 MR. ROBINSON: I have no objection, Judge.

9 THE COURT: Okay.

10 (WHEREUPON, State's Exhibit Numbers 46 and 47 were
11 admitted into evidence.)

12 THE COURT: Thank you.

13 MS. OWENS: In fact, Your Honor, the State rests.

14 THE COURT: All right. Thank you, sir. You may step
15 down.

16 This is very convenient. It's right at 5:00. We're
17 going to break for the evening and ask you all to be back
18 at 9:30 in the morning.

19 Remember what I told you about not discussing this
20 case, and that includes not looking anything up on the
21 Internet, not posting anything on social media, not
22 discussing the case. And we all know it's human nature
23 whoever you're going to see tonight, family, friends,
24 they're going to want to know about it, but you can't talk
25 about it and you can explain to them why. When it's all

1 over, you can talk about it, but not now.

2 So we'll see you all tomorrow morning at 9:30. Thank
3 you.

4 (WHEREUPON, the jury exits the courtroom at 5:06 p.m.)

5 THE COURT: All right. Mr. Morales, if you would,
6 please raise your right hand.

7 (WHEREUPON, LORGIO DANILO MORALES was duly sworn.)

8 THE COURT: Okay. I want you to understand you have
9 an absolute constitutional right to testify in your own
10 defense. You have an equal absolute constitutional right
11 not to testify, and it cannot be held against you.
12 Whether or not you're going to testify is a decision that
13 involves something you need to discuss with your attorney.
14 It involves strategy, it involves a number of different
15 factors. But in the end, whatever advice your counselor
16 gives you, the right to testify or not testify belongs to
17 you, okay? I'm not going to ask you now whether you're
18 going to testify or not -- well, actually, Mr. Robinson,
19 do you intent to put anything up?

20 MR. ROBINSON: No, sir. No, Judge.

21 THE COURT: Okay. So you can change your mind
22 overnight if you decide you want to testify. But
23 otherwise, we're going to prepare to argue and charge in
24 the morning, okay?

25 All right. Well, let me talk to the lawyers up here,

1 please.

2 (WHEREUPON, a bench conference was held off the record.)

3 THE COURT: All right. Anything before we break,

4 Mr. Robinson?

5 MR. ROBINSON: May it please the Court. Your Honor,
6 at this time, we'd make a directed verdict of acquittal in
7 this matter.

8 Your Honor, this is the basis for our motion in this
9 case. The State has not had anyone come forward to say we
10 saw or we watched Lorgio Morales go into this place, do
11 all this stuff. No one came forward to do that. No
12 witness came forward. All they have in this case, as I
13 advised the jury in my opening, they have 30 fingerprints.
14 According to the forensic person, Mr. Gary, I think his
15 name was, he said that there were 90 prints recovered. 30
16 were Mr. Morales's. The rest of them, there were two
17 different gentlemen plus an officer, but the other ones
18 were unknown.

19 Your Honor, we make this motion, and I know the Court
20 has to look at it in the light most favorable to the
21 prosecution. But this is merely a case where it's a
22 suspicion, nothing more, that he had something to do with
23 this whole enterprise that took place. And on that basis,
24 we make the motion for a directed verdict of acquittal.

25 THE COURT: That motion is denied.

1 I'm just thinking ahead to jury charges. You want
2 accomplice liability, hand of one?

3 MS. OWENS: Your Honor it may be prudent. It's going
4 to be the State's theory of the case that the offense of
5 trafficking includes any assistance or conspiracy attempt,
6 and while that language certainly encompasses and
7 contemplates accomplice liability, an explanation of those
8 concepts might be helpful to the jury.

9 THE COURT: Is that a yes?

10 MS. OWENS: Yes, sir.

11 MR. ROBINSON: I would request a mere presence
12 charge, Your Honor, in this matter.

13 THE COURT: Any objection from the State?

14 MS. OWENS: No, sir, Your Honor.

15 THE COURT: All right. Well, at this time, we're
16 going to adjourn for the evening. And I am terminating
17 Mr. Morales's bond, so we're going to take him into
18 custody.

19 (WHEREUPON, proceedings adjourned at 5:14 p.m., to be
20 reconvened Tuesday, February 6, 2018.)

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25

1 TUESDAY, FEBRUARY 6, 2018

2
3 (WHEREUPON, proceedings reconvened at 9:51 a.m.)

4 THE COURT: All right. The defense has submitted two
5 proposed charges. Your position?

6 MS. OWENS: Your Honor, with respect to mere
7 presence, we discussed yesterday that the State has no
8 objection to that charge, but the version that the
9 defendant has submitted, in my opinion, is incomplete. I
10 just ---

11 THE COURT: I've got my own mere presence charge.

12 MS. OWENS: Certainly.

13 With respect to the destruction of evidence charge,
14 the State does object to that charge. The appropriate
15 measure, it's my understanding with respect to any
16 argument about spoliation of evidence, is that the
17 defendant must make a showing that the destruction was
18 done in bad faith and that the evidence had some sort of
19 exculpatory value. It's never been a discussion or point
20 of contention at any point in this trial. At this point,
21 the State is not in a position to respond to the
22 circumstances.

23 THE COURT: Well, wasn't the testimony that it was
24 destroyed pursuant to statute?

25 MS. OWENS: That's correct, Your Honor.

1 THE COURT: So how do you get by that, Mr. Robinson?

2 MR. ROBINSON: I don't. That's just a suggestion,
3 Your Honor.

4 THE COURT: Okay.

5 MR. ROBINSON: It was, to use the verbiage of
6 Mrs. Owens, I don't know if it's the most legitimate
7 argument in the world, but I have to argue that, Your
8 Honor. So ---

9 THE COURT: And that's the verbiage of who?

10 MR. ROBINSON: Mrs. Owens over here.

11 THE COURT: Yeah. Okay.

12 MR. ROBINSON: And, Judge, I wanted to advise the
13 Court that I did speak to Mr. Morales yesterday about the
14 sentencing.

15 THE COURT: Sentencing? He hasn't been convicted
16 yet.

17 MR. ROBINSON: As far as what he was facing in a plea
18 in this matter.

19 THE COURT: Yeah. Okay.

20 MR. ROBINSON: And he has advised me that he does not
21 want to do a plea in this case to the ten years that was
22 offered.

23 THE COURT: Well, that's off the table now anyway,
24 isn't it? The State indicates it's off the table.

25 MR. ROBINSON: Yeah. But he does not want to ---

1 THE COURT: It's a mandatory 25 years, correct?

2 MS. OWENS: That's correct, Your Honor.

3 THE COURT: 25 years. It's up to you, Mr. Morales.

4 I remember when I was a -- yeah. I just remember when I
5 was a young -- well, you want to say something?

6 DEFENDANT MORALES: No. Go ahead. That's all right.

7 No. I want to keep on with the trial.

8 THE COURT: Okay. I just was going to comment, when
9 I was a young lawyer, an experienced, older lawyer told me
10 that there were two reasons to go to trial: one was if
11 you had nothing to lose, and two was if you had a dead,
12 sure winner. I found over the years that that's pretty
13 sage advice.

14 DEFENDANT MORALES: You're right.

15 THE COURT: There must be some ---

16 DEFENDANT MORALES: Fluke.

17 THE COURT: I don't know if you'd call it -- I mean,
18 maybe you'd get a fluke, but wow.

19 MR. ROBINSON: And, Judge, you did give him the
20 opportunity overnight to think about whether he wanted to
21 testify or not.

22 THE COURT: Yeah. We hadn't gotten that far yet.

23 MR. ROBINSON: Yes, sir.

24 THE COURT: So there must be something else at play
25 here.

1 MR. ROBINSON: The judge is addressing you. Stand
2 up.

3 THE COURT: No. He doesn't have to stand up. I'm
4 just -- I'm making editorial comments. Something else is
5 going on. I don't think it's going on in the courtroom.
6 I don't know what it is.

7 All right. Well, anything else before we get the
8 jury?

9 MS. OWENS: Your Honor, I renew my request to have I
10 believe it's Ms. Pike removed from the jury, the alternate
11 seated. As I shared with the Court yesterday, she
12 appeared to be unconscious during most of the trial, and
13 considering the greater weight of the State's case was
14 presented yesterday ---

15 THE COURT: Well, let me just tell you something.
16 What you say is not evidence. Do you want to put up some
17 evidence to that effect?

18 MS. OWENS: I would be happy to call Investigator
19 Garrett who ---

20 THE COURT: You can put whatever you think -- I'm not
21 inclined to -- I don't monkey with juries, but you put up
22 whatever you want to put up if you want to support that
23 position.

24 MS. OWENS: Well, I certainly don't want to waste the
25 Court's time. I just -- I believe that I -- it's my

1 understanding from Investigator Garrett that he was in a
2 position to observe her from the witness stand yesterday
3 during his testimony and shared with me that he observed
4 her to be apparently sleeping during his testimony as
5 well. Considering the evidence in the case is visual, the
6 fact that her eyes were closed is troubling both to the
7 State and the defendant, quite frankly.

8 THE COURT: Well, if you want to put something on the
9 record, do it. If not, it's up to you.

10 MS. OWENS: Well, does it suit the Court to take
11 testimony?

12 THE COURT: Whatever you want to do, I said.
13 Whatever you -- with respect to that.

14 MS. OWENS: Okay. I'll be very brief.

15 THE COURT: Okay.

16 MS. OWENS: In that respect, Investigator Garrett, if
17 you would, please go up to the witness stand and be sworn.

18 THE CLERK: Sir, please place your left hand on the
19 Bible and raise your right hand.

20 THE COURT: He's still under oath.

21 THE CLERK: Oh, all right.

22 THE COURT: We know who you are.

23 THE CLERK: All right. Please state your name for
24 the record.

25 THE WITNESS: Jonathan Garrett.

1 WHEREUPON,

2 JONATHAN GARRETT

3 After having been previously duly sworn, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. OWENS:

7 Q Investigator Garrett, do you recall testifying
8 yesterday afternoon?

9 A I do.

10 Q During your testimony, did you have an occasion to
11 observe the entire jury panel from your perspective?

12 A Yeah. I tried to make eye contact with each one.

13 Q Did you notice any particular jurors that were not
14 attentive?

15 A Yes. The one second chair from the end, on that end.

16 Q Specifically, what did you notice about this juror?

17 A Her eyes were closed, her mouth was open, and
18 occasionally she'd open her eyes back up and doze back
19 off.

20 Q Based on your perspective, what did you ---

21 A I don't think she heard any of my testimony because I
22 tried to relate to each one of the jurors, and I failed
23 when I reached her.

24 Q Do you recall how long your testimony lasted?

25 A Probably about ten, 15 minutes. Maybe longer.

1 Q Was this observation throughout the course of your
2 entire testimony?

3 A It first came -- yes. But it first came earlier in
4 the day when I brought it to your attention. While I was
5 sitting there when she was sitting on the back row, she
6 was asleep -- appeared to be asleep.

7 Q Did you notice this for other witnesses?

8 A No. She was the only one.

9 Q I'm sorry. Did you notice that she appeared to be
10 sleeping during other witnesses testifying?

11 A Yes. During Investigator Whitlock's testimony also I
12 brought it to your attention that she was apparently
13 asleep.

14 Q Did you notice that she had her eyes closed during
15 your cross-examination by Mr. Robinson?

16 A Yes. On one occasion. And I also noticed she slept
17 during the video.

18 MS. OWENS: Okay. I don't have any additional
19 questions, Your Honor.

20 THE COURT: Mr. Robinson?

21 MR. ROBINSON: May it please the Court.

22 CROSS EXAMINATION

23 BY MR. ROBINSON:

24 Q Officer, you said that you thought that the juror was
25 not listening, that she was closing her eyes. You have

1 really no idea whether she was paying attention or not, do
2 you? You have no idea, do you? That's your perception of
3 that juror, but you don't know whether she was asleep or
4 just listening. You have no idea, do you?

5 A It's a possibility she could have been watching the
6 video with her eyes closed and just listening, but I think
7 the sound was off.

8 Q But everybody is different. This juror may be
9 different than you, different than me, different from the
10 prosecutor, okay? But you don't know, all right? True?

11 A Absolutely.

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

13 THE COURT: Okay. Thank you.

14 All right. I'm going to deny your motion and we'll
15 just proceed. Okay?

16 MS. OWENS: Yes, Your Honor.

17 THE COURT: All right. Ready? Let's go.

18 The State first?

19 MS. OWENS: I believe I'm required to defer to the
20 defendant's request about the structure of closing
21 arguments.

22 MR. ROBINSON: And the defendant would like to go
23 last.

24 THE COURT: The State first, defendant last.

25 MR. ROBINSON: Yes.

1 MS. OWENS: Your Honor, I don't intend to be
2 difficult, but it's extremely unclear to me what the
3 opinion in State vs. Beaty allows the State to do in this
4 case. It's my interpretation of the opinion that the
5 State is entitled to a reply. I have a copy of the
6 opinion if we need to discuss it.

7 THE COURT: No. I've just -- if you want to -- State
8 first, defendant last.

9 MS. OWENS: Okay.

10 (WHEREUPON, the jury entered the courtroom at 10:01 a.m.)

11 THE COURT: All right. Ladies and gentlemen, welcome
12 back. I hope you all had a pleasant evening.

13 If you'll remember what I told you in my opening
14 comments to you, I divided the trial into five parts. The
15 first part, opening statements, second part, presentation
16 of the testimony and the evidence. Well, all of the
17 evidence that's going to be presented in this case has
18 been presented, and at this time, we're going to move to
19 part three which are the closing arguments of the
20 attorneys. So I would ask you all to give your full
21 attention to these attorneys as they advocate their
22 positions. All right.

23 CLOSING ARGUMENTS

24 MS. OWENS: Thank you, Your Honor. May it please the
25 Court.

1 Good morning, ladies and gentlemen. As I told you
2 yesterday, the trial of this case will likely be very
3 brief but at times tedious, and, quite frankly, possibly
4 even a little bit boring. So we've arrived at the end.
5 This is my opportunity to share with you the State's
6 perspective about the evidence and why it demonstrates
7 that this defendant is guilty of each of the crimes with
8 which he's charged.

9 There's no doubt, based on the evidence that we've
10 seen, the video, the stipulations that you've heard that a
11 large scale marijuana operation was underway inside
12 ■■■ Old Piedmont Highway in Greenville county. You've
13 seen lots of equipment, lots of photographs and heard lots
14 of testimony about the contents of that warehouse. So as
15 you think through the elements of each of the offenses
16 during your deliberation, it's likely that the question
17 that you'll continue to come back to with respect to each
18 crime is exactly the role that this defendant played in
19 that operation and whether that's sufficient for each of
20 you to unanimously agree that he's guilty of the crimes
21 with which he's charged.

22 Now, I went over the elements in my opening statement
23 generally, and the judge will explain to you in just a few
24 moments what the law is with respect to each of these
25 offenses. But I wanted to review them one at a time to

1 share with you, again, the State's perspective about this
2 evidence and review some of it item by item.

3 Out the gate, the defendant is charged with
4 manufacturing marijuana. Again, the judge is going to
5 share with you that manufacturing is defined as the
6 production, the propagation, the preparation, the
7 processing of marijuana, the growing, the harvesting, the
8 nurturing. All that evidence is here. Again, the
9 evidence is largely undisputed by way of these
10 stipulations and what you've heard in court that a grow
11 was underway. The manufacturing was happening. But how
12 did this defendant play a role?

13 The judge is going to explain to you a concept of the
14 law called -- that we all can refer to as the hand of one
15 is the hand of all. That's a theory of accomplice
16 liability that says that if two or more people combine for
17 the purpose of committing a particular course of conduct,
18 then each of those people is responsible for the natural
19 and probable consequences of that agreement.

20 We've heard testimony that this defendant's
21 fingerprints and at least one other person's fingerprints
22 were recovered from inside that warehouse, and not just on
23 hallways, but on the equipment, on items just like this
24 inside that operation, pieces of equipment that were
25 critical to that operation. We know empirically as a

1 matter of evidence that at least two people were involved
2 in this operation.

3 But as you saw on the video and as you've seen in
4 these photographs, there were three or four mattresses
5 inside the living quarters of this warehouse, and you've
6 heard some testimony that it's the opinion of the officers
7 that investigate these kinds of cases that an operation of
8 this magnitude likely involved three to four people, maybe
9 even more. So there's evidence for you to determine that
10 this defendant was just one of a few, several or many
11 people keeping this operation going. This evidence is
12 that the defendant combined with at least one other person
13 to undertake the enterprise of manufacturing marijuana,
14 and as a result, he is responsible, legally responsible
15 for the natural and reasonable consequences of that action
16 which are the production, processing, propagation and
17 ultimately distribution of marijuana.

18 Now, you heard some testimony about exactly where
19 these fingerprints were recovered, and I want to review
20 some of that testimony with you now. Mr. Chris Gary, who
21 told you that he works with the latent print examining
22 division of the Forensics Unit, testified about the
23 fingerprints that were processed in that warehouse, that
24 they spent five, six hours out at the warehouse that day
25 processing as many fingerprints as they could, as that

1 team could, including Investigator Garrett. And the
2 defendant has stipulated, it's undisputed, that at least
3 30 of those fingerprints belonged to this defendant.

4 You heard testimony that six -- seven fingerprints,
5 according to my notes, seven fingerprints, but you can
6 remember the evidence as you heard it, came from
7 air-conditioning units on the first level of the house.
8 You heard testimony from the investigators about this
9 ground level of the warehouse and that it was equipped
10 with these ventilation systems drilled through the floor
11 to the basement level, but also a great number of
12 air-conditioning units designed to regulate the
13 temperature of this warehouse. This defendant's
14 fingerprints were on fuse boxes of these air-conditioning
15 units, they were on lids and unit sides, and they were on
16 an electrical panel inside this room. The evidence shows
17 that this defendant is inextricably connected to this
18 equipment, which is not standard or typical, according to
19 the testimony, for any business other than one
20 manufacturing an illegal substance.

21 You heard testimony from Mr. Gary that at least one
22 of the defendant's fingerprints was found in Room I, which
23 is the nursery where these little saplings were located,
24 247 of the nearly 700 plants that were located in the
25 warehouse. His fingerprints were on one of the lamp hoods

1 in this room, one of the lighting fixtures. Again, a
2 piece of equipment that is critical to this manufacturing
3 operation and which would not have been present for any
4 other commercial enterprise except one manufacturing an
5 illegal substance.

6 Mr. Gary also testified that many fingerprints were
7 lifted from the light sockets in this room, Room M. Now,
8 you can see from State's Exhibits 60 and 61, these
9 photographs, that the lights in this room are basically
10 bare bulbs screwed into what we know to be light sockets.
11 If you imagine how his fingerprints got on these light
12 sockets, you can imagine that he screwed in these bulbs by
13 hand. He's a participant in this operation. He's helping
14 either set it up or maintain it, both of which contemplate
15 that he combined with other people to participate in this
16 operation.

17 And finally, we heard testimony from Mr. Gary that
18 with respect to these rooms, a fingerprint was removed
19 from a light socket in Room N, which is another of the
20 rooms that was actually growing marijuana. Again, his
21 fingerprints are on the sockets that contained the bare
22 bulb.

23 Now, I'd also like you to recall Mr. Gary's testimony
24 about the fingerprints that were recovered from Room H,
25 which is the living quarters that we heard about so much

1 yesterday and the contents thereof. Mr. Gary testified
2 that this defendant's fingerprints were removed from the
3 handle of this toilet. This piece of information tells
4 you a lot about this defendant's role and likely the last
5 time he was there.

6 One of the exhibits that you have is a schedule that
7 was taped to the wall in one of the manufacturing rooms,
8 one of the rooms that actually had plants in it. And you
9 can examine this photograph and see that a few dates are
10 mentioned. The earliest is February 21st.

11 Again, this investigation began, this search happened
12 in April of 2012. If February was just a few weeks
13 before, if not February of 2011 or even 2010, but if this
14 date references February of 2012, then the defendant was
15 present at least in February before the search in April.
16 Why? Why does that make sense? You heard testimony from
17 the officers that while a lot of the systems in this
18 operation were automated, to keep these plants alive at
19 optimum conditions, to keep them yielding at the most
20 desirable way, someone had to oversee their operation,
21 someone had to monitor. And, according to this schedule,
22 someone needed to do something each week. Is it
23 reasonable to believe that the people who were maintaining
24 this schedule and making notes as the weeks went by never
25 used the bathroom? If they had used the bathroom,

1 wouldn't their fingerprints be on this toilet? Is it
2 reasonable to believe that this defendant's fingerprints
3 are on the handle of this toilet and no one touched it
4 since that time, no one contaminated that print, no one
5 overrode that print, so to speak?

6 Also, in Room H, you heard testimony that the
7 defendant's fingerprints were removed from the door of
8 this stainless steel cooler. Again, it shows the
9 defendant is in the room, he's living in the living
10 quarters, he's using the cooler.

11 The defendant's fingerprints are on a DVD player, a
12 portable DVD player that's on the desk in this room. He's
13 in the room for a long enough period to touch and
14 manipulate and utilize that room.

15 The defendant's fingerprints are on atmospheric
16 controllers, a lot like some of these smaller controllers
17 that you see here in evidence that were inside that desk
18 drawer on two separate controllers. He's in the room
19 touching, utilizing and being a part of exactly what this
20 room is designed to be: the packaging and processing
21 while other rooms are being maintained for optimum
22 marijuana product yield.

23 The judge is going to instruct you, in addition to
24 the concept of accomplice liability, he's going to give
25 you an instruction that the law calls mere presence, and

1 it's a concept that Mr. Robinson alluded to in his opening
2 statement that the fact that someone is present at the
3 scene of the crime doesn't mean that they're a
4 participant. In fact, he told you that it was important
5 that you remember fingerprints don't prove guilt.

6 But what fingerprints do prove in this case is both
7 his presence and his participation. The screwing in of
8 lightbulbs, the touching of the inside of electrical
9 panels, fuse boxes on these AC units and utilizing the
10 living quarters in a way that you would expect for someone
11 that's there to assist with the operation, that's what the
12 fingerprints show. The defendant is not merely present at
13 this scene. He is a co-conspirator, he is a contributor
14 and he is an active principal in manufacturing marijuana.

15 Now, the defendant is also charged with trafficking
16 in marijuana, which, as I've shared with you at the
17 beginning of this trial, means or requires that the State
18 prove that the defendant sell, deliver, manufacture or
19 attempt, conspire, assist in any way in the sale,
20 manufacture of marijuana. Again, the evidence is the
21 same, that his assistance in screwing in those lightbulbs,
22 maintaining the electrical equipment all demonstrates that
23 he is assisting, that he is a co-conspirator in this
24 large-scale operation.

25 It is not possible for someone to walk into this

1 operation. We've seen photo after photo of the electrical
2 system set up in this grow. No one walking into this
3 building would view this evidence, standing water, a
4 hallway full of these ballasts, rooms full of hoods and
5 timers and units and ventilation as a legitimate
6 commercial enterprise. This was a living, breathing fire
7 hazard, and anyone that entered this warehouse,
8 particularly someone who was assisting in either its setup
9 or its maintenance would appreciate exactly why all of
10 this had to be concealed and kept underground because it's
11 an illegal enterprise.

12 The other element that the State's required to prove
13 as part of demonstrating that the defendant is guilty of
14 trafficking is the quantity of marijuana. The statute
15 says that someone who sells, delivers, manufactures or
16 assists, conspires and attempts to sell, manufacture or
17 deliver, the State has to prove that, in this case, that
18 quantity was more than 100 pounds of marijuana.

19 Now, the parties have agreed, you've heard testimony
20 and you've seen photographs and video of exactly how much
21 packaged and processed marijuana was removed from this
22 warehouse. It's not possible to weigh each marijuana
23 plant and characterize all of that quantity in terms of
24 pounds, but what we can do and what we did do is process
25 and weigh all of the marijuana that was in those large

1 boxes that you see in Room H. And just in those boxes,
2 not theoretical, not hypothetical, not potential, but what
3 was really processed and left in that living quarters was
4 at least 125 pounds of marijuana.

5 Now, the statute says that another way that you can
6 traffic in marijuana is if you sell, manufacture, deliver
7 or assist in the sale, manufacture, deliver of more than
8 100 plants. It's either/or. In this case, it's both.
9 But the State can also demonstrate that the defendant
10 utilized more than 100 plants, and you've heard
11 stipulation from both parties, there was an agreement
12 between the parties that 687 plants were removed from the
13 warehouse. Well over 100. That's how we determined that
14 the defendant has participated in trafficking marijuana.

15 And, again, the concepts of accomplice liability are
16 the same, that the defendant assisted in any way or that
17 he combined with other people to commit this crime. The
18 hand of one is the hand of all.

19 The defendant is also charged with two offenses
20 related to the electricity. The first is theft of
21 electric current, which is exactly what it sounds like,
22 that there was a bypassing of the electrical meter for the
23 purpose of stealing undetected electricity. You heard
24 testimony about the wires that were run directly from the
25 power lines underground to the warehouse, and that the

1 wires were carrying such a load of electricity, that they
2 were actually melting.

3 So there's evidence that there was a substantial
4 theft of electric current in this case. How do we know
5 that the defendant is involved in that? Because he was a
6 participant in the operation.

7 The same is true for the final and fourth charge,
8 which is theft of electric current for the purpose of
9 manufacturing a controlled substance. The judge is going
10 to explain to you that the elements are generally the
11 same, that there was a theft of electricity, and that the
12 purpose of that theft was to manufacture a controlled
13 substance. And he'll define for you marijuana as a
14 controlled substance. It is exactly what it sounds like,
15 that there was a bypassing of the meter that you've got
16 lots of photographs of and, of course, the video in
17 State's Exhibit 10 to review that show that the purpose of
18 bundling this power line underground was to facilitate all
19 of the power, the hallway full of power ballasts, the
20 rooms and rooms full of lights to manufacture this
21 controlled substance.

22 The judge is going to give you an instruction about
23 your deliberations, your verdict must be unanimous, and
24 he's going to tell you that to convict the defendant, to
25 find him guilty of any one or all of the offenses, you

1 must be satisfied of his guilty beyond a reasonable doubt.
2 And I anticipate that he'll describe for you that a
3 reasonable doubt is a doubt -- is evidence that leaves you
4 firmly convinced of the defendant's guilt.

5 It's not possible for the State to present evidence
6 that overcomes all doubt, and the State's not required to
7 prove the defendant's guilt beyond every possible doubt,
8 but during your deliberations, if you have a doubt about
9 the defendant's guilt, ask yourselves is it reasonable.
10 Is it reasonable to believe that the defendant was in this
11 warehouse, which we know, we stipulated he was in the
12 warehouse, changed lightbulbs, touched electrical panels,
13 lived in the living quarters, but was not an active
14 participant in the production, the preparation and the
15 processing of this marijuana? Is that reasonable?

16 There's been some discussion throughout this trial
17 about fingerprints that were never matched to anyone and
18 that this somehow reflects on perhaps an incomplete
19 investigation. As you've heard, the officers testified
20 that likely several individuals were required to keep this
21 operation going. It was a very valuable enterprise with
22 what are likely large start-up costs to purchase all of
23 this equipment. The fact that other people were
24 participants in this crime does not change whether the
25 defendant was himself also a participant.

1 You heard testimony from Investigator Garrett
2 yesterday that at least one other person who was
3 identified, Mr. Gonzalez Rodriguez, has not yet been
4 arrested but that warrants were issued for him.
5 Mr. Gonzalez Rodriguez will one day have his trial, and
6 the State will be required to prove the same thing with
7 respect to him. If there are ever any other people
8 identified, the same process will be undertaken by the
9 State. None of that affects this defendant's guilt with
10 respect to these charges.

11 Over the last several years -- well, let me say this
12 before I sort of wind down. It may be frustrating to you
13 that what's left of the State's evidence are clippings
14 from plants and laughably deteriorated biological
15 material. You heard about the potential mold hazard and,
16 quite frankly, the necessity that each of these items is
17 destroyed. I'd remind you that when you're considering
18 this evidence and the fact that what you have are
19 representative samples, that the defendant has stipulated
20 that 687 plants were removed from that warehouse, that
21 125 pounds of packaged and processed marijuana was removed
22 from that warehouse.

23 Now, over the last few years, some attitudes about
24 marijuana use have changed. Times change and opinions
25 change, and there are some states that have changed their

1 law to make it legal for people to use marijuana. It
2 remains illegal in every state in this country to
3 manufacture marijuana for the purposes of trafficking it.
4 It remains illegal in every state in this country to
5 traffic in hundreds of plants and hundreds of pounds of
6 marijuana. And the judge is going to remind you during
7 his instructions that you took an oath at the beginning of
8 this trial to set aside your personal opinions about what
9 the law is or what the law should be and follow the law as
10 he explains it to you and follow the instructions that he
11 gives you.

12 Based on the law as it exists in South Carolina, the
13 best evidence that the State has to show you, 30 of this
14 defendant's fingerprints across the entire operation and
15 the depth and sophistication of this operation and its
16 apparent duration over at least the few months before
17 police got there demonstrate that this defendant is guilty
18 of each of these crimes, and I ask you to find him guilty.

19 Thank you.

20 THE COURT: Mr. Robinson.

21 MR. ROBINSON: May it please the Court.

22 I'm going to use this and become a rock star for the
23 day is what I'm going to do.

24 Ladies and gentlemen, I appreciate the fact that you
25 have had the opportunity or listened over the last day to

1 the testimony in this case. Now I want to go back to a
2 little bit of history of our legal system, a little bit of
3 seeing of this concept of reasonable doubt and where it
4 came from. And it makes a lot of sense.

5 We have the greatest judicial system, I believe, in
6 the world. But it happened way back in England way a long
7 time ago. And this whole concept of reasonable doubt,
8 okay, and the concept basically came from the idea that
9 every citizen is presumed innocent when they're accused of
10 something, and in order for the State or the government or
11 the crown or something, they have to prove their case
12 against this citizen to the satisfaction of a jury beyond
13 a reasonable doubt. And it's to set up, it's to protect
14 ordinary citizens from erroneous charges that have been
15 brought against them. It makes the State have to put up
16 evidence that makes the jury think that they've
17 established beyond a reasonable doubt that the person is
18 guilty.

19 In this case, they cannot establish beyond a
20 reasonable doubt that Lorgio was guilty of this crime, of
21 these crimes. And I want you to think about that. And
22 when you go back to the jury room, you take that history
23 with you that a person is presumed innocent. Because you
24 know outside like I told you in the beginning in my
25 opening statement, when you read the newspaper, get on the

1 Internet, google things and so forth, you see people
2 getting arrested every day, and you make a presumption
3 that they're guilty automatically. But they're not.
4 That's not -- when you come into this courtroom, the
5 person who is accused of the crime is presumed innocent,
6 and the State must prove their case beyond a reasonable
7 doubt.

8 And I told you in the beginning of this case that I
9 had the four words that I used in this matter, that
10 fingerprints don't mean guilt. And I go back to that
11 again. And that's the State's case, because there's what
12 they did. All the information or all the exhibits that
13 you have up there, there's probably 50 something exhibits,
14 that doesn't show anything. That's just a bunch of finite
15 products that show nothing other than the fact that there
16 was an enterprise going on there. That's it. That there
17 was equipment, that there were drugs, that's all it shows.
18 It does not connect that to Lorgio Morales.

19 There are 30 fingerprints in this case, and a
20 stipulation does not mean that we are saying, yeah, it's
21 ours. It doesn't mean that. It's an agreement between
22 the State and the defense in this case. It's to basically
23 save time, is what it does. But in this case, there were
24 30 fingerprints that belonged to Lorgio, but there were
25 60 fingerprints that belonged to other people, a lot of

1 unknown people. But does that show, did they establish
2 that he was involved in a criminal enterprise? Because
3 the prosecution mentioned this idea, this concept of hand
4 of one, hand of all. But you've got to have a hand to
5 connect Lorgio, Mr. Morales, in this case, and they
6 haven't done that. They've shown you a lot of exhibits,
7 they've put up a video, they've put up -- they put some
8 pictures up and so forth, they brought some law
9 enforcement officials in here to talk about, yeah, this
10 was the biggest bust we've seen in a long time, but that's
11 it.

12 And a minute ago, the prosecutor stated that the
13 information from the testimony of Mr. Gary talked about,
14 established that Lorgio was changing lightbulbs. Nothing
15 ever said that. If you listened to it, his fingerprints
16 were found in the sockets. That's it. There's nothing
17 that would indicate that he was ever changing any sort of
18 socket, any sort of lightbulb. His fingerprints were
19 there, but that's it.

20 So their case comes down, it's shrunk down to
21 fingerprints. They've got nothing else to establish this.
22 They don't have the owner of the property coming forward
23 to testify, they don't have the lessee of the property to
24 come in and testify. They have nobody else. All they've
25 got are a bunch of exhibits, some video, some pictures,

1 that's it, and some fingerprints. That's all they've got.
2 And they're trying to connect these fingerprints, these
3 30 fingerprints to say, oh, boy, they've got a big
4 enterprise, he's part of this enterprise. But have they
5 established to you beyond a reasonable doubt that Lorgio
6 was part of this criminal enterprise? And I would suggest
7 to you that they have not. They've established that he
8 has fingerprints, but that's it.

9 And as far as any other evidence with their
10 documents, with Lorgio's fingerprints or anything about
11 Lorgio owning the building, leasing the building, any part
12 of this T&I Enterprise, nothing. No documents that would
13 indicate he had anything to do with this.

14 And she talked about a calendar in this case that
15 they had that they showed. There's nothing about Lorgio
16 on that calendar. There's no fingerprints, nothing.
17 Nothing about him.

18 And did you ever see anyone in this case see Lorgio
19 go in this building, go in and out of this building? They
20 say this was a continuing operation, that he was part of
21 this whole operation, but did you have any person come to
22 court to testify to you that he was actually going in and
23 out of this place? There are no witnesses in this case to
24 that.

25 What the State has established, if you think about

1 it, you have -- the scene is this. You have an old
2 building, you have pictures of the building, and you had
3 testimony from the officer, the first officer in this case
4 that they got in the property through two dilapidated wood
5 panel doors that they got through -- they got through.

6 I would suggest to you this wasn't a drug operation.
7 This wasn't anything of the sort. This was a case of a
8 burglary or a theft, is what this was. I would suggest to
9 you there's another possible scenario here. The other
10 scenario is, is that Lorgio saw this place, thought, oh,
11 let's -- let's maybe explore, see what's in this place,
12 goes in through this dilapidated door, looks around,
13 touches different things. But that's it. That's what
14 happened. There is no evidence in this case to make this
15 jump from 30 fingerprints to being part of this big drug
16 conspiracy. That is a giant jump that they're trying to
17 make in this case. They're trying to just basically say
18 we don't have any documents, we've got no witnesses, but
19 you have to believe us that those 30 fingerprints show
20 that that person, that Lorgio Morales is guilty of these
21 four charges. That's it. That's all they want to show
22 you.

23 You were chosen for this jury because you all have
24 common sense, you've got experience, you know what's right
25 or wrong, you can see things that don't make sense. Does

1 it make sense to anyone that 30 fingerprints could say --
2 that could indicate this person aided and abetted with
3 whoever it was in this criminal enterprise? Is there
4 anything that makes sense about that?

5 Fingerprints do not mean guilt. That's the same
6 thing we've had from the beginning. It doesn't mean
7 guilt. Just because you touched something doesn't mean
8 you're guilty of anything. This could just as well have
9 been a theft, a robbery or something like that, but
10 nothing else in this case. The property owner could bring
11 something against him for going into this place and casing
12 it and so forth, but that's it. Where is this jump from
13 being having fingerprints, 30 fingerprints out of 90
14 fingerprints? And it's interesting if you think about it.
15 They couldn't explain where a lot of fingerprints came
16 from. But they didn't take any fingerprints on these
17 dilapidated doors or windows or anyplace where someone
18 like Lorgio could come in. They didn't take fingerprints
19 of that. And why is that? Think about that.

20 But I suggest to you when you think about this case,
21 you think about the historical meaning of reasonable
22 doubt. This case has a plethora, a large amount of
23 reasonable doubt. The case, the State has not established
24 beyond a reasonable doubt that Lorgio Morales had anything
25 to do with drugs. Nothing. And I ask you to use your

1 common sense, to use your vast experience that all 12 of
2 you have in this life to think about that. Because just
3 because there are fingerprints does not mean that someone
4 is guilty of a crime. Does not mean that.

5 And on behalf of Mr. Morales, thank you very much for
6 listening to our side of the case. We really appreciate
7 the attention that you have paid in this matter. But if
8 you use your common sense in this matter and you think
9 about where's the hand, where's the hand, the hand of all,
10 where's this hand they're talking about, you've got to
11 have that hand to have the hand of all. Without that,
12 they have nothing.

13 There's an old saying by a very famous man that
14 injustice anywhere is injustice everywhere. I ask you to
15 do justice in this case and find Lorgio Morales not
16 guilty.

17 Thank you very much, by the way.

18 CHARGE ON THE LAW

19 THE COURT: All right. Ladies and gentlemen of the
20 jury, during this trial, you and I have certain duties to
21 perform, and as a trial judge, it is my responsibility to
22 preside over the trial of the case and to rule on the
23 admissibility of the evidence offered during the trial.
24 It's also my duty to charge you the law applicable to the
25 case, and it is your duty as jurors to accept and apply

1 the law as I now state it to you.

2 As I told you in my opening comments, if you think
3 you have any idea as to what the law is or what the law
4 ought to be and it does not agree with what I now tell you
5 the law is, you must set aside your own opinion and apply
6 the law precisely as I state it to you.

7 I also remind you that in every case tried in this
8 court before a jury, the jury is the sole and exclusive
9 judge of the facts, and a trial judge cannot comment on or
10 make any statement about the facts in the case. So please
11 don't think by anything I may have said or done throughout
12 the course of the trial that I have such an opinion. I do
13 not. You all are the sole judges of the facts.

14 I, again, instruct you that the fact that the
15 defendant was arrested, charged and indicted in this case
16 is not evidence of guilt, nor does it create any
17 presumption or inference of guilt, and these documents are
18 simply the formal written instruments which contain the
19 charges made against a defendant, and they serve as the
20 formal documents by which the case is processed and
21 brought into court for resolution.

22 Now, the indictments in this case allege four
23 different offenses, and these indictments, the first
24 indictment that I have is for manufacturing marijuana, the
25 second one is for tampering with a utility meter for the

1 purpose of growing or manufacturing a controlled
2 substance, the third one is theft of electric current, and
3 the fourth one is trafficking marijuana. Each indictment
4 charges a separate and distinct offense, and you must
5 decide each indictment separately on the evidence and the
6 law applicable to it and uninfluenced by your decision as
7 to any of the other indictments. And a defendant may be
8 convicted or acquitted each or all of the indictments that
9 are charged, and you will be asked to write a separate
10 verdict of guilty or not guilty for each indictment.

11 Now, necessarily, you must determine the credibility
12 or believability of the witnesses who have testified, and
13 it becomes your duty as jurors to evaluate the evidence
14 and determine which evidence convinces you it is true.
15 And in determining the believability of the witnesses, you
16 may believe one witness over several or several over one,
17 you may believe a part of the testimony of a witness and
18 reject the remaining part, you may believe the testimony
19 of a witness in its entirety or reject that testimony in
20 its entirety, and you may consider whether the witness has
21 an interest in the result of the trial, whether the
22 witness is prejudiced towards either the State or the
23 defendant and the opportunity for the witness to have seen
24 the matters and things about which the witness has
25 testified and the way a witness acts on the witness stand,

1 or what we call a witness's demeanor.

2 I instruct you and I emphasize that the fact that the
3 defendant did not testify is not a factor to be considered
4 by you in any way in your deliberations on the question of
5 the guilt or innocence of the defendant. It must not be
6 considered by you in any manner whatsoever. Every citizen
7 has the constitutional right to remain silent, and the
8 assertion of this right must not be considered by you in
9 your deliberations.

10 The defendant has pled not guilty to these
11 indictments, and that plea puts the burden of proof on the
12 State to prove the defendant guilty. And a person charged
13 with committing a criminal offense in South Carolina is
14 never required to prove themselves innocent. So I charge
15 you that it is a cardinal and a signal rule of the law
16 that the defendant in a criminal trial will always be
17 presumed to be innocent of the crime for which an
18 indictment has issued unless guilt has been proven by
19 evidence satisfying you of guilt beyond a reasonable
20 doubt.

21 And a reasonable doubt is the kind of doubt which
22 would cause a reasonable person to hesitate to act. And
23 reasonable doubt may arise from the evidence which is in
24 the case or the lack or absence of evidence in the case,
25 and you the jury must determine whether or not reasonable

1 doubt exists as to the guilt of the defendant. I remind
2 you the State has the burden of proving each and every
3 element of a crime beyond a reasonable doubt.

4 Now, there are two types of evidence which are
5 generally presented during a trial, and they are direct
6 and circumstantial evidence. Direct evidence directly
7 proves the existence of a fact and does not require
8 deduction. Circumstantial evidence is proof of a chain of
9 facts and circumstances indicating the existence of a
10 fact. And crimes may be proven by circumstantial
11 evidence. The law makes no distinction between the weight
12 or value to be given to either direct or circumstantial
13 evidence. However, to the extent the State relies on
14 circumstantial evidence, all of the circumstances must be
15 consistent with each other, and when taken together, point
16 conclusively to the guilt of the accused beyond a
17 reasonable doubt. If these circumstances merely portray a
18 defendant's behavior as suspicious, the proof has failed.

19 The State has the burden of proving the defendant
20 guilty beyond a reasonable doubt, and the burden rests
21 with the State regardless of whether the State relies on
22 direct evidence, circumstantial evidence or some
23 combination of the two.

24 Now, if a crime is committed by two or more people
25 who are acting together in committing a crime, the act of

1 one is the act of all. A person who joins with another to
2 accomplish an illegal purpose is criminally responsible
3 for everything done by the other person which occurs as a
4 natural consequence of the acts done in carrying out the
5 common plan and purpose. For example, two people can be
6 guilty of killing another person when only one of the two
7 had a gun, there was only one bullet and only one of the
8 two fired the shot that caused the death. So if two or
9 more people are acting together, are together acting
10 together, assisting each other in committing the offense,
11 the act of one is the act of all, or as it is sometimes
12 said, the hand of one is the hand of all.

13 Now, mere presence at the scene of a crime is not
14 sufficient to prove someone guilty of a crime. A
15 defendant's presence where a crime is being committed or
16 mere association with a person who commits a crime does
17 not make a defendant an accomplice or an aider and abettor
18 of the person committing the crime. I remind you the
19 burden is on the State to prove every element of the crime
20 charged.

21 Now, with respect to theft of electrical current, it
22 is unlawful for any person who has no contract, agreement,
23 license or permission with or from any person authorized
24 to sell, manufacture or use electricity for the purpose of
25 light, heat or power or with or from any authorized agent

1 of the person for the use of electrical current belonging
2 to or produced or furnished by that person and willfully
3 withdraw or cause to be withdrawn in any manner and
4 appropriate for his own use or the use of any other
5 person.

6 Now, I also tell you with respect to altering or
7 bypassing or tampering with electric meters, it is
8 unlawful for an unauthorized person to alter, tamper with
9 or bypass a meter which has been installed for the purpose
10 of measuring the use of electricity, gas or water, and
11 this includes use for the purpose of growing or
12 manufacturing certain controlled substances including
13 marijuana.

14 With respect to manufacturing marijuana, the
15 defendant is charged with manufacturing marijuana, and the
16 State must prove beyond a reasonable doubt that the
17 defendant manufactured, distributed, dispensed, delivered,
18 purchased or provided financial assistance or otherwise
19 aided, abetted, attempted or conspired to manufacture,
20 distribute, dispense, deliver purchase or possess with
21 intent to distribute, dispense or deliver marijuana.

22 Possession of equipment or paraphernalia or
23 ingredients and/or supplies commonly used in the
24 manufacture of marijuana under circumstances evincing an
25 intent to so use these items constitutes prima facie

1 evidence of the intent to manufacture. And in order to be
2 guilty as an aider or abettor, the participant must be
3 chargeable with knowledge of the principal's criminal
4 conduct.

5 And manufacture means to produce, prepare, convert,
6 process, plant, cultivate, grow or harvest a drug
7 naturally or chemically. Manufacturing includes any
8 packaging or repackaging of the drug or labeling or
9 relabeling of the drug's container.

10 The defendant is also charged with trafficking in
11 marijuana, and the State must prove beyond a reasonable
12 doubt that the defendant knowingly sold, manufactured,
13 cultivated, delivered, purchased, brought into this state,
14 provided financial assistance or otherwise aided, abetted,
15 attempted or conspired to sell, manufacture, cultivate,
16 deliver, purchase or bring into this state or was
17 knowingly in actual or constructive possession or
18 knowingly attempted to become in actual or constructive
19 possession of marijuana.

20 The State must also prove beyond a reasonable doubt
21 that the amount of marijuana was 100 pounds or more but
22 less than 2,000 pounds, or 100 to 1,000 marijuana plants
23 regardless of weight.

24 Now, ladies and gentlemen, as I told you before, each
25 indictment stands or falls on the merits of the evidence

1 and proof presented on that particular indictment, so each
2 one must be considered independently.

3 And on each indictment, there are two possible
4 verdicts which you may reach. There's absolutely no
5 significance in the order in which I state these two
6 results. One has to go first. And the two possible
7 verdicts are guilty or not guilty.

8 Now, I want to tell you that your verdict must be
9 unanimous. All 12 of you must agree, and your verdict
10 cannot be based on sympathy, passion, prejudice, emotion
11 or on any other consideration which is not in the evidence
12 in this case. You have no friends to reward and you have
13 no enemies to punish.

14 Now, we have prepared a verdict form which we will
15 send back into the jury room with you. I think it's
16 pretty simple, I think it's very self-explanatory, but if
17 you have issues with it, let me know and I'll explain it
18 so that it's clearly understandable.

19 I'm going to excuse you now back to your jury room,
20 ask you not to begin your deliberations just yet. I need
21 to go over my charge on the law with the attorneys to make
22 sure I did not misstate something or omit something. But
23 when the verdict comes into the room with all of this
24 evidence, then you all can begin your deliberations.

25 So at this time, I'll excuse each of you with the

1 exception of Mr. Christeson.

2 Thank you.

3 (WHEREUPON, the jury exits the courtroom at 10:50 a.m.)

4 THE COURT: Sir, you're just as qualified as each of
5 those jurors and you've made the sacrifices, the same
6 sacrifices they have, and I certainly appreciate your
7 efforts. The law only allows 12. So at this time, thank
8 you for your service. Unfortunately, I can't let you go.
9 I think you probably need to retire down to the jury
10 assembly room.

11 Is that right, Ms. Troup?

12 THE CLERK: Yes.

13 THE COURT: Okay. Thank you very much.

14 All right. Any exception or objection to the charge
15 from the State?

16 MS. OWENS: Nothing from the State, Your Honor.

17 THE COURT: From the defense?

18 MR. ROBINSON: No, sir, Judge.

19 THE COURT: With respect to the stipulations, they
20 were read into the record, but the actual documents were
21 not entered as exhibits. At this time, I'll ask you if
22 you all agree to mark them as exhibits and send them back
23 to the jury room.

24 MR. ROBINSON: I'm fine with that, Judge.

25 THE COURT: Okay. We'll send them all back. They

1 are formally admitted.

2 (WHEREUPON, State's Exhibit Numbers 64, 65 and 66 were
3 admitted into evidence.)

4 (WHEREUPON, a recess is taken at 10:51 a.m.; the jury
5 begins deliberations at 10:58 a.m.)

6 (WHEREUPON, proceedings reconvened at 11:47 a.m.)

7 THE COURT: All right we've got a verdict. Are you
8 ready?

9 MS. OWENS: The State's ready, Your Honor.

10 MR. ROBINSON: The defense is ready.

11 THE COURT: Okay. Let's get them.

12 (WHEREUPON, the jury entered the courtroom at 11:48 a.m.)

13 THE COURT: All right. Ladies and gentlemen, I
14 understand you've reached a verdict.

15 JURY FOREPERSON: Yes, we have.

16 THE COURT: All right. If you would, please hand it
17 to the bailiff for me.

18 All right. Madam Clerk, would you publish, please.

19 VERDICT

20 THE CLERK: Yes, sir.

21 Your Honor, in the case of the State of South
22 Carolina vs. Lorgio Danilo Morales, Number 1, as to the
23 indictment 2015-GS-23-03020, the charge of manufacturing
24 marijuana, we the jury find the defendant guilty.

25 As to the defendant -- I'm sorry. As to the

1 indictment 2015-GS-23-3019, the charge of trafficking
2 marijuana, we the jury find the defendant guilty.

3 As to the indictment 2015-GS-23-3018, the charge of
4 tampering with a utility meter for the purpose of growing
5 or manufacturing a controlled substance, we the jury find
6 the defendant guilty.

7 Number 4, as to the indictment 2015-GS-23-4086, the
8 charge of theft of electric current, we the jury find the
9 defendant guilty.

10 These are signed by our foreman.

11 Ladies and gentlemen, if you agree these are the
12 verdicts you reached in your deliberation room, would you
13 please raise your right hand.

14 (WHEREUPON, all jurors raised their right hand.)

15 THE CLERK: Thank you.

16 THE COURT: All right. Thank you very much.

17 Anything further from the jury from the State?

18 MS. OWENS: Nothing from the State, Your Honor.

19 THE COURT: Defense?

20 MR. ROBINSON: No, sir, Judge.

21 THE COURT: All right. Ladies and gentlemen, I want
22 to thank you for your service. I wish -- I mean, you
23 performed a great service. It's kind of not like these
24 great college basketball players who are one and done,
25 though. Unfortunately, I can't cut you loose, but you are

1 -- you're free for the rest of the day. We'd ask you to
2 call back after 6:00.

3 Thank you very much. Okay.

4 (WHEREUPON, the jury exits the courtroom at 11:51 a.m.)

5 THE COURT: All right. Any motions?

6 MR. ROBINSON: Your Honor, at this time, we'd make a
7 JNOV motion as far as a judgment notwithstanding the
8 verdict in this case.

9 THE COURT: All right. Denied.

10 MR. ROBINSON: Thank you, Judge.

11 THE COURT: Have you got sentencing sheets?

12 MS. OWENS: Yes, sir, Your Honor.

13 THE COURT: We probably need to hold the foreman.
14 Doesn't he have to sign the indictments, Mary?

15 THE CLERK: If you wish, yes.

16 THE COURT: Well, I thought we all -- okay.

17 THE CLERK: Most often if he signed the verdict form,
18 it's usually sufficient.

19 THE COURT: Okay. All right. That's fine.

20 All right. Come on around.

21 All right. How many jail days credit does he get?

22 MS. OWENS: I have 205, Your Honor.

23 THE COURT: All right. Can you tell me his criminal
24 history, please.

25 MS. OWENS: Yes, sir, Your Honor. Beginning in 1989,

1 a conviction in Florida for possession with intent to
2 distribute cocaine; 1999, a federal conviction from the
3 Southern District of Florida for manufacturing marijuana;
4 2000, a federal conviction in the same Southern District
5 of Florida for conspiracy to manufacture or distribute
6 marijuana; 2008, a Florida conviction for DUI.

7 THE COURT: Is that true and correct?

8 DEFENDANT MORALES: Yes, sir.

9 THE COURT: All right. I want you to know that you
10 have an absolute right to appeal this. You've got to let
11 your attorney know as soon as possible so he can get the
12 paperwork done. You understand that?

13 DEFENDANT MORALES: Yes, sir.

14 THE COURT: What do you want to tell me? I mean, I
15 don't have any choice in this case. You understand that?

16 DEFENDANT MORALES: Yes, sir.

17 THE COURT: Is there anything you want to tell me?

18 DEFENDANT MORALES: No, Your Honor. I'm sorry
19 bringing the Court to this, the problems I brought.

20 THE COURT: Well, clearly, as I said before, there's
21 something more going on here.

22 DEFENDANT MORALES: I'm sorry, Your Honor.

23 THE COURT: No. I mean, you don't have to apologize.

24 DEFENDANT MORALES: I understand.

25 THE COURT: Huh?

1 DEFENDANT MORALES: I understand. I understand where
2 you're coming from.

3 THE COURT: How old are you?

4 DEFENDANT MORALES: 53 coming up.

5 MS. OWENS: Your Honor, I just want to put on the
6 record before you sentence the defendant, the Sheriff's
7 Office has requested that I ask the Court for restitution.
8 This defendant was extradited from Miami in 2015, which is
9 one of the reason why this case is so old. I just wanted
10 to at least put the request before the Court. Extradition
11 costs were about \$1,000.

12 THE COURT: Okay. Well, this is a mandatory
13 sentence, and this is essentially a life sentence for you.
14 Do you understand that?

15 DEFENDANT MORALES: I know. I know, Your Honor. I
16 know. I don't know.

17 THE COURT: I don't know if there's anything he can
18 do to help himself. It must be something that's some big
19 dark cloud.

20 What is it, a year he's got to come back for
21 substantial ---

22 MR. ROBINSON: Yeah. It's a year.

23 MS. OWENS: If there were any material of value, we
24 would certainly be amenable. I'm not ---

25 THE COURT: You understand that?

1 DEFENDANT MORALES: Yes, Your Honor.

2 THE COURT: So you've got a year to think about it.
3 This is not federal penitentiary. Do you understand?

4 DEFENDANT MORALES: I understand. I know.

5 THE COURT: There were clearly other people involved,
6 clearly.

7 SENTENCE

8 THE COURT: All right. Well, it's time served on the
9 theft of the electrical current; 25 years and \$25,000 on
10 the trafficking; 20 years concurrent on the manufacturing,
11 third offense; and ten years on the altering the meter for
12 the purpose of manufacturing a controlled substances.

13 You need to reach down deep. Are you going to do
14 this all by yourself? You just think about it.

15 MS. OWENS: Thank you, Your Honor.

16 DEFENDANT MORALES: How many years in total?

17 THE COURT: 25.

18 DEFENDANT MORALES: 25.

19 THE COURT: I can make them consecutive. It wouldn't
20 be any difference.

21 DEFENDANT MORALES: I know, I know.

22 THE COURT: And it's 85 percent. You understand
23 that?

24 DEFENDANT MORALES: Yes, Your Honor.

25 THE COURT: Well, you think about it long and hard.

1 All right. Good luck to you.

2 (WHEREUPON, proceedings concluded at 11:58 a.m.)

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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 5th and 6th day of February, 2018.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 August 20, 2018

19
20 *Cheryl A. Smith*

21 _____
22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)

IN THE COURT OF COMMON PLEAS

Lorgio Danilo Morales 375312)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2013-CP-23-03012,

APPLICATION FOR

POST-CONVICTION RELIEF

18 MAY 24 AM 9:26
Paul Wickensimer CDC BVL SC**INSTRUCTIONS B READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution,
2. Name and location of Court which imposed sentence General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) Trafficking in Marijuana / 2015-GS-230-3019

- (b) Tampering with Utility Meter for Manufacturing Substance / 2015-GS-230-3018
 (c) Manufacturing Marijuana 3rd / 2015-GS-230-3020

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) date sentence (2-6-18) / 25 years sentence for Trafficking
 (b) date sentence (2-6-18 / 10 year sentence for Manufacturing for Purpose
 (c) date sentence (2-6-18 / 20 years Manufacturing 3rd

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty ✓ _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No

8. If you answered Ayes@ 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 Ano@ to (7), state your reasons for not so appealing:

- (a) ' Counsel failed to file a Direct Appeal on my behalf.

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See: Attachments
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See: Attachments
- (b) _____
- (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 Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____

10(a) Ineffective assistance of counsel for failure to discharge his duty of due diligence to investigate facts, evidence, and witness(es) in this case.

(b) Ineffective assistance of counsel for not having a proper defense for physical evidence.

(c) Ineffective assistance of counsel for his abandonment, during trial.

11(a)

(1.) Counsel failed to properly and fully investigate the case.

(2.) Counsel failed to properly and fully prepare Petitioner for testimony in the case.

(3.) Counsel failed to adequately investigate the alleged crime scene or the allegations so as to be prepared to present testimony through direct and cross-examination of relevant evidence related to the matter.

(4.) Counsel failed to interview or call as a witness a number of people who would have relevant information in this matter.

(5.) Counsel failed to request a preliminary hearing so Petitioner could more adequately be informed about case.

(6.) Counsel failed to spend adequate time with Petitioner reviewing discovery with him.

(7.) Counsel failed to move for a mistrial when the Solicitor, violated a cardinal trial rule and expressed his own opinion of the Petitioner's guilt, by making a comment about the Petitioner's race. (Quote) "They come here to our city to manufacture drugs." Furthermore, this comment by the Solicitor, tainted the jury about Petitioner's guilt.

232
(8.) Counsel failed to challenge the testimony of the state's witness(es) and failed to adequately object and preserve objections to portions of the witness(es) testimony, and failed to effectively cross-examine the witness(es) on their testimony.

(9.) Counsel failed to move for a pretrial motion for a directed verdict.

(10.) Counsel failed to move for a directed verdict at the end of the State's case, or at the end of the entire case.

(11.) Counsel failed to make a pretrial motion to suppress evidence, from the case.

(12.) Counsel failed to challenge or move to quash the indictment, before the jury is sworn, that indictment is not sufficient.

(13.) Counsel failed to provide a valid defense for trial.

(14.) Counsel failed to move for a fast and speedy trial. Therefore, Petitioner's Due Process rights were violated for a fast and speedy trial, pursuant to the 3 year delay for trial. Furthermore, Petitioner lost certain witness(es), that would of testified on his behalf. (State vs Langford III)

(15.) Counsel failed to object on the State's circumstantial evidence being admitted at trial.

(16.) Counsel failed to file a Direct Appeal for Petitioner, after the trial. This was a Due Process violation, by counsel.

16 (a) (b) and (c) Ineffective assistance of counsel: This is the only venue I am aware of for these type of claims.

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 such 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?

N/A

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) See: Attachment
(b) _____
(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
(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? N/A

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Scott Robinson
P.O. BOX 10042 FS
Greenville SC 29601
ii. _____
iii. _____

(b) the proceedings at which each such attorney represented you:

i. Jury Trial
ii. _____
iii. _____

19. State clearly the relief you seek in filing this application:

Vacate and Remand

20. Are you now under sentence from any other court that you have not challenged?

N/A

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, LOGIO DIMORALES, 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.

SWORN to and subscribed before me this 11th day of May, 2018.

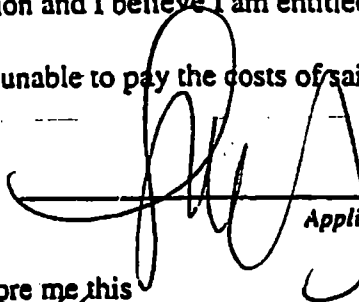
Lemaria Conwell (L.S.)
Notary Public

My Commission Expires: My Commission Expires
September 25, 2023

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

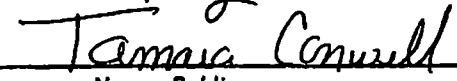
I, LOGO DINDRALES, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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

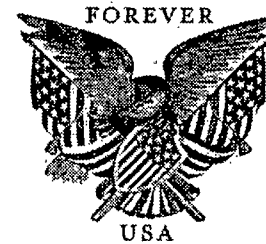
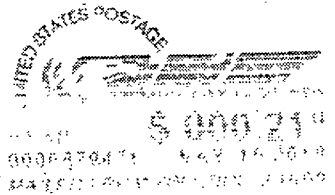
SWORN or affirmed to and subscribed before me this
11th day of May, 2018.



Notary Public

My Commission Expires: September 25, 2023

ORIO DMORAIES 375312, Q1, Bill
Perry Correctional Institution
430 DAKLAWN ROAD
Pelzer, SC 29669



RECEIVED
MAY 16 2018

P.C.I. MAILROOM

Circuit Court Division
Greenville County Court House
305 East North Street
Greenville, South Carolina 29601

2018-CP-23-03012

2501215 0007

LEGAL WORK
AD POSTAGE IS PAID

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEA
COUNTY OF GREENVILLE	)	IN THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Lorgio D. Morales, # 375312	)	Case No.: 2018-CP-23-3012
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The State (Respondent), making its Return to the application for Post-Conviction Relief (PCR) filed on May 24, 2018, would respectfully show this Court:

I.

Lorgio D. Morales (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to the order of commitment of the Greenville County Clerk of Court. In February of 2016 the Greenville County Grand Jury indicted Applicant for tampering with utility meter for purpose of growing or manufacturing a controlled substance (2016-GS-23-3018), trafficking marijuana (2016-GS-23-3019), manufacturing marijuana (2016-GS-23-3020), and theft of electric current (2016-GS-23-4086). Applicant was represented by Scott D. Robinson, Esquire. The case was prosecuted by Assistant Solicitor Katryna B. Owens, Esquire of the 13th Circuit Solicitor's Office. The case was heard before the Honorable Edward W. Miller and a jury on February 5 through February 6, 2018. At trial, Applicant was convicted of all four crimes. Judge Miller sentenced Applicant to imprisonment for ten years for tampering with utility meter for purpose of growing or manufacturing a controlled substance, twenty- five years for trafficking marijuana, twenty years for manufacturing marijuana, and time served for theft of electric current. Applicant did not appeal his sentence or conviction.

II.

On April 23, 2012, the Greenville County Sheriff's Office executed a search warrant in Greenville, SC. Upon searching the location, investigators seized a clandestine marijuana manufacturing operation. Further investigation revealed that electrical lines had been altered to avoid electrical measuring equipment to avoid detection. Investigators collected latent fingerprints from equipment used in the operation. The fingerprints were identified as belonging to Applicant. Additionally, agents seized six hundred and eighty- seven plants that field-tested positive as marijuana, along with chemicals and equipment used to manufacture marijuana. Agents also seized over one hundred pounds of processed and packaged plants that also field tested as marijuana. (Arrest Warrants)

III.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reason:

1. Ineffective Assistance of Counsel

a. Attached pages 4-5

Applicant's relief sought is for his sentence to "vacate and remand".

Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV.

Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations

in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process” that the proceeding “cannot be relied upon as having produced a just result.” Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Id. (citing Strickland, 466 U.S. at 688). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to

fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has retained counsel, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the post-conviction relief hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. *See* Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

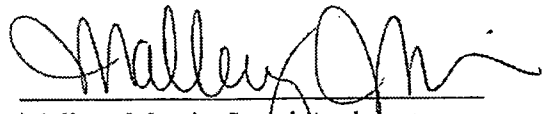
September 10, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2018-CP-23-3012
	)	
LORGIO D. MORALES, #375312,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** and in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

R. Mills Ariail, Jr., Esquire
11 North Irvine Street, Ste. 11
Greenville, SC 29601

DATED this 10th day of September, 2018.



 Mallory Morris, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS
2018-CP-23-03012

LORGIO DANILO MORALES,
APPLICANT,)

VS.)

STATE OF SOUTH CAROLINA,
RESPONDENT.)

TRANSCRIPT OF RECORD

ORIGINAL

December 17, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

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

R. MILLS ARIAIL, JR., ESQ.
Attorney for the Applicant

JANEL H. GREGORY, ESQ.
Assistant Attorney General

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

Page No.(AW) LORGIO DANILO MORALES:

Direct Examination by Mr. Ariail.....4

Cross-Examination by Ms. Gregory.....24

(RW) SCOTT DAVID ROBINSON:

Direct Examination by Ms. Gregory.....26

Cross-Examination by Mr. Ariail.....37

Examination by the Court.....49

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: Yes, ma'am.

MS. GREGORY: Your Honor, before you is Lorgio Morales. In February of 2016, the Applicant was indicted by the Greenville County Grand Jury for tampering with utility meter for purposes of growing or manufacturing a controlled substance, trafficking marijuana, manufacturing marijuana, and theft of an electrical current.

The Applicant proceeded to a jury trial on February 5th, 2018, before Judge Miller. After a two-day trial, the jury found the Applicant guilty as indicted. Judge Miller sentenced the Applicant to 25 years for trafficking marijuana, 20 years for manufacturing marijuana, 10 years for the tampering with a utility meter charge, and time served for the theft of electrical current.

The Applicant did not appeal his conviction. He did file a timely PCR application on May 24th, 2018. And we have been provided with three letters from the Applicant from Mr. Ariail amending his application.

Mr. Morales is present today and represented by Mr. Ariail. And they are going forward on several of those allegations, which Mr. Ariail will discuss.

THE COURT: All right. Yes, sir.

MR. ARIAIL: Thank you, Your Honor.

1 We're ready to proceed. If I could call Mr. Morales
2 to the stand.

3 THE COURT: All right. Mr. Morales, if you would
4 come around to my left. Once you get there, Madam Clerk
5 will swear you in.

6 THE CLERK: Mr. Morales, please place your left hand
7 on the Bible and raise your right hand the best you can.
8 WHEREUPON,

9 LORGIO DANILO MORALES,
10 after first having been duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 You may be seated.

13 Please state your full name for the record.

14 THE WITNESS: Lorgio Danilo Morales, Jr.

15 DIRECT EXAMINATION

16 BY MR. ARIAIL:

17 Q Mr. Morales, how are you doing today?

18 A Good.

19 How are you?

20 Q And you're probably going to need to speak into that
21 microphone or -- are you good right there?

22 A Yeah.

23 Q Yeah. So the Judge can hear and everybody can hear.

24 And I know you've got some notes in front of you.

25 But I'm going to try to work through what we've discussed

1 in your application as to --

2 A All right.

3 Q -- the issues. And so the normal way I do it is go
4 through what we've discussed and then at the end, if you
5 have additional things, we can discuss that, too.

6 A All right.

7 Q So let's start off -- first of all, you were, I
8 guess, represented by Mr. Robinson; is that correct?

9 A Yes, sir.

10 Q And he represented you, I think, on -- it was theft
11 of electric current, trafficking marijuana 100 to a
12 thousand plants, 100 to 2,000 pounds, altering, tampering
13 with utility meter for purposes of growing or
14 manufacturing a controlled substance. And I think the
15 last one was a manufacturing marijuana third offense; is
16 that correct?

17 A Yes.

18 Q Okay. Now, as part of this, you retained him;
19 correct?

20 A Yes.

21 Q Okay. You were arrested -- and I can go back and get
22 the exact dates. But did you ever make bond on these --

23 A Yes.

24 Q Okay. When you made bond and were released, how long
25 after did you hire Mr. Robinson to represent you?

1 A It was when I was in prison -- in jail.

2 Q Okay. So --

3 A Before I got bond.

4 Q You got bonded -- how long were you in jail before
5 you bonded out?

6 A Eight months. I didn't have no bond at first.

7 Q Okay. You didn't have a bond at first?

8 A Huh-uh.

9 Q Did he get you a bond?

10 A Yes.

11 Q Okay. And at that point in time, you got a bond and
12 were released from incarceration, I guess?

13 A Yes.

14 Q Okay. From the time you hired him sometime -- I
15 think you were arrested -- I'm trying to go back right
16 here. How long after, I guess, you were arrested and
17 placed in jail did you hire him?

18 A Maybe a month, a couple weeks, a month.

19 Q Okay. So for about seven months, you were in there
20 and you were represented by him; is that correct?

21 A Yes.

22 Q Did he get you discovery during that period of time
23 before you were released?

24 A Probably around three or four months into it.

25 Q Three or four months into it. And then did y'all go

1 over the discovery?

2 A Not -- not really that much.

3 Q Okay. Well, just tell me -- let's start off this
4 way. Did he come down and meet with you while you were
5 incarcerated at the law enforcement center?

6 A Yes.

7 Q How many times do you think he met with you?

8 A I believe twice.

9 Q Okay. When he came down -- let's start off with the
10 first conversation. When do you think that was?

11 A Probably the first time I met him, about a month
12 after I got in, a few weeks, about a month.

13 Q Okay. And during that discussion, what did y'all --
14 did y'all have any discovery or any evidence at that time
15 to go over and discuss with each other?

16 A No.

17 Q Okay. What was the conversation during that period
18 of time?

19 A About everything that went on. And he told me that I
20 could win the case and that I would win it. And I told
21 him -- I told him let's go to trial.

22 Q Well, at that point in time, how were y'all having a
23 discussion about winning the case or where you stand,
24 based upon you didn't have any evidence at that time?

25 A We talked about me going into the place, breaking

1 into it.

2 Q Okay. So your theory of the case was you broke in
3 the place?

4 A Yes.

5 Q Your fingerprints were on everything --

6 A Yes.

7 Q -- because you had burglarized that --

8 A Yes, correct.

9 Q -- place?

10 Okay. And you told him about that?

11 A Yes.

12 Q And he said -- based upon that, what was his response
13 to all that?

14 A That we could win the case. If nobody came out and
15 said I was part of it, then I could win the case.

16 Q Okay. Now, at some point in time, you, eventually,
17 got discovery in this case; is that correct?

18 A Yes.

19 Q Okay. And did he come down and he discuss with you
20 what they had against you, what evidence?

21 A He went over it briefly. He didn't go really in
22 depth in the whole thing, or nothing. He just briefly
23 went over it.

24 Q I mean, did he tell you --

25 A He told me my charges, what they were, and what they

1 had against me.

2 Q Did he go over the elements of what they've got to
3 prove?

4 A Yes.

5 Q I mean, how they've got to prove you've got a certain
6 amount of plants, you know, you're tied in with that, all
7 that kind of stuff?

8 A Yeah.

9 Q Okay. Did he tell you that they had 30 fingerprints
10 of yours?

11 A No, not at that time.

12 Q When did you find out that your fingerprints were in
13 this grow operation?

14 A After -- after I got the discovery.

15 Q Okay. And then did he give you a copy of that
16 discovery?

17 A Yes.

18 Q And how -- how -- when do you think you got that
19 discovery? Were you still incarcerated?

20 A Yes.

21 Q So you had your discovery and you went over it with
22 him; is that correct?

23 A Very briefly.

24 Q Okay. But you found out you had 30 fingerprints or
25 so --

1 A Yes.

2 Q -- that tied you to that scene; is that correct?

3 A Yes.

4 Q Okay. Did he have a discussion with you about your
5 fingerprints are there, this is the impact that could have
6 on you if we go to trial on this?

7 A He, basically, said if nobody comes out to say that
8 you were -- that was yours that you were going to win.

9 Q Okay. Did you have a discussion on how the jury
10 could interpret your fingerprints at that scene and, I
11 guess, what inferences they could make off that?

12 A No, no.

13 Q Okay. Did he tell you that if you go to trial and
14 you get convicted of this what you were facing, the amount
15 of years?

16 A Yes. He told me that.

17 Q Did you understand that going to trial, you're
18 looking at a mandatory minimum of 25 years?

19 A Yes.

20 Q Okay. At some point in time, you got an offer for 10
21 years; correct?

22 A Yes.

23 Q Okay. And you turned that down; is that correct?

24 A Yes.

25 Q Why did you turn that down?

1 A Because he told me I was going to win the case.

2 Q Okay. Did he ever tell you that if you're convicted,
3 you know, this is what you could be facing?

4 A He said that there's a slight possibility.

5 Q Okay. And based upon that discussion with him and
6 reviewing everything, you decided to go to trial?

7 A Yes.

8 Q Okay. Now, as part of this, I know you've -- you've
9 put a lot of different things in this application. We've
10 tried to kind of go through and summarize them a little
11 bit. I want to take you through.

12 You say he failed to investigate the case. What
13 things did you ask him to do to investigate your case that
14 he didn't do?

15 A Well, he didn't challenge the -- the theft of
16 electrical power correctly. He didn't go around the
17 building and look at all the -- the debilitating entrance
18 ways that was in there. There was cameras on the next
19 door building. And he failed to get the -- the videos.
20 Witnesses -- the next door neighbors witnesses that he
21 never called that I -- I signed a waiver or something to
22 eliminate -- I don't know what, some witnesses that --
23 that he said would speed up the trial.

24 Q Well, let me just -- let's -- let's stop right there
25 so I can go back to each one of those. You said there

1 were cameras that you asked him to go take a look at. How
2 did you know there were cameras there to be able to help
3 you out?

4 A Because I seen them.

5 Q You had seen them there. How -- when had you seen
6 them?

7 A When we went over there. When me and him went over
8 there, we parked outside and took pictures.

9 Q Okay. So you went over --

10 A Yeah.

11 Q -- after you were released?

12 A Yeah.

13 Q That would have been eight months later; correct?

14 A Yeah.

15 Q I guess eight months after you were arrested?

16 A It would have been nine months, 10, around there. I
17 can't -- I don't know exactly.

18 Q Okay. And maybe I need to put this information in
19 there, too. There was initially -- they found this grow
20 operation, the Greenville County Sheriff's Office?

21 A Yes.

22 Q How long after them finding this were you arrested?
23 Do you know?

24 A I think two and a half, three years maybe.

25 Q Okay. So three years afterwards, you were arrested?

1 A Yes.

2 Q And you were picked up in Miami; is that correct?

3 A In Clewiston.

4 Q Where?

5 A Clewiston. It's close to Miami.

6 Q Close to Miami?

7 A Yeah.

8 Q Okay. And then you were extradited back here?

9 A Yes, I was.

10 Q Okay. Did you have a discussion with him at any time
11 that -- you know, this is three and a half years later --

12 A Uh-huh.

13 Q -- that there might not be video that would help you
14 on that?

15 A No.

16 Q Okay. Did you ask him to go get those video cameras
17 or to, you know, see if there's anything that could help
18 you out?

19 A No. We just talked about it. And I figured he'd --
20 he'd do something. He was the lawyer.

21 Q Okay. Do you know if there was any evidence from the
22 Greenville County Sheriff's Office that they had any
23 videos or anything that they got at that time when they --

24 A They have a video of the inside of the place that I
25 seen.

1 Q But nothing of the outside that you're aware of?

2 A I believe pictures.

3 Q Okay. You said there was a witness that you asked
4 him to go talk to. Who was that?

5 A Yeah. The -- the next door neighbor.

6 Q And what'd you want him to talk to him about?

7 A He said that he'd seen a van coming up every morning
8 with a white person coming in.

9 Q Who was that gentleman?

10 A I don't know.

11 Q Okay. So there was someone you'd asked him to go try
12 to locate there that was either a neighbor to the -- the
13 building next to it?

14 A Yes.

15 Q Okay. And he -- to your knowledge, he didn't go
16 speak with that individual; is that correct?

17 A No.

18 Q Okay. What other -- and I kind of stopped you right
19 there. What other things were you asking him to go
20 investigate that he didn't do?

21 A He didn't ask the -- the owner. He didn't talk to
22 the owner. He didn't interview the owner.

23 Q The owner of the building where the marijuana was
24 found?

25 A Yes.

1 Q Okay. Do you know who that is?

2 A I don't know his name.

3 Q Okay. Did you give him any witnesses of an alibi
4 or -- and I know it was over a substantial amount of
5 time -- but, you know, did you tell him, hey, you know,
6 this is where I was, I wasn't living here, I was living in
7 Miami, you can talk to this individual?

8 A Yeah, yeah. I was in Miami. I -- I can't recall
9 exactly what I told him.

10 Q Okay. You say he didn't adequately investigate the
11 alleged crime scene. But y'all -- y'all went out to the
12 crime scene; is that correct?

13 A Yes. But he didn't get out of the car. He just took
14 some pictures. He didn't walk around. He didn't look
15 where the -- the theft of the wires were, or how there
16 came to be the melting of wires, and how that could
17 happen.

18 Q Okay. I'm going through these. Some of these
19 we've -- we've taken out because we've discussed. I want
20 to make sure I hit the ones that we have had discussions
21 in regards to.

22 You don't believe that you had adequate time to
23 discuss the discovery with him; is that correct?

24 A No. We didn't go over it thoroughly enough. I mean,
25 barely -- we barely went over it.

1 Q Okay. Did you feel that you had enough knowledge to
2 be able to understand what you were charged with, the
3 crimes, what the State had to prove, and the evidence
4 against you?

5 A I knew what they were trying to get me for, yes. But
6 I wasn't -- I didn't think that they'd plant the whole
7 thing on me when I just went inside and I broke in.

8 Q Okay. And you discussed that with him as your -- I
9 guess how you were tied to the scene?

10 A Yes.

11 Q Okay. I know we've -- we've had a discussion about
12 number seven in your -- I think it's number 11A7. You
13 said there was an inappropriate statement made --
14 statement made by the Solicitor in this case. I've
15 reviewed the --

16 A Yeah.

17 Q -- transcript and I don't see it. Do you --

18 A No. I didn't see it in the transcript either.

19 Q Okay. So you don't have anything that -- I mean,
20 you -- you say you remember it. But there's nothing in
21 the transcript; correct?

22 A Her opening statement was, I believe that these
23 people come here from out of town to manufacture drugs, or
24 something like that. And I told him I had an ID from
25 here, that I was from Greenville, that I had got a

1 Greenville ID because I was living here.

2 Q Okay. So you told Scott that you were here --

3 A But he didn't -- I guess he didn't hear me, or didn't
4 listen, or I don't -- I don't know.

5 Q Okay. But -- but you explained to him that I had an
6 ID that showed I was living in Greenville?

7 A Yes.

8 Q Okay. And what type -- when you say ID --

9 A A driver's license.

10 Q You make a very broad statement of Mr. Robinson
11 failing to challenge the testimony of state's witness and
12 failing to adequately object and preserve objections.
13 What do you mean by that?

14 A On the -- on the search warrant, he didn't -- when
15 they said that they cut the power, there was no -- no
16 danger after they cut the power. So they could have got a
17 search warrant right after they cut the power. They
18 didn't have to go in. There was no fire. There was no
19 nothing. He didn't argue it thoroughly enough, I believe.

20 Q So you -- you know he made a motion to suppress?

21 A Yes.

22 Q And that was denied?

23 A Yes.

24 Q Are you saying that he didn't do enough in that
25 motion to suppress to preserve that?

1 A Yes. He could have explained more that -- that when
2 they cut the power, there was no circumstance to go in
3 there besides just getting a search warrant and going in.

4 Q Right. And he tried to argue that they didn't have
5 exigent circumstances and didn't need to go in there in a
6 rush to be able to --

7 A Yes.

8 Q But you think he needed to do more than that?

9 A Yes.

10 Q Okay. Do you have any other -- I guess can you give
11 any other guidance as to what y'all discussed as to what
12 else he needed to put in there?

13 A No, not -- we didn't really talk about that at all.

14 Q Okay. Are there any other -- you list on here
15 pre-trial motion for directed verdict. I've explained to
16 you that --

17 A Yes.

18 Q -- there is no pretrial motion for directed verdict.
19 Do you understand that now?

20 A I understand.

21 Q Are there any other motions that you have -- asked
22 him to make that he didn't make? I mean, he made a
23 directed verdict motion as we've discussed at the end of
24 it; correct?

25 A Yes.

1 Q There are other things that you wanted him to do that
2 he didn't do motion wise?

3 A If you'll give me a second.

4 Q Okay.

5 A No. Also, the return was -- there was never -- never
6 set a date that there was 10 days on the return. They --
7 they talked about the return on the -- return on the
8 warrant. And they argued about the date. But there was
9 never -- nobody -- the officer testified to not saying
10 exactly what day it was returned. Nobody -- no -- nowhere
11 in court it was said that what day that was returned. It
12 might have been 20 days, 10 days, a year. It was never
13 said.

14 Q Right. And he made -- he made that motion and tried
15 to address that; correct?

16 A Yes, he did.

17 Q Okay. We've discussed -- there was a delay in
18 regards to the trial. You wanted a fast and speedy trial?

19 A Yes.

20 Q What I'm -- you say there was a three-year delay?

21 A Yes.

22 Q A lot of that -- I mean, I guess --

23 A He was sick a year in -- in the time. I don't
24 know --

25 Q But you were also, gone, for some of that time;

1 correct? You were in Miami. Was that -- or are you
2 saying after you got arrested?

3 A No. I was here.

4 Q So you're saying after you got arrested, there was a
5 three-year delay to try the case?

6 A Yes.

7 Q So that would have put it somewhere -- I mean, it
8 would be six years after. Because it was three years
9 before you got arrested?

10 A Yeah.

11 Q So that was --

12 A Almost three years -- close to three years, I guess.

13 Q Okay. And you say that you had asked him to file a
14 motion for a fast and speedy trial?

15 A Yes.

16 Q And he didn't do that?

17 A I don't know.

18 Q Okay. We have one statement -- one thing that we
19 discussed. And I think you've sent -- which of the
20 amendments. And I want to make sure I understand exactly.
21 I've told you -- there was a stipulation at trial to
22 the -- the plants?

23 A Yes.

24 Q The stipulation he made. Do you remember that?

25 A Yes.

1 Q They couldn't keep the 567 plants --

2 A Yes. Correct.

3 Q -- for whatever amount of years.

4 A Yes.

5 Q So they kept a relative sample of those. And there
6 was a stipulation at trial. Do you remember discussing
7 with him about --

8 A No, not at all. I don't know nothing --

9 Q Did you tell him to do that?

10 A -- about no stipulation. No, I did not.

11 Q Did you want someone from SLED to come in and testify
12 about the analysis --

13 A Yes, to analyze the -- to have a drug analysis from
14 SLED.

15 Q Okay.

16 A And I know -- we couldn't verify the weight. We
17 couldn't verify nothing. It was all destroyed.

18 Q Did y'all discuss anything in regards to if SLED
19 comes in, this could be more prejudicial to you if they
20 start --

21 A No. I never talked the word SLED, never --

22 Q Okay.

23 A -- discussed it at all.

24 Q You say -- do you remember signing anything which
25 showed you were rejecting your plea offer?

1 A I don't remember.

2 Q Maybe I can say it this way. You remember getting a
3 plea offer; correct?

4 A Yes.

5 Q You turned down the plea offer; is that --

6 A Yes.

7 Q And you turned it down because?

8 A Because he said I was going to win the case. That's
9 why I went to trial. I wouldn't have went to trial.. I
10 would have took the plea.

11 Q Okay. On the record, Judge Miller, also, advises you
12 that you have the right to appeal. Did you ask
13 Mr. Robinson --

14 A I wanted to appeal. But I was in Kirkland. And I
15 had no access to a phone, no access to -- to any address
16 of his. There's no way I could have contacted him.

17 Q Okay. One of the items you've brought up was a mere
18 presence charge that was made -- and I think we've gone
19 through the transcript together.

20 A Yes.

21 Q The Judge said the one submitted by Mr. Robinson was
22 incomplete, but he took his mere presence charge. Do you
23 remember that now?

24 A I believe Ms. Owens said it was incomplete.

25 Q Okay. But the Judge used his mere presence charge --

1 A His mere presence charge. I didn't understand that.

2 Q Okay. Now, you have seen it and seen that that
3 charge is sufficient?

4 A Yes.

5 Q Okay. I've tried to go through -- normally, what I
6 do, I -- I try to include most of the information that you
7 have discussed with me. I'm going to give you an
8 opportunity -- if there are other things that I have left
9 out that you want to add, this is the time to be able to
10 put those in. I think I've gone through most of them with
11 you.

12 A Also, he failed to -- to get a writing analysis to
13 match any writing of any lease agreement, of a power bill,
14 or any -- any checks, or any money orders, or cashiers
15 checks, or anything signed by me.

16 Q Right.

17 A None of that.

18 Q And there was a lot of -- I remember going back.
19 There were a lot of dead ends in regards to the
20 information that the police had -- the sheriff's
21 department had looked at. Because a lot of the
22 individuals they couldn't find. I think there was an
23 Ishmael [phonetic] they couldn't find?

24 A Yes. Correct.

25 Q There was a transfer -- a wire -- not a wire

1 transfer, but, I think, a money order for --

2 A Something.

3 Q -- some location they couldn't find?

4 A Yes.

5 Q Did you provide him other information that he could
6 try to chase down that he didn't?

7 A One second.

8 No. That's -- that's about it, I guess.

9 MR. ARIAIL: Okay. I'm going to let the Attorney
10 General ask you questions in regards to it.

11 Thank you.

12 I have no further questions, Your Honor.

13 THE COURT: All right. Yes, ma'am.

14 CROSS-EXAMINATION

15 BY MS. GREGORY:

16 Q Good morning, Mr. Morales.

17 A Good morning.

18 Q How many times did you say you met with your attorney
19 prior to trial?

20 A Prior to trial. Well, prior time and total after
21 prison -- after the county jail, maybe four or five times.

22 Q And you were out on bond for the majority of the time
23 prior to trial; is that right?

24 A Yes.

25 Q Okay. And you recall going to the building with your

1 Defense Counsel?

2 A Yes.

3 Q How many times did guys go?

4 A Once.

5 Q Once. And you said you gave him witnesses to
6 investigate?

7 A Yes. A neighbor -- the neighbor and the -- to talk
8 to the neighbor and look at the cameras next door.

9 Q Okay. But that was the only witness that you
10 provided to investigate?

11 A The -- the owner could have testified, also.

12 Q Okay. But outside of the businesses that were next
13 to the building, there were no other witnesses that you
14 gave him?

15 A No.

16 MS. GREGORY: No further questions, Your Honor.

17 THE COURT: Anything on redirect?

18 MR. ARIAIL: No, Your Honor.

19 Thank you.

20 THE COURT: All right. And I have no questions.

21 Sir, you can step down.

22 Any other witnesses on behalf of the Applicant?

23 MR. ARIAIL: No, Your Honor. That is our case.

24 Thank you.

25 THE COURT: All right. Yes, ma'am.

1 MS. GREGORY: The State would call Scott Robinson.

2 THE COURT: All right. Mr. Robinson.

3 THE CLERK: Mr. Robinson, raise your right hand.

4 WHEREUPON,

5 SCOTT DAVID ROBINSON,

6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 You may be seated.

9 Please state your full name for the record.

10 THE WITNESS: Scott David Robinson.

11 DIRECT EXAMINATION

12 BY MS. GREGORY:

13 Q Good morning, Mr. Robinson.

14 A Good morning.

15 Q If you don't -- if you can't hear me, let me know.

16 Sorry about my voice.

17 A Sure.

18 Q How long have you been practicing law?

19 A Forever it seems like. But about 20 -- 20 years, I
20 think.

21 Q And how much of that has been in criminal law?

22 A About 95 percent of it.

23 Q Okay. How many times did you meet with Mr. Morales
24 prior to his trial?

25 A At least, five or six times. He was out of jail.

1 Q Okay.

2 A And we met as much -- he's -- I think he was in
3 construction. And we met any time he was in town. He'd
4 come by and we'd talk, and so forth.

5 Q Was he cooperative during those meetings?

6 A He was a great client, great client.

7 Q What was he charged with here?

8 A Trafficking in marijuana, manufacturing, tampering
9 with electrical currents, an assortment of charges.

10 Q Okay. And he's claiming that you failed to
11 investigate these charges against him. What kind of
12 investigation did you do?

13 A Well, first of all, we -- we went -- we went through
14 the discovery pretty carefully. They had provided us all
15 the pictures that were taken inside of the -- of the
16 building. This was -- where this operation was taking
17 place, we went through all those pictures. We went out to
18 the -- out to the scene to look at the scene. It's all
19 locked up.

20 Q Okay.

21 A You can't get inside the fence, or anything like
22 that. So we drove around, took pictures of different
23 things in terms of trying to figure out where someone
24 could come in just -- we were trying to show that it was
25 an open kind of area. People could just come in, do their

1 thing, and leave. And we were trying to maybe take some
2 of the blame off of him.

3 Q Okay.

4 A Unfortunately, there were a lot of fingerprints. And
5 one of the things we discussed a lot was the fact that
6 there were other -- and we argued about this a lot in the
7 transcript, you'll see in the trial. Cross-examining the
8 persons that got the latent prints -- other people had
9 latent -- had latent prints there as well --

10 Q Right.

11 A -- not just him. And that was one of the arguments
12 that -- that we made -- or I made in that case.

13 The second thing, in the opening statement, you'll
14 note that one of the things I talked about was the fact
15 that he didn't own the place, he had no lease on the
16 place. He had really nothing to do in terms of owning
17 that piece of property. Other people owned that piece of
18 property. That was partially a theme in this case.

19 Q Okay.

20 A So we looked at that. I, actually, got the records
21 from the county to see who owned this property, and so
22 forth. It wasn't him in this matter. But the -- as far
23 as the -- the tape next door of it --

24 Q Right.

25 A -- with the -- the van or this white vehicle was a

1 vehicle that he drove. It was his vehicle.

2 Q Okay. So --

3 A And he, actually, had left. He, actually, had left
4 about five or 10 minutes before all the people from --
5 from the Greenville County Police Department and Duke
6 Energy came there. And he would -- he could have been
7 arrested right then.

8 Q Okay. So the van that was described by the neighbor
9 was, actually, the van --

10 A Yes, yes.

11 Q Okay. So he never denied to you being involved with
12 the building?

13 A No. He never denied that. And we actually -- he --
14 he mentioned that whole thing about breaking into the --
15 to the building, that it was just maybe using a theory
16 that, well, it was just -- it was a burglary, not
17 trafficking.

18 Q Okay.

19 A It's -- it's interesting. There were two problems
20 with that, though. The first problem is if it's a
21 burglary, why was nothing taken? That's the first thing.

22 Q Okay.

23 A And why were your fingerprints -- 30 something
24 fingerprints all over the plate, not only -- not only in
25 the open areas when you first come in, but, also, the

1 areas that were locked up.

2 Q Okay. Indicating that he had some access to --

3 A Right. And, secondly, I don't know -- I don't really
4 think that's an argument. Because I think that is going
5 to put the whole -- whole thing about a burglary in the
6 juries eyes. I don't think that would have been very
7 helpful.

8 Q Okay.

9 A It would have been more prejudicial than helpful.

10 Q Okay. Did he provide you any other witnesses to
11 investigate on his behalf?

12 A No. Because we actually -- if he had provided any
13 way -- like someone that could say, well, he was in Miami,
14 he was here and there. No. That wasn't the truth.

15 He was -- Lorgio is an extremely smart guy. And he
16 helped set this whole thing up. It was an interesting
17 operation. Because, basically, they took the marijuana
18 plants and the pods, grew them in these different rooms,
19 and so forth, and then they transported it to other
20 states.

21 So that's kind of the way this operation grew.
22 And -- and the pictures that we had from the solicitor's
23 office are giant plants and all this water. So when they
24 turned the power off, all this water started accumulating.
25 But there were hundreds, if not thousands, of plants in

1 there.

2 Q Okay. So the evidence against him from the State,
3 would you consider that pretty strong?

4 A It's strong. But the theory that I had in this case
5 was -- was this fingerprint theory, basically. Okay.
6 That all you have are fingerprints. You've got these
7 other fellows that, also, have fingerprints. Why are you
8 going after this guy?

9 Q Okay.

10 A That's kind of what it was. Fingerprints don't prove
11 responsibility.

12 Q All right. And that was your trial strategy?

13 A It was.

14 Q Okay. Did you discuss the elements of those charges
15 with him?

16 A Yes.

17 Q Did you ever tell him that you would be successful in
18 trying this case? Did you ever guarantee him that you
19 would win?

20 A I wish -- I can't do that, no.

21 Q Okay. Did the State make an offer --

22 A 10 years, a very reasonable offer. Actually --
23 actually, the State -- Ms. Owens was great during the
24 process. We -- if -- if he had wanted to take that
25 plea -- he turned it down and me -- wanted me to -- about

1 the plea.

2 But if you look at the record, I think we tried to
3 put on the record that he turned down the 10-year plea.

4 Q Okay.

5 A And that was something Judge Miller was doing --
6 was -- he was very good about letting us put that on the
7 record. And he refused on the record.

8 Q Okay. And you filed Rule 5 and Brady motions in this
9 case?

10 A Uh-huh.

11 Q And you went over the discovery with Mr. Morales?

12 A Yes.

13 Q Did he seem to understand it at the time?

14 A He's -- yes. He's a very smart man, a very smart
15 man.

16 Q And his version of the facts -- what were his version
17 of the facts when you asked him? Other than the burglary
18 theory, did he ever deny not being in --

19 A No. He was -- he was kind of -- you know, in a -- he
20 was kind of like a mule almost, I think they would call it
21 in a lot -- in -- in the drug world. He set the -- set it
22 up at this -- in this building. They ran the -- they got
23 the power from next door.

24 Q Okay.

25 A And that's where the problem came in. And one thing

1 I don't think he mentioned was that his fingerprint was on
2 the -- was on the board where you -- where you press the
3 power to --

4 Q Okay.

5 A -- I think it was around the power thing outside, or
6 something. But his fingerprint was on that. And that
7 kind of -- again, that's a third reason why this burglary
8 theory would not work in this case. Because why would you
9 work with the power if you're going to burglar [sic] the
10 place?

11 Q Okay. And his version of the facts didn't lead you
12 to investigate anything else that would have helped him in
13 this case?

14 A No. It -- it was clear that someone else was driving
15 this whole thing, someone else either in Miami, New York.
16 I don't know where they were coming from. But some other
17 people above him were running this process.

18 Q Okay. The Solicitor's opening statements, did you --
19 do you remember her saying anything inappropriate?

20 A No. Ms. Owens wouldn't -- she's pretty professional.
21 And she's not going to do that. If she would have said
22 anything like that, I would have objected and moved for a
23 mistrial at that point.

24 Q Okay. And when you went to the crime scene, did you
25 get out of the car? Like, I know you said that it was

1 fenced off and it was blocked in. But were you able to
2 look around and --

3 A I don't know if I did or not, to be honest with you.

4 Q Okay.

5 A I don't know if it was a cold day, or a rainy day, or
6 something. I'm not sure. I know that we went there,
7 specifically, to look -- because I know we went around the
8 front of the building and the side of the building.

9 Because if there was anything that we could -- that
10 we could establish that maybe someone else did this, it
11 would have been great. But we looked at the -- we,
12 actually, looked at the layout of the -- of the place.
13 And where his fingerprints were in places -- they were in
14 places that were outdoor [phonetic] locked.

15 Q Okay.

16 A And you couldn't really -- some of the things that he
17 had his fingerprints on, it didn't look like someone
18 was -- was just burglaring [sic] the place -- burglarizing
19 the place. Because if you were going to do a burglary,
20 wouldn't you want to take things, like, take things out,
21 like, burglar the place? But his fingerprints were in
22 unusual locations is what it was.

23 Q Okay. Did you have enough time to prepare for trial?

24 A Oh, yeah, absolutely.

25 Q And the stipulations that were made in this case,

1 what were those towards?

2 A I think -- I think what we talked about -- they
3 had -- there were so many plants. I mean, you're talking
4 big tree like things of -- of marijuana. There were --
5 there were these little -- the little things they use to
6 grow marijuana, the little plants. Because they were in
7 all different rooms. You'd have to see this building. It
8 was like they started the pods. They grow it, like, in
9 this hypo -- hypo chronic, or something.

10 Q Right.

11 A And they -- they grew these things. So there were so
12 many plants that -- the stipulation was that this is what
13 the weight was. This is how many plants that they took
14 out of there. Because that's what they -- the records
15 show they took out of it.

16 Q Okay.

17 A And to have someone -- a SLED official come in with
18 all these plants that -- or whatever, come in and say,
19 okay, we found X, Y, Z plants. It seemed like the
20 stipulation was a better route than having another witness
21 come in and bring this kind of evidence in. I think it
22 would have been worse for him.

23 Q Was there anything you could have done to discredit
24 the SLED official who would have testified?

25 A I think we -- I think we -- I think my

1 cross-examination -- the most important part of my
2 cross-examination was part of my theory, which was there
3 were other people involved with this. Other -- there were
4 other fingerprints there as well.

5 Q Okay. The delay in the trial -- what caused -- did
6 he ever ask you to file a speedy trial motion?

7 A No. I didn't think it was necessary.

8 Q Okay. Why did you not think it was necessary?

9 A I don't think the State took three years to bring
10 this case to trial. I -- I disagree with that. Because
11 they're -- I mean, nobody is perfect. But I thought that
12 they -- it was not necessary, not appropriate, based on
13 the law as far as how to do it.

14 A lot of times -- he was in Miami for a period of
15 time. I don't think there was -- I don't think there was
16 a three-year lapse between when they, initially, brought
17 him up to Greenville to when they had the trial. I don't
18 think that's true.

19 Q Okay. And even if there was, he was out of jail at
20 that time. He was out of jail up until --

21 A I don't think it was appropriate in this case.

22 Q Okay. Did you ever -- the mere presence charge, did
23 you see anything wrong with the Court's mere presence
24 charge to the jury?

25 A That was the law at the time.

1 Q Did he ask you to file an appeal?

2 A No, never.

3 Q If he'd have asked you, would you have filed an
4 appeal in this case?

5 A Sure. I don't know -- I would have done it, of
6 course. I don't really see what the grounds would have
7 been. I really -- that's the second part of my answer.
8 If he'd have asked me to, I'd have definitely appealed it.

9 Q But you didn't see any meritorious grounds?

10 A I didn't, I didn't. And, you know, they've got rules
11 now as far as appeals, you can't just file these appeals
12 that are not necessary. But if he'd have asked me, I
13 would have filed it.

14 Q And you definitely did not tell him that he wasn't
15 going to win -- that he was going to win?

16 A God, I'd be -- I'd be a billionaire if I could tell
17 people that. If I could tell them, that and -- no, I can't
18 do that. I wish I could.

19 MS. GREGORY: I have no further questions.

20 THE COURT: Cross-examination, Mr. Ariail.

21 MR. ARIAIL: Thank you, Your Honor.

22 May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. ARIAIL:

25 Q Mr. Robinson, how are you doing today?

1 A I'm doing okay.

2 How about you?

3 Q Good.

4 Let me take you back through a little bit.

5 A Sure.

6 Q I know this was a substantial grow operation that --

7 A Yes.

8 Q I mean, it's probably -- probably the largest one

9 I've heard --

10 A Yes.

11 Q Had you handled these type of cases before?

12 A Grow cases --

13 Q Grow --

14 A -- where they -- where they plant all this marijuana,
15 and so forth?

16 Q Right.

17 A I don't think I had something this big. There --
18 there was a lot of marijuana in this case.

19 Q How much experience did you have in this type of
20 case?

21 A A lot.

22 Q A lot --

23 A A lot of drug cases.

24 Q Drug cases. But anything in the grow aspect that was
25 this size?

1 A I don't think you can really distinguish these
2 things. Because I think -- they had the same elements.

3 Q Okay.

4 A They're all the same elements in this case. I don't
5 think -- just because it's a grow operation and you've got
6 marijuana being grown -- grown to this extent does not
7 mean that the law does not apply to these cases.

8 So I think if I've handled a thousand drug cases --
9 drug cases, I don't think just because I've only handled
10 one or two grow cases it makes a difference in this case.

11 Q Okay. Did you -- and I -- officially, you got
12 retained by him, by Mr. Morales. And I think it was some
13 time before he was arrested -- and I'm trying to go back
14 and piece this together. It looks like he was served with
15 the warrants sometime in February of 2015. Do you
16 remember those -- if that was --

17 A I don't.

18 Q Okay.

19 A I'll take your word for it.

20 Q It looks like -- I'm trying to make sure my numbers
21 are correct, my dates are. It looks like February -- hold
22 on a second. February of 2016, it looks like he was
23 indicted on these items. Do you remember that?

24 A Okay.

25 Q And it didn't come to trial until February of 2018?

1 A Okay.

2 Q Do you know -- so it appears there was a -- I guess a
3 three-year period of time that it was -- from when he was
4 arrested to when he went to trial. Do you know --

5 A I thought -- looking back at this case, I think he
6 was in Florida for a decent period of time before this,
7 before he got extradited back up here from Florida, and so
8 forth. That was my understanding.

9 Q So I guess you're -- and all I have in front of me is
10 showing that the warrants were served on him. And it
11 appears to be 2/11/2015.

12 A Okay.

13 Q And I can't tell if that's -- it doesn't look like
14 John Garrett's signature. But you -- I guess -- do you
15 know when he got back up here to Greenville?

16 A I don't. I don't know that. I know that he had --
17 he had several charges in Florida, I know that.

18 Q Okay. I guess the question in regards to the fair
19 and speedy trial, is there anything that you see that
20 prejudiced him with not getting this called to trial
21 sooner?

22 A Absolutely not, no way, nothing.

23 Q When you got involved, it appears that there was a
24 three-year window in there that when -- I guess the
25 initial grow operation was found sometime in 2012. He

1 wasn't arrested, it appears to be, until sometime in 2015?

2 A Okay.

3 Q Did y'all have a discussion about, well, here are the
4 issues with -- you know, there's a three-year period here
5 when you were gone, or when they -- you know, this is what
6 they've done with the evidence. Did y'all discuss any of
7 that?

8 A We would have discussed anything that was relevant to
9 this case. When I -- when I take a case, I'm looking for
10 everything I can do to find something --

11 Q Right.

12 A -- that they've done wrong, that the -- that law
13 enforcement has done wrong, that the State has made a
14 charge incorrectly, something wrong with the warrant, in
15 the indictment, anything like that.

16 Q Right.

17 A I'm trying to find something that I can use.

18 Q And I know you made a motion to suppress in regards
19 to the search.

20 A Okay.

21 Q Was there any motion to suppress you could make or
22 that you saw in regards to the destruction of evidence, or
23 anything that existed with them not keeping what they
24 needed to, or anything along those lines?

25 A I didn't. Howard Steinberg was the one that -- the

1 prosecutor from the State's office that had destroyed
2 them. I'm not really -- there was a lot of marijuana.
3 There was more marijuana than you could fill this room up
4 pretty much.

5 Q Right.

6 A We're talking about that much marijuana. I don't
7 think that had anything to do -- I think -- I think
8 that -- it didn't really have anything to do with this.

9 Q Okay. So you didn't see a way that you could, I
10 guess, suppress that evidence from the grow operation by
11 any type of destruction of evidence, motion to suppress,
12 some issue like that?

13 A No, nothing.

14 Q Okay. Now, you stipulated, at some point, to the
15 drugs and --

16 A It was the chain of custody.

17 Q Chain of custody. So you stipulated to that?

18 A Uh-huh.

19 Q And you stipulated to a certain number of, I guess,
20 plants coming in, and things of that nature. Did you
21 discuss that with him?

22 A Yes, absolutely.

23 Q Okay. What do you remember about your discussion
24 with him about, this is why we're going to do this or --

25 A Well, I -- I will go through the positives and

1 negatives. And, ultimately, it's his decision. Okay. I
2 can recommend it. I can say, well, this is -- these are
3 the advantages of it, which I didn't see any advantages to
4 it, and these are the disadvantages to it. And how it
5 will affect how a jury looks at you in this case. So
6 everything was -- everything was gone through with him --

7 Q Okay.

8 A -- in terms of everything. You know, every -- a
9 client has the right to hear everything and listen to
10 everything. And he had that opportunity.

11 Q Okay. So, I guess, the way I take that is you would
12 not have stipulated if he had said I'm not -- I don't want
13 you to stipulate?

14 A Yes.

15 Q So, at some point, he -- you had an agreement with
16 him to stipulate to those -- I guess what was put on the
17 record?

18 A I had his permission and his consent to do that.

19 Q Okay. Now, the offer that he received was for 10
20 years?

21 A Uh-huh.

22 Q I mean, that was substantially better than what he
23 was facing. If he got convicted, it was a mandatory
24 minimum of 25. Did you -- you know, you've heard his
25 testimony in regards to he says you told him, you know,

1 you were going to get him off and that's why he rejected
2 the plea. Do you remember any of those discussions?

3 A That's -- that's not true. That's not true. I --
4 no. I can present the offer.

5 Q Okay.

6 A Okay. I can tell him, here's what they have, here's
7 what you're facing. Okay. I can put it to one side.
8 Okay. You have a right in this country to a jury trial.
9 If you wish to go to trial, that is your right to do.
10 Okay. That's what I go through with him. That's his
11 decision. All I can do is go through --

12 Q Right.

13 A -- the positive and negatives in this case. I
14 thought it was a good offer. But, you know, understand
15 when you're out of jail and someone says, I'll give you 10
16 years and you go to jail right then, you kind of want to
17 stay out of jail for as long as you can.

18 Q Did you have a discussion with him that if a jury
19 believed --

20 A Yes.

21 Q -- his fingerprints were in there --

22 A Yes.

23 Q -- and he was tied to this operation, he was getting
24 25 years?

25 A Absolutely. He could get 25 years.

1 Q So you remember having that conversation?

2 A Yes.

3 Q Okay. And despite all that --

4 A Actually, many times. Because we, actually, during
5 the trial had that discussion.

6 Q Right.

7 A And I think we put it on the record in this matter.

8 Q Okay.

9 A And he refused on the record in this case, just to
10 make sure that he knew that this was going to happen.

11 Q What -- and he discussed these witnesses and, I
12 think, an owner that was next door, someone else that
13 could help him out. Do you remember having a discussion
14 with him about those?

15 A We discussed it. But I'm not really sure what the
16 purpose of that would be. Because the owner would only
17 say that they saw a guy that came at certain times. That
18 was because of what he was doing. He was maintaining,
19 making sure -- if the plants grew to a certain extent, he
20 would go to another room. He would make sure the
21 equipment was working right, that kind of thing, checking
22 things.

23 I don't really know what the purpose of having
24 someone next door say, I saw this van -- this white van
25 with this white guy in it, and so forth. He's -- I

1 didn't -- I didn't really see the purpose of that.

2 Q Okay. You didn't see how that could help --

3 A No, I didn't. I did not.

4 Q -- I guess keep him away from the scene?

5 A I did not.

6 Q Okay. And you didn't think the burglary theory was
7 something that you could --

8 A No.

9 Q -- work up for -- in front of a jury?

10 A No, absolutely not.

11 Q Your theory in this case or, I guess, your defense
12 for him was just because his fingerprints are there
13 doesn't mean that he's tied in with this operation?

14 A That's why this is primarily a mere presence case is
15 what this was.

16 Q Okay. And you got a mere presence charge?

17 A I did.

18 Q Okay. And you thought that that was pretty much your
19 strategy in the case to be able to I guess --

20 A It was really only -- the only strategy I really had
21 in this case. I didn't have an alibi. I didn't have
22 anyone that could come forward and say, oh, yeah, that's
23 somebody else.

24 The fingerprints were the most important part of the
25 case because there were so many fingerprints. But there

1 was also -- there were, also, other fingerprints as well
2 that could point to other persons.

3 Q Right. So you had -- you played that from -- I guess
4 from the standpoint of someone else was in there?

5 A From the beginning, yes.

6 Q Okay. You went over the layout with him and -- and
7 told him where his fingerprints were found?

8 A We actually -- that was a pretty extended meeting.
9 Because when I got the discovery from the solicitor's
10 office, I got him in. And we went through all the
11 pictures of the -- that they took of the different -- of
12 all the marijuana plants, the place they'd found -- they
13 had all these big tanks --

14 Q Right.

15 A -- that were in the -- that were in this building.
16 And I wanted -- I was trying to figure out where -- where
17 the fingerprints were so we -- he did a diagram, or
18 something.

19 Q Right.

20 A And he showed me which spot the fingerprints were
21 taken at. And they were taken inside the different places
22 that were locked.

23 Q Okay.

24 A That was the problem. That was the problem.

25 Q Okay.

1 A Because we tried to find -- we -- when I went out
2 there with him to look at the building, I was trying to
3 check to see if there -- if a person could just walk in
4 there like an open -- like homeless people, things like
5 that, just come in there, and so forth. But there really
6 weren't any openings that you could look at that you could
7 find to point to that. And then we had the whole thing
8 about the fingerprints being in these odd places.

9 MR. ARIAIL: Right. If you'll bear with me one
10 second.

11 (Pause.)

12 BY MR. ARIAIL:

13 Q Mr. Robinson, did you think there was any help that
14 Duke Power could give you to show that -- I guess they had
15 gone back and looked at the power connection, or they were
16 doing reviews of this area over the -- I guess the time
17 frame?

18 A (There was no response.)

19 Q I guess what I'm asking is, did you look at -- I
20 think there was some testimony or some arguments that were
21 made about Duke Power, and whether they went back and
22 looked at the connection each year, and how that would be
23 relevant to show that the operation was in -- existing
24 from, I think, they said 2009 to 2012. Did you think that
25 could help you in any way?

1 A How would that -- I don't know how that would help
2 us.

3 Q Okay.

4 A I don't see what the -- there's no question there was
5 an operation.

6 Q Right.

7 A There's no question when they -- the -- the reason
8 they went to this location is because the power was
9 just -- it was really bad. Because they were pulling on
10 the power from a different source, you know. It was
11 just -- it was just really bad.

12 Q Okay.

13 A I think -- I think if it had not gotten so bad out
14 there, it never would have -- it never would have been
15 found.

16 MR. ARIAIL: Okay. I have no further questions, Your
17 Honor.

18 THE COURT: I've just -- I've just got a couple.

19 THE WITNESS: Certainly.

20 EXAMINATION

21 BY THE COURT:

22 Q I've -- I've looked at his prior -- prior record.

23 A Yes, sir.

24 Q It looks like he's got 1987, cocaine possession; and
25 1989, cocaine possession; 1999, marijuana producing and

1 then -- that was in January and then in December of that
2 same year, marijuana producing. The reason I'm asking
3 these questions, when the solicitor's office made the
4 offer of -- of 10 years and you relayed -- related that to
5 him and your -- did you -- did you relay that to him, or
6 did you -- did you make a recommendation that he -- that
7 he take this amount of time, based upon the prior criminal
8 history and the likelihood of a conviction? You know,
9 it's one thing telling -- telling the Defendant the State
10 is offering you 10 years. But you know as -- as Counsel
11 for the Defendant, he's relying on your --

12 A Sure.

13 Q -- advice because that's why he hired you.

14 A Sure.

15 Q So nine times out of 10, the Defendant is going to
16 ask you, the lawyer, and say, What do you think? I mean,
17 and -- and that's just what they do.

18 A Sure.

19 Q So, you know, they -- you get the discovery. The
20 State comes back and makes an offer. And that Defendant
21 is going to look that lawyer in the eye and say, well, you
22 know, what do you think I should do? Did he ask you that
23 question?

24 A Yes.

25 Q And what did you tell him?

1 A I recommended it.

2 Q You recommended he take the 10 years?

3 A Uh-huh.

4 Q All right.

5 A Let me -- I'll tell you what I did, Judge. This is
6 what I do in these cases. I do that. I say, I recommend
7 it, but it's your decision. That's what I do. I don't
8 think that -- I can't -- and I give them time to think
9 about it. Because a lot of times what people will -- what
10 clients will say is, I didn't have time to think about it.
11 And he was out of jail. He had time to think about it.

12 Q All right. Because looking at his -- looking at his
13 prior record, I mean, he was -- he was rolling the --
14 rolling the dice pretty heavily, based upon the prior
15 history.

16 A He was.

17 Q You agree with that?

18 A I would agree with that. But, as the Court knows,
19 attorneys can't force clients to do things.

20 Q Well, I understand that.

21 A I can only give them recommendations.

22 Q Let me ask you a couple -- a couple other questions.
23 Now, he -- he testified that -- that you saw him twice.
24 Do you disagree with that?

25 A As far as the jail?

1 Q No. He said -- I think Counsel asked him, How many
2 times did you meet with your lawyer prior to the trial?

3 Is that -- I think that was the question.

4 A I thought he said five or six times.

5 MR. MORALES: I mean, in the jail --

6 THE COURT: Well, hold on a second.

7 BY THE COURT:

8 Q At the jail?

9 A At the jail, it --

10 Q Because he went to Miami for a certain period of
11 time; is that right?

12 A I'm not sure exactly the timeline, Judge. But I
13 think -- when I met with him, we got a bond for him.. He
14 got out.

15 Q All right. Was a prelim requested in this -- did
16 y'all have a prelim?

17 A I don't think we had a prelim. I think they indicted
18 him.

19 Q Y'all waived -- y'all waived the prelim?

20 A I don't think we did.

21 Q You didn't have one, as far as you know?

22 A We didn't have one as far as I know.

23 Q All right. So your theory of the case was developed
24 based upon what -- the discovery you received from the
25 solicitor's office. Then you developed a theory of the

1 case after that?

2 A Yes. That's -- that's really the only thing I had,
3 other than, you know, the whole -- the mere presence is
4 what -- what I was going towards.

5 Q Okay. And you -- you went to the crime scene with
6 him, obviously?

7 A I did, yes.

8 Q Now, I looked through the transcript. And you -- you
9 said a minute ago that -- that you advised him on the
10 record about the plea -- the plea offer. I -- I looked in
11 this transcript. I didn't see that. Maybe I overlooked
12 it. Did you do that prior to picking a jury or --

13 Was that in there? I didn't see that.

14 MS. GREGORY: It's in there. I'll find the page.

15 THE COURT: All right. I've got one other question.

16 MR. ARIAIL: Your Honor, I think -- 183, I think, is
17 the page where the Court informs him, It's a mandatory
18 25 years; correct?

19 And he says, I just remember I was young.

20 Would you want to say something?

21 No. Go ahead. That's all right. I want to keep on
22 with the trial.

23 He says it on 183 at the top of the page from Lines 1
24 to 7.

25 MS. GREGORY: And 182 has the plea, the 10-year plea

1 on it.

2 BY THE COURT:

3 Q Okay. Because I think -- and I think the solicitor's
4 office once -- once the trial commences, then the plea
5 offer is off the table anyway, isn't it?

6 A Judge, you know, Ms. Owens, I believe, did a great
7 job.

8 Q Yeah. You -- you already -- you already -- you
9 already said that. You already said that the Solicitor
10 did a great job.

11 A I'm just -- this is after the fact, Judge.

12 Q I understand. I understand.

13 A But I think that if we had -- if he wanted to do
14 that, I think they would have allowed him to do that --
15 they would have done that.

16 Q All right. I had one more question I was going to
17 ask you. Oh, in -- in his written application, he
18 indicated that -- he stated that you failed to make a
19 motion to quash the indictment. Did you do anything about
20 that?

21 A I think I did something with the -- there was nothing
22 wrong with the indictment. But I think I made a motion to
23 suppress.

24 Q Suppress?

25 MS. GREGORY: Right. And it was based on the date.

1 THE WITNESS: Based on the date.

2 THE COURT: The date?

3 MS. GREGORY: Correct.

4 THE COURT: Okay. I think that's -- that's all I
5 have.

6 Anything else from anyone else?

7 MR. ARIAIL: No, Your Honor.

8 I would just add that I think the timeframe, if I'm
9 not mistaken, was the grow operation was found in 2012.
10 He wasn't arrested until 2015 when he was in Miami.

11 THE COURT: I see.

12 MR. ARIAIL: He had to be extradited back here. And
13 that's when, I think, the representation for Mr. Robinson
14 began at that time. So there's that three-year window --

15 THE COURT: Right.

16 MR. ARIAIL: -- that he was down in Miami. And he
17 didn't -- he didn't leave here after he got arrested and
18 go back. He was here in -- in South Carolina.

19 THE COURT: All right. So when he made bond --

20 MR. ARIAIL: He stayed here.

21 THE COURT: -- he stayed here?

22 MR. ARIAIL: Correct.

23 THE COURT: All right. I don't have any other
24 questions.

25 Anything else from anybody?

1 MR. ARIAIL: No, Your Honor.

2 MS. GREGORY: No, Your Honor.

3 THE COURT: All right. You can step down. Take your
4 time.

5 All right. Any argument from both sides?

6 Yes, ma'am.

7 MS. GREGORY: Your Honor --

8 (Pause.)

9 MS. GREGORY: Do you want to go ahead?

10 MR. ARIAIL: Your Honor, I think there's several
11 grounds we've alleged that, I think, he believes they fall
12 within the grounds to be able to grant him the relief of
13 ineffective assistance of counsel. I'd just go on what
14 his testimony was and Mr. Robinson's testimony.

15 THE COURT: All right. Yes, ma'am.

16 MS. GREGORY: Your Honor, we believe their
17 allegations are completely meritless based on the
18 testimony provided by Mr. Robinson. He, clearly, had a
19 valid trial strategy. He, clearly, investigated --
20 investigated the case. It was the Defendant's -- or
21 Mr. Morales option not to take the plea, which was
22 provided to him and recommended to him by Counsel.

23 And we would ask that you deny the application in
24 full.

25 THE COURT: All right. Well, you know, utilizing

1 that -- that test that's set forth in the Strickland case,
2 you know, I -- I think that the application should be
3 denied.

4 I -- I questioned Mr. Robinson regarding a few
5 things. But, basically, overall, the testimony that I've
6 heard, I see nothing that would warrant a deviation from
7 the test in that -- in that case.

8 So I will go ahead and deny his application.

9 And I ask you to prepare a proposed order.

10 MS. GREGORY: Yes, sir.

11 Thank you.

12 THE COURT: Detailed, you know.

13 MS. GREGORY: I -- I'm on it.

14 THE COURT: All right.

15 *****END OF TRANSCRIPT OF RECORD*****
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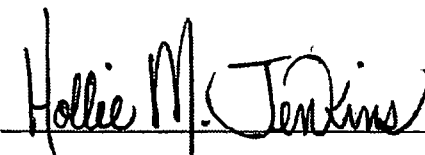
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 17th day of December, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 12, 2019

A handwritten signature in black ink, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Lorgio D. Morales, #375312,	)	2018-CP-23-3012
	)	
Applicant,	)	
	)	ORDER OF DISMISSAL
v.	)	
State of South Carolina,	)	
	)	
Respondent.	)	

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FILED
CLERK OF COURT
JUDICIAL CIRCUIT
THIRTEENTH

This matter comes before the Court by way of an application for post-conviction relief filed on May 24, 2018, by Lorgio Morales ("Applicant"). The State ("Respondent") filed a Return on September 27, 2018, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on December 17, 2018, at the Greenville County Courthouse. Applicant was present at the hearing and represented by Mills Ariail, Jr., Esquire. Assistant Attorney General Janell H. Gregory of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf. Applicant's trial counsel, Scott D. Robinson, Esquire ("Counsel"), also testified at the hearing. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application.

I. PROCEDURAL HISTORY

The records before this Court establish Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's order of commitment. During the February 2016 term, the Greenville County Grand Jury indicted Applicant for tampering with utility meter for purpose of growing or manufacturing a controlled substance (2016-GS-23-3018), trafficking marijuana (2016-GS-23-3019), manufacturing

marijuana (2016-GS-23-3020), and theft of electric current (2016-GS-23-4086). Counsel represented Applicant. Assistant Solicitor Katryna B. Owens of the Thirteenth Circuit Solicitor's Office prosecuted the case.

On February 5, 2018, Applicant proceeded to a jury trial before the Honorable Edward W. Miller. On February 6, 2018, the jury found Applicant guilty as indicted. Following the verdict, Judge Miller sentenced Applicant to imprisonment for ten years for tampering with utility meter for purposes of growing or manufacturing a controlled substance, twenty-five years for trafficking marijuana, twenty years for manufacturing marijuana, and time served for theft of electric current. All sentences were to run concurrent. Applicant did not appeal his conviction or sentence.

SUMMARY OF FACTS

On April 23, 2012, deputies with the Greenville County Sheriff's Office responded to a request for assistance from Duke Power at a warehouse on Old Piedmont Highway. (Trial Tr. 48.) Upon arrival, Duke Power explained to deputies that power was being diverted from lines into the warehouse and they needed assistance to cut the electricity. (Trial Tr. 48.) Once power was cut, a wave of hot air left the warehouse that smelled of marijuana. (Trial Tr. 49.) Deputy Reece entered the warehouse believing there was a risk of fire because he observed melting wires leading into the warehouse and felt heat emitting from the warehouse. (Trial Tr. 37-38.) Deputy Reece entered the warehouse to clear it for safety reasons and discovered a grow room and living quarters. (Trial Tr. 40.) Once the warehouse was cleared, Deputy Reece obtained a search warrant due to exigent circumstances. (Trial Tr. 39-40.) During the execution of the search, deputies found eight separate rooms of marijuana plants in various stages of growth, packing material, drying rooms, and living quarters. (Trial Tr. 49.) Deputies processed the warehouse and recovered ninety fingerprints; thirty of those prints matched Applicant. (Trial Tr. 85.) Deputies seized 687 plants

that field-tested positive as marijuana, along with chemicals and equipment used to manufacture marijuana. (Trial Tr. 199.) Deputies also seized 125 pounds of marijuana from boxes located in the living quarters of the warehouse. (Trial Tr. 199.)

II. ALLEGATIONS RAISED

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:

- a. Counsel failed to investigate facts, evidence, and witnesses;
- b. Counsel failed to have proper defense for physical evidence;
- c. Counsel abandoned Applicant during trial;
- d. Counsel failed to review discovery with Applicant;
- e. Counsel failed to move for a mistrial after Assistant Solicitor Owens expressed her own opinion of Applicant's guilt;
- f. Counsel failed to call witnesses on Applicant's behalf;
- g. Counsel failed to request a preliminary hearing;
- h. Counsel failed to challenge testimony of State's witnesses and failed to adequately object and preserve objections of the witnesses testimony;
- i. Counsel failed to cross-examine the witnesses on their testimony;
- j. Counsel failed to move for pre-trial directed verdict;
- k. Counsel failed to move for a directed verdict at the end of the State's case and at the end of the entire case;
- l. Counsel failed to move to suppress evidence;
- m. Counsel failed to quash indictments;
- n. Counsel failed to provide a valid defense;
- o. Counsel failed to move for a speedy trial;
- p. Counsel failed to object to State's circumstantial evidence being introduced at trial;
- q. Counsel failed to file a direct appeal.

On December 7, 2018 and December 12, 2018, Respondent received three letters from Applicant amending his application to include the following allegations:

1. Ineffective Assistance of Counsel:

- a. Counsel failed to establish chain of command with SLED in weight of material, and no report from SLED.
- b. Counsel failed to challenge the destruction of evidence;
- c. Counsel failed to give a mere presence charge to the jury and Counsel's charge was incomplete;
- d. Counsel failed to properly prepare for trial because he took a year off for illness

[Handwritten signature] 3

and came back to take Applicant's case.

- e. Solicitor failed to establish an exact time frame in Applicant being present in the warehouse.

An evidentiary hearing was held on December 17, 2018, where Applicant proceeded on the following grounds for relief:

1. Ineffective Assistance of Counsel

- a. Counsel failed to review discovery with Applicant;
- b. Counsel failed to investigate Applicant's case;
- c. Counsel failed to file a speedy trial motion;
- d. Counsel failed to object to Assistant Solicitor Owens' inappropriate comment;
- e. Counsel failed to challenge the search warrant and the search warrant return;
- f. Counsel failed to move for pre-trial directed verdict;
- g. Counsel failed to discuss the stipulations with Applicant;
- h. Counsel failed to file an appeal on Applicant's behalf;
- i. Counsel failed to provide a mere presence jury charge;
- j. Counsel advised Applicant to turn down ten year plea offer.

III. TESTIMONY FROM POST-CONVICTION RELIEF HEARING

Applicant's Testimony

Applicant testified on his own behalf during the post-conviction relief hearing. Applicant testified he retained Counsel to represent him in this case. Applicant testified he was arrested nearly three years after the warehouse was searched. After his arrest, Applicant testified he was extradited from Miami, Florida. Applicant testified he made bond when he came to South Carolina and was out of jail while his case was pending. Applicant testified he met with Counsel four or five times. Applicant testified he received discovery about three or four months after he hired Counsel and Counsel briefly went over it with him. Applicant testified he did understand the evidence the State had against him and understood how the State tied him to the warehouse. Applicant testified Counsel went over the elements of each of his charges with him and told him the sentences he could face. Applicant testified he told Counsel he broke into the warehouse to

burglarize it and that his how his fingerprints ended up all over the interior of the building. Applicant also testified he provided Counsel an alibi that he was in Miami. Applicant testified Counsel told him about a ten year plea offer from the state, but advised him not to take it because he would win the case. Applicant testified Counsel did not properly investigate his case. Applicant testified he went with Counsel to the warehouse, but Counsel did not get out of the vehicle. Applicant testified he wanted Counsel to get out of his car and look at the melted wires. Applicant testified he wanted Counsel to talk to a witness who had observed a white male in a van coming to the warehouse.

Applicant testified during trial Counsel failed to challenge statements of the State's witnesses. Applicant testified Counsel did not argue enough about the exigent circumstances in the search warrant. Applicant testified one of his allegations against Counsel was that he did not challenge the improper return date on the search warrant, however, during the hearing, Applicant testified he understood Counsel did challenge the search warrant return. Applicant testified he did allege Counsel did not file a pre-trial directed verdict, but he now understands that motion does not exist.

Applicant testified Counsel did not discuss the stipulations with him prior to trial. Applicant testified he wanted SLED to testify and verify the weight. Applicant testified Counsel told him that if SLED came to testify it would be more prejudicial. Applicant testified Counsel had an incomplete mere presence charge for the jury. Applicant testified he believed the charge provided to the jury by the judge was sufficient. Applicant testified he did not have access to a phone or Counsel's address to request an appeal, but that he wanted to appeal his conviction.

Counsel's Testimony

Counsel also testified at the post-conviction relief hearing. Counsel testified he has been practicing law for over twenty years and nearly all of that time has been spent in criminal law.

Counsel testified he was retained by Applicant and represented him since from the beginning of his case. Counsel testified Applicant was indicted four years after the grow operation was discovered. Counsel testified Applicant was in Florida for a decent amount of time, but he did not recall when Applicant returned to South Carolina. Counsel testified he has handled grow cases in the past and did not believe the size of the operation mattered since the elements of the crimes are the same. Counsel testified he felt like he could handle the case. Counsel testified he met with Applicant five or six times. Counsel testified he did obtain discovery in this case and reviewed discovery with Applicant. Counsel testified he believed Applicant understood those discussions.

Counsel testified he went to the warehouse with Applicant to investigate the scene. Counsel testified he got records from the county and found Applicant had nothing to do with the property; he did not own, lease or rent the warehouse. However, Counsel testified Applicant told him he left the warehouse five or ten minutes prior to Duke Power and deputies showing up at the scene. Counsel testified Applicant never denied being involved with the operation inside the warehouse. Counsel testified Applicant gave him the burglary theory for a defense, but Counsel did not think that was viable especially since nothing was taken. Additionally, Counsel testified some of Applicant's fingerprints were found in interior locked areas of the warehouse. Counsel testified Applicant told him he helped set the whole thing up. Counsel testified the witness Applicant wanted Counsel to use would have identified Applicant as the white male he observed in the white van coming and going from the warehouse. Counsel testified the van the witness would have identified was Applicant's vehicle. Counsel testified there were no other witnesses who came forward.

Counsel testified he did not see a way to suppress the evidence from the grow operation. Counsel testified he stipulated to certain things after discussing it with Applicant. Counsel testified

there were positive and negative aspects to the stipulations and he discussed with Applicant how it would look to a jury. Counsel testified Applicant consented to the stipulations. When asked about the statement Applicant claimed Assistant Solicitor Owens made during the trial, Counsel testified she did not make such a statement. Counsel testified the State offered Applicant a plea deal with a ten year sentence on a mandatory twenty-five year charge and he recommended Applicant take the offer. Counsel testified it was a good offer and even talked about the offer on the record at trial. Counsel testified he never told or guaranteed Applicant they would win his case. Counsel testified his trial theory was the presence of Applicant's fingerprints in the warehouse did not equate to guilt. Counsel testified he requested a mere presence charge for the jury and the judge used his own charge, which was sufficient. Counsel testified Applicant did not ask him to appeal his case. Counsel testified he would have filed an appeal on Applicant's behalf had one been requested.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order 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. Id. at 117, 300 S.C. 115. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 300 S.C. 115.

V. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court viewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, and Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

This Court finds Applicant has failed to meet his burden of proving he is entitled to post-conviction relief on any of his allegations of ineffective assistance of counsel. Applicant has failed to prove both deficiency on the part of Counsel and any prejudice therefrom. Furthermore, after observing the witnesses and passing on their credibility, this court finds Counsel's testimony to be credible. By contrast, this Court finds Applicant's testimony lacks credibility.

Counsel failed to review discovery with Applicant

Applicant alleges Counsel was constitutionally ineffective for failing to review discovery with Applicant. During Applicant's testimony, Applicant stated he received discovery from Counsel about three or four months after he hired Counsel. Applicant testified Counsel went over discovery with him enough for him to understand the evidence the State had against him and how the State tied him to the warehouse. Applicant also testified Counsel went over each of his charges with him and the potential sentence he could face on each charge. During Counsel's testimony, Counsel testified he obtained and reviewed discovery with Applicant. Counsel testified that Applicant understood those discussions.

This Court finds credible Counsel's testimony that he obtained and reviewed discovery with Applicant. This Court finds Applicant has failed to establish any deficiency of Counsel or any resulting prejudice from the alleged deficiency. Therefore, Applicant has failed to meet his burden and this allegation must be denied and dismissed with prejudice.

Counsel failed to investigate Applicant's case

Applicant alleges Counsel was constitutionally ineffective for failing to investigate his case. Applicant testified Counsel did go to the warehouse with him, but Counsel did not get out of the vehicle and did not look at the melted wires. Applicant also testified Counsel did not interview a witness who observed a white male in a van coming and going from the warehouse. In contrast, Counsel testified he did go to the warehouse with Applicant, although he does not recall whether he got out of the vehicle. Counsel testified he did talk to the witness Applicant wanted Counsel to use would, but that witness would have identified Applicant as the white male he observed coming and going from the warehouse. Counsel testified the witness would also have described Applicant's van as the vehicle he observed coming and going from the warehouse.

Counsel further testified he researched the property and warehouse and found Applicant was not listed as the owner, renter, or leasee of the property, but the challenge in the case was Applicant's fingerprints were found in numerous locked areas inside the warehouse.

This Court finds credible Counsel's testimony that he investigated the facts and circumstances giving rise to Applicant's charges, as well as possible defenses. Therefore, this Court finds Applicant has failed to establish any deficiency. Additionally, this Court finds Applicant has failed to establish any prejudice from this purported deficiency, as Applicant has failed to establish what benefit would have been gleaned from any additional investigation. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976) ("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."). As Applicant has failed to establish what additional investigation Counsel should have performed as well as what benefit such investigation would have yielded, he has failed to establish prejudice. Therefore, this Court finds this allegation must be denied and dismissed with prejudice.

Counsel failed to file a speedy trial motion

Applicant alleges Counsel was constitutionally ineffective because he failed to file a speedy trial motion on his behalf and his failure to do so was a violation of his Due Process. According to the record, the grow operation was discovered in the warehouse in April of 2012, but warrants were not obtained on Applicant until 2015. At the time of his arrest, Applicant was in Miami, Florida and Assistant Solicitor Owens noted on the record Applicant's extradition from Florida was one of the reasons the case was delayed. (Trial Tr. 224.) Additionally, Applicant can

Counsel both testified Applicant was out on bond while his case was pending. Based on the record before this Court, Applicant remained on bond until the first day of his trial, February 6, 2018.

A speedy trial "simply means a trial without unreasonable and unnecessary delay." State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012) (citing Wheeler v. State, 247 S.C. 393, 400, 147 S.E.2d 627, 630 (1966)). "The clock starts running on a defendant's speedy trial right when he is 'indicted, arrested, or otherwise officially accused,' and therefore we include the time between arrest and indictment. Id. (quoting United States v. MacDonald, 456 U.S. 1, 6 (1982)). "The main goals of this right are to prevent undue pretrial incarceration, minimize the anxiety stemming from public accusation of a crime, and limit the possibility of long delays impairing an accused's defense." Id. In Barker v. Wingo, 407 U.S. 514, 531 (1972), the United States Supreme Court held the length of the time necessary to trigger the full inquiry "is necessarily dependent upon the peculiar circumstances of the case." The Court in Barker set forth factors that should be considered by courts when evaluating delays. Id. "Those factors include the length of the delay, the reason for it, the defendant's assertion of his right to a speedy trial, and any prejudice he suffered." Langford, 400 S.C. at 441, 147 S.E.2d at 482.

Here, the warehouse grow operation was discovered in 2012, Applicant was arrested in 2015, indicted in 2016, and proceeded to trial in 2018. This Court finds Counsel was not deficient in failing to file a speedy trial motion on Applicant's behalf because the delay in Applicant's trial was due, at least in part, to his extradition from Miami, Florida. Additionally, this Court finds Applicant can show no actual prejudice resulting from Counsel's failure to file a speedy trial motion as Applicant was out on bond up until the first day of his trial in 2018. Applicant also failed to provide any testimony showing how the delay affected his ability to prepare and present a defense in his case. Counsel testified the one witness Applicant provided to Counsel would have

identified Applicant and his vehicle as the white male he observed coming and going from the warehouse in a van. Counsel further testified no other witnesses came forward on Applicant's behalf, which was not attributed in any way to the delay in Applicant's trial. Therefore, this Court finds Applicant has failed to meet his burden on this allegation and it must be denied and dismissed with prejudice.

Counsel failed to object to Assistant Solicitor Owens' inappropriate comment

Applicant alleges Counsel was constitutionally ineffective because he failed to object to Assistant Solicitor Owens' inappropriate comment during the trial. Applicant testified Assistant Solicitor Owens said, "They come here to our city to manufacture drugs" and Applicant testified this comment "tainted the jury." (PCR Application 11(a)(7)) However, during his testimony Applicant admitted the statement was not in the trial transcript, but stated he remembered her making the statement. In contrast, Counsel testified no such statement was made by Assistant Solicitor Owens during the trial.

This Court finds credible Counsel's testimony that Assistant Solicitor Owens did not make the statement Applicant has alleged she made during trial. Additionally, this Court reviewed the record and can find no such statement. This Court finds Applicant has failed to meet his burden on this allegation and, consequently, this allegation is denied and dismissed with prejudice.

Counsel failed to challenge the search warrant and search warrant return

Applicant alleges Counsel was constitutionally ineffective for failing to challenge the search warrant and search warrant return. During his testimony, Applicant conceded that Counsel did challenge the search warrant and the search warrant return. However, Applicant went on to testify that he did not believe Counsel provided enough argument regarding the search warrant obtained by law enforcement that claimed exigent circumstances. Applicant testified Counsel

should have done more to argue the lack of exigent circumstances. Applicant also testified Counsel should have also challenged the return of the search warrant since it exceeded ten days.

This Court finds this allegation meritless. As the record reflects, Counsel made a motion to suppress the evidence seized in the warehouse based on a faulty search warrant. (Trial Tr. 35.) An *in camera* hearing was held regarding Counsel's motion and Counsel called the deputy who obtained the search warrant under exigent circumstances to testify. (Trial Tr. 37-43.) Counsel also challenged the search warrant return during this hearing. (Trial Tr. 40-41.) Counsel also made an argument to the trial court regarding his position that the search warrant was faulty based on the lack of exigent circumstances and the return date error. (Trial Tr. 45-46.) The trial court did not rule in Applicant's favor, but that is not an indication that Counsel was deficient. This Court finds Applicant has failed to meet his burden on this allegation and this allegation must be denied and dismissed with prejudice.

Counsel failed to move for a pre-trial directed verdict

This Court finds this allegation has been waived by Applicant because, Applicant testified during the post-conviction relief hearing that he understands this type of motion cannot be made because it does not exist. Therefore, this allegation is dismissed with prejudice.

Counsel failed to discuss the stipulations with Applicant

Applicant alleges Counsel was constitutionally ineffective because he failed to discuss the stipulations he presented at trial with Applicant. The State and Counsel provided three stipulations during trial. Those stipulations stated in part: thirty fingerprints belonging to Applicant were located inside the warehouse, 125 pounds of processed and packaged marijuana was located in the warehouse, and 687 marijuana plants were removed from the warehouse. (Trial Tr. 75, 154-155.) Applicant testified he wanted SLED to come testify during trial regarding the weight of the

marijuana recovered from the warehouse. Applicant testified Counsel told him if SLED were to testify it could potentially be more prejudicial. However, Counsel testified he stipulated to certain things after discussing the possible pros and cons with Applicant. Counsel testified Applicant consented to the stipulations he provided at trial.

This Court finds credible Counsel's testimony that he discussed the stipulations prior to trial with Applicant. This Court finds credible Counsel's testimony that Applicant consented to the stipulations. This Court finds Applicant has failed to establish any deficiency of Counsel or any resulting prejudice from this alleged deficiency since each of the stipulations could have been proven by the State through an expert witness. Consequently, this allegation must be denied and dismissed with prejudice.

Counsel failed to file an appeal on Applicant's behalf

Applicant alleges Counsel was constitutionally ineffective because he failed to file an appeal on his behalf. Through post-conviction relief, an applicant can assert he is entitled to a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974), by asserting his counsel failed to file a direct appeal on his behalf when requested.

Applicant testified he wanted to appeal his conviction, but he did not have access to a phone or Counsel's address to make the request. Counsel testified Applicant never asked him to file an appeal, but, if Applicant had asked, he would have filed an appeal on his behalf. This Court finds credible Counsel's testimony that Applicant never asked Counsel to appeal his conviction. This Court finds credible Counsel's testimony that he would have filed an appeal on Applicant's behalf if such a request had been made. This Court finds Applicant has failed to meet his burden regarding this allegation and this allegation must be denied and dismissed with prejudice.

Counsel failed to provide a mere presence jury charge

Applicant alleges Counsel is constitutionally ineffective for failing to provide a mere presence jury charge. However, this allegation is refuted by the record as the record shows Counsel requested a mere presence charge be provided to the jury and the trial court properly provided a mere presence charge to the jury. (Trial Tr. 180, 215.) Applicant testified that during the trial Assistant Solicitor Owens made a comment to the trial judge that the mere presence charge provided by Counsel was incomplete. However, the trial judge then stated he would be using his own mere presence charge. (Trial Tr. 181.) During his testimony, Applicant testified he believed the mere presence charge provided to the jury by the judge was sufficient.

This Court finds Applicant has failed to show how Counsel was deficient since he requested a mere presence charge and the trial court provided a proper mere presence charge to the jury. This Court also finds Applicant has failed to establish any resulting prejudice of the alleged deficiency, especially in light of Applicant's own testimony that he believed the mere presence charge provided to the jury was sufficient. This Court finds Applicant has failed to meet his burden and therefore, this allegation must be denied and dismissed with prejudice.

Counsel advised Applicant to turn down the ten year plea offer

Applicant alleges Counsel was constitutionally ineffective because he advised Applicant to turn down the ten year plea offer and assured Applicant they would win his case. Applicant testified Counsel did tell him about a ten year plea offer from the State, but testified Counsel told him not to take it because Counsel guaranteed he would win his case. In contrast, Counsel testified the State did offer Applicant a ten year plea agreement and he believed it was a good deal. Counsel testified he advised Applicant to take the ten year plea offer, especially since Applicant could potentially face a mandatory twenty-five year sentence on just one of his charges. Counsel testified

he put the plea on the record so there would be a record of Applicant's rejection. (Trial Tr. 182.)

Counsel testified he never guaranteed he would win Applicant's case.

This Court finds credible Counsel's testimony that he advised Applicant about the plea offer and recommended Applicant accept the offer. This Court also finds credible Counsel's testimony that he never guaranteed Applicant he would win his case. This Court finds Applicant has failed to show how Counsel was deficient or any resulting prejudice from Counsel's alleged deficiency. This Court finds Applicant has failed to meet his burden and this allegation must be denied and dismissed with prejudice.

Copy mailed to
per rev _____
cc _____

VI. CONCLUSION

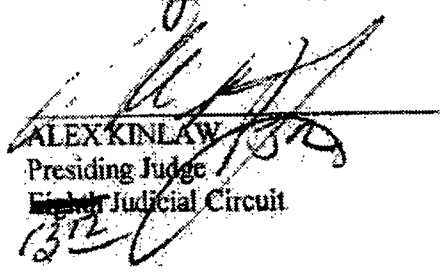
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if 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 THAT:

1. The application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 7 day of May, 2019.


ALEX KINLAW
Presiding Judge
Eighth Judicial Circuit


Clerk, South Carolina

Copy mailed to	
Attorney <u>General and M. A. Hill</u>	
on <u>1</u> <u>9</u> <u>2019</u>	

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TAMPERING WITH UTILITY METER FOR PURPOSE OF
GROWING OR MANUFACTURING A CONTROLLED
SUBSTANCE

At a Court of General Sessions, convened on

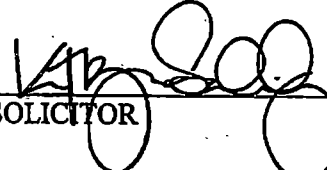
FEB 16 2016

the Grand Jurors of Greenville

County present upon their oath:

That LORGIO DANILO MORALES did in Greenville County, on or about the 24th day of April 2012, willfully, knowingly and unlawfully alter, tamper with or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas or water for the purpose of growing or manufacturing controlled substances. This is in violation of §16-13-0385 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

BAR # 73989

WITNESSES

John Garrett

Greenville County Sheriffs Office

2/11/2015

ARREST WARRANT NUMBER
N201760

ACTION OF GRAND JURY

TRUE BILL
Thomas J. Pich
FOREMAN GRAND JURY
Foreperson of Grand Jury

VERDICT

Guilty

Feb 6, 2018
Foreperson of Petit Jury
Date:

W
DOCKET NO. 2015-GS-23-
KBS 003010

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS
February *2016*
TERM 2015

THE STATE

vs.

LORGIO DANILO MORALES

Indictment for
3703 ✓
TAMPERING WITH UTILITY METER FOR
PURPOSE OF GROWING OR MANUFACTURING
A CONTROLLED SUBSTANCE
VIOLATION § 16-13-0385(G)

Q
ENTERED
ACQ

FILED

MAY - 4 2015

Clerk of Court
Greenville County

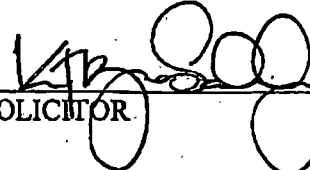
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING MARIJUANA

At a Court of General Sessions, convened on **FEB 16 2016** the Grand Jurors of Greenville
County present upon their oath:

That LORGIO DANILO MORALES did in Greenville County, on or about the 23rd day of April, 2012,
knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial
assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was
knowingly in actual or constructive possession of more than 100 pounds of marijuana or 100 – 1,000 marijuana
plants. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

BAR # 73989

WITNESSES

John Garrett

Greenville County Sheriffs Office

2/11/2015

ARREST WARRANT NUMBER
1374314

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Pridgen

Person of Grand Jury

VERDICT

*Guilty**Felisha*
Foreperson of Petit Jury
Date:*Feb 6, 2018*DOCKET NO. 2015-GS-23-
KBS

003019

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February

2015
TERM 2015

THE STATE

vs.

LORGIO DANILO MORALES

Indictment for

0283 ✓

TRAFFICKING MARIJUANA

VIOLATION § 44-53-0370

RECEIVED
FEB 11 2015
CLERK OF COURT

FILED

MAY - 4 2015

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MANUFACTURING MARIJUANA

At a Court of General Sessions, convened on

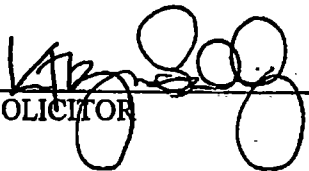
FEB 16 2016

the Grand Jurors of Greenville

County present upon their oath:

That **LORGIO DANILO MORALES** did in Greenville County, on or about the 23rd day of April, 2012, knowingly manufacture Marijuana. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

BAR # 73989

WITNESSES

John Garrett

Greenville County Sheriffs Office

2/11/2015

ARREST WARRANT NUMBER
1374313

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Pridemore

FOREMAN GRAND JURY
Foreperson of Grand Jury

VERDICT

Guilty

For. Jur. Feb 6, 2016
Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-23-
KBS

003020

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February 2016
TERM 2015

THE STATE

vs.

LORGIO DANILO MORALES

Indictment for

0186 ✓

MANUFACTURING MARIJUANA

VIOLATION § 44-53-0370

FILED

MAY - 4 2015

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
THEFT OF ELECTRIC CURRENT

At a Court of General Sessions, convened on

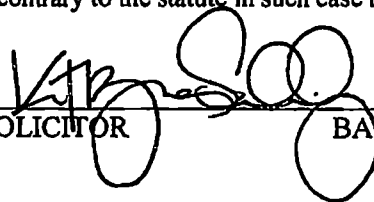
FEB 16 2016

the Grand Jurors of Greenville

County present upon their oath:

That LORGIO DANILO MORALES did in Greenville County, on or about the 23rd day of April 2012, without an agreement or permission from Duke Energy, willfully and unlawfully withdraw and appropriate for his own use an electric current from the wires of said gas and electric power company. This in violation of § 16-13-0380 of the South Carolina Code Of Laws 91976) as amended.

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


SOLICITOR

BAR # 73989

000003

2

DOCKET NO. 2015-GS-23-KBS

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February TERM 2015

THE STATE

vs.

LORGIO DANILO MORALES

WITNESSES

John Garrett

Greenville County Sheriffs Office

2/11/2015

ARREST WARRANT NUMBER

N2Q1759

ACTION OF GRAND JURY

TRUE BILL

Thomas J. Price

EC-REMN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Fred Mutt

Foreperson of Petit Jury

Date:

Feb 16, 2018

f.s.

Indictment for

1196

THEFT OF ELECTRIC CURRENT

VIOLATION § 16-13-0380

ENTERED
ACCT

RECEIVED

JUN 05 2015

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Lorgio Danilo Morales

AKA:

Race: HISPANIC Sex: M Age: 51DOB: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]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: ALTERING/TAMPERING WITH UTILITY METER FOR PURPOSE OF GROWING OR MANUFACTURING CONTROLLEDin violation of § 16-13-0385(G) of the S.C. Code of Laws, bearing CDR Code # 3703
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Salisbury, Kathryn Bevis

73989

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 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 205 DACT☐ 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 (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 EmploymentPayment Terms: ☐ Set by SCDPPPS Recipient:

*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(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$
\$
\$100
\$100
\$12
\$25
\$500
\$25
\$150
\$50
\$40/ea
\$

\$
\$
100.00
\$
\$
\$
\$
2500
\$
\$
\$
375

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Paul B. WickenmanC. Smith

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2303018A/W#: N201760Date of Offense: 4/24/2012S.C. Code § : 16-13-0385(G)CDR Code #: 3703

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

SUBSTANCE

Presiding Judge

Judge Code:

Sentence Date:

21302-6-18EDC Wickenman

☐ 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.

328

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Lorgio Danilo Morales

AKA:

Race: HISPANIC Sex: M Age: 51DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]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 IN MARIJUANA 100-1000 PLANTS/100-2000 POUNDSin violation of § 44-53-0370(E)(1) of the S.C. Code of Laws, bearing CDR Code # 0283
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

73989

Salisbury, Katryna Bevis

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ 25,000; 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. 205 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*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(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$ 25000.00\$ 20875.00\$ 100.00\$ \$ \$ \$ \$ 2500\$ 150.00\$ \$ \$ 1504.50

TOTAL

\$ 53714.50

25 YRS AND \$25,000
 IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2303019A/W#: 1374314Date of Offense: 4/26/2012S.C. Code § : 44-53-0370(E)(1)CDR Code #: 0283

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSThe 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

73989

Salisbury, Katryna Bevis

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ 25,000; 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. 205 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*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(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$ 25000.00\$ 20875.00\$ 100.00\$ \$ \$ \$ \$ 2500\$ 150.00\$ \$ \$ 1504.50

TOTAL

\$ 53714.50Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2130Sentence Date: 2-6-18

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE VS.

Lorgio Danilo Morales

AKA:

Race: HISPANIC Sex: M Age: 51

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: MANUFACTURING MARIJUANA 3RD OFFENSE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2303020

A/W#: 1374313

Date of Offense: 4/26/2012

S.C. Code § : 44-53-0370(B)(2)

CDR Code #: 0186

SENTENCE SHEET

☒ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0188

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

73989

Salisbury, Katryna Bevis

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. 205 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 (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: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*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(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ 283.25

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,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

Paul B. Winkler

C. Smith

2130

2-6-18

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Lorgio Danilo Morales

AKA:

Race: HISPANIC Sex: M Age: 51DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

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: THEFT OF ELECTRIC CURRENT

Up to 30 days or up to \$500
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2304086A/W#: N201759Date of Offense: 4/24/2012S.C. Code §: 16-13-0380CDR Code #: 1196

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-13-0380 of the S.C. Code of Laws, bearing CDR Code # 1196
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Salisbury, Karyna Bevis73989
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 60 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. LOTS OF 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 (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 61.6 (Public Def/Probation) \$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 \$ 3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 128.75

PTUP

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:
☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Paul B. WickensamerC. Smith

Presiding Judge

Judge Code:

Sentence Date:

21302-6-18