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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The South Carolina Supreme Court

APPEAL FROM COMMON PLEAS
Post-Conviction Relief
Roger E. Henderson, Circuit Court Judge

ANTONIO L. ROBBINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-000655

APPENDIX

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State of South Carolina.,)
)
County of York.)

In the General Sessions
Court of York

Case No.: 2015-GS-46-03147

State of South Carolina.,)
)
Plaintiff.,)
)
-vs-)
)
Antonio Lamont Robbins.,)
)
Defendant.)

Transcript of Record

March 16-17, 2016
York, South Carolina

B E F O R E:

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

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Sixteenth Judicial Circuit
To the Honorable John C. Hayes, III

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Reporter's Note: All Exhibits were filed with the York
County Clerk of Court's Office.

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1 (COURT IN SESSION WEDNESDAY, MARCH 16, 2016 AT 10:32
2 AM.)

3 THE COURT: Thank you. You may take your seats.

4 Members of the jury panel, I'm John Hayes. Some of
5 you were up here yesterday, I recognize some of you from
6 yesterday's trial and the drawing of a jury, and I along
7 with Judge Hall the circuit court judge - Circuit Court
8 Judge in this Circuit and assigned to hold court along with
9 Judge Hall, General Sessions Court. We actually tried a
10 case yesterday. We're starting our second trial here.

11 That is the case of the State versus Antonio Lamont
12 Robbins.

13 Mr. Robbins, would you please stand and let the jury
14 see, this is Mr. Robbins.

15 (DEFENDANT AND ATTORNEY DAVE COOK STANDS.)

16 THE COURT: He is represented by Mr. Dave Cook. The
17 State is represented by Ms. Jennifer Colton and Ms. Teasa
18 Weaver.

19 (SOLICITOR'S STOOD.)

20 THE COURT: You may be seated. Mr. Robbins is charged
21 with trafficking in crack cocaine. That's a statutory
22 offense; that is an offense established by our legislature.

23 It's alleged that on or about June 24th, 2015 here in
24 York County Mr. Robbins was involved in violating the laws
25 of this state by trafficking in ten grams or more of crack

1 cocaine which is a cocaine base. He has entered pleas of
2 not guilty - a plea of not guilty to this charge. He is
3 presumed innocent of this charge; the State has to prove
4 his guilt beyond a reasonable doubt before he could be
5 convicted by a jury. So as we did yesterday and I'm not
6 sure all of you have seen how we draw a jury, I would
7 imagine you have, but I'll talk a little bit more about
8 that in a moment, but first I'm gonna go over those
9 questions I have to ask and I'm gonna ask if any of you
10 need to respond to any of these questions, please just
11 stand where you are and we'll have a dialogue between me
12 and you where you are.

13 First, are any of you related by blood or marriage to,
14 or, a close personal friend or acquaintance of Antonio
15 Robbins; if so, please stand?

16 No one stands.

17 Have any of you been or are you a close personal
18 friend or acquaintance of Mr. Cook, Ms. Weaver, Ms. Colton,
19 or, have you - a close friend of theirs; related to them,
20 or, know them through any social circles or church or
21 anything like that; if so, please stand?

22 All right. Yes, sir, your name and number?

23 A. Dennis Edwards, Seventy-four.

24 THE COURT: All right. And you know who?

25 MR. EDWARDS: I believe I know the attorney for the

1 Defendant.

2 THE COURT: Okay. You believe you know him well. If
3 you do know him - - -

4 MR. EDWARDS: I don't know him well.

5 My son worked for you? Jason Edwards.

6 MR. COOK: Oh. Mr. Edwards, how are you, sir.

7 MR. EDWARDS: I just met him once or twice.

8 THE COURT: Okay. All right.

9 MR. COOK: I'd been to a party that Mr. Edwards had to
10 be candid.

11 THE COURT: Okay. You went to a party at Mr. Edwards'
12 house. Okay. I won't ask you anything further about that.

13 You - In spite of that would you still be able to be
14 fair and impartial to Mr. Robbins and the State in this
15 trial?

16 MR. EDWARDS: Yes.

17 THE COURT: Okay. Thank you. I appreciate it. And
18 that's what I want to know but thank you so much.

19 Are any - Have any of you worked with our Solicitor's
20 Office, Kevin Brackett. Have you worked as a victim's
21 assistant or been a witness for, or been charged by you or
22 a member of your family by the Solicitor's Office, if so,
23 please stand?

24 No one stands.

25 Have any of you had your life, you or a family

1 member's life affected by what you consider to be the use
2 or abuse of illegal drugs? That is, I'm not gonna ask you
3 to get up and bear your soul or your family's soul, but if
4 you think you have been affected by in some manner the
5 illegal use of drugs, or, please stand if so?

6 All right. Again, I'm not gonna ask you to give me
7 anything other than your name and number. And I don't want
8 you to give me any particulars, you pretty much told me all
9 I need to know and all the lawyers need to know.

10 Start here and go back, give me your name and number.

11 Yes, sir.

12 A. Ian Welsh, Two-thirty-five. I work - -

13 MADAM COURT REPORTER: I'm sorry, could you repeat
14 that, sir?

15 A. Sorry. Ian Welsh, W-e-l-s-h.

16 THE COURT: Okay.

17 MR. WELSH: I work in the medical profession so I deal
18 with substance abuse pretty much everything we do on a
19 daily basis..

20 THE COURT: Okay. Yes, ma'am. Just remain standing
21 if you don't mind.

22 MR. WELSH: Oh, sorry.

23 THE COURT: Yes, ma'am.

24 A. Bretta McGill, One fifty-five.

25 THE COURT: All right. I'm not gonna ask you to go

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1 into any particulars cause that's personal but you've told
2 me enough by standing.

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

4 A. Jehria Moise, One fifty-one.

5 THE COURT: Did you get that?

6 One fifty-one.

7 A. One sixty-one.

8 THE COURT: Did you get that?

9 MADAM COURT REPORTER: Yes, sir.

10 THE COURT: All right. The three of you who are
11 standing, if that part of your life history would prevent
12 you from being fair and impartial in the trial of this
13 case, please raise your right hand?

14 No one does. Thank you. You may be seated.

15 Do any of you know anything about this case? I told
16 you who the defendant is, the date, where this is alleged
17 that he trafficked in crack cocaine. Any of you heard
18 about this case from any source whatsoever or have any of
19 you formed or expressed any opinion about any matter of
20 issue, or issue which would be involved in this particular
21 case, or case of this type; if so, please stand?

22 No one stands.

23 Were any of you members of the Grand Jury which passed
24 on this indictment at an earlier time; if so, please stand?

25 No one stands.

1 Are any of you or a member of your immediate family
2 involved in law enforcement or in the prosecution of
3 criminal cases at any level? Anything from a solicitor to
4 a district attorney to a judge advocate general; sheriff's
5 office, police office, constable, or anything like that; if
6 so, please stand?

7 All right, I'll start here and work my way across
8 giving me your name and number. This time I am gonna ask
9 you to tell me what your relationship is. Uncle Joe's a
10 sheriff's officer or.

11 A. My name is Frances Sherrie, Number 2-0-5. My husband
12 is a former police officer. My brother is retired
13 from the highway patrol. And I have two nephews that
14 are currently police officers.

15 THE COURT: And where?

16 MS. SHERRILL: One's in Robinson County.

17 THE COURT: Let me ask it like this. Any in York
18 County?

19 MS. SHERRILL: Not York County.

20 THE COURT: Okay. Just remain standing.

21 Yes, ma'am.

22 A. Stacy Dyer, Number twenty-two. My former husband is
23 a York County Sheriff's officer.

24 THE COURT: Okay. Yes, sir.

25 A. Collier Hall, Number ninety-four. My close first

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1 cousin I grew up with is a captain in the Davison County
2 Sheriff's Department in North Carolina.

3 THE COURT: Okay. Yes, ma'am.

4 A. Jennifer Tran, Two twenty-five. My father is
5 retired from York County and --

6 THE COURT: Okay. Yes, sir.

7 A. William Whitesides, Two thirty-nine. My father and my
8 step mother formerly worked for the York County Sheriff's
9 Department but since have retired.

10 THE COURT: Okay. Now the five of you, if any of you,
11 because of this relationship, would be unable to be fair
12 and impartial to Mr. Robbins and the State please raise
13 your right hand?

14 None of them do. You may be seated. Thank you.

15 Do any of you have any philosophical or religious
16 belief's or otherwise that would prevent - or other
17 belief's that would prevent you from being fair and
18 impartial in the trial of Mr. Robbins; if so, please stand?

19 No one stands.

20 Are any of you members of or contributors to
21 organizations such as Mother's Against Drunk Driver's;
22 Student's Against Drunk Driver's; Citizen's Against
23 Violence, sometimes referred to as CAV. Sheriff's
24 Association, Trooper's Association or Fraternal Order of
25 Police; if so, please stand?

1 All right. I know two of you have already stood but
2 we have to make a record so I have to get you to tell me
3 your names again. And just tell me your name, your number,
4 and what organization.

5 (WHITE FEMALE STANDING.)

6 A. Frances Sherrill, 2-0-5. Fraternal Order of Police.

7 (WHITE MALE STANDING.)

8 A. Lawrence Stewart, two fourteen, South Carolina
9 Sheriff's Association.

10 (WHITE MALE STANDING.)

11 A. Carter Hall, number ninety-four, Fraternal Order of
12 Police and South Carolina's Sheriff's Association.

13 THE COURT: All right. If any of the three of you
14 would be unable to be fair and impartial based on this
15 please raise your right hand.

16 None of them do. Thank you.

17 I believe I've already ask whether any of you were
18 members of the Grand Jury that passed on this indictment at
19 an earlier time; if so, please stand. If I didn't I'm
20 asking it now.

21 All right. Anything further from the State? I've got
22 the jury - I got the witness list. Anything othter than
23 the witnesses?

24 SOLICITOR COLTON: No, your Honor.

25 THE COURT: Anything else from the - -

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1 MR. COOK: No, sir, your Honor.

2 THE COURT: All right. The following are possible
3 witnesses in this case. The - I don't believe all these
4 witnesses will actually be called to testify, but even if
5 they're not called to testify their names may some how pop
6 up in somebody else's testimony. So if you know or
7 particularly if you're related by blood or marriage, or if
8 you know any of these individuals, please stand.

9 From the York County Multi-Jurisdictional Drug
10 Enforcement Unit Lieutenant Mike Ligon, Investigator David
11 Vaughan, Investigator Logan McGarrity; Investigator Robin
12 Gander. From the York County Sheriff's Office Cynthia
13 Mitchum, Jimmy Stiles, Pete Mitchum.

14 Then from the Fort Mill Police Department this is M.
15 Suchenski. From the York County Sheriff's Office R.
16 Gibson. Unassociated with any law enforcement Imani, I-m-
17 a-n-I Tate, Angie Hester, and Antonio Lamont Robbins.
18 That's Mr. Robbins here. Any of you related by blood or
19 marriage, or a close personal friend or acquaintance of any
20 of those future witnesses; if so, please stand?

21 (WHITE MALE STANDS.)

22 THE COURT: All right. Yes, sir, your name and
23 number?

24 A. John Helms, 1-0-4. I know Mr. Ligon from high school.
25 Played football with him.

1 THE COURT: Okay. Would that affect your ability to
2 be
3 fair and impartial in this trial?

4 MR. HELMS: No, sir.

5 THE COURT: All right. You may be seated then. Thank
6 you. All right, do any of you know of any reason
7 whatsoever why you could not or should not be a or could
8 not or should not be a fair and impartial juror in the
9 trial of Mr. Robbins; if so, please stand?

10 No one stands. Have any of you not seen how we draw
11 these juries? All right. We'll follow the pattern
12 followed before just standing up and listening to hear
13 whether you're excused or presented or ask to be sworn in.

14 Strikes are five and five I believe, Counsel?

15 SOLICITOR COLTON: Yes, your Honor, that's my
16 understanding.

17 THE COURT: All right. We'll draw a panel of jury,
18 twelve jurors. We'll draw two alternates. On the
19 alternates the strikes would be one for the State and two
20 for the Defense. Please of course stand when you hear your
21 name called. If you are called to come up and sit on the
22 jury go ahead when you come up and bring any personal
23 belongings you may have with you.

24 Clerk.

25 MADAM CLERK: Number Twenty-two, Stacey Dyer.

1 (WHITE FEMALE STANDS.)

2 MADAM CLERK: What say you for the State?

3 SOLICITOR COLTON: Please present Ms. Dyer.

4 MADAM CLERK: Defense?

5 MR. COOK: I apologize, what was her number?

6 MADAM CLERK: Twenty-two.

7 MR. COOK: Please strike the juror.

8 MADAM CLERK: You are excused from this case.

9 Number One sixty-nine, Eddie Neal.

10 ((WHITE MALE STANDS.))

11 MADAM CLERK: What say you for the State?

12 SOLICITOR COLTON: Please present Mr. Neal.

13 MADAM CLERK: Defense?

14 MR. COOK: Please seat the juror.

15 MADAM CLERK: Please come up and have a seat in the
16 jury box.

17 Number One seventy-three, Darrell Pace.

18 (WHITE MALE STANDS.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR COLTON: Please present Mr. Pace.

21 MADAM CLERK: Defense?

22 MR. COOK: Please seat the juror.

23 MADAM CLERK: Please come up and have a seat in the
24 jury box. Number Sixty, Eliza Dampac.

25 (ASIAN FEMALE STANDS.)

1 MADAM CLERK: What say you for the State?

2 SOLICITOR COLTON: Please present Ms. Dampac.

3 MADAM CLERK: Defense?

4 MR. COOK: Please seat the juror.

5 MADAM CLERK: Please come up and have a seat in the

6 jury box. Number 1-0-7, Adam Henschman.

7 (WHITE MALE STANDS.)

8 MADAM CLERK: What say you for the State?

9 SOLICITOR COLTON: Please present Mr. Henschman.

10 MADAM CLERK: Defense?

11 MR. COOK: Please seat the juror.

12 MADAM CLERK: Please come up and have a seat in the

13 jury box. Number Ninety-four, Collier Hall.

14 (WHITE MALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR COLTON: Please present Mr. Hall.

17 MADAM CLERK: Defense?

18 MR. COOK: Please excuse the juror.

19 MADAM CLERK: You are excused from this case.

20 Number Two forty-nine, Rich Zinser.

21 (WHITE MALE STANDS.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR COLTON: I'm sorry, Madam Clerk, Two forty-
24 nine?

25 MADAM CLERK: Yes..

-19-

1 SOLICITOR COLTON: Please present Mr. Zinser.

2 MADAM CLERK: Defense?

3 MR. COOK: Please seat the juror.

4 MADAM CLERK: Please come up and have a seat in the
5 jury box. Number Seventy-seven, Randall Fadness.

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR COLTON: Please present Mr. Fadness.

9 MADAM CLERK: Defense?

10 MR. COOK: Please seat the juror.

11 MADAM CLERK: Please come up and have a seat in the
12 jury box. Number One fifty-five, Bretta McGill.

13 (WHITE FEMALE STANDS.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR COLTON: Please present Ms. McGill.

16 MADAM CLERK: Defense?

17 MR. COOK: Please excuse the juror.

18 MADAM CLERK: You are excused from this case.

19 Number Eleven, Jessica Balarezo.

20 (WHITE FEMALE STANDS.)

21 MADAM CLERK: What say you for the State?

22 SOLICITOR COLTON: Please present Ms. Balarezo.

23 MADAM CLERK: Defense?

24 MR. COOK: Please seat the juror.

25 MADAM CLERK: Please come up and have a seat in the

1 jury box. Number One fifty-four, Bobby McCullough.

2 (BLACK MALE STANDS.)

3 MADAM CLERK: What say you for the State?

4 SOLICITOR COLTON: Please excuse Ms. McCullough.

5 MADAM CLERK: You are excused from this case.

6 Number Five, David Allison.

7 (WHITE MALE STANDS.)

8 MADAM CLERK: What say you for the State?

9 SOLICITOR COLTON: Please present Mr. Allison.

10 MADAM CLERK: Defense?

11 MR. COOK: Please seat the juror.

12 MADAM CLERK: Please come up and have a seat in the

13 jury box. Number Fifty, Kelly Costner.

14 (WHITE MALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR COLTON: Please excuse Mr. Costner.

17 MADAM CLERK: You are excused from this case.

18 Number One forty-seven, Phillip Mason.

19 (WHITE MALE STANDS.)

20 MADAM CLERK: What say you for the State?

21 SOLICITOR COLTON: Please excuse Mr. Mason.

22 MADAM CLERK: You are excused from this case.

23 Number Seventy-four, Dennis Edwards.

24 MADAM CLERK: What say you for the State?

25 SOLICITOR COLTON: Please present Mr. Edwards.

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1 MADAM CLERK: Defense?

2 MR. COOK: Please seat the juror.

3 MADAM CLERK: Please have a seat in the jury box.

4 Number Two twenty-two, Lynne Thompson.

5 (WHITE FEMALE STANDS.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR COLTON: Please present Ms. Thompson.

8 MADAM CLERK: Defense?

9 MR. COOK: Please seat the juror.

10 MADAM CLERK: Please come up and have a seat in the
11 jury box. Number Two thirty-five, Ian Welsh.

12 (WHITE MALE STANDS.)

13 MADAM CLERK: What say you for the State?

14 THE COURT: Can I see Counsel up here just a minute?

15 SOLICITOR COLTON: Yes, sir.

16 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
17 THE JURY.)

18 THE COURT: You haven't done anything wrong but we're
19 gonna let you sit down, Doctor Welsh.

20 MR. WELSH: You making me nervous.

21 THE COURT: Well, it was worth having you stand up.

22 No. I said it was worth having you stand up if it
23 made you a little nervous. All right, you can - Usually
24 when I go to the doctor I'm the one that's nervous. You
25 can have a seat.

1 MR. WELSH: Thank you, your Honor.

2 MADAM CLERK: Number Forty, Derek Chassie.

3 (WHITE MALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR COLTON: Please present Mr. Chassie.

6 MADAM CLERK: Defense?

7 MR. COOK: Please seat the juror.

8 MADAM CLERK: Please come up and have a seat in the

9 jury box. Number One sixty-one, Jehria Moise.

10 (BLACK FEMALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR COLTON: Please excuse Ms. Moise.

13 MADAM CLERK: You are excused from this case.

14 Number One twenty-five, James Jones.

15 (WHITE MALE STANDS.)

16 MADAM CLERK: What say you for the State?

17 SOLICITOR COLTON: Please present Mr. Jones.

18 MADAM CLERK: Defense?

19 MR. COOK: Please seat the juror.

20 MADAM CLERK: Please come up and have a seat in the

21 jury box.

22 THE COURT: First alternate.

23 MADAM CLERK: Number 1-0-4, Johnny Helms.

24 (WHITE MALE STANDS.)

25 MADAM CLERK: What say you for the State?

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1 SOLICITOR COLTON: Please present Mr. Helms.

2 MADAM CLERK: Defense?

3 MR. COOK: Please strike the juror.

4 MADAM CLERK: You're excused from this case.

5 Number One ten, John Honker.

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR COLTON: Please present Mr. Honker.

9 MADAM CLERK: Defense?

10 MR. COOK: Please seat the alternate.

11 MADAM CLERK: Please come up and have a seat in the
12 jury box. Number One forty-four, Valerie Marek.

13 (WHITE FEMALE STANDS.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR COLTON: Please present Ms. Marek.

16 MADAM CLERK: Defense?

17 MR. COOK: Please seat the alternate.

18 MADAM CLERK: Please come up and have a seat in the
19 jury box.

20 THE COURT: Anything from the State involving the
21 striking of the panel?

22 SOLICITOR COLTON: No, your Honor.

23 THE COURT: Anything from the Defense involving the
24 striking of the panel?

25 MR. COOK: No, sir, your Honor.

1 THE COURT: All right. Those of you who were not
2 chosen you can leave. Please leave quietly and I'll - And
3 call back at one o'clock.

4 (JURY EXITS COURTROOM AT 10:56 AM.)

5 THE COURT: Those of you who were chosen, we're not
6 gonna administer the oath at this time. I'm gonna let you
7 go in just a few minutes 'till two o'clock. We have some
8 legal matters to take up that would take, I think, the
9 morning from what I've been told. I actually at this point
10 know no more about the case than you do but I'm told we
11 have some legal issues to take up that will take the
12 morning. So rather than have you sit in the jury room
13 while we do that, we're gonna just break and let you go
14 'till after lunch at two o'clock.

15 Mr. Zinser, I'm gonna ask you to be the Foreperson of
16 the jury. You from now on will sit in that first seat to
17 your right. The two alternates will sit in the two seats
18 they have now. There is no other assigned seating.

19 Now when you come back I'll have some things to talk
20 to you about but I need to go ahead and give you some
21 instructions before you leave for lunch or for the morning.

22 First, you are on this jury panel even though you have
23 not been sworn in, so, you are not to discuss this case
24 among yourselves or even try to make up your own mind until
25 I instruct you to jointly deliberate and return a unanimous

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1 verdict. Prior to that time you are not equipped with the
2 tools you need to make a fair and reasonable decision so
3 don't try to make up your mind until I instruct you to
4 jointly deliberate and return a verdict. And don't discuss
5 the case among yourselves; don't let anyone outside the
6 courtroom discuss this case with you. If anyone attempts
7 to talk to you about the case tell them you cannot as you
8 are serving as a juror. And of course don't start a
9 conversation with anyone concerning this case outside the
10 courtroom. Do not let yourself be exposed to any news
11 coverage if there is any. Don't read, watch, or listen to
12 anything that could remotely deal with this trial.

13 Do not use any of the available means of access to the
14 information through electronic or digital means. That is,
15 don't go to Google, don't go to any - don't use any type
16 device to obtain information about anything that could
17 remotely deal with this trial. You have to base your
18 verdict solely on the law and the evidence as it's
19 developed in the trial and so you cannot do any independent
20 research and that would include not looking up anything
21 about the offense; about the alleged substance involved
22 which here is crack cocaine.

23 The rules of court or the participants or Mr. Robbins
24 or me or - just don't look up anything through electronic
25 means which would remotely deal with this trial.

1 I ask that you not even go onto Face book. I'm not
2 gonna tell you not to do Face book but don't go on there
3 and say guess what I'm serving as a juror in a trial. Even
4 if you don't say anything about the trial someone may
5 respond with information or statement that would not be
6 healthy or conducive to your service as a juror so just
7 stay off of the - you don't have to stay off of Face book;
8 those type things. Just don't use that to - as any source
9 of information concerning that you even are a juror. There
10 is no need for that and that could create problems for us.

11 I'll have more to say when you come back.

12 Let me ask the lawyers if there's anything else they
13 want me to cover now before we break 'till two o'clock?

14 SOLICITOR COLTON: No, your Honor.

15 MR. COOK: No, sir.

16 THE COURT: All right. Well keep in mind my
17 admonitions. Follow the bailiff and they will tell you how
18 to best get in and out of the courtroom or the building and
19 the jury assembly room, and the jury room, while you're
20 serving as a juror and we'll see you back at two o'clock.

21 (JURY EXITS COURTROOM ON LUNCH RECESS AT 11:00 AM.)

22 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, IDENTIFIED AND
23 MARKED, RECEIVED INTO EVIDENCE.)

24 THE COURT: All right. The jury's gone. What's the
25 first matter we need to take up?

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1 MR. COOK: Well, your Honor, if it pleases the Court,
2 the Defense has certain motions in limine we'd like to
3 address. I don't know if --

4 THE COURT: Does the State have any motions that we
5 need to take up outside the presence of the jury?

6 SOLICITOR COLTON: Your Honor, only if there's been
7 compliance by the Defense, with regard to reciprocal Rule
8 of Discovery - Reciprocal Rule Five discovery.

9 MR. COOK: There has, your Honor. We have no alibi
10 witness or insanity defense.

11 SOLICITOR COLTON: Your Honor, the only other motion
12 is our motion. The only other thing that I would like to
13 put on the record is that Mr. Cook and I have been in plea
14 negotiations, or have been in plea negotiations regarding
15 this case. The last time we spoke where the offer was
16 fourteen years, and we intended on calling this case for
17 trial, never formally put on the record that Mr. Robbins is
18 rejecting the offer, and now Mr. Cook has conveyed that to
19 me, that he did reject the offer on this particular case
20 and I just wanted to make sure that it was clear that
21 there's no offer extended at this time.

22 THE COURT: Is that correct, Mr. Cook?

23 MR. COOK: If it please the Court, yes, sir, your
24 Honor. My client is sitting right here. I just spoke with
25 him, and he says he does reject the offer, and wishes to

1 continue with the trial.

2 THE COURT: Okay. All right.

3 SOLICITOR COLTON: That is all, your Honor.

4 THE COURT: All right. Mr. Cook.

5 MR. COOK: Your Honor, the main motion in limine I
6 would like to address first is a motion to -- well, I
7 suppose I'll get the other smaller one's out of the way
8 first. I also make a motion to insure that the State has
9 complied with *Rule Five*, and I believe that they have, your
10 Honor.

11 THE COURT: Counsel, let's answer one at a time.

12 SOLICITOR COLTON: Yes, sir, we have complied with
13 *Rule Five* although the only thing at issue is the
14 underlying -- the underlying information contained in the
15 search warrant affidavit. There is -- We didn't provide
16 the CI identification in that affidavit. And just to make
17 clear, Mr. Cook did ask for that. So, we've complied with
18 everything under *Rule Five* and *Brady* that we've intended to
19 offer in this case, and I did have an opportunity to review
20 the distribution that established probable cause for the
21 search warrant for any potential *Brady* material in that, as
22 well as the informant's statement. And to the best of my
23 knowledge, that contains no *Brady* material, and through my
24 discussions with law enforcement, had anything else
25 disclosed that may constitute *Brady*.

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1 THE COURT: All right. The confidential informant,
2 was the confidentially informant regarding the affidavit
3 underlying the search warrant, and is not a witness in this
4 case. Is that correct?

5 SOLICITOR COLTON: No, your Honor.

6 THE COURT: Okay.

7 MR. COOK: But, your Honor, I am moving the Court to
8 compel that the State produce the confidential informant.
9 My client, and as far as I understand, he intends to
10 testify during the hearing and the trial, and he maintains
11 that he never sold any drugs to this informant. I don't
12 want to testify for my client but just a brief summary of
13 his testimony would be that this confidential informant
14 showed up on a moped. He was doing some work on the house,
15 and asked the confident -- asked my client if he left his
16 tape measure there. My client went and got the tape
17 measure, and gave it to the confidential informant. That
18 will be his testimony.

19 I certainly would like to cross-examine this
20 confidential informant for the Court to see the veracity of
21 his testimony on the stand, because my client disputes that
22 the transaction even took place in the first place. I
23 could go a little further, if I may, but --

24 THE COURT: That's enough. Already got a note from a
25 juror.

1 MR. COOK: Hadn't got through motions.

2 THE COURT: Says Mr. Zinzer was also protected for
3 Thursday and Friday. This is Tuesday. We should finish by
4 Wednesday. Is today Wednesday?

5 MR. COOK: I mean, I certainly would have no objection
6 if he wants to re-strike. That would be up to --

7 THE COURT: No. We won't use a strike. We seat the
8 alternate.

9 MR. COOK: Okay.

10 THE COURT: Just tell him to come on back at two and
11 we'll deal with it then.

12 THE COURT: All right.

13 MR. COOK: And if I may continue.

14 THE COURT: I let you make -- I understand that you --

15 Okay. Do you have any authority that -- I think I
16 visited this before, as I'm using my memory which is
17 getting older along with my body and mind. The -- I think
18 I visited this before, and unless there are exceptional
19 circumstances, the trial judge in this posture, the posture
20 I'm in, does not go behind the affidavit unless there's
21 some reason, and you may be getting on that by putting your
22 witness ---

23 MR. COOK: Yes, sir.

24 THE COURT: --- your client up. To determine the
25 veracity of that -- To determine the veracity of the

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1 underlying affidavit of the officer upon which the search
2 warrant was issued, I've dealt with that before, and I
3 believe where I've come down, and I believe it's the law
4 that I, absent some exceptional showing, that I cannot go
5 behind the search warrant.

6 MR. COOK: I understand, your Honor. And you know, I
7 would -- my client would give some testimony during the
8 hearing, during the motions hearing, and he's in --
9 respectfully requesting the Court to find some exceptional
10 circumstances. And to continue on, you know, he would
11 testify that there was an audio recording made of this
12 transaction with the confidential informant that was
13 initially given to the law offices of Mike Brown, there was
14 an attorney for my client before he was relieved. And you
15 know, I --

16 THE COURT: Well have you listened to that audio?

17 MR. COOK: Well, I -- with all due respect, and I can
18 tell the Court this, for the record, I certainly do not
19 think that the State's trying to hide the ball, or do
20 anything improper.

21 THE COURT: Well just answer my question first.

22 MR. COOK: No, sir. I've asked the solicitor to hear
23 that recording.

24 THE COURT: No, I'm asking, have you heard it?

25 MR. COOK: I've heard it, because my client's fiancé

1 recorded it at Mike Brown's office. So, I've heard that
2 recording that she made on her phone from Mike Brown's
3 recording, but I haven't heard the State's copy of this
4 audio. And the version that I heard didn't -- of course it
5 would be up to the Court but it didn't mention any
6 transaction.

7 THE COURT: You've lost me, and I'm just trying to
8 get to the meat of it. Did the State present -- give an
9 audio to Mr. Brown?

10 MR. COOK: I would like for the State to discuss that,
11 but that's my understanding.

12 SOLICITOR COLTON: Your Honor, that would be highly
13 unusual, and if I did, it was completely inadvertent. I --
14 whatever view -- I can say I personally, I would not have
15 done that. I've handled the case with exception. If I
16 would have noted that, if there was an exceptional
17 circumstance, I do not believe I turned that -- I would --

18 THE COURT: Well, is there such an audio?

19 SOLICITOR COLTON: There is an audio, your Honor.

20 Yes, there is.

21 THE COURT: All right.

22 SOLICITOR COLTON: Yes, sir.

23 THE COURT: All right.

24 SOLICITOR COLTON: But I can't honestly say that it
25 didn't happen. That would be highly out of character for

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1 me. To the best of my recollection, I -- this is coming as
2 a bigger surprise to me as anybody else, your Honor.

3 THE COURT: All right. Well --

4 MR. COOK: Well, and I don't mean to be improper, but
5 I did ask in an email for the audio.

6 THE COURT: All right.

7 MR. COOK: And it was in passing. It was a brief
8 email and we had been passing a lot of stuff back and
9 forth. And I'm not trying to surprise attack anybody, but
10 my client, who's really, you know, he's highly concerned
11 that this -- that this audio is dis-positive that the CI
12 transaction didn't take place.

13 THE COURT: Well, you've still lost me. If Mr. Brown
14 had the audio that you're talking about, whether it was
15 inadvertent or not, have you listened to the audio that Mr.
16 Brown had? Not the -- not the girlfriend's taping of the
17 audio, but the actual audio?

18 MR. COOK: No, sir. And I sent correspondence to Mr.
19 Brown's office to inquire about that, and that was non-
20 responsive.

21 THE COURT: Well, if this -- I don't believe the State
22 has to give you that. I'll be glad to -- But if Mr. Brown
23 had it, and the State inadvertently or not, then the
24 obligation is on Counsel to -- to obtain that from Mr.
25 Brown and review it. That doesn't -- If it's been provided

1 to an attorney for Mr. Robbins, and it's not available to
2 you, that doesn't shift the burden back to the State to
3 supply something that they've already supplied, even if
4 they supplied it and they shouldn't have. They didn't have
5 to. But I'll be glad -- I'm going to listen to whatever
6 testimony he has on that issue ---

7 MR. COOK: Yes, sir.

8 THE COURT: --- that's where I am right now.

9 MR. COOK: Of course, your Honor. I just wanted to
10 bring it to the Court's attention and I understand
11 entirely.

12 THE COURT: All right.

13 MR. COOK: You know, just to create a record, your
14 Honor, I -- Obviously, while I defer to the Court's immense
15 intelligence, I'm not positive whether I should or not, but
16 I'd like to at least mention, for the record, that I would
17 like that issue preserved if in fact, your Honor eventually
18 does rule against me, and I don't mean to be disrespectful.

19 THE COURT: Well, you're not being disrespectful but
20 you're --

21 MR. COOK: Premature?

22 THE COURT: No, no. You're -- Not necessarily
23 overreaching, but you don't have to -- if you make a
24 motion, and I deny it, it's preserved.

25 MR. COOK: And I've seen your Honor --

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1 THE COURT: Just a minute. You don't then have to go
2 back and say, Well, your Honor, I want to preserve what --
3 it's preserved. The pattern is, you make a motion, I deny
4 it, it's right for appeal. You've called it and I --

5 MR. COOK: And I want -- just by way of explanation,
6 your Honor, the only reason I mention that, and I've seen
7 your Honor have this issue with a few other, is that we got
8 a message -- we got a memo from OID awhile back, just
9 saying that we should, you know, try to preserve the record
10 better by saying the word, preserve. But I will -- I will
11 -- given what your Honor just said, I will not mention it
12 again, and I will gladly clear --

13 THE COURT: I defer to OID. I don't know why the
14 Office of Indigent Defense would be -- how they came up and
15 why they come up but I just digress a little bit. I know
16 that we have some other public defenders present,
17 solicitors present and public defenders and solicitors go
18 to these conferences and ---

19 MR. COOK: Yes, sir.

20 THE COURT: --- the gurus and experts tell 'em all the
21 things they should do, and some of them are good and some
22 of them are infinitive.

23 MR. COOK: Yes, sir.

24 THE COURT: But in any event, you preserved the
25 record.

1 MR. COOK: Thank you, your Honor.

2 THE COURT: I want the record preserved.

3 MR. COOK: Thank you, your Honor.

4 THE COURT: Let's go back to where we were.

5 MR. COOK: Yes, sir, your Honor.

6 THE COURT: The first motion is for the State to
7 supply the name for the CI for the search warrant, and your
8 approach to that is that you're going to call your client
9 to testify that there was no probable cause for the
10 issuance of the search warrant.

11 MR. COOK: Yes, sir, your Honor.

12 THE COURT: All right. Let's go on to another one.

13 MR. COOK: The next motion I would have would be to
14 suppress the evidence in this matter, and that would be
15 based off of, if I could prove that the search warrant was
16 faulty, there's -- Just to explain briefly, there's two
17 quantities of drugs, three grams and two grams, smaller
18 amounts that were found inside the house; and then, there's
19 a large quantity of drugs that's found in the truck in the
20 driveway in this incident. The search warrant does not
21 mention the truck in the driveway. I can imagine the State
22 is going to make their arguments as to how they got into
23 the truck, but I just wanted to make that clear to your
24 Honor. So the search warrant only addresses the drugs that
25 were in the house.

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1 And I'm moving suppress the drugs that are in the
2 house, based off of a faulty search warrant that my client
3 will give testimony to, and I'm moving to suppress the
4 drugs in the vehicle because there were no -- there were no
5 -- the vehicle was not mentioned on the search warrant. I
6 don't think that there's probable cause to you to trigger
7 the automobile exception, and have a lot of other arguments
8 on that point. It's kind of complex. I can make them now,
9 if you want.

10 THE COURT: Well, let's hear what the testimony is,
11 rather than speculate.

12 MR. COOK: Yes, sir.

13 SOLICITOR COLTON: Your Honor, do we just stay on the
14 search warrant or the separate automobile exception first?

15 THE COURT: Well, let's go with the search warrant,
16 because it seems to me that that's a secondary issue.
17 Well, maybe not the secondary issue, but let's go with the
18 issue on the search warrant, see where we are as far as
19 automobile exceptions and then see where Mr. Cook is in
20 regard to the -- how he wants to approach his concern about
21 the CI.

22 SOLICITOR COLTON: Yes, sir.

23 MR. COOK: Your Honor, may I have a three minute
24 break, just to use the restroom?

25 THE COURT: We'll take a ten-minute break.

1 MR. COOK: Thank you, your Honor.

2 THE COURT: All right. We'll take a ten-minute break.

3 (COURT IN RECESS AT 11:13 A.M.)

4 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, PREMARKED FOR
5 IDENTIFICATION.)

6 (COURT BACK IN SESSION AT 11:23 A.M.)

7 THE COURT: Thank you. You may take your seats.

8 All right. Now, the issue before the Court, as I
9 understand it, is the basic motion to suppress the search
10 of both the residence or the house. I don't know if it was
11 a residence or not, but a house and a truck parked
12 somewhere in the vicinity of the house. Correct?

13 SOLICITOR COLTON: Yes, your Honor. The search
14 warrant covered his person and the house and a cell phone,
15 or cell phones or any electronic devices. It did not cover
16 any vehicles he was driving.

17 THE COURT: Okay.

18 SOLICITOR COLTON: And your Honor, I believe I spoke
19 with Mr. Cook briefly, and if he wasn't going to make a
20 motion to sequester, I was going to make a motion to
21 sequester.

22 MR. COOK: And I would, your Honor.

23 THE COURT: All right, I'll move to sequester both
24 sets of witnesses.

25 SOLICITOR COLTON: Your Honor, I'd ask that --

1 THE COURT: The case agent may stay in.

2 SOLICITOR COLTON: The case agent remain in.

3 MR. COOK: Yes, sir.

4 SOLICITOR COLTON: And I have explained to my officers
5 the ramifications of the sequestration rule.

6 THE COURT: All right. And call your first witness
7 up. And these search warrant cases, it's very helpful to
8 me to have the search warrant in my hands, as we discussed
9 it.

10 SOLICITOR COLTON: Yes, sir.

11 THE COURT: Or I'll say a copy.

12 SOLICITOR COLTON: Yes, sir. And just to -- I'll call
13 Officer Vaughn to the stand, your Honor, if I may at this
14 time.

15 THE COURT: Come on up and be sworn.

16 OFFICER VAUGHN: Yes, sir.

17 SOLICITOR COLTON: I already have marked as Court's
18 Exhibit Two, the search warrant, your Honor. If I may
19 approach, your Honor.

20 THE COURT: Okay.

21 (WHEREUPON, DAVID VAUGHN,
22 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

23 THE COURT: All right.

24 SOLICITOR COLTON: Your Honor, if there's no objection
25 from Defense counsel just to speed the process, I do have a

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1 copy of the search warrant that I gave your Honor. If I
2 could just give that to Investigator Vaughn at this point.

3 MR. COOK: Without objection.

4 DIRECT EXAMINATION

5 INVESTIGATOR DAVID VAUGHN BY SOLICITOR COLTON:

6 Q. Investigator Vaughn, can you state your name and
7 occupation, for the record?

8 A. David Vaughn.

9 Q. And what do you do for a living?

10 A. I work for -- I'm employed with the York County
11 Sheriff's Office.

12 Q. And are you currently a member of the drug enforcement
13 unit?

14 A. Yes, I am.

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

16 A. Since 2005.

17 Q. And how long have you specifically been involved in
18 the investigation of narcotics offenses?

19 A. Approximately four, four and a half years.

20 Q. And were you involved in the investigation of Antonio
21 Robbins?

22 A. Yes, I was.

23 Q. And can you tell the Court, briefly, how you were
24 involved in that investigation?

25 A. I obtained a search warrant through Judge Benfield, in

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1 reference to this case.

2 Q. And do you recall what date you went to see Judge
3 Benfield?

4 A. It was on --

5 Q. About a search warrant?

6 A. June 19, 2015.

7 SOLICITOR COLTON: And your Honor, at this time, I
8 move to enter Court's Exhibit Two into evidence.

9 MR. COOK: Without objection, your Honor.

10 THE COURT: In, without -- and that's what I have.
11 In, without objection.

12 SOLICITOR COLTON: Thank you, your Honor.

13 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, IDENTIFIED AND
14 MARKED, RECEIVED INTO EVIDENCE.)

15 BY SOLICITOR COLTON:

16 Q. And who typed the search warrant?

17 A. I did.

18 Q. Okay. And who was the affiant on the search warrant?

19 A. I was the affiant.

20 Q. And was this the same search warrant used by the drug
21 enforcement unit to search [REDACTED] Woodland Hills Drive, in
22 York, on June 24, 2015?

23 A. Yes, sir. Yes.

24 Q. What -- And you saw -- You stated that you saw Judge
25 Benfield?

1 A. Yes.

2 Q. And where did you meet with Judge Benfield?

3 A. In her office, located here at the Moss Justice
4 Center.

5 Q. And to the best of your knowledge, was Judge Benfield
6 involved in this investigation in any way?

7 A. No.

8 Q. Did Judge Benfield have any prior knowledge of this
9 investigation?

10 A. No.

11 Q. And when you arrived at the Moss to meet with Judge
12 Benfield, what happened? What did you do?

13 A. Well, as I -- I called her ahead of time, and asked
14 her could I come and meet with her. When I go in her
15 office, I explain to her I have a search warrant. At that
16 point, she'll swear me in, have me raise my right hand.
17 She'll -- I give her the search warrant; she'll read the
18 search warrant. And then, she'll sign it; I'll sign.

19 Q. And in this particular case, you were sworn in?

20 A. Yes.

21 Q. And she reviewed the affidavit? Did you witness her
22 reviewing the affidavit?

23 A. Yes.

24 Q. Did you supply any oral testimony?

25 A. No, I did not.

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1 Q. And did she review the attachment to the affidavit?

2 A. Yes.

3 Q. And did you swear that this was truthful testimony?

4 A. Yes.

5 Q. Truthful affidavit. Can you explain to the Court, or
6 read to the Court, what, exactly, you provided in the
7 affidavit to Ms. Benfield, or Judge Benfield?

8 A. Am I understanding, Do you want me to read the whole
9 affidavit?

10 Q. Yes, sir, please.

11 A. The affidavit for the search warrant, it's to search
12 Antonio Lamont Robbins, black male. March 3, [REDACTED] his date
13 of birth. Also, [REDACTED] Woodland Hills Drive, York, South
14 Carolina, County of York.

15 It states that, "The affiant, D. Vaughn, is a
16 certified law enforcement officer assigned to the York
17 County Multi-Jurisdictional Drug Force Unit, and has
18 several years experience, to include narcotics
19 investigations, states the following facts to support
20 probable cause to search the person and premises listed
21 within: Officer Vaughn of the YCMDU received information
22 from a confidential informant that Antonio Lamont Robbins
23 was distributing crack from his residence, located at [REDACTED]
24 Woodland Hills Drive, York, South Carolina, County of York.

25 In fact, within the past seventy-two hours, officers

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1 of the YCMDU utilized a confidential informant to conduct a
2 controlled purchase of crack from Antonio Lamont Robbins at
3 his residence, located at [REDACTED] Woodland Hills Drive, York,
4 South Carolina, County of York.

5 The confidential informant, and her vehicle, was
6 searched prior to purchasing the crack, with no contraband
7 being located. Confidential informant was also provided
8 with identifiable law enforcement funds from which to
9 purchase the crack. The confidential informant was fitted
10 with an electronic recording device and transmitter that
11 was monitored by surveillance officers throughout the drug
12 transaction. The confidential informant was followed by
13 officers to the residence at [REDACTED] Woodland Hills Drive,
14 York, South Carolina, County of York. The confidential
15 informant did purchase crack while at [REDACTED] Woodland Hills
16 Drive, York, South Carolina, County of York, from Antonio
17 Lamont Robbins.

18 After the drug transaction was complete, the
19 confidential informant left the residence, followed by
20 officers of the YCMDU. Officers of the YCMDU met up with
21 the confidential informant at a predetermined meeting
22 location. The crack was seized from the confidential
23 informant. The confidential informant and the vehicle was
24 searched prior and was searched again with no contraband
25 being located.

INVESTIGATOR DAVID VAUGHAN: DIRECT BY SOLICITOR COLTON

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1 Based on the affiant's training and experience and the
2 investigation, it is believed that drug dealers keep
3 contraband, proceeds drugs transaction, the records from
4 drug transactions that may include written records,
5 photographs, videotapes, audio tapes, computer hard drives,
6 and discs, cellular phones, a cellular phone includes text
7 messages, emails, and other information contained within a
8 cellular phone within a secure locations of the residence
9 and any outbuildings."

10 Then, at the bottom, it's got a date on it, and it's
11 got the judge's name and my name.

12 Q. And dated June 19, 2015; is that correct?

13 A. Yes.

14 Q. And did the description of the property to be
15 searched, and a description of the premises to be searched,
16 Can you read the description of the property to be searched
17 included in the affidavit, as part of the affidavit and the
18 description of the premises or persons, place and thing to
19 be searched that included as part of the affidavit?

20 A. "Description of property sought, crack, crack
21 paraphernalia; currency; records; receipts, to include
22 written records, computer, computer software, hard drives,
23 cell phone, and any data stored on these devices. Also,
24 any package materials, scales, or any other equipment or
25 materials used in use, sale, or distribution of crack. The

1 description of premises to be searched, [REDACTED] Woodland Hills
2 Drive, Clover, County of York, South Carolina, 29710.

3 Person to be searched, Antonio Lamont Robbins. Black
4 male, 3/3/[REDACTED], date of birth. When traveling on Jim
5 McCarter Road in Clover, South Carolina, turn right on
6 Woodland Hills Drive. Travel down Woodland Hills Drive,
7 and [REDACTED] would be the third house on the right. The house
8 is a brick house with white columns on the front porch, and
9 a carport on the back side of the house. The numbers,
10 [REDACTED] are displayed on the wall above the front door.

11 Q. And the search warrant was issued for the exact same
12 premises and for the exact same items to be searched; is
13 that correct?

14 A. Yes.

15 Q. And the search warrant where you -- where the
16 location, [REDACTED] Woodland Hills Drive, where the search
17 warrant was executed, that is the same residence that you
18 followed the confidential informant to, for the controlled
19 purchase?

20 A. Yes.

21 Q. And this is all included in a written affidavit?

22 A. Yes.

23 Q. Why didn't you include the confidential informant's
24 information in the affidavit?

25 A. For the protection of the confidential informant.

INVESTIGATOR DAVID VAUGHAN: DIRECT BY SOLICITOR COLTON:
CROSS BY MR. COOK

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1 Q. And before -- let me ask you this. Before preparing
2 that affidavit, did you -- did you actively monitor the
3 confidential informant's activities, or did you go back and
4 review the audiotape after the distribution?

5 A. Actively monitored while the drug transaction was
6 going on.

7 SOLICITOR COLTON: Thank you, Investigator Vaughan.
8 Please answer any questions Defense Counsel may have.

9 CROSS-EXAMINATION

10 OFFICER DAVID VAUGHN BY MR. COOK:

11 Q. Detective Vaughn, I didn't notice a return of any of
12 my Rule Five materials. Did you file a return to the
13 search warrant?

14 A. Yes.

15 Q. Is that in the Solicitor's file?

16 A. I --

17 SOLICITOR COLTON: It is.

18 MR. COOK: Okay. All right.

19 Q. Detective Vaughan, my client --

20 THE COURT: For the record, there is one attached.
21 There is a return dated 25th June attached too.

22 MR. COOK: Yes, sir, your Honor.

23 Q. And Detective Vaughn, my client wants me to ask you,
24 do you recognize him from any past -- from the past?

25 A. I do.

INVESTIGATOR VAUGHN: CROSS BY MR. COOK

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1 Q. Did -- Were you involved in a conviction with my
2 client around 2004?

3 A. I don't think so. Not with him.

4 Q. In 2010?

5 DEFENDANT ROBBINS: Thirteen.

6 BY MR. COOK:

7 Q. Thirteen, I apologize.

8 A. I don't recall. I can't say.

9 Q. All right. He wants you to comment, he maintains that
10 --

11 THE COURT: Well, I let you ask the question. He's
12 not on the stand to comment on the things ---

13 MR. COOK: Yes, sir.

14 THE COURT: --- that your client may want him to
15 comment on. He's under oath to answer questions that are
16 relevant to the issue before us, and it's a question and
17 answer, not a, would you comment on an issue.

18 MR. COOK: I apologize, Judge.

19 Q. Do -- Are you resentful because you think that his
20 sentence from that past conviction was not substantial
21 enough?

22 A. No.

23 Q. Why not arrest the defendant for the transaction that
24 we're discussing at this hearing?

25 A. There's different types of buys that we do.

INVESTIGATOR VAUGHN: CROSS BY MR. COOK

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- 1 Q. All right.
- 2 A. Okay. There's what we call a distribution buy.
- 3 Q. Uh-huh.
- 4 A. Is where we'll actually send the confidential
- 5 informant in, make a purchase, and charge the individual
- 6 the purchase.
- 7 Q. All right.
- 8 A. In this case, we want to make a purchase from the
- 9 residence, to obtain a search warrant on the residence.
- 10 Q. Uh-hum.
- 11 A. And we have the option to charge him or not charge
- 12 him.
- 13 Q. I see.
- 14 A. It's officer's discretion.
- 15 Q. Did you receive any of the marked funds from the
- 16 defendant from this controlled buy at a subsequent time?
- 17 A. I did not.
- 18 Q. Was an audio made of the transaction, audio recording?
- 19 A. Of the -- this particular incident on June 19th?
- 20 Q. The controlled buy, yes, sir.
- 21 A. Yes, there was audio.
- 22 Q. Did you have an opportunity to hear that audio?
- 23 A. I haven't heard it in awhile, but I have heard it.
- 24 Q. Okay. In the audio, was there any expressed mention
- 25 of drugs?

INVESTIGATOR VAUGHN: CROSS BY MR. COOK

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1 A. I don't recall.

2 MR. COOK: I beg the Court's brief indulgences.

3 Q. Were the drugs -- strike that. Well, let me ask, were
4 the drugs from the controlled buy ever placed into
5 evidence?

6 A. Yes.

7 Q. Okay. Did you ever obtain any fingerprint materials
8 from those substances?

9 A. No.

10 Q. Okay. That's all the questions I have regarding the
11 search warrant for the house. I do have some questions
12 regarding the truck, if the Court thinks it's pertinent.

13 SOLICITOR COLTON: Your Honor, if I may. The -- yes,
14 I'll defer to the Court at this time.

15 THE COURT: All right. Do you want -- Any redirect, I
16 guess, is where we are.

17 SOLICITOR COLTON: On the search warrant issue, your
18 Honor?

19 THE COURT: Well, I'm trying to see -- I hadn't heard
20 any testimony as to whether or not -- Well it does say on
21 the return that Officer Vaughn was involved -- the
22 inventory was made in the presence. I hadn't actually
23 heard any testimony, at least I don't remember it, that he
24 participated in the search itself, which, I think, would --
25 there's got to be some predicate as to how we get to the

1 search of the automobile.

2 SOLICITOR COLTON: Yes, sir. That -- and I thought we
3 were just dealing with the -- the probable cause to
4 establish the validity of the search warrant.

5 THE COURT: All right. Let's deal with that first,
6 and then we'll -- okay? Any redirect on that issue?

7 SOLICITOR COLTON: No, your Honor.

8 THE COURT: All right. I'll be glad to any of your
9 arguments. Just keep where you are.

10 MR. COOK: Yes, sir. Your Honor, my argument would be
11 that -- Well, I apologize, your Honor, I still actually
12 need to take some testimony from my client.

13 THE COURT: Okay. You can step down on this issue and
14 we'll have - get Mr. Robbins.

15 MR. COOK: I call Mr. Antonio Robbins to the stand.

16 THE COURT: All right. Mr. Robbins, before you come
17 up, I know your attorney has advised you that you have a
18 right to remain silent. You do not have to testify or give
19 any statement concerning anything related to this case.
20 You are protected by the *U.S. Constitution* and the
21 *Constitution* of our state, from having to make any
22 statements or give any testimony; however, you have the
23 right to do that. If you do that in this context, that is,
24 if you testify in this context, I will not allow that
25 testimony to be used at trial, unless, somehow, you testify

ANTONIO ROBBINS: DIRECT BY MR. COOK

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1 to one thing today now, and then something later they
2 could, perhaps, use it to impeach you. But this is not a
3 waiver of your -- I do not consider your testifying in this
4 instance to be a waiver of your right to exercise your
5 right to remain silent during the trial, and the State
6 cannot use against you any testimony you give during this
7 trial. Obviously, as I said, unless there is some grounds
8 for using it for what we call impeachment value to show
9 that you testified one way in this hearing and another way
10 at trial. So, come on up if you -- Do you want to testify?

11 DEFENDANT ROBBINS: Yes, sir.

12 THE COURT: All right. Come on up. Put your left
13 hand on the Bible, and raise your right.

14 (WHEREUPON, ANTONIO ROBBINS,
15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION

17 ANTONIO ROBBINS BY MR. COOK:

18 Q. Mr. Robbins, if you could state your name for the
19 record, please.

20 A. My name is Antonio Robbins.

21 Q. Mr. Robbins, you heard the testimony of Detective
22 Vaughn; is that correct?

23 A. Yes, sir.

24 Q. Do you admit or deny that a drug transaction took
25 place during this controlled buy?

ANTONIO ROBBINS: DIRECT BY MR. COOK

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1 A. Yes, sir. I deny it. It was never a drug buy that
2 took place. I never sold dr -- I don't stay at the
3 residence, I never sold drugs at the residence. I never
4 sold drugs since my last conviction.

5 Q. Okay.

6 A. I'm on parole now, and I -- and I don't sell drugs.

7 Q. All right. So, the State alleges that a confidential
8 informant came to your house and bought drugs that
9 supported the affidavit for this search warrant. And what
10 you're saying is, you have no recollection of this?

11 A. No, sir. That's not true. That's not true. I never
12 came and encounter selling no drugs at the residence for a
13 confidential informant.

14 Q. Do you think that you remember what the State is
15 reporting to be a controlled buy?

16 A. Do I remember it? I don't -- they -- I don't -- no,
17 sir. Would it reported to be a controlled buy? What you
18 mean by --

19 Q. Well, what really happened that night?

20 A. What really happened that night?

21 Q. Yeah.

22 SOLICITOR COLTON: Your Honor, I request that we refer
23 to what night.

24 THE COURT: I think you better be a little more
25 specific.

ANTONIO ROBBINS: DIRECT BY MR. COOK

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1 MR. COOK: Yes, sir.

2 Q. What really happened the night that the State is
3 alleging, or that the time that the State is alleging that
4 the confidential informant came to your house to purchase
5 the drugs, that supported the affidavit for the search
6 warrant?

7 A. It was -- See, the house we just moved in, it was --
8 it had some work to be done with the screen or whatnot.
9 So, the guy pulled up on a scooter and left his tape
10 measure there. I was outside up on the carport, and he
11 said he left the tape measure right there, and I told him
12 it was right there. I say, I asked him about the scooter
13 he was on, where did he get it from. It was a nice
14 scooter. He said his brother had gave it to him. And it
15 was that and he left.

16 Q. Okay. Did you ever hire Mike Brown to be your
17 attorney?

18 A. Yes, sir.

19 Q. And did you -- did you hear the audio recording at the
20 office of Mike Brown?

21 A. No, sir. I never heard it.

22 Q. Okay. Has anybody told you about an audio recording?

23 A. Yes, sir.

24 Q. From the office of Mike Brown?

25 A. Yes, sir.

ANTONIO ROBBINS: DIRECT BY MR. COOK
CROSS BY SOLICITOR COLTON

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1 Q. Who would that be?

2 A. Angie Hester. She told me about the audio recording.

3 Q. What relation to you -- are you to Ms. Hester?

4 A. That's my girlfriend.

5 Q. Thank you.

6 MR. COOK: I've got no further questions. Please
7 answer any that the State might have.

8 CROSS-EXAMINATION

9 ANTONIO ROBBINS BY SOLICITOR COLTON:

10 Q. Mr. Robbins, did you give Ms. Hester permission to
11 discuss your case with Mr. Brown?

12 A. Actually, she hired Mr. Brown for me.

13 Q. Did you give Mr. Brown permission to discuss your case
14 with Ms. Hester?

15 A. Yes, sir. Yes, ma'am, I mean.

16 Q. And the audiotape that she allegedly copied at Mr.
17 Brown's office, she's never played that for you?

18 A. She's never played it for me; she told me about it.

19 Q. Okay. So, you've never personally heard the
20 information on that?

21 A. No, sir. No, ma'am.

22 Q. So, you wouldn't be able to this Court if it was your
23 voice or not.

24 A. No, ma'am.

25 Q. You wouldn't be able to tell the Court whose voice it

1 is from your own personal experience.

2 A. No, ma'am, I wouldn't never, because I ain't heard it.
3 I just heard about it.

4 Q. So, how do you -- so, you don't know who the
5 confidential informant is, based upon your own knowledge?

6 A. Not -- not 'til I hear the audio.

7 Q. At this time, you've never heard the tape. Correct?

8 A. No, ma'am.

9 Q. And you don't know who the confidential informant is?

10 A. No, ma'am.

11 Q. Do you know what date that these individual that the
12 confidential informant came to your home?

13 A. No, ma'am.

14 Q. And you're claiming this person, who you don't know
15 who they are, you have never sold crack cocaine to?

16 A. I never sold crack cocaine to them, no, ma'am.

17 Q. And isn't it true that you told Lieutenant Ligen that
18 you had actually been selling crack cocaine for the prior
19 two months?

20 A. That's not true.

21 Q. Okay.

22 MR. COOK: And for the record, your Honor, I'd also
23 add a *Jackson v Denno* motion to make after this, regarding
24 that statement. I didn't mean to interrupt.

25 THE COURT: Well, he's on the stand now, so *Jackson*

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 *versus Denno*, if I suppress the statement from the trial,
2 then it doesn't have anything to do with his testimony now.

3 MR. COOK: Yes, sir.

4 THE COURT: I mean, he's under oath and understands
5 his rights, and.

6 MR. COOK: Yes, sir. Yes, sir, I want him to testify
7 now.

8 BY SOLICITOR COLTON:

9 Q. And so, any of the drugs that were recovered in that
10 vehicle, you have no knowledge of?

11 A. I have no knowledge of 'em.

12 Q. And you're denying that you told Lieutenant Ligen that
13 you had gotten those drugs --

14 A. Yes, ma'am.

15 Q. And the drugs recovered from the residence, do you
16 have any knowledge of those drugs?

17 A. Have no knowledge of those drugs, either.

18 Q. They weren't yours?

19 A. No, ma'am.

20 Q. Were they Ms. Hester's?

21 A. I don't know whose drugs they was.

22 Q. Were they the children in the home?

23 A. I don't know whose drugs they was.

24 Q. And they were actually found at two different
25 locations; in an Easter basket, on top of a piano. Are you

1 aware of that?

2 A. No, ma'am.

3 Q. Were you present when the officers executed the search
4 warrant?

5 A. I was outside.

6 Q. Did they tell you where they found the drugs in the
7 house?

8 A. Yeah, they told me.

9 Q. And did they tell you that they found it in a Easter
10 basket, on top of a piano?

11 A. They said an Easter basket up under some grass or
12 something.

13 Q. How about the drugs -- the small amount of crack
14 cocaine found in a drawer?

15 A. I have no knowledge about that either.

16 Q. How about the money that was in the house that was
17 recovered?

18 A. What money?

19 Q. Do you have any knowledge of the money that was
20 recovered in the home?

21 A. No, ma'am.

22 Q. And clothing in that home, was any of that your
23 clothing?

24 A. No, ma'am.

25 Q. And so, you were just visiting Ms. Hester that day?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. Yes, ma'am. I was helping her paint the house.

2 Q. And you have a child in common? Is this not true?

3 A. Yeah. The child's seven, gonna be seven months old.

4 Q. Was the child born at this time, obviously not?

5 A. No, ma'am.

6 Q. Did you ever spend the night at that home?

7 A. I've probably spent the night, probably, like three or
8 four times. She just -- just moved there.

9 Q. And it's your testimony that you have not sold drugs
10 since your last conviction.

11 A. Yes, ma'am.

12 Q. And you are currently on parole?

13 A. Yes, ma'am.

14 Q. How long have you been on parole?

15 A. Been on parole --

16 Q. I'm sorry, been released and -- yes, been released and
17 been on parole.

18 A. Uh-huh.

19 Q. How long?

20 A. It was eight months then, so I probably been -- it's
21 been about, I'm going to say, a year. Coming up on a year.

22 Q. And do you recall speaking with -- Well, do you recall
23 speaking with Lieutenant Ligen at all at the carport?

24 A. I ain't say that. We wasn't talking about no drugs.
25 Then when we spoke out there, he was trying to get me to

1 become a CI. He said it would never go on the record if I
2 would work for him, to set somebody up.

3 Q. Okay.

4 A. That's what he was talking about to me back out there.

5 Q. So, he talked about you working for the police?

6 A. Yes, ma'am.

7 Q. But he never mentioned the drugs that were recovered?

8 A. He said -- he mentioned the drugs that were recovered,
9 asked me were they mine. I told him they wasn't mine, I
10 don't have no knowledge of 'em. And he said it would never
11 go on the Internet if I worked -- worked for him, it would
12 never be -- it would never happen.

13 Q. Okay. What about Investigator Vaughn? When he came
14 and got in the car with you, did you say anything to
15 Investigator Vaughn about the drugs? Did he ask you about
16 the drugs?

17 A. I didn't say nothing to him. When he -- as soon as he
18 came up to the carport I was outside up under the carport,
19 they put me in handcuffs and took me in the house, and then
20 they done their search.

21 Q. So, you were not driving the vehicle where the drugs
22 were located?

23 A. No, no, ma'am.

24 Q. And did you have marijuana on you?

25 A. I had marijuana in my pocket. Yes, ma'am.

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 Q. Had Six Hundred and Thirty-six Dollars?

2 A. Yes, ma'am.

3 Q. And what about the other fellow that was with Mr.
4 Vaughn?

5 A. Who?

6 Q. The other guy that was with Mr. Vaughn. There was two
7 officers together. The other one's Logan McGarity. I
8 don't know if he introduce you to him. He was the
9 individual that read you your rights outside.

10 A. Yeah, outside, yeah.

11 Q. Did he read you your rights?

12 A. Yeah, outside.

13 Q. Okay. You remember that fellow?

14 A. I don't remember him. I just know -- there was so
15 many of them, I don't -- I don't know faces or nothing like
16 that.

17 Q. I'll make it easy. You remember being read your
18 rights outside?

19 A. Yes, ma'am. I remember being read my rights.

20 Q. And you're denying that you told Logan McGarrity, when
21 you went back into the house, that all the drugs found in
22 the house were yours?

23 A. Yeah, I'm denying that. I never told him that.

24 Q. And what are you on parole for?

25 A. I'm on parole for? Mr. Vaughan -- I'm on parole for

1 Mr. Vaughn. He caught me in 2012. I was running from the
2 police, and I had some drugs on me that I was using, and I
3 got convicted of that. They were trying to give me twelve
4 years for that, but I came in front of Judge Alford on it
5 and received five and he only give me parole. And somehow,
6 as soon as I get out, the same officer come back again with
7 saying stuff that ain't true, doing stuff that ain't true.

8 Q. And were you convicted of simple possession, or
9 possession with intent to distribute back then?

10 A. It was possession with intent.

11 Q. And you pled guilty to that charge?

12 A. Yes, ma'am.

13 Q. What was the prior charge that you had been given,
14 drug charge that you've been convicted of?

15 A. What prior charge?

16 Q. You had a prior charge as well?

17 A. I said, what prior charge?

18 Q. The --

19 THE COURT: Just ask him if, on certain dates, he was
20 either pled or convicted of certain offenses.

21 SOLICITOR COLTON: Yes, sir.

22 Q. Back in 2004, were you convicted of distribution of
23 crack cocaine, first offense?

24 A. Yes, ma'am.

25 SOLICITOR COLTON: I beg the Court's indulgence.

ANGIE HESTER: DIRECT BY MR. COOK

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1 (PAUSE.)

2 SOLICITOR COLTON: Your Honor, I have no further
3 questions.

4 MR. COOK: No questions, your Honor. I call Angie
5 Hester.

6 THE COURT: All right. Mr. Robbins, you can step
7 down.

8 (WITNESS LEAVES WITNESS STAND.)

9 MR. COOK: I believe Ms. Hester is sequestered.

10 THE COURT: Please come forward.

11 MR. COOK: I'm sorry?

12 THE COURT: Just come on up, please. Put your left
13 hand on the *Bible*, and raise your right, right in front of
14 this lady.

15 (WHEREUPON, ANGIE HESTER,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 ANGIE HESTER BY MR. COOK:

19 Q. Ms. Hester, did you -- are you -- Well, let me ask
20 you, can you state your name, for the record, first,
21 please?

22 A. Angie Hester.

23 Q. Are you the girlfriend of the defendant, Antonio
24 Robbins?

25 A. Yes.

ANGIE HESTER: DIRECT BY MR. COOK

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1 THE COURT: You need to speak up a little bit. You
2 have a soft voice but I need to hear you.

3 A. Yes.

4 MR. COOK: Yes. She's trying to take your words down.
5 There's a microphone right there for you.

6 Q. Did you hire Mike Brown at any point to represent Mr.
7 Robbins before my services?

8 A. I did.

9 Q. And just for the record, I believe Mr. Brown got sick;
10 is that correct?

11 A. Yes, sir, he did.

12 Q. And he asked to be relieved. There was no animosity
13 issues that he couldn't represent at the time; is that
14 correct?

15 A. Yes, sir.

16 Q. And you were instructed to hire Mr. Brown by the
17 defendant; is that correct?

18 A. Yes.

19 Q. Okay. And you know, the defendant gave you permission
20 to discuss this case with Mr. Brown; is that correct?

21 A. Yes, sir.

22 Q. And when you were at the office of Mr. Brown, were you
23 -- were you made aware of any evidence in this case?

24 A. Yes, sir.

25 Q. Okay. And what type of evidence were you made aware

ANGIE HESTER: DIRECT BY MR. COOK

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1 of?

2 A. The audio.

3 Q. Okay. And where did Mr. Brown get the audiotape from?

4 A. I think his paralegal went to the Solicitor's Office
5 to pick it up.

6 Q. Okay. Did you make a copy of the audiotape while you
7 were at Mr. Brown's office?

8 A. I made a recording of it.

9 Q. And this was the audio that was from the controlled
10 buy, the night that the controlled buy was allegedly made,
11 that led to the affidavit for the search warrant, that led
12 to the arrest in this matter. Is that the tape you're
13 talking about?

14 A. Yes, sir.

15 Q. And do you have a copy of that tape on your person
16 today?

17 A. Yes, sir.

18 Q. Is it in your car, down on the phone?

19 A. On my phone.

20 Q. Okay.

21 MR. COOK: Your Honor, at this time, I would like to
22 request that Ms. Hester be able to retrieve that ---

23 THE COURT: She can.

24 MR. COOK: -- cause I want to try to enter it into
25 evidence.

ANGIE HESTER: DIRECT BY MR. COOK

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1 THE COURT: Yes. That's fine. We'll take a short
2 break, and let you go out. Usually we do not allow people
3 to bring their phones in but this time we'll make an
4 exception, and allow you to go -- Is your phone, is it in
5 your car?

6 ANGIE HESTER: Yes, sir.

7 THE COURT: All right. Just, quick as you can,
8 without running and getting hurt.

9 ANGIE HESTER: Okay.

10 THE COURT: But you go get that and get that phone.
11 And we'll just remain --

12 (WITNESS LEAVES WITNESS STAND.)

13 MR. COOK: Yes, sir. If I may, your Honor, I have a
14 few minor in limine motions that maybe we can take up now,
15 just for the record's sake.

16 THE COURT: That's fine.

17 MR. COOK: Yes, sir, your Honor. You know, your
18 Honor, there was Six Hundred and Thirty-seven Dollars that
19 was confiscated during this. Of course, pending the
20 results of the hearing and the trial, you know, my client
21 would make a motion for that money to be returned, because
22 he alleged that it wasn't involved in the drug transaction.

23 THE COURT: That's not an issue before me at this
24 time.

25 MR. COOK: Yes, sir.

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1 THE COURT: That's a forfeiture issue.

2 MR. COOK: Understood, your Honor. And the Defendant
3 makes a motion to determine the existence of any
4 admissibility of all prior convictions, and I believe
5 that's already been done, but just to try to create a
6 record. There was the 2004 conviction and the 2013 we've
7 already mentioned, and that's all that I'm aware of. I
8 don't know if there is any others.

9 And in addition to that, any -- to determine any prior
10 convictions or any prior bad acts, pursuant to Lyle, that
11 the State may use for impeachment purposes.

12 THE COURT: Well, bad acts wouldn't be for
13 impeachment. They would be substantive.

14 MR. COOK: Thank you, your Honor.

15 SOLICITOR COLTON: The 2004 distribution crack cocaine
16 charges, your Honor --

17 THE COURT: Speak up a little bit.

18 SOLICITOR COLTON: I'm sorry, your Honor. The 2004
19 distribution crack cocaine charge, your Honor, he received
20 an eight-year sentence, and I believe that would be covered
21 under the ten-year period, pursuant to the release from
22 Probation and Parole or incarceration. And the 2013
23 distribution crack, second offense, would be covered in the
24 ten-year period, as well.

25 He has a 2014 failure to stop for blue light, your

1 Honor. I think it would qualify because it carried more
2 than a year if I'm recalling the rule correctly.

3 MR. COOK: I'm sorry, what was that last one now?

4 SOLICITOR COLTON: 2014 failure to stop for a blue
5 light.

6 MR. COOK: Okay.

7 SOLICITOR COLTON: And we'd seek to use a 2009 eluding
8 arrest with aggravating factors out of North Carolina.

9 THE COURT: What did that carry?

10 SOLICITOR COLTON: I believe it carries more than
11 year, your Honor, because of the aggravating factors.

12 THE COURT: You can't believe, I've got to know.

13 SOLICITOR COLTON: I'll pull the statute, your Honor.

14 MR. COOK: I would move to keep that out of the
15 record, your Honor, upon -- pending whether the State can
16 prove --

17 SOLICITOR COLTON: Your Honor, we can do that before
18 we approach that subject. And there's a 2009 failure to
19 stop for a blue light, as well.

20 Judge, I'll double-check on that, because I have it
21 written up as South Carolina, but -- I'll agree not to use
22 it, because I'm not sure about the adjoining charges, what
23 jurisdiction they're from. But definitely the 2004, the
24 2013 distribution of crack. I know Mr. Cook also wants to
25 make a motion to have us not directly refer to those as

ANGIE HESTER: DIRECT BY MR. COOK

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1 drug crimes. I would refer to them as felonies.

2 MR. COOK: And that's correct, your Honor. I was
3 about to make a motion pursuant to *State versus Rawlings*,
4 but thank you, your Honor.

5 And other than my *Jackson v Denno*, which may take some
6 time, and the suppression regarding the truck, that's all
7 the motions that I would have, your Honor.

8 THE COURT: All right. Let me be clear. We've gone
9 over use of the prior offenses for impeachment purposes.
10 You don't intend, or do you not intend to use any of those
11 as *Lyle 404*?

12 SOLICITOR COLTON: No, your Honor. And unless the
13 door is open.

14 (WITNESS REENTERS COURTROOM.)

15 THE COURT: Ms. Hester, you can come on up.

16 Yeah, I just want to make it clear, because Mr. Cook
17 kind of had 'em joint.

18 SOLICITOR COLTON: Yes, sir.

19 THE COURT: Come on up and have your seat please,
20 ma'am. You're still under oath.

21 (WITNESS RETURNS TO WITNESS STAND.)

22 DIRECT EXAMINATION

23 ANGIE HESTER BY MR. COOK:

24 Q. Ms. Hester, we're back on the record. I see you have
25 your phone in your hand. Is that the phone that has this

ANGIE HESTER: DIRECT BY MR. COOK

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1 recording that we're discussing?

2 A. Yes, sir.

3 Q. Now, before you play it, you do realize I have to get
4 the judge's permission, and I need to lay a foundation
5 about it, so, don't start hitting play yet.

6 Do you happen to remember the date, just thereabouts,
7 when you took this? Just to remind you, the arrest was in
8 June of '15.

9 A. It was September the 29th.

10 Q. Oh, you have that information on your phone. And on
11 September the 29th, you had your phone with you, and you
12 were in the offices of Mike Brown, the attorney for Mr.
13 Robbins?

14 A. Yes, sir.

15 Q. And you had the opportunity to hear an audio recording
16 in evidence that Attorney Brown had; is that correct?

17 A. Yes, sir.

18 Q. And did you make this recording from -- directly from
19 that audio recording?

20 A. Yes, sir.

21 Q. Let me ask you something. How long have you been
22 dating Mr. Robbins?

23 A. Over a year.

24 Q. Do -- Would you be able to recognize his voice on a
25 recording?

ANGIE HESTER: DIRECT BY MR. COOK

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1 A. Yes, sir.

2 Q. Do you believe that it's his voice that you heard on
3 the recorded tape in Mr. Brown's office?

4 A. Yes, sir.

5 Q. Okay. Were you present at the time that the -- that
6 the alleged transaction took place? I know you didn't
7 record it while it was happening, but were you present at
8 the time?

9 A. No, sir.

10 Q. Okay. And are you willing to play that recording for
11 the Court, if the judge allows it?

12 A. Yes, sir.

13 MR. COOK: Your Honor, at this time, I would move for
14 the recording to be put into evidence. I think that it
15 would speak --

16 THE COURT: All right. Any objection? Well it's an
17 in-camera matter.

18 SOLICITOR COLTON: No, your Honor.

19 THE COURT: It's not just a proffer, it's for a purpose
20 but it's in-camera.

21 SOLICITOR COLTON: Yes, sir, I'm just trying to -- you
22 have bear with me, your Honor. I've not been put -- I've
23 not been in this situation before, so I'm just trying to
24 think what I need to do appropriately in this situation.

25 If it's just for this limited purpose of Mr. Cook's

ANGIE HESTER: DIRECT BY MR. COOK

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1 motion, I wouldn't have any objection to it.

2 THE COURT: You'd have no objection?

3 SOLICITOR COLTON: Court's indulgence.

4 MADAM COURT REPORTER: Judge, can I say something?

5 THE COURT: Yes.

6 MADAM COURT REPORTER: I don't know the quality of
7 this recording, and if I'm ever asked to transcribe this,
8 technically, I don't think I'm required to transcribe
9 something from somebody else's recording, technically.

10 THE COURT: All right.

11 MADAM COURT REPORTER: Okay?

12 THE COURT: All right. So, you -- okay. The court
13 reporter has just indicated that there is an issue,
14 perhaps, about preserving this for appeal.

15 Is there any way, Mr. Cook, that you can capture, or -
16 - I ask this of everybody -- any way that we can record
17 this recording, and put it into the record?

18 MR. COOK: Well, your Honor, I would renew my evidence
19 for the State to produce it. They have the original.

20 THE COURT: See, they're not putting anything into
21 evidence, Mr. Cook.

22 MR. COOK: Yes, sir.

23 THE COURT: She's talking about the record of what --
24 not -- that's not an issue at all now. The issue is, she's
25 gonna play something for me to hear, and when the Court of

ANGIE HESTER: DIRECT BY MR. COOK

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1 Appeals, or the Supreme Court, if they ever hear this
2 matter, they've got to have -- to hear, too. They've got
3 to hear what I hear ---

4 MR. COOK: Yes, sir.

5 THE COURT: --- not something else.

6 MR. COOK: I'm certainly willing to pay a court
7 reporter, if this answers the question, to -- to do a
8 certified transcript of the recording. Is that the
9 question, your Honor?

10 SOLICITOR COLTON: Judge, I may be able to clear this
11 up. If that's -- if that is the recording, and I even
12 remember giving that to Mr. Brown, I will take the original
13 audiotape that I have, and I will agree to enter that into
14 evidence. If he's already -- if they've already got a copy
15 of it, there's no reason why it shouldn't ---

16 THE COURT: Okay.

17 SOLICITOR COLTON: --- put into evidence at that
18 point. That should clarify the issue ---

19 THE COURT: Is that okay, Ms. Nelson?

20 MADAM COURT REPORTER: --- if it's the same thing.

21 MADAM COURT REPORTER: Suits me.

22 THE COURT: You'll have the tape?

23 MADAM COURT REPORTER: Yes, sir. Yes, sir.

24 THE COURT: Well --

25 MADAM COURT REPORTER: Because I don't want to put a

ANGIE HESTER: DIRECT BY MR. COOK

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1 lot of dash, dash, dash, unclear, unclear, unclear. If I
2 can't make out what it is, I can't --

3 MR. COOK: Yes, ma'am.

4 THE COURT: Yeah. No, that would be up to for
5 whoever's listening to it?

6 MADAM COURT REPORTER: Yes, sir.

7 THE COURT: Okay.

8 MADAM COURT REPORTER: Thank you, Judge.

9 MR. COOK: So, at this time, your Honor, I would move
10 for the Court to hear this, and then it be placed into
11 evidence.

12 THE COURT: All right. And that may present
13 difficulties of its own, but we'll give it a try.

14 SOLICITOR COLTON: If I may come a little bit closer,
15 Judge.

16 THE COURT: Yes.

17 SOLICITOR COLTON: I'm not where I need to be.

18 MR. COOK: Just play it into that microphone, Ms.
19 Hester, if you don't mind.

20 ANGIE HESTER: I think this is the one I have.

21 MR. COOK: Well, if it's not, we'll give you some
22 slack.

23 (WHEREUPON, PHONE CALL PUBLISHED TO THE COURT AT 12:06
24 P.M.)

25 BY MR. COOK:

ANGIE HESTER: DIRECT BY MR. COOK

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1 Q. Is that the extent of the entire recording that you
2 have?

3 A There is some where the officers was talking to the --
4 to the man. I have the -- I have the whole thing. It's
5 just in bits and pieces. It's from the beginning ---

6 Q. Oh, I see.

7 A --- to when he gets back.

8 Q. So, that's not complete. There's another recording
9 that's ---

10 A. Yes.

11 Q. --- that was made at the same time you were at Mr.
12 Brown's office?

13 A. Yes, sir. There's the beginning.

14 Q. Okay.

15 A. And then, there's the end.

16 Q. Well, yeah. Let's continue to play the whole thing
17 that you recorded from Mr. Brown's office.

18 (PHONE CALL CONTINUES TO BE PUBLISHED AT 12:10 PM.)

19 BY MR. COOK:

20 Q. Is that everything he has?

21 A. To this. Those three things.

22 Q. You know, when I heard that earlier with you, I
23 thought I heard a conversation with Mr. Robbins' voice on
24 it. Is it just that I couldn't hear it now?

25 A. That was the first one I played.

ANGIE HESTER: DIRECT BY MR. COOK

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1 Q. And you played that today in the courtroom?

2 A. Yes, sir.

3 Q. Okay. So, I just couldn't hear it from where I'm
4 standing.

5 A. Right.

6 Q. All right. Thank you, ma'am. I have no further
7 questions for you at this time.

8 MR. COOK: Well, you know, your Honor, at this time I
9 would like for the purposes of this motions hearing, to
10 move that recording into evidence as Defendant's Exhibit
11 Number One.

12 SOLICITOR COLTON: Your Honor, I've conferred, and my
13 recollection of that tape, I think there's a little bit of
14 a portion in the beginning, a discussion with the officers
15 that is missing from that tape. But Investigator Vaughn is
16 in agreement that that is the same tape, the same CD that I
17 have in my office, and I'm willing to have that entered as
18 a Court exhibit, in lieu of this.

19 THE COURT: All right. That'll be done.

20 (WHEREUPON, COURT'S EXHIBIT NUMBER THREE, IDENTIFIED
21 AND MARKED, RECEIVED INTO EVIDENCE.)

22 MR. COOK: Thank you, your Honor.

23 I have no further questions for you, ma'am. Please
24 answer anything that the State might have for you.

25 CROSS-EXAMINATION

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 ANGIE HESTER BY SOLICITOR COLTON:

2 Q. Ms. Hester, you weren't present when that recording
3 took place. Correct?

4 A. Correct.

5 Q. I know when you have it in your phone, you are,
6 because you did it, but I mean, when the deal occurred,
7 when Mr. Robbins was speaking to whoever he was speaking?

8 A. Right. I was not there.

9 Q. Okay. And do you know who that person is, who he's
10 speaking to?

11 A. I do not.

12 Q. And do you know what date that recording occurred? Do
13 you know what date that recording occurred?

14 A. I do not.

15 Q. And you have never played that for Mr. Robbins?

16 A. No, ma'am.

17 Q. Not even on the phone, or through a jail phone call?

18 A. No, ma'am.

19 Q. Have you had an opportunity to look at the search
20 warrant in this incident in this case?

21 A. Yes.

22 Q. Were you there when Detective Vaughn interviewed the
23 confidential informant in preparation of the search
24 warrant? Would you do -- were you there when Detective
25 Ligen?? was interviewing the confidential informant?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. No.

2 Q. And you weren't part to any of this ---

3 A. No, ma'am.

4 Q. --- other than recording that? Thank you. You don't
5 know what the confidential informant told Investigator
6 Vaughn?

7 A. No, ma'am.

8 Q. Do you know anything about these drugs that were
9 located in an Easter basket on top of a piano in that home?

10 A. No, ma'am.

11 Q. Is that your home?

12 A. It is.

13 Q. Who do you reside there with? Or did you at the --
14 who did you reside there at the time, back in June?

15 A. Myself.

16 Q. Were there any children there?

17 A. No, ma'am.

18 Q. Who were the two children that were present when the
19 search warrant was executed?

20 A. My niece and my god baby. They were spending the
21 night.

22 Q. There's also crack cocaine that officers recovered out
23 of a drawer there; is that correct?

24 A. Uh-huh.

25 Q. They told you --

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. Uh-huh.

2 Q. I'm sorry, she needs to record that. You were aware

3 --

4 MADAM COURT REPORTER: Yes or no? Yes or no?

5 A. Yes,

6 BY SOLICITOR COLTON:

7 Q. And you were aware of the crack cocaine that was
8 recovered from the drawers?

9 A. I've seen the paperwork.

10 Q. Were you present when they searched the house?

11 A. I was.

12 Q. And did they ask you about those drugs that were found
13 in the drawer?

14 A. They didn't ask me.

15 Q. Did they ask you about the drugs that were found in
16 the Easter basket?

17 A. They didn't ask me.

18 Q. And it's your -- Is it your testimony that you deny --
19 you didn't make any statements about this to officers?

20 A. No, ma'am.

21 Q. And you're the sole occupant of that house, or you
22 were at the time?

23 A. I am.

24 Q. And at the time, were you dating Mr. Robbins?

25 A. Yes.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Did he stay at your home?

2 A. I mean, he spent the night a couple of nights.

3 Q. A couple nights a week, or a couple nights over the
4 course of a year?

5 A. I had just moved in.

6 Q. How many times a week did he spend the night at your
7 house?

8 A. One.

9 Q. One? Did he keep any clothing or personal items at
10 your home?

11 A. No, ma'am. He had just a couple of things. I had
12 just split up with an ex-boyfriend.

13 Q. Okay.

14 A. I still had some -- a lot of his stuff.

15 Q. So, the child -- Let me ask you this. The child that
16 you have with Mr. Robbins now, is that -- that's your only
17 child?

18 A. Yes, ma'am.

19 (WHEREUPON, COURT'S EXHIBIT NUMBER FOUR, PREMARKED FOR
20 IDENTIFICATION.)

21 Q. Ms. Hester, I'm going to show you what's been marked
22 for identification purposes as Court's Exhibit Four. Do
23 you know what Court's Exhibit Four is?

24 A. It's a princess bag.

25 Q. Do you --

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 THE COURT: I couldn't hear you.

2 A. That's a princess bag.

3 Q. And do you know anything about this princess bag?

4 A. No, ma'am.

5 Q. Have you ever seen it before?

6 A. No, ma'am.

7 THE COURT: It's a what? I still hadn't heard.

8 SOLICITOR COLTON: A princess bag.

9 THE COURT: Oh.

10 SOLICITOR COLTON: Sorry, your Honor.

11 Q. Oh, Ms. Hester, when they executed the search warrant
12 at that house back in June, on the 24th of June 2015, what
13 kind of car did you drive?

14 A. Altima and the truck.

15 Q. What truck?

16 A. It's the green truck.

17 Q. It's a pickup truck?

18 A. Yes, ma'am.

19 Q. What model is that?

20 A. I don't know. It's --

21 Q. Like, Ford or Chevy, or something like that?

22 A. Chevy.

23 Q. Is that registered under your name?

24 A. Yes, ma'am.

25 Q. What color is it?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. Green.

2 Q. And is that the truck that was in your driveway when
3 the officers pulled in?

4 THE COURT: You've got to say, yes or no.

5 A. Yes, ma'am.

6 Q. And what car do you drive on a daily basis?

7 A. The Altima.

8 Q. Have you ever allowed Mr. Robbins to drive your truck?

9 A. Yes, I have.

10 Q. Was he driving that truck that particular day?

11 A. No, ma'am. And it was just to crank it up to make
12 sure the battery doesn't go dead.

13 Q. So, are you saying that he didn't drive it, or he just
14 warmed the truck up?

15 A. I mean, he would warm the truck up, maybe take it
16 around the little circle and that's it.

17 Q. So, he operated the motor vehicle on the roads of
18 South Carolina?

19 A. Well, not on the roads.

20 Q. Did he drive the car and have it moved from point A to
21 B, in any way, shape, or form?

22 A. In the driveway, yeah.

23 Q. So, the car was in motion while he was operating it?

24 THE COURT: Yes or no.

25 A. Yes.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. And where is this little circle located? Is that your
2 driveway, or is that in the neighborhood?

3 A. The neighborhood.

4 (WHEREUPON, COURT'S EXHIBIT NUMBER FIVE, SIX, SEVEN,
5 EIGHT AND NINE, PREMARKED FOR IDENTIFICATION.)

6 Q. Ms. Hester, do you -- and you recall on the day that
7 the search warrant was executed? Do you remember that day?
8 Do you remember what you did that day?

9 A. Yes, ma'am.

10 Q. What did you do that day?

11 A. I was at the house.

12 Q. All day long?

13 A. Not all day.

14 Q. What did you do?

15 A. I was with my god babies and my -- well, my god baby,
16 and I was with my niece.

17 Q. Okay. Were you at the house?

18 A. Uh-huh.

19 Q. And were you there all day with your god baby and your
20 niece?

21 A. Not all day.

22 Q. Where did you go? If you don't remember, it's okay.

23 A. I don't -- I don't remember where we went.

24 Q. Okay. And what vehicle did you take when you went out
25 that day?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. The Altima.

2 Q. And do you recall how long you were gone for?

3 A. I do not.

4 Q. But you were there when the officers executed the
5 search warrant?

6 A. Yes.

7 Q. And to your knowledge, had Mr. Robbins driven that car
8 at all that day?

9 A. I --

10 Q. The -- I'm sorry, the pickup truck. I need to be
11 specific.

12 A. I don't know.

13 Q. It's possible that he could have driven the pickup
14 truck that day.

15 A. No, I had the keys.

16 Q. You only own one set of keys for that -- for that
17 pickup truck?

18 A. Yes, ma'am.

19 Q. Did you have them with you all day?

20 A. I have them.

21 Q. Did you have them with you all day?

22 A. They were on the counter, yes.

23 Q. Well, did you -- they were on the counter?

24 A. Uh-huh.

25 Q. Okay. I'm going to show you what's marked for -- as

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Court's Exhibit. Start with Court's Exhibit Five. Do you
2 know what that is?

3 A. Shoes. My shoes.

4 Q. Those are your shoes? Where -- where is -- do you
5 recognize this from your home?

6 A. Yes.

7 Q. How about Court's Exhibit Six.

8 A. My shoes.

9 Q. What size shoe do you wear?

10 A. Me? Seven.

11 Q. How about Court's Exhibit Nine?

12 A. Yes.

13 Q. And where do you recognize that from?

14 A. My closet.

15 THE COURT: Where - What is it?

16 BY SOLICITOR COLTON:

17 A. Clothes.

18 Q. Whose clothes are those?

19 A. Mine.

20 Q. Court's Exhibit Ten.

21 A. Clothes.

22 Q. Those are your clothes?

23 A. Yes.

24 Q. Court's Exhibit Seven.

25 A. Mine.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Your clothess?

2 A. They are.

3 Q. What type of clothes are those?

4 A. Boxers.

5 Q. They're your boxers?

6 A. I sleep in them.

7 Q. Okay. And all these lady high tops in this picture,
8 those are your -- those are your shoes, too?

9 A. My shoes.

10 Q. The officers recovered a series of money you had in
11 the house as well? You had money in the house?

12 A. I did.

13 Q. Okay. Singles, and then a drawer full of like, couple
14 a hundreds, or something like that?

15 A. Uh-huh.

16 Q. Well, the officers let you keep that money, didn't
17 they?

18 A. They did.

19 Q. Okay. The pickup truck in your driveway, your pickup
20 truck, occasionally let Mr. Robbins use it. Is that your
21 testimony?

22 A. He would crank it up for me.

23 Q. You kept the keys with you. Correct?

24 A. Yes.

25 Q. Who else did you loan the car out to?

ANGIE HESTER: CROSS BY SOLICITOR COLTON
REDIRECT BY MR. COOK

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1 A. Nobody.

2 Q. Did you give either your niece or your god child the
3 keys to the vehicle?

4 A. No. I mean, I've let people use it before to take
5 their trash, to pick up stuff.

6 Q. Did you -- to your knowledge, did you let anybody use
7 it that day?

8 A. No.

9 Q. Because the keys were on the counter all day.

10 A. Yes.

11 SOLICITOR COLTON: Court's indulgence, your Honor. I
12 don't have any further questions, your Honor.

13 REDIRECT EXAMINATION

14 ANGIE HESTER BY MR. COOK:

15 Q. You used the word, I would let people drive. Kind of
16 past conditional that, you know, when you're talking about
17 Mr. Robbins, you would let him drive around the circle, you
18 said. But just for clarification, you didn't give him
19 permission, and to your knowledge, he didn't use the truck
20 on the day in question that we're talking about, where, a,
21 the search of the house took place?

22 A. Correct.

23 Q. So, you didn't give him permission.

24 A. Huh-huh.

25 Q. Okay.

ANGIE NESTER: REDIRECT BY MR. COOK

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1 THE COURT: Yes or no?

2 A. No.

3 Q. Yeah. I'm just trying to clarify, because correct
4 could mean he did or he didn't, so. And to your knowledge,
5 he did not drive the truck that day that your house was
6 searched?

7 A. Correct.

8 THE COURT: Is it right or wrong?

9 A. Right.

10 THE COURT: Did he drive it, or not?

11 A. No, he did not.

12 Q. Okay. Sorry for the confusion. That's my fault.

13 Now, did you ever give the police consent or
14 permission to search that truck?

15 A. No.

16 Q. Okay. Thank you, ma'am. Well, I -- while I've got
17 you on the stand, you were in the house?

18 A. Yes, I was.

19 Q. Did you watch the police search through your house?

20 A. They wouldn't let me.

21 Q. Okay. Did you notice anything strange about the
22 search of the house?

23 A. Yes.

24 Q. What was that?

25 A. They was going through drawers. And then, one officer

ANGIE HESTER: REDIRECT BY MR. COOK
RE CROSS BY SOLICITOR COLTON

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1. went through a drawer. And then, it was nothing.

2. Q. Uh-huh.

3. A. And then, a offi -- another officer came with his back
4. turned towards me, and then he found something.

5. Q. In the same drawer that the previous officer had found
6. nothing in?

7. A. Correct. Yes, sir.

8. Q. Do you remember either of these officers' names, or
9. what they looked like?

10. A. I do not.

11. Q. All right.

12. MR. COOK: Thank you, ma'am. The State may have some
13. followup questions.

14. RE CROSS EXAMINATION

15. ANGIE HESTER BY SOLICITOR COLTON:

16. Q. I just have one. I'm a little confused. You said
17. they wouldn't let you watch the search occur?

18. A. No, ma'am.

19. Q. But then, you did see them search something?

20. A. That was something -- because I was in the living
21. room. When they were in the bedroom, they wouldn't let me
22. back there.

23. Q. So, you did see part of the search?

24. A. Yes, ma'am.

25. SOLICITOR COLTON: Judge, I don't have anything else

1 further.

2 MR. COOK: No further questions.

3 THE COURT: I may have missed this. Was Mr. Robbins
4 on the premises at the time the search was executed?

5 ANGIE HESTER: Yes.

6 THE COURT: You can step down. Thank you.

7 (WITNESS LEAVES WITNESS STAND.)

8 MR. COOK: I have no further questions. On the issue
9 about the search warrant, I still would have questions, you
10 know, in regards to the truck, and whether that was a
11 proper search, your Honor.

12 THE COURT: What do you mean, you still have
13 questions?

14 MR. COOK: Well, you know, I'm trying to suppress two
15 -- evidence on two grounds.

16 THE COURT: Who are you going to ask questions of?

17 MR. COOK: Regarding the truck?

18 THE COURT: You said you had questions. Who do you
19 want to ask the questions to?

20 MR. COOK: In regards to the truck, I would have some
21 questions for the detectives and my client.

22 SOLICITOR COLTON: Judge, can we just deal with the
23 search warrant issue first? I think what he's moving for
24 is a hearing under *Franks v Delaware* where a finding under
25 *Franks V Delaware*. And before we get into the separate

1 issue of an automobile exception ---

2 THE COURT: Well, we're going to --

3 SOLICITOR COLTON: --- which, I agree is appropriate.

4 THE COURT: Would *Franks versus Delaware* apply to the
5 search warrant itself?

6 SOLICITOR COLTON: Yes, sir, your Honor. I think --

7 THE COURT: So, but he -- Is that one of the questions
8 you -- As I understand it, and I've got some cheat sheets
9 here that in *Franks*, you're looking at whether or not there
10 are fraud or misconduct, basically by a reckless disregard
11 for the truth by the affiant.

12 MR. COOK: Yes, sir.

13 THE COURT: Is that what your -- is that where your
14 aim is?

15 MR. COOK: Yes, sir. I didn't hear your last phrase.

16 THE COURT: By falsehood or reckless disregard for the
17 truth, or what -- that is, the burden, as I understand it
18 under *Franks*, is on the defendant to establish that the
19 basis for the issuance of a search warrant was based on
20 deliberate falsehood or reckless disregard for the truth by
21 the affiant.

22 MR. COOK: Yes, sir. That's my -- that's my point.
23 But I have two tiers. There's also a motion to suppress
24 the evidence that was found in the truck.

25 THE COURT: Well, we haven't gotten there.

1 MR. COOK: And that's what I was --

2 THE COURT: That's why she's trying to -- to bifurcate
3 it, and let's deal with the -- the search of the house
4 first.

5 MR. COOK: Yes, sir.

6 THE COURT: Do you have any more people you want to
7 call as witnesses on that?

8 MR. COOK: Not on this point. No, sir, your Honor.
9 And so, I'm ready for arguments, if your Honor is.

10 THE COURT: All right. Well, let me hear your
11 argument, then.

12 MR. COOK: Well, your Honor, just, simply, that the
13 Defendant moves to suppress all of the evidence, because he
14 maintains that he did not participate in any controlled
15 buy. He alleges that the State has that, specifically
16 Officer Vaughn, has some resentment from a prior arrest.
17 He alleges that he didn't participate in any controlled
18 buy. I believe that the video -- the audio that was taken
19 didn't show anything dis-positive about a controlled buy.

20 THE COURT: As far as I'm concerned, the audio didn't
21 show anything.

22 MR. COOK: I -- well, I --

23 THE COURT: It didn't show, it obviously didn't show -
24 - it didn't -- I heard nothing relevant either way. I
25 could barely understand what was on there. But what I

1 could understand and so, I'll ask you, what, in the audio,
2 you consider is relevant to my consideration?

3 MR. COOK: Well, just that they did have a
4 conversation when I heard it, and I couldn't hear it clear
5 today, either, because of the microphone, I think. But
6 when the -- my client's voice is on the audio. There was a
7 conversation made, and it had nothing to do with drugs
8 whatsoever. Not even anything that, in my opinion, could
9 be construed to deal with drugs, through slang or anything
10 like that. So, I think that that would support my client's
11 assertion that it didn't take place. That's with all due
12 respect, and there's a lot of due, that's my argument on
13 the point, your Honor. Thank you, your Honor.

14 THE COURT: All right.

15 SOLICITOR COLTON: Yes, sir.

16 Your Honor, I think my understanding of research into
17 this issue, we're talking about, I think it's kind of a
18 hybridization of two separate issues. The first one, Mr.
19 Cook is claiming that he needs to know the identity of the
20 informant, to have the informant here, because he needs to
21 essentially cross-examine him and get information. He has
22 not shown that this defendant -- he does have the burden of
23 showing, I believe, to pierce the protection of the State's
24 doesn't have -- is allowed under *State versus Wright*, 322
25 S.C. 484, to protect witnesses that are not material to

1 this case, and I've heard -- I don't believe he's presented
2 any evidence to indicate that --

3 THE COURT: Well, I agree with you. I don't think we
4 have to argue that a whole lot more.

5 SOLICITOR COLTON: Yes, sir.

6 THE COURT: I don't believe he's entitled ---

7 SOLICITOR COLTON: And --

8 THE COURT: --- From the presentation at this time
9 there's been nothing that's indicated to me that there is
10 any reason that the State is required to divulge the name
11 of the confidential informant. He's not really a tipster
12 in this case, but he's not a wit -- he or she is not a
13 witness to the matter under which Mr. Robbins is presently
14 on trial, and I don't -- and I find that, until there is
15 some basis to -- I have to call it set aside -- but pierce
16 the affidavit, then, I think the magistrate had the
17 absolute right to rely on the affidavit, unless there is a
18 showing, as I mentioned, of misconduct in the presentation
19 of it. And the burden is on the defendant to do that, that
20 the inquiry stops after the examination of the affidavit.

21 SOLICITOR COLTON: Yes, sir. And I agree, your Honor,
22 but I have to -- but under *Franks versus Delaware*, I
23 believe he's failed to meet his burden of proof, and
24 positing that there were falsehoods or reckless disregard
25 for the truth anywhere in the affidavit. In fact, he

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1 didn't even ask the officer that question. That's not the
2 State's burden to disprove. The burden is under -- is the
3 defendant's to prove that, by the preponderance of the
4 evidence, what Mr. Robbins may say. And I think -- I think
5 -- I think other than that they kind of relied on what Mr.
6 Robbins said, he did not --

7 THE COURT: Well, on that point, I agree. I did not -
8 - of course, it's very self-serving, obviously, because he
9 is the defendant, but I find that Mr. Robbins' testimony on
10 the issue of his involvement with the confidential
11 informant lacks credibility, based on his bias and
12 prejudice that is innate in his posture in this case, and
13 based on his prior record. So, I do not give any weight or
14 value to Mr. Robbins' testimony regarding what he recalls
15 of this incident.

16 SOLICITOR COLTON: Thank you, your Honor.

17 THE COURT: The incident involving the CI.

18 SOLICITOR COLTON: Thank you, your Honor. And I
19 think, regardless of the confidential informant's
20 controlled buy or not, and what transpired or what didn't,
21 what is material to the finding under *Franks* is a
22 deliberate falsehood or a reckless disregard, or omission
23 by law enforcement in preparing that affidavit. I've heard
24 nothing that would indicate that the affiant had falsified
25 any information, had intentionally omitted any information,

1 or given -- even had reckless, or even negligent disregard
2 for the -- for a -- asserting a truthful affidavit to Judge
3 Benfield.

4 THE COURT: All right. And I agree. I deny the
5 motion to suppress the items obtained through the search
6 warrant executed on -- or the search warrant issued by the
7 magistrate that's evidence as Exhibit Number Two.

8 All right. We've moved to the, I guess we're arguing
9 now. I have a double-edged sword, kind of issue on this.
10 And I can understand where it's a delicate issue for the
11 State, but the State has not taken the position, and I can
12 understand why, that Mr. Robbins had no right to privacy in
13 this residence. And I can understand why, because they
14 want to give him the dominion and control over items in the
15 residence. Just an ovservation.

16 SOLICITOR COLTON: Thank you, your Honor.

17 THE COURT: Thank you for saying it, or thank me for
18 observing it?

19 SOLICITOR COLTON: Thank you for observing that.

20 THE COURT: All right. Let's -- Why don't we do this?
21 It's twelve thirty. Why don't we break for lunch, and when
22 the jury comes back at two, I'm going to just tell them to
23 come back in the morning. Judge Hall and I are leaving at
24 four. We have a thing we have to do in Columbia at six and
25 Judge Alford is joining us. I'm going to have to relieve -

1 - I did not, I wish I had been aware that Mr. Zinzer was
2 given protection. I'm going to have to relieve him and
3 we'll have to go with an alternate. I've written the two
4 alternates' names on sheets of paper that I'm going to ask
5 Ms. Naylis to pull one of these. And the one she pulls
6 will be -- Mr. Merrick. So, he will be the -- Well, she,
7 Valerie, Valerie Merrit would be the alternate, and I will
8 appoint Mr. Pace as the foreman when we come back.

9 I'll do all of that when they come back at two but I
10 will still not swear them in and would let them go 'till
11 ten in the morning. All right. So, let's have a pleasant
12 lunch until two o'clock.

13 SOLICITOR COLTON: Thank you, your Honor.

14 THE COURT: Let me see Counsel just a briefly, before
15 we get too far away.

16 (COURT IN LUNCH RECESS AT 12:38 PM.)

17 (COURT BACK IN SESSION AT 2:03 PM.)

18 THE COURT: You may take your seats. Let's get Mr.
19 Robbins in.

20 (DEFENDANT REENTERS COURTROOM.)

21 THE COURT: Counsel is back; the Defendant is present.
22 I'm going to bring the jury in and excuse them. Judge Hall
23 and I both have to leave at four today, or close to it, and
24 I think we won't get very far if we try to hold the jury;
25 we got probably at least another hour which would take us

1 'till three. I will relieve Mr. Zinzer of his duties as
2 foreman and as juror, and have Ms. Merrick seated as a
3 juror. Anything before I do that from the State?

4 SOLICITOR COLTON: No, your Honor, nothing from the
5 State.

6 MR. COOK: No, sir, your Honor.

7 THE COURT: All right. Bring in the jury.

8 (JURY REENTERS COURTROOM AT 2:06 PM.)

9 THE COURT: Members of the jury panel, first, Mr.
10 Zinzer, I'm sorry I didn't realize and did not inform that
11 you were -- had protection for the next two days, so I'm
12 going to relieve you today, which would be just in a few
13 minutes, and I'll tell you more about that. I'm going to
14 excuse you from further service, and we'll seat Ms. Merrick
15 as the alternate now. She was the second alternate chosen,
16 and you might think well logically the first alternate
17 chosen to take that seat, but that's not the way we do it
18 in this Court.

19 In this court, we do it, even though gambling used to
20 be illegal in South Carolina, and I know the lottery still
21 is to some degree, to determine who -- which of the
22 alternates serves, we cast lots basically. So, Ms.
23 Merrick's name was pulled.

24 We are, I'm not going to say bogged down, but we are -
25 - we still have quite a bit of stuff to do outside your

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1 presence. And Judge Hall and I both have to leave, along
2 with former Judge Alford, at 4:00 o'clock today to go to
3 something in Columbia. So, rather than have you sit,
4 again, for a couple of hours while we take up matters, only
5 to be in here for a short period of time, I'm going to let
6 you go for the day, and have you come back at ten in the
7 morning everybody but Mr. Zinzer.

8 I am going to appoint Mr. Pace as the foreperson now.
9 And don't be offended at your second choice, but you are
10 now the foreperson. So, have a pleasant evening, and we'll
11 see you back at ten in the morning. Thank you.

12 (JURY EXITS COURTROOM AT 2:08 PM.)

13 THE COURT: Help me catch up to where we are. I had
14 ruled that -- I want to make it clear -- I have ruled that
15 the search warrant, and therefore, the search and the
16 seizure of those items set forth on the return was a valid
17 search warrant, and there's nothing to indicate any
18 improper execution thereof, although Ms. Hester tried to
19 imply that there was a planting of drugs. Not a very
20 availed kind of attempt to so do, but that's not for me to
21 decide, and neither here nor there. But I find that the
22 search was conducted pursuant to a proper search warrant,
23 properly issued, based on a proper affidavit that the CI,
24 on which the affidavit the information applies, is not the
25 witness who must be named for the defendant and, therefore,

1 those items seized from the premises, which would include
2 the house -- it would be the house, are not suppressed and
3 are admissible in trial. So, I guess, now, we move to the
4 issue regarding the search of the truck.

5 SOLICITOR COLTON: Yes, sir, your Honor. And just as
6 a point of clarification, the return did indicate as part
7 of the return that Item Number Three, the digital scales
8 and plastic bags and crack in the four plastic bags, were
9 -- they're -- they're listed on the return as part of what
10 was found during the search warrant. And your Honor said
11 all the items in the return were ruled admissible, however
12 because those items came in the car --

13 THE COURT: Okay. Only -- I'm sorry, and you were
14 correct, and I don't know which are which. But as to --
15 there are six items listed in the return, those items that
16 were -- only those items listed in the return -- I did that
17 sort of as a shorthand, I guess -- the items seized from
18 the house, regardless if they're on the return, or whether
19 there are additional things on the return, the only thing
20 I'm ruling as properly seized under the search warrant were
21 things inside the house.

22 SOLICITOR COLTON: And in and on his person, because
23 the search warrant was for his person.

24 THE COURT: And his person.

25 SOLICITOR COLTON: Thank you, your Honor.

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1 THE COURT: Okay.

2 SOLICITOR COLTON: We are prepared to go forward.

3 THE COURT: All right. Call your first witness on the
4 truck exception.

5 SOLICITOR COLTON: The State would call David Vaughn.

6 THE COURT: You're still under oath, Officer Vaughn.

7 DAVID VAUGHN: Yes, sir.

8 (WHEREUPON, DAVID VAUGHN,
9 BEING FIRST CALLED AND PREVIOUSLY SWORN, TESTIFIED AS
10 FOLLOWS:)

11 DIRECT EXAMINATION

12 INVESTIGATOR DAVID VAUGHN BY SOLICITOR COLTON:

13 Q. And Detective Vaughn, you previously testified that
14 you were the case -- lead agent on the investigation of
15 Antonio Robbins.

16 A. Yes.

17 Q. And the day that this search warrant was executed,
18 well, how did you -- who were you with when the search
19 warrant was executed?

20 A. It was myself, Officer McGarrity, and Officer Gander.

21 Q. And who -- were you in a vehicle or were you?

22 A. Yes. We were in a unmarked surveillance van.

23 Q. And how did you go about executing this search
24 warrant?

25 A. Well, what we did, we parked across the street from

1 Mr. Robbins' residence, and we had information that he was
2 operating a bluish-green older model truck. The truck was
3 not at the residence while we was conducting surveillance;
4 so, therefore, we waited to conduct our surveillance, and
5 waited for him to show up.

6 Q. And how -- do you recall how long you conducted
7 surveillance?

8 A. We conducted surveillance probably from about three
9 thirty, starting at three thirty. We took a break about --
10 I don't know, we took a break, and we got something to eat,
11 and we come back, and we conducted more surveillance, until
12 the vehicle arrived.

13 Q. Okay. Approximately how long were you there after the
14 break 'til the vehicle arrived?

15 A. Approximately thirty minutes, maybe.

16 Q. And pursuant to this investigation, were there other
17 officers also surveilling the defendant's house?

18 A. Yes. Yes.

19 Q. And do you recall who those officers were?

20 A. Lieutenant Ligen and Mark Suchenski -- Officer
21 Schenski.

22 Q. And to the best of your knowledge, did they -- to the
23 best of your knowledge, did they remain there when you took
24 your break?

25 A. No, they did not.

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1 Q. And how long -- how did you come to encounter the
2 defendant after you came back from break?

3 A. Well, after we went back to our spot we was parked in
4 across the street, continued to conduct surveillance. And
5 like I said, about thirty minutes later, we observed Mr.
6 Robbins coming down Woodland Hills Road operating that
7 bluish-green color truck, pull into the driveway, and go
8 off to the right side of the driveway, and we pull in
9 directly behind him.

10 Q. And did you know anything about the status of Mr.
11 Robbins' driver's license at the time?

12 A. Yes. Through the investigation, we -- we like to do
13 background checks on people. When we say background check,
14 far as, check their Department of Motor Vehicles status,
15 any kind of prior history. And what I found was that Mr.
16 Robbins was a habitual offender, deemed an habitual
17 offender by the South Carolina Department of Motor
18 Vehicles; and also, that his license to drive in the State
19 of South Carolina were suspended.

20 Q. And you were aware of that before you followed him
21 into that driveway?

22 A. Yes.

23 Q. Did you see him operating his vehicle on the roads --
24 the road in front of that house?

25 A. Yes.

1 Q. And did you stop him for the traffic violations?

2 A. No.

3 Q. And can you tell the Court why?

4 A. Well, the risk versus reward. When we're dealing with
5 these types of investigations and you drive unmarked cars
6 and plain-clothes officers; when you investigate somebody,
7 you know, you try to stop somebody who you're working an
8 investigation on, the risk of them running is high. And
9 when they run, the failure to stop for a blue light, you
10 know, it jeopardizes the -- the citizens of York County and
11 jeopardizes myself. Also it jeopardizes Mr. Robbins, if he
12 was to run.

13 Q. So, your concern for not stopping him on the road
14 immediately was because you were afraid he was going to
15 flee?

16 A. Yes.

17 Q. And when you -- and were you still in the car with
18 Officer Gander and McGarrity when you pulled in behind Mr.
19 Robbins?

20 A. Yes.

21 Q. And describe for the Court, was it simultaneously, did
22 he leave his vehicle, or was it a delay? Do you recall
23 exactly how??

24 A. It was a short period of time. As soon as he pulled
25 into the driveway, we was right on -- we pulled in right

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1 behind him. His car -- his truck door opened. We
2 immediately exited our surveillance van, and that's when we
3 told -- we went up and told Mr. Robbins, please exit the
4 vehicle, identified ourselves as police officers. We
5 explained to him that we had a search warrant for the
6 residence and him.

7 Q. And did you search him?

8 A. I did not.

9 Q. Did any officer search him in your presence?

10 A. Yes.

11 Q. Who was that?

12 A. Office McGarrity.

13 Q. Okay. And did Officer McGarrity recover anything from
14 his person?

15 A. Yes.

16 Q. What did he recover from his person?

17 A. A little bit of marijuana and some cash.

18 Q. And what, if anything, did you notice about the
19 vehicle that Mr. Robbins was driving?

20 A. While speaking with Mr. Robbins, I could smelled the
21 odor of marijuana coming from the vehicle.

22 Q. And what did you do about that?

23 A. We searched the vehicle.

24 Q. Did you personally do the search of the vehicle?

25 A. No.

1 Q. Were you aware of what was recovered from the vehicle?

2 A. Yes.

3 Q. Did you see it recovered from the vehicle?

4 A. Yes.

5 Q. And can you please tell the Court what was recovered
6 from the vehicle?

7 A. It was some -- there was some crack recovered from the
8 vehicle out of a book bag, some digital scales and some
9 baggies.

10 Q. And was it Investigator McGarrity that recovered those
11 items?

12 A. Yes.

13 Q. Now ultimately y'all didn't charge him with habitual
14 traffic offender and driving under a suspension.

15 A. No.

16 Q. And how come?

17 A. Well, this type of offenses, we have what we believed
18 at that time, even when we got back to the office, we had a
19 trafficking crack, you know. We're not going to stack
20 offenses, just charge 'em just because we can charge
21 them.

22 Q. So, basically, you used your discretion, and not
23 charge him for the underlying offenses?

24 A. Yes.

25 Q. And did you later -- yesterday, did you go ahead and

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1 pull Mr. Robbins' driving record again?

2 A. I did.

3 Q. And did this confirm what you had initially
4 determined?

5 A. Yes.

6 Q. And what was that?

7 A. His driver's license were still suspended, and he's
8 deemed a habitual offender through the South Carolina
9 Department of Motor Vehicles.

10 Q. And that was during the time period that included June
11 24th, 2015?

12 A. Yes.

13 SOLICITOR COLTON: Thank you. Please answer any
14 questions Mr. Cook has.

15 MR. COOK: Thank you, Detective.

16 CROSS-EXAMINATION

17 INVESTIGATOR DAVID VAUGHN BY MR. COOK:

18 Q. What was the distance, would you say, from the
19 driveway to the house?

20 A. I don't know.

21 Q. And I don't -- I understand. Is it, would you say, is
22 it a half mile?

23 A. If I -- if I was going to -- this is just an estimate.

24 Q. Yeah.

25 A. I don't know for sure.

1 Q. I understand.

2 A. I'm going to say fifty -- fifty yards, maybe.

3 Q. Fifty yards or so. And I realize you've never taken
4 the opportunity to go and measure it, have you?

5 A. Correct. Yes.

6 Q. And so, this is just an estimation. But if I may --

7 MR. COOK: If I may approach, your Honor?

8 Q. Is this a photograph of the house from the road?

9 A. Yes.

10 Q. So, that would give an accurate depiction of the
11 distance from the road to the house.

12 A. Yes.

13 Q. Okay.

14 MR. COOK: And at this time, your Honor, I'd like to
15 admit this as Defense Exhibit Number Two, I believe.

16 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER ONE, PREMARKED
17 FOR IDENTIFICATION.)

18 Q. Do you recognize this photograph?

19 A. Yes.

20 Q. Did you take that photograph?

21 A. I did.

22 Q. Okay. And did you take it recently?

23 A. Yes.

24 Q. Okay.

25 MR. COOK: And it's at this time, your Honor, I would

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1 move to move it into evidence, as Defense Exhibit Number
2 One. Two? . .

3 SOLICITOR COLTON: The State has no objection to that,
4 your Honor.

5 MADAM COURT REPORTER: Just a minute, Judge.

6 THE COURT: Okay.

7 MADAM COURT REPORTER: Solicitor gave me the recording
8 she had. I didn't get a recording that you offered as
9 Defense One. Can I make this Defense One?

10 MR. COOK: Yes, ma'am.

11 MADAM COURT REPORTER: I made the recording a Court's
12 exhibit.

13 MR. COOK: Thank you, ma'am.

14 MADAM COURT REPORTER: Thank you.

15 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER ONE, IDENTIFIED
16 AND MARKED, RECEIVED INTO EVIDENCE.)

17 MR. COOK: If I may, your Honor, this is the
18 photograph we're discussed.

19 MADAM COURT REPORTER: And I'm sorry, Judge, that
20 should be One.

21 THE COURT: Okay.

22 MR. COOK: Would you like to correct it?

23 MADAM COURT REPORTER: No, sir. I will. I will, just
24 so Judge Hayes knows.

25 MR. COOK: Yes, ma'am.

1 Q. And where, Officer, where again, were you positioned
2 when you first saw my client allegedly driving this green
3 truck?

4 A. Across the street.

5 Q. In a van, you said?

6 A. Yes.

7 Q. And was the van parked, essentially, on the road?

8 A. No.

9 Q. How far off the road was the van?

10 A. It was parked in a driveway of another house.

11 Q. Of another house.

12 A. Yes.

13 Q. And when did you start your vehicle in motion? In
14 other words, in relation to where my client was, had he
15 already stopped his vehicle?

16 A. No, sir. What happened, he come down Woodland Road

17 ---

18 Q. Uh-huh.

19 A. --- right there, Woodland Hills Road. And we seen
20 that type of vehicle come through there, we just pulled
21 right behind 'em and they pulled in right behind the --
22 pulled into the driveway and pull in right behind him.

23 Q. I understand. And so, you -- your testimony is that,
24 at that point, my client exited his vehicle?

25 A. No. My testimony was that, initially, when we pulled

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1 into the driveway, and pulled in right behind him, he was
2 in the vehicle. We left our vehicle, got out of our
3 surveillance van.

4 Q. Uh-huh.

5 A. And that's when we gave him verbal command to step out
6 of the vehicle.

7 Q. Yeah.

8 A. And we explained it to him that we had a search
9 warrant, and why we was there, and what we was doing.

10 Q. Did you find any marijuana in the vehicle?

11 A. No.

12 Q. Did you find any burnt residue, burnt cigarettes,
13 paraphernalia, or any of that type of thing?

14 A. I did not.

15 Q. Okay. And to your knowledge, was anything found in
16 the vehicle that would indicate, other than a smell, that
17 marijuana had recently been smoked in the vehicle?

18 A. I did not.

19 Q. Okay. And when you exited -- when you exited your
20 van, you -- were you the officer that asked my client to
21 exit the vehicle?

22 A. I don't recall.

23 Q. Okay. Did you get consent from anybody in the house,
24 subsequently to search the vehicle?

25 A. No, I did not.

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1 Q. Thank you.

2 MR. COOK: I've got no further questions.

3 SOLICITOR COLTON: The State has no redirect, your
4 Honor.

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

6 DAVID VAUGHN: Yes, sir.

7 (WITNESS LEAVES WITNESS STAND.)

8 THE COURT: Call your next witness.

9 MR. COOK: Your Honor, I call Mr. --

10 THE COURT: Wait, the State's got --

11 MR. COOK: I apologize.

12 SOLICITOR COLTON: Your Honor, the State has no
13 further witnesses as to this issue.

14 MR. COOK: Now, if I may, your Honor?

15 THE COURT: Okay.

16 MR. COOK: I call the defendant, Mr. Robbins.

17 THE COURT: Mr. Robbins, you're still under oath.
18 Come on.

19 (WHEREUPON, ANTONIO ROBBINS,
20 PREVIOUSLY CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

21 DIRECT EXAMINATION

22 ANTONIO ROBBINS BY MR. COOK:

23 Q. And again, if you -- Mr. Robbins, if you would just
24 state your name, for the record, again.

25 A. Antonio Robbins.

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1 Q. Did you hear the testimony of Officer Vaughn just now?

2 A. Yes, sir.

3 Q. Do you agree with his testimony, that it was the
4 truth?

5 A. No, sir.

6 Q. Would you please explain what did happen during this
7 incident?

8 A. I was sitting up under the carport. There's the
9 picture -- see, you got pictures of the carport right
10 there. You've got -- it's a washroom ---

11 Q. Uh-huh.

12 A. --- and I was cleaning up.

13 Q. Okay.

14 A. Sweeping up trash and stuff. I was tying the trash
15 bag up. I was throwing the trash bag onto the back of the
16 truck. They swarmed in. They got out of the vehicle and
17 said, we got a warrant for your arrest. What's your name?
18 I showed them my I.D. They said, Antonio Robbins, we've
19 got a warrant for your arrest. May we search your person?
20 They got a bag of marijuana out of my left pocket.

21 Q. Uh-huh.

22 A. Put me in handcuffs, and took me in the house. Then,
23 when I was in the house, they set me down, and that's when
24 they conducted the search in the vehicle.

25 Q. To be clear, had you driven that vehicle, the green

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1 truck, any that day in question, of June 24th, 2015?

2 A. No, sir. I hadn't driven it.

3 Q. Had you smoked marijuana in that truck, without
4 driving it any that day?

5 A. No, sir.

6 Q. Had you been smoking the marijuana that was in your
7 pocket?

8 A. I had probably smoked a joint in the outbuilding ---

9 Q. Uh-huh.

10 A. --- in the washroom. It was probably around, like,
11 probably an hour, thirty minutes or so.

12 Q. And do you have -- did you ever, at any point, have
13 dominion or control over that truck?

14 A. No, sir.

15 Q. All right. Thank you.

16 MR. COOK: I've got no further questions. Please
17 answer any the State may have.

18 CROSS-EXAMINATION

19 ANTONIO ROBBINS BY SOLICITOR COLTON:

20 Q. Mr. Robbins, did you spend the night before at that
21 house?

22 A. Did I spend the night before?

23 Q. Yes. I think before the search warrant came and the
24 police came to that house, had you spent the night before
25 there?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. Had I spent the night? No, ma'am, I ain't spent no --

2 Q. So, you -- Did you -- You came to the house the day
3 the search warrant was executed?

4 A. Yeah. Angie had came and pick me up.

5 Q. She picked you up.

6 A. Yeah.

7 Q. Okay. What car did she pick you up in?

8 A. The Altima.

9 Q. And while you were at the house that day, were the
10 children there?

11 A. They -- yeah, she had -- yeah, they was there.

12 Q. Were they with her when she came to pick you up?

13 A. Yes, ma'am.

14 Q. And returned to the house, did Angie leave at all that
15 day, while you were there?

16 A. No, we didn't leave.

17 Q. So, you all were there together the entire day, with
18 the two children?

19 A. Yeah, I was -- they was in the house. I was out there
20 cleaning up, and I cleaned up in the outbuilding. And I
21 had finished painting the living room.

22 Q. How old are the children?

23 A. Imani is, I want to say, ten. I don't know Angie's
24 niece. I ain't -- that was my first time meeting her
25 niece.

1 Q. Okay. Am I safe to say that neither one of them have
2 their driver's license? Were they young enough not to have
3 driver's licenses?

4 A. Yeah, they ain't got no driver's license.

5 Q. Did you -- have you ever seen them operate a vehicle?
6 I know that sounds like a silly question, but.

7 A. No, ma'am. I ain't never seen them operate no
8 vehicle.

9 Q. And did Angie, Ms. Hester, did she drive that green
10 truck that day?

11 A. No, ma'am.

12 Q. And if your testimony is that you're out on the
13 carport, was there anybody else at the house that day
14 besides you, Angie, and the two children?

15 A. Anybody else in the house?

16 Q. While you were there.

17 A. No. No, ma'am.

18 Q. Okay. And did you all have any visitors that day at
19 all?

20 A. No, ma'am.

21 Q. But you do concede, or you agree that you had
22 marijuana in your pocket.

23 A. Yes, ma'am.

24 Q. Along with the Six Hundred and thirty-six dollars?

25 A. Yes, ma'am.

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1 Q. And do you agree that you were -- have been declared a
2 habitual traffic offender?

3 A. What you mean by that?

4 Q. That you had -- did you ever get a -- did you get a
5 notice from the Department of Motor Vehicles that you can't
6 drive, because you're suspended?

7 A. Oh, yeah, I had got -- I had just called Columbia
8 probably as soon as I made parole, I was setting up a
9 payment plan to get my license back. Yeah, I was aware
10 that I couldn't drive or anything. That's why I don't
11 drive.

12 Q. For HTO -- Oh, I'm sorry, I didn't mean to interrupt
13 you. For -- for the DUS, the driving under suspension,
14 were you aware that you were also a habitual traffic
15 violator?

16 A. A what?

17 Q. A habitual traffic offender, where they suspend your
18 license for five years. Were you aware of that?

19 A. They suspended my license?

20 Q. Yeah, for five years?

21 A. No, I wasn't aware of that right there.

22 Q. Okay. Do you ever drive that green truck?

23 A. No, not -- I haven't never drove it like that. The
24 only thing I do is crank it up for her, let it warm up, and
25 just make sure that the battery and stuff stays -- make

1 sure it cranks, drive full up or before anybody else get in
2 it.

3 Q. Do you ever -- do you ever operate -- do you ever
4 drive that car where the wheels actually turn, rotate? Do
5 you even back up four feet?

6 A. Not -- Not out the yard. Yeah, I have, but I ain't
7 never went, actually, on the road.

8 Q. Okay. So, you stopped at the driveway? Is that your
9 testimony?

10 A. Did I --

11 Q. At the end of the driveway?

12 A. Yeah, it's a -- the yard is big. I, you know, just
13 circle it around the house. That's it.

14 Q. Who else have you seen drive that truck?

15 A. Who else have I seen drive it? I saw my brother drive
16 it.

17 Q. Okay.

18 A. Her ex-boyfriend drive it. Her.

19 Q. Did they -- Well, you don't have to answer that.

20 SOLICITOR COLTON: Thank you, and I don't have any
21 further questions for you.

22 MR. COOK: No further questions, your Honor.

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

24 (WITNESS LEAVES WITNESS STAND.)

25 MR. COOK: That's all my witnesses for this part of

1 the motion, your Honor.

2 THE COURT: All right. Glad to hear your arguments.

3 MR. COOK: Thank you, your Honor. I'm moving to --

4 THE COURT: Well does the State have any witnesses?

5 SOLICITOR COLTON: I don't -- I do not, your Honor.

6 THE COURT: Okay.

7 MR. COOK: I apologize. Your Honor, Defense moves to
8 suppress the -- the evidence discovered in the truck, on
9 the basis that, pursuant to *Carroll versus U.S.*, there is
10 no probable cause to believe that the vehicle contains
11 evidence of a crime if the testimony of the defendant were
12 to be believed that he wasn't driving the truck that day,
13 and --

14 THE COURT: I can go ahead and tell you up front that
15 the line of credibility is drawn. Mr. Vaughn's -- Officer
16 Vaughn's on the credibility side. Mr. Robbins is on the un
17 -- not credible side, so.

18 MR. COOK: That was the basis --

19 THE COURT: I don't believe your client's testimony to
20 be very candid, but you can go ahead and argue. But I
21 don't -- I find the fact in regard to this issue, I find
22 that Mr. Vaughn's version is credible and logical,
23 reasonable, and is the version of facts that I accept and
24 rely on.

25 MR. COOK: Yes, sir. And that's the basis of our

1 motion. So, I will rest there, your Honor.

2 THE COURT: All right.

3 SOLICITOR COLTON: Your Honor, the testimony -- the
4 most credible testimony that was heard was that officers
5 observed the defendant driving on the roads of South
6 Carolina. They knew he was a habitual traffic offender.
7 They knew he was driving under suspension. That, in and of
8 itself, gave them probable cause to search that vehicle, to
9 stop the vehicle. In addition, the search warrant for his
10 person is valid. When they approached the vehicle --

11 THE COURT: The search warrant for his person?

12 SOLICITOR COLTON: For his person, your Honor. The
13 search warrant was for his person.

14 THE COURT: Well, with the -- Yes.

15 SOLICITOR COLTON: For -- That would even involve the
16 authority to remove him from the vehicle.

17 THE COURT: Searching the car.

18 SOLICITOR COLTON: When he was removed from the
19 vehicle under both -- and under either analysis, the
20 officer testified that they smelled the odor of marijuana
21 coming from in the vehicle. The fact that marijuana --
22 that that in and of itself, would give them probable cause
23 to search the vehicle under *State versus Weaver*, 361 S.C.
24 73; and under the *Carroll Doctrine*. The probable cause for
25 the vehicle is they that they can search any place where

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1 marijuana could be located, which they did, and saw it a
2 type of container that would not lend itself to have
3 marijuana discovered there. And as an aside, I think that,
4 by virtue although *Gant*, *United States versus* -- no,
5 *Arizona versus Gant*, has kind of limited this in this
6 particular case recovering marijuana from somebody who is
7 recently in that automobile. I think that they would have
8 probable cause at that point to search for additional
9 marijuana. I think that either one of those theories --

10 THE COURT: You said *State versus Gant*. You mean
11 *Arizona versus Gant*?

12 SOLICITOR COLTON: That's the Arizona -- okay. I
13 don't know which one -- I know it's *Gant*, but I don't know
14 if it's Arizona or *State*.

15 THE COURT: Well, are you talking about a U.S. Supreme
16 Court case?

17 SOLICITOR COLTON: Yes, sir.

18 THE COURT: Okay.

19 SOLICITOR COLTON: But I think that, under either one,
20 that you'd have some -- on either one, they would have
21 sufficient probable cause to enter that vehicle.

22 MR. COOK: In brief reply, your Honor. I understand
23 your Honor's ruling regarding the veracity of the witness's
24 testimony. However, I would simply point out, pursuant to
25 the case that I handed up with my motions, the *Brown* case,

1 that, if the State is trying to get to the evidence by the
2 inevitable doctrine -- inevitable discovery doctrine,
3 saying, then, that the police could have searched the
4 vehicle, pursuant to an inventory search, because of the
5 HTO and the DUS, I would argue that the State didn't put
6 any evidence into the record that what their procedures are
7 for inventory searches --

8 THE COURT: I find the inventory search is not an
9 issue.

10 MR. COOK: Thank you, your Honor.

11 THE COURT: All right. But I do deny the motion to
12 suppress. I find the warrant to search the vehicle was
13 appropriate. Now the *Carroll Doctrine* talks about probable
14 cause. I believe that the vehicle contained evidence of a
15 crime. I find -- I certainly find that the basis that that
16 exists based on the smell of marijuana coming from the
17 vehicle.

18 And of course, they also found marijuana on his
19 person, but the fact that the -- that the smell of
20 marijuana coming from the vehicle gave them the probable
21 cause to believe, as a reasonable police officer would,
22 that there was evidence of a crime located therein.

23 *Carroll* talks about the exigent circumstances about
24 the mobility of the vehicle. Quite candidly, I don't know
25 that this car at this - at that exigency really existed

1 here, because -- because he was out of the truck, and the
2 truck was hemmed up, and this truck didn't belong to him.
3 So, I don't know when I balance that if I can completely
4 find, or find affirmatively, that the exigency of mobility
5 existed, although automobiles are mobile, and he had been
6 driving, and therefore, had the keys. And the possibility,
7 maybe not probability, existed that he could get in the
8 vehicle and drive away before the officer got a chance to
9 get a search warrant, other than the fact that he was
10 arrested. So, that gives me some concern.

11 However, in *Arizona versus Gant*, the United States
12 Supreme Court found that a police officer may conduct a
13 warrant less search of the vehicle, instant to a recent
14 occupant's arrest, if the person is within reaching
15 evidence of the passenger compartment at the time of the
16 search. And by passenger compartment, I don't believe that
17 means the passenger side of the car. I mean, that -- I
18 believe that phrase means the compartment where the
19 passengers sit, as opposed to the bed of a truck, or the
20 back of an R.V. or something.

21 The second prong was it is reasonable to believe the
22 vehicle contains evidence of arrest, and I find that that
23 certainly is the case here, and I've already commented on
24 that.

25 *Thornton versus U.S.*, which is a later case, 2004,

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1 held that the police may search a vehicle upon arrest of a
2 recent occupant, even if they did not initiate contact with
3 the person while they were in the vehicle which of course,
4 it is not here after hemmed in the vehicle he was out. But
5 I do find that the automobile exception applies, and that
6 the - and deny the motion to suppress anything seized
7 through the warrantless search of the truck.

8 Any questions? Anything? What else?

9 MR. COOK: Jackson v Denno motion from the Defense,
10 your Honor.

11 THE COURT: All right. Just called State's first
12 witness on that.

13 SOLICITOR COLTON: Your Honor, the State would call
14 Logan McGarrity.

15 (WHEREUPON, LOGAN MCGARRITY,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 INVESTIGATOR LOGAN MCGARRITY BY SOLICITOR COLTON:

19 Q. Mr. McGarrity, can you please state your full name and
20 what you do for a living for the record?

21 A. Matthew Logan McGarrity. I work for the Clover Police
22 Department, currently assigned to the York County Multi-
23 Jurisdictional Drug Unit.

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

25 A. Eight years. It will be eight years this summer.

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 Q. How long have you been in the Drug Enforcement Unit?

2 A. Be -- It should be three years.

3 Q. And were you involved in a case investigating Antonio
4 Robbins?

5 A. Yes.

6 Q. Okay. And that was on June 24th, 2015?

7 A. Yes.

8 Q. And did you participate in the execution of a search
9 warrant at his residence?

10 A. Yes.

11 Q. And tell me, did you have an opportunity to encounter
12 the defendant there?

13 A. Yes.

14 Q. And how did that happen?

15 A. After we conducted some surveillance, we observed him
16 pulling in in his truck into the driveway, and at that time
17 we pulled up behind him, got out with him, and that was my
18 first interaction with him.

19 Q. And at that time, was the defendant placed into
20 custody?

21 A. Yes. Well as we approached the vehicle, he got out of
22 the truck, and he was taken -- he was detained at that
23 point.

24 Q. Okay. And did you search the defendant?

25 A. Yes. He was advised as he was searched.

1 Q. And did you -- did you find anything on the
2 defendant?

3 A. Yes. Found marijuana on the defendant.

4 Q. And did you arrest him?

5 A. Yes.

6 Q. Or was he placed under arrest?

7 A. Yes.

8 Q. And was he *Mirandized* at that time?

9 A. Yes.

10 Q. By whom?

11 A. By me.

12 Q. And what did you say to the defendant, as far as
13 *Miranda* warnings?

14 A. I read him his *Miranda* Rights from my card.

15 Q. Do you have your card with you?

16 A. Yes.

17 Q. Can you read what -- can you read -- is that the same
18 card you used?

19 A. Yeah. I carry it -- I've had the same one my whole
20 career.

21 Q. Okay. And can you please tell the Court what,
22 specifically, you advised him of?

23 A. Yes. "You have the right to remain silent. Anything
24 you say can and will be used against you in a court of law.
25 You have the right to talk to an attorney, or have him or

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 her present with you while you are being questioned. If
2 you cannot afford to hire an attorney, one will be
3 appointed to represent you before any questions, if you
4 wish, if you want. You can decide at any time to exercise
5 these rights, and not answer any questions or make any
6 statements.

7 Then, it's followed by two questions: "Do you
8 understand these rights as I have explained them to you?;
9 and, having these rights in mind, do you wish to talk to us
10 now?"

11 Q. And where were you and the defendant when you read
12 these rights to him?

13 A. Standing right beside his truck, his vehicle.

14 Q. And who else was present?

15 A. Officer Vaughn.

16 Q. And obviously, he was under arrest at the time you
17 read these *Miranda* Rights to him?

18 A. Yes.

19 Q. Not free to leave. After you read him his *Miranda*
20 Rights or before, at any time during your interaction, did
21 anybody threaten the defendant?

22 A. No.

23 Q. Did anybody pull their weapons?

24 A. No.

25 Q. Did you have your firearms on you?

1 A. Yes.

2 Q. Did he know you were a law enforcement officer?

3 A. Yes.

4 Q. And how did he know that?

5 A. We -- I always announce, police, when we approach
6 them, and how we're -- we've got our badge, gun.

7 Q. Did you promise him anything to get him to talk to
8 you?

9 A. No.

10 Q. Did you observe any other officer in your presence
11 promise him anything?

12 A. No.

13 Q. Did you observe any other officer threaten him?

14 A. No.

15 Q. Or coerce him in any manner?

16 A. No.

17 Q. When you spoke to him, did he appear to be under the
18 influence of drugs or alcohol?

19 A. No.

20 Q. Was he coherent?

21 A. Yes.

22 Q. Did he appear to be of reasonable intelligence?

23 A. Yes.

24 Q. Did he indicate that he understood your questions?

25 A. Yes.

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1 Q. At any point in time, did he ask you or any other
2 officer in your presence for an attorney?

3 A. No.

4 Q. Did he indicate that he understood the rights that you
5 read to him?

6 A. Yeah, verbally.

7 Q. And did he inquire as to any questions about those
8 rights?

9 A. No.

10 Q. And did you ask him any questions outside of you?

11 A. No.

12 Q. Did you -- approximately how long, from the time you
13 placed him under arrest, how long was it from the time you
14 placed him under arrest, to when you read him his *Miranda*
15 rights?

16 A. It was immediately after the exact time.

17 Q. And after you read him the *Miranda* rights, what did
18 you and the defendant and officer Vaughn do?

19 A. You -- I'm sorry, you said?

20 Q. After you read him the *Miranda* rights, and he was
21 placed under arrest, what did you do?

22 A. Oh. We conducted the search of him. And then, I
23 searched the vehicle.

24 Q. Where did you go after that?

25 A. With him?

1 Q. Yeah.

2 A. Into the residence.

3 Q. Okay. And why did you all go into the residence?

4 A. To take him in there, to read the search warrant.

5 Q. And do you recall who read the search -- or executed
6 or read the search warrant?

7 A. I did.

8 Q. And who was present when you read the search warrant,
9 the folks in the house?

10 A. As far as officers, it would have been Officer Gander.
11 She was right there with me, and Officer Vaughan. And -- I
12 don't remember the other officers. I remember who was
13 there, but I can't recall exactly who was in the room.

14 Q. And after you executed the search warrant, did --
15 well, part of executing the search warrant, what do you do?

16 A. We read the -- the place to be searched, and on the
17 first sheet of the search warrant, read that, and what
18 items are to be searched for.

19 Q. Okay. And is there also a written Waiver of Rights?

20 A. Yes.

21 Q. And is that -- how -- when would that be executed?

22 A. We -- we read that directly after reading the search
23 warrant.

24 Q. And in this case, did you read the Written Waiver of
25 Rights?

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 A. No, Officer Gander did.

2 Q. Were you present when she did?

3 A. Yes.

4 Q. And did you recover any items from the home?

5 A. I did.

6 Q. And what -- do you recall what you recovered from the
7 house?

8 A. Recovered some crack in a kitchen cabinet, and crack
9 in a Easter basket.

10 Q. And did you, at any point, ask Mr. Robbins any
11 questions while you were in the house?

12 A. I did.

13 Q. And -- Oh, did you, at any time, hear him invoke his
14 rights in the house, or at any time during the entire
15 process?

16 A. No.

17 Q. Did he ask for an attorney, ask you any questions?

18 A. No.

19 Q. And how soon after you previously *Mirandized* him and
20 placed him under arrest, to the time that the written
21 waiver -- the written *Miranda* warnings were read in the
22 home, how much of a duration was that?

23 A. It was a short -- I mean, we walked him inside and sat
24 him down, and then went into the -- into the search warrant
25 and then read the *Miranda* rights.

INVESTIGATOR LOGAN MCGARRITY:

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1 Q. Less than a half an hour?

2 A. I'm sorry?

3 Q. Less than a half an hour?

4 A. Yes.

5 Q. Okay.

6 A. Yes.

7 Q. Fifteen minutes?

8 A. Yes. Five minutes, ten minutes.

9 Q. And how long after that did you ask Mr. Robbins
10 questions?

11 A. Probably after the last -- the second item was found
12 in the house.

13 Q. Do you recall what you specifically asked Mr. Robbins?

14 A. I asked him whose -- who the drugs belonged to, and he
15 said that everything in the house belonged to him.

16 Q. He said everything in the house belonged to him?

17 A. Yeah.

18 Q. And did he mention anything else?

19 A. Not to me.

20 Q. Did you ask him anything else? Do you recall?

21 SOLICITOR COLTON: And I think that's all the -- that
22 is all the questions I have for this particular witness.

23 THE COURT: Cross?

24 CROSS-EXAMINATION

25 INVESTIGATOR LOGAN MCGARRITY BY MR. COOK:

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25 Q. Good afternoon, sir. So, you didn't notice my client
1 being under the influence of any drugs?

2 A. No.

3 Q. But you did smell marijuana coming from the truck that
4 he just recently exited; is that correct?

5 A. Yes.

6 Q. Okay. Thank you.

7 MR. COOK: No further questions, Officer.

8 THE COURT: Redirect?

9 SOLICITOR COLTON: No, your Honor.

10 THE COURT: You can step down. Thank you.

11 MATTHEW MCGARRITY: Thank you, your Honor.

12 (WITNESS LEAVES WITNESS STAND.)

13 SOLICITOR COLTON: The State would call Officer Robin
14 Gander.

15 THE COURT: Please come up, and put your left hand on
16 the Bible, and raise your right.

17 (WHEREUPON, ROBIN GANDER,
18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

19 DIRECT EXAMINATION

20 OFFICER ROBIN GANDER BY SOLICITOR COLTON:

21 Q. Can you please state your full name and occupation,
22 for the record?

23 A. Robin Marie Gander, and I work for the City of Rock
24 Hill Police Department, assigned to the York County Multi-

1 Jurisdictional Drug Unit.

2 Q. And how long have you been with the Drug Enforcement
3 Unit?

4 A. Approximately five years.

5 Q. How long have you been a police officer?

6 A. Approximately seven.

7 Q. And were you involved in a case investigating Antonio
8 Robbins?

9 A. Yes.

10 Q. Were you present when the search warrant was executed
11 on Mr. Robbins' home?

12 A. Yes.

13 Q. On June 24th, 2015?

14 A. Yes.

15 Q. And what was your role in the execution of the search
16 warrant at Mr. Robbins' home?

17 A. I read the *Miranda* rights for him.

18 Q. And did you read this before or after the search
19 warrant was executed?

20 A. After.

21 (WHEREUPON, COURT'S EXHIBIT NUMBER TEN, PREMARKED FOR
22 IDENTIFICATION.)

23 Q. Officer Gander, I'm going to show you what's been
24 marked for identification purposes as Court's Exhibit Ten.

25 Do you recognize what that is?

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1 A. I do.

2 Q. Can you please tell the Court what it is?

3 A. It is our rights form that we use for execution of
4 search warrants or *Miranda* rights.

5 Q. And specifically, do you -- when the -- what is this
6 -- that particular form in reference to?

7 A. Of the search warrant.

8 Q. On Mr. Robbins' home?

9 A. Yes.

10 Q. And how do you know that?

11 A. Well, I read it. And it also listed the location as
12 [REDACTED] Woodland Hills Drive, as well as the data and time.

13 Q. Okay. And what, specifically, in that written
14 advisement, did you read to the defendant? I'm sorry, let
15 me ask you this. Who was present when you read that?

16 A. It was myself and, I believe, Officer McGarrity, and
17 possibly Officer Vaughn.

18 Q. And was the defendant present?

19 A. Yes.

20 Q. Where was he seated?

21 A. In the living room.

22 Q. Okay. And who else was with him?

23 A. With his girlfriend.

24 Q. Were the two children from the home there, as well?

25 A. Yes.

1 Q. And what, specifically, did you advise the defendant
2 of?

3 A. His *Miranda* rights, where it's listed under
4 *Constitutional Rights*, on this form?

5 Q. Yes.

6 A. You want me to read it?

7 Q. Please.

8 A. Okay. Stated, "You have the right to remain silent.
9 Anything" -- I'm sorry. "You have the right to remain
10 silent. Anything you say can be used against you in court.
11 You have the right to talk to a lawyer for advice before
12 answering any questions, and to have your lawyer present
13 during questioning. You have the right to the advice and
14 presence of a lawyer even if you cannot afford to hire one.
15 We have no way of appointing you a lawyer, but one will be
16 appointed by the Court for you, if you wish. If you wish,
17 you may answer any questions without the presence of a
18 lawyer, and you may stop answering at any time you desire."

19 Q. And you read this to the defendant?

20 A. Yes.

21 Q. Did you give the defendant the opportunity to review
22 that document?

23 A. Yes.

24 Q. Did Mr. Robbins sign that document?

25 A. Yes.

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1 Q. And did -- what would happen if he refused to sign
2 that document?

3 A. I would write ---

4 Q. Or --

5 A. --- refused to sign.

6 Q. And he signed this in your presence?

7 A. Yes.

8 Q. Did he have any questions about these rights?

9 A. No.

10 Q. Did he indicate that he understood his rights?

11 A. Yes.

12 Q. Did he ask you or any other officers in your presence
13 any questions about the rights?

14 A. No.

15 Q. Did he ever invoke his right to remain silent?

16 A. No.

17 Q. Did he ever invoke -- or ask for an attorney?

18 A. Not in my presence, no.

19 Q. And did you ever ask him any questions?

20 A. No.

21 Q. And obviously, he -- you were aware he was under
22 arrest at the time?

23 A. Yes.

24 Q. And he was not free to leave?

25 A. Correct.

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1 Q. Would he -- and did you -- did you observe, or did you
2 -- did you personally, or did you personally observe any
3 other officer in your presence threaten him?

4 A. No.

5 Q. Coerce him?

6 A. No.

7 Q. Promise him anything to get him to speak?

8 A. No.

9 SOLICITOR COLTON: Your Honor, at this time, I'd enter
10 that as Court's Exhibit Ten into evidence.

11 THE COURT: Any objection?

12 MR. COOK: Without objection, your Honor.

13 THE COURT: In.

14 (WHEREUPON, COURT'S EXHIBIT NUMBER TEN, IDENTIFIED AND
15 MARKED, RECEIVED INTO EVIDENCE.)

16 SOLICITOR COLTON: Thank you, your Honor.

17 Please answer anything Mr. Cook may have.

18 MR. COOK: I have no questions, your Honor.

19 THE COURT: You can step down. Thank you.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Call your next witness.

22 SOLICITOR COLTON: Your Honor, the State would call
23 Lieutenant Mike Ligon.

24 THE COURT: If you'll come up and place your left hand
25 on the Bible, and raise your right.

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 (WHEREUPON, MICHAEL LIGON,
2 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

3 DIRECT EXAMINATION

4 LIEUTENANT MIKE LIGON BY SOLICITOR COLTON:

5 Q. Lieutenant, can you please state your full name, for
6 the record?

7 A. James Michael Ligon.

8 Q. And are you currently assigned to the Drug Enforcement
9 Unit?

10 A. Yes, ma'am, I am.

11 Q. And it's York County's, obviously, Multi-
12 Jurisdictional Drug Enforcement Unit?

13 A. Yes, ma'am.

14 Q. What is your role with the Drug Unit?

15 A. I'm supervisor for the western side of the county.

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

17 A. Twenty years.

18 Q. How long have you been a DEU officer?

19 A. Fifteen years.

20 Q. Were you involved in an investigation of Antonio
21 Robbins?

22 A. Yes, ma'am, I was.

23 Q. And how did you come to be involved in the
24 investigation of Mr. Robbins?

25 A. On that particular day, I was assisting in the

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 surveillance of Mr. Robbins' residence, waiting for him to
2 show up, so we could execute a search warrant there at the
3 residence.

4 Q. And at any point in time, did you have an opportunity
5 to interact with Mr. Robbins?

6 A. Yes, ma'am, I did.

7 Q. How did you come to interact with Mr. Robbins?

8 A. Once the search warrant was executed at the residence,
9 myself and Investigator Vaughn had taken Mr. Robinson out
10 on the -- out onto the carport area, after he had already
11 been read his *Miranda* at that point in time. I asked Mr.

12 Robinson if he would be willing to speak with me at that --

13 Q. Hold on one second. You were -- and I'm sorry, I hate
14 to interrupt you. Were you aware -- who did you -- who did
15 you believe had read him his *Miranda* Rights?

16 A. I believe it was -- it was Officer McGarrity or
17 Officer Gander. I think it was Officer Gander who executed
18 the search warrant.

19 Q. Okay. And you -- so, you were aware that he had
20 already been *Mirandized*?

21 A. Yes, ma'am.

22 Q. And you took him outside, and please continue with
23 what happened then.

24 A. Myself and Investigator Vaughn took him outside. We
25 actually sat him in a chair that was in the carport area,

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 and at that point in time, I asked him if he'd be willing
2 to speak with me, and he advised that he would. At that
3 point in time, I asked Mr. Robinson exactly how much -- how
4 much crack it was that he had, and he advised me that he
5 didn't know. I then went on to ask him, I asked him why he
6 didn't know, and he advised that the dope had been or the
7 crack had been given to him by a gentleman. And at that
8 point in time, I asked him if the -- if it had actually
9 been fronted to him, meaning it was just given to him with
10 no money involved, and he advised that it had been. I
11 then, went on to ask him --

12 THE COURT: And it Had been what?

13 LIEUTENANT LIGON: Fronted to him. Which, meaning --

14 THE COURT: I know what fronted means.

15 LIEUTENANT LIGON: Yes, sir, I'm sorry. I apologize,
16 your Honor.

17 A. And at that point in time, I then asked how long he
18 had been dealing with that individual, and he advised he
19 had been dealing with that individual for some time, but
20 didn't specify a given time. I then asked -- I asked Mr.
21 Robinson how long he had been selling crack, and he said
22 for approximately two months.

23 Q. Did he make any other statements to you?

24 A. No, ma'am, not at that time.

25 Q. And how soon after the search warrant was executed and

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 the written waiver of rights was conveyed did you ask him
2 these questions?

3 A. It was pretty immediately afterwards. I would say
4 within three to five minutes, we had taken him outside.

5 Q. And he didn't ask about his -- about an attorney? He
6 did not ask you for an attorney?

7 A. No, ma'am, he had not.

8 Q. He didn't indicate that he did not wish to answer your
9 questions?

10 A. No, ma'am, he didn't.

11 Q. In fact he indicate to the contrary, that he wanted to
12 answer your questions, or was willing to do it?

13 A. Yes, ma'am.

14 Q. You didn't threaten him?

15 A. No, ma'am.

16 Q. Coerce him?

17 A. No, ma'am.

18 Q. Promise him anything?

19 A. No, ma'am, I did not.

20 Q. If he had asked to use the restroom, would you have
21 allowed him to do that?

22 A. Yes, ma'am.

23 Q. He didn't appear to be in any kind of physical
24 impairment, or anything like that?

25 A. No, ma'am, he did not.

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 Q. Did he appear to be under the influence?

2 A. No, ma'am, he didn't.

3 Q. Was he reasonably intellectual in his responses to
4 you?

5 A. Yes, ma'am, he was. He was cordial.

6 Q. And you didn't observe anyone else coercing him or
7 promising him anything, did you?

8 A. No, ma'am.

9 Q. Thank you.

10 SOLICITOR COLTON: No further questions from the
11 State, your Honor.

12 MR. COOK: I've got no questions, your Honor.

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

14 LIEUTENANT LIGON: Thank you, sir.

15 THE COURT: Appreciate your time.

16 MIKE LIGON: Yes, sir.

17 (WITNESS LEAVES WITNESS STAND.)

18 THE COURT: Any other witnesses for the State?

19 SOLICITOR COLTON: Nothing else from the State, your
20 Honor.

21 THE COURT: All right. Mr. Cook, any witnesses?

22 MR. COOK: Nothing, your Honor. I would just like to
23 renew my motion for -- to exclude the confession of my
24 client, pursuant to *Jackson v Denno*. I really can't
25 articulate ---

1 THE COURT: Well, I ---

2 MR. COOK: --- the --

3 THE COURT: I deny the motion to suppress. I find by
4 the greater weight or preponderance of the evidence,
5 keeping in mind that, ultimately, the jury would have to
6 find beyond a reasonable doubt that Mr. Robbins gave either
7 of these, and I look at it as two statements, freely,
8 voluntarily, knowingly and intelligently and when factoring
9 in whether or not he had been given *Miranda* warnings.

10 I do find that, at the time he made both of these
11 statements that I'll mention in a moment, he was in
12 custody, and/or under arrest, but at least in custody, and
13 then, before the statements were made, arrested and by two
14 different people, advised of his *Miranda* warnings; by
15 Officer McGarrity and Gander, that he had a right to remain
16 silent, that anything he said could be used -- used in a
17 court against him; that he had a right to have -- to talk
18 to an attorney and have an attorney present when he
19 answered any questions; that, if he could not afford one,
20 the State would be required to appoint at no charge to him,
21 an attorney to represent him.

22 There is no evidence in either incidence as of any
23 threat or coercion. No display of weapons. Obviously, he
24 knew they were law enforcement officers, based on the
25 testimony. No promises made to influence him; that he was

1 not under the influence during this course of conduct; that
2 he appeared to be reasonably intelligent, and understand
3 the questions posed to him, and understanding his rights
4 that he never invoked any of his rights, including his
5 right to an attorney; his right to remain silent, his right
6 to cease answering any questions.

7 I find that -- Can I see the exhibit for the written
8 *Miranda*?

9 (DOCUMENT RECEIVED UP BY THE COURT.)

10 THE COURT: I find that both Ms. Hester and Mr.
11 Robbins signed, indicating that they acknowledged their
12 rights. So, therefore, I find that there's no -- that the
13 State complied with and advised Mr. -- complied with the
14 requirements of the *Constitution* of South Carolina and the
15 United States, as to, particularly, the *Fifth* and
16 *Sixth Amendments* of the *United States Constitution*, and the
17 requirements of both *Miranda*.

18 I find that by a preponderance of the evidence and
19 allow those statements, that is, that he said everything in
20 the house was his, and that he had been fronted drugs, and
21 had been selling the same drugs for approximately two
22 months; that he'd been given the drugs by a gentleman. And
23 again, they were fronted to him and he had been selling for
24 approximately two months.

25 I find those statement to be freely, voluntarily,

1 knowingly and intelligently given, after Mr. Robbins
2 understood his rights under the *Fifth* and *Sixth Amendment*
3 of the *Constitution*. Anything else to take up this
4 afternoon?

5 SOLICITOR COLTON: Your Honor, I'm sorry. I believe
6 that I may have neglected to enter as Court's exhibits. I
7 think I have marked Court's Exhibits something like Three
8 through Nine at this time, but at this time, out of an
9 abundance of caution --

10 THE COURT: I --

11 SOLICITOR COLTON: --- the State would move to enter
12 One through Nine into --

13 THE COURT: I've got Ten. That's what I'm looking at
14 now.

15 SOLICITOR COLTON: I know I did that one correctly,
16 your Honor, entered that into evidence.

17 THE COURT: All right. Any objection?

18 MR. COOK: Without objection, your Honor.

19 THE COURT: Okay. The other nine are in without
20 objection. So all ten are in without objection.

21 SOLICITOR COLTON: Thank you, your Honor.

22 (WHEREUPON, COURT'S FOUR THROUGH NINE, IDENTIFIED AND
23 MARKED, RECEIVED INTO EVIDENCE.)

24 MR. COOK: And there's nothing else from the Defense,
25 your Honor.

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1 THE COURT: All right. Well, I'm going to give these
2 exhibits back to the court reporter, and we will start back
3 at ten in the morning.

4 If the Solicitor has anything we can work in between
5 now which is one minute after three and one minute 'till
6 four we'll do it. All right, we'll be at ease.

7 (COURT IN EVENING RECESS AT 3:03 PM.)

8 (COURT BACK IN SESSION THURSDAY, MARCH 17, 2016 AT
9 10:12 AM.)

10 THE COURT: Thank you. You may take your seats.

11 Anything -- we'll get Mr. Robbins in.

12 (DEFENDANT REENTERS COURTROOM.)

13 THE COURT: Anything from the State before the jury
14 comes in?

15 SOLICITOR COLTON: Your Honor, just a couple of brief
16 matters. The detective in this case, last night, or this
17 morning, reviewed the jail phone calls of the defendant.
18 It appears, from discussing with Officer Vaughn, that there
19 was some discussion between the defendant and Ms. Hester
20 about what had transpired in court, as far as the Court's
21 rulings and testimony of. Officer Vaughn was not able to
22 procure a copy of that tape at this time. He could, but it
23 was lengthy and it was one of those things when we came in
24 at eight o'clock in the morning and we started listening
25 to the tapes. So, the State does have some concerns that

1 the rule - the ruling of the court on sequestration of the
2 witnesses has been violated by the defendant and the
3 Defense witness in this particular case.

4 THE COURT: Did you talk to your client about that?

5 MR. COOK: Well, I did, your Honor. I mean just for
6 the record, I've advised all of my clients the first day I
7 meet them to never talk on the jailhouse phones about
8 anything. And my client advises me that he did speak with
9 Ms. Hester, but he didn't think that he said anything that
10 would be inappropriate. I haven't heard the tapes, your
11 Honor.

12 THE COURT: Well, unless I hear the tapes, and maybe I
13 can listen to them at a later time, we need to get started
14 right now.

15 SOLICITOR COLTON: Yes, sir.

16 THE COURT: I'm not going to do anything. If, in
17 fact, they discussed the testimony at issue it may be a
18 violation of the sequestration order but it may not be
19 anything that would be prejudicial to the State, and
20 probably the way I would lean, quite frankly.

21 SOLICITOR COLTON: Yes, sir.

22 THE COURT: Unless there was something very egregious.
23 So for right now we'll just move on.

24 SOLICITOR COLTON: Okay. And Judge, there was also
25 some conversation about on behalf of the defendant,

1 yesterday we had him reject his offer on the record,
2 fifteen years. There was a discu --

3 THE COURT: I thought it was fourteen.

4 SOLICITOR COLTON: Fourteen? Was it fourteen? Okay.
5 If it was fourteen -- I can't remember, I think it was
6 fifteen, maybe fourteen. Do you remember what I said?

7 MR. COOK: It wouldn't hurt --

8 THE COURT: I heard, in chambers, fourteen.

9 SOLICITOR COLTON: Fourteen.

10 THE COURT: So, I don't know if another one was ever
11 offered.

12 SOLICITOR COLTON: I may have said fifteen on the
13 record. I don't recall.

14 THE COURT: Well, let's move on and see where we are
15 now.

16 SOLICITOR COLTON: All right, Judge.

17 THE COURT: You're up. What -- What do you want to
18 tell me?

19 SOLICITOR COLTON: The only thing I want to tell you,
20 Judge, is, to make it clear, he did -- it was fourteen,
21 that is gone, and that he is aware of that so that he
22 doesn't come back at a later date saying there was some
23 misunderstanding between Mr. --

24 THE COURT: I understand. So, I'll --

25 MR. COOK: Can we reject it one more time, your Honor?

1 THE COURT: Fourteen?

2 MR. COOK: Yes, sir.

3 THE COURT: And fifteen?

4 MR. COOK: Yes, sir. I think we -- can I put on the
5 record that ---

6 THE COURT: Yes.

7 MR. COOK: --- I offered my client fourteen, just to
8 hear him say he rejects that.

9 Stand up, Mr. Robbins.

10 THE COURT: Mr. Robbins, they are indicating to me
11 that the State has offered to allow you to plead guilty to
12 this offense, in exchange for this court to a negotiated
13 plea and sentencing you to a term of imprisonment for
14 fourteen years. Do you understand that?

15 MR. ROBBINS: Yes, sir.

16 THE COURT: And your -- through your attorney, you
17 told the Solicitor now the Solicitor is telling the Court
18 that you reject that, and that we'll proceed on with the
19 trial.

20 MR. ROBBINS: Yes, sir.

21 THE COURT: Thank you.

22 SOLICITOR COLTON: Judge, the last two matters. One is
23 that we request that no reference of the amount of time
24 that this charge carries made in front of the jury.

25 THE COURT: All right.

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1 MR. COOK: And your Honor, if I may advise my client,
2 if he chooses to testify, it would be a mistrial, and I --
3 it would be terrible --

4 You cannot tell the jury during your testimony how
5 much possible time of incarceration you're looking at. I'm
6 able to say that your liberty's at stake, but that's all.

7 Do you understand that?

8 MR. ROBBINS: Yes, sir.

9 MR. COOK: Okay.

10 THE COURT: All right.

11 SOLICITOR COLTON: And Judge, the final matter is, as
12 the Court has already ruled, the State would not be
13 permitted to get into the underlying facts and
14 circumstances of a probable cause for the search warrant.
15 And we're asking, since there's been no showing of
16 materiality that any reference to the buy or the divided
17 setup, the search warrant of the confidential informant, be
18 deemed irrelevant, your Honor.

19 THE COURT: I have to hear what -- you know it has to
20 be based on whatever the questions are and you'll just have
21 to object and I'll have to rule. It's kind of hard to make
22 blanket rules on those things ---

23 SOLICITOR COLTON: Yes, sir. .

24 THE COURT: --- cause I don't know where your - I
25 don't know where the testimony's going to go.

1 SOLICITOR COLTON: Yes, sir.

2 THE COURT: I'll be alert for that.

3 SOLICITOR COLTON: Your Honor, would ask then,
4 respectfully, that a proffer on that would be given to the
5 Court before we got into it in front of the jury.

6 THE COURT: Well, --

7 SOLICITOR COLTON: That the Defense would make a
8 proffer.

9 THE COURT: If the Defense is going to make an effort
10 to open that door, so to speak, of -- and I would ask that,
11 before we move into that realm, that we do have a proffer.

12 MR. COOK: And yes, sir, your Honor, certainly. And I
13 will say that my client is asking me to -- to go there, for
14 lack of a better phrase. And so, I -- I'll certainly not
15 mention anything in the presence of the jury.

16 THE COURT: Well, let's do this to protect the record,
17 and protect Mr. Robbins, and protect post-conviction
18 relief. You don't try a case with the idea of protecting
19 the record for post-conviction relief cause that's not our
20 job. I'm the judge and your job is to represent your
21 client in this case. But if your client has sort of put a
22 shot across the bow that he believes that something is at
23 issue, and I have ruled that it is not at issue, I'll
24 certainly allow you to make a proffer, so that he can raise
25 that at a later time.

1 MR. COOK: Yes, sir, your Honor.

2 THE COURT: Anything else?

3 SOLICITOR COLTON: No, sir.

4 THE COURT: All right. Bring in the jury.

5 We haven't sworn them yet.

6 (WHEREUPON, JURY ENTERS COURTROOM 10:19 AM.)

7 THE COURT: Members of the jury panel, now that you're
8 all comfortably seated, I'm going to ask you to stand, so
9 the Clerk can administer the oath.

10 (WHEREUPON, JURY IS SWORN BY THE CLERK AT 10:20 AM.)

11 THE COURT: Be seated. Thank you. I'm going to chat
12 with you just a moment, and one thing I want to go over
13 real brief with you is that, of course, those things I
14 talked to you about yesterday apply throughout the trial
15 and not discussing the case, not trying to make up your own
16 mind, not using any devices to obtain any information. One
17 thing I'm not sure I talked to you about yesterday is that
18 you can't let yourself be exposed to any news coverage, if
19 there is any. I don't know that there would be any, but
20 don't let yourself be exposed to any news coverage.

21 Now, in just a moment, the attorneys will have the
22 right, not the obligation, to come before you and make what
23 are called opening statements. These opening statements
24 are not arguments. That is, at this time, the attorneys
25 are not trying to get you of your verdict. What they are

1 doing at this time is giving you an outline or a blue print
2 of the trial. They're giving you a little more information
3 than I have, because I haven't given you much at all, about
4 what the allegations are, or the facts they presume to be
5 presented regarding the issues in this case.

6 I have three primary jobs in a trial such as this.
7 One is that I'm the logistics person, make sure that we
8 take breaks and do those sort of things; make sure that you
9 can see and hear. I also rule on questions of evidence.
10 We had some issues on evidence yesterday, and that's what
11 we spent our time, and we did it yesterday, I think, as I
12 told you, so that we wouldn't have to chop up the trial
13 every time we got to an evidentiary issue and stop and send
14 you out. So, we, hopefully, got most of that out of the
15 way, but that's one of my jobs.

16 My third job is that I am the sole judge of the law in
17 this case. You must take and accept and apply the law as I
18 charge it. This is true, even if you think I charge the
19 law in error, or even if you think the law should be
20 different. Your oath requires you to take, accept, and
21 apply the law as I charge it. You are not to infer from
22 anything I say or do at any time during this trial as an
23 indication of an opinion of mine on the facts. We're not
24 allowed as the trial judge to formulate or express to a
25 jury any opinion on the facts. That is solely your job.

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1 It is solely your job to examine the evidence, give to
2 the evidence the effect, the value, the weight, and the
3 truth you believe it should have. You may believe one
4 witness, as opposed to several; several witness, as opposed
5 to one. You may believe all, part, or none of a witness's
6 testimony. Use your common sense, your sense of logic,
7 your sense of reason, your experiences in life as you
8 analyze the evidence.

9 As judges of the facts, you necessarily must judge the
10 credibility, that is, the believability of the witnesses
11 who testify. In assessing the believability, use the
12 things that I have just talked about. Use the things that
13 you find in your day-to-day life as indicating truthfulness
14 in individuals. You can use certain evaluators, a
15 witness's demeanor, how they act on the stand. Are they
16 hesitant, straightforward. Look at consistencies and
17 inconsistencies in their testimony, in their testimony, and
18 if -- and any testimony and in any prior statements, if any
19 inconsistencies appear. Look at any bias or prejudice a
20 witness may have. That is, whether a witness would wish to
21 help or hurt one side or the other. And you can consider
22 the opportunity a witness had to actually know those things
23 about which the witness testifies. Consider all these
24 things to determine the true facts, apply the law as I
25 instruct you, and you will be able to return a verdict that

1 speaks the truth.

2 You do not need to take notes. If you can't see or
3 you can't hear, let me know. It's not fair to charge you
4 to make a decision in this case, without giving you the
5 opportunity to see and hear those things that are
6 important. So, cup your ear, give a voice-raising gesture,
7 a nudging gesture, and I'll try to correct whatever the
8 problem is.

9 We take breaks about every hour and a half, but if you
10 need a break at any time, simply raise your right hand. We
11 want to move the case along, but we're not in such a hurry
12 that we won't take a break if we need one. And I extend
13 that to Counsel and to Mr. Robbins. Again, we'd like to
14 move the case along, but if you need a break, don't
15 hesitate to raise your right hand, and again, with no
16 questions asked, we'll simply take a break.

17 Counsel.

18 SOLICITOR COLTON: Thank you, your Honor.

19 OPENING STATEMENT BY SOLICITOR COLTON:

20 SOLICITOR COLTON: Last summer June 24, 2015, officers
21 from the Multi-Jurisdictional Drug Enforcement Unit were
22 conducting a drug investigation at [REDACTED] Woodland Road, and
23 that's in Clover, York County, South Carolina. They were
24 watching the home. They had a search warrant for this
25 house, and they saw this defendant drive down the road and

1 pull in the driveway. The search warrant was for his
2 person and for his house. They immediately pulled in
3 behind him. Mr. Robbins got out of the car. The officers
4 arrested him. They searched the vehicle, and found crack
5 cocaine.

6 They gave him his *Miranda* Rights, and they went inside
7 the home. They executed the search warrant, and he was
8 read *Miranda* again. And inside the home, they found a
9 small amount of crack cocaine, in addition to what they
10 found in the car, and as a result, Mr. Robbins was charged
11 with trafficking in crack cocaine. And what trafficking in
12 crack cocaine means is that, in the State of South
13 Carolina, if you deal with ten grams or more of an illegal
14 drug, such as crack cocaine, you're a trafficker; because
15 the statute called trafficking is a term of ours. And most
16 of the time, when we think about traffickers, we think of
17 *Scarface*, the big cartel dealers, et cetera.

18 But under the laws of this state, you simply have to
19 deal in ten or more grams to be charged with trafficking
20 and be convicted of trafficking. And by dealing, I don't
21 mean just simply drug dealing. I mean manufacturing,
22 selling, buying, giving financial aid, aiding, abetting, or
23 conspiring to deal in more than ten grams.

24 There's also another way that you can be guilty of
25 trafficking, and that's by possession. Simply by

1 possessing more than ten grams, the term of art that the
2 State of South Carolina uses to describe that behavior is
3 trafficking. And you don't have to be in a car and unless
4 you thought that somebody wasn't in a car therefore they
5 couldn't be charged with trafficking. It has nothing to do
6 with vehicles. It's just a term of art.

7 In the State of South Carolina, there's two different
8 ways you can be guilty of possession. Actual possession
9 and constructive possession. We don't have to prove that
10 he did both. Just one was sufficient to be a drug
11 trafficker. And the difference being, if I'm holding this
12 pen in my hand or I'm putting it in my pocket, I actually
13 possess the pen. If I go back to my office, or I set this
14 pen on the table here, it doesn't mean it's not my pen. I
15 may not have it on my person, but at any time, I can pick
16 it up and execute what's called dominion and control. If I
17 have the ability to move my pen or control whatever I do
18 with my pen, or go back to my office, or leave it in my
19 car, or leave it at my house, that does not mean it is not
20 my pen, and that's constructive possession. It simply
21 means that it's not on our person at the time you find it.

22 So, there's several things that we're going to have to
23 prove. Number one, possession more than ten grams of
24 crack, and that it happened in York County, and that the
25 defendant did it. How am I going to show that to you?

1 Well, you're going to hear from Cynthia Mitchum, who
2 is our chemist, and she's going to testify that the drugs
3 recovered from the vehicle and from the house are, indeed,
4 crack cocaine. She performed a chemical analysis; it came
5 back positive as crack cocaine, and what's also sometimes
6 called cocaine base.

7 What she's also going to tell you is, not only did the
8 crack cocaine found weigh at least ten grams, it weighed a
9 hundred and forty-one grams, which is nearly five ounces of
10 crack cocaine. So, we're going to prove to you that he
11 exceeded the trafficking statute, not just by hitting the
12 minimum, but having nearly fourteen times the minimum
13 that's required to prove trafficking.

14 You will also hear from the officers and what they
15 did, the way they recovered the evidence, the fact there
16 were scales and baggies found with the hundred and forty-
17 one grams of crack cocaine. And you'll hear the statements
18 that this defendant made, to show that he knowingly
19 possessed this crack. He told Officer McGarrity that all
20 the drugs in the house were his. And he told Lieutenant
21 Ligon, not only that he knew about the hundred and forty-
22 one grams of crack in the car, but that he had just gotten
23 fronted those drugs from a guy that he had been dealing
24 with for awhile. And he also told Lieutenant Ligon that he
25 had been selling crack for the past two months.

1 I'm going to have the opportunity to appeal to you at
2 the end of this, after you've heard all the facts and
3 evidence from the witness stand, and I'm going to ask you
4 to do the same thing I'm going to ask you to do right now,
5 and that's to find this defendant guilty for what he did,
6 possessing more than ten grams of crack cocaine.

7 THE COURT: Mr. Cook.

8 MR. COOK: Thank you, your Honor. if it please the
9 Court.

10 OPENING STATEMENT BY MR. COOK:

11 MR. COOK: Good morning everyone. My name is Dave
12 Cook, and I'm Mr. Robbins' attorney. I won't speak long
13 during my opening, if you'll allow me to flush it out in my
14 closing arguments. But the Solicitor told you what the
15 State is alleging happened, my client, by virtue of the
16 fact that he's having this trial today, is maintaining his
17 innocence adamantly.

18 Just a few quick concepts, if I may. I want to
19 explain to you that -- that the *Constitution of the United*
20 *States*, and I'm not going to go into all the soliloquy
21 about how important it is, because I can imagine all of you
22 already know, but nevertheless, it discusses a lot of the
23 concepts that I'm going to mention here. The first is the
24 presumption of innocence. And I know that -- I always say
25 this in my opening arguments, that I think that there is

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1 this, kind of, high-school hallway mentality culture if you
2 live in America about the idea of presumption of innocence.

3 And you know, we tirade about how, realistically, in
4 the hallway in high school, people are guilty when you hear
5 the rumor, until they prove themselves innocent to you.
6 And that that's the kind of culture that we're raised in,
7 and I just implore you to try to fight that knee-jerk
8 reaction that you have, where somebody says somebody did
9 something, then they must have done it.

10 My client, per the *Constitution*, right now, as he
11 stands in front of you, is innocent of these charges until
12 the State can prove him guilty. And that'll be at the end
13 of the trial, hopefully, and not the beginning of the
14 trial, if it is ever going to happen. But hopefully, just
15 from her saying a few eloquent phrases over a few minutes,
16 does not prove her evidence.

17 Now, at the same time, I want to mention this. He is
18 presumed innocent until the State proves him guilty beyond
19 a reasonable doubt, not just proves him guilty in your mind
20 with the high school burden of proof of whether he did it
21 or not.

22 Beyond a reasonable doubt, it's a nebulous concept
23 even to learned attorneys. Law school professors have a
24 hard time discussing this, so I don't think I'm going to
25 nail it right here, but I'm going to have to try. The

1 Supreme Court of South Carolina has given a good definition
2 that we use. It's a working definition, and it's got some
3 components to it.

4 First is, after you hear all of the evidence, and
5 that's going to be at the end of the trial, evidence is
6 going to unfold throughout the trial. But when you're in
7 the deliberating room, even when you first walk into the
8 deliberating room, you -- that's not the time to decide.
9 You want to hear from your other jurors. You are all the
10 peers of Antonio Robbins, and you all have to come to a
11 unanimous verdict, and verdict does mean, speak the truth,
12 in Latin. So, you go back and you talk about it, and you
13 deliberate some, hopefully.

14 At the end of the deliberation, after you've heard
15 everybody's opinions, that -- at that point -- this
16 analysis is relevant, at that point, if the State has met
17 their burden beyond a reasonable doubt, then you may
18 convict the defendant. The Supreme Court defines it that,
19 after you've heard all of the evidence, a reasonable juror,
20 and of course, we both think that you're all reasonable; we
21 had a chance to strike every one of you -- that a
22 reasonable juror -- if a reasonable juror hesitates, then
23 you must acquit. The State hasn't met their burden. Okay.
24 It doesn't mean beyond -- I'll go ahead and say this, it
25 doesn't mean beyond all doubt. You can have some, I guess,

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1 sneaking suspicion is a way to phrase it, but what I'm
2 getting at is, if you've ever -- if you've heard
3 everything, and you know what hesitate means, if you're
4 hesitating, then they haven't met their burden.

5 The United States Supreme Court defines it as firmly
6 convinced. You have to be firmly convinced that the
7 evidence proves a conviction. That's beyond a reasonable
8 doubt, and defense attorneys compare it to civil cases as
9 an illustration. In civil cases where if you lose, you cut
10 a check, the burden of proof is called a preponderance of
11 the evidence, and it's really simple burden for attorneys.
12 It's fifty-one percent.

13 It's the -- that's the Lady of Justice. She's blind
14 for a reason, and she's got her scales. And if one of
15 those scales just tips a degree towards one of the parties,
16 then the jury in the civil case can find for that person.
17 But the framers of the *Constitution* realized that criminal
18 trials are far more serious. Because the liberty of the
19 defendant is at stake, the State has that high burden to
20 meet, and I just wanted to mention that to you all. That
21 he's presumed innocent, he's maintaining his innocence, and
22 that the State has in my assessment, a high burden to meet
23 of beyond a reasonable doubt.

24 I'll explain more in my closing. Thank you all.

25 THE COURT: All right. Call your first witness.

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 SOLICITOR COLTON: The State would call Logan
2 McGarrity.

3 MADAM CLERK: Raise your right hand, place your left
4 hand on the Bible.

5 (WHEREUPON, LOGAN MCGARRITY,
6 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 INVESTIGATOR LOGAN MCGARRITY BY SOLICITOR COLTON:

9 Q. Good morning, Officer McGarrity.

10 A. Good morning.

11 Q. Can you please tell the jury what your full name is
12 and where you work?

13 A. My name is Matthew Logan McGarrity. I work for
14 Clover Police Department, and currently assigned to the
15 York County Multi-Jurisdictional Drug Enforcement Unit.

16 Q. How long have you been assigned to the Multi-
17 Jurisdictional Drug Enforcement Unit?

18 A. About three years.

19 Q. How long have you been a police officer?

20 A. Right at about eight years.

21 Q. And can you tell the jury a little bit about what the
22 Multi-Jurisdictional Drug Enforcement Unit is?

23 A. It's a unit comprised of all the different agencies
24 within York County, the different municipalities. The
25 Sheriff's Office, and it's all -- where everybody comes

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 together in one group, so we can work the entire county
2 together.

3 Q. And what kind of cases do you all focus on?

4 A. Drug -- drug cases. High-level drug cases, mid-level
5 dealer cases. We also deal in some other stuff:
6 prostitution, gambling, things like that of sort.

7 Q. And can I draw your attention back to June 24th of
8 2015?

9 A. Yes.

10 Q. Were you involved with the investigation of Antonio
11 Robbins?

12 A. Yes, ma'am.

13 Q. And do you see Mr. Robbins in the courtroom?

14 A. Yes, ma'am.

15 Q. Can you please point him out? And the gentleman
16 sitting next to Mr. Cook, the Defense attorney?

17 A. Yes.

18 SOLICITOR COLTON: Your Honor, the State would
19 request, respectfully request for the record, that Mr.
20 McGarrity -- or Officer McGarrity has pointed out the
21 defendant, Antonio Robbins.

22 (WITNESS INDICATED TOWARD DEFENDANT ANTONIO ROBBINS.)

23 BY SOLICITOR COLTON:

24 Q. And how did the investigation on June 24th
25 specifically begin of Mr. Robbins?

1 A. On that date, began with officers -- we conducted
2 surveillance on the residence, waiting for the defendant to
3 arrive back at the residence. Conducted surveillance,
4 waited for him to arrive. He drove by in a truck.

5 Q. Do you remember what street address this was?

6 A. I can't recall the exact address.

7 Q. Was it -- But do you know what town it was on?

8 A. Yeah, it's in Clover.

9 Q. Okay. Is it off --

10 A. Off Jim Carter Road.

11 Q. Okay. Thank you.

12 A. I just can't think of the exact road right now.

13 Q. And who were you with conducting the surveillance?

14 A. In the vehicle I was in, it was myself, Officer
15 Gander, and Officer Vaughn.

16 Q. And where were you, in reference to the house?

17 A. If -- pretty much, directly across the street, there
18 was a side street, and we were sitting there on the side of
19 the road, with -- pointing towards the residence.

20 Q. And why were you watching the residence?

21 A. Just to -- we would conducting surveillance on the
22 residence before any type of search warrant or something to
23 see people come and go. And then, we want to catch the
24 defendant at the residence.

25 Q. And do you remember how long you were surveilling the

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 residence?

2 A. Exact time, I don't know. Maybe a few hours.

3 Q. And when you saw -- you saw the defendant pull up to
4 the residence.

5 A. Uh-huh..

6 Q. Can you -- you have to answer, yes or no. I'm sorry.

7 A. Yes.

8 Q. Okay. And please tell the jury how you saw him come
9 into the residence.

10 A. He passed us, as I said, we were sitting on the side
11 of the road, passed us, and turned right into his driveway,
12 and we pulled out as he was turning, and followed him into
13 his driveway.

14 Q. And what happened when you followed him into the
15 driveway?

16 A. He stopped his truck in the driveway. We stopped
17 behind him, and we exited the vehicle, and myself and
18 Officer Vaughn approached the driver's side -- I'm sorry --
19 of the vehicle, and asked the defendant to step out of the
20 vehicle.

21 Q. And where was Officer Gander at this time?

22 A. Officer Gander was already -- she got out with us, but
23 she went towards the residence, to secure the residence
24 with the other officers that were arriving on-scene behind
25 us.

1 Q. Okay. And why was she doing that?

2 A. Because two -- two officers to handle one person in
3 the vehicle is enough, so in that -- for safety reasons, we
4 like to split the group, and so that nobody comes out of
5 the house with guns or knives or weapons or something.

6 Q. And you mentioned that Mr. Robbins got out of the
7 vehicle. How quickly after you pulled behind him did he
8 get out of the vehicle?

9 A. He -- we walked up to the vehicle, the driver's side,
10 as he was opening the door, and we actually asked him to
11 step out of the vehicle.

12 Q. And what happened when you asked him to step out of
13 the vehicle?

14 A. He was detained, and we advised him that we had a
15 search warrant for him and the residence.

16 Q. And pursuant to that search warrant, what did you do
17 with Mr. Robbins?

18 A. Conducted a search of his person.

19 Q. And did you find anything on his person?

20 A. Yes. Found marijuana in his left pocket and some
21 cash.

22 Q. Do you specifically remember how much cash?

23 A. Six hundred -- I'd have to -- if I can refer back to
24 my evidence I may recall. It was six hundred and thirty.

25 Q. To your recollection a little over six hundred?

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1 A. Yeah, it was a little over six hundred dollars.

2 Q. Okay. And what did you notice about the vehicle?

3 A. You could smell marijuana coming from the vehicle
4 immediately.

5 Q. And what did you do about that?

6 A. Conducted a search of the vehicle.

7 Q. And prior to conducting a search of the vehicle, did
8 you say anything to the defendant?

9 A. I read him his *Miranda* rights.

10 Q. Well I'm gonna get back to that with you. I want to
11 show you -- I'm going to ask you first, what did you
12 recover from that vehicle?

13 A. Recovered some crack from four different bags. Some
14 plastic bags and a digital scale.

15 Q. And where did you find those in the vehicle?

16 A. It was in, like, a children's backpack, like a small
17 children's backpack, sitting in the seat of the cab of the
18 truck.

19 Q. In the passenger seat of the truck?

20 A. No, it was like, if the driver would sit there it
21 would be to the right of him, just sitting right there.
22 Because it was a one-bench seat, so.

23 Q. Okay. Officer McGarrity, I'm going to show you what's
24 been marked for identification purposes as State's Exhibit
25 Four. Do you recognize that?

1 A. Yes.

2 Q. And what is that?

3 A. That's the backpack that was recovered from the truck.

4 Q. Okay. And do you recall if you took that photo or
5 not?

6 A. Yes.

7 Q. Is it a fair and accurate depiction of the backpack
8 that you recovered?

9 A. Yes, ma'am.

10 Q. And State's -- what's been marked for identification
11 as State's Number Five. Do you know what State's Number
12 Five is? Do you recognize that?

13 A. Yeah. That's a picture taken of the backpack being
14 opened up, so you could just see the stuff laying in there.

15 Q. And is it a fair and accurate depiction of the cocaine
16 that you photographed?

17 A. Yes.

18 Q. What's been marked for identification purposes as
19 State's Number Six? What is that item, if you recognize
20 it?

21 A. That -- that's also another picture of the -- one of
22 the pockets of the backpack being opened, and the crack
23 visible.

24 Q. Is that a fair and accurate depiction of what you saw?

25 A. Yes, ma'am.

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1 Q. State's Number Seven. What's been marked for
2 identification purposes as State's Number Seven, do you
3 recognize that?

4 A. Yes, ma'am.

5 Q. And what is that?

6 A. That's the backpack laid out, and the contents, the
7 four separate bags of crack cocaine, and the digital scale,
8 and then the packaging material, the clear plastic bags,
9 just all laid out on it.

10 Q. And is that a fair and accurate depiction of what you
11 recovered from the backpack?

12 A. Yes, ma'am.

13 Q. Did you take that photo?

14 A. Yes.

15 Q. And finally, State's -- what's been marked for
16 identification purposes as State's Eight, do you know what
17 that is?

18 A. Yes, ma'am.

19 Q. And what is that?

20 A. That's the digital scale that was recovered from that
21 backpack, with the crack residue on it.

22 Q. And again, a fair and accurate depiction of what you
23 recovered from the car, the scales?

24 A. Yes, ma'am.

25 Q. Thank you.

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1 SOLICITOR COLTON: Your Honor, at this time, the State
2 would move State's Four, State's Five, State's Six, State's
3 Seven and State's Eight, into evidence.

4 MR. COOK: And your Honor, I would renew my objections
5 from the pretrial motions rebuttals.

6 THE COURT: Based on pretrial -- over objection, based
7 on pretrial rulings, they're in over objection.

8 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOUR, FIVE, SIX,
9 SEVEN AND EIGHT, RECEIVED INTO EVIDENCE.)

10 SOLICITOR COLTON: Your Honor, at this time, I would
11 ask to publish these.

12 THE COURT: You may.

13 SOLICITOR COLTON: Thank you, your Honor.

14 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOUR, FIVE, SIX,
15 SEVEN AND EIGHT PUBLISHED TO THE JURY AT 10:45 AM.)

16 BY SOLICITOR COLTON:

17 Q. Officer McGarrity, I'm going to start with State's
18 Number Four. That's a little difficult to see, but that's
19 State's Number Four. What did -- and when you looked at
20 the picture, can you just repeat it again so the jury knows
21 what we were speaking about in that photograph? What the
22 sign is.

23 A. Okay. This is the backpack that was recovered from
24 the cab of the truck.

25 Q. And Officer McGarrity, was there anybody else? Did

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1 you see anybody else get out of the vehicle?

2 A. No. It was only occupied by --

3 Q. Was there anybody else at the residence?

4 A. Yeah, later on, we found some other people there. It
5 was --

6 Q. Was anybody else outside?

7 A. No.

8 Q. Who else was at the residence?

9 A. Adult female and some children.

10 Q. And when you interacted with Mr. Robbins at the
11 vehicle, did you see any other civilians there?

12 A. No.

13 Q. State's Number Five. What is State's Number five, for
14 the jury, please?

15 A. That's the -- the backpack being -- it's unzipped and
16 opened up, so you can see inside of it.

17 Q. And it's a little pixilated ---

18 A. Yes.

19 Q. --- its distorted because it's been enlarged. Do you
20 recall anything you saw inside that bag, what's that a
21 depiction of?

22 A. It's hard for me to see from here.

23 Q. Well, I'm going to show you State's Five.

24 A. Yeah.

25 Q. Maybe that'll help you.

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1 A. You can see the --

2 THE COURT: Do you need a break?

3 JUROR NUMBER 222: Yeah. I can't really see those
4 images. The first one or this one.

5 THE COURT: The --

6 JUROR NUMBER 222: I'm sorry.

7 THE COURT: That's okay. I mean, we want you to be
8 able to see and hear those things you need to be able to
9 see and hear.

10 JUROR NUMBER 222: Yeah. I mean all I saw were --

11 THE COURT: I can't improve the quality, and I don't
12 know how to address that, other than to tell you that, when
13 you deliberate, you will actually have the photograph
14 that's in his hands now, in the evidence room with you.

15 So, that --

16 JUROR NUMBER 222: Okay.

17 THE COURT: That's all I can tell you, because we --

18 JUROR NUMBER 222: Okay. I'll just wait. I'll just
19 wait until then. Thank you.

20 THE COURT: Okay.

21 MADAM COURT REPORTER: Judge Hayes, would you get --

22 Excuse me, sir. Would you get her name, her number?

23 THE COURT: Your name and number?

24 JUROR NUMBER 222: Lynne Thompson, 2-2-2.

25 THE COURT: Okay. Thank you.

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1 BY SOLICITOR COLTON:

2 Q. And in that photograph up there, does that help ---

3 A. Yes.

4 Q. --- identify what those items are?

5 A. Yes.

6 Q. Okay. Can you tell the jury what you see?

7 A. There's some bags of crack in there, and then, the
8 digital scale you can see.

9 Q. Okay.

10 SOLICITOR COLTON: Actually, your Honor, would it be
11 okay if I asked the detective, Lieutenant McGarrity to step
12 down and show the jury?

13 THE COURT: You can. I don't know if he's back is to
14 it ---

15 SOLICITOR COLTON: I don't know if it'll be that much
16 difference.

17 THE COURT: --- it would completely address it but you
18 can step down and show it to them in proximity.

19 SOLICITOR COLTON: Yes, sir.

20 THE COURT: And we'll turn the lights on please.

21 SOLICITOR COLTON: Okay.

22 INVESTIGATOR MCGARRITY: You want me to step down?

23 SOLICITOR COLTON: Yeah. You do, please. I'm sorry.

24 (WITNESS LEAVES WITNESS STAND.)

25 A. Digital scale right here. And then there's a bag of

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1 crack cocaine right there.

2 JUROR NUMBER 222: Where is it that you --

3 A. There's a labeling on it. Crack right there.

4 MADAM COURT REPORTER: Madam Juror, you have to speak
5 up. I have to hear what you're saying to the Solicitor.

6 JUROR NUMBER 222: I said, I guess I'm going blind.

7 SOLICITOR COLTON: Can you pull up State's Six,
8 please?

9 Q. And Officer McGarrity, I know this is a small
10 photograph, can you try to put it out on there ---

11 A. Yeah. This is --

12 Q. --- with the better resolution.

13 A. Yeah, this is the opening of the backpack and the --

14 THE COURT: Wait a minute. You got that up but you
15 can show a close up. Don't know whether to turn the lights
16 off or not.

17 SOLICITOR COLTON: I'm going -- can I ask that the
18 lights go off after he shows it?

19 THE COURT: Yeah.

20 SOLICITOR COLTON: Yes. That would be better.

21 A. Okay. The crack found in a round shaped little
22 plastic bag right there in front.

23 SOLICITOR COLTON: And I ask that you just wait for me
24 one moment, please.

25 And, Madam Clerk, can you get the lights, please?

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1 Q. And that's State's Six?

2 A. Yeah, that's the picture of the crack in a plastic
3 bag.

4 Q. And what do you typically investigate in a narcotics
5 investigation? What would you refer to that crack in a
6 plastic bag as?

7 A. That would be a dealer's-level amount of crack that's
8 a large quantity.

9 Q. Is there a nickname for it?

10 A. Yes. It's called a crack cookie.

11 Q. Why do they call it a cookie?

12 A. Because it's -- when it's formed in the bottom of the
13 Pyrex dishes, that it comes out as a whole -- as a circular
14 cookie.

15 Q. State's Seven.

16 SOLICITOR COLTON: If you would put up State's Seven,
17 please.

18 Q. And again, this is what you described as the picture
19 of the backpack ---

20 A. Yes.

21 Q. --- that held the drugs that had been laid out?

22 A. Yeah. The contents are off to the left of the
23 backpack. There's the four bags of -- the one what we
24 called the crack cookie is on the left -- or I'm sorry, the
25 far-left is the plastic bags with nothing in them, just

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1 plastic bags. Then, the crack cookie. And then, the one,
2 two smaller ones, the digital scales. And then, laying on
3 a black bag is another bag.

4 Q. Okay.

5 A. Of crack.

6 Q. And the backpack is on the far end to it?

7 A. Yes.

8 Q. And you found all those items there inside that
9 backpack?

10 A. Yes. All those were taken out of the backpack.

11 SOLICITOR COLTON: Madam Clerk, if you could you flip
12 the light back on?

13 Q. And finally, Item Eight. That's -- what is that?

14 A. That's the digital scale that's removed from the
15 backpack, with the residue on it.

16 Q. Thank you. If you could please take the stand.

17 A. All right.

18 (WITNESS RETURNS TO WITNESS STAND.)

19 Q. I'm going to show you what's been marked for
20 identification purposes as State's Exhibit Three. Do you
21 recognize what this is?

22 A. Yes.

23 Q. Okay. And what is it?

24 A. It's the packaging evidence for the digital scale and
25 the plastic bags that were removed from that backpack.

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1 Q. And how do you know that?

2 A. Because I clearly marked it on the --

3 Q. And did you take that into evidence?

4 A. Yes.

5 Q. And did you sign for it?

6 A. Yes.

7 Q. And did you seal that package?

8 A. I did.

9 Q. And what did you do with it after you sealed it?

10 A. I initialed and dated the seal, and dropped it into
11 evidence.

12 Q. And if you could, if I can ask --

13 SOLICITOR COLTON: Well, at this time, your Honor, the
14 State would move to enter State's Three into evidence.

15 MR. COOK: And I would renew my objections from the
16 pretrial hearings.

17 THE COURT: Based on earlier rulings, over objection,
18 it's allowed into evidence.

19 (WHEREUPON, STATE'S EXHIBIT THREE, IDENTIFIED AND
20 MARKED, RECEIVED INTO EVIDENCE.)

21 SOLICITOR COLTON: Thank you, your Honor.

22 Q. Investigator McGarrity, could you hold up the contents
23 of that?

24 A. Yes.

25 MADAM COURT REPORTER: Here you go.

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1 INVESTIGATOR MCGARRITY: Thank you.

2 BY SOLICITOR COLTON:

3 Q. Okay. I'm going to ask again if you can come down so
4 the jury can get a good look at that, please?

5 (WITNESS LEAVES WITNESS STAND.)

6 A. Yes. And there's baggies in here to.

7 Q. And again, those were located in the princess
8 backpack?

9 A. Yes, ma'am.

10 (WITNESS RETURNS TO WITNESS STAND.)

11 Q. I'm going to also show you what's been marked for
12 identification purposes as State's -- State's Exhibit Two.

13 Do you recognize that item?

14 A. Yes.

15 Q. What is it?

16 A. This is the bags of crack that were recovered from the
17 backpack.

18 Q. The four bags of crack?

19 A. Yes.

20 Q. And how do you know that?

21 A. Because I -- this was the bag that I sealed up, and
22 I've signed for it. It's got my initials on the label.

23 Q. And that -- when you took -- What did it contain?
24 What did you put in that bag?

25 A. Four bags of crack cocaine.

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1 Q. Was that the crack located in the backpack?

2 A. Yes.

3 Q. Did it look -- was it in that condition when you
4 placed it into the bag?

5 A. No.

6 Q. What did you do with it when you placed it into the
7 bag?

8 A. When I placed it into the bag, it was sealed, and then
9 put into evidence.

10 Q. Okay. What kind of seal is that? What kind of bag is
11 that, that you put it into?

12 A. It's a plastic -- we call them plastic drug bags. It
13 has a seal on it that . . .

14 Q. And what happens if you try to open that bag, once you
15 seal it?

16 A. It distorts the side. It tears and distorts all the
17 diagrams that are on the side of it.

18 Q. So, was it sealed again when you put it into evidence?

19 A. Yes.

20 Q. Okay. And did you initial it at anyplace?

21 A. Yes, on the -- on the label, where it seals at.

22 Q. And can -- can you show the jury where you did that?

23 (WITNESS PUBLISHED EXHIBIT TO JURY.)

24 Q. Across that red thing?

25 A. Yeah. My initials -- that's looking at it backwards,

1 but it's MLM, 6/24/2015.

2 Q. And did you some information on the front of that ---

3 A. Yes.

4 Q. --- as well? Once you sealed it up in that bag, what
5 did you do with it?

6 A. Once it's sealed in the bag, it's placed into
7 evidence.

8 Q. Did you keep sole care and custody of that the entire
9 time, from the time you recovered it, to the time you put
10 it in evidence?

11 A. Yes.

12 Q. Anybody else have access to it?

13 A. No.

14 Q. And that's -- were you the evidence -- deemed the
15 evidence custodian?

16 A. Yes. For this operation, yeah.

17 Q. Can you tell the jury what the evidence custodian
18 does?

19 A. On the Drug Unit or as police in general, when we do
20 an operation with multiple officers, we assign one person
21 to be the person who recovers and seizes evidence from the
22 scene and does the evidence; seals it, secures it, places
23 it in evidence, so there's not multiple people retrieving
24 evidence and putting in there.

25 Q. Okay. And you mentioned that you put that into the

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1 evidence -- into evidence.

2 A. Yes.

3 Q. How do you do that?

4 A. You -- once you get all your evidence, with an
5 evidence form, we'd take it to -- outside of Evidence they
6 have a secure locker that you place it into, and the only
7 people that have access to that are the evidence techs that
8 work in that.

9 Q. Is there a code that you can get back in there?

10 A. No. Once I've dropped it, I can't access it.

11 Q. Is it kind of like a mailbox?

12 A. Yeah. It's like a -- like a safety deposit box,
13 almost. If you dropped it in there, you can't reach into
14 it or anything.

15 Q. And are you aware of who has access to it?

16 A. Yes.

17 Q. Who?

18 A. There's three evidence techs that work in there.

19 Q. So, even if you wanted to retrieve your own evidence,
20 could you?

21 A. The only way that I could retrieve it would be by
22 going to an evidence tech and have it actually signed out,
23 as like I did today for court.

24 Q. Could you retrieve it from that particular box?

25 A. No, not from that box. It would have to be taken into

1 evidence.

2 Q. I'm going to show you what's been marked for
3 identification purposes as State's Twenty-Five -- State's
4 Twenty-Four and Twenty-Five. Do you recognize what State's
5 Twenty-Four and Twenty-Five are?

6 A. Yes.

7 Q. Can you please tell us what they are?

8 A. That's the -- the chain of custody evidence label on
9 the back of that bag for -- stating the -- I've read the
10 name, I know Mitchum. But that's the pictures of the --
11 the bag with the crack in it.

12 Q. The bag with the crack in it?

13 A. Yes, that bag.

14 Q. You're referring to State's Number Two?

15 A. Yes.

16 Q. And looking at State's -- what's been marked for
17 identification purposes, State's Twenty-Eight. Do you
18 recognize what that is?

19 A. Yes. That's the -- the front of that bag, filled out
20 by me.

21 Q. State's Two?

22 A. Yes.

23 SOLICITOR COLTON: And at this time, your Honor, the
24 State would move to enter into evidence State's Number Two,
25 State's Twenty-Four, and State's Twenty-Five. I'm sorry,

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1 State's Twenty-Four, State's Twenty-Five, and State's
2 Twenty-Eight and not State's Number Two.

3 MR. COOK: And I would renew my previous --

4 THE COURT: Based on earlier rulings, objection is
5 overruled, and it's in evidence. They are in evidence.

6 (WHEREUPON, STATE'S EXHIBIT NUMBERS TWENTY-FOUR,
7 TWENTY-FIVE, AND TWENTY-EIGHT, IDENTIFIED AND MARKED,
8 RECEIVED INTO EVIDENCE.)

9 SOLICITOR COLTON: Madam Clerk, can you deem the
10 lights please.

11 Q. And that's State's Twenty-Four that's been entered
12 into evidence, Officer McGarrity?

13 A. Yes.

14 Q. Okay. And what is depicted in that picture?

15 A. That's the back view of the evidence bag of -- and you
16 can see the crack cookie in there.

17 Q. Is that what it looked like when you entered it into
18 the evidence locker?

19 A. Yes, ma'am. That's how it looks.

20 Q. When you entered State's Number Two into the evidence
21 locker?

22 A. Yes.

23 Q. And as far as State's Number Twenty-five goes, that's
24 just a -- what is that a picture of?

25 A. That's -- you -- that's a picture, still showing the

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1 crack cookie and then the additional three bags.

2 Q. And is that what -- is that a truthful depiction, or
3 an accurate depiction, of what State's Two looks like when
4 you entered it into evidence?

5 A. Yes.

6 Q. And State's Twenty-Eight. And you previously
7 testified that that is the --

8 A. That's the front label of the Number Two?

9 Q. Number -- State's Two.

10 A. State's Two.

11 Q. State's Two. Okay. And you can come down here real
12 quickly for me, please.

13 (WITNESS LEAVES WITNESS STAND.)

14 Q. When originally filling out the paperwork and entering
15 the evidence after you recovered the crack --

16 THE COURT: I don't know if the jury can see through
17 him.

18 SOLICITOR COLTON: I'm sorry, Judge. My back.

19 THE COURT: Well you are but he's not.

20 A. You want me to duck. I'll move here.

21 THE COURT: That's better.

22 BY SOLICITOR COLTON

23 Q. When you originally entered into -- the items that you
24 found in the backpack into evidence, they looked like,
25 State's Twenty-Five, Twenty-Four and Twenty-Five, and the

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1 front looks like State's Twenty-Eight.

2 A. Yes.

3 Q. Correct?

4 A. Yes.

5 Q. Okay. Does State's Two appear to be in the same
6 condition as what you entered it into evidence?

7 A. No, not in the same condition as what it was entered
8 in.

9 Q. Can you explain what the difference is between then
10 and now?

11 A. What's happened is, the crack that was put in the bag
12 has, somewhat, liquified, causing --

13 MR. COOK: Your Honor, I would object, simply because
14 I don't believe that the witness has been declared an
15 expert witness, and this is chemical analysis. I'm not
16 sure he was trained for that at the Academy.

17 THE COURT: Let's stay away from the chemical
18 analysis. I think she was asking whether the bag --

19 Ask the question again and let's see what the answer
20 is.

21 SOLICITOR COLTON: Yes, sir.

22 Q. Does the writing on the bag appear to be the same as
23 when you initially put it into evidence?

24 A. No. The writing on the bag has been distorted.

25 Q. And is the substance in there, does it appear to be a

1 solid any more?

2 A. No. Not a solid any more.

3 Q. Okay. And from a layperson's standpoint, does the
4 front of it appear to look wet?

5 A. Yes, it looks wet.

6 Q. And has the ink run on it?

7 A. Yes.

8 Q. But it's your testimony that this is the same bag that
9 you placed into evidence?

10 A. Yes.

11 Q. Originally, with State's Twenty-Eight, State's Twenty-
12 Four, and State's Twenty-Five?

13 A. Yes.

14 Q. Okay. Thank you.

15 (WITNESS RETURNS TO WITNESS STAND.)

16 Q. Mr. McGarrity, I'm going to show you what's been
17 marked for identification purposes, State's Fourteen and
18 State's Fifteen. And if you can refer to them by exhibit
19 number, do you recognize State's Fourteen?

20 A. Yes.

21 Q. Do you -- and do you recognize State's Fifteen?

22 A. Yes.

23 Q. What is State's Fourteen?

24 A. State's Fourteen is the black digital scales, also
25 showing a plastic bag in it.

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1 Q. State's Fifteen?

2 A. State's Fifteen is a plastic bag that's also in the
3 evidence with the digital scale, with the corner torn out
4 of it.

5 Q. Are those fair and accurate depictions of what you
6 recovered?

7 A. Yes, ma'am.

8 Q. As far as the scale and plastic baggies.

9 SOLICITOR COLTON: Your Honor, at this time, the State
10 would move to enter State's Fourteen and State's Fifteen
11 into evidence.

12 MR. COOK: I renew my previous objection.

13 THE COURT: Based on earlier rulings, over objection,
14 their allowed into evidence.

15 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOURTEEN AND
16 FIFTEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

17 SOLICITOR COLTON: Thank you, your Honor. We would
18 also ask that they be published to the jury.

19 THE COURT: You may publish them.

20 SOLICITOR COLTON: Ms. Weaver, if you could?

21 (STATE'S EXHIBIT FOURTEEN AND FIFTEEN PUBLISHED TO THE
22 JURY AT 11:06 AM.)

23 BY SOLICITOR COLTON:

24 Q. Officer McGarrity, is this State's Fourteen?

25 A. Yes.

1 Q. Was that picture shown to the jury?

2 A. That's a picture of the digital scale and some of the
3 plastic bags at the top.

4 Q. And State's Fifteen.

5 A. That's a picture of one of the bags from the -- that
6 was in the evidence with the digital scale, with the corner
7 torn out of it.

8 Q. Based upon your experience as a narcotics
9 investigator, what -- would this be significant to you?

10 A. Yes. When we see plastic bags with the corners torn
11 out, that's how it's packaged. The drugs or narcotics
12 would be placed in the corner, torn off, and tied up for
13 sales.

14 Q. And that would be the residual -- that would be the
15 leftover part of the plastic bag?

16 A. Yeah. That would be the leftover part of the plastic
17 bag.

18 Q. And is that pretty common?

19 A. Yeah, that's very common.

20 Q. How long have you experienced that in your years in
21 narcotics investigating?

22 A. In my eight years of policing, I've -- I've seen it
23 throughout my whole eight years. I don't have a number,
24 but.

25 Q. And what would have been in that -- What do you

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1 generally find based upon your training and experience in
2 these smaller corners of those baggies?

3 A. We'll find the -- once that the crack's broken down,
4 it'd be found in the corner but there's also other types of
5 drugs that could be found in corners, as well.

6 Q. It's a manner of packaging narcotics?

7 A. Yes.

8 Q. Now, after you recovered these items from the vehicle,
9 did you join your other officers?

10 A. Yes.

11 Q. Or did you stay outside?

12 A. We all went inside.

13 Q. And what did you do?

14 A. We went inside, and I read the search warrant.

15 Q. Is that called executing the search warrant?

16 A. Yeah. The person who executes the search warrant
17 actually reads the search warrant out to the people in the
18 residence.

19 Q. Okay. And you read the entire document to them?

20 A. Yes.

21 Q. Who was there when you read the search warrant?

22 A. Myself, Officer Gander, and Officer Vaughn. There
23 were other officers on the scene. I'm not sure if they
24 were in the room or not.

25 Q. And as far as civilians, who was present? Who did you

1 read the search warrant to?

2 A. To the defendant, the adult female, and the two kids
3 were in there I believe at the time.

4 Q. And after the search warrant was read, did you
5 participate in the search of the residence?

6 A. Yes.

7 Q. Did you recover anything in the residence?

8 A. Yes.

9 Q. Do you recall what you recovered?

10 A. Yes. I recovered two additional things of crack
11 cocaine.

12 Q. I'm going to show you what's been marked for
13 identification purposes as State's Twenty.

14 Do you recognize State's Twenty?

15 A. Yes.

16 Q. Can you please tell -- tell us what it is?

17 A. It's a bag of crack that was recovered in the house in
18 a Easter basket.

19 Q. And when you recovered State's Twenty, when you
20 recovered what you believed to be crack cocaine in the
21 Easter basket, what did you do with it?

22 A. It was seized and secured into evidence.

23 Q. And what kind of bag did you put it in?

24 A. I put it in another drug bag, a clear plastic bag.

25 Q. Is that also known as a Best Evidence bag?

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1 A. Yeah.

2 Q. Okay.

3 A. They're secure.

4 Q. And did you seal that?

5 A. Yes, I did.

6 Q. Did you initial it, as well?

7 A. Yes. I initialed and put the date.

8 Q. And what did you do with that?

9 A. And then, it was dropped into evidence?

10 Q. And --

11 A. In the evidence locker.

12 Q. Is that the same evidence locker that you secured
13 State's Twenty in?

14 A. Yes.

15 Q. The crack cocaine?

16 A. Yes.

17 Q. And then, if you could look like right in front of
18 you, State's -- State's Twenty-One?

19 A. Yes.

20 Q. And what's been marked for identification purposes,
21 State's Twenty-One, do you recognize what that is?

22 A. Yes.

23 Q. And what is it?

24 A. This is crack that was seized in the kitchen dresser
25 drawer, which I placed in this bag.

1 Q. And did you seal that bag, as well?

2 A. Yes, ma'am.

3 Q. And did you sign at the top of the bag, as well?

4 A. Yes. Initialed and dated it.

5 Q. And what was -- were both State's Twenty and Twenty-
6 One, were both of those items kept in your sole care and
7 custody from the time you recovered them to the time you
8 entered them into the evidence locker?

9 A. Yes, ma'am.

10 Q. Was this done simultaneously with State's Two, the
11 crack cocaine from the car?

12 A. The entering?

13 Q. Yes.

14 A. Yes. All of them were -- were dropped into evidence -
15 - entered into evidence at the same time.

16 Q. And the front of those two documents where you signed
17 the chain of -- the chain of -- the chain of -- what's
18 chain of custody?

19 A. Uh-huh.

20 Q. What did you write for the chain of custody on this?

21 A. From me signing into evidence drop, MJC.

22 Q. Okay.

23 A. On both of them.

24 Q. And was that the same thing you signed on State's Two?

25 A. Yes.

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1 Q. The crack cocaine from the car?

2 A. Yes.

3 Q. Officer McGarrity, I'm going to show you what's been
4 marked for identification purposes as State's Sixteen,
5 Seventeen, Eighteen, and Nineteen. If you could please
6 articulate each number, starting with Sixteen.

7 A. Okay.

8 Q. And do you recognize State's Sixteen?

9 A. Yes.

10 Q. What is State's Sixteen a picture of?

11 A. State's Sixteen is a picture taken above the Easter
12 basket, with the crack, the bag of crack that was found in
13 the Easter basket.

14 Q. And is that -- and how about State's, what's been
15 marked for identification purposes, as State's Seventeen?

16 A. State's Seventeen? It's an overview picture of the
17 cabinet in the kitchen where crack was located.

18 Q. And State's Eighteen?

19 A. State's Eighteen, it's a closeup picture of that same
20 drawer, cabinet, with the crack cocaine in the bag.

21 Q. And finally, State's Nineteen.

22 A. State's Nineteen is a picture just taken at a
23 different angle of the crack in that drawer, the same as
24 Seventeen.

25 Q. With respect to State's Sixteen, State's Seventeen,

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1 State's Eighteen, and State's Nineteen, are they -- those
2 fair and accurate depictions of where you got those drugs
3 and recovered them?

4 A. Yes.

5 Q. And that would be in reference to State's Twenty and
6 State's Twenty-One?

7 A. Yes.

8 Q. Okay.

9 SOLICITOR COLTON: Your Honor, at this time, the State
10 would move to enter State's Sixteen, Seventeen, Eighteen
11 and Nineteen into evidence.

12 MR. COOK: I'll renew my prior objection.

13 THE COURT: Subject to earlier rulings, over the
14 objection from Counsel for the Defense, they're allowed
15 into evidence.

16 (WHEREUPON, STATE'S EXHIBIT NUMBERS SIXTEEN,
17 SEVENTEEN, EIGHTEEN, AND NINETEEN, IDENTIFIED AND MARKED,
18 RECEIVED AS EVIDENCE.)

19 SOLICITOR COLTON: Thank you, your Honor. We ask that
20 we be allowed to publish Sixteen through Nineteen to the
21 jury.

22 THE COURT: You may.

23 SOLICITOR COLTON: Thank you, your Honor.

24 (STATE'S EXHIBIT NUMBERS SIXTEEN THROUGH NINETEEN
25 PUBLISHED TO THE JURY AT 11:16 AM.)

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1 BY SOLICITOR COLTON:

2 Q. And State's Sixteen, if you could - I'm sorry to
3 having you explain it again ---

4 A. Yeah.

5 Q. --- but explain to the jury what you saw in State's
6 Sixteen, to the photo.

7 A. Oh. It's -- this is a photo taken above, looking into
8 the Easter basket. In the lower part of that basket is the
9 plastic bag with the crack that was recovered.

10 Q. And State's Eighteen?

11 A. That's the closeup picture of the cab -- kitchen
12 cabinet with the crack in it.

13 Q. And were you able, from this picture, to determine
14 where the crack in State's Twenty-One was located?

15 A. I can't -- with the photos that are a little clearer,
16 I can actually point it out to you, but.

17 SOLICITOR COLTON: And if you could, State's Nineteen,
18 put it up.

19 Madam Clerk, if you could get the lights.

20 Q. If you could please step down.

21 (WITNESS LEAVES WITNESS STAND.)

22 Q. And if you could show, actually come over here and
23 show the State's Seventeen, Eighteen and Nineteen to the
24 jury.

25 A. Start with Seventeen. This is an over view picture of

1 the drawers.

2 Q. A little louder, please.

3 A. The over view picture of the drawers in the kitchen
4 that the crack was found in.

5 Q. And what picture is that?

6 A. That's State's Exhibit Seventeen.

7 Q. Okay.

8 A. State's Exhibit Eighteen, this is a closeup of the
9 drawer. I'll put my finger right there where the bag, the
10 small bag of crack was located.

11 And State's Exhibit Nineteen it's a picture similar to
12 that one just at a different angel. I'll put my finger on
13 the corner of the drawer.

14 (WITNESS RETURNS TO WITNESS STAND.)

15 Q. Okay. Finally, I promise, we're almost at the end,
16 I'm going to show you what's been marked for identification
17 purposes as State's Nine, Ten, Eleven, Twelve, and
18 Thirteen. Beginning with State's Nine, if you could, for
19 each one, state the number, and tell the Court what that --
20 what that item is.

21 A. Okay.

22 Q. If you recognize the item and what it depicts.

23 A. All right. State's Exhibit Nine is a photo taken of
24 the closet of mens' clothing.

25 Q. Okay.

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1 A. State's Exhibit Ten is a picture of mens' pair of
2 pants. State's Exhibit Eleven is a pile of shoes, mens'
3 shoes. State's Exhibit Twelve is also a picture taken of
4 mens' shoes in a closet. State's Exhibit Thirteen is a
5 drawer opened up, with mens' boxer shorts in them.

6 Q. And for State's Nine through Thirteen inclusive, are
7 those fair and accurate depictions of what each picture
8 that you articulated shows?

9 A. Yes, ma'am.

10 Q. Did you actually take those photographs?

11 A. Yes, ma'am.

12 SOLICITOR COLTON: At this time, your Honor, the State
13 would move State's Nine, Ten, Eleven, Twelve, and Thirteen
14 into evidence.

15 MR. COOK: And I renew my prior objection.

16 THE COURT: Subject to prior rulings and over
17 objection of counsel the photographs are allowed into
18 evidence - admitted into evidence.

19 SOLICITOR COLTON: Thank you, Judge.

20 (WHEREUPON, STATE'S EXHIBIT NUMBERS NINE THROUGH
21 THIRTEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
22 BY SOLICITOR COLTON:

23 Q. And Officer McGarrity, why did you take those
24 pictures?

25 A. It's -- we do that in drug investigation with search

1 warrants because people try to claim additional addresses
2 in certain cases. So, we take pictures of the mens'
3 clothing so that we can show that they -- a male subject
4 lives at the residence.

5 Q. And in this particular case, let's talk about all
6 these pictures that you took. What type of camera did you
7 use to take these pictures?

8 A. It would have been like, we have an evidence Iphone
9 camera.

10 Q. And what did -- how did you develop these pictures,
11 particular pictures, the black and white pictures that we
12 have?

13 A. We just printed them out.

14 Q. And do you know where the original pictures are?
15 Well, did you photograph them in black and white?

16 A. No, they were photographed in color.

17 Q. Do you know where the original color pictures are?

18 A. No.

19 Q. And so, this is the original evidence that you were
20 left with in this particular case?

21 A. Yes.

22 Q. Okay. Did you intentionally destroy the color
23 pictures?

24 A. No.

25 MR. COOK: Your Honor, I would just make an additional

INVESTIGATOR LOGAN MCGARRITY: DIRECT BY SOLICITOR COLTON

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1 objection that I didn't mention earlier. It's -- that's
2 not the best evidence.

3 THE COURT: Overruled.

4 MR. COOK: Thank you, your Honor.

5 THE COURT: They're already in evidence.

6 MR. COOK: Yes, sir.

7 BY SOLICITOR COLTON:

8 Q. And did you -- you didn't -- you didn't intentionally
9 destroy that evidence?

10 A. No.

11 Q. What would you prefer to have to show, to be in court
12 with today?

13 A. I'd prefer to have the color pictures?

14 Q. Would you have preferred to meet with me with the
15 color pictures, as well?

16 A. Yes.

17 Q. Let me take you back to when you arrested Mr. Robbins
18 outside. Did you have an opportunity to speak with him
19 outside?

20 A. I didn't other than reading his *Miranda* outside.

21 Q. And by reading *Miranda*, how, exactly, did you read him
22 *Miranda*?

23 A. I read it from my card, the *Miranda* card that we
24 carry.

25 Q. Can you tell the jury what *Miranda* is?

1 A. It's his rights -- his rights to, you know, his *Fifth*
2 *Amendment* not to talk without, you know, while being
3 questioned, and also be afforded an attorney, if he wishes.

4 Q. And you read him -- you mentioned you had your *Miranda*
5 card?

6 A. Yes.

7 Q. Is -- did you read from your card on that day?

8 A. Yes. I always read from the card.

9 Q. And how soon after his arrest did you read him his
10 *Miranda Rights*?

11 A. Immediately.

12 Q. And do you have your card with you today?

13 A. I do.

14 Q. Can you please read from your card? If that -- read
15 from the card specifically what you told Mr. Robbins on
16 June 24th.

17 A. Okay. I read specifically from it. "You have the
18 right to remain silent. Anything you say can and will be
19 used against you in a court of law. You have the right to
20 talk to an attorney, or have him or her present with you
21 while you're being questioned. If you cannot afford to
22 hire an attorney, one will be appointed to represent you
23 before any questioning, if you want. You can decide at any
24 time to exercise these rights, and not answer any questions
25 or make any statements."

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1 Then, it's followed by two questions: "Do you
2 understand these rights that I've explained to you? And,
3 having these rights in mind, do you wish to talk to us
4 now?"

5 Q. And Mr. Robbins was under arrest. He wasn't free to
6 leave at this time?

7 A. No.

8 Q. Was he in handcuffs?

9 A. Yes.

10 Q. Were you all in uniform, or were you in plain clothes?

11 A. We were plain clothes, with gun and badge visible.

12 Q. Did you make Mr. Robbins aware that you were a police
13 officer?

14 A. Yes. Soon as I approach any one vehicle, I tell them
15 I'm a police officer.

16 Q. And at the time that you read Mr. Robbins his *Miranda*
17 Rights, did you, did you yourself, or any other officers
18 threaten him?

19 A. No.

20 Q. Did you promise him anything?

21 A. No.

22 Q. And did he appear to be under the influence of drugs
23 or alcohol, or anything like that?

24 A. No.

25 Q. Did he, at any time, ask for a lawyer?

1 A. No.

2 Q. Did he, at any time, ask to not speak with you?

3 A. No.

4 Q. Did he ask to remain silent?

5 A. No.

6 Q. And did he seem to understand what you were saying?

7 A. Yes.

8 Q. Did he agree that he -- did he understand the rights
9 as you had read them?

10 A. Yes.

11 Q. And after you read -- Who else was present when you
12 read him his *Miranda* Rights, Mr. Robbins *Miranda* rights?

13 A. Officer Vaughn. Me and him were the only ones present
14 during that.

15 Q. And then, after that, you went -- after you recovered
16 the drugs from the vehicle, you went into the home?

17 A. Yes.

18 Q. And that's where you executed the search warrant?

19 A. Yes, ma'am.

20 Q. And as part of executing the search warrant, is there
21 a waiver -- *Waiver of Rights* form?

22 A. Yes. The rights are read again to 'em.

23 Q. Okay. What is -- it's called the *Waiver of Rights*
24 form. What does that contain?

25 A. It's essentially the *Miranda* rights. And then, we

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1 have them sign, stating that they understand their rights.

2 Q. Was that read to Mr. Robbins in the home?

3 A. Yes.

4 Q. Who was it read to Mr. Robbins by?

5 A. Officer Gander.

6 Q. Were you present when the rights were read by Ms.
7 Gander?

8 A. Yes. It was immediately after I executed the search
9 warrant.

10 Q. Okay. And then, after the search warrant was executed
11 and *Miranda* has been read by you and Officer Gander, is
12 that when you searched the house and recovered ---

13 A. Yes.

14 Q. --- Twenty, State's Twenty and State's Twenty-One?

15 A. Yes.

16 Q. Okay. And then, after you recovered State's Twenty
17 and Twenty-One -- between the time the rights -- let me
18 rephrase that. Between the time when you read Mr. Robbins
19 his rights and the time you recovered those items, did he,
20 at any time, ask you, or to the best of your knowledge, any
21 officers for an attorney?

22 A. No.

23 Q. Did he ask not to speak to you, and invoke his right
24 to remain silent?

25 A. No.

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CROSS BY MR. COOK

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1 Q. And after you recovered State's Twenty and State's
2 Twenty-One, did you speak with Mr. Robbins?

3 A. Yes.

4 Q. And do you remember what you asked the Defendant?

5 A. After I found the drugs inside the residence, I asked
6 him who they belonged to. He stated everything found in
7 the house by officers was his.

8 Q. Did he -- did you promise him anything if he ---

9 A. No.

10 Q. --- if he answered your questions right at that time?

11 A. No.

12 Q. Did you threaten him if he didn't answer your
13 questions?

14 A. No.

15 Q. And he -- Again, he said everything found in the house

16 ---

17 A. Yes.

18 Q. --- was his?

19 SOLICITOR COLTON: Thank you, Officer McGarrity.

20 Please answer any questions Mr. Cook may have for you.

21 CROSS-EXAMINATION

22 INVESTIGATOR LOGAN MCGARRITY BY MR. COOK:

23 Q. Good morning, Officer.

24 A. Good morning.

25 Q. Did you -- Where is the backpack right now?

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OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 A. It was left there.

2 Q. You didn't put the princess backpack into evidence?

3 A. No.

4 Q. Did you check to see if any fingerprints were on that
5 backpack?

6 A. No.

7 MR. COOK: I beg the Court's brief indulgence.

8 Thank you, sir. No further questions.

9 THE COURT: Any redirect?

10 SOLICITOR COLTON: No redirect, your Honor.

11 THE COURT: You can step down and be excused. We
12 appreciate your time.

13 INVESTIGATOR MCGARRITY: Thank you, sir.

14 (WITNESS LEAVES WITNESS STAND.)

15 THE COURT: Call your next witness.

16 SOLICITOR COLTON: Your Honor, the State would call
17 Officer Robin Gander.

18 (WHEREUPON, ROBIN GANDER,
19 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 DIRECT EXAMINATION

21 OFFICER ROBIN GANDER BY SOLICITOR COLTON:

22 Q. Officer Gander, can you please state your full name,
23 for the record?

24 A. Robin Marie Gander.

25 Q. And Ms. Gander, or Officer Gander, where do you

1 currently work?

2 A. I work for the City of Rock Hill Police Department,
3 assigned to the York County Multi-Jurisdictional Drug Unit.

4 Q. How long have you worked as a police officer?

5 A. Police officer?

6 Q. Yes.

7 A. Approximately seven years.

8 Q. And how long have you been assigned to the Drug
9 Enforcement Unit?

10 A. Approximately five years.

11 Q. And back in June of 2015, did you have an interaction
12 with Antonio Robbins?

13 A. Yes.

14 Q. And how did you come to be involved in the case of
15 Antonio Robbins?

16 A. I assisted with the search warrant on his residence.

17 Q. And by assist, what did you all do before -- Well, how
18 did you give your assistance in the execution of the search
19 warrant?

20 A. We did surveillance on the residence.

21 Q. Okay. And do you recall the address at that
22 residence?

23 A. It's Woodland Hills.

24 Q. Okay. And what's -- what is the side street over
25 there? Or do you remember?

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 A. I don't.

2 Q. Is it in York County?

3 A. Yes.

4 Q. Could you drive there?

5 A. Yes.

6 Q. When you conducted surveillance, who were you with?

7 A. Officer McGarrity and Officer Vaughn.

8 Q. And what happened while you were conducting
9 surveillance of the residence?

10 A. Well, we observed Mr. Robbins drive his vehicle into
11 his driveway.

12 Q. Do you remember what kind of car it was?

13 A. I believe it was a truck.

14 Q. And what happened when he pulled the truck up into the
15 driveway?

16 A. I pulled in the vehicle that we were in directly
17 behind his. From there, I went to the residence, and
18 Officer Vaughn and Officer McGarrity went to Mr. Robbins'
19 vehicle.

20 Q. How come you went into the residence?

21 A. We had a valid search warrant for his house. We
22 wanted to secure it, make sure no one else was inside.

23 Q. And what does secure the residence mean for the jury?

24 A. Just make sure there's nobody else there who could
25 possibly cause harm to myself, other officers, as well as

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 protect the scene for the search warrant.

2 Q. And did you observe anybody coming and going from that
3 house while you were conducting surveillance?

4 A. I did not.

5 Q. And when you went to execute the search warrant, what
6 door did you go to?

7 A. It was the door that was under the sally port, or the
8 covered -- I guess it's a garage.

9 Q. Carport?

10 A. Carport.

11 Q. And did you go to the front door, or did any of the
12 other officers go to the front door?

13 A. No, we all went to the same door.

14 Q. And when you went into the house, who did you
15 encounter?

16 A. A female and two young kids in the front hallway,
17 living room area.

18 Q. Okay. Do you recall approximately how old the
19 children were?

20 A. Under ten.

21 Q. Okay. And what did you do when you encountered the
22 children and the female in the house?

23 A. Well, as soon as we opened the door -- We knocked
24 first. We announced, police, search warrant, then we
25 entered. They came up to us. We had them sit down in the

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 living room. We continued to clear the house.

2 Q. And when you say they came out to you, do you recall
3 the -- you -- do you recall where they came out to you
4 from?

5 A. A little hallway that was right before the living room
6 area, they were just kind of standing there.

7 Q. Okay. And so, they came in. What did they -- what
8 did you instruct them to do?

9 A. Just to come to us. Just to keep their hands up and
10 come to us.

11 Q. And what happened after that?

12 A. From there, we sat them down and read them the search
13 warrant, executed it, and also, read them their *Miranda*
14 Rights.

15 Q. And executing the search warrant, was that Officer
16 McGarrity?

17 A. Yes. Officer McGarrity.

18 Q. And is part of executing the search warrant, do they -
19 - is there also an acknowledgment of rights that's read?

20 A. Yes.

21 Q. Do you recall who read that?

22 A. I did.

23 (WHEREUPON, STATE'S EXHIBIT THIRTY-TWO, PREMARKED FOR
24 IDENTIFICATION.)

25 Q. I'm going to show you what's been marked for

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 identification purposes as State's Thirty-Two.

2 A. Okay.

3 Q. Do you recognize State's Thirty-Two?

4 A. Yes.

5 Q. Can you please tell us what State's Thirty-Two is?

6 A. It's our advisement of rights forms, acknowledgment of
7 rights.

8 Q. And is that the original form that you read to -- read
9 to Mr. Robbins and Ms. -- the female in the house and the
10 two children?

11 A. Yes.

12 Q. Okay. And how do you know that?

13 A. I was the one who filled out the form. My name is
14 clearly marked on here.

15 Q. And is that the original form that you read from?

16 A. Yes.

17 SOLICITOR COLTON: Your Honor, at this time, the State
18 would move to enter State's Thirty-Two into evidence.

19 MR. COOK: I'll just renew my prior objections, your
20 Honor.

21 THE COURT: Subject to prior rulings, over the
22 objection of the Defense, the items are allowed into
23 evidence.)

24 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-TWO,
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 BY SOLICITOR COLTON:

2 Q. And do you -- did you read directly from State's
3 Thirty-Two?

4 A. Yes.

5 Q. And what's this -- please tell the jury what,
6 specifically, you read to the defendant.

7 A. I read the *Constitutional Rights*, which reads as: "You
8 have the right to remain silent. Anything you say can and
9 will be used against you in court. You have the right to
10 talk to a lawyer for advice before answering any questions,
11 and to have your lawyer present during questioning. You
12 have the right to the advise and presence of a lawyer, even
13 if you cannot afford to hire one. We have no way of
14 appointing you a lawyer, but one will be appointed by the
15 Court for you, if you wish. If you wish, you may answer
16 questions without the presence of a lawyer, and you may
17 stop answering anytime you desire."

18 Q. And was the defendant coherent?

19 A. Yes.

20 Q. Did he seem to be of reasonable intelligence?

21 A. Yes.

22 Q. Did he have -- did he appear to understand what you
23 said?

24 A. Yes.

25 Q. Did he have any questions?

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 A. No.

2 Q. Did you observe -- did you or any of the other
3 officers threaten him ---

4 A. No.

5 Q. --- to answer questions?

6 A. No.

7 Q. Did they coerce him to answer questions?

8 A. No.

9 Q. Did anybody promise him anything if he talked -- spoke
10 with them?

11 A. No.

12 Q. And at any time, did he ask for an attorney?

13 A. No.

14 Q. Did he ask you any questions about his rights?

15 A. No.

16 Q. Did he appear to understand?

17 A. Yes.

18 Q. Did he indicate that he understood those rights that
19 you read?

20 A. Yes. I even asked him, do you understand your rights,
21 and he stated, yes.

22 Q. And did you give him the opportunity to review that
23 form?

24 A. Yes.

25 Q. And what did he do after reviewing the form?

OFFICER ROBIN GANDER: DIRECT BY SOLICITOR COLTON

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1 A. He reviewed it; he gave me his name, date of birth, as
2 well as even signed the form, stating that he understood.

3 Q. He signed -- he -- he -- did you witness Mr. Robbins
4 sign ---

5 A. Yes.

6 Q. --- the waiver -- the written waiver of rights? And
7 if he hadn't signed it, what would you all have done?

8 A. I would have written, refused to sign next to his
9 name.

10 Q. And that's per your protocol ---

11 A. Yes.

12 Q. --- if someone refuses to sign? How many times have
13 you had a refusal to sign?

14 A. Once, a year ago.

15 Q. But it does happen.

16 A. It does happen.

17 Q. And you record that accurate?

18 A. Yes.

19 SOLICITOR COLTON: Thank you, Officer Gander. Please
20 answer any questions Mr. Cook may have.

21 MR. COOK: Your Honor, may Counsel approach, side bar?

22 THE COURT: Why don't we take a short break before we
23 do cross? Kind of time for a break, anyway, but we'll
24 take about a ten-minute refresher break, and we'll send for
25 you in just ten or twelve minutes.

1 (WHEREUPON, JURY EXITS COURTROOM AT 11:37 AM.)

2 THE COURT: Yes, sir.

3 MR. COOK: If it -- your Honor, at this time, I would
4 like to proffer some questions for cross-examination on
5 this witness, regarding the issues that we discussed in
6 pretrial.

7 THE COURT: All right. Go ahead and start asking
8 questions. But tell me first, which issues?

9 MR. COOK: I'm sorry. The issues would be the --
10 whether the jury can hear the audiotape that was discussed
11 in the pretrial, and whether I can question the witness on

12 --
13 THE COURT: You can go ahead and do that, but I think
14 I've ruled on all of that. I know you said ID, and make
15 sure the record's protected, and that's fine. But -- go
16 ahead, but the --

17 MR. COOK: Well, I --

18 THE COURT: We're not going to retry all the imminity
19 matters, but go ahead.

20 MR. COOK: I'm sorry. I couldn't hear that last
21 sentence.

22 THE COURT: We're not going to retry all the imminity
23 matters but go ahead.

24 MR. COOK: Yes, sir, your Honor. I just --

25 THE COURT: But go ahead..

OFFICER ROBIN GANDER: CROSS BY MR. COOK

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DIRECT EXAMINATION - PROFFERED TESTIMONY

OFFICER ROBIN GANDER BY MR. COOK:

Q. Ma'am --

MR. COOK: So, and this is my first time proffering like this. So, am I to ask her the questions as an example of what I would ask in front of the jury?

THE COURT: Yes.

MR. COOK: Okay. Well, your Honor, I would play the

--

BY MR. COOK:

Q I would ask, ma'am, can I play you a -- I suppose the first question would be, how did you obtain the search warrant for this matter?

A. I did not personally obtain the search warrant.

Q. Yeah.

THE COURT: She didn't -- I don't think the affidavit was signed by her. I'll let you ask whatever you what ---

MR. COOK: Yes, sir.

THE COURT: --- but I don't think that affidavit was signed by her.

MR. COOK: I understand. And perhaps, just thinking it through, this isn't the best witness to ask these. I can imagine Officer Vaughn's going to testify to the same thing. That may be a better time for me to proffer my questions and so, I apologize. I should have waited for

OFFICER ROBIN GANDER: CROSS BY MR. COOK

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1 Officer Vaughn. I just, in my mind, had it that the search
2 warrant was addressed, and that would be the time to
3 proffer the questions.

4 THE COURT: All right. Can't stop her from answering
5 but the bottom line is, she didn't sign the affidavit. So,
6 anything dealing with the affidavit ---

7 MR. COOK: Yeah.

8 THE COURT: --- and basically, the affidavit was alien
9 to her.

10 MR. COOK: I digress. Can I just use this as a break
11 for Counsel, also?

12 THE COURT: We'll take a break, sure.

13 MR. COOK: And then just ask -- Thank you, your Honor.

14 THE COURT: Mr. Robbins, you can take him back and use
15 the facilities or whatever you need to.

16 You can step down if you want. Of course you can't
17 talk about your testimony with anybody.

18 ROBIN GANDER: Okay. I'll stay right here.

19 THE COURT: Okay.

20 (COURT IN RECESS AT 11:40 AM.)

21 (COURT BACK IN SESSION AT 11:52 AM.)

22 THE COURT: Thank you. You may take your seats.

23 Is the State ready?

24 MR. COOK: Yes, sir, your Honor.

25 THE COURT: As soon as we get Mr. Robbins in are you

1 ready?

2 MR. COOK: Yes, sir. I'm going to have no questions
3 for --

4 (DEFENDANT ANTONIO ROBBINS, BLACK MALE, REENTERS
5 COURTROOM.)

6 THE COURT: I'm going to let you do that in front of
7 the jury, of course.

8 MR. COOK: Yes, sir. I will just say no further
9 questions.

10 (JURY REENTERS COURTROOM AT 11:54 AM.)

11 THE COURT: Mr. Cook.

12 MR. COOK: Thank you, your Honor. I have no further
13 questions for this witness.

14 THE COURT: All right. You can step down. Thank you.
15 You can be excused. We appreciate your time.

16 Call your next witness.

17 OFFICER GANDER: Thank you, sir.

18 (WITNESS LEAVES WITNESS STAND.)

19 SOLICITOR COLTON: The State would call Lieutenant
20 Mike Ligon.

21 THE COURT: Tell Mr. Ligon, Officer Ligon, to come in.
22 Lieutenant.

23 THE BAILIFF: What was that name?

24 SOLICITOR COLTON: Ligon, Mike.

25 (WHEREUPON, MICHAEL LIGON,

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

2 DIRECT EXAMINATION

3 LIEUTENANT MIKE LIGON BY SOLICITOR COLTON:

4 Q. Lieutenant Ligon, for the record, can you please state
5 your full name?

6 A. James Michael Ligen.

7 Q. And what do you do for a job?

8 A. I'm a lieutenant for the York County Sheriff's Office,
9 and I'm assigned to the York County Multi-Jurisdictional
10 Drug Enforcement Unit as a supervisor.

11 Q. And what -- what department do you supervise?

12 A. The western side of the county.

13 Q. And where is that located?

14 A. Right here at the Moss Justice Center.

15 Q. And that's where your main office is?

16 A. Yes, ma'am.

17 Q. How long have you been a Lieutenant?

18 A. The past eight years.

19 Q. How long have you been with the Drug Enforcement Unit?

20 A. Fifteen years.

21 Q. How long have you been a police officer?

22 A. Twenty.

23 Q. And during your time as -- on the Drug Unit and as a
24 police officer before you got onto the Drug Unit, have you
25 had the opportunity to investigate narcotics offenses?

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 A. Yes, ma'am.

2 Q. And what type of level of drug offenses have you had
3 the opportunity to investigate?

4 A. I've -- all the way from possession cases to
5 trafficking cases. Dealt with federal agencies, such as
6 the DEA, ATF, gun cases.

7 Q. So, what type of levels of drugs?

8 A. I mean, in regards to? What do you mean, like,
9 weights?

10 Q. Weights.

11 A. I mean, I've gotten as much as kilos of cocaine to a
12 thousand pounds of marijuana. Just, heroin, trafficking
13 heroin cases, where hash oil, five hundred and thirty-one
14 grams, I think, was the most as far as hash oil that we've
15 seized, just here recently as well.

16 Q. Do you deal with a lot of street-level offenses, as
17 well?

18 A. Yes, ma'am, we do.

19 Q. And during your time as an officer, have you had the
20 opportunity to speak with individuals engaged in the
21 narcotics trade?

22 A. Oh, yes, ma'am. That's something, typically, we would
23 do anytime that we arrest somebody for any type of
24 narcotics violation. One of our key goals is is not only
25 is to basically, what we consider, work up the chain. We

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 will, anytime we arrest somebody with a drug offense,
2 whether it's a possession, or even if it's a trafficking
3 case, we'll interview these individuals if they're willing
4 to talk with us, and maybe even see if -- if they're
5 willing to work, in regards to their charges.

6 Q. And how many people -- and that's called debriefing?

7 A. Yes, ma'am, it is.

8 Q. And over the course of your career, how many people do
9 you think you have debriefed, in regard to street-level
10 offenses?

11 A. Hundreds, if not, possibly thousands.

12 Q. And by street, what is your interpretation of what a
13 street-level deal is?

14 A. Street-level dealers generally will deal anywhere from
15 a gram, up to fifteen, twenty, thirty, forty grams. I
16 mean, just depending on what we get them with.

17 Q. Have you had the opportunity to debrief both users and
18 the sellers?

19 A. Yes, ma'am, I have.

20 Q. And higher level of narcotics have you been able to
21 interview and debrief? Mid-level dealers?

22 A. Yes, ma'am.

23 Q. High-level trafficking dealers?

24 A. Yes, ma'am.

25 Q. Have you gone to any specific -- In addition to your

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 experience, have you ever gone to any specialized training?

2 A. Yes, ma'am. I've -- I've actually been through drug
3 unit commander's school. That was probably back in 2002,
4 and I've been to numerous undercover and surveillance
5 schools, and just recently, this past year, actually,
6 graduated from the FBI National Academy.

7 Q. And have you -- are you familiar with evaluation, or
8 how much crack cocaine in particular is sold on the street
9 for?

10 A. Yes, ma'am, I am.

11 Q. Are you also familiar with how much crack cocaine is
12 sold in bulk for?

13 A. Yes, ma'am, I am.

14 Q. Are you also familiar with what is typically a dose
15 unit of crack cocaine?

16 A. Yes, ma'am. A typical dose unit of crack cocaine
17 would be a tenth of a gram.

18 SOLICITOR COLTON: Your Honor, at this time, I would
19 move to have Lieutenant Ligon tendered -- tendered as an
20 expert in narcotics detection and valuation.

21 MR. COOK: Without objection, your Honor.

22 THE COURT: I find he is qualified.

23 BY SOLICITOR COLTON:

24 Q. Lieutenant Ligon, going back to the investigation of
25 Antonio Robbins, did you participate actively in that

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 investigation?

2 A. Yes, ma'am, I did.

3 Q. And was that at [REDACTED] Woodland Hills Road?

4 A. Yes, ma'am, it was.

5 Q. And is that location, is that the house?

6 A. Yes, ma'am, it is a brick residence?

7 Q. And is that located in York County?

8 A. Yes, ma'am, it is.

9 Q. Lieutenant Ligon, let's start with State's -- it's
10 been marked for identification purposes as State's Number
11 Twenty-Six. Do you recognize State's Twenty-Six?

12 A. Yes, ma'am. This would be [REDACTED] Woodland Hills.

13 Q. Okay. And is that an accurate and fair depiction of
14 what [REDACTED] Woodland Hills Road, the residence there, looked
15 like?

16 A. Yes, ma'am, it would.

17 Q. And I'm going to show you what's been marked for
18 identification purposes State's Twenty-Seven.

19 Do you recognize what that's a photograph of?

20 A. Yes, ma'am. That's a -- that's a view of the front of
21 the residence.

22 Q. At [REDACTED] Woodland Hills Road?

23 A. Yes, ma'am.

24 Q. And is it a fair and accurate depiction of that
25 residence?

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 A. Yes, ma'am, it is.

2 SOLICITOR COLTON: Your Honor, at this time, I would
3 move to enter State's Twenty-Six and Twenty-Seven into
4 evidence.

5 MR. COOK: Without objection, your Honor.

6 THE COURT: In without objection.

7 (WHEREUPON, STATE'S EXHIBIT NUMBERS TWENTY-SIX AND
8 TWENTY-SEVEN, IDENTIFIED AND MARKED, RECEIVED INTO
9 EVIDENCE.)

10 SOLICITOR COLTON: Thank you. And your Honor, if I
11 may publish these pictures to the jury?

12 THE COURT: You may.

13 SOLICITOR COLTON: Madam Clerk.

14 (STATE'S EXHIBIT NUMBERS TWENTY-SIX AND TWENTY-SEVEN
15 PUBLISHED TO THE JURY AT 12:02 PM.)

16 BY SOLICITOR COLTON:

17 Q. State's Twenty-Six, Lieutenant Ligen, can you describe
18 what you see in this photograph?

19 A. That would be like, a side view of the residence ---

20 Q. Okay.

21 A. --- [REDACTED] Woodland Hills.

22 Q. And if you could step down, please, and get a little
23 bit closer.

24 (WITNESS LEAVES WITNESS STAND.)

25 Q. Do you recall where you all did the surveillance on

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 that home?

2 A. Yes, ma'am. The actual surveillance team would have
3 been directly across -- directly across the road. There's
4 a -- there's a road that comes in off of Woodland Hills,
5 just almost, I mean, your point of view would be just this
6 here, from the residence driveway that the officers were
7 sitting in that were conducting surveillance that day. I
8 actually, at the first part of the surveillance, was
9 actually sitting in this driveway, and we were continuously
10 rotating out the vehicles in the surveillance teams on the
11 residence on this particular day. When I was sitting
12 there, this would have been the same thing -- this was the
13 vantage point I had of the residence. It would have been
14 the same vantage point that any of the officers on
15 surveillance would have had on this particular day.

16 Q. And the porch area on the front of the house.

17 A. Yes, ma'am.

18 Q. That was -- does that face the street?

19 A. Yes, ma'am, it does.

20 Q. And a little portico in front of that trampoline, what
21 is that area?

22 A. That's the driveway. There's a small pull-off there,
23 and then the rest of the driveway goes into the carport
24 area.

25 Q. And the carport's in the back; in front it would be

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 directly to the left of that trampoline?

2 A. Yes, ma'am, I believe.

3 Q. And did you observe Mr. Robbins pull into that
4 driveway?

5 A. No, ma'am, I did not.

6 Q. Did you observe where those cars ultimately -- And if
7 you could please have a seat.

8 (WITNESS RETURNS TO WITNESS STAND.)

9 Q. And did you observe where those cars ultimately ended
10 up?

11 A. Yes, ma'am, I did.

12 Q. And can you tell the jury where the cars ultimately
13 ended up?

14 A. Just in between where the trampoline and the
15 basketball goal is in the picture.

16 Q. And what -- Do you recall what type of car Mr. Robbins
17 was driving?

18 A. Yes. It was a green pickup truck.

19 Q. And what type of car, surveillance vehicle, were your
20 other officers driving?

21 A. I believe they were in a pickup truck, as well.

22 Q. How did they pull up? Describe how they pulled up
23 behind the suspect vehicle.

24 A. They would have been pulled in directly behind the
25 suspect vehicle.

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 Q. And as the lieutenant on scene, were you the
2 commanding officer at that scene?

3 A. Yes, ma'am.

4 Q. And were you present when Investigator Vaughn and
5 Investigator McGarrity spoke with the defendant at --
6 outside the vehicle?

7 A. Yes, ma'am. I had just arrived. They -- they already
8 had him outside the vehicle; were speaking with him when I
9 pulled into the driveway.

10 Q. And did you -- did you hear Officer McGarrity read
11 *Miranda Rights* to Mr. Robbins?

12 A. No, ma'am, I did not hear him, at that time, read
13 rights to him, because like I said, they already had him
14 out of the vehicle and were speaking with him, and we were
15 actually going to secure the residence for the search
16 warrant. So, we were actually bypassing them to go and
17 knock on the door, to execute the search warrant on the
18 residence.

19 Q. At any time, did you become aware that Officer
20 McGarrity had read him the *Miranda Rights*?

21 A. Yes, ma'am.

22 Q. And were you inside when the search warrant was
23 executed by Officer McGarrity?

24 A. Yes, ma'am, I was.

25 Q. Were you present when Officer Gander read the written

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 waiver of rights?

2 A. Yes, ma'am, I was.

3 Q. And at any time, did you observe any of your officers
4 threaten or coerce Mr. Robbins?

5 A. No, ma'am.

6 Q. Did you promise him anything to get him to say
7 anything?

8 A. No, ma'am, I did not.

9 Q. Did you observe anybody else do that?

10 A. No, ma'am.

11 Q. Did you all have your weapons pointed at him, or
12 weapons displayed, or anything like that?

13 A. No, ma'am, not at that time.

14 Q. And after -- Did you participate in the search?

15 A. No, ma'am. I basically -- I stayed back being the
16 supervisory agent insuring that all the officers were doing
17 what their duties were and their assignments at that time,
18 at the location.

19 Q. And did you ever have an opportunity to speak to Mr.
20 Robbins?

21 A. Yes, ma'am, I did.

22 Q. Okay. And how did that come about?

23 A. Basically, after the search warrant was read, and they
24 had brought Mr. Robbins inside the residence, and he was
25 read his *Miranda*, and for off the *Miranda*, off the *Miranda*

LIEUTENANT MIKE LIGON: DIRECT BY SOLICITOR COLTON

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1 sheet there, at that point in time, I got Investigator
2 Vaughn and myself, we actually escorted Mr. Robbins
3 outside, and there was some chairs in the carport area, and
4 actually seated Mr. Robbins down, and I seated -- I seated
5 myself in the chair across from Mr. Robbins, and asked him
6 if he'd be willing to speak with me. At that point in
7 time, Mr. Robbins advised that he had no problem speaking
8 with me, that he would speak with me.

9 Q. And what, specifically, if you recall, did you ask Mr.
10 Robbins?

11 A. At that point in time, I had actually had an
12 opportunity before bringing Mr. Robbins outside to see some
13 of the drugs that were recovered. So, I then had
14 Investigator Vaughn and myself go outside, and I asked him,
15 you know, I asked him about the drugs in question, the
16 crack, and asked him how much crack that he had. At that
17 point in time, he advised me that he didn't know exactly
18 how much he had had. And I asked him why, and he advised,
19 the individual that had given it to him had just give it to
20 him, and give him what he -- they had had left over. And I
21 asked him, I said, what do you mean by give it to you? Did
22 they front it to you? And he's like, yeah, meaning, he
23 didn't have to spend any money to get it. The person gave
24 it to him.

25 Q. And what -- let me continue. We'll go back to that.

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1 A. Okay.

2 Q. Were you -- were you discussing with him at the time
3 the drugs that were recovered in the house?

4 A. No, ma'am.

5 Q. What were you discussing with him?

6 A. That would have been the drugs that were -- the crack
7 that was recovered out of the truck that he was driving.

8 Q. And what else did you ask him about the individual
9 from which he got the drugs?

10 A. I asked him how long he'd been dealing with the
11 individual. He wasn't -- he didn't want to give me the
12 individual's name, and I told him that was fine. I asked
13 him how long he'd been dealing with him, and he advised
14 that he had been dealing with him for some time.

15 Q. And did you ask him anything else?

16 A. Yes, ma'am, I did. I asked him how long he had been
17 selling crack, and he advised me, for approximately two
18 months, he had been selling crack.

19 Q. And going back, you mentioned that Mr. Robbins told
20 you that, or you had asked him had he been fronted the
21 drugs.

22 A. Yes, ma'am.

23 Q. What is fronted the drugs mean?

24 A. Basically, in dealing with drugs and people who sell
25 drugs or deal drugs, people will sometimes receive drugs

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1 from other individuals, and they don't have to pay money
2 for those drugs. What they do is, they're given the drugs,
3 they sell the drugs, and then whatever's owed initially on
4 the drugs, they'll give that money back to the person that
5 they got the drugs from.

6 Q. So, getting an advance on the dope, basically?

7 A. Yes, basically.

8 Q. And they still owe money back later?

9 A. Yes, ma'am.

10 Q. Are you aware of how much drugs were recovered from
11 that vehicle?

12 A. Yes, ma'am.

13 Q. And approximately a hundred and forty-one grams?

14 A. Yes, ma'am.

15 Q. I'm going to ask you a few questions. For argument's
16 sake, let's just assume it's a hundred and forty grams, a
17 little bit less than a hundred and forty grams of drugs.

18 A. All right.

19 Q. In your training and experience, are you familiar with
20 the valuation of drugs as they are commonly sold on the
21 street?

22 A. Yes, ma'am.

23 Q. How are -- how, specifically, is crack cocaine sold on
24 the street?

25 A. Specifically, with crack cocaine, again, we spoke

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1 about this earlier, what we consider an intoxicating dose
2 unit of crack cocaine would be a tenth of a gram. There's
3 approximately ten tenths in one gram.

4 Q. And what do you mean by intoxicating dose units?

5 A. Meaning that, once you smoke this, it takes one -- it
6 takes approximately a tenth of a gram to get the high from
7 the drug itself.

8 Q. So, a tenth of a gram equals one intoxicating dose
9 unit?

10 A. Yes, ma'am.

11 Q. You want to step down?

12 (WITNESS LEAVES WITNESS STAND.)

13 Q. Write hard just to make sure it's legible for
14 everyone. Okay. A tenth of a gram, one intoxicating dose
15 unit.

16 A. Yes, ma'am.

17 Q. Okay. What -- On the street, how much would a tenth
18 of a gram be sold for?

19 A. Twenty dollars.

20 (SOLICITOR WRITES RESPONSE ON EASEL.)

21 Q. And what is that commonly called on the street?

22 A. We call it a white boy rock, or it's a twenty.

23 Q. Or just a rock?

24 A. A rock. Twenty rock.

25 Q. And so, a gram on the street, how many intoxicating

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1 dose units?

2 A. It would be ten, so it would be equivalent to two
3 hundred dollars. One gram could potentially --

4 THE COURT: Try to keep your voice up, so the court
5 reporter can hear you.

6 MIKE LIGON: I'm sorry.

7 A. One gram could yield approximately ten dose units, and
8 be worth two hundred dollars.

9 Q. How about a hundred grams?

10 (SOLICITOR WRITES RESPONSE ON EASEL.)

11 A. Hundred grams would be a thousand dose units and two
12 thousand dollars.

13 Q. And a hundred and forty grams?

14 A. A hundred and forty, well, excuse me. A thousand -- a
15 hundred grams would be a thousand -- excuse me -- a hundred
16 grams would be ten thousand dose units, and the equivalent
17 of twenty thousand dollars. I apologize.

18 (SOLICITOR CORRECTS RESPONSE ON EASEL.)

19 Q. And a hundred and forty grams?

20 A. A hundred and forty grams would be roughly about
21 twenty-eight thousand dollars' worth. If you were breaking
22 it down to a tenth of a gram, which would be an
23 intoxicating dose unit.

24 Q. So, would it be your testimony that if one had a
25 hundred and forty grams of crack cocaine --

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1 A. They could potentially yield twenty-eight thousand
2 dollars selling it by a tenth of a gram.

3 Q. And people typically buy crack cocaine in quantities
4 such as this, would they pay twenty-eight thousand dollars
5 for that?

6 A. No, ma'am. Basically, in this situation, you would
7 have what we would consider a mid-level drug dealer,
8 dealing with more of the higher-end drug dealer. And given
9 -- given this, they would potentially buy an ounce from
10 anywhere between a thousand to two thousand dollars an
11 ounce. So, if you purchase five to six ounces, you'd be
12 paying approximately anywhere between five to six thousand
13 dollars, with a yield of about, roughly, twenty-three
14 thousand dollars.

15 Q. And a hundred and forty grams is approximately a
16 little under five ounces?

17 A. Yes, ma'am.

18 Q. And please tell the jury how much you think that would
19 be purchased for in bulk?

20 A. Five ounces, again, you -- or just a little under five
21 ounces, you're looking right at five thousand dollars that
22 it would be purchased in bulk.

23 Q. And would it be your testimony that a hundred and
24 forty grams could be purchased for five thousand dollars?

25 A. Uh-huh.

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1 Q And sold on the street for twenty-eight thousand
2 dollars?

3 A. Yes, ma'am.

4 Q. Thank you.

5 (WITNESS RETURNS TO WITNESS STAND.)

6 Q. Lieutenant Ligon, did you have an opportunity to view
7 the drugs when they were recovered, before they were placed
8 into evidence?

9 A. Yes, ma'am.

10 Q. And what type of condition did the crack cocaine
11 recovered in the car, what kind of condition was it in?

12 A. It appeared to be that of a cookie. It was round, and
13 approximately, maybe close to, maybe a quarter-inch thick.

14 Q. And can you tell the jury what a cookie is?

15 A. Yes. Basically, when crack's made, they'll use Pyrex
16 containers to do this in the process. Basically, they'll
17 mix up cocaine with baking soda and ammonia, and possibly
18 some water, depending on -- how their -- what the
19 particular cook's process is. And they'll mix this up in a
20 Pyrex measuring cup.

21 They then take that cup and they'll put it in the
22 microwave for a period of time, which causes everything to
23 solidify. And when they bust this crack out of the bottom
24 of the Pyrex, it's the same shape as the bottom of the
25 Pyrex, which is generally cylindrical and circular in form.

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1 And depending on how much they put in there, it gives you
2 the -- the thickness that you would have off the cookie,
3 and the weight.

4 Q. Lieutenant Ligon, if you could, if I could get you to
5 step down for one moment.

6 (WITNESS LEAVES WITNESS STAND.)

7 Q. Show these to the jury for me. Get up closer if you
8 could so they can all see it.

9 (WITNESS MOVES CLOSER TO JURY.)

10 Q. The items depicted in State's Twenty-Four and Twenty-
11 Five, is that the condition of the crack cocaine that you
12 viewed ---

13 A. Yes, ma'am, it is.

14 Q. --- on June 24th?

15 A. Yes, ma'am, it is.

16 Q. And that circular -- the circular cookie, the crack
17 cocaine, that's what you were referencing before?

18 A. Yes, ma'am, it is.

19 Q. And I'm going to show you what's been marked as
20 State's Two. And if you'll bring that back to the jury.

21 And take the witness stand for me.

22 (WITNESS RETURNS TO WITNESS STAND.)

23 Q. State's Two, does that appear to be different than
24 what you viewed on June 24th, 2015?

25 A Yes. Yes, ma'am, it is.

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1 Q. How is it different? Well, how -- have you ever seen
2 that before?

3 A. Yes, ma'am, I have.

4 Q. And how many times? Is it something that's
5 commonplace when drugs are stored in evidence?

6 A. Yes. Basically, what happens when you have things
7 that go through a chemical process to be known as --

8 MR. COOK: Your Honor, if it please -- I'm going to
9 object to this answer and this line. The witness has been
10 qualified as an expert witness, but in -- more in drug
11 dealing and detection, and this is more about chemical
12 analysis. I don't believe he's been qualified for this
13 area.

14 THE COURT: He's not been qualified for chemical
15 analysis. Ask him another question.

16 SOLICITOR COLTON: Let me ask it differently.

17 Q. You -- have you ever seen this happen before with your
18 drugs ---

19 A. Yes, ma'am.

20 Q. --- that you put into evidence.

21 A. Yes, ma'am, I have.

22 Q. And have you ever seen that occur with crack cocaine
23 that is wet?

24 A. Yes, ma'am.

25 Q. And can you tell the jury the difference between wet

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1 and dry crack cocaine?

2 A. Basically, wet cocaine is where it comes out, and once
3 they've laid it out, it'll take, maybe a couple hours or
4 so, and let it dry out, and let it make sure that it is
5 hardened enough. If you take it in its somewhat wet form
6 and still not completely dry, it can start to break down if
7 it's not dried properly.

8 Q. But will liquify?

9 A. Yes, ma'am.

10 Q. And based upon what you've seen before in your
11 training and experience, do you believe that's what
12 happened?

13 A. I know that's what happened. Yes, ma'am.

14 Q. And it's not an unusual occurrence?

15 A. No, ma'am, it isn't.

16 Q. And as commander of this unit, had Officer McGarrity
17 recovered that evidence in that state, in the liquid state,
18 would you have instructed him to package it in the manner
19 that it was?

20 A. No, ma'am. I would have had -- I would have
21 instructed him to package this differently, just due to the
22 fact of what's involved with it.

23 Q. And you've recovered liquid drugs from time to time?

24 A. Yes, ma'am, we do.

25 Q. And you have a different protocol for dealing with

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1 that?

2 A. Yes, ma'am.

3 Q. And for example, liquid methamphetamine?

4 A. Yes, ma'am.

5 Q. How do you all package that?

6 A. Mason jars.

7 Q. And that's to prevent any kind of leakage?

8 A. Yes, ma'am.

9 MR. COOK: Your Honor, I would just object to that
10 line of questioning on the ground of relevance because this
11 isn't involving methamphetamines.

12 THE COURT: I overrule the objection.

13 BY SOLICITOR COLTON:

14 Q. One more question, Lieutenant Ligon, just so we're
15 clear. Do you see the individual that you spoke with on
16 June 24th?

17 A. Yes, ma'am. Mr. Robinson there.

18 Q. Is that the defendant you all arrested?

19 A. Yes, ma'am.

20 Q. Is that the defendant that told you that he had been
21 fronted this crack cocaine?

22 A. Yes, ma'am, it is.

23 Q. And that he had been selling crack cocaine for the
24 past two months?

25 A. Yes, ma'am.

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1 Q. Thank you.

2 SOLICITOR COLTON: Please answer any questions Mr.

3 Cook may have for you.

4 CROSS-EXAMINATION

5 MIKE LIGON BY MR. COOK:

6 Q. Good afternoon, Officer.

7 A. Mr. Cook.

8 Q. Just a couple of quick questions, sir. Did your team
9 recover the backpack, the alleged princess backpack, that
10 we've seen photographs of?

11 A. Yes, they did. I mean, or that day? They technically
12 took pictures of the drugs and left the backpack.

13 Q. That's what I'm asking.

14 A. Yes, sir.

15 Q. They did not take the backpack into evidence?

16 A. No, sir, they didn't.

17 Q. Did you recover any fingerprints off of the backpack?

18 A. Me, personally? No, sir, I didn't -- I did not -- I
19 did not deal with the processing of the backpack.

20 Q. Are you aware if any of the team members from the
21 Multi-Jurisdictional Drug Enforcement Unit did have --
22 recovered fingerprints off of this backpack during this
23 crime?

24 A. No, sir.

25 Q. Alleged crime. Okay. Were any fingerprints taken off

INVESTIGATOR MIKE LIGON: CROSS BY MR. COOK
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1 of any of the packages, any fingerprints at all in this
2 case?

3 A. No, sir.

4 Q. Do you know who the title owners are to the truck, the
5 green truck that was mentioned in testimony, and the brick
6 house that was mentioned in the testimony?

7 A. No, sir. In regards to the truck, he advised that the
8 truck was his. We didn't look at -- I didn't look at the
9 title, or have the title looked up, in regards to the
10 house. I was advised by him and his girlfriend at the time
11 that they are actually renting the house.

12 Q. Okay. And did my client write down this confession
13 that he gave to you?

14 A. No, sir, he didn't.

15 Q. Okay. So, you were the only person that heard the
16 confession?

17 A. No, sir. Investigator Vaughn heard it, as well.

18 Q. Okay. Thank you, sir.

19 A. Yes, sir.

20 SOLICITOR COLTON: Briefly, your Honor.

21 REDIRECT EXAMINATION

22 INVESTIGATOR MIKE LIGON BY SOLICITOR COLTON:

23 Q. The backpack. You all didn't take fingerprints of it.
24 How come you didn't take fingerprints of it?

25 A. It was in the truck, sitting right beside him in the

INVESTIGATOR MIKE LIGON: CROSS BY MR. COOK
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1 vehicle that he was driving. At that time, we didn't feel
2 like we needed to do that.

3 Q. Do you recall the type of material the backpack was
4 made of?

5 A. Yeah, it's like a cloth material. It -- you wouldn't
6 have been able to --

7 MR. COOK: I'm --

8 THE COURT: I sustain the objection.

9 MR. COOK: I'm going to object to --

10 THE COURT: I sustain the objection. Go ahead.

11 BY SOLICITOR COLTON:

12 Q. In your training and experience, have you had the
13 opportunity to lift fingerprints, or to engage in the lift
14 of fingerprints?

15 A. Yes, I have.

16 Q. Have you ever -- and you based upon your experience,
17 your twenty years experience in law enforcement, have you
18 ever recovered fingerprints from fabric?

19 A. No.

20 Q. In regard to plastic baggies, in your twenty years of
21 experience, do you routinely take fingerprints from plastic
22 baggies?

23 A. No, ma'am. Not always.

24 Q. Do you recall how many times in your twenty years of
25 experience you've recovered fingerprints from baggies?

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RECROSS BY MR. COOK

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1 A. I think the success rate with that, in my twenty
2 years, in my fifteen years in narcotics, maybe three to
3 four times, possibly.

4 Q. And how many plastic baggies have you recovered in
5 your twenty years of experience?

6 A. Thousands.

7 Q. Thank you.

8 SOLICITOR COLTON: I have no further questions, your
9 Honor.

10 RE-CROSS-EXAMINATION

11 INVESTIGATOR MIKE LIGON BY MR. COOK:

12 Q. One followup. Just yes or no, Officer. Is it
13 possible to recover fingerprints from plastic bags?

14 A. Yes, it is.

15 Q. Thank you, sir.

16 THE COURT: You can step down and be excused. We
17 appreciate your time.

18 INVESTIGATOR LIGON: Thank you, sir.

19 THE COURT: Thank you.

20 (WITNESS LEAVES WITNESS STAND.)

21 THE COURT: Call your next witness.

22 Just hand it to the court reporter.

23 INVESTIGATOR LIGON: Thank you, ma'am.

24 THE COURT: Call your next witness.

25 SOLICITOR COLTON: Your Honor, may I have one second

1 to confer with Ms. Weaver.

2 Your Honor, at this time, the remaining State's
3 witness would be Cynthia Mitchum, and she will not be
4 available until one thirty. I've instructed her to be here
5 at one thirty.

6 THE COURT: I thought she worked in this building.

7 SOLICITOR COLTON: She does, your Honor, and -- I
8 requested that she be here at one thirty. She had a prior
9 -- prior personal engagement, and I told her I wouldn't
10 call her before --

11 THE COURT: It's almost twelve thirty. Why don't we
12 break for lunch until one thirty?

13 SOLICITOR COLTON: And I believe that would be the
14 extent of the State's case, once Ms. Mitchum's testifies,
15 your Honor.

16 THE COURT: We'll break 'til one thirty, and have a
17 pleasant lunch, and we'll see you back at one thirty.

18 Thank you.

19 (JURY EXITS COURTROOM ON LUNCH RECESS AT 12:23 PM.)

20 THE COURT: We'll be at ease 'til one thirty. Let me
21 see the attorneys in chambers just for a minute so we can
22 see where we are, time-wise and scheduling.

23 (COURT IN LUNCH RECESS AT 12:25 PM.)

24 (COURT BACK IN SESSION AT 01:25 PM.)

25 THE COURT: Is the State ready?

1 SOLICITOR COLTON: We are, your Honor. I think that
2 there was an issue with a juror downstairs that had gotten
3 --

4 THE COURT: Well, we won't bring them in until they
5 all get here.

6 SOLICITOR COLTON: Okay.

7 THE COURT: But I need Mr. Robbins in.

8 (DEFENDANT, ANTONIO ROBBINS REENTERS COURTROOM.)

9 They're going to let us know when they get here.
10 You can check when they get 'em all.

11 THE BAILIFF: We got 'em.

12 THE COURT: Yeah, bring them on in.

13 SOLICITOR COLTON: Your Honor --

14 THE COURT: Wait, wait.

15 SOLICITOR COLTON: I'm sorry. I've spoken with Mr.
16 Cook about this, and he doesn't intend to call any of the
17 officers that have already testified at this point, and the
18 officers have requested if they could be released from
19 their subpoena and sit in court.

20 THE COURT: Yeah, they don't have to stay.

21 Mr. Cook, do you not intend to call any of them?

22 MR. COOK: No, sir, your Honor.

23 THE COURT: Okay. Then, they can be excused.

24 SOLICITOR COLTON: Thank you, your Honor.

25 (JURY REENTERS COURTROOM AT 01:39 PM.)

CYNTHIA MITCHUM: DIRECT BY SOLICITOR COLTON

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1 THE COURT: Call your next witness.

2 SOLICITOR COLTON: Your Honor, the State would call
3 Cynthia Mitchum.

4 (WHEREUPON, CYNTHIA MITCHUM,
5 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 DIRECT EXAMINATION

7 CYNTHIA MITCHUM BY SOLICITOR COLTON:

8 Q. Hey, Ms. Mitcham. Can you please state, for the
9 record, your full name?

10 A. Cynthia Mitchum.

11 Q. And where are you employed?

12 A. I'm employed with the York County Sheriff's Office, in
13 the drug analysis laboratory.

14 Q. Okay. And what type of things do you do in drug
15 analysis unit?

16 A. I receive in evidence, and I'll analyze evidence for
17 controlled and non-controlled substances.

18 Q. Okay. And do you have specialized education and
19 training to be able to do this?

20 A. Yes.

21 Q. Okay. Can you tell the jury what that entails?

22 A. I have a bachelor of science degree I received from
23 Winthrop University in chemistry in 1990, and prior to
24 working with the Sheriff's Office, I was with the South
25 Carolina Law Enforcement Division, commonly known as SLED,

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1 in Columbia, South Carolina for seven and a half years in
2 their drug analysis laboratory, also.

3 Q. And have you ever been qualified in court as an expert
4 in the field of chemical and drug analysis and
5 identification?

6 A. Yes, I have.

7 Q. Do you know how many times, approximately, that you
8 have been qualified as an expert?

9 A. It's in excess of two hundred times.

10 Q. And do you analyze substances such as narcotics and
11 illegal drugs as part of your duties?

12 A. Yes.

13 Q. Your Honor, at this time, we'd offer Ms. Mitchum as a
14 witness in the -- an expert in chemical analysis and
15 identification of substances.

16 THE COURT: Any voir dire?

17 MR. COOK: No, sir, your Honor. Without objection.

18 THE COURT: I find she is qualified.

19 SOLICITOR COLTON: Thank you, your Honor.

20 A. And Ms. Mitchum, I'm going to be showing you what's
21 been marked for identification purposes as State's Two,
22 Twenty, and Twenty-One. And beginning with -- let's begin
23 with State's Twenty. Do you recognize what State's Twenty
24 is?

25 A. Yes.

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1 Q. And how do you recognize what State's Twenty is?

2 A. I can recognize it with my signature and the chain of
3 custody, and also, my initials on the back.

4 Q. Okay. And what did you -- did you initially receive
5 that before you -- prior to testing?

6 A. Yes. I received it on 07/09 of 2015, from Patrick
7 Patterson.

8 Q. And who is Patrick Patterson.

9 A. He is one of the evidence custodians in the evidence
10 department, down at the Sheriff's Office.

11 Q. And you received that from evidence?

12 A. Yes.

13 Q. Okay. And when you received that particular item,
14 what was its condition?

15 A. The first package that I received was this inside bag
16 that has the blue filigree around it, and it was sealed.
17 And I know this one has got okay, the date that I received
18 it, and my initials in the corner.

19 Q. And what does okay mean?

20 A. That the bag was intact. There was no tampering with
21 it. Nothing was open.

22 Q. How did -- would you have been able to tell if it had
23 been tampered with or opened?

24 A. Yes. The main place on the bag that we open is this
25 top right here, where the red tape is. And you can tell if

CYNTHIA MITCHUM: DIRECT BY SOLICITOR COLTON

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1 it's been opened right there, because it's got a double
2 seal of tape there, and you can tell if it's been
3 stretched.

4 Q. And how about if it had been opened on the sides, or
5 anything like that?

6 A. You could tell that, too, because it would have cut --
7 been cut on the sides, because the filigree that goes down
8 both sides.

9 Q. Is there a particular name that you apply in your
10 field to describe that bag, the interior bag?

11 A. On the interior, we describe it as a Best bag??

12 Q. And stating, okay, you can testify to writing okay on
13 that is your way to indicate for future purposes that it
14 had not been tampered with?

15 A. That is correct.

16 Q. Okay. What would you have done, had it been tampered
17 with?

18 A. If it had been tampered with, I would have got back
19 with evidence, and we'd have gotten the officer, for him to
20 come in, check the evidence inside the bag, and make sure
21 it was the correct evidence that was supposed to be in
22 there. And then, he would need to seal the top. We have
23 red evidence tape, seal it, with his date, and initial that
24 he had re-sealed it.

25 Q. And explain how you test the substance in that bag.

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1 Or did -- first off, did you test the substance in that
2 bag?

3 A. Yes, I did.

4 Q. Can you tell the jury how you did that?

5 A. This particular substance is a rock-like substance,
6 and what I would do is, I would perform a chemical test and
7 an instrumental test on it. With a chemical test,
8 basically, what I will do is take some of the substance and
9 drop reagents on it, and I will look for a color change.
10 That gives me an idea of what kind of substance I might be
11 looking at. Then, I would go further in an instrumental
12 test, where I take another sample and dissolve it in a
13 reagent, and then I run it through our instrument. And
14 then, from there, the instrument will give me an idea of
15 what it is. I will compare knowns to that, to make sure
16 that what the instrument has put out is what it actually
17 is.

18 Q. And do -- After you're done testing the substance, do
19 you return it to the bag?

20 A. Yes. This outer bag here is the one that I put it in,
21 and it is sealed today, with my -- with my initials and the
22 date that I sealed it, right in the seal.

23 Q. And is it in the same condition as it was -- today as
24 it was when you resealed that bag?

25 A. Yes.

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1 Q. And from the time you removed that from evidence to
2 the time you tested it and returned it, did it remain in
3 your sole care and custody?

4 A. Yes, it did.

5 Q. Okay. And now, I'm going to ask you to answer the
6 same question with regard to State's Twenty-One. No.

7 Yes, with State's Twenty-One.

8 A. Okay.

9 Q. Do you recognize State's Twenty-One?

10 A. Yes, I do.

11 Q. Can you tell the jury how you recognize State's
12 Twenty-One?

13 A. I recognize it, for one, I have my signature in the
14 chain of custody and also, I have the same okay, date, and
15 my initials in the top of the bag.

16 Q. What condition was it when you recovered it?

17 A. It was sealed.

18 Q. And is that why you wrote, okay, on it?

19 A. Yes.

20 Q. It did not appear to be tampered with?

21 A. No.

22 Q. And once you recovered that evidence, where did you
23 recover the evidence from?

24 A. I recovered this from -- Patrick Patterson gave it to
25 me on 7/09 of 2015.

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1 Q. And what did you do with that particular piece of
2 evidence?

3 A. I took it back to the laboratory, stored it 'til the
4 point that I could be able to do my analysis on it. And I
5 did my analysis the same way as I did the other rock
6 substance, because this one's also a rock substance. Let
7 me make sure.

8 Yes. And then, I sealed it in this outer bag, and
9 that seal is still intact today, with my initials and the
10 date that I sealed it, right in the bottom, in the heat
11 seal.

12 Q. And then, you returned it back to evidence?

13 A. Correct.

14 Q. And the entire time you had -- from the time you took
15 it out of evidence to the time you returned it to evidence,
16 it was under your sole care and custody, as well?

17 A. Correct.

18 Q. Ms. Mitchum, I'm just going to show you what's been
19 marked for identification purposes as State's Twenty.

20 A. Okay.

21 Q. And do you recognize State's Twenty?

22 A. Yes, I can, because I can -- I can actually see day
23 received, okay, the date, and my initials, right here at
24 the top.

25 Q. Okay. And the State's Twenty, where did you recover

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1 that? Did you ever have an opportunity to possess that?

2 A. Yes, I did.

3 Q. And where did you get it from?

4 A. This was also received with this -- the other two
5 items of evidence, on 7/09, from Patrick Patterson.

6 Q. And do all three of those items, Twenty, Twenty-One,
7 and Number -- and Item Two have the same law enforcement
8 number?

9 A. Yes. You talking about the case number?

10 Q. The case number. I'm sorry.

11 A. Yes, they do.

12 Q. And what was the condition that that item was in when
13 you received it from evidence?

14 A. When I received it from evidence, it was in this inner
15 bag, the blue filigree bag.

16 Q. And had it appeared to be tampered with when you
17 recovered that from evidence?

18 A. No.

19 Q. Do you recall the condition of the items inside that
20 bag were when you recovered that from evidence?

21 A. I made notes on -- when I opened the evidence, I made
22 notes on my report -- on my worksheet that Item One --
23 there was four bags of rock substance in this bag. The
24 first one, this one right here, was moist at the time when
25 I opened it. So, I did my analysis on it, resealed it, and

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1 it has since kind of liquified in the bag, somewhat.

2 Q. And the other three -- the other three bags that were
3 in there, were they moist? Do you recall?

4 A. No, they're not. They're not moist and they're still
5 not moist today.

6 Q. You would have noted that, as well, on your --

7 A. Correct.

8 Q. And had that -- had that larger piece that you noted
9 was moist, been liquified or been in that state, what would
10 you have done if you had noticed that at the time?

11 A. I would have noted that, also, that -- because I have
12 had cases where I've gotten the, supposedly, crack cocaine,
13 and it had become more of a -- more of a paste, is what
14 it's become. And as soon as you open it up to the air, it
15 starts getting hard again.

16 So, in this case, this one was kind of moist. It
17 wasn't a paste yet, but it was moist. So, when I opened
18 it, it started drying out a little bit, but since then, and
19 resealed it back up in the bag, it has, of course, become
20 more liquidy, and has gotten ink off the front of the
21 evidence bag and everything. But I can still see the word,
22 sealed, down here in the bottom, and that is my handwriting
23 down there.

24 Q. And that particular item, you did not notice that it
25 had been tampered with?

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1 A. Correct.

2 Q. It was intact?

3 A. Correct.

4 Q. The filigree was intact?

5 A. Correct.

6 Q. And that would have been the kind of thing you would
7 have noted?

8 A. Correct.

9 Q. And from the time you got the evidence to the time
10 that you tested it, was it under your sole care and
11 custody?

12 A. That's correct.

13 Q. And did you test that item, as well?

14 A. Yes, I did.

15 Q. And after you tested that item, what did you do with
16 -- with it?

17 A. I put it in this outer bag and sealed it, and held it
18 until I could return it back to evidence.

19 Q. And the entire time you had that item, was it under
20 your sole care and custody?

21 A. Yes.

22 Q. Did anyone else have access to it?

23 A. No.

24 Q. Now, with regard to Items Twenty and Twenty-One and
25 Item Twenty, after you performed these chemical analyses,

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1 did you make a determination of what the substance in each
2 of those bags were?

3 A. Yes, I did.

4 Q. And what are they?

5 A. Okay. State's Exhibit Number Two, which is Item Four
6 in this bag, was a rock substance, and it was determined to
7 contain cocaine base, also known as crack, a total weight
8 of a hundred and forty one point fifteen grams.

9 Q. In reference to State's Twenty, were you able to make
10 a determination what that was?

11 A. State's Exhibit Twenty, which is Item Number Six in
12 this case, is a rock substance, and it was determined to
13 contain cocaine base, also known as crack, Control Two
14 substance, weighing one point zero six grams.

15 Q. And then, with respect to State's Twenty-One.

16 A. State's Exhibit Number Twenty-One, which is Item
17 Number Five in this case, was a rock substance, was
18 determined to contain cocaine base, also known as crack,
19 Controlled Two substance, weighing zero point twenty-three
20 grams.

21 Q. Did you, after you tested these substances, did you
22 prepare a report of your analysis?

23 A. Yes.

24 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-THREE,
25 PREMARKED FOR IDENTIFICATION.)

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1 Q. Ms. Mitchum, I'm going to show you what's been marked
2 for identification purposes as State's Thirty-Three. Can
3 you tell the jury what that item is?

4 A. Yes. This is the report I issued in this case, with
5 the findings from my analysis.

6 Q. And that would be Item Four, State's Two, with the
7 weight of one hundred and forty-one grams.

8 A. Correct.

9 Q. Item Twenty, with a weight of --

10 A. Twenty had one point zero six grams.

11 Q. And Twenty-One?

12 A. Zero point twenty-three grams.

13 SOLICITOR COLTON: At this time, your Honor, the State
14 would move to enter into evidence Ms. Mitchum's report,
15 which is State's Twenty -- State's Thirty-Three; and
16 State's Two, State's Twenty, and State's Twenty-One.

17 THE COURT: Any objection?

18 MR. COOK: I renew my prior objections, your Honor,
19 from the pretrial motions.

20 THE COURT: Based on earlier rulings, I over the
21 objection of Counsel, the -- they are admitted into
22 evidence.

23 (WHEREUPON, STATE'S EXHIBIT NUMBERS TWO, TWENTY,
24 TWENTY-ONE, AND THIRTY-THREE, IDENTIFIED AND MARKED,
25 RECEIVED INTO EVIDENCE.)

1 SOLICITOR COLTON: Thank you, your Honor.

2 Thank you, Ms. Mitchum. Can you please answer any
3 questions Mr. Cook have?

4 MR. COOK: I have no questions, your Honor.

5 THE COURT: All right. You can step down and be
6 excused, Ms. Mitchum. We appreciate your time.

7 (WITNESS LEAVES WITNESS STAND.)

8 SOLICITOR COLTON: That would be the State's case,
9 your Honor.

10 THE COURT: All right. Members of the jury panel, the
11 State is telling us it is resting. That is, it means that
12 they are telling us that they've -- the State has presented
13 its case. It's called case-in-chief. So, now, I have to
14 take up, very briefly, some matters outside of the record
15 before we go forward. So, I'm going to let you go to the
16 jury room for a very short refresher break.

17 (WHEREUPON, JURY EXITS COURTROOM AT 01:53 PM.)

18 THE COURT: And the jury is out. Anything from the
19 State?

20 SOLICITOR COLTON: No, sir.

21 MR. COOK: Your Honor, I would like to renew my motion
22 to suppress the evidence, and all of my prior motions that
23 were made at the pretrial motions in limine at this time,
24 as well as to make a motion for a directed verdict.

25 THE COURT: All right. Well I deny the motion, all

1 motions, but particularly as to previous rulings, I made
2 those rulings. They are rulings made after what I consider
3 intellectual reflection, and I think that they are the
4 correct rulings, so, I deny the motion to revisit those.

5 As to a directed verdict, I find that there is
6 sufficient direct evidence and substantial circumstantial
7 evidence from which a jury could make a determination that
8 Mr. Robbins is, in fact, guilty of the charge of
9 trafficking in crack cocaine on the day in question.

10 MR. COOK: Yes, sir, your Honor. And if it please the
11 Court, your Honor, I'd like, since the jury's out, if -- if
12 your Honor thinks it's an appropriate time, to proffer a
13 few questions to Detective Vaughn, in regards to --

14 THE COURT: I do let you, and first, let me talk to
15 Mr. Robbins.

16 MR. COOK: Yes, sir. Stand up, Mr. Robbins.

17 THE COURT: Mr. Robbins, we've reached the point in
18 the trial where you have a right to present a defense, if
19 you wish. You do not have present any evidence or call any
20 witnesses or testify, because you are presumed innocent,
21 and the State has to prove your guilt beyond a reasonable
22 doubt. You don't have to prove anything, but you have a
23 right to present a case. That is, to call such witnesses
24 as you think would be helpful to your case, so you have
25 that right.

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1 Personally, you have the right to remain silent. If
2 you exercise that right, I will tell the jury that you have
3 exercised your right to remain silent; I will tell them
4 that they cannot use that against you in any way
5 whatsoever. I will remind them that you are presumed
6 innocent, you need not prove your innocence, and that the
7 State must prove your guilt beyond a reasonable doubt.

8 I will tell them that they cannot discuss in the jury
9 room your exercise of your right to remain silent; that
10 they cannot factor it into their deliberations your
11 exercise of that right. If you do testify, you will be
12 under oath -- you're going to have to testify truthfully --
13 and the State will be able to ask you regarding your past
14 criminal record. I'm going to ask to put on the record in
15 just a moment what those are. I heard them yesterday or
16 the day before. Yesterday, I guess.

17 But they -- the State will be able to ask you, in
18 addition to the questions regarding the incident at issue;
19 also, the questions about your record. Now the questions
20 about your record are allowed into evidence or the answers
21 that you give as far as your criminal are allowed into
22 evidence for the jury's consideration only on whether or
23 not to believe you. I will tell them if you testify, and
24 your criminal record comes into the record, that they can
25 consider that only on what degree of credibility you may

1 have. That is, to what degree they want to believe what
2 you say, or not believe what you say. I will tell them
3 that they cannot use the prior convictions as any evidence
4 that you committed the current offense.

5 Do you understand all that?

6 MR. ROBBINS: Yes, sir.

7 THE COURT: Have you explained all of that to him, Mr.
8 Cook?

9 MR. COOK: I did, your Honor.

10 THE COURT: Do you have any questions about any of
11 that, Mr. Robbins?

12 MR. ROBBINS: I do. I was wanting to ask him some
13 questions about the probable cause ---

14 THE COURT: Well,

15 MR. ROBBINS: --- other than one cause I feel --

16 THE COURT: I can't answer those kind of questions.
17 The only questions I have is whether you understand your
18 right to remain silent and your right to testify.

19 MR. ROBBINS: Okay.

20 THE COURT: Do you wish to test -- are you going to
21 testify, or remain silent?

22 MR. ROBBINS: I'm going to testify.

23 THE COURT: Okay. I can't go into issues since the
24 probable cause. You've got a lawyer that does that.

25 MR. ROBBINS: Oh, okay. I'm sorry.

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1 THE COURT: All right. Thank you. You may be seated.
2 And if you want to call Officer Vaughn up?

3 MR. COOK: Yes, sir, I do call Officer Vaughn.

4 THE COURT: All right. You're still under oath for
5 the purposes of this.

6 INVESTIGATOR VAUGHN: Okay. Yes, sir.

7 THE COURT: The jury will be out. I will have you
8 sworn again. This is still outside the confine -- outside
9 the presence of the jury, until -- I consider the oath
10 administered in previous in limine is still in effect.

11 Go ahead.

12 DIRECT EXAMINATION

13 INVESTIGATOR DAVID VAUGHN BY MR. COOK:

14 Q. Officer Vaughn, why did the State not produce the
15 confidential informant that was used to effect the search
16 warrant in this matter?

17 A. For the protection of the CI.

18 MR. COOK: And if I may just write these questions
19 down, so I'll remember them, your Honor.

20 Q. Why not arrest the defendant from the alleged
21 controlled buy that occurred with the drugs that he
22 allegedly sold the confidential informant on that occasion?

23 A. I used the officer's discretion.

24 Q. And can you further explain what -- what you mean by
25 the officers' discretion?

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1 A. We have two types of buys that we perform in the Drug
2 Unit. We have what we call a search warrant buy. It's
3 where we buy drugs from a particular residence, and obtain
4 a search -- a lawful search warrant from the judge. We
5 have a distribution buy that we buy from the individual,
6 and charge them with the distribution.

7 Q. Do you resent the fact that Mr. Robbins received a
8 relatively low sentence for a charge in 2013?

9 A. No, sir.

10 Q. And were you involved with that case in 2013?

11 A. Yes.

12 Q. Did a audio recording of the alleged controlled buy
13 take place?

14 A. Yes.

15 MR. COOK: And at that point, your Honor, I would
16 request to put the recording into evidence, to ask if
17 there's any evidence on the recording of a drug
18 transaction.

19 THE COURT: You've lost me again. I thought we agreed
20 to put the -- the State is going to put the tape into
21 evidence. The audio.

22 SOLICITOR COLTON: For the purposes of pretrial, your
23 Honor?

24 THE COURT: Well, I think this is kind of mid-court.
25 I'm not sure what we're doing now, other than, we're

INVESTIGATOR DAVID VAUGHN: DIRECT BY MR. COOK

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1 in the middle of a trial and we're doing what an
2 interrogation that has to do with something I've already
3 ruled on and I'm letting them make a record.

4 SOLICITOR COLTON: Yes, sir.

5 THE COURT: For whatever purposes you want.

6 My question to you, though, is, I thought, as to the
7 audio, there was some -- that you agreed to put the audio -
8 - she had access to the audio, and we put it in the record
9 as a Court's exhibit or --

10 SOLICITOR COLTON: I did, and I did that yesterday,
11 your Honor.

12 THE COURT: All right. So, where are we?

13 MR. COOK: So, this morning, your Honor, my question
14 of Officer Vaughn I'm asking permission to say, you know,
15 lay a foundation, is this the audio recording that was made
16 from the alleged buy. And then, after the foundation is
17 laid, play the audio recording for -- for Officer Vaughn,
18 and then ask him, where on that audio recording that a drug
19 sale take place, or a drug transaction.

20 THE COURT: All right. I guess procedurally that's
21 not where we are, but -- and the issue is not whether he
22 heard a drug transaction or not, quite frankly.

23 But I'll let you do it just so you have a record.

24 MR. COOK: Thank you, your Honor. And that's the
25 extent of the questions.

1 THE COURT: Well, do it, then. I just gave you
2 permission to do it.

3 MR. COOK: Oh. Yes, sir. If I may.

4 Do you remember what exhibit number the --

5 MADAM COURT REPORTER: Court's Number Three is the
6 only CD I have of a recording.

7 MR. COOK: Okay.

8 COURT REPORTER: The only CD.

9 MR. COOK: And do we have any means of playing it for
10 us?

11 COURT REPORTER: I don't, no, sir. Can't pull a
12 rabbit out of my hat, sorry.

13 MR. COOK: Okay. Understood. So, I suppose it would
14 be up to me at this point, to have a way of playing this
15 recording.

16 THE COURT: Well, why don't you do this? That has not
17 been played, but the audio made by Ms. ---

18 MR. COOK: Hester.

19 THE COURT: --- Hester was played, and he was present,
20 I believe.

21 You were present when the audio -- of the audio was
22 made.. Correct?

23 INVESTIGATOR VAUGHN: Yes, sir.

24 THE COURT: And did you listen to it when it was
25 played?

INVESTIGATOR DAVID VAUGHN: DIRECT BY MR. COOK

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1 INVESTIGATOR VAUGHN: Yes, sir.

2 THE COURT: All right. Why don't you ask him if he
3 heard anything at that time, rather than replay it again?

4 MR. COOK: I'd be fine with that, your Honor.

5 Q. Officer, have you heard the recording of the alleged
6 controlled buy from which I'm -- to which I'm referring?

7 A. Yes.

8 Q. And is there anywhere on that recording where you can
9 determine that a drug transaction actually took place?

10 A. I don't recall.

11 Q. Okay. Thank you.

12 MR. COOK: Those would be the questions that I would
13 have, your Honor.

14 THE COURT: Okay. You can step back down.

15 INVESTIGATOR VAUGHN: Thank you, sir.

16 (WITNESS LEAVES WITNESS STAND.)

17 THE COURT Let us take -- since the jury is until we
18 come back in.

19 Do you have another witness, other than your client?

20 MR. COOK: Ms. Hester, and that would be it.

21 THE COURT: Well, let's take a real quick break while
22 the jury's out cause I know they will, so we make sure
23 we'll get through all of your testimony. And then, of
24 course, we'll have to take a break for any post trial --
25 any motions and a charge conference before we get it to a

1 jury.

2 MR. COOK: Yes, sir.

3 THE COURT: Let's take a real quick, in-and-out break.

4 MR. COOK: Yes, sir.

5 (COURT IN RECESS AT 02:03 PM.)

6 (COURT BACK IN SESSION AT 02:07 PM.)

7 THE BAILIFF: Please come to order.

8 THE COURT: Thank you, take your seats.

9 Bring in the jury.

10 SOLICITOR COLTON: I'm sorry. We just had a little
11 discussion, I'm a little bit confused. Did you rule that
12 Officer Vaughn would be able to testify to that, or not?

13 THE COURT: You're confused? You're not the only one.
14 He -- I don't know what -- What do you want Officer Vaughn
15 to testify? We put him up here, and he said he heard the
16 tape, and did not hear anything -- could not recall that he
17 heard anything that -- about -- he couldn't recall one way
18 or the other about a drug buy. I thought that's all you
19 can put him up for.

20 MR. COOK: Yeah. Well, I was proffering those
21 questions to get permission from your Honor to ask him in
22 front of the jury.

23 THE COURT: Oh. Well, I didn't realize that, because
24 no, you're not going to ask him in front of the jury. I
25 can take care of that real quick.

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1 MR. COOK: Yes, sir. That's all I wanted, was a
2 ruling on it. I didn't want to be improper and start going
3 into those questions in front of the jury and then be
4 scolded.

5 THE COURT: Well, no I don't scold very often.

6 MR. COOK: Well, your Honor, no, your Honor doesn't.

7 THE COURT: I appreciate it.

8 All right, bring in the jury. I'm sorry. I just
9 misunderstood.

10 MR. COOK: Yes, sir.

11 THE COURT: Very candidly and not with any comment
12 other than very candidly I hadn't had this happen in a case
13 before, and really didn't know where we were, and maybe had
14 to put the wheels back on the bus.

15 MR. COOK: Yes, sir. Everything is crystal-clear in
16 my opinion now.

17 THE COURT: Okay. That makes one of us.

18 (WHEREUPON, JURY REENTERS THE COURTROOM 02:10 PM.)

19 THE COURT: Mr. Cook.

20 MR. COOK: Thank you, your Honor. If it please the
21 Court, your Honor, I would call Mr. Robbins.

22 THE COURT: Come on up. Place your left hand on the
23 Bible and raise your right, Mr. Robbins.

24 (WHEREUPON, ANTONIO ROBBINS,
25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

ANTONIO ROBBINS: DIRECT BY MR. COOK

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DIRECT EXAMINATION

1

2

ANTONIO ROBBINS BY MR. COOK:

3

Q. If you could state your name for the record, sir.

4

A. My name is Antonio Lamont Robbins.

5

Q. And Mr. Robbins, did you -- are these your drugs that everybody's talking about today?

6

7

A. No, sir.

8

Q. Have anything to do with them?

9

A. No, sir.

10

Q. Were you aware of their presence?

11

A. No, sir.

12

Q. Did you drive that truck?

13

A. No, sir.

14

Q. Did you own that truck?

15

A. No -- no, sir.

16

SOLICITOR COLTON: Your Honor, I'm going to object to the leading.

17

18

THE COURT: All right.

19

MR. COOK: I apologize.

20

THE COURT: Rephrase your question.

21

MR. COOK: Yes, sir.

22

Q. You've heard testimony in regards to a green truck today; is that correct?

23

24

A. Yes, sir.

25

Q. Are you familiar with that truck?

ANTONIO ROBBINS: DIRECT BY MR. COOK

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1 A. I'm familiar with it, yes, sir. I'm familiar with it.

2 Q. Okay. And do you own the title to this vehicle?

3 A. No, sir.

4 Q. Do you own the vehicle, or make payments on it in any
5 way?

6 A. No, sir.

7 Q. Okay. And you've heard the residence in discussion in
8 this trial today; is that correct?

9 A. Yes, sir.

10 Q. The brick house that we saw the photographs of.

11 A. Yes, sir.

12 Q. How are you associated with that house?

13 A. I don't stay -- I don't live there.

14 Q. Okay. Well, how are you associated with it?

15 A. How am I associated with it? My girlfriend stays
16 there. I help her out.

17 Q. What's her name?

18 A. Angie Hester.

19 Q. And so, your name's not on the deed to that residence?

20 A. No, sir.

21 MR. COOK: I beg the Court's brief indulgence.

22 Q. You heard talk about this alleged confession that you
23 gave to Officer Ligon; is that correct?

24 A. Yes. Yes, sir.

25 Q. Did you make those statements to Officer Ligon?

ANTONIO ROBBINS: DIRECT BY MR. COOK
CROSS BY SOLICITOR COLTON

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1 A. No, sir, I didn't.

2 Q. Did you sign any type of confession?

3 A. No, sir, I didn't.

4 Q. Thank you.

5 MR. COOK: I have no further questions. Please answer
6 anything the State may have for you.

7 CROSS-EXAMINATION

8 ANTONIO ROBBINS BY SOLICITOR COLTON:

9 Q. Mr. Robbins, this was Angie Hester's residence?

10 A. Yes, ma'am.

11 Q. And you mentioned you're not on the deed. Is she on
12 the deed, to your knowledge?

13 A. To my knowledge if she on the deed she -- I guess she
14 was renting.

15 MR. COOK: I'm going to object. That calls for
16 speculation, your Honor.

17 THE COURT: Okay. I sustain the objection.

18 You can ask him if he knows whether or not she was on
19 the deed.

20 BY SOLICITOR COLTON:

21 Q. Do you know if she was renting it, or if she was on
22 the deed?

23 A. I don't -- I ain't familiar with that.

24 Q. Okay. How long have you been dating Angie?

25 A. I'd say about a year.

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 Q. And how long -- Do you know when she moved into that
2 house?

3 A. She moved in that house, from that date right there,
4 she wouldn't have been there for probably, like, a little
5 over a month. It was her mother's -- it was her mother's
6 house. Well her mother was renting the house. Her mother
7 moved.

8 Q. So, if this occurred on June 24th, 2015, when they
9 came with the search warrant, about a month, putting her
10 back the end of May?

11 A. Yes, ma'am.

12 Q. Okay. And you and Ms. Hester have a child in common?

13 A. Yes, ma'am. She was just born in August.

14 Q. August of twenty -- obviously, 2015.

15 A. Yes. Yes, ma'am.

16 Q. So, when do you think you started dating Ms. Hester?

17 A. I started dating Ms. Hester, it was around November of
18 2014, around her birthday. Her birthday is on
19 Thanksgiving, so we started dating then.

20 Q. And where did Ms. Hester live before she moved into
21 that?

22 A. She lived on State Line Road, in Clover, South
23 Carolina.

24 Q. Where did you live at this time?

25 A. I lived on 351 Belair Circle, Clover, South Carolina.

1 Q. And who lived, at the time when officers came to the
2 house back in June, who else lived with Ms. Hester?

3 A. No one.

4 Q. She lived alone?

5 A. Yes, ma'am.

6 Q. And did you ever stay over there with Ms. Hester?

7 A. I stayed over there, but it wasn't frequently, like
8 that right there.

9 Q. Okay. About how frequent did you stay there?

10 A. I'm going to say I probably stayed, like one or twice
11 probably out of the week.

12 Q. Did you live with anybody over in Clover?

13 A. Did I live with anybody in Clover?

14 Q. Yeah.

15 A. I stayed with my brother.

16 Q. So, the truck that we're talking about, you were
17 talking about with Mr. Cook, is a green truck?

18 A. Yeah, it's a green truck.

19 Q. And that truck is -- Do you know whose truck that is?

20 A. That's Angie's truck.

21 Q. And does Angie have any other cars?

22 A. She has a Altima II.

23 Q. And where does -- where does she usually keep the
24 green truck? Do you know?

25 A. She usually keep the green truck parked in front of,

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 like, the basketball goal.

2 Q. Does she keep it under the carport?

3 A. No, ma'am. She don't keep it up under the carport.

4 Q. Does she --

5 A. She got -- she keep the car up under the carport.

6 Q. The Altima?

7 A. Yes, ma'am.

8 Q. Okay. And that particular day, did you spend the
9 night before, on June 23rd, going into the day of the 24th?
10 Did you spend the night at her house that night?

11 A. No, ma'am.

12 Q. Okay. Where did you spend the night that night?

13 A. My grandmother's.

14 Q. And how did you get to Angie's house?

15 A. She came to pick me up.

16 Q. And who was with her when she came to pick you up?

17 A. She was by herself at the time.

18 Q. When she came to pick you up in Clover?.

19 A. Yes, ma'am.

20 Q. Did she pick you up in the Altima?

21 A. Yes, ma'am.

22 Q. And who else was at the house when the search warrant
23 was executed?

24 A. The kids.

25 Q. What kids?

1 A. Imani and Angie's niece.

2 Q. They're both her niece?

3 A. No. One of em's her god daughter, and the other one
4 is her niece.

5 Q. And did Angie leave the house any time that day?

6 A. Not -- I mean, she left to go pick them up, but she
7 dropped me off at the house. I guess she went to pick them
8 up, because I was outside, up under the carport. There's a
9 washroom right there.

10 Q. Uh-huh.

11 A. I had just finished painting the rooms in there,
12 because she -- they said if we paint the rooms, she would
13 get half off her rent. So, I was there to paint. At the

14 time when she had dropped me off, that's what I was doing,
15 finish painting up, and then I had took all the stuff out
16 and washed the brushes out. I was in the washroom,
17 sweeping up, getting stuff together. The truck was there
18 the whole time. And so, when I got the stuff in the trash
19 bag and whatnot, and I was throwing it on the back of the
20 truck, that's when the officers pulled up and executed the
21 warrant. I was -- I wasn't never in the truck, never
22 driven the truck. They came and executed the warrant, and
23 I was outside the truck, coming from up under the carport.

24 Q. Now, you have operated that truck before.

25 A. Have I operated it before?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 Q. Yes.

2 A. Not on the road.

3 Q. But have you operated the truck before at all?

4 A. Yes, ma'am, I have.

5 Q. You started the truck up.

6 A. Start it up, and just make sure it's running right.

7 Q. Driven it back and forth?

8 A. No, I ain't driven it back and forwards, just like
9 around the house. The yard is big. I just circle it
10 around the house, and park it right back.

11 Q. It has been in drive at some time while you were
12 operating it. Correct?

13 A. Yes, ma'am.

14 Q. Where did Angie usually leave the keys to the truck?

15 A. She had them in her possession.

16 Q. But where?

17 A. Wherever she put them at. I'm don't -- I'm not aware
18 where she put them at.

19 Q. Did you have -- How did you get the keys? Did you
20 have to ask her for the keys whenever you went out to turn
21 the truck over?

22 A. She hand me -- here's the keys, would you please crank
23 the truck up and check on it?

24 Q. Did she have a special drawer that she leaves the keys
25 in, or anything like that?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. Not that I know of.

2 Q. Did you see the keys that day?

3 A. No, ma'am.

4 Q. Do you have any children of your own, besides with Ms.
5 Hester?

6 A. Yes, ma'am.

7 MR. COOK: I'm going to object on grounds of
8 relevance, your Honor.

9 THE COURT: It's cross-examination. I overrule.
10 BY SOLICITOR COLTON:

11 Q. Did any of them own a princess backpack like was --
12 that was recovered in that vehicle?

13 A. No, ma'am. I have two boys.

14 Q. Now, I know that Mr. Cook asked you about your
15 conversation with Mr. -- with Lieutenant Ligon, and you
16 denied speaking to Mr. Ligon.

17 A. I didn't deny speaking to him. I denied what he said
18 that I said. I did not admit or confess to anything.

19 Q. But he did ask you about the backpack.

20 A. Yes, ma'am, he asked me about the backpack.

21 Q. And he asked you about the contents of the backpack.

22 A. He asked me -- Yeah, he asked me about the contents of
23 the backpack.

24 Q. What did you tell him about that?

25 A. I told him I wasn't aware. I didn't know nothing

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 about the drugs in it, the contents of the backpack, or the
2 backpack itself.

3 Q. And did he ask you -- did he ask you where you got the
4 contents of the backpack?

5 A. He asked me whose it was, and I told him it wasn't
6 mine. I don't know nothing about it, and it was left at
7 that. So, he said that I could work for them, and this
8 would never go on the record, and stuff like that right
9 there. That's all it was. He ask once I - ask really to
10 work with them, I got charged with the drugs. If I was
11 willing to work with them, I would have never been charged
12 with the drugs.

13 Q. Did he ask you if you had been fronted the drugs?

14 A. Did he ask me front -- Did I front? He asked me where
15 the drugs come from, and I ask him, I don't know. And
16 then, he asked how all the drugs get in the car you don't
17 know where they at? I like I don't know about no drugs and
18 wasn't driving no vehicle.

19 Q. But did he ask you the specific question of, were you
20 fronted the drugs?

21 A. No, ma'am. He didn't ask me about no fronting of
22 drugs.

23 Q. And you have two prior felony convictions; is that
24 correct?

25 A. Yes, ma'am.

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 Q. Who else was at the house that day?

2 A. Angie, her god daughter, myself, and her niece.

3 Q. Okay. So, four people, including you.

4 A. Yes, ma'am.

5 Q. When the officers pulled into that driveway, did they
6 see -- you saw them pull in? Is that your testimony?

7 A. Yes. I'm -- I'm -- I'm right there, up under the
8 carport. I saw them pulling in. They got out, freeze, we
9 have a warrant for your arrest. They got my I.D. And,
10 hey. And you are Antonio Robbins? Yes, sir, that's what I
11 told him. They searched me. I admit, I did have a bag of
12 marijuana in my left pocket, and I had just smoked a joint
13 in the outbuilding. But I was never in the vehicle with no

14 marijuana, smoking no marijuana in no vehicle, or nothing
15 like that. I never would drive a vehicle.

16 Q. Okay.

17 A. I was outside of the car, outside, up under the
18 carport, what I'm saying, when they pulled up.

19 Q. Right. And I believe you on that. My question is,
20 there was only the four of you, the two children, Angie and
21 you in the house that day.

22 A. Yes, ma'am.

23 Q. Nobody else came over to visit?

24 A. No, ma'am.

25 Q. Nobody else took off into the woods, or anything like

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 that, that you saw?

2 A. No, ma'am.

3 Q. And with respect to the items in the car, that
4 backpack in the car, had you ever -- you -- you -- you have
5 no knowledge of that?

6 A. No knowledge.

7 Q. So, your testimony is, you didn't see anybody else put
8 anything in there?

9 A. No, ma'am.

10 Q. You didn't see any individuals that day put anything
11 in there?

12 A. No, ma'am.

13 Q. You don't know anything about those drugs?

14 A. No, ma'am.

15 Q. What about the drugs in Angie's house?

16 A. Don't know nothing about 'em. I'm not aware of the
17 drugs in the house, either.

18 Q. Not aware of the drugs in the kitchen drawer?

19 A. No, ma'am.

20 Q. You're not aware of the drugs in the Easter basket on
21 top of the piano?

22 A. No, ma'am.

23 Q. Were any of the clothes recovered in the house or
24 taken photographed in the house, were any of those clothes
25 yours, to your recollection?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. No, ma'am. I take a shower before I leave my
2 grandmother's house. If I do have some clothes, it would
3 probably be, like, a pair of gym shorts, or something like
4 that right there. But otherwise, me leaving clothes over
5 there, I don't leave clothes over there.

6 Q. And that --

7 A. She had a ex-boyfriend who stuck -- that's where we
8 had the problem about. That's why I had avoided moving in,
9 because her ex-boyfriend hadn't come and got her clo -- his
10 clothes yet, and we used to argue about that. I was like,
11 I'm not moving in here 'til he get his stuff out, because I
12 don't want him to come over here and we have a
13 confrontation about his stuff, be accused of wearin' his

14 stuff like that right there. So, I didn't mix my clothes
15 or nothing with his. That's why I was really there,
16 because he never did come and collect the rest of his
17 items.

18 Q. That's why you didn't move in, because those were his
19 clothes in the house?

20 A. Yes, ma'am.

21 Q. Okay. So, the ex-boyfriend, what's his name?

22 A. Byron Carruthers.

23 Q. So, he was living with your girlfriend.

24 A. Yeah, they was living together on State Line Road.

25 Q. No, no, no. Let me ask the question please.

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 When your girlfriend moved into [REDACTED] Woodland Drive,
2 her mom's house. Right?

3 A. Yes, ma'am.

4 Q. She moved in there with her boyfriend.

5 A. No, she didn't move in there with her boyfriend. She
6 moved in there with his belongings.

7 Q. Oh. Okay. Did you ever ask her to return those items
8 to him instead of brining them to the new house?

9 A. Yes, ma'am. I asked her to return the items to him,
10 but every time she called him, he didn't answer the phone.
11 And she just didn't want to put the stuff out there on the
12 porch and whatnot. She was trying to be reasonable with
13 him, instead of just throwing them away, and be
14 confrontation between them. She was really trying to get
15 in contact with him, to find out what did he want to do
16 with the clothes, bring them to his house, take them to his
17 mama's house, but they never did speak about the situation.
18 So, she would have to make an exception?? just to get rid
19 of 'em.

20 Q. And they had been broken up for about six months?

21 A. Yes, ma'am.

22 Q. Do you agree that you were read *Miranda*. Correct?

23 A. Ma'am?

24 Q. You were read *Miranda*, that Officer McGarrity read you
25 from that card?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. Yeah, the rights?

2 Q. Yeah.

3 A. Yes, ma'am.

4 Q. Okay. And then, Officer Gander read from that piece
5 of paper to you?

6 A. Yes, ma'am.

7 Q. And you voluntarily signed that piece of paper?

8 A. Yes, ma'am. Me and Angie signed the same paper, the
9 same paper you got, got both our initials.

10 Q. If you -- you -- you understood what they said to you?

11 A. Yes, ma'am. I understood.

12 Q. You understand you had the right to an attorney?

13 A. Yes, ma'am.

14 Q. You understood you didn't have to talk with officers
15 at all?

16 A. Yes, ma'am.

17 Q. Did you admit that you -- you did talk to the
18 officers?

19 A. Yeah, I did talk with --

20 MR. COOK: I would object. That's been asked and
21 answered, your Honor.

22 THE COURT: Overruled. It's cross.

23 BY SOLICITOR COLTON:

24 Q. And so, you voluntarily talked to those officers?

25 A. I didn't voluntarily talk to them. He asked me, did I

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 have anything to say. I was like, about what? He say,
2 about the drugs in the backpack. I mean, what -- He'd say
3 what do you have to say about that? Where did they come
4 from. And I told the officers I don't know nothing about
5 the backpack, what the contents in there contain. And he
6 would ask me would I work, would I work for them and set
7 another individual up and this would never would have
8 happened. I never would have been charged with it. I
9 would just work myself off the charges that supposed to
10 been in the backpack. And I told him wasn't willing to do
11 that. I wasn't willing, going to do that.

12 Q. And I apologize to you, because I think I used the --
13 I used a legal term for it instead of asking you the way I
14 should have asked it to you. Voluntary, you didn't tell
15 them, I'm not talking to you.

16 A. No, I didn't tell them, I'm not talking to you.

17 Q. Period? Like, and I mean, period. I ain't going to
18 talk to you.

19 A. No, I didn't -- I didn't just say ---

20 Q. Okay.

21 A. --- that I'm not going to talk to you all.

22 Q. And you didn't say, I don't want to talk to you,
23 because I want my lawyer.

24 A. No, I didn't say nothing of that, either.

25 Q. Okay. And you didn't say, I'm remaining silent?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. I didn't say, I'm remaining silent, either.

2 Q. And in order to even get you to -- to tell them the
3 things that you're saying you told them, they didn't
4 threaten you in any way, did they?

5 A. I don't recall a threat being made, but it was just a
6 circumstance where they asked me to work for them, and
7 these charges never occurred. So, my thing is, if you want
8 me to work for you, and these charges never occurred, and I
9 don't know nothing about the drugs, why am I being charged
10 with the drugs that I'm not aware of? My fingerprints
11 ain't on the drugs. They didn't see me in a vehicle. They
12 didn't see me put no drugs anywhere.

13 SOLICITOR COLTON: Well, I'm going to -- your Honor,

14 I'm going to object to that, because I don't think he has
15 the potential to speculate as to what the officer saw or
16 didn't see.

17 THE COURT: I sustain the objection.

18 Wait 'til she asks the next question.

19 BY SOLICITOR COLTON:

20 Q. Would it be fair to say you weren't mistreated by the
21 officers that day?

22 A. No, I wasn't mistreated. It was just the questions
23 they asked about willing to work, and that really, just,
24 like, ticked me off, because I knew the drugs wasn't mine,
25 and they knew the drugs wasn't mine. Why you going to ask

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 me to work for you to work something off that's not mine?

2 Q. The question was, they weren't mean to you?

3 A. They wasn't mean to me.

4 Q. And yet, are you claiming that the officers planted
5 the drugs? Did you see the officers put the drugs in the
6 car?

7 A. I didn't see anybody plant the drugs, and I'm not
8 aware of the drugs.

9 Q. Okay.

10 A. I don't know how the drugs got in the vehicle. I
11 don't know who book bag it was, and I don't know whose
12 drugs it was.

13 Q. And I'm going to ask this question. When the officers
14 pulled up, you viewed them coming up to the driveway?

15 A. Yeah, I viewed them coming up to the driveway.

16 Q. And you didn't see them go into that pickup truck?

17 A. They took -- they -- when they came to the driveway,
18 they came to me, up under the carport, to ask me for my
19 I.D., who am I. I pulled my I.D. out. Are you Antonio
20 Robbins? Yes, sir. They searched me and found marijuana
21 in my left pocket. They put me in the handcuffs and took
22 me in the house. While I'm the house, they outside,
23 conducting a search in the vehicle.

24 Q. Okay. Well, were you inside when they conducted the
25 search of the house?

ANTONIO ROBBINS: CROSS BY SOLICITOR COLTON

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1 A. Was I inside? I went outside when they were searching
2 the vehicle.

3 Q. Were you inside when they were searching the house?

4 A. Was I inside when they -- yeah, I was in the living
5 room. They seated me down in the living room, and then
6 they took me in the back room.

7 Q. Okay.

8 A. It was like, wherever they were searching at, they had
9 me in the opposite room. Like, they were searching the
10 truck, they had me in the living room. When they were
11 searching the living room, they had me in the bedroom.
12 When they were searching the bedroom, they had us in the
13 living room. We didn't see the search. They had us moved

14 around.

15 Q. How many officers were there?

16 A. It would had to be -- it was more than them right
17 there. It was five of them right there, plus, there had to
18 have been like, five, six more. I recall like, twelve of
19 'em.

20 SOLICITOR COLTON: Court's indulgence, your Honor.

21 THE COURT: Yes, ma'am.

22 (PAUSE AT 02:31 PM.)

23 SOLICITOR COLTON: I don't have any further questions
24 for this witness, your Honor.

25 MR. COOK: No questions, your Honor.

ANGIE HESTER: DIRECT BY MR. COOK

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1 THE COURT: All right. You can step down and have a
2 seat with your attorney.

3 (WITNESS LEAVES WITNESS STAND.)

4 MR. COOK: I call Ms. Angie Hester.

5 SOLICITOR COLTON: And your Honor, can Mr. Cook and I,
6 may we approach for one moment while Ms. Hester's coming
7 in?

8 THE COURT: Yes.

9 (BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF
10 JURY, AT 02:31 PM.)

11 THE COURT: Put your left hand on the Bible, and raise
12 your right, please, ma'am.

13 (WHEREUPON, ANGIE HESTER,
14 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 DIRECT EXAMINATION

16 ANGIE HESTER BY MR. COOK:

17 Q. If you could state your name, for the record, ma'am.

18 A. Angie Hester.

19 Q. Ms. Hester, where is your residence? Where do you
20 live?

21 A. Now?

22 Q. Yes, ma'am.

23 A. With my father.

24 Q. Well, I apologize. Where did you live during June of
25 last year?

ANGIE HESTER: DIRECT BY MR. COOK

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1 A. I lived at 1069 Woodland Hills Drive..

2 Q. And did you own the title to that residence?

3 A. The -- I rented that house.

4 Q. You rented the house?

5 A. Yes, sir.

6 Q. And what vehicles were at that house, or did you own?

7 A. That was --

8 Q. Let me be clear. What vehicles did you own in June of
9 2015?

10 A. My Altima, and I also own a truck.

11 Q. What type of truck was it?

12 A. A GMC.

13 Q. What color was it?

14 A. Green.

15 Q. And was your truck present the day of the arrest, in
16 June of last year?

17 A. Yes, sir.

18 Q. And were you at the house during the arrest of Mr.
19 Robbins last year?

20 A. Yes, sir.

21 Q. Just to place you there, so, you understand the event
22 that I'm speaking of?

23 A. Yes.

24 Q. And were you present in the house while the house was
25 being processed by law enforcement?

ANGIE HESTER: DIRECT BY MR. COOK
CROSS BY SOLICITOR COLTON

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1 A. Yes.

2 Q. And were you able to observe all of the search of the
3 house?

4 A. No, sir.

5 Q. Did you -- Were you able to observe some of the search
6 of the house?

7 A. When they were just where I was. They wouldn't let me
8 go no further than the living room.

9 Q. And did you observe anything irregular in your
10 assessment?

11 A. I did.

12 Q. What would that be?

13 A. One of the officers searched a drawer, and it was
14 clear. And then, another officer came right behind him,
15 and then stated that he found something.

16 Q. Okay. Thank you.

17 MR. COOK: I got no further questions. Please answer
18 anything the State may have.

19 CROSS-EXAMINATION

20 ANGIE HESTER BY SOLICITOR COLTON:

21 Q. Ms. Hester, you were renting this house?

22 A. Yes.

23 Q. And is this house your -- who were you renting the
24 house from?

25 A. His -- I don't remember his name.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. You don't remember the person who you rented the house
2 from?

3 A. I mean, I know the man, but I hadn't stayed there that
4 long.

5 Q. And who previously owned this home?

6 A. His name was Dennis.

7 Q. Okay. And was Dennis your landlord?

8 A. Yes, he was.

9 Q. Okay. And you moved in when?

10 A. Just -- I wasn't there that long. I wasn't even there
11 a month or so.

12 Q. A month? Okay. And this occurred on June 24th, 2015?

13 A. Yes.

14 Q. End of May?

15 A. Yes.

16 Q. And you can't recall your landlord's name.

17 A. His name was Dennis.

18 Q. Okay. Oh, that -- okay. That's fine. And did he own
19 the house?

20 A. He does.

21 Q. And do you know how long Dennis had owned that house?

22 A. I don't know.

23 Q. Who's your father? Who's your father? What's your
24 father's name?

25 A. Don.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Don Hester. And did Mr. Hester help you buy this
2 house or rent this house?

3 A. Did he help me? No.

4 Q. Did he get this house for you?

5 A. No.

6 Q. Did your mother, at any time, own this home?

7 A. No, she didn't.

8 Q. Anybody in your family ever own this home?

9 A. No, ma'am.

10 Q. And so, approximately the end of May, or at the end of
11 -- end of May, it would have been about one month 'till
12 June. Correct?

13 A. Uh-huh.

14 Q. When they executed the search warrant? I'm sorry.

15 THE COURT: You need to answer, yes or no.

16 A. Yes.

17 Q. And how long in June 2015, how long had you been
18 dating Mr. Robbins?

19 A. Couple a months.

20 Q. Couple a months? You -- Do you remember when you
21 started dating him?

22 A. Not the exact day.

23 Q. Do you remember what month you started dating him?

24 A. It was -- I do not.

25 Q. Was it in twenty -- how about this? I like to arrange

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 things based on Christmas. Was it before Christmas of the
2 prior year, or was it after Christmas?

3 A. It was -- it was a crazy situation.

4 Q. So, do you believe that you only -- It's your
5 testimony you only had been dating for a couple months at
6 this point.

7 A. Yes.

8 Q. And you can't say if that was before the New Year or
9 after the New Year?

10 A. It was before.

11 Q. Before the New Year? Okay. And you have a child with
12 Mr. Robbins?

13 A. I do.

14 Q. Okay. And when was that child born?

15 A. September.

16 Q. Of?

17 A. This year.

18 Q. 2015?

19 A. Sixteen.

20 THE COURT: Last year?

21 A. Sixteen.

22 THE COURT: We haven't had September this year.

23 A. Oh. '15.

24 BY SOLICITOR COLTON:

25 Q. So, September 2015. So at the time that this is

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 occurring, or when the search warrant comes in, my math is
2 not so good, you're about six months pregnant at that time?

3 A. Yes.

4 Q. And you had been there for a month. Where did you --
5 I'm sorry, I've asked you that a hundred times. Where had
6 you been living before you moved into this residence on
7 Woodland?

8 A. I was at State Line in Lake Wylie.

9 Q. And how long had you lived at State Line?

10 A. Years. Ten years.

11 Q. And then, you moved to this new residence?

12 A. Yes.

13 Q. Probably about May?

14 A. Yes.

15 Q. And did you bring all of your stuff with you?

16 A. Yes. And more.

17 Q. And more?

18 A. There was some stuff already in the house.

19 Q. And by some stuff do you mean furniture?

20 A. Yes.

21 Q. And fixtures? Were there other people's personal
22 items in the house?

23 A. There was.

24 Q. Did you leave them there?

25 A. When I left?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. I mean, like, when you moved in, did you just move in
2 with other people's personal items there?

3 A. There was --

4 Q. You had -- you didn't move them out?

5 A. I just hadn't go to that point yet.

6 Q. The landlord didn't come looking for them?

7 A. No. He told me that I could get rid of it.

8 Q. All right, Ms. Hester, I'm going to show you what's
9 been marked -- well, it's been entered into evidence as
10 State's Nine, State's Ten, State's Eleven, State's Twelve,
11 and State's Thirteen. Ms. Hester, with regard to State's
12 Nine, do you recognize what State's Nine is?

13 A. Clothes.

14 Q. Okay. Whose clothes are those?

15 A. Mine.

16 Q. And those came out of your house?

17 A. Yes.

18 Q. Okay.

19 SOLICITOR COLTON: And Judge, if I may publish to the
20 jury and to the jury box so they get to look.

21 THE COURT: Okay.

22 BY SOLICITOR COLTON:

23 Q. And ma'am, State's Ten, these appear -- what appears
24 to be in that?

25 A. It's clothes.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Okay. Looks like a pair of pants?

2 A. Uh-huh.

3 Q. Whose --

4 THE COURT: You need to say, yes or no, and you need
5 to speak up.

6 A. It's clothes.

7 Q. Okay. Does it appear to be a pair of pants?

8 A. Yes.

9 Q. Whose pants are those?

10 A. Mine.

11 Q. State's Eleven.

12 A. Shoes.

13 Q. Whose shoes are those?

14 A. Mine.

15 Q. State's Twelve. Do you recognize what that is?

16 A. Shoes.

17 Q. Whose shoes are those?

18 A. Mine.

19 Q. Ma'am, what size shoe do you wear?

20 A. Seven.

21 Q. State's Thirteen. Do you recognize what that is?

22 A. Boxers.

23 Q. Boxers?

24 A. Uh-huh.

25 Q. Whose boxers are those?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. Mine. I sleep in them.

2 Q. And all those items of clothing, is it your testimony
3 that you transported them from State Line to your new
4 residence?

5 A. Those are mine.

6 Q. Did you bring them from State Line ---

7 A. Yes.

8 Q. --- when you moved into ---

9 A. Yes.

10 Q. --- this new apartment?

11 A. Yes, I did.

12 Q. How often did Mr. Robbins, if at all, stay with you on
13 your Woodlawn -- at your Woodland house?

14 A. He stayed once or twice.

15 Q. A week?

16 A. Yes.

17 Q. Okay. And did Mr. Robbins spend the night before the
18 search warrant was executed? Did he spend the night of the
19 23rd at your house?

20 A. No, he did not.

21 Q. Where was he?

22 A. I don't know.

23 Q. On the 24th, the day the search warrant was executed,
24 what did you do that day?

25 A. I was with my niece and my god baby.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. And where were you at, though?

2 A. We was all at the house.

3 Q. At the house? At the Woodlawn house?

4 A. Uh-huh.

5 Q. And how did they get to your house?

6 A. I got them.

7 Q. What day?

8 A. That same day.

9 Q. You got them on the 24th?

10 A. Uh-huh.

11 Q. In the morning?

12 A. I don't remember.

13 Q. Did they eat lunch?

14 A. I mean, I'm sure I fed them. I just don't remember
15 where we ate.

16 Q. Well, I'm just curious. Did you take them out for
17 lunch, or did you they -- you had to prepare lunch for
18 them?

19 A. I don't remember if I cooked or whatever.

20 Q. How old are they?

21 A. Nine and eleven.

22 Q. Now, it's -- When the officers came to your house, was
23 Mr. Robbins there?

24 A. Yes.

25 Q. And how long had he been there?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. I'm not sure.

2 Q. You don't know what time he got to your house?

3 A. I do not.

4 Q. Was he there in the morning?

5 A. No.

6 Q. Did someone drop him off at your house?

7 A. Yes. I don't know what time.

8 Q. Do you know who dropped him off at your house?

9 A. No.

10 Q. How long had he -- what was he -- what was he doing
11 there?

12 A. Outside.

13 Q. What was he doing?

14 A. Oh, I don't know. I was taking a bath.

15 Q. And do you know how long he had been outside?

16 A. I'm not sure.

17 Q. I mean, well, let me ask it this way. When he -- when
18 someone dropped him off at your house, did he come inside
19 to tell you he was there?

20 A. No.

21 Q. Had you seen him before the police pulled into the
22 driveway?

23 A. Yes.

24 Q. Did you see him outside?

25 A. No.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Where did you see him at?

2 A. Inside.

3 Q. So, he did come into the house?

4 A. Well, yeah.

5 Q. Okay. Well, that's what I was asking, because you --
6 I'm getting a little confused myself.

7 A. I was.

8 Q. I'm not trying to confuse you. I'm just trying to
9 figure out what happened, because I wasn't there.

10 A. You're good.

11 Q. Okay. So, he was dropped off at the house. Yes?

12 A. Yes.

13 Q. And at some point, he came into the house, and you saw
14 him?

15 A. Yes.

16 Q. And then, you were taking a bath?

17 A. Yes.

18 Q. When the police came?

19 A. Yes.

20 Q. And then, the next thing you know, the police are in
21 your house?

22 A. Yes.

23 Q. Okay. Did you have any other guests that day?

24 A. Not that I can remember.

25 Q. Now we mentioned -- we talked about this green truck a

ANGIE HESTER: CROSS BY SOLICITOR COLTON

-302-

1 little bit. That's your truck.

2 A. Yes.

3 Q. And you have an Altima.

4 A. Yes.

5 Q. Which is a second car. And you let Mr. Robbins drive
6 that truck, start the truck up, I guess. I want to start
7 with that. Did he start the truck up?

8 A. Yes.

9 Q. Does he ever drive the truck?

10 A. He would just crank it up for me.

11 Q. Has he ever -- has the wheels in that truck ever gone
12 in a circle and moved?

13 A. Down the driveway.

14 Q. And you talked -- has he ever gone around the circle,
15 around the circle?

16 A. Yeah.

17 Q. Okay. And where is that circle at?

18 A. Just around the neighborhood.

19 Q. So, he's driven on -- through your neighborhood in
20 that truck?

21 A. The neighborhood.

22 Q. And where do you keep the keys to that truck?

23 A. In the house.

24 Q. Okay. On the counter?

25 A. Yes.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

-303-

1 Q. And did you leave Mr. -- did you leave at any point
2 while Mr. Robbins was at the house on the 24th?

3 A. No. I mean, I left -- I don't remember.

4 Q. Well, you previously testified that you had left the
5 house while Mr. Robbins was there to take the children
6 someplace. Do you recall testifying to that?

7 A. I don't know. I mean, we could have went to the
8 grocery store or anything.

9 Q. Well, you -- I'm just asking the question, because you
10 were certain that you had left the house while Mr. Robbins
11 was there in previous testimony under oath, and today, you
12 do not recall. So, I just want to make sure I have the
13 correct answer.

14 A. I mean, I just don't remember where we would have
15 went.

16 Q. I didn't ask you if you remember where you went. I
17 asked you if you left the house while Mr. Robbins was
18 there.

19 A. No.

20 Q. So, the testimony that you provided yesterday is
21 incorrect?

22 A. I don't -- we didn't talk about this yesterday. I
23 said I couldn't remember what I did that day.

24 SOLICITOR COLTON: Court's indulgence, your Honor.

25 (PAUSE AT 02:47 PM.)

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 BY SOLICITOR COLTON:

2 Q. So, while you were in the house, Mr. Robbins was
3 outside; it is your testimony that you don't know what he
4 was doing?

5 A. Correct.

6 Q. And you don't know whose crack cocaine it was in your
7 home, in that Easter basket, on top of the piano?

8 A. I do not.

9 Q. And you don't know whose crack cocaine it was in the
10 drawer?

11 A. No.

12 Q. And you don't know whose princess backpack that was?

13 A. I do not.

14 Q. It wasn't one of your -- it wasn't your niece?

15 A. No, ma'am.

16 Q. It wasn't your god child?

17 A. No, it was not.

18 Q. Did it concern you that it was left in your truck?

19 A. I've let people drive that truck.

20 Q. That's not my question. Were you concerned that this
21 much crack cocaine was left in your truck?

22 A. Yes.

23 Q. Were you concerned that there was crack cocaine in
24 your home?

25 A. Yes.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. Were you concerned that it was in the kitchen drawer,
2 as well?

3 A. Yes.

4 Q. And you had never seen that in your house?

5 A. I had never seen it before. That piano, all of that
6 was already in that house.

7 Q. I'm not -- I'm not asking about the piano. I'm asking
8 about the basket on top of the piano.

9 A. Right. Every -- that was there.

10 Q. That was there when you moved in?

11 A. That was there when I moved in. It had stayed in
12 front of that door, because that door was broke.

13 Q. What other kind of things did you find when you moved
14 in?

15 A. That was the only thing that was in there.

16 Q. That -- that was the only item that didn't belong to
17 you that was in the house when --

18 A. The piano and everything that was on the piano.

19 Q. And of course, the crack cocaine in the drawer.

20 A. That's not mine.

21 MR. COOK: I object, your Honor. That's been asked
22 and answered.

23 THE COURT: I over rule the objection. This is cross-
24 examination.

25 BY SOLICITOR COLTON:

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. And just to be clear, that's -- do you recognize that?

2 A. I mean, that is the basket that was on there.

3 Q. And when you moved in the house, was it like this?

4 A. What, open?

5 Q. Yeah.

6 A. No.

7 Q. What was on -- what was -- what did it look like when
8 you moved in?

9 A. It was a basket with grass inside of it when I moved
10 in there.

11 Q. It was Easter grass?

12 A. It was Easter grass.

13 Q. And then -- I'm sorry, I don't think I mentioned now

14 State's Sixteen. And ma'am, State's Seventeen. Do you
15 recognize State's Seventeen?

16 A. Yes.

17 Q. Can you tell me what State's Seventeen is?

18 A. That's the junk drawer.

19 Q. From where?

20 A. In the house.

21 Q. In your house?

22 A. Yes.

23 Q. On Woodlawn. Anything in there yours?

24 A. Yeah.

25 Q. Okay. What's in there that's yours, that you can

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 recognize? I know it's a blurred picture.

2 A. The tape, the movie. The book.

3 Q. And do you remember when you placed those items into
4 that drawer?

5 A. They had been there for --

6 Q. Well, I'm going to show you a closer --

7 A. Everything in that drawer -- everything in that right
8 there just came with me.

9 Q. Came with you from where?

10 A. Out of that.

11 Q. Oh, this is your dresser, actually?

12 A. That's my dresser.

13 Q. Oh. So, everything in there came with you when you
14 moved in.

15 A. Yes.

16 Q. Okay. So, State's Eighteen, that's your stuff, too?

17 A. The thermometer and the marker, yes.

18 Q. Okay. And that's from your dresser that you brought
19 with you when you moved in?

20 A. Yes.

21 Q. And you -- Are you aware there was crack cocaine found
22 in that drawer??

23 A. I'm aware. There was a officer searched that drawer,
24 and nothing was found. And another officer came in and
25 said that there was.

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 Q. What are you implying?

2 MR. COOK: Your Honor, I did not hear that.

3 SOLICITOR COLTON: I asked her what she was implying
4 about that.

5 MR. COOK: Now, I'm going to object, because that just
6 calls for --

7 THE COURT: I sustain the objection. Just ask
8 questions about the fact not implications.

9 BY SOLICITOR COLTON:

10 Q. Are you -- are you saying that officers put the crack
11 cocaine in there?

12 A. It was not there when the first officer searched the
13 drawer.

14 Q. Are you certain of that?

15 A. He looked. I watched him, and another officer came up
16 with his back turned toward me. And then, he found
17 something.

18 Q. You weren't arrested that day, were you?

19 A. No, ma'am.

20 Q. And the officers didn't take that backpack into
21 custody, did they?

22 A. No.

23 Q. Are you sure? Do you know for a fact?

24 A. Uh-huh.

25 Q. What did you do with it?

ANGIE HESTER: CROSS BY SOLICITOR COLTON

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1 A. I threw everything away.

2 Q. You threw it all away?

3 THE COURT: You've got to say, yes or no.

4 A. Yes.

5 SOLICITOR COLTON: I'm sorry, your Honor.

6 Thank you, ma'am.

7 THE COURT: All right. Redirect?

8 MR. COOK: I have no questions, your Honor.

9 THE COURT: All right. You can step down. Thank you.
10 You can be excused. We appreciate your time.

11 (WITNESS LEAVES WITNESS STAND.)

12 MR. COOK: Defense rests, your Honor.

13 THE COURT: All right. Anything in reply?

14 SOLICITOR COLTON: No, your Honor.

15 THE COURT: All right. Members of the jury panel, now
16 you have heard all the testimony and received all the
17 exhibits. The next stage of the trial will be the closing
18 arguments of the attorneys, and then my charge. We have a
19 few matters to take up before we get to that point, so I've
20 got to let you go to the jury room. Don't start discussing
21 the case yet, even though I've told you that the evidence
22 is in the record; because you haven't heard my argument,
23 and you haven't heard my charge on the law. I'm going to
24 let you go to your jury room while we take up a couple of
25 matters, and then we'll send for you, and you'll hear the

1 attorneys and then me.

2 (WHEREUPON, JURY EXITS COURTROOM AT 02:55 PM.)

3 THE COURT: The jury is dismissed; anything from the
4 State?

5 SOLICITOR COLTON: No, your Honor.

6 THE COURT: The Defense?

7 MR. COOK: Well, your Honor, I would like to renew all
8 of the objections I have made to this point, pretrial
9 motions objections and objections during the trial,
10 including my attempt to enter the proffered testimony into
11 evidence. And I would like to make a directed verdict
12 motion at this time as well.

13 THE COURT: All right. Well, I stand by the rulings
14 that I've made. So, to the extent that you're asking me to
15 revisit and reconsider and change any rulings previously
16 made, I deny that motion, and those rulings stand as the
17 rulings of the case. As to those directed verdicts, I
18 still believe as I did at the end of the State's
19 presentation that there is sufficient direct evidence and
20 substantial circumstantial evidence from which a jury could
21 determine -- I'm not saying they will -- that the State has
22 proven beyond a reasonable doubt that Mr. Robbins committed
23 this offense. So, we'll take a short, kind of, break. Let
24 me see the lawyers about the charge in chambers. We don't
25 need to do that on the record, although we will put any

CLOSING ARGUMENT: BY MR. COOK

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1 concerns on the record.

2 MR. COOK: Yes, sir.

3 (COURT IN RECESS AT 02:56 PM.)

4 (COURT BACK IN SESSION AT 03:12 PM.)

5 THE COURT: Thank you. You may take your seats.

6 If we can get Mr. Robbins back in.

7 (DEFENDANT, ANTONIO ROBBINS, REENTERS COURTROOM.)

8 THE COURT: All right. Is the State ready?

9 SOLICITOR COLTON: Yes, your Honor.

10 THE COURT: State waives opening?

11 SOLICITOR COLTON: Yes, sir.

12 THE COURT: Is the Defense ready?

13 MR. COOK: Yes, sir, your Honor.

14 THE COURT: All right. Bring in the jury.

15 (WHEREUPON, JURY REENTERS COURTROOM AT 03:16 PM.)

16 THE COURT: Members of the jury panel, the attorneys
17 will now make their closing arguments for you and unlike
18 the opening statements, at this time they will be taking
19 the evidence and telling you why, based on the law as I
20 charge it, your verdict should be a certain verdict.

21 Counsel. Mr. Cook.

22 MR. COOK: Thank you, your Honor.

23 CLOSING ARGUMENT BY MR. COOK:

24 MR. COO: Thank you for paying attention, ladies and
25 gentlemen of the jury. And I will try to be brief, but

CLOSING ARGUMENT: BY MR. COOK

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1 there are some points that I definitely want to cover.

2 Before I get to the case itself, let me go back over
3 again, my definition of beyond a reasonable doubt. Are any
4 of you hesitating? I haven't even made my closing argument
5 yet. Again, the Supreme Court of South Carolina has
6 defined it as that type of doubt -- and I'm not positive,
7 but the judge will also instruct you on the definition.
8 And of course, this is the judge of the law. The Supreme
9 Court of South Carolina has defined it as, reasonable doubt
10 is that type of doubt that causes a reasonable juror,
11 causes a reasonable juror, after the presentation of all
12 the evidence, hesitation. And if you're hesitating, you
13 must acquit. That means the State has not met their burden
14 of proof in a criminal trial.

15 Does my client have to prove to you where these drugs
16 came from? Is the burden of proof on him to explain the
17 princess backpack? Or what's in the house? No, it's not.
18 He did testify. Constitutionally he did not have to
19 testify at all. He opened himself up to cross-examination.
20 So did Ms. Hester. You got to watch his performance.

21 Essentially, you -- somebody is not telling the truth
22 here. I think one of the big points of contention is my
23 client's alleged confession. Let me bring something for
24 you -- up for you to consider. Was it written down
25 anywhere? Isn't that standard procedure? You write it

CLOSING ARGUMENT: BY MR. COOK

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1 down, you sign it. This is my confession. Did you see my
2 client's signature on any confession? You heard an officer
3 testify to that.

4 What did my client say? I didn't say any of that to
5 him. Yeah, we talked. You heard my client say a few other
6 things. He has two prior felonies. You heard my client
7 say a few other things. They asked me to do work. What
8 does that phrase mean do work for drug enforcement
9 agencies? You have to be a confidential informant, put on
10 the wire, put your life on the line, and go get us more
11 convictions. And my client said no. Why?

12 Well, apparently, they all knew each other. So, why
13 didn't my client want to go do that? Because he said,
14 these aren't my drugs. I'm not going to go do that. I'm
15 not putting myself on the line, my life on the line to be a
16 confidential informant for something I didn't do. I'm
17 pleading not guilty.

18 It's up to you all to discern what you think, but let
19 me take it a little bit deeper for you. Heard a lot of
20 testimony about fingerprints. No, we don't take
21 fingerprints off of plastic. We rarely ever have done
22 that. I've been doing this for ten years, and I've only
23 done that -- seen it three times. And I ask, did you take
24 fingerprints off of anything? Did you even try? And they
25 said, no.

CLOSING ARGUMENT: BY MR. COOK

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1 And then, I asked an important question. I didn't ask
2 a lot of questions, but I think all of them were important,
3 can you take fingerprints off of plastic? Yes. Why didn't
4 you?

5 Here's what everybody's forgetting. The scale is not
6 plastic. Why didn't he try to take fingerprints off the
7 scale? Why didn't he do anything? This is police. This
8 is law enforcement. These are investigations for serious
9 crimes. You think that somebody would try to take a
10 fingerprint off of the scale if they're going to try to pin
11 it on the defendant during the trial. Can he not bring
12 that up?

13 So, there's no sworn statement from an alleged
14 confession. There's no fingerprints lifted off of
15 anything, but there's a search warrant. The officer
16 testified, we were held up across the street, different
17 road, watching the house, with a search warrant in our
18 pocket. Here's my question. Well, why don't you just go
19 execute the search warrant? Why do you stay outside the
20 house for three or four hours? Well, how do you know who's
21 in that house? Interesting question. This speaks directly
22 towards the innocence of my client.

23 Why not take the princess backpack into evidence if
24 you're going to talk about it throughout the entire trial?
25 Don't you think it would -- we'll put it in our evidence,

CLOSING ARGUMENT: BY MR. COOK

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1 take it to Moss, put it in the chain of custody.

2 The Easter basket on the piano. Well, it's June.
3 They testified they moved in there -- she testified she
4 moved in there about a month earlier. Easter. Could it be
5 possible that the prior renter left that basket? I don't
6 know. Could it be possible? Still grass in it.

7 What was she implying? She -- The question calls for
8 speculation, but I realize everybody's wondering, what was
9 she implying? Well, what is she implying? I don't know
10 how much traction this has, but I want to lay it out there.

11 There's a photograph of just how far the house is, and
12 you guys can take all of this back, and look through it in
13 your deliberation. And just for time's sake, I'll try --
14 here it is. State's Twenty-Six. I'm trying to reconstruct
15 a little bit myself the photographs. Is that driveway long
16 enough for somebody to be across the street in
17 surveillance, and to have pulled up behind the defendant
18 soon enough to ask him to get out of the car?

19 Or do you think if you were in this vehicle, in this
20 green truck with a hundred and forty-one grams of crack,
21 and you see a van pulling up in your driveway, are you
22 going to sit there and wait until they ask you to get out
23 of the truck; or are you going to say, hey. Things to
24 think about. Things that make one pause.

25 Has the State proven their case beyond a reasonable

CLOSING ARGUMENT: BY MR. COOK

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1 doubt? Definitely not. Even, set aside all of that, set
2 aside all of that, and just talk about actual versus
3 constructive possession. The judge will charge you, mere
4 presence of drugs in an area is not sufficient enough to
5 convict somebody for the possession of those drugs. The
6 State has to prove -- excuse me -- the State has to prove
7 beyond a reasonable doubt that my client had dominion and
8 control over those drugs. Dominion and control.

9 Here's just a sheet of paper right here. I usually
10 lay my pen up, but I'll have to say that Madam Solicitor
11 used the pen in the opening arguments. Usually, I'll lay
12 my pen here. They don't see it, and I'll walk away, and I
13 do my whole closing arguments. And then, I get done, and I

14 say, I left my fancy pen here. They had no idea it was
15 there. Did they have dominion and control over it? Is
16 that their pen? The pen that my uncle gave me for
17 graduating law school ten years ago? My magical blanket?
18 They can't have it.

19 If I accidentally leave it on their table, and they
20 see it, and I see them, and they start writing with it and
21 put it in their purse to go away, I'm going to say, wait
22 one second. Sorry, I misplaced it. That's my pen. I have
23 dominion and control over that pen, not you.

24 So, just by virtue of the fact that something is
25 sitting there with you, if you don't believe my client and

CLOSING ARGUMENT: BY MR. COOK

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1 think that he was in the truck, for those people, I'm
2 positive there's some people on the jury panel that's
3 skeptical. Well, let me just talk to you folks. Okay?

4 Let's say he drove the truck. There's no fingerprints
5 linking him to it. His testimony said he had no clue that
6 that was there. How can they prove he had dominion and
7 control? Did they show you a title to the vehicle with his
8 name on it? Did you see a deed to the house? Or was his
9 testimony, I sleep there once, a couple -- once or twice a
10 week. Ms. Hester is sequestered. She didn't hear any of
11 his testimony. Comes back in and says the same thing.

12 Let's talk about the inconsistent statements that they
13 gave. They -- I was looking hard for it, didn't see many.
14 They were a little inconsistent on when they started
15 dating, but I posit to you, the date that people start
16 dating is different for men than it is for women. Men
17 start dating you when you start paying attention to 'em. I
18 don't know, I'm not a woman, but I've noticed, women don't
19 call it dating until you make some kind of commitment.

20 And then in conclusion, and my last point.
21 Apparently, and I haven't seen a lot of these, but
22 apparently, these clothes don't look like the type of
23 clothes that a woman would have, so, let me just look at
24 them. State's Nine, Ten, and Eleven. You know, and I
25 would just say, let's say that I think there might be some

CLOSING ARGUMENT: BY MR. COOK
BY SOLICITOR COLTON

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1 high top sneakers in there. How can you tell that these
2 are not her clothes? And I'm not going to be fast with
3 you, you can take these back in your deliberation room.
4 There's some jeans there. I mean, is this enough to amount
5 to reasonable doubt on a very serious crime, the fact that
6 those pants look a little baggy for a woman to wear? Might
7 have been her previous boyfriend's. We don't know.

8 Size seven shoes. Yet they laid out some sneakers
9 there. He says they're not his. She says, well, those are
10 mine. They didn't really -- the State didn't elaborate on
11 that. She could have said, she could admit those were my
12 old boyfriend's that I'm still trying to get back to him.
13 Is that -- is that the State's case? I mean, no, they're

14 not ballet shoes. They're basketball sneakers. I get it.

15 If you want to convict him on that, go right ahead.

16 Thank you very much, ladies and gentlemen.

17 SOLICITOR COLTON: Thank you, your Honor.

18 CLOSING ARGUMENT BY SOLICITOR COLTON:

19 SOLICITOR COLTON: The one thing I'm going to agree
20 with Mr. Cook is there are a lot of inconsistencies. As
21 far as the shoes, I'm not asking you to convict him based
22 upon shoes and male clothing in the home. It was his
23 testimony, Mr Robbins' testimony, that he did not move into
24 that house with his six-month pregnant girlfriend because
25 her ex-boyfriend's clothes were still in the house. He's

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 the one that said that. That's the reason why he wouldn't
2 move in with her.

3 And then, Ms. Hester gets up and testifies, oh, those
4 are all mine. All the basketball shoes all over the floor,
5 the clothes hung up in the closet. So, obviously, she must
6 have cared enough about her ex-boyfriend to take the time
7 to hang up his clothes for him, and the boxers, they're all
8 hers. Inconsistencies? Yes. You heard it between the
9 girlfriend and boyfriend. They couldn't get that straight.

10 And I mention that, because the crux of the case
11 doesn't rely on that, but it does rely on credibility, and
12 that goes to their credibility. Remember what Ms. Hester
13 said? That Mr. Robbins was dropped off at her house.
14 Wasn't sure when. And then, she remembered she was in the
15 shower. And then, he went outside, and she didn't know
16 what he was doing. Dropped off by somebody she didn't
17 know. What did Mr. Robbins say how he got to the house?
18 Ms. Hester came and picked him up, and she wasn't with the
19 ten-year-old girls. She came by herself.

20 It is important. It's important because of the truck
21 that was left at the house. Mr. Robbins had the
22 opportunity to go into the truck. Ms. Hester didn't know
23 what he was doing. Mr. Robbins had the opportunity to
24 drive the truck, because Ms. Hester did admit to leaving,
25 and leaving the keys on the counter. He had opportunity to

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 get into that truck, period.

2 And it was Mr. Robbins' testimony that he was outside
3 painting this brick house. I'm pretty sure if somebody
4 came over to paint the house, any woman's house, any man's
5 house, you are going to be out there knowing what they were
6 doing with your house. I don't find it to be -- I submit
7 to you that is completely incredible, their two stories,
8 because they don't match, and those are very important
9 factors. Who had access to that truck?

10 It's interesting that Ms. Hester testified that she
11 allows all these other people to drive her truck, except
12 for her boyfriend. He can only drive it around the
13 neighborhood a little bit but everybody else can drive it
14 wherever they want.

15 And the other interesting thing is, Mr. Robbins is
16 certain that this is Angie's mom's house. Angie's mom's
17 house, and she allowed Angie to move into the home. What
18 did Angie say? That she's renting it from some guy named
19 Don, and she doesn't know who the previous owner is. How
20 telling is that? He knows better than her that her mom had
21 the house, and it's completely inconsistent. And there's a
22 reason why those stories and the minutia of the details of
23 their stories are inconsistent. Because they're not true.
24 They lack consistency.

25 And I don't want to spend too much time about that,

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 but I -- I would ask that you would consider the
2 credibility because of the inconsistencies of the stories.
3 I would ask that you don't pay attention to anything that
4 they said for those reasons, and the fact that I think
5 actually it fringes on his -- Mr. Robbins' credibility,
6 because he is a convicted felon, and you have to take that
7 into consideration as well.

8 And when we look at the princess backpack, a big deal
9 is being made about the princess backpack, Mr. Cook wants
10 you to believe that maybe the previous renter, and I don't
11 know if it's -- or the previous owner -- and I don't know
12 if it's Ms. Hester's mom, or Don, or whoever rented the
13 house. I'm not really sure but at this point, left the
14 Easter basket there with crack on it. And I'm not sure who
15 Ms. Hester believes that they brought in the cabinet, the
16 dresser drawers that had crack in there, too. So, that
17 wasn't hers. The Easter basket wasn't hers. She had no
18 idea what was in the truck, either. Has no idea.

19 And you remember what Lieutenant Ligon testified to
20 about that crack cocaine; how much that was worth? How
21 much was it worth? Twenty-eight thousand dollars. Nobody
22 leaves twenty-eight thousand dollars' worth of anything in
23 a truck and doesn't come looking for it. And the reason
24 why nobody comes looking for it, and it's not a big deal,
25 is because it's his. And he couldn't come looking for it.

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 He knew where it was. The officers had it. It's the same
2 drugs that we see right here.

3 I'm almost finished and I don't want to spend too much
4 time on that, because I really want to get to the elements
5 and explain to you things such as the lesser includeds that
6 the judge is going to explain to you, and reasonable doubt
7 and I think they're very important.

8 Madam Clerk, if you would please?

9 When I first appeared in front of you I told you about
10 the offense of trafficking crack cocaine and what the judge
11 is going to charge you on, and there's various ways that
12 you can be charged with trafficking cocaine. And one of
13 those is the actual or constructive possession of crack

14 cocaine and it just needs to be ten grams or more. And in
15 this particular case, Mr. Robbins was in constructive
16 possession of more than ten grams of crack cocaine. In
17 fact, he had a hundred and forty-one grams of crack
18 cocaine, fourteen times that minimum threshold;
19 approximately five ounces, and this occurred in York
20 County. That's what the State's required to prove.

21 The officers did conduct surveillance. They did watch
22 the house, and they explained to you why they did it. They
23 wanted to know who came in and out. They did have a search
24 warrant. I'm pretty sure it makes a lot more sense to make
25 sure that you know who's in and out of that house, and see

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 who's there so you -- before you open the door with a
2 search warrant, and try to ascertain what you face when you
3 go inside that house. It's a little bit more important to
4 their safety, and I don't think that's a fault, and I don't
5 believe that you should be criticizing them for doing their
6 job and trying to protect themselves.

7 But they watched Robbins pull into the driveway. I
8 know that not everybody that testified believes what these
9 officers testified to but they were all consistent. They
10 waited for him. They waited for Mr. Robbins, and when they
11 saw him, they followed him into the driveway. They watched
12 him get out of the car. They arrested him. He admitted he
13 had marijuana. I didn't bring that out. He did that.

14 They searched the car. They found the backpack, not
15 hidden in the back of the pickup truck, not hidden under a
16 seat, not hidden anywhere, right next to him in a vehicle
17 he had been driving. Not even on the far side of the
18 passenger seat. He admitted he had a hundred and forty-one
19 grams of crack, scales, and bags. Did Robbins have
20 dominion and control over those drugs? He absolutely did.
21 By virtue of the fact of it being in the car that he was
22 operating, that in and of itself is circumstantial evidence
23 of that.

24 But we don't just have that. We have more. He may
25 not be touching them. That does not mean his drugs --

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 we're going to beat the dead horse about the pen, but
2 that's true. They're still his drugs. He is the sole
3 occupant of that vehicle when he gets out. The officers
4 see him. They see no one else. Even the defendant and
5 even Ms. Hester testified, there was nobody else there
6 besides the ten-year-olds and Ms. Hester and Mr. Robbins.
7 Nobody around the woods. Nobody was fleeing. The officers
8 had been watching the house. Nobody could have fired those
9 drugs into the car and took off. It was Mr. Robbins. He
10 was the only person. And even if you believed his version
11 of the facts, he's the only one outside. They aren't Ms.
12 Hester's, and they certainly aren't the children's.

13 Knowing possession, knowing constructive possession,
14 knowing actual possession, I will submit to you, not only
15 was it constructive possession, but five minutes before
16 this even happened, he was in actual possession, and that's
17 because of what he told Lieutenant Ligon. I don't know. I
18 don't know how much drugs are there, because I didn't look
19 at it. The guy he got it from left him -- left him what he
20 gave him, what he had left, and that Robbins had been
21 dealing with that guy for the past few months. That's what
22 he told Lieutenant Ligon. Lieutenant Ligon has no reason
23 to make that up.

24 Did he knowingly possess those drugs? Here's what he
25 said. He'd been selling crack for the past two months.

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 That's what Mr. Robbins said. So, we need to suspend our
2 belief in reality, and think that a mysterious bag of crack
3 that was in the princess bag, that he claimed that he knew
4 about, that he admitted being fronted, and that he admitted
5 to selling drugs, and on this particular occasion he knew
6 nothing about any of this stuff. I mean, that's what you
7 would have to believe.

8 Where the drugs are found in the book bag sitting next
9 to him, there's the crack cookie, which is exactly the same
10 crack cookie that you saw; that photograph we placed into
11 evidence, that Officer McGarrity admitted that he took into
12 evidence. Crack cookie, the two other bags, the scales,
13 and the empty plastic baggies, there they are.

14 Twenty-eight thousand dollars' worth of crack cocaine
15 in the seat next to Mr. Robbins. Twenty-eight thousand
16 dollars. Is he in constructive possession of a hundred and
17 forty-one grams in York County? Absolutely. And not just
18 because of the circumstantial evidence of being in that
19 vehicle, with the drugs next to him, but because of his
20 statements.

21 And a search warrant only confirms this. Why?
22 There's a little bit of crack found in the drawer, inside
23 the house. There's a little bit of crack found in the
24 Easter basket. It's a little bit that's true. It's found
25 in one place or the other, maybe he's got a little bit of

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 plausible deniability.

2 But as Mr. Robbins admitted, he is a drug dealer. And
3 what is a little bit the one gram and the point two three
4 grams of crack cocaine mean? He's running low on crack, so
5 what did he do? He went to see somebody to front him the
6 drugs, so he could re-up to continue. That's why he had
7 the drugs in his car. He didn't quite get it inside, and
8 that's the common sense. Why would somebody leave twenty-
9 eight thousand dollars' worth of dope in the car? Well, he
10 didn't make it quite inside the house, because the officers
11 stopped him.

12 He is Mirandized, not once, he is Mirandized twice.
13 He could have invoked at any time. He freely admitted that

14 those statements were voluntary and he talked to the
15 officers. But he didn't agree with what the officers said
16 that he said. But as far as an issue, and the judge will
17 charge you on this, of whether the statements were
18 voluntary, I think, at this point, that's not something
19 that we have to prove, because he's already agreed to that.
20 Best case scenario, we ask that he voluntarily talked to
21 those officers.

22 And again, although Mr. Robbins, I don't believe,
23 denied this from the stand, he claims the small amount of
24 drugs in the house are his, as well. Not that, I didn't
25 know nothing about it, but he claims it. So, to believe

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 his side of the story, Officer Ligon and Officer McGarrity
2 made these things up about Mr. Robbins. Made up what he
3 said.

4 And why would they do that? Why would officers with
5 decades of experience, decades of narcotics investigations
6 pending and prosecuted through the years, why are they
7 willing to throw -- and all four of them, or twelve, how
8 ever many Mr. Robbins said was there, why would all of
9 these individuals conspire against Mr. Robbins, of all
10 people, and throw away their careers? Because that's what
11 you have to believe, that he's not a criminal. These
12 officers are, because they're involved in a big conspiracy
13 against him. That's not reasonable, and that's not common
14 sense, and it's not rational.

15 So, how do we know that it's over ten grams? Ms.
16 Mitcham. Ms. Mitchum testified to the quality. Ms.
17 Mitchum testified that it was crack, and the quantity of
18 crack. And she also, in addition to Lieutenant Ligon,
19 explained why what it looked like that particular day, it
20 no longer looks like that. Don't be confused by this.

21 The crack in the car, in and of itself, is over ten
22 grams. It's a hundred and forty-one grams. The crack in
23 the basket, one point zero six grams. The crack in the
24 drawer, point two three five grams. Is it over ten grams?
25 A hundred and forty-two point twenty-nine grams of crack

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 cocaine, well over. The State's proven that.

2 And again, a little bit I'm delve into what Lieutenant
3 Ligon told you, how much crack cocaine this is. A hundred
4 and forty grams. Giving him the benefit of the doubt, a
5 hundred and forty grams is fourteen hundred intoxicating
6 dose units. On the street could sell fourteen hundred
7 individual crack rocks, fourteen hundred. And the amount
8 of that, as testified by Lieutenant Ligon, is twenty-eight
9 thousand dollars' worth in drugs.

10 The scales, the baggie corner that was found with the
11 crack; folks, I submit to you that Mr. Robbins couldn't
12 even wait to get back to that house to start selling,
13 because that's what's found, the twenty-eight thousand

14 dollars' worth of crack cocaine, a baggie with a corner
15 missing. Where did that go? Officers didn't recover that.

16 This is not a coincidence. It corroborates that
17 Robbins is in the drug business. And again, we don't have
18 to prove that he sells drugs. We don't have to prove what
19 he wanted to do with the drugs, who he was going to give
20 the drugs to, or who he got the drugs from, or anything
21 else. We have to prove that he knowingly possessed those
22 drugs. And I think all the evidence points to that fact.
23 It is common sense. It is common sense.

24 And the judge has already advised you in the opening
25 instructions that you are required -- you can use that if

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 you so like. The defendant has scales to weigh it to make
2 sure he isn't gonna be -- He has baggies with the -- corner
3 baggies. He admits the drugs are his. And I have to
4 repeat this again, because all four of those officers are
5 not throwing their careers away for Mr. Robbins.

6 Ask yourself this when you're judging credibility and
7 consistency. Who was credible and consistent from the
8 stand? The police officers. Who was not? Mr. Robbins and
9 Ms. Hester. They don't have a motive to lie. You know who
10 does. The defendant and the defendant's girlfriend.
11 Credibility. They are not conspiring against Mr. Robbins.

12 You are going to receive some lesser included offenses
13 in this case, and the trafficking is over ten grams. As I
14 said before the two lesser included offenses that the judge
15 is going to give you are possession with intent to
16 distribute and simple possession of crack cocaine. And
17 it's almost like a tier. Trafficking over ten grams,
18 regardless if you have ten grams, a thousand grams, or a
19 million grams, that's the triggering offense to be --
20 triggering event to be called a trafficking offense. It is
21 a term of art which simply means engaging in activity with
22 drugs more than ten grams.

23 If it's under ten grams, you have a permissible
24 inference that you can infer if something has more than one
25 gram, up to ten grams, that they possess those drugs for

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1 the intent to distribute. But once you hit ten, that's
2 trafficking.

3 We don't have to prove he's a drug dealer if he has
4 more than ten grams. We don't have to prove how he
5 intended to dispose of those drugs if he had more than ten
6 grams. We just have to prove that he had dominion and
7 control, or attempted to have dominion and control over
8 those drugs to make him guilty under the trafficking
9 statute. And then the lesser I it's under one gram, that
10 would be the possession charge.

11 So, if we're just talking about possession with intent
12 to distribute, that one point zero three grams, that's over
13 the permissible inference level? Sure. That would be an

14 appropriate charge. That would be an appropriate
15 conviction if we were just talking about that little bit of
16 drugs right there. If we were talking about this little
17 bit of drugs right there in this family drawer, possession,
18 point two three grams, nothin, dust.

19 But find him guilty of what he's -- what he did. Find
20 him guilty of the hundred and forty-one grams of crack
21 cocaine. Find him guilty of trafficking, because that's
22 what he did. And your verdict must speak the truth. And I
23 know Mr. Cook said that in the beginning. That's what a
24 verdict is, speaking the truth. If you believe that he had
25 more than ten grams, that is what you convict him of. You

CLOSING ARGUMENT: BY SOLICITOR COLTON

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1 don't convict him of the lesser included.

2 So you won't be distracted, that house, again, I got a
3 little bit ahead of myself as I tend to do, but I'll end
4 with this, and ask you to find him guilty of -- guilty of
5 what he did, really.

6 We do have the burden of proof. We do have to prove
7 our case beyond a reasonable doubt, and it is the doubt
8 that would cause a reasonable person to hesitate to act.
9 But it's not deliberating. It's not what you're supposed
10 to go back to the jury room and do. And to throw around
11 the what if's, maybe's, the could be's, and possibilities
12 that Mr. Cook is proposing -- proposed to you all, that is
13 not a hesitation. It's called deliberating for a reason.
14 You throw around those ideas, and you then you make a
15 decision about what happened. It's not using common sense.
16 That's what you're supposed to do.

17 It's not merely circumstantial evidence.
18 Circumstantially, evidence is just as good as direct
19 evidence, and we have direct evidence and circumstantial
20 evidence. And the direct evidence is what you heard from
21 the stand, what these officers told you and the confession.
22 So, they're both. But reasonable doubt has to be
23 reasonable. Your doubt has to be reasonable and rational.

24 Trials are not about searching for doubt. They're
25 about searching for the truth. And the judge is the judge

CLOSING ARGUMENT: BY SOLICITOR COLTON
JURY CHARGE:

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1 of the law; you are the judge of the facts. That means you
2 determine what happened that day, whether he did it or not,
3 which raises to you why we are here. Solicitor, if this
4 case is so compelling, and the confessions are so
5 compelling, and you have this mountain of evidence against
6 Mr. Robbins, why are we here?

7 The Constitution. Because in this country, every
8 person, regardless of how much evidence you have against
9 them, regardless of how guilty they appear, has the right
10 to be tried by a jury, and have them determine their guilt
11 or innocence. That's why we're here.

12 How do you know that I've met my burden of proof? If,
13 at the end of your deliberation, and throwing around the

14 what if, maybe's, and could be's, in this case, if you
15 believe that he had and knew about the drugs in that car;
16 if you believe that, then the only verdict that you can
17 render that speaks the truth is guilty of trafficking. And
18 I ask you to return that verdict.

19 JURY CHARGE:

20 THE COURT: Members of the jury panel, excuse me, I
21 want to first, thank you for the attention you've given to
22 me and the attorneys and the witnesses who have testified.
23 And now, I'm going to ask you to give me your attention for
24 a few more minutes while I charge you the law which you are
25 to apply in this case.

JURY CHARGE:

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1 The indictments which you will have with you in the
2 jury room is not evidence. It contains the charge against
3 Mr. Robbins, and it is the paperwork by way of which this
4 case is processed through our court system. It will be,
5 Mr. Foreman, where you will ultimately the unanimous
6 verdict of the jury. We also have a verdict form, and I'll
7 go over all of that with you at the end of the charge. But
8 the indictment does not create any presumption of -- or
9 inference of guilt. It is simply the paperwork by way of
10 which this case is processed through our court, and
11 contains the charge that puts Mr. Robbins on notice as to
12 this charge the State has lodged against him.

13 To this charge, Mr. Robbins has pled not guilty. That
14 plea places on the State the burden of proving his guilt
15 beyond a reasonable doubt. Any person charged with
16 committing any criminal offense in our state is never
17 required to prove themselves innocent. I charge you that
18 it is an important rule of law that a defendant in a
19 criminal trial, no matter the seriousness of the charge or
20 what the charge may be, will always be presumed to be
21 innocent of the crime for which the indictment was issued,
22 until -- and unless and until guilt has been proven by
23 evidence satisfying you of his guilt beyond a reasonable
24 doubt.

25 This presumption of innocence is a substantial right.

JURY CHARGE:

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1 It's not a mere legal theory or a mere legal phrase. The
2 presumption of innocence attaches to an individual at the
3 time of their arrest; remains with them as their case is
4 processed through our court system. The presumption of
5 innocence in Mr. Robbins' favor exists at this moment, and
6 remains with him as you deliberate. The presumption of
7 innocence in his favor is removed if and when, and only if
8 and when, you find that the State has convinced you,
9 unanimously, of his guilt beyond a reasonable doubt.

10 Our courts have defined a reasonable doubt as the kind
11 of doubt that would cause a reasonable person to hesitate
12 to act. Proof beyond a reasonable doubt is proof that
13 leaves you firmly convinced of someone's guilt. There are

14 very few things in our world that we can know with absolute
15 certainty, and in criminal cases, our law does not require
16 proof that overcomes every possible doubt. If, based on
17 your consideration of the evidence, you are firmly
18 convinced that Mr. Robbins is guilty of the crimes for
19 which he is charged, you would find him guilty. If, on the
20 other hand, you think there's a real possibility that he is
21 not guilty, you must give him the benefit of that doubt,
22 and find him not guilty.

23 I remind you that I have had certain duties to perform
24 as trial judge. It is my responsibility to preside over
25 the case. I have the duty to and have ruled on the

JURY CHARGE:

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1 admissibility of evidence offered in the trial. You are to
2 consider only the competent evidence presented before you.
3 You are to consider only the testimony which has been
4 presented from the witness stand, and any exhibits which
5 have been made a part of the record in this case.

6 During the course of the trial, an attorney may have
7 made an objection to the introduction of certain evidence.
8 You are not to hold that against him or her, as that is
9 part of their job. You are to make no inference from the
10 fact that an attorney objected at any point in the trial.

11 I have the additional duty to charge you the law which
12 you are to apply in this case. I am the sole judge of the
13 law. You must take and accept apply -- take and accept and
14 apply the law as I charge it, even if you think I charge
15 the law in error, or even if you think the law should be
16 different. Our law does not allow a judge -- a trial judge
17 to formulate or express to a jury any opinion about the
18 facts. That is solely your job.

19 It is solely up to you to determine the facts in this
20 case, and give to the evidence the effect the effect, the
21 value, the weight, and the truth you believe it should
22 have. In doing this, you may believe several witnesses, as
23 opposed to one; one witness, as opposed to several. You
24 may believe all, part, or none of a witness's testimony.
25 In judging the facts, you must, necessarily, determine the

JURY CHARGE:

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1 credibility of the witnesses who have testified.

2 Credibility simply means believability.

3 It is your duty as jurors to analyze and evaluate the
4 evidence, and determine which evidence convinces you of its
5 truth. In determining the believability of witnesses who
6 have testified, as I said, you may believe one witness over
7 several or several over one. You may believe part or all
8 of the testimony of a witness, and reject the remaining
9 part of the same witness. You may believe the testimony of
10 a witness in its entirety or reject it in its entirety.
11 Use your common sense, your sense of reason, and your
12 experience in life in analyzing the evidence.

13 You may also evaluate truthfulness through certain
14 evaluators, such as a witness's demeanor, how they act on
15 the stand. Look at a witness's testimony. Are they
16 hesitant or straightforward. Look at the consistencies or
17 inconsistencies in a witness's testimony at trial, or as
18 compared to prior testimony or statements. You may also
19 consider any bias or prejudice in which a witness may have,
20 that is, any reason to help or hurt one side or the other.
21 You may also consider the opportunity a witness might have
22 to know those things to which the witness testified. You
23 may also consider a witness's criminal record in assessing
24 the witness's credibility. You may only consider Mr.
25 Robbins' prior criminal record in assessing his

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1 credibility, and you may not rely on his prior criminal
2 record as evidence of the charge -- of the current charge
3 for which he is on trial. Excuse me.

4 Our rules of evidence ordinarily do not permit a
5 witness to testify as to opinions or conclusions. An
6 exception to this rule exists when a witness is qualified
7 and is what we call an expert witness. An expert witness
8 is a witness who, by education and experience, have become
9 experts in some art, science, profession, or calling, and
10 that witness must state an opinion as to relevant and
11 material matter in which a witness claims to be an expert,
12 and may also state the reasons for that opinion.

13 You should consider any expert opinion received in
14 evidence in this case, and like it, give it the weight that
15 you think it deserves. You look at an expert witness's
16 testimony with the same lens that you look at any witness.
17 That is, judge the credibility, accept and reject it, as
18 I've already talked about.

19 It is up to you to decide whether the opinion of an
20 expert is based on sufficient education and experience, or
21 you can conclude that the reasons given in support of the
22 opinion are sound or not. If that opinion is outweighed by
23 other evidence, you may disregard the opinion entirely. An
24 expert witness's testimony is to be given no greater weight
25 than that of other witnesses, simply because the witness

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1 has been designated an expert.

2 Further, you are not required to accept an expert's
3 opinion, even though it is not contradicted. The testimony
4 of expert witnesses is not binding on you. As I said, you
5 may accept or reject that testimony, in whole and in part,
6 and even though I qualified the -- Ms. Mitchum as an
7 expert, you determine whether you believe she had the
8 qualifications to give the opinions she gave; and you also
9 look at the -- you may look at the reasons she gave for
10 reaching the opinion -- the opinions she reached.

11 There are two types of evidence which are generally
12 presented during a trial, direct evidence and
13 circumstantial evidence. Direct evidence directly proves

14 the existence of a fact, and does not require deduction.
15 Circumstantial evidence is proof of a chain of facts and
16 circumstances indicating the existence of a fact. Crimes
17 may be proven by circumstantial evidence. The law makes no
18 distinction between the weight or value to be given to
19 either direct or circumstantial evidence.

20 However, to the extent the State relies on
21 circumstantial evidence, all the circumstances must be
22 consistent with each other, and when taken together, point
23 conclusively to the guilt of the accused beyond a
24 reasonable doubt. If these circumstances merely portray a
25 defendant's behavior as suspicious, the proof has failed.

JURY CHARGE:

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1 The State has the burden of proving the defendant guilty
2 beyond a reasonable doubt, and this burden rests with the
3 State, regardless of whether the State relies on direct
4 evidence, circumstantial evidence, or a combination of the
5 two.

6 A statement or here a couple of statement allege to
7 have been made by Mr. Robbins have been admitted into
8 evidence in this case. While the Court, myself, has
9 already determined that that statement was admissible, I
10 instruct you that you make you decision of whether or not
11 the defendant made the statement. If the defendant did
12 make the statement, you must determine whether the
13 statement was made by him voluntarily and of his own free
14 will. This means that the statement was not caused by
15 pressure, force, fear, threats, coercion, or intimidation,
16 or by hope or a promise of leniency, or of a reward of any
17 kind.

18 In determining whether a statement was voluntary, you
19 should consider both the characteristics of the defendant,
20 here, Mr. Robbins, and the details of any questions. Some
21 of the factors you must consider are the age of the
22 defendant, his mental ability or capacity, the place and
23 length of detention, the nature of the question, and the
24 advice or lack thereof to the defendant of his
25 Constitutional rights, including but not limited to the

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1 right to remain silent; that any statement could be used
2 against him in a court of law; that he had the right to
3 have a lawyer present; and that if he could not afford one,
4 one would be appointed for him at no cost; and that he
5 could stop making a statement at any time. You must
6 carefully consider all of the surrounding circumstances
7 before you give any weight to any alleged statement.

8 The State has the burden of proving beyond a
9 reasonable doubt that the alleged statement was voluntary.
10 If you determine it was, you may give it such further
11 consideration as you deem proper. You must decide what
12 weight, if any, should be given to the alleged statements.
13 If you determine the alleged statements were not the free

14 and voluntary statement of Mr. Robbins, you should not
15 consider them at all.

16 In addition to the charge of trafficking in crack
17 cocaine, you've heard the attorneys mention that there are
18 what we call lesser included offenses that you may consider
19 in light of the evidence. I will go over them in order
20 starting with the charge of trafficking, which is the
21 charge that he is charged with.

22 By way of example, I always ask you to imagine a set
23 of steps. On the top step, you have trafficking, the
24 highest offense. That's what he's charged with. You go
25 down a step, you have possessing -- possession of crack

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1 cocaine with intent to distribute. It's a little lesser
2 offense. It's a step down from trafficking. And if you
3 step down one more time, you have the offense of simple
4 possession of crack cocaine, which is a step down from the
5 other two. There are actually two from trafficking. But
6 they -- you are, depending on your consideration and
7 determination of the facts, and the law as I'm going to
8 charge it to you as to these three charges, may consider
9 any or all three of those offenses in your jury
10 deliberations.

11 The charge he is charged with is trafficking in crack
12 cocaine. Here, the State must prove beyond a reasonable
13 doubt that the defendant knowingly sold, manufactured,
14 cultivated, delivered, purchased, brought into this state,
15 provided financial assistance, or otherwise aided, abetted,
16 attempted, or conspired to sell, manufacture, cultivate,
17 deliver, purchase, or bring into this state, or was
18 knowingly in actual or constructive possession, or
19 knowingly attempted to become in actual or constructive
20 possession of crack cocaine.

21 To prove possession, the State must prove beyond a
22 reasonable doubt that the defendant had the power and
23 intent to control the disposition or use of the crack
24 cocaine. Possession may be either actual or constructive.
25 Actual possession means that the crack cocaine was in the

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1 actual physical custody of the defendant. Constructive
2 possession means that the defendant had dominion and
3 control, or the right to exercise dominion and control,
4 over either the crack itself or the property on which the
5 crack was found.

6 Mere presence at the scene where drugs were found is
7 not enough to prove possession alone. A defendant's
8 knowledge and possession may be inferred when a substance
9 is found on the property under the defendant's control.
10 However, this inference is simply an evidentiary fact to be
11 taken into consideration by you, along with the other
12 evidence in this case, and is to be given such weight, if
13 any, as you decide it should have. Two or more persons may

14 have joint possession of a drug.

15 The State must also prove beyond a reasonable doubt
16 that the amount of crack cocaine, under that charge,
17 amounted to ten -- the amount was ten grams or more. As to
18 all three of these charges, I am instructing you, the State
19 must prove beyond a reasonable doubt that the substance at
20 issue was, in fact, crack cocaine. If you determine the
21 State has not proven trafficking in crack cocaine -- not
22 proving the defendant guilty of that beyond a reasonable
23 doubt, you should then consider whether the State has
24 proven beyond a reasonable doubt that the defendant is
25 guilty of possession with intent to distribute crack

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1 cocaine. Possession with intent to distribute contains all
2 the elements of trafficking except the amount of crack
3 cocaine.

4 In addition, the State must prove beyond a reasonable
5 doubt, as to possession with intent to distribute crack
6 cocaine, that he, the defendant, had the intent to
7 distribute the crack cocaine. Distribute means to deliver
8 a drug; here, that drug, of course, is crack cocaine.
9 Intent may be shown by acts and conducts of the defendant,
10 and other circumstances from which you may naturally and
11 reasonably infer intent.

12 In determining whether the defendant had the intent to
13 distribute any crack cocaine, you may consider the
14 circumstances surrounding his alleged possession. You may
15 consider the amount of the substance alleged to have been
16 in possession, the manner in which it was allegedly
17 possessed, the place where it was allegedly possessed, and
18 other factors which you consider to be important. You must
19 find that the defendant did not intend to have the crack
20 solely for his own use to convict him of possession with
21 intent to distribute.

22 Our law states that possession of more than one or
23 more grams of crack cocaine creates an inference that the
24 defendant possessed the crack cocaine with the intent to
25 distribute. The inference does not relieve the State from

JURY CHARGE:

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1 proving beyond a reasonable doubt that the defendant had
2 the intent to distribute. It is simply an evidentiary fact
3 to be taken into consideration by you, along with the other
4 evidence in this case, and to be given the weight, if any,
5 you discern it should have.

6 If you find that the State has failed to prove beyond
7 a reasonable doubt that Mr. Robbins is guilty of the top-
8 step trafficking; the next step, possession with intent to
9 distribute, you may consider whether the State has proven
10 beyond a reasonable doubt whether Mr. Robbins is guilty of
11 simple possession of crack cocaine. Simple possession does
12 not require intent to distribute crack cocaine.

13 The State must prove here beyond a reasonable doubt

14 that the defendant knowingly or intentionally possessed
15 crack cocaine. Knowingly means with knowledge,
16 consciously. Knowingly is something that's not accidental.
17 Intentionally means willfully, intending the results which
18 actually occurs; not accidentally or involuntary. Intent
19 may be shown by acts and conducts of the defendant and
20 other circumstances from which you may naturally and
21 reasonably infer intent.

22 Now, I have a verdict sheet here that has four
23 possible verdicts. I will talk to you more about that in
24 just a minute. There is no signif -- well, I'll talk to
25 you about that in a minute.

JURY CHARGE:

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1 The verdict that you render must be unanimous. All
2 twelve jurors must agree. Once all twelve of you agree,
3 the foreman will write the verdict on your behalf, and that
4 will be your unanimous verdict.

5 Mr. Honaker, you will stay in as the alternate when
6 the jury goes out, you will not go out this time. Your
7 verdict cannot be based on passion, prejudice, sympathy,
8 public opinion, or matters outside of the record. If you
9 have any questions, knock on the door and let the bailiff
10 know. I may be doing some other work, but the bailiff can
11 -- probably this late in the afternoon I won't be doing a
12 whole lot of other things, but I'll send for you as
13 promptly as I can.

14 Let me back up. If you have a question, write it
15 down, knock on the door. Give it to the bailiff. The
16 bailiff will bring it to me. I'll will confer with the
17 attorneys about whatever the note asks. It may be that I
18 can write an answer on the note and send it back in with
19 you, Mr. Foreman, as you deliberate. If I do that when you
20 conclude deliberating, bring that note back with the
21 evidence, because I have to make it part of the record.

22 If you want testimony replayed, we can do that. Let
23 us know, and we'll bring you back here, in the jury room,
24 and play for you any testimony you wish to hear. You are
25 not -- when you have reached a verdict, knock on the door,

JURY CHARGE:

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1 and inform the bailiff that you have reached a verdict.
2 And at that time, as soon as we can, we'll receive you back
3 here in the courtroom.

4 I will give you a copy of these instructions in
5 written form to take in with you. During your
6 deliberations, you may refer to these instructions to guide
7 your decision making. You must consider the instructions
8 as a whole, and not follow some and ignore others. Please
9 return these instructions to the Court when your verdict is
10 rendered.

11 Now, as I said, there are four possible verdicts set
12 forth on the verdict form. The fact that they are in a
13 certain order is of no importance. I have to set them out

14 in some form, so I always set them out in the same order.
15 But I emphasize that the fact that one is higher on the
16 list than the others does not give it any more importance
17 than the others.

18 If you find that the State has failed to find the
19 defendant, the State has failed to prove Mr. Robbins guilty
20 beyond a reasonable doubt, then you would put a check or a
21 X on the bottom line of the verdict form that says, we find
22 the defendant not guilty.

23 If, on the other hand, you find that the State has
24 proven Mr. Robbins guilty of trafficking, or of possession
25 with intent to distribute crack cocaine, or the lesser

JURY CHARGE:

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1 included offense of simple possession of crack cocaine, if
2 you have found one of those other three, other than not
3 guilty, you would, as to the unanimous verdict of the jury,
4 trafficking of the two -- one of the two lesser included's,
5 possession with the intent to distribute or simple
6 possession, put an X or a check in front of that line.

7 There's a place for you to sign, and a place -- and
8 it's already dated. So, I'm going to let you go to the
9 jury room now, everyone but the alternate. And do not
10 start deliberating until you hear further from me.

11 (WHEREUPON, JURY EXITS COURTROOM AT TO DELIBERATE AT
12 04:11 PM.)

13 THE COURT: Mr. Honaker, I'll be with you in just one
14 moment.

15 Anything from the State involving the charge?

16 SOLICITOR COLTON: No, sir, your Honor.

17 THE COURT: Anything from the defendant involving the
18 charge?

19 MR. COOK: No, sir, your Honor.

20 THE COURT: All right. Check the exhibits, and make
21 sure they're in order, and we'll send in the indictment,
22 the charge, and the verdict form.

23 Tell the jury to start deliberating. We'll be at
24 ease. If the Solicitor has any work let us know.

25 (ALTERNATE JUROR DISMISSED.)

ALLEN CHARGE:

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1 (COURT IN RECESS AT 04:11 PM.)

2 (COURT BACK IN SESSION AT 04:15 PM.)

3 (ROBERT TAYLOR PLEA WITH ASHLEY ANDERSON.)

4 (WILLIAM JONES PLEA WITH DAVID COOK.)

5 (COURT IN RECESS AT 04:54 PM.)

6 (COURT BACK IN SESSION AT 06:05 PM.)

7 THE COURT: Thank you, you may take your seats.

8 We've received a verdict from the -- received a note
9 from the jury that they are hopelessly deadlocked, to use
10 their words. I do not see a verdict as possible, even with
11 further deliberations, and it's signed by Mr. Pace the
12 foreperson. I'm going to bring the jury in, and ask them
13 to further deliberate, utilizing the Allen charge as the
14 basis for asking them to so do.

15 Anything from the State before they come in?

16 SOLICITOR COLTON: No, Judge.

17 THE COURT: From the Defense?

18 MR. COOK: No, sir, your Honor.

19 THE COURT: All right. Bring 'em in.

20 (WHEREUPON, JURY REENTERS COURTROOM AT 06:07 PM.)

21 THE COURT: Mr. Foreman, and members of the jury, I've
22 received a note that you are deadlocked at this time. I
23 certainly appreciate your communicating that with me. I
24 instructed you earlier that, of course, your verdict has to
25 be unanimous. However, I'm going to talk to you just for a

ALLEN CHARGE:

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1 few minutes.

2 When a matter is in dispute, it isn't always easy for
3 even two people to agree, so, when twelve people must
4 agree, it obviously becomes more difficult. In most cases,
5 absolute certainty cannot be reached or expected. However,
6 you have a duty to make every reasonable effort to reach a
7 unanimous verdict.

8 In doing this, you can -- you should consult with one
9 another, express your own views, and listen to the opinions
10 of your fellow jurors. Tell each other how you feel, and
11 why you feel the way you do; discuss your differences with
12 open minds. Although the verdict of the jury must be
13 unanimous, every one of you has the right to your own
14 opinion. The verdict you agree on must be your own
15 verdict, the results of your own convictions, and you
16 should not give up your firmly-held beliefs, merely to be
17 in agreement with your fellow jurors.

18 Regardless, you should consider the minority's
19 position, and the minority should consider the majority's
20 position. You should carefully consider and respect the
21 opinions of each other, and reevaluate your positions for
22 reasonableness, correctness, and impartiality. You must
23 lay aside all outside matters, and reexamine the questions
24 before you, based on the law and the evidence that's been
25 presented in the case.

ALLEN CHARGE:

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1 If you do not agree on a verdict, I will have to
2 declare a mistrial. In that case, it doesn't mean anybody
3 wins. It just means that at some future time, myself or
4 another judge and another jury, sitting where you are, will
5 have to try the case at that -- will try the case at that
6 time. The same participants will come. The same lawyers
7 will basically ask the same questions and get the same
8 answers. And probably, the same witnesses will be those
9 who testify, and we'll go through this whole process again.

10 You were selected in the same manner and from the same
11 source as any future jury, and there's no reason for me to
12 believe that the case will even be submitted to twelve more
13 intelligent, impartial, conscientious, and competent juries

14 than are you, or, that more clearer evidence will produced
15 on one side or the other.

16 With that said, I'm going to ask you to continue to
17 deliberate for some time, and see if you can't reach a
18 unanimous verdict. Thank you.

19 JUROR NUMBER ONE SIXTY-NINE: God.

20 (WHEREUPON, JURY EXITS COURTROOM AT 06:10 PM.)

21 THE COURT: Anything from the State involving the
22 charge?

23 SOLICITOR COLTON: No, your Honor.

24 THE COURT: Defense?

25 MR. COOK: No, sir, your Honor.

VERDICT:

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1 THE COURT: Okay. We will remain -- stick around.
2 We'll see where we are. It's ten after six now, and I sent
3 a note in around six asking, with the permission of the
4 attorneys, asked if they wanted to order a meal.

5 Tell them it will take about an hour to get the meal.

6 And my response was the note I just read about being
7 deadlocked. So, we're just here for the time being.

8 (COURT IN RECESS AT 6:11 PM.)

9 (WHEREUPON, COURT'S EXHIBIT NUMBERS ELEVEN AND TWELVE,
10 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

11 (COURT BACK IN SESSION AT 06:26 PM.)

12 THE COURT: Thank you. You may take your seats. We
13 have a note from the jury that they have reached a verdict.

14 Ready for the jury to come in, State?

15 SOLICITOR COLTON: Yes, Judge.

16 THE COURT: Defense?

17 MR. COOK: Yes, sir, your Honor.

18 THE COURT: All right. Bring in the jury.

19 (WHEREUPON, JURY REENTERS COURTROOM AT 06:28 PM.)

20 THE COURT: Mr. Foreman, I understand the jury has
21 reached a verdict?

22 MR. FOREMAN: Yes, sir, your Honor.

23 THE COURT: If you would hand it up to the bailiff,
24 she will hand it up to me.

25 (WHEREUPON, VERDICT RECEIVED UP BY THE COURT.)

VERDICT:

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1 MADAM CLERK: In the State of South Carolina versus
2 Antonio Lamont Robbins under Indictment 2015-GS-46-03147,
3 we, the jury, find the defendant guilty of trafficking in
4 crack cocaine in the amount of ten grams or more. Signed
5 by the Foreperson, dated today's date.

6 If this be your verdict, so say you all by raising
7 your right hand. Let the record show, all jurors affirmed
8 this verdict.

9 (ALL JURORS AFFIRMED VERDICT.)

10 THE COURT: Anything before the jury is dismissed?

11 SOLICITOR COLTON: No.

12 THE COURT: From the State?

13 SOLICITOR COLTON: No, sir.

14 THE COURT: Anything?

15 MR. COOK: No, sir, your Honor.

16 THE COURT: All right. Thank you all. This was a
17 tough case, and I appreciate your diligence, and I'm going
18 to allow you to leave now. The -- this finishes us for the
19 week. So you feel free to leave, or you can come back in,
20 in the back. I don't require jurors to stay for the
21 sentencing. If you wish to be here to see what I do, based
22 on your verdict, the bailiffs will show you how to come in
23 the back, and we'll take a few minutes to allow you to do
24 that, but you don't have to, and you'll be mailed a check.

25 Thank you.

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1 Mr. Foreman, we do need you to take care of one more
2 piece of business, please.

3 (WHEREUPON, JURY EXITS THE COURTROOM AT 06:29 PM.)

4 MADAM CLERK: I need for you to write your verdict
5 right here.

6 THE COURT: Thank you.

7 MR. FOREMAN: Thank you, your Honor.

8 THE COURT: The jury has been dismissed. Anything
9 from the State? Not dealing with the sentencing yet.

10 SOLICITOR COLTON: No. No, your Honor.

11 THE COURT: Anything from the Defense?

12 MR. COOK: Yes, sir, your Honor. Motion for a new
13 trial, and motion for a jury non absconde verdicto.

14 THE COURT: Well, I deny both of those. As I said
15 when I ruled on the directed verdict motions that my
16 observation was that -- I found that there was sufficient
17 direct and substantial circumstantial evidence from which a
18 jury could conclude, as they did, that Mr. Robbins was, in
19 fact, guilty beyond a reasonable doubt of trafficking in
20 crack cocaine, so, these motions are denied.

21 MR. COOK: Thank you, your Honor.

22 SOLICITOR COLTON: And, Judge --

23 THE COURT: Wait.

24 SOLICITOR COLTON: And I apologize for a minute. I
25 brought the wrong -- I didn't bring my trial book back in.

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1 I brought a different book in. Ms. Weaver went back to it.
2 It has all the prior offenses in there, so I may need one
3 minute for her to bring that back.

4 THE COURT: Okay. Well, I was going to wait and let's
5 see if any of the other jurors, the alternate Mr. Honaker
6 is still here; see if any of the others want to come in and
7 see what we do.

8 (WHEREUPON, JURORS ENTER THE COURTROOM FROM THE BACK
9 ENTRANCE.)

10 THE COURT: Madam Solicitor, let me hear the State on
11 sentencing, particularly his prior record.

12 SOLICITOR COLTON: Yes, sir, your Honor.

13 Judge, Mr. Robbins has two prior convictions of drug

14 offenses involving crack cocaine. The first was a
15 conviction for distribution of crack cocaine, first
16 offense, on 3/17/2004. And the second is a distribution --
17 excuse me -- PWID crack cocaine, second offense. That was
18 a conviction on 8/23/2013, and I'd like to make those
19 Court's exhibits, if I may, your Honor. And they would
20 constitute his predicate offenses.

21 THE COURT: So, this would be a third offense?

22 SOLICITOR COLTON: Third offense, your Honor.

23 THE COURT: For sentencing purposes.

24 (WHEREUPON, COURT'S EXHIBIT NUMBERS FOURTEEN AND
25 FIFTEEN PREMARKED FOR IDENTIFICATION.)

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1 SOLICITOR COLTON: And your Honor, they've been marked
2 as Court's Exhibits Fourteen and Fifteen.

3 THE COURT: Beg your pardon?

4 SOLICITOR COLTON: They've been marked as Court's
5 Exhibits Fourteen and Fifteen. Would your Honor?

6 (WHEREUPON, COURT'S EXHIBIT NUMBERS FOURTEEN AND
7 FIFTEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

8 THE COURT: You can just leave them there.

9 You don't contest this is a third ---

10 MR. COOK: No, sir, your Honor.

11 THE COURT: --- a third drug offense? It qualifies
12 for sentencing as a third.

13 MR. COOK: I do not contest that, your Honor.

14 THE COURT: What other record, if any, does he have?

15 SOLICITOR COLTON: Your Honor, he received eight years
16 on the first distribution offense in 2004; five years in
17 2013. And accompanying that charge was an unlawful carry
18 of a pistol. Dating back to 2003, he had a resisting
19 police out of North Carolina. In 2003, a separate
20 maintaining a dwelling or a vehicle for the purposes of
21 controlled substance violation and that's in North
22 Carolina. 2004, the distribution I mentioned, your Honor.
23 1998, resisting police in North Carolina. 2009, resisting
24 police, reckless driving, failure to stop for blue light,
25 driving while intoxicated, eluding police second offense,

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1 and carrying a concealed weapon. In 2009, an eluding
2 arrest with two aggravating factors in North Carolina. And
3 2014, in South Carolina, driving under suspension, failure
4 to stop for a blue light, resisting arrest, and an unlawful
5 carrying of a weapon.

6 During the course of that time, your Honor, I think he
7 was placed on probation. With my records, at least two
8 times, he had two felony violations of probation in North
9 Carolina, 2010 and 2011.

10 THE COURT: The -- What I find most significant about
11 that record, not only is it -- its length and its I guess
12 what's called the quality is -- how was he not in jail on
13 the date this occurred?

14 SOLICITOR COLTON: He's on parole, your Honor.

15 THE COURT: All right. Mr. Cook, bring Mr. Robbins --
16 We don't him to come around, he can stand right there.

17 I'd be glad to hear from you from there.

18 MR. COOK: Yes, sir, your Honor. Your Honor, my
19 client is thirty-four years old. He received a tenth grade
20 education. He is not married, and he has three children.
21 He, obviously, at this point, is throwing himself on the
22 mercy of the Court. I've explained to him the nature of
23 the statute and the sentencing range, your Honor.

24 THE COURT: All right. How long has he been in jail?

25 MR. COOK: I apologize. I don't have the date figure,

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1 your Honor.

2 THE COURT: Tell me the day he was arrested. I don't
3 remember it from the testimony. My clerk will determine
4 how much time he gets.

5 MR. COOK: Yes, sir, your Honor. He's been
6 incarcerated since June 24th he's telling me. And I agree
7 with that, that's what the Public Index says.

8 THE COURT: All right.

9 MR. COOK: June 24, 2015 was his date of
10 incarceration.

11 THE COURT: Mr. Robbins, is there anything you want to
12 say?

13 MR. ROBBINS: I want to say that, even though the jury
14 found me guilty, I wasn't guilty of this charge back then.
15 And I just hope that I can come back on the appellate court
16 and whatever, and show me mercy and grace. I mean, I
17 didn't -- I didn't do this charge back then, your Honor. I
18 didn't do it.

19 THE COURT: Well, as I told you, when you testified
20 outside of the presence of the jury, that I had to be the
21 finder of fact, that I found your testimony not to be
22 credible at all, and I still don't find it to be credible,
23 and the jury obviously did not.

24 Your record is abominable, for lack of a better way to
25 say it. And its one of these things that I just don't get

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1 why someone wants to keep putting themselves in jeopardy,
2 and knowing what it's like to spend some time in jail, and
3 they just keep doing that revolving door. I also am very
4 conscious that there is a movement now to do away with
5 mandatory minimum sentences. This mandatory minimum is
6 twenty-five. That's the least I can give you, thirty at
7 the most. And there is a move to do away with mandatory
8 minimums because of some issues and problems. However,
9 with your background, and your -- the nature of this
10 offense, the quantity of the drugs that you had, I believe
11 the sentence of the mandatory minimum here would be very
12 favorable to you, but I feel exceeding that is the proper
13 thing to do. Anything else you want to say?

14 MR. ROBBINS: You know, just show me mercy and grace.

15 THE COURT: Well, at this stage I just can't show you
16 mercy. I'm sorry. That's -- if things were different --
17 I'd like to think I have mercy in my heart, but the ravages
18 that exist in our community because of illegal drugs, and
19 you've had ample time to -- to turn your ways, so, I'm
20 sentencing you to thirty years in jail. Thank you.

21 And I'm going to give you credit for however many days
22 you've already been, once I find that out.

23 (DEFENDANT, ANTONIO ROBBINS, EXITS COURTROOM.)

24 THE COURT: And I want to thank the attorneys for
25 their courtesy in the handling of this case.

1 SOLICITOR COLTON: Thank you, your Honor.

2 MR. COOK: It's a pleasure, your Honor.

3 THE COURT: Mr. Cook, just so you will be aware, it
4 was two hundred and sixty-four days.

5 MR. COOK: Thank you, your Honor.

6 THE COURT: We'll be at ease until tomorrow bright and
7 early.

8 (WHEREUPON, COURT'S EXHIBIT NUMBERS THIRTEEN AND
9 SIXTEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 (COURT ADJOURNED IN THE MATTER OF STATE V. ANTONIO
11 ROBBINS AT 06:40 PM.)

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CERTIFICATE OF REPORTER

State of South Carolina }

County of York }

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for 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 evidence introduced in the trial of the captioned case, relative to appeal, in the Family Court of Rock Hill for York County, South Carolina, on 31st day March, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson
Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: June 27, 2016

County: York
Date: March 16, 2016

VOIR DIRE/BATSON SHEET

Case No.: 20165- GS-46-03147

Judge: Honorable John C. Hayes, III

Pl./State: State of South Carolina

Pl.State Atty's.: Solicitor Jennifer Colton
Solicitor Teasa Weaver

Defendant: Antonio Lamont Robbins

Defense Atty: David C. Cook

Court Reporter: Wanda Nelson, CVR-M

Juror No.	Name	Race	Sex	STRIKES			
				*Court	Plaintiff	Defense	Accept
22	Stacey L. Dyer	W	F			X-1	
169	Eddie D. Neal	W	M				X-1
173 **	Darrell W. Pace	W	M				X-2
60	Feliza B. Dampac	A	F				X-3
107	Alan G. Hinchman	W	M				X-4
94	Collier M. Hall	W	M			X-2	
249	Rich L. Zinser	W	M				X-5
77	Randall S. Fadness	W	M				X-6
155	Bretta L. McGill	W	F			X-3	
11	Jessica A. Balazero	W	F				X-7
154	Bobby L. McCullough	B	M		X-1		
5	David J. Allison	W	M				X-8
50	Kelly M. Costner	W	M		X-2		
147	Phillip B. Mason	W	M		X-3		
74	Dennis B. Edwards	W	M				X-9
222	Lynne L. Thompson	W	F				X-10
235	Ian R. Welsh	W	M	X-1			
40	Derek J. Chassie	W	M				X-11
161	Jehria D. Moise	B	F		X-4		
125	James L. Jones	W	M				X-12
104	Johnny L. Helms, Junior	W	M			X-1	
110	John A. Honaker	W	M				X-13
144	Valarie E. Marek	W	F				X-14

*For the Court column, indicate who made the motion to strike the jurors for cause.

C-Court, P-Plaintiff, D-Defense

** Foreperson

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York Circuit Court RANDOM STRIKE SHEET

Wedn 10:00

+ 6P-762

JUDGE NAME : Hayes, III, John C.

TRIAL TYPE : Criminal

Sorted by: Random Nbr

JEL ID : 3-16 CRTM 1, 2016

DESCRIPTION : 3-16 CRTM 1

Trial

JRTROOM CT1

State -v- Antonio Lamont Robbins

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Dyer, Stacey L	22	W	F	()	(X)-1	()	Seated -1
2 Neal, Eddie D	169	W	M	()	()	()	Seated -2
**3 Pace, Darrell W <i>Foreperson</i>	173	W	M	()	()	()	Seated -3
4 Dampac, Feliza B	60	A	F	()	()	()	Seated -4
5 Hinchman, Alan G	107	W	M	()	()	()	Seated -5
6 Hall, Collier M	94	W	M	()	(X)-2	()	Seated -6
7 Zinser, Rich L	249	W	M	()	()	()	Seated -7
8 Fadness, Randall S	77	W	M	()	()	()	Seated -8
9 McGill, Bretta L	155	W	F	()	(X)-3	()	Seated -9
10 Balarezo, Jessica A	11	W	F	()	()	()	Seated -10
11 McCullough, Bobby L	154	B	M	(X)-1	()	()	Seated -11
12 Allison, David J	5	W	M	()	()	()	Seated -12
13 Costner, Kelly M	50	W	M	(X)-2	()	()	Seated -13
14 Mason, Phillip B	147	W	M	(X)-3	()	()	Seated -14
15 Edwards, Dennis B	74	W	M	()	()	()	Seated -15
16 Thompson, Lynne L	222	W	F	()	()	()	Seated -16
17 Welsh, Ian R	235	W	M	()	()	(X)-1	Seated -17
18 Chassie, Derek J	40	W	M	()	()	()	Seated -18
19 Moise, Jehria D	161	B	F	(X)-4	()	()	Seated -19
20 Jones, James L	125	W	M	()	()	()	Seated -20
21 Helms, Johnny L Jr.	104	W	M	()	(X)-1	()	Seated -21
22 Honaker, John A <i>Alt 1</i>	110	W	M	()	()	()	Seated -22
Marek, Valerie E <i>Alt 2</i>	144	W	F	()	()	()	Seated -23
24 Sherrill, Frances A	205	W	F	()	()	()	Seated -24

York Circuit Court RANDOM STRIKE SHEET

16363

JUDGE NAME : Hayes, III, John C.
TRIAL TYPE : Criminal
CASE ID : 3-16 CRTM 1
COURTROOM CT1

DESCRIPTION: 3-16 CRTM 1

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PL	DEF	CRT	REMARKS
25 Belton, Tracy L	14	B	F	()	()	()	
26 Fabian, John M	76	W	M	()	()	()	
27 Whitesides, William M	239	W	M	()	()	()	
28 Vu, Quoc H	232	A	M	()	()	()	
29 Whitlock, Audrey D	68	B	F	()	()	()	
30 Dorn, Stacey L	65	W	F	()	()	()	
31 White, Theresa L	237	W	F	()	()	()	
32 Hoyle, Meghan S	112	W	F	()	()	()	
33 Hargett, Timothy A	96	W	M	()	()	()	
34 Robinson, Joshua T	196	W	M	()	()	()	
35 Tran, Jennifer R	225	W	F	()	()	()	
36 Harris, Cynthia E	99	B	F	()	()	()	
37 Reynolds, Shelley H	191	W	F	()	()	()	
38 Robinson, Judy E	197	W	F	()	()	()	
39 Mccarty, Phillip M	150	W	M	()	()	()	
40 Stewart, Lawrence K	214	W	M	()	()	()	
~~41 McMullen, Robbie A~~	~~156~~	~~B~~	~~F~~	~~()~~	~~()~~	~~()~~	<del></del>
42 Karriker, Glenda S	130	W	F	()	()	()	
~~43 Rosales, Pedro J~~	~~199~~	~~H~~	~~M~~	~~()~~	~~()~~	~~()~~	<del></del>
44 Hudspeth, Lisa H	113	W	F	()	()	()	

Total Number of Jurors:

** END OF REPORT **

44 42

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610200985

ACTION OF GRAND JURY

TRUE BILL

Shirley Anderson
Foreperson of Grand Jury
Date: 10/22/15

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2015-GS-46-03147

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

OCTOBER 22, TERM 2015

THE STATE

VS.

ANTONIO LAMONT ROBBINS

INDICTMENT FOR

TRAFFICKING IN CRACK COCAINE

SC Code: § 44-53-375(C)
CDR Code: 0368

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

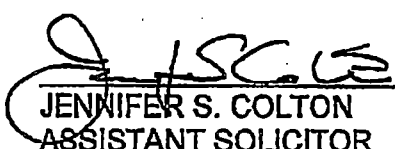
INDICTMENT

At a Court of General Sessions, convened on October 22, 2015, the Grand Jurors of York County present upon their oath:

TRAFFICKING IN CRACK COCAINE

The defendant, Antonio Lamont Robbins, did on or about June 24, 2015, in York County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of one hundred (100) grams or more of Crack Cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). All in violation of 44-53-375(C), 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.


JENNIFER S. COLTON
ASSISTANT SOLICITOR

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610200985

ACTION OF GRAND JURY

TRUE BILL

Shirley Anderson
Foreperson of Grand Jury
Date: 10/22/15

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2015-GS-46-03147

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

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After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

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I
hereby appear in my own proper person and plead guilty to the within indictment or to

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Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JENNIFER S. COLTON
ASSISTANT SOLICITOR

ARREST WARRANT

2015A4610200985

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

THE STATE
against

Antonio Lamont Robbins

Address: 2849 Woodland Hills Dr.
Clover, SC 29710-None: ☐ Race: B Height: 5' 7" Weight: 184

L State: DL #

OB: Agency ORI #: SC0460000

Prosecuting Agency: York County Sheriff

Prosecuting Officer: R M Gander - RM2

Offense: Drugs / Trafficking in meth. or cocaine base - 100
g or more, but less than 200 g

Offense Code: 0368

Code/Ordinance Sec: 44-53-0375(C)(3)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

Defendant

on

Antonio Lamont Robbins
6-24-15

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

York County General Sessions
1675 York Hwy
York, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Personally appeared before me the affiant R M Gander

who

being duly sworn, deposes and says that defendant Antonio Lamont Robbins

did within this county and state on or about 6/24/2015

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of York)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 100 g or more, but less than 200 g

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:The defendant did willfully and unlawfully violate SC Drug law by trafficking approximately 150.3 grams of Crack Cocaine while at
3169 Woodland Hills Dr., Clover, County of York, South Carolina. A criminal check indicates he has one prior drug offense.
Probable cause is based on police investigation and recover of evidence (Approximately 150.3 grams of Crack, digital scale, and
packaging materials).

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

York

Affiant's Address: Moss Justice Center

York 29745-7428

Affiant's Telephone: (803)628-3059

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/24/2015

defendant Antonio Lamont Robbins

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of York

as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 100 g or more, but less than 200 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.
Sworn to and subscribed before me:

on 6/24/2015

(L.S.)

Signature of Issuing Judge
Stephanie Ann Wood

Judge Code: 7313

Judge's Address: Moss Justice Center

York, SC 29745-

Judge's Telephone: (803)628-3095

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

000368

ORIGINAL

Form Approved by
U.S. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

FILED-RECEIVED

2015 JUN 30 PM 4:02

DAVID HAMILTON

C.C.P. & G.S.
YORK COUNTY, SC

(YCMDEV)

FILED FOR COURT
YORK COUNTY, SC
2015 JUN 24 AM 9:15

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610200985

ACTION OF GRAND JURY

/S/ Shirley Sanders

Joseph T. Hager

10/22/2015 True Billed

TRUE BILL

Foreperson of Grand Jury

Date:

2-18-14

VERDICT

Guilty

Daniel Lee

Foreperson of Grand Jury

Date: 3/17/2016

RECEIVED

DOCKET NO. 2015-GS-46-03147

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

FEBRUARY 18, TERM 2016

THE STATE

VS.

ANTONIO LAMONT ROBBINS

INDICTMENT FOR

TRAFFICKING IN CRACK COCAINE

SC Code: § 44-53-375

CDR Code: 0452

After being fully advised of my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to _____

Defendant

Witness:

C.C.C. PLS. AND G.S.

000369

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
 CERTIFIED TRUE COPY FOR THE SIXTEENTH JUDICIAL CIRCUIT
 COUNTY OF YORK)
 2017 JUN 20 AM 9:15 INDICTMENT NO. 2015-GS-46-03147

State of South Carolina,

DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC

Plaintiff,

v.

VERDICT FORM

Antonio Lamont Robbins,

Defendant,

X

We find the Defendant guilty of trafficking in crack cocaine in the amount of 10 grams or more.

—

We find the Defendant guilty of the lesser included offense of possession with intent to distribute crack cocaine.

—

We find the Defendant guilty of the lesser included offense of simple possession of crack cocaine.

—

We find the Defendant not guilty.

Daniel W. Pace
 Foreperson

March 17, 2016
 York, South Carolina

COUNTY OF YORK
STATE VS.

ANTONIO LAMONT ROBBINS

AKA:

Race: Black

Sex: M

Age: 34

DOB:

SS#:

Address: 6000 Woodland Hills Drive

City, State, Zip: Clover, SC 29710

DL#

SID# SC01427716

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant, who was

TO: Trafficking Crack Cocaine 10 grams & 8 gramsIn violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0452☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☐ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Jennifer S. Colton, Assistant Solicitor

SC Bar # 68591

Defendant

Attorney for Defendant

SC Bar # 75081

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 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 Service 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. 264 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

\$100

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 90.5 (SCCJA Surcharge)

\$5

3% to County (if paid in installments)

\$

TOTAL

\$260

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: Wanda Nelson

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2015GS4603147

A/W: 2015A4610200985

Date of Offense: 06/24/2015

S.C. Code §: 44-53-375(C)

CDR Code #: 0368

000371

SENTENCE SHEET

Presiding Judge: John H. HaysJudge Bar ID: 2867Judge Code: 2049Sentence Date: 3-17-16

STATE OF SOUTH CAROLINA

COUNTY OF YORK

CERTIFIED TRUE COPY

INDICTMENT

2017 JUN 20 AM 9:15

DAVID HAMILTON
CLERK OF COURT

At a Court of General Sessions convened on February 18, 2016, the Grand Jurors of York County present upon their oath:

TRAFFICKING IN CRACK COCAINE

The defendant, Antonio Lamont Robbins, did on or about June 24, 2015, in York County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of ten(10) grams or more of Crack Cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). All in violation of 44-53-375(C), 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.


JENNIFER S. COLTON
ASSISTANT SOLICITOR

AT2000
000000
0000373

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Antonio Lamont Robbins, Appellant.

Appellate Case No. 2016-000660

Appeal From York County
John C. Hayes, III, Circuit Court Judge

Unpublished Opinion No. 2017-UP-081
Submitted January 1, 2017 – Filed February 15, 2017

APPEAL DISMISSED

Appellate Defender Robert M. Pachak, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General John Benjamin Aplin,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386
U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

HUFF and SHORT, JJ., and MOORE, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



000375-

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 03, 2017

The Honorable David Hamilton
PO Box 649
York SC 29745-0649

REMITTITUR

Re: The State v. Antonio L. Robbins
Lower Court Case No. 2015GS4603147
Appellate Case No. 2016-000660

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Antonio Lamont Robbins, 300579
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Robert M. Pachak, Esquire

000000
000000

[Faint, mostly illegible text is visible through the paper, appearing as bleed-through from the reverse side. The text is crossed out by a large 'X' drawn across the page.]

ANTONIO L. ROBBINS #300579

FILED-RECEIVED

2017 JUN 19 PM 3:22

CIVIL ACTION COVERSHEET

2017 - CP - 46 - 1800

vs.

DAVID HAMILTON

C.C.C.P. & G.S.

STATE OF SOUTH CAROLINA YORK COUNTY, SC

Defendant(s)

(Please Print)

Submitted By: Tommy A. Thomas

Address: 7588 Woodrow Street

Irmo, SC 29063

SC Bar #:

005536

Telephone #:

(803) 732-5507

Fax #:

(803) 781-4226

Other:

E-mail:

thomaslaw@me.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) ☐ Other (299)	Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Other (399)	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
Inmate Petitions ☒ PCR (500) ☐ Sexual Predator (510) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Other (799)	Administrative Law/Relief ☐ Reinstate Driver's License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture (840) ☐ Other (899)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Administrative Law Judge (980) ☐ Public Service Commission (990) ☐ Employment Security Comm (991) ☐ Other (999)
Special/Complex /Other ☐ Environmental (600) ☐ Pharmaceuticals (630) ☐ Automobile Arb. (610) ☐ Unfair Trade Practices (640) ☐ Medical (620) ☐ Other (699)			

Submitting Party Signature:

Date: June 14, 2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

2017 JUN 19 PM 3:22

IN THE COURT OF COMMON PLEAS

ANTONIO L. ROBBINS #300579 C.C.P. & S.S.
Full name and prison number (if any) of ApplicantDAVID HAMILTON
YORK COUNTY, SC

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact 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 McCormick Correctional Institution, 386 Redemption Way,
McCormick, SC 29899
2. Name and location of Court which imposed sentence York County Court of General
Sessions, 2 Congress Street, P.O. Box 649, York, SC 29745
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015-GS-46-03147 - Trafficking in Cocaine
 - (b)
 - (c)

5. The date upon which sentence was imposed and the terms of the sentence:

000379

(a) March 17, 2015 - Thirty (30) years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty x

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Denied

ii. _____

iii. _____

(c) the date of each such result:

i. February 15, 2017

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. 2017-UP-081

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Plea offer was eighteen (18) years and attorney advised him to go to trial and if he didn't win at trial, he would win on appeal
- (b) Illegal Warrant
- (c) No Probable Cause
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief?
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- 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) _____
(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? x
(c) your sentencing? x
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? x
(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. David C. Cook, Esq., 1722 York Hwy., York, SC 29745
ii. Robert M. Pachak, Esq. 1330 Lady St, Columbia, SC 29201
iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial, sentencing
ii. Direct Appeal
iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
)
County of McCormick)

VERIFICATION

I, Antonio L. Robbins, 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.

Antonio Robbins

SWORN to and subscribed before me this 12th
day of June, 2017.

Michael Canone
(L.S.)
Notary Public

My Commission Expires: JUNE 09, 2025

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Antonio L. Robbins, 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.

Antonio Robbins
Applicant

SWORN or affirmed to and subscribed before me this
12th day of June, 2017.

Michael Camare
Notary Public

My Commission Expires: July 09, 2025

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
IN THE SIXTEENTH JUDICIAL CIRCUIT

Antonio Robbins, #300579,
Applicant,

Case No.: 2017-CP-46-1800

v.

**RETURN AND PARTIAL MOTION TO
DISMISS**

State of South Carolina,
Respondent.

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on June 19, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. In February 2016, the York County Grand Jury indicted Applicant for trafficking cocaine, 10-28 grams, third offense (2015-GS-46-3147). David Clayton Cook, Esquire, represented Applicant. Assistant Solicitors Jennifer Colton, Esquire, and Teasa Weaver, Esquire, prosecuted the case. On March 16-17, 2016, Applicant proceeded to trial before the Honorable John C. Hayes, III. The jury found Applicant guilty as indicted. Judge Hayes sentenced Applicant to imprisonment for thirty years.

Applicant filed a timely notice of appeal. Robert M. Pachak, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on February 15, 2017. State v. Robbins, Op. No. 2017-UP-081 (S.C. Ct. App. filed February 15, 2017). The remittitur was returned to the circuit court on March 3, 2017.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Plea offer was eighteen years and attorney advised [Applicant] to go to trial and if [Applicant] didn't win at trial, [Applicant] would win on appeal"
2. "Illegal warrant"
3. "No probable cause"

Attached to this Return and incorporated by reference are the records of the York County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

Additionally, 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), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

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

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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.

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his 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, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have 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 to receive relief. Cherry, 300 S.C. at

118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent requests that the claims of "illegal warrant" and "no probable cause" be dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim

for post-conviction relief under any of the statutory grounds. PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). These issues are improper for post-conviction relief because they could have been raised on direct appeal and are procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant could have raised warrant or probable cause issues at trial or on appeal. His failure to do so has waived this allegation as a ground for relief.

For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss the Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

V.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

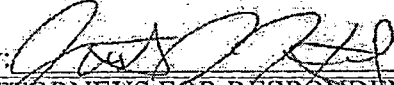
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JUSTIN HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

September 20, 2017

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

2017-CP-46-1800

ANTONIO ROBBINS, #300579,)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

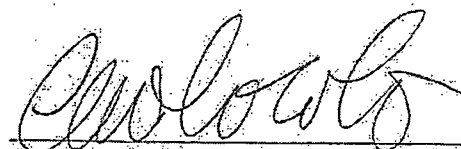
STATE OF SOUTH CAROLINA,)

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 Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tommy A. Thomas, Esquire
Post Office Box 88
Irmo, South Carolina 29063

DATED this the 20th day of September, 2017.



Caroline Collins, Administrative Coordinator
For Respondent

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ALAN WILSON
ATTORNEY GENERAL

September 20, 2017

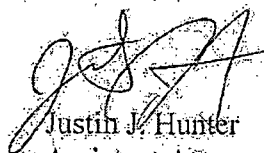
The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York, South Carolina 29745-0649

Re: Antonio Robbins, #300579 v. State of South Carolina
2017-CP-46-1800

Dear Mr. Hamilton:

Enclosed please find the original **Return and Partial Motion to Dismiss** in the above-captioned case for filing in your office.

Sincerely,


Justin J. Hunter
Assistant Attorney General

JJH/cc
Enclosure

cc: Tommy A. Thomas, Esquire

1 STATE OF SOUTH CAROLINA

2 -----x

3 ANTONIO L. ROBBINS,

4 Petitioner,

5 Case No.

6 -against- 2017-CP-46-0180

7 STATE,

8 Respondent.

9 -----x

10 April 16, 2018

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE ROGER E. HENDERSON

15

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

17 JUSTIN HUNTER,

18 Attorney for the State

19

20 TOMMY A. THOMAS

21 Attorney for the Applicant

22

23

24 Aileen Butler

25 Official Court Reporter

I N D E X

	WITNESS	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3					
4	Dave Cook				
5	Mr. Thomas	5		31	
6	Mr. Hunter		24		
7	Antonio Robbins				
8	Mr. Thomas	35			
9	Mr. Hunter		46		
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E X H I B I T S

NO.	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>

NO EXHIBITS RECEIVED

HUNTER: May it please the Court. The next case says is Antonio Robinson versus the State of South Carolina, 2017-CP-46-01800.

Your Honor, he was indicted February 2016 in York County for trafficking crack cocaine. He was represented at trial by Mr. David Cook. On March 16th through 17th, 2016. He proceeded to a jury trial before judge John Hayes. He was found guilty of trafficking crack cocaine, ten to 28 grams, third offense, sentenced to thirty years in prison.

He did file a notice of appeal and the Court of Appeals affirmed his conviction February 15, 2017 by unpublished opinion. Remittitur was returned March 3, 2017. He filed this current action June 19, 2017.

He is present today represented by Mr. Tommy Thomas.

MR. THOMAS: If it please the Court.

THE COURT: Yes, sir.

MR. THOMAS: Your Honor, also for housekeeping purposes Jason Johnson is the case that I had was originally on the trial docket. We had asked for a continuance because a witness came forward at the last minute. I was unable to get that witness here, but also due to the problem that they had with corrections yesterday. Mr. Johnson is at Lee.

D. Cook - Direct by Mr. Thomas

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1 My secretary confirmed this morning that they are
2 doing any transports out of Lee so he is not here
3 anyway. So we just wanted to notify the Court and I
4 think we are in agreement just for it to be carried
5 over for the next term anyway.

6 THE COURT: All right. It will be continued for
7 the next term.

8 MR. THOMAS: Yes, sir. And Your Honor if it
9 please the Court we would call Mr. David Cook to the
10 stand.

11 DAVID COOK, called as a witness, having been duly
12 sworn by the clerk, was examined and testified as
13 follows:

14 MR. THOMAS: Your Honor, just for purposes of
15 housekeeping as well, I have a tendency or what I like
16 to do just is I'll refer to the transcript pages and
17 lines as I am giving testimony just for the Court's
18 information.

19 THE COURT: All right, sir.

20 MR. THOMAS: Thank you sir.

21 MR. THOMAS: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. THOMAS:

24 Q Mr. Cook, you had an opportunity to represent
25 Antonio Robbins?

1 A That's correct.

2 Q All right, sir, and were you appointed or retained?

3 A I believe I was retained.

4 Q All right, sir.

5 A But to be entirely honest I can't remember.

6 Q And you use to work in the public defender's office?

7 A I did, but I am fairly certain I was retained by Mr.

8 R.

9 Q And when you met with him was he out on bond or did
10 you go and see him at the detention center?

11 A I believe I saw him at the detention center.

12 Q All right. And did do you remember how many times
13 you met with him?

14 A I don't remember the specific number, probably about
15 three to four times.

16 Q Okay. And could you tell us just kind of help with
17 with the Court what was this case about? What was the gist
18 of this case?

19 A Yes. This was a case where my client was alleged to
20 have distributed a quantity of crack cocaine. There was an
21 issue with the search warrant in this case wherein my client
22 alleged that the search warrant was based off of improper
23 information. He was charged with other cases that didn't go
24 to trial and one of cases there was a confidential informant
25 that made a statement that was the basis of the search

1 warrant for this case and so his girlfriend, Miss Hester,
2 supplied me with an audio tape of a conversation --

3 Q Let me stop you there. Kind of doing a little
4 simpler than that.

5 A Sure.

6 Q It's my understanding there he was charged with
7 trafficking cocaine?

8 A That's correct.

9 Q And the drugs were found in a residence?

10 A That's correct.

11 Q And also in a vehicle?

12 A There's two quantities. One quantity was in the
13 residence and the other was in a truck.

14 Q And the search of the premise and the vehicle was
15 based upon a controlled -- supposedly a controlled buy?
16 Previously controlled buy?

17 A Well, that's correct. The premise was off of a
18 search warrant. I argued there wasn't a search warrant for
19 the truck.

20 Q All right. So we will move on to your pretrial and
21 I think you made several motions and it appears -- and if
22 you, Mr. Cook, if you will look on page 29, lines seven
23 through 11. I think that one of those is that you are trying
24 to get the confidential informant information of that person
25 in Court?

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D. Cook - Direct by Mr. Thomas

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1 A Correct.

2 Q And why was that?

3 A Well, my client had maintained that he never made a
4 controlled buy with this alleged confidential informant and
5 so I wanted the Court to question him about that.

6 Q And that was going towards the veracity of the
7 search warrant?

8 A That's correct, the veracity of the search warrant.

9 Q Okay. And actually if you will look on page 31,
10 lines one through 25.

11 A Yes.

12 Q And that is continuation of your argument about the
13 search warrant?

14 A That's correct.

15 Q Okay. Now, there was -- you talk about a tape, and
16 that tape being in Michael Browns's office, another attorney
17 office. Can you tell us about that?

18 A That's correct. My client and his girlfriend told
19 me that Michael Brown, another defense attorney in town, had
20 a copy of the tape, or had the tape that was apparently the
21 alleged deal with the confidential informant. But my client
22 said if you listen to that tape there is no drugs mentioned
23 on the tape.

24 Q And why did you think that was important? What were
25 you trying to show with that?

1 A Well, if I'm not mistaken I was trying to show that
2 I thought that that conversation with the confidential
3 informant was the basis for the search warrants with Judge
4 Benfield.

5 Q Okay. Now, were you successful in getting that tape
6 from Michael Brown?

7 A I was not.

8 Q And what happened, and why was that, or what
9 happened with that?

10 A Well, in reading the transcript I believe I may have
11 asked him for it and didn't get it from him. Didn't hear
12 back.

13 Q Okay.

14 A I believe I was retained rather briefly. There
15 wasn't a lot of time from my retention to the trial to be
16 candor.

17 Q Let me ask you, counsel if you will look at page 33,
18 lines 21 through 25.

19 A Yes, that's Judge Hayes.

20 Q Right.

21 A Discussing the tape. He was saying, well -- I
22 believe Judge Hayes was asking why I why I didn't have a
23 tape. I mentioned that I asked Mike but didn't get it and
24 the judge says that he didn't believe that the State had to
25 give me that. Would you like me for read those lines?

1 Q He said basically it was your obligation to get it?

2 A That's correct.

3 Q That the State didn't have to give it to you?

4 A That's correct and I failed to do that.

5 Q And page 36, line 13 and 14, it appears what you
6 were doing is you had made a motion to suppress the evidence?

7 A That's correct.

8 Q And the evidence being the drugs from the house and
9 the truck?

10 A Correct.

11 Q Okay. And what was the basis of that motion? How
12 were you trying to make that motion?

13 A Well, you stated page 36?

14 Q Yes, page 36. Let's see. It is begins on line six
15 through ten, and then it picks up again. I think that' your
16 first motion for the trial, pretrial and then 13 through 21?

17 A Okay. So, I was making a motion for the State to
18 supply the name of the confidential informant on the search
19 warrant.

20 Q Then I think your second motion basically is noted
21 at the beginning on line 13?

22 A Well, it would just be a motion to suppress the
23 evidence. That the search warrant was faulty. That were two
24 quantities of drugs. One a lesser amount was three grams and
25 two grams that were found inside the house and then the

1 larger quantity was found inside the truck in the driveway.

2 Q Do you recall what the total amount was that he was
3 charged with?

4 A Not to my current recollection.

5 Q Okay. All right. And -- so, the audio -- the basis
6 of your motion, the audio was important to show what?

7 A That the search warrant for the house was faulty
8 because it was based off of a confidential informant's
9 controlled buy that my client stated didn't happen.

10 Q And it was -- you had listened to the tape?

11 A I had listened to a copy that the girlfriend had
12 provided.

13 Q Tell us about that? How did that happen? I was a
14 little confused about that?

15 A Well, to be entirely honest I can't remember it was
16 so long ago, but I believe that the girlfriend played a copy
17 of it to me.

18 Q Yes, if you want to look at page 69, lines five
19 through seven. Let's see, maybe it is 75 -- 74 and 75
20 discusses the playing of the audio.

21 A Okay. I beg the Court, brief indulgence.

22 Well, it seems that I had made a motion for the Court to
23 hear the tape.

24 Q All right.

25 A That I got from the girlfriend, Miss Hester.

1 Q And she had recorded that on her phone; is that
2 correct?

3 A Correct, from the office of Mike Brown.

4 Q So what you were doing was asking the Court to play
5 the recording off of her phone?

6 A Correct.

7 Q And did Judge Hayes allow you to do that?

8 A I believe so.

9 Q Okay. Now, what happened? Do you remember what
10 happened with that piece of discovery? Was it -- did the
11 judge admit it as part of a Court's exhibit or do you
12 remember?

13 A I believe that Solicitor Colton on page 76 at line

14 12 --

15 Q Right.

16 A -- says that there was a little -- from her
17 recollection of the tape there was a little portion in the
18 beginning a discussion with the officers that was missing on
19 my client's tape -- the girlfriend's tape.

20 Q Yes, sir.

21 A And Investigator Vaughn is in agreement that it is
22 the same tape, the same CD that I have in my office, she
23 says, and I'm willing to have that offered as a Court exhibit
24 in lieu of my recording being entered as a Court exhibit.

25 Q And do you know whether or not that actually

1 happened?

2 A I was looking back through the record and I don't
3 think that it did.

4 Q Okay. Now, if it had been introduced as a Court's
5 exhibit, would it have been able to go to the jury?

6 A It would have.

7 Q All right. And that was based -- the basis of your
8 argument in regards to the veracity of the search warrant?

9 A Correct.

10 Q Search warrants affidavit I guess?

11 A Correct.

12 Q And the -- so let me ask you this. Legally if the
13 judge had ruled that -- and he did rule against you and said
14 it was a valid search warrant; is that correct?

15 A That's correct.

16 Q But it would have still gone to the weight of
17 evidence if it had been presented to the jury?

18 A It would have. And again, my recollection -- I
19 can't remember specifically. I do see in the the index of
20 exhibits.

21 Q Yes, sir.

22 A That on line six of page four, that there is a CD
23 recording that it cites page 76.

24 Q Yes, sir.

25 A I don't know if that was the recording that the

1 solicitor was talking about or not.

2 Q Okay. But you don't know whether or not that
3 evidence went to the jury?

4 A I don't.

5 Q All right. Let me ask you this because I was a
6 little bit confused. When this case starts there is a
7 renewal of Brady motions and Rule five and all those
8 discovery motions?

9 A Yes.

10 Q Now, do you remember whether or not you requested
11 the discovery about the buy and if you did whether or not you
12 ever received that discovery?

13 A Yes, you're referring to not the case that was at

14 trial but the case that resulted in the confidential
15 informant allegedly making a buy with my client?

16 Q Right. Right.

17 A I did not receive that discovery. Whether I
18 specifically asked for it or not I don't have a recollection.
19 And you know, to be honest I don't know, but I don't think
20 that I did.

21 Q Okay. Would it have been important to have had that
22 discovery?

23 A Yes, it would.

24 Q And a you don't remember whether you requested it
25 but you do remember that you didn't receive it?

1 A Yeah, you know, I don't think that I did request it.

2 Q Okay. Moving on, you also pretrial made a motion to
3 suppress the statement made by the defendant. Do you
4 remember that?

5 A I do.

6 Q And that is page 141 and that's lines one through
7 11, and also 143, three through nine.

8 So page 141 that is Lieutenant Ligon testifying.

9 Q Yes, sir.

10 A On direct by Solicitor Colton.

11 Q Yes, sir.

12 A And he's recalling the conversation that he had with
13 Robbins.

14 Q He is, yes, sir.

15 A And then on page 144.

16 Q I think 144 I got indexed as your motion to
17 suppress. Actually I think that is the Court's ruling?

18 A The Court denying my motion to suppress.

19 Q Denying your motion, right.

20 A Yes, on page 143 at line 22 I renewed my motion to
21 exclude the confession of my client pursuant to Jackson v.
22 Denno.

23 Q And that was denied?

24 A Correct.

25 Q Now -- and moving along, there appears to be a

1 problem with one of the -- with the evidence in regards to
2 the drugs?

3 A Yes.

4 Q And I want to bring your attention to 245 and 255
5 five.

6 A Okay. I'm on page 245 now.

7 Q Let's see.

8 MR THOMAS: Your Honor, I beg the Court's
9 indulgence.

10 THE COURT: Certainly.

11 A 245 is just us discussing Cynthia Mitchum who is the
12 drug analysis.

13 Q If you look on page 254 and 255.

14 A Okay. Yes, all through page 254 and 255 Cynthia
15 Mitchum, the drug analyst, is discussing that when she opened
16 the bags the rock substance was moist at the time when she
17 opened it.

18 Q Okay.

19 A And it had since kind of liquified in the bag
20 somewhat is what she says is line one of 255. So the drug
21 had been liquified and they were moist at one point.

22 Q Okay. Now, the question that I have and of course I
23 don't know answer to this, is that did you think about this
24 or could this have changed the weight of the drugs if they
25 were in a liquid state?

1 A I apparently did not because when the Court asked on
2 page 258 if I had any objection to the entry --

3 Q Right.

4 A -- of that evidence. I just renewed my prior
5 objections from the pretrial motions which were to suppress
6 the evidence. I didn't make a --

7 Q Based on search warrant?

8 A Based on the search warrant. I didn't make a motion
9 to suppress based on the weight possibly being altered from
10 the drugs becoming liquified.

11 Q And what I was confused about was that there appears
12 to be -- well, I guess there was a larger amount of drugs
13 that was taken from the truck?

14 A Correct.

15 Q And tell me -- correct me if I'm wrong. And there
16 was a smaller amount of drugs that were found in the house?

17 A That's correct.

18 Q And if you look at again on page 258. If you want
19 to look at that it it's lines one through seven. I guess
20 it's one through 12.

21 A Yes. One of the items had a weight of 141 grams.
22 That will be item four, State's Exhibit two. And item 20 had
23 a weight of 1.06 grams. Item 21 had a weight of .23 grams.
24 So the quantities were significantly greater that were found
25 in the truck.

1 Q Okay.

2 A Over a hundred and grams, 141 grams.

3 Q And the next question I have is, it's difficult for
4 me to determine whether or not we're talking about the larger
5 weight of cocaine verses the smaller weight that had
6 liquified?

7 A It's difficult.

8 Q Okay. All right. But you did not make an objection
9 in regards to the issue of the liquefaction of the drugs?

10 A I did not.

11 Q All right. Now, the other thing that I saw which I
12 thought was odd was throughout the transcript they talk about
13 pictures of the evidence.

14 A That's correct.

15 Q Do you know whether or not any of the actual
16 evidence was ever introduced at trial or was it just pictures
17 of the drugs?

18 A I think -- I'm reviewing the exhibit index on page
19 four and five here and on line 22, page four, there is a
20 chain of custody BEST bag.

21 Q Right.

22 A I don't know if that, here today, I can't remember
23 if that contained the drugs. There certainly are a lot of
24 photos on page five, on line 23 and 24 it says photo of BEST
25 bag with drugs. Photo of the BEST bag with drugs on page

1 185. The chain of custody BEST bag was referenced on page
2 258 which is what we're talking about. And so, I can't be
3 definitive today as to whether that chain of custody BEST bag
4 actually had the drugs in it.

5 Q And if you look at page six?

6 A Okay.

7 Q Lines five and six. On six it talks about BEST bag
8 with drugs which could indicate that it was actually the
9 drugs. But if you look at five before that it says eight by
10 ten color photo.

11 A That's correct.

12 Q Do you remember objecting to any of these
13 photographs of drugs?

14 A I would have to look back through the testimony real
15 quickly but I don't believe that I did. Okay. Again, on
16 page 185 I renewed my previous objections which I believe
17 were just referring back to the pretrial motions.

18 Q Which goes back again to the --

19 A Search warrant.

20 Q Search warrant. All right.

21 Now, the other thing that I think is odd, I don't know
22 what impact it has. If you look on page 200, lines 11
23 through 25. There is some sort of explanation about why they
24 were black and white pictures versus color pictures?

25 A Yeah, that is strange.

1 Q And I think you did object to that?

2 A I made a best evidence objection.

3 Q Okay, to the difference of the black and white and
4 the color?

5 A Correct.

6 Q And they actually say that the color pictures were
7 destroyed?

8 A I believe so.

9 Q Okay. Now, moving on. If you look at page 222,
10 lines 14 through 23, there is testimony by Lieutenant Mike
11 Ligon.

12 A Yes, sir.

13 Q Who is he?

14 A He works with the drug enforcement unit here. The
15 multi-jurisdictional drug enforcement unit here.

16 Q And it appears that he was actually qualified as
17 expert?

18 A He was without my objection.

19 Q Do you know what the purpose of that was? Why they
20 would want him qualified?

21 A Well, I believe at the time he was discussing the
22 level. There were different levels of dealers; street level,
23 mid-level, high-level dealers.

24 Q All right. So, your client had -- from the
25 transcript had at least 140 something grams of cocaine?

1 A Correct.

2 Q Or accused of having that. And if you look on page
3 222, lines 14 through 23. What level would appear to put
4 your client in?

5 A Well, the testimony from Officer Ligon, Lieutenant
6 Ligon, he talks about street-level dealers and he says
7 anywhere from a gram up to 15, 20, 30, 40 grams, but he
8 didn't really quantify what a high level narcotic's dealer
9 would be. High-level trafficking dealers.

10 Q And your client was accused of trafficking?

11 A That's correct.

12 Q My question would be is that prejudicial?

13 A You know, I believe that's up to the Court to
14 determine but it certainly could be construed as prejudicial
15 that an expert witness deemed my client to be a high-level
16 trafficking dealer.

17 Q And did you object to that?

18 A I did not.

19 Q Now, we go back to the question about the audio.

20 A Uh-huh.

21 Q And if you look at page 216 lines, one through 14.
22 I believe that is a first attempt to proffer questions of a
23 witness regarding the audio.

24 A Okay.

25 Q And it appears to me that it goes nowhere because

1 that officer is not involved with that; is that correct?

2 A Yes. This is Officer Robin Gander testifying on
3 cross by me --

4 Q Yes, sir.

5 A -- on page 216.

6 Q Okay.

7 A And I'm proffering questions, and I asked Officer
8 Gander whether she had -- how did she obtain the search
9 warrant for the matter and she said she didn't personally
10 obtain the search warrant.

11 Q Okay. So there is a second attempt to proffer, I
12 guess questions in regard to testimony?

13 A Yes.

14 Q That appears -- I got marked at page 264 and 264.

15 A Okay. This is with Investigator Vaughn.

16 Q Yes, sir. And the Court allowed you to just ask
17 questions. And what was the purpose of the intent of that,
18 do you remember?

19 A You mean that I am trying to lay a foundation to get
20 the tape into evidence.

21 Q Yes, that is my question. Is that what you were
22 trying to do?

23 A Yes.

24 Q All right. And if you look at page 267, lines two
25 through 11?

1 A Yeah. I asked Officer Vaughn have you heard this
2 recording of the alleged controlled buy from which I'm
3 referring and he said yes. And I said is there anywhere on
4 that recording where you can determine that a drug
5 transaction actually took place and he said I don't recall.

6 Q Which basically shut you down?

7 A It does.

8 Q Yeah. And were you -- were you able to play that
9 audio to refresh his memory or to use that audio in any
10 manner at that time?

11 MR. COOK: I beg the Court's indulgence just for a
12 moment.

13 A I was able to but I didn't.

14 Q Okay.

15 A I allowed him to step down.

16 Q Okay. The last issue I got Mr. Cook if you don't
17 mind is on -- I got reference to page 348 of the transcript
18 and the question I have is about the jury being deadlocked?

19 A Okay.

20 Q And I just wanted to ask you about that. So there
21 was an Allen charge given?

22 A Correct.

23 Q Anything that you could have done at that point? Do
24 you mean object to the Allen charge?

25 Q Yes.

1 A I did not.

2 Q And I ask because I don't know. I didn't know if
3 there was anything that could have been done at that point in
4 the trial?

5 A I suppose I could have objected to the Allen charge
6 but I did not.

7 Q Okay. All right.

8 MR. THOMAS: Your Honor, if I can beg the Court's
9 indulgence.

10 THE COURT: Yes, sir.

11 MR. THOMAS: I have no further questions.

12 MR. COOK: All right.

13 THE COURT: Mr. Hunter.

14 MR. HUNTER: If it please the Court.

15 CROSS EXAMINATION

16 BY MR. HUNTER:

17 Q Good morning Mr. Cook.

18 A Good morning.

19 Q I just want to go through some of this. I want to
20 start with the Allen charge. Have you had cases that ended
21 in Allen charge? That had the Allen charge before?

22 A I have.

23 Q Have you ever objected to those before?

24 A I have not.

25 Q Do you know how long the jury was out before they

1 came back?

2 A I don't recall.

3 Q You think if you had objected to the Allen charge
4 that I guess the mistrial he would have been granted?

5 A I don't think so.

6 Q Okay. And have you seen the appeal in this case?

7 A I believe it is in my materials but I amiss to say I
8 haven't looked over it.

9 Q Were you aware that the Allen charge was actually
10 the issue brought on appeal?

11 A Okay. I was not aware.

12 Q You were not aware of that. Okay. And he was not
13 successful on appeal, correct?

14 A Correct.

15 Q Now, I want to talk about the drugs. I guess were
16 liquified or portions of them. And I am going to turn to
17 page 255.

18 A Okay.

19 Q And so, can you just look at I guess 254 starting on
20 21 over to page 255 that whole page. You don't have to read
21 it out loud. Can you just refamiliarize yourself with that?

22 A Sure. Just a moment please.

23 I think this is Cynthia Mitchum, the drug analysis, on direct
24 examination by Solicitor Jennifer Colton. Sure, I'm familiar
25 with the transcript.

1 Q Okay.

2 Now, I'm also looking on the last line of 254 and the
3 first line of 255. The chemist appears to say that it
4 liquified after she tested it, correct?

5 A That's correct. She testified that when she first
6 opened it was moist but it had not liquified.

7 Q And so I guess as far as just in your experience as
8 far as the weight is concerned, if it liquifies after she
9 tests it would that weight be reliable?

10 A Well, I believe that if it liquified after she
11 tested it wouldn't be reliable but I believe -- I believe
12 that her -- she testified that she weighed -- let me pause
13 for a second. Perhaps she tested the drug before it --

14 perhaps she weighed the drugs before it liquified.

15 Q Okay. And is that how you read her testimony right
16 there? That it liquified afterwards?

17 A Correct. I can say that her testimony is that she
18 made notes on it. When she opened the evidence there were
19 four bags of rock substance in the evidence and the first one
20 was moist when I opened it. So I did my analysis on it and
21 resealed it. That would lead me to believe that she tested
22 it then.

23 Q Okay. And I am just going to skip ahead to --

24 A I apologize. She said it has since kind of
25 liquified in the bag somewhat.

1 Q Okay. Okay. I will move ahead to the issue about
2 the pictures of the evidence. And we're looking at I guess
3 at the index. The index in the front of the exhibits. And
4 do you see page five. Maybe you can clarify a little bit,
5 lines 19 and 20. Is that talking about the -- is that
6 talking about the drugs, the physical drugs themselves that
7 were entered into evidence?

8 A It appears to be, yes. Item six with cocaine base
9 point .23 grams, item five with cocaine base 1.06 grams.

10 Q And I guess just even if there were photos of the
11 drugs, like this were photos of many other pictures of
12 evidence. Would you have had I guess any reason to object?
13 Do you believe that is objectionable if the State just
14 presented the photos? Would that be successful on your
15 objection?

16 A I'm sorry could you repeat.

17 Q If the State, solely entered photos of the drugs,
18 which I believe we said looking at those two lines it looks
19 like they did actually enter physical drugs, but if there
20 were just photos of the drugs do you believe you would have
21 sustained objection on that?

22 A I -- that would be up for the Court to determine. I
23 mean, it's certainly objectionable whether it would have been
24 sustained or not.

25 Q Okay. I will move to Officer Ligon and his

1 testimony. Did he specifically say -- and maybe you could
2 point to what you were reading earlier. It looks like you
3 discussed I guess what a mid-level dealer -- as an expert
4 what he believes a mid-level dealer would be and where were
5 you pointing out that it would be prejudicial to your client?

6 A Well, I didn't. I believe that was what your
7 opposing counsel stated that it would be prejudicial.

8 Q Page 222.

9 A Page 222. I suppose in that he -- he being
10 Lieutenant Ligon, talks about how level trafficking dealers.

11 Q Does he ever say in his expert opinion that your
12 client could be considered a high traffic, or a high level
13 dealer?

14 A I don't believe he does.

15 Q Okay. I am going ahead to your second attempt to
16 proffer testimony. Again, I believe that was around 263.
17 And ultimately the judge -- I'm looking now at 268 after you
18 proffered the testimony. 268 the last few lines, 21 through
19 25 there? It appears the judge wasn't going to let you talk
20 about that in front of the jury, correct?

21 A Let's see.

22 Q About the audio tape.

23 A That's correct.

24 Q Again, this involved the C.I. buy that was the basis
25 of the search warrant, correct?

1 A That's correct. Judge Hayes was fairly definitive.

2 Q What does he say there?

3 A He says, no, you're not going to ask him in front of
4 the jury. I can take care of that real quick.

5 Q Okay. And again this C.I. buy was your client ever
6 charged with that crime or with a crime that would have
7 occurred pursuant to that C.I. buy?

8 A I don't know, but it didn't go to trial.

9 Q Okay. And that's not what this trial involved,
10 correct?

11 A Correct.

12 Q And so on the discovery about the C.I. buy it says
13 you didn't receive discovery concerning that crime. As far
14 as these Indictments are concerned would you have been able
15 to get the discovery on that?

16 A I don't know. You know, I believe the rules of
17 discovery state that the State has to give me whatever they
18 are intending to use at the time of the trial. So I don't
19 know if I would have gotten it had I asked for it or not.

20 Q Okay. And so during the trial they didn't -- did
21 the State ever make mention of the a C.I. buy during the
22 trial, do you recall?

23 A Not to my recollection.

24 Q Okay. And ultimately the judge ruled it was a valid
25 search warrant, correct?

1 A Yes, that's correct.

2 Q And that audio tape or I guess the recording that
3 Miss Hester made of the C.I. buy, had you heard that prior
4 to -- prior to that trial?

5 A I mean, just to be candid, I don't have a
6 recollection. It seems like I would have before I brought it
7 into evidence.

8 Q And I believe --

9 A Or tried to bring it into evidence.

10 Q It was played for the judge, correct?

11 A Yeah, I had it the day of the trial. So I would
12 think that it's my standard practice to listen to something
13 before I try to enter into evidence.

14 Q Okay. And I believe didn't the judge say he didn't
15 really hear anything on that tape that would be relevant.

16 A Correct.

17 Q Okay.

18 MR. HUNTER: I beg the Court's indulgence once
19 second.

20 THE COURT: Okay.

21 Q And just to switch gears. Just your representation
22 in general. You said you met with him about three or four
23 times, that was in detention tension center?

24 A Correct. At least.

25 Q And during those meetings did you get his version of

1 the facts?

2 A Yes, I did.

3 Q And did he assist you? Did he provide you with any
4 leads or witness alibi?

5 A None other than Miss Hester.

6 Q Okay. And what was -- I guess just sum up the
7 defense's theory of the case?

8 A Well, the defense's theory was that the search
9 warrant affidavit was faulty because it was based off of the
10 tape that we had discussed and that, you know, I believe I
11 tried to suppress the evidence in the truck because it was
12 parked in the driveway. I don't think it fell under the -- I
13 made the argument -- I believe it's in the transcript here.
14 I maybe mistaken. But it wasn't -- didn't fall under the
15 automobile exception because it wasn't on the highway being
16 driven at the time, and so, the evidence should be
17 suppressed.

18 You know, I can't remember now whether I went into
19 actual versus constructive possession. I can't really -- I
20 would say that's my summary of the defense's theory of the
21 case.

22 Q Did you discuss with him or go over his statements,
23 the statements that the officers said that he made?

24 A I did.

25 Q And that was addressed in Jackson verses Denno,

1 correct?

2 A It was.

3 Q And you also made motion, a Frank's motion?

4 A In a Frank's motion I did make the motion to
5 suppress.

6 Q Okay. Okay.

7 MR. HUNTER: That's all have I for this witness.

8 Thank you, sir.

9 MR. THOMAS: Your Honor, just a couple of things.

10 THE COURT: Okay.

11 REDIRECT EXAMINATION:

12 BY MR. THOMAS:

13 Q Counsel, let's go back through them. I think your

14 attention was brought to page 254 and 255 from Cynthia

15 Mitchum.

16 A I have that in front of me.

17 Q All right. Now, if you look on page 23 through 25.

18 On line 24 she said -- she talks about "moist at the time".

19 A You said page 24?

20 Q On 254, lines 23 through 24.

21 A Oh, line 23.

22 A Yes, sir, I'm sorry.

23 A Yes, correct, she says it is moist at the time.

24 Q Okay. So this appears to be even if you take the

25 testimony to read that it had liquified after testing there's

1 still a question as to whether it was moist prior to testing?

2 A That's correct.

3 Q And so there was a change in the evidence?

4 A That's correct.

5 Q Did you make any objection at that point in time?

6 A I did not.

7 Q Okay. Now, the pictures -- if we look at page five.

8 I think counsel brought your attention to items lines 19 and

9 20?

10 A Correct.

11 Q And the weight of those two pieces of evidence was

12 .23 and 1.06 grams?

13 A Correct.

14 Q Right. Is the 140 grams on there?

15 A No, sir.

16 Q All right. And on page 222, where they talk about

17 the levels of the drug dealers?

18 A Uh-huh.

19 Q If you would look at line 23?

20 A I am.

21 Q He says high-level trafficking dealer?

22 A He does say that.

23 Q And what was your client charged with?

24 A Trafficking.

25 Q Okay. And did you object to that?

1 A Well, the question is by the State from Solicitor
2 Colton but he did answer yes, ma'am, and no, I did not object
3 to that.

4 Q Okay. Now, I think the next thing that counsel
5 asked you about was the second proffered testimony which is
6 on page 268, and Judge Hayes basically at the bottom of that
7 page says he is not going to let you ask those questions?

8 A Correct.

9 Q All right. Now, that's part of the question, but is
10 the other part of the question as to whether or not you had
11 been provided evidence of that controlled buy?

12 A I'm sorry, can you state that again.

13 Q Part of the question is whether or not you were
14 going to be able to introduce that audio?

15 A Correct.

16 Q To the jury?

17 A Correct.

18 Q But the second part of that question is were you
19 ever provided the evidence of that controlled buy?

20 A You're asking was I ever provided evidence of the
21 control buy?

22 Q The discovery from that control buy?

23 A No, I was not.

24 Q And what you're attempting to do regards an audio
25 from that control buy?

1 A Correct.

2 Q And you never received the discovery from that
3 controlled buy?

4 A I did not and this is where Solicitor Colton said
5 she was going to enter it into evidence later and we're not
6 sure whether she did or not and whether I followed up on
7 that.

8 Q But wouldn't it have been important to have had that
9 discovery from that control buy?

10 A Certainly would have been helpful, yes.

11 Q Especially since your objection was that there was
12 problems with the basis for the search warrant?

13 A Correct.

14 Q Okay.

15 MR. THOMAS: That's all the questions I have.

16 Thank you.

17 THE COURT: Mr. Hunter?

18 MR. HUNTER: Nothing else.

19 THE COURT: You may step down.

20 MR. COOK: Thank you, Your Honor.

21 MR. THOMAS: If it please the Court, we call Mr.
22 Robbins to the stand.

23 THE COURT: All right.

24 ANTONIO ROBBINS, called as a witness, having been
25 duly sworn by the clerk, was examined and testified as

1 follows:

2 MR. THOMAS: If it please the Court.

3 THE COURT: Sir.

4 DIRECT EXAMINATION

5 BY MR. THOMAS:

6 Q Mr. Robbins, you're currently incarcerated with
7 South Carolina Department of Corrections?

8 A Yes, sir.

9 Q And in what institution?

10 A McCormick.

11 Q All right, sir. And you are serving a sentence for
12 what?

13 A Thirty years.

14 Q For what?

15 A Trafficking.

16 Q Okay. Third offense?

17 A Yes, sir.

18 Q And you are here today asking for post conviction
19 relief?

20 A Yes, sir.

21 Q Okay. And you understand that if you are successful
22 with your post conviction what you're asking for is a new
23 trial?

24 A Yes, sir.

25 Q And you understand with that new trial may come

1 benefits but it may come certain exposures with that?

2 A Yes, sir.

3 Q And you are willing to run that risk?

4 A Yes, sir.

5 Q And a you want to go forward today?

6 A Yes, sir.

7 Q Now, Mr. Robbins you were arrested roughly when, do
8 you know?

9 A It was June -- I want to say 16th, 17th around
10 2015 -- '16.

11 Q Let me ask you the same question I asked your
12 attorney. Can you very briefly tell us kind of what this
13 case is about? What happened to you?

14 A Okay. They said they had the search warrant and it
15 said that I made a buy. I sold an informant some drugs.

16 Q Right.

17 A And that they gave the informant some marked money
18 to come purchase the drugs from me and they monitored the
19 control buy and they said that he came and bought drugs from
20 me and he left and they seized the drugs from the informant,
21 but I never sold to an informant.

22 I never recall it. It never happened. That's why I
23 went to trial because I know I never done this actual thing.
24 And they never did present the drugs that they say they
25 seized from the buy from the informant, nor the informant.

1 Q All right. Now, the police showed up at your --
2 where did the police show up?

3 A They showed up at my girlfriend's residence.

4 Q All right. And did you live there?

5 A No, sir.

6 Q Okay. And were drugs found?

7 A Yes, drugs were found.

8 Q And where were they found?

9 A They said drugs were found in the vehicle and in the
10 the house.

11 Q Okay. And you were charged with trafficking. How
12 much drugs? What was the weight of the drugs?

13 A They said like 140, 150.

14 Q Okay. And were there different amounts of drugs?

15 A They say there was some drugs found in the truck and
16 the drugs were found in the house.

17 Q Okay. But there was a larger quantity, a smaller
18 quantity? How was that divided, do you remember?

19 A They said in the house it was distribution level and
20 in the truck was a trafficking level.

21 Q Did you make bond or were you in the detention
22 center this whole time?

23 A I was in the detention center the whole time.

24 Q And when you were in -- how long were you in the
25 detention center?

1 A For like two years.

2 Q And was Mr. Cook retained or was he appointed?

3 A He was retained.

4 Q And how many times did you meet with Mr. Cook?

5 A It was like three.

6 Q And when you meet with him, did you go over your
7 discovery? What did you all talk about?

8 A Yes. Mr. Cook had came and saw me one day and he
9 told me that Miss Colton had a plea offer for 18 years. And
10 I told Mr. Cook, I said Mr. Cook I will take the plea offer
11 for the 18 years if you can show me the drugs that they say
12 that I sold to the uncover, to this informant, and who the
13 informant is.

14 I said I'm cool with taking the 18 if I did it, but I
15 know I didn't do that and that's what I wanted him to get.
16 And so he came back and he said they don't have none of that.

17 Q Okay. And so, what was your theory of the defense
18 going to be? How was he going to defend you?

19 A He was -- basically he was saying there was no --
20 there were no actual proof to the affidavit of warrant that I
21 alleged sold the informant some crack cocaine and therefore
22 it would make the warrant illegal.

23 Q Search warrant?

24 A Yes, sir, the search warrant, illegal.

25 Q And you heard testimony about an audio tape. What's

1 the story about the audio tape?

2 A They said that was on the warrant that it was a
3 controlled buy. They said that was the evidence to the
4 warrant, the audio tape and the crack they suppose to seize
5 from the informant. So I never heard the tape but my
6 girlfriend heard it because --

7 Q Let me stop you there. How did your girlfriend hear
8 the tape?

9 A Through Michael Brown.

10 Q And who is Michael Brown?

11 A That was a lawyer I had retained before he had got
12 sick.

13 Q Okay. So you had a to change lawyers?

14 A Yes, sir.

15 Q And so tell us about your girlfriend was able to
16 make a copy of that tape?

17 A Yes, sir. When she went to visit him at the office
18 and she had made a copy.

19 Q How was she able? How did she make a copy?

20 A Off of her cell phone.

21 Q On her cell phone. And is that the audio that was
22 played in the courtroom?

23 A Yes, sir.

24 Q Off of her cell phone?

25 A Yes, sir.

1 Q Okay. And what was the purpose of all that?

2 A The purpose of all that was to prove that there was
3 never an actual buy to the search warrant. It would prove
4 that I did not sell nobody no drugs for them to actually
5 search me or the premises they say that I stayed at.

6 Q Did you ever get a hard copy of that audio?

7 A No, sir.

8 Q And do you know why not?

9 A I don't know why. I didn't receive a copy of the
10 audio, nor no copy of this informant, nor no copy of no drugs
11 I sold him, the marked money. There was nothing there. They
12 had absolutely no evidence to this alleged buy that they say
13 I made.

14 Q Okay. Did the confidential informant show up for
15 the trial?

16 A No, sir.

17 Q And why did you think that was important?

18 A Why did I think that was important that the
19 confidential showed up.

20 Q Know that and why about the audio?

21 A Because that's proof to say that I did my actions.
22 See what I'm saying. This was the affidavit based on that I
23 -- that they sent the confidential informant to buy drugs
24 from me and it was successful. They said it was successful
25 and they seized the stuff and all this right here. So if I

1 did I wanted to see proof. See what I am saying?

2 Q Yes.

3 A I want them to actually show me this that right
4 there and then I will be willing to take a plea if this is
5 actually me. You see what I am saying? That's why I didn't
6 want to take no plea or give up my rights because I know for
7 a fact that I hadn't done such thing.

8 Q Correct me if I am wrong, in your mind your theory
9 of how you are going to be defending was based upon an
10 attacking of the search warrants?

11 A Yes, sir.

12 Q And also being able to keep out the drugs?

13 A Yes, sir.

14 Q Okay. And was that successful?

15 A No, sir.

16 Q Did you discuss with your attorney what happened if
17 those motions were denied?

18 A Yes, sir we discussed that. He told me, he was like
19 York County is very tricky. Judge Hayes, you know, they like
20 do their own thing or what not. And he was like, if we
21 didn't win the trial then I could win it on direct appeal or
22 PCR.

23 Q All right. Well, let me ask you this. Did you get
24 a lower plea offer?

25 A The only plea offer I had was 18 years.

1 Q Okay.

2 A It didn't get no lower then that. Not to my
3 knowledge. I was never told of a lower plea then 18 years.

4 Q I read in the transcript something about 14. Do you
5 know anything about that?

6 A No, not to my knowledge. I don't know nothing about
7 a 14-year plea.

8 Q Okay. Would you have accepted 14 years?

9 A No.

10 Q Okay. Now, let me ask you about there was some
11 statements that you allegedly made to one of the police
12 officers. What do you remember, if anything about that?

13 A No, sir. I had never made no statements to no police
14 officer. Nothing like that right there. The thing is, it
15 boils down to this right here, the officer, David Vaughn --
16 yes, I was convicted in 2013. I took a plea for five years.

17 A Yes, sir.

18 Q And I was sent to the Department of Corrections and
19 I did a year and I made parole. I get out and I'm working
20 and I had -- my little daughter wasn't even born yet. So
21 they come with this right here and the conversation that the
22 police had with me it was trying -- it was like you can
23 either work with us. This is never going to internet, or you
24 could take your chance. And you know, if you take your
25 chance by you being out on parole, a second time felon, it

1 ain't going to look good for you. And I was -- I just told
2 him straight up. I didn't do nothing anyway and, you know,
3 what I'm saying. I'd be putting my family in jeopardy if I
4 work for them. They're not going to protect me or what not.
5 You know what I'm saying. I'm going to do their job for them
6 because they think I'm in the wrong because I got a less
7 sentencing and he wanted me back in prison or what not what.
8 Because I'm a second time felon he's trying to trick me off
9 the streets with my family.

10 So I did not accept it and I still get thirty years for
11 something I ain't did.

12 Q So you think there was bad blood between you and --

13 A Yes, bad blood.

14 Q -- between the police officers?

15 A Yes.

16 Q Now, I ask you this question not because I think I
17 forgotten something or I left something out. My question is,
18 you have been waiting a long time to be here today?

19 A Yes, I have been waiting a long time. I've been
20 wanting the courts to get to the bottom of this because I'm
21 not proud of the way -- I mean, I have been convicted of
22 selling crack, but after I made parole I was done with that.
23 You know what I mean.

24 I'm done with that life. You know what I mean. I know
25 you ain't going to win in South Carolina, regardless of the

1 fact. And I feel like me not being a rat doing what they
2 want me to do they will do anything to put me back here
3 because I'm a second-time felon.

4 You know they pull people over and keep the drugs and
5 what not, and they'll come plant them on you. Me being a
6 second time felon I don't have no luck. You see what I am
7 saying. With no jurors. If I don't take a plea I don't have
8 no luck.

9 Q All right. Well, let me ask you this. Is there
10 anything that you would like to tell the Court? This is your
11 day in Court. Anything else that you would like to say that
12 you think I may have forgotten to bring up on your behalf?
13 This is your time.

14 A I think if the counselor, Dave Cook would have
15 really got everything that was suppose to have provided for
16 search warrant I think the outcome of my trial would have
17 been different. A whole lot different. And I mean, they
18 said in black and white it's in the transcript right now that
19 they seized crack from the informant. It was never in
20 evidence. It's never -- the weight of how much crack I sold
21 the man. How much money they gave him.

22 They said they gave him funds to come purchase the crack
23 from me. I ain't seen the money, nor the crack that they say
24 that I sold him.

25 They don't have none of that. Nor the informant. I know

1 you know, they said that I asked them several times wouldn't
2 they have to have that to prove me guilty. He said yes.
3 They would have to have evidence for the search warrant. And
4 then after they did do the alleged buy they searched me and
5 took my money. They never recovered any marked money.

6 Q Okay.

7 MR. THOMAS: Your Honor, have I no further
8 questions.

9 THE COURT: Mr. Hunter.

10 MR. HUNTER: Just a few things.

11 CROSS EXAMINATION

12 BY MR. HUNTER:

13 Q Now, you say you never saw any drugs, any money from
14 that C.I. buy, right? Is that what you were just saying?

15 A Yes.

16 Q Now, you were never charged with a crime on that,
17 right?

18 A Was I ever charged with a crime?

19 Q From that C.I. buy. You were never charged with a
20 crime for that transaction, correct?

21 A I don't know. I really don't know.

22 Q You don't know if you have been charged with a
23 crime?

24 A Because you know they -- he told me that they could
25 hold your charge.

1 Q Okay. Well, during the trial they said you weren't
2 charge with that crime would you disagree with that?

3 A During the trial they said I wasn't charged with the
4 crime.

5 Q Right, for that C.I. buy transaction?

6 A They say I wasn't charged with it?

7 Q They said you were not. Do you disagree with that?

8 A Do I disagree with it?

9 Q Right. Did you ever go to trial --

10 A Yeah, I disagree if I'm not charged with something
11 off the affidavit then what am I charged for?

12 Q I'm asking you about that C.I. buy.

13 A The C.I. buy.

14 Q That they said happened. Whether or not it happened
15 that's not what I am worried about.

16 A All right.

17 Q They say the C.I. buy happened. So I assume buy,
18 sell, money, drugs, were you ever charged? Did you ever go
19 to trial or plea to that crime?

20 A No, sir, I didn't.

21 Q Okay. And this C.I. -- I mean, obviously we -- it
22 was worked out at trial, we don't know who he is. Is there
23 anything you can tell us today about this C.I.?

24 A No.

25 Q And so we don't know what he would have said if he

1 had been produced at trial?

2 A I have no idea what would have gone on if it took
3 place because it never took place actually.

4 Q Okay.

5 MR. HUNTER: That's all have. Thank you.

6 THE COURT: Anything else, sir?

7 MR. THOMAS: Nothing further.

8 THE COURT: You may step down.

9 MR. THOMAS: Your Honor, if I can confer with my
10 client I think may be done.

11 THE COURT: Yes, sir.

12 MR. THOMAS: Your Honor, that is applicant's case.

13 THE COURT: Mr. Hunter?

14 MR. HUNTER: The State doesn't have any witnesses,
15 Your Honor!

16 THE COURT: Counsel, would you like to make a
17 closing statement?

18 MR. THOMAS: Your Honor, I normally don't make a
19 closing.

20 THE COURT: I don't require it.

21 MR. THOMAS: We're not in front of a jury. The
22 Court understands everything so we have nothing
23 further.

24 MR. HUNTER: We will rest on the testimony on the
25 record, Your Honor.

1 THE COURT: I will take this matter under
2 advisement. I will let you gentleman hear from me
3 within the next several days.

4 MR. THOMAS: Thank you, Your Honor.

5 (END OF TRANSCRIPT).
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I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for York County, South Carolina, on the 16th day of April, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 17, 2019

Aileen Butler

S/ Aileen Butler

STATE OF SOUTH CAROLINA
COUNTY OF YORK

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IN THE COURT OF COMMON PLEAS
THE SIXTEENTH JUDICIAL CIRCUIT

Antonio L. Robbins, #300579,

DAVID HAMILTON
C.C.P. CLERK
YORK COUNTY, SC

Case No. 2017-CP-46-01800

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before this Court by way of an application for post-conviction relief filed June 19, 2017, by Antonio L. Robbins (Applicant). The State (Respondent) made its return and partial motion to dismiss on September 20, 2017, requesting an evidentiary hearing be held on Applicant's allegations of ineffective assistance of counsel. An evidentiary hearing was convened on April 16, 2018, at the Moss Justice Center in York County before the Honorable Roger E. Henderson. Applicant was present at the hearing and represented by Tommy A. Thomas, Esquire. Respondent was represented by Assistant Attorney General Justin J. Hunter of the South Carolina Attorney General's Office.

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations and denies this application with prejudice.

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. During its February 2016 term, the York County Grand Jury indicted Applicant for third-offense trafficking in crack cocaine, ten to twenty-eight grams (2015-GS-46-03147).

David C. Cook, Esquire, represented Applicant on this charge. Assistant Solicitors Jennifer Colton and Teasa Weaver, both of the Sixteenth Circuit Solicitor's Office, prosecuted the case. On March 16-17, 2016, Applicant proceeded to a jury trial before the Honorable John C. Hayes, III. Following deliberations, the jury convicted Applicant as indicted, and Judge Hayes sentenced Applicant to a term of imprisonment of thirty years.

Applicant filed a timely notice of appeal, and Appellate Defender Robert M. Pachak, of the South Carolina Commission on Indigent Defense, Office of Appellate Defense, represented Applicant. Appellate counsel filed an *Anders*¹ brief, in which he raised the following issue: "Whether the trial court erred in giving a coercive *Allen* charge after the jury said it was hopelessly deadlocked?" Following a review pursuant to *Anders*, the Court of Appeals dismissed Applicant's appeal by unpublished opinion on February 15, 2017. *State v. Robbins*, Op. No. 2017-UP-081 (S.C. Ct. App. filed February 15, 2017). The remittitur was issued on March 3, 2017.

CURRENT APPLICATION

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. Plea offer was eighteen (18) years and attorney advised him to go to trial and if he didn't win at trial, he would win on appeal.
2. Illegal Warrant; [and]
3. No Probable Cause.

At the evidentiary hearing, Applicant proceeded forward on allegations of ineffective assistance of counsel for: (1) failing to investigate the controlled buy between Applicant and the CI, which was the basis for the search warrant; (2) failing to object to the drugs based on the possibility the

¹ *Anders v. California*, 386 U.S. 738 (1967).

weight could have been different than reported because the drugs were moist at the time of analysis; (3) failing to object to Lieutenant Ligon's qualification as an expert and his testimony about "high-level trafficking dealers;" and (4) failing to object to the *Allen*² charge.

STATEMENT OF FACTS ADDUCED AT TRIAL

On June 24, 2015, officers with the York County Multi-Jurisdictional Drug Enforcement Unit began conducting surveillance at a home on Woodland Road in Clover, South Carolina. Tr. 165-66. After a few hours of surveillance, officers observed Applicant drive up to the house in a truck. Tr. 166-67. Officers pulled into the driveway after Applicant, got out of their car, and asked Applicant to get out of the truck. Tr. 167. As soon as Applicant stepped out of his truck, officers detained him and advised him they had a search warrant for Applicant and for the residence. Tr. 168. Applicant was the only person in the truck and was the only person outside of the residence at the time. Tr. 173.

Officers then searched Applicant's person and found marijuana and \$630 in cash in his left pocket. Tr. 168. The smell of marijuana was also emanating from the truck, so officers conducted a search of the truck as well. Tr. 169. From the vehicle, officers recovered crack cocaine from four different bags, plastic bags, and a digital scale. Tr. 169. These items were found in a children's backpack, which was sitting on the bench in the cab of the truck. Tr. 169. Additionally, the crack cocaine found in the truck was "a dealer's amount of crack that's a large quantity," or also known as a "crack cookie." Tr. 177.

After searching the truck, officers then went inside the residence to execute the search warrant. Tr. 191. Applicant, an adult female, and two children were present in the home at the time of the search. Tr. 192. In the home, officers recovered two additional "things" of crack cocaine, which were found in an Easter basket. Tr. 192. Men's shoes and clothing were also

² *Allen v. United States*, 164 U.S. 492 (1896).

found in the home. Tr. 198-99. After finding the drugs in the home, Investigator Logan McGarrity asked Applicant to whom the drugs belonged.³ Tr. 206. Applicant stated everything found in the house was his. Tr. 206. Lieutenant Mike Ligon also asked Applicant how much crack cocaine he had, to which Applicant stated he did not know exactly. Tr. 230. In explaining why he did not know the amount of crack cocaine in his possession, Applicant said an individual gave him whatever that person had left over. Tr. 230. Applicant also stated he had been selling crack cocaine for approximately two months. Tr. 231.

The drugs were then sent to the drug laboratory for analysis. Tr. 249-51. One of the rock substances found was moist at the time of analysis; and by the time of trial, had liquefied in the bag.⁴ Tr. 254-55. At the time of trial, the substance had turned into a paste, but it was not like that at the time of analysis. Tr. 255. The other three rock substances were not moist. Tr. 255. After analysis, the rock substances were determined to be crack cocaine, weighing at 141.15 grams, 0.6 grams, and 0.23 grams. Tr. 257-58.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf and presented the testimony of David C. Cook, Esquire (Counsel). This Court also had before it the record on appeal, the records of the York County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and the records from this current post-conviction-relief action.

At the evidentiary hearing, Applicant first presented the testimony of Counsel. Counsel testified he was retained to represent Applicant, and he met Applicant at the detention center

³ Applicant had previously been advised of his rights both inside and outside the home, and Applicant waived those rights. Tr. 201-06.

⁴ If, in the process of cooking crack cocaine, the cocaine does not completely dry, then it can start to break down and liquefy. Tr. 239.

approximately three or four times. He further testified in those meetings, he and Applicant discussed Applicant's version of the facts. Counsel testified Applicant did not give him any leads to investigate, other than his girlfriend. He testified during those meetings, Applicant said there was an issue with the search warrant, and it was based off of improper information from the confidential informant (CI). He explained Applicant told him his girlfriend had a tape of the conversation with the CI, which supported his theory the CI was giving improper information. Counsel also testified the search warrant was based on the controlled buy from the CI, and drugs were found in both the residence and the truck. He testified he argued there was no search warrant for the truck. Counsel also testified he moved to compel the State to produce the CI, as Applicant maintained he never made a controlled buy with the CI. He explained this went towards the veracity of the search warrant.

He further testified there was an audiotape of the CI-buy, which was with Applicant's first attorney. Counsel explained Applicant alleged drugs were not mentioned on the tape, and Counsel believed the CI-buy was the basis for the search warrant. He further testified he never received a copy of the tape from Applicant's first attorney. He explained there was not a lot of time between him being retained and the case proceeding to trial. Counsel testified he failed to obtain a copy of the tape. He further explained he did not believe he asked for a copy of the audio recording in his discovery motions. Counsel testified he did not receive the recording in discovery, but it was important for him to have that recording. He further testified, however, the State would have to produce anything it intended to use at trial, but the State never mentioned the CI-buy at Applicant's trial.

Counsel further testified the audiotape was important to show the search warrant was faulty because Applicant stated the controlled buy never happened. He also testified, however,

he is unaware if Applicant was charged for that controlled buy, and the controlled buy was not the subject of this trial. He testified he had the audio recording the day of the trial, and he listened to a copy of the tape from Applicant's girlfriend, which she recorded on her phone from the first attorney's office. He further testified he made a motion for the trial court to hear the tape, which the court allowed. Counsel testified the solicitor argued there was a portion in the beginning missing from Applicant's girlfriend's tape, but it was essentially the same recording as the solicitor's copy. He further testified, however, he did not think the solicitor's copy of the tape was introduced as an exhibit, and he was not sure whether or not the tape went to the jury. Counsel also testified the trial court ruled there was nothing relevant on the audiotape.

He also testified he attempted to proffer testimony from Officer Robin Gander about the audiotape and the bases of the search warrant, but Officer Gander did not personally obtain the search warrant. He testified he proffered this testimony through Investigator David Vaughn, and he was attempting to lay a foundation in order to get the audiotape into evidence. Counsel further testified Investigator Vaughn stated he had heard the recording of the controlled buy, but he could not recall whether he could determine if a drug transaction actually took place from the recording. Counsel explained Investigator Vaughn's responses shut Counsel down, and he allowed Investigator Vaughn to step down without playing the audiotape. He further explained, however, the trial court was not going to allow that proffered testimony to be asked in the presence of the jury, and the trial court was definitive in his ruling.

He testified he moved to suppress the drugs found in both the home and the truck. He explained he moved to suppress the drugs based on a faulty search warrant and because the truck was not mentioned in the search warrant. Counsel further explained the truck was located in the driveway of the home at the time of the search, upon which he also based his motion to suppress.

He further testified the trial court ruled the search warrant was valid.

Counsel testified he and Applicant discussed Applicant's statements to law enforcement. He testified he made a motion to suppress Applicant's statement to law enforcement. He further testified he renewed his motion to suppress the confession. He testified, however, the trial court denied his motion.

He testified one of the rock substances was moist when the drug analyst opened the evidence bag. He explained the drugs had somewhat liquefied in the bag. He further explained, however, the drugs had liquefied after they were analyzed. Counsel also testified the drugs were weighed before they were liquefied. He further testified he did not believe the fact the drugs were moist would change the weight of the drugs. He explained although he renewed his prior objection to suppress the drugs, he did not make an objection to the drugs regarding their weight. He testified he made no objection based on the difficulty to ascertain the amount of the liquefied drugs. Counsel also testified there was a larger amount of drugs taken from the truck than the house. He explained the weight of the drugs found in the truck amounted to 141 grams, whereas the weights of the drugs found in the house were 0.23 grams and 0.66 grams.

Counsel also testified there was a photograph of the evidence bag with drugs, but he did not object to the photographs of the drugs. He explained the photograph was objectionable, but he did not know whether or not that objection would have been sustained. He testified the physical drugs were entered into evidence. He further testified he renewed his objections to the drugs based on his pre-trial motions. He further testified it was strange the photographs at trial were in black and white, rather than in color. He explained he made a best evidence objection to the black and white photographs because the color photographs had been destroyed.

Counsel further testified Lieutenant Ligon worked for the drug enforcement unit and was



qualified as an expert at trial without objection. He testified Lieutenant Ligon testified there were different levels of drug dealers, and street level dealers typically have one to forty grams. He explained Lieutenant Ligon did not quantify how much cocaine a high level dealer would have. He testified Lieutenant Ligon testified at trial he had the opportunity in his career to interview and debrief street level, mid-level, and high level trafficking dealers. Counsel testified he did not object to Lieutenant Ligon's classification of "high-level trafficking dealers." He further testified Lieutenant Ligon testified at trial Applicant had at least 140 grams of cocaine on him. Counsel testified this testimony could be prejudicial to Applicant because an expert at trial deemed Applicant to be a high level dealer, without objection. He further testified, however, Lieutenant Ligon actually testified based on the amount of drugs Applicant had, that amount would be common of a mid-level drug dealer. He explained Lieutenant Ligon did not classify Applicant as a high-level dealer.

He testified the jury came back deadlocked, and an *Allen* charge was given. He testified he did not object to the *Allen* charge, but he could have. He further testified he has had other cases where an *Allen* charge has been given, and he has never objected to the charge. He testified had he objected, he would not have moved for a mistrial on that basis. Counsel testified he was not aware the issue on appeal was regarding the *Allen* charge and that issue was unsuccessful.

Following Counsel's testimony, Applicant testified on his own behalf. Applicant testified he was arrested on June 16th or 17th of 2016. He testified he retained Counsel to represent him, and he met Counsel three times. He further testified he was offered an eighteen-year sentence in exchange for a plea. He explained, however, he would have taken the plea only if the State revealed the identity of the CI and if the State could show the drugs were sold to the

CI. He further explained he asked Counsel to obtain this information, but Counsel failed to do so. Applicant also testified the only offer conveyed to him was the eighteen-year offer, and he was unaware of a fourteen-year offer. He testified he would not accept a fourteen-year offer.

He testified the search warrant stated he sold the CI drugs, and law enforcement seized drugs from that sale. He elaborated, however, he never sold drugs to the CI. He further elaborated he was never presented with the drugs seized from the buy. Applicant testified there was no actual proof to the warrant affidavit; therefore, the warrant was illegal. Applicant further testified law enforcement officers showed up at his girlfriend's house, but he was not living there. He testified the amount of drugs found in the house rose to the level of distribution, but the amount of drugs found in the truck rose to the level of trafficking. Applicant testified had Counsel gotten everything from the search, the outcome of the trial would have been different. He elaborated the drugs seized from the CI did not come out a trial. He testified, however, he never went to trial for, nor did he plead guilty to, any charges related to the CI-buy.

He also testified Applicant never heard the audiotape of the controlled buy, but his girlfriend did. He testified his girlfriend made a copy of the tape on her cellphone, and the recording was played in court. Applicant elaborated this recording proved he did not sell drugs. He further testified he did not receive a hard copy of the recording, and he did not know why he did not receive such a copy. He testified there was no evidence of the controlled buy, as the CI did not appear at his trial. Applicant elaborated if he committed these crimes, he wants to see proof. He further elaborated he is not willing to plead guilty because he knows he did not sell to the CI.

Applicant further testified his defense at trial was to attack the search and suppress the drugs. He explained, however, that strategy was not successful. He further testified he and



Counsel discussed what would happen if their strategy was not successful, and Counsel told him he would win on appeal or post-conviction relief. He also testified he never made statements to law enforcement. He elaborated the law enforcement officers were trying to trick him because they wanted him back in prison.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant's allegations of ineffective assistance of counsel are as follows: (1) failing to investigate the controlled buy between Applicant and the CI, which was the basis for the search warrant; (2) failing to object to the drugs based on the possibility the weight could have been different than reported because the drugs were moist at the time of analysis; (3) failing to object to Lieutenant Ligon's qualification as an expert and his testimony about "high-level trafficking dealers;" and (4) failing to object to the *Allen*⁵ charge.

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the applicant must prove 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.

⁵ *Allen v. United States*, 164 U.S. 492 (1896).

The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." *Cherry*, 300 S.C. at 117, 385 S.E.2d at 625 (citing *Strickland*). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

After careful review based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

*Counsel's alleged failure to investigate the controlled buy between
the CI and Applicant*

Applicant alleges Counsel was ineffective for failing to investigate the controlled buy between the CI and Applicant, which was the basis for the search warrant. Applicant contends had Counsel investigated everything in connection with the search warrant, the outcome of the trial would have been different. Specifically, Applicant alleges had Counsel obtained a copy of the audio recording of the CI-buy, it would have showed he did not sell drugs to the CI, particularly in light of the fact the recording did not specifically indicate a drug transaction

occurred. He also contends Counsel should have introduced the recording into evidence. Applicant further alleges Counsel failed to find any evidence of the drugs Applicant allegedly sold to the CI, or the money from that transaction.

"Counsel's concern is the faithful representation of the interest of his client and such representation frequently involves highly practical considerations as well as specialized knowledge of the law." *Tollett v. Henderson*, 411 U.S. 258, 267-68 (1973). "Although counsel should conduct a reasonable investigation into potential defenses, *Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client." *Tucker v. Ozmint*, 350 F.3d 433, 442 (4th Cir. 2003) (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Strickland*, 466 U.S. at 691; *Wiggins v. Smith*, 539 U.S. 510, 521-22 (2003).

Here, Counsel testified the CI-buy was not the subject of Applicant's trial. Indeed, neither Counsel nor Applicant were aware whether or not Applicant was charged in connection with that CI-buy. Furthermore, Counsel testified he attempted to obtain a hard copy of the audio recording of the buy, but was unable to obtain a copy. He further testified he attempted to introduce the recording into evidence and attempted to proffer the testimony from various witnesses, but the trial court was definitive in his ruling neither the evidence nor the testimony regarding the audio recording would be introduced. In fact, the trial court ruled there was nothing relevant on the audio recording to the trial. Because Counsel attempted to obtain and introduce a copy of the audio recording into evidence and because the CI-buy was not the subject of Applicant's trial, this Court finds Counsel's conduct was reasonable under the circumstances.

This Court further finds Applicant has failed to establish any resulting prejudice from the alleged deficiency. "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." *Porter v. State*, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (citing *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant contends this audio recording would prove he did not enter into a drug transaction with the CI. However, Applicant wholly failed to introduce a copy of this audio recording at the evidentiary hearing, leaving this Court only to speculate as to what benefit would have been realized from this recording. Moreover, as aforementioned, the CI-buy was not the subject of this trial, and the State never mentioned the CI-buy at Applicant's trial. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to challenge the weight of the drugs

Applicant further contends Counsel was ineffective for failing to object to the drugs based on the possibility the weight could have been different than reported because the drugs were moist at the time of analysis. In particular, Applicant contends Counsel should have challenged the weight of the drugs found in the truck because they were moist at the time of analysis and had liquefied by the time of trial. The crack cocaine found in the truck, however, was well over the minimum weight threshold, weighing over 140 grams. Applicant has not presented any evidence to establish those weights were inaccurate, nor has he produced any evidence to show he possessed less than ten grams of crack cocaine. Accordingly, Applicant has failed to meet his requisite burden of proof, and this allegation must be denied and dismissed with prejudice.

*Counsel's alleged failure to object to Lieutenant Ligon's
qualification as an expert and testimony regarding levels of
drug dealers*

Applicant also alleges Counsel was ineffective for failing to object to the qualification of Lieutenant Ligon as an expert witness and for failing to object to Lieutenant Ligon's testimony about the levels of drug dealers. Specifically, Applicant contends Counsel should have objected to the following during direct examination and prior to the qualification of Lieutenant Ligon as an expert:

Q: And over the course of your career, how many people do you think you have debriefed, in regard to street-level offenses?

A: Hundreds, if not, possibly thousands.

Q: And by street, what is your interpretation of what a street-level deal is?

A: Street-level dealers generally will deal anywhere from a gram, up to fifteen, twenty, thirty, forty grams. I mean, just depending on what we get them with.

Q: Have you had the opportunity to debrief both users and sellers?

A: Yes ma'am, I have.

Q: And higher level of narcotics have you been able to interview and debrief? Mid-level dealers?

A: Yes, ma'am.

Q: High-level trafficking dealers?

A: Yes, ma'am.

Tr. 222. Applicant further contends this line of questioning, particularly the question in which Lieutenant Ligon was asked about "high-level trafficking dealers," was prejudicial because he was charged with trafficking crack cocaine.

A person is competent as an expert when he has acquired knowledge, skill, or experience so that he is better able to assist the jury in understanding the evidence or determining a fact in issue. Rule 702, SCRE. "An expert is not limited to any class of persons acting professionally." *State v. Robinson*, 396 S.C. 577, 586, 722 S.E.2d 820, 825 (Ct. App. 2012), *aff'd as modified* 410 S.C. 519, 765 S.E.2d 564 (2014) (quoting *Gooding v. St. Francis Xavier*

Hosp., 326 S.C. 248, 252, 487 S.E.2d 596, 598 (1997)). Indeed, a law enforcement officer with extensive experience in narcotics enforcement coupled with his involvement in numerous drug cases has sufficient experience to qualify the officer as an expert in narcotics. *Id.* at 587, 722 S.E.2d at 825.

Here, Lieutenant Ligon testified he has been a law enforcement officer for twenty years and has been with the Drug Enforcement Unit for fifteen years. Tr. 220. He testified he investigates not only trafficking offenses but also street-level offenses and has been able to interview and debrief street-level dealers, mid-level dealers, and high level trafficking dealers. Tr. 221-22. He further testified he has interviewed "hundreds, if not, probably thousands" of street-level dealers throughout his career. Tr. 222. Based on the foregoing, Lieutenant Ligon possessed the requisite knowledge, skill, and experience in order to be qualified as an expert in narcotics detection and valuation. Accordingly, there was nothing to which Counsel should have objected. This Court, therefore, finds Applicant has failed to establish any deficiency on the part of Counsel.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from the alleged deficiency. Lieutenant Ligon merely made a comparison between the amount of drugs found in Applicant's truck and the levels of drugs commonly sold on the streets. Tr. 232-34. Lieutenant Ligon further testified regarding the amount of money the various amounts of drugs could yield and who would typically purchase the quantity found in Applicant's truck. Tr. 234-36. In fact, Lieutenant Ligon specifically testified: "Basically, in this situation, you would have what we would consider a mid-level drug dealer, dealing with more of the higher-end drug dealer." Tr. 235. Lieutenant Ligon never testified Applicant was a "high-level trafficking

dealer," nor did he testify Applicant was guilty of trafficking. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to object to the Allen charge

Applicant further alleges Counsel was ineffective for failing to object to the *Allen* charge. "While, undoubtedly, the verdict of the jury should represent the opinion of each individual juror, it by no means follows that opinions may not be changed by conference in the jury room." *Allen*, 164 U.S. at 501. When a jury comes back into the courtroom, appearing to be deadlocked after having deliberated, the trial court can instruct the jury further on its duty to reach a verdict, if it can conscientiously do so. *Id.* Indeed, it is the trial court's duty to urge, not coerce, the jury to reach a verdict. *Dawson v. State*, 352 S.C. 15, 20, 572 S.E.2d 445, 447 (2002) (citing *Green v. State*, 351 S.C. 184, 194, 569 S.E.2d 318, 323 (2002)). An *Allen* charge, however, cannot merely be directed to the minority voters on the jury panel, but rather should be "even-handed, directing both the majority and the minority to consider the other's views." *Id.* Whether the charge is unconstitutionally coercive depends on the facts and circumstances of the case. *Id.* (citing *Tucker v. Catoe*, 346 S.C. 483, 491, 552 S.E.2d 712, 716 (2001)). Furthermore, in determining whether or not an *Allen* charge was coercive, the reviewing court should consider: (1) whether the charge spoke specifically to the minority juror(s); (2) whether the charge included any language such as: "You have got to reach a decision in this case;" (3) whether there was any inquiry into the jury's numerical division; and (4) whether the jury returned a verdict shortly after the supplemental charge. *Tucker*, 346 S.C. at 492, 552 S.E.2d at 716 (citing *Lowenfield v. Phelps*, 484 U.S. 231 (1988)).

Here, the jury returned to the courtroom, indicating it was deadlocked after two hours of deliberation. Tr. 348. The trial court then charged the jury:

When a matter is in dispute, it isn't always easy for even two people to agree, so, when twelve people must agree, it obviously becomes more difficult. In most cases, absolute certainty cannot be reached or expected. However, you have a duty to make every reasonable effort to reach a unanimous verdict.

In doing this, you can -- you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Tell each other how you feel, and why you feel the way you do; discuss your differences with open minds. Although the verdict of the jury must be unanimous, every one of you has the right to your own opinion. The verdict you agree on must be your own verdict, the results of your own convictions, and you should not give up your firmly-held beliefs, merely to be in agreement with your fellow jurors.

Regardless, you should consider the minority's position, and the minority should consider the majority's position. You should carefully consider and respect the opinions of each other, and reevaluate your positions for reasonableness, correctness, and impartiality. You must lay aside all outside matters, and reexamine the questions before you, based on the law and the evidence that's been presented in the case.

If you do not agree on a verdict, I will have to declare a mistrial. In that case, it doesn't mean anybody wins. It just means that at some future time, myself or another judge and another jury, sitting where you are, will have to try the case at that -- will try the case at that time. The same participants will come. The same lawyers will basically ask the same questions and get the same answers. And probably, the same witnesses will be those who testify, and we'll go through this whole process again.

You were selected in the same manner and from the same source as any future jury, and there's no reason for me to believe that the case will even be submitted to twelve more intelligent, impartial, conscientious, and competent juries that are you, or, that more clearer evidence will produced on one side or the other.

With that said, I'm going to ask you to continue to deliberate for some time, and see if you can't reach a unanimous verdict.

Tr. 349-50. The jury returned a verdict shortly thereafter. Tr. 351.

The trial court's charge neither spoke specifically to the minority jurors nor inquired into the jury's numerical division. Rather, the trial court urged the jury to consider both sides—the majority's position and the minority's position—and to reevaluate their opinions based on reasonableness and to reexamine the evidence before them. Moreover, the trial court did not tell the jury they had to reach a verdict or were required to reach a verdict. Accordingly, this Court finds Applicant has failed to establish Counsel was deficient. Moreover, after the verdict was published, each juror affirmed the verdict. Therefore, there is nothing to indicate the result of the proceeding would have been different had Counsel objected to the *Allen* charge. This allegation must be denied and dismissed with prejudice.



CONCLUSION

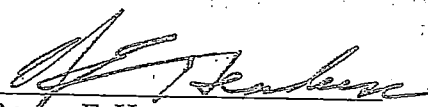
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED this 22nd day of March, 2019.


 ROGER E. HENDERSON
 Presiding Judge
 Sixteenth Judicial Circuit

Chesterfield, South Carolina

000462
FILED-RECEIVED

THE STATE OF SOUTH CAROLINA

In The Supreme Court

2019 APR 24 AM 11:54

APPEAL FROM YORK COUNTY

Court of Common Pleas

Post Conviction Relief

DAVID HAMILTON

C.C.P. & GS

YORK COUNTY, SC

Roger E. Henderson, Circuit Court Judge

Case No.: 2017-CP-46-01800

Antonio L. Robbins #300579,..... Petitioner,

vs.

State of South Carolina, ...Respondent.

NOTICE OF APPEAL

Antonio L. Robbins #300579 appeals the Order of the Honorable Roger E. Henderson, dated March 22, 2019 and filed on March 26, 2019. Appellant received written notice of entry of this order on March 29, 2019.


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April 17, 2019

FILED-RECEIVED

000463

THE STATE OF SOUTH CAROLINA
In The Supreme Court

2019 APR 24 AM 11: 54

APPEAL FROM YORK COUNTY
Court of Common Pleas
Post Conviction Relief

DAVID HAMILTON
S.C.C.P. & CS
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Case No.: 2017-CP-46-01800

Antonio L. Robbins #300579,..... Petitioner,

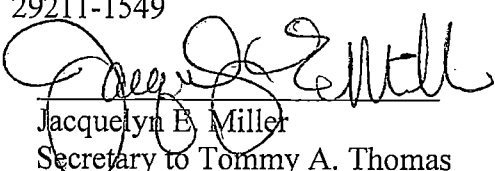
vs.

State of South Carolina, ...Respondent.

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Applicate hereby certify that I placed in the United States Mail, a copy of a Notice of Appeal with postage prepaid and the return address clearly shown on said envelope to Justin J. Hunter, Esq. of the Attorney General's Office, at:

Justin J. Hunter, Esq.
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Irmo, SC
April 17, 2019