

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

Alexander S. Macaulay, Circuit Court Judge

 ORIGINAL

**RECEIVED**

SEP 08 2014

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

DAN TEMPLE,

APPELLANT

APPELLATE CASE NO. 2013-000663

RECORD ON APPEAL

CARMEN V. GANJEHSANI  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

Attorney for Appellant

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Assistant Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734-3727

CHRISTINA T. ADAMS  
Solicitor, Tenth Judicial Circuit  
PO Box 8002  
100 S. Main Street  
Anderson, SC 29622-8002  
(864) 260-4046

Attorneys for Respondent

INDEX

INDEX .....i

TRIAL TRANSCRIPT ..... 1

MOTION TO SUPPRESS ..... 10

OPENING STATEMENT ON BEHALF OF THE STATE ..... 26

OPENING STATEMENT ON BEHALF OF THE DEFENDANT ..... 31

TESTIMONY

    B.J. MCCLURE

        Direct Examination by Ms. Simmons ..... 35

        Cross Examination by Mr. Rosemond ..... 40

    CORTNEY WRIGHT

        Direct Examination by Ms. Simmons ..... 45

        Cross Examination by Mr. Rosemond ..... 52

        Redirect Examination by Ms. Simmons ..... 56

        Recross Examination by Mr. Rosemond ..... 56

    CRYSTAL DAWN HENRY

        Direct Examination by Ms. Simmons ..... 59

        Cross Examination by Mr. Rosemond ..... 63

        Redirect Examination by Ms. Simmons ..... 79

        Recross Examination by Mr. Rosemond ..... 80

    KENNETH LEE WASHINGTON

        Direct Examination by Ms. Simmons ..... 94

        Cross Examination by Mr. Rosemond ..... 102

        Redirect Examination by Ms. Simmons ..... 105

        Recross Examination by Mr. Rosemond ..... 106

    TIM HUNNICUTT

        Direct Examination by Ms. Simmons ..... 108

        Cross Examination by Mr. Rosemond ..... 117

    TYREL WOODRING

        Direct Examination by Ms. Simmons ..... 145

        Cross Examination by Mr. Rosemond ..... 151

MEREDITH LANFORD	
Direct Examination by Ms. Simmons.....	156
Cross Examination by Mr. Rosemond.....	162
 TIM HUNNICUTT	
Direct Examination by Ms. Simmons.....	164
Cross Examination by Mr. Rosemond.....	166
Redirect Examination by Ms. Simmons.....	169
 COURTNEY WRIGHT	
Direct Examination by Ms. Simmons.....	171
Cross Examination by Mr. Rosemond.....	174
 JAMES WILLIE WALKER	
Direct Examination by Mr. Rosemond.....	181
Cross Examination by Ms. Simmons .....	185
Redirect Examination by Mr. Rosemond .....	191
Recross Examination by Ms. Simmons.....	192
 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT .....	194
CLOSING ARGUMENT ON BEHALF OF THE STATE .....	209
CHARGE ON THE JURY.....	223
VERDICT .....	244
SENTENCING .....	255
COURTS EXHIBIT #1 (Search Warrant) .....	264
INDICTMENT .....	269
SENTENCING SHEET .....	271
CERTIFICATE OF COUNSEL.....	272

1 State of South ) In the Court of General  
 Carolina ) Sessions  
 2 )  
 3 County of Oconee ) Indictments Nos:  
 ) 2013-GS-37-00184  
 ) 2013-GS-37-00185

4  
 5 State of South )  
 6 Carolina )  
 )  
 7 Plaintiff, ) Transcript of Record  
 ) Trial March 18-21, 2013  
 8 -vs- ) (Pages 1 through 424)  
 )  
 9 Dan Lavert Temple, )  
 )  
 10 Defendant. )

11 March 18, 19, 20, 21, 2013  
 Walhalla, South Carolina

12  
 13  
 14 B e f o r e :

15 The Honorable Alexander S. Macaulay, Judge; and a  
 16 Jury.

17 A p p e a r a n c e s :

18 Lindsey S. Simmons, Esq.  
 Blair S. Stoudemire, Esq. (Afternoon of March 21, 2013)  
 19 Assistant 10th Circuit Solicitors  
 Attorneys for the State

20 R. Delane Rosemond, Esq.  
 21 Attorney for the Defendant

22 Ms. Ginger Newton  
 23 Probation Officer (March 21, 2013 sentencing and  
 Probation violation)

24  
 25 Robin Sue Hild, FCRR, RPR  
 Circuit court reporter

1	Index	
2	Witnesses	Page
3	March 18, 2013 (State's Outside Jury Presence)	
4	Kenneth Lee Washington	
5	Direct Examination by Ms. Simmons	59
6	Cross-Examination by Mr. Rosemond	64
7	Tim Hunnicutt	
8	Direct Examination by Ms. Simmons	67
9	Cross-Examination by Mr. Rosemond	71
10	Tyrel Woodring	
11	Direct Examination by Ms. Simmons	74
12	(Defense Outside Jury Presence)	
13	Dan Lavert Temple	
14	Direct Examination by Mr. Rosemond	79
15	Cross-Examination by Ms. Simmons	84
16	Redirect Examination by Mr. Rosemond	86
17	March 19, 2013 (State's)	
18	B.J. McClure	
19	Direct Examination by Ms. Simmons	110
20	Cross-Examination by Mr. Rosemond	116
21	Cortney Wright	
22	Direct Examination by Ms. Simmons	121
23	Cross-Examination by Mr. Rosemond	127
24	Redirect Examination by Ms. Simmons	132
25	Recross-Examination by Mr. Rosemond	132
26	Crystal Dawn Henry	
27	Direct Examination by Ms. Simmons	135
28	Cross-Examination by Mr. Rosemond	139
29	Redirect Examination by Ms. Simmons	155
30	Recross-Examination by Mr. Rosemond	156

1	Index	
2	Witnesses	Page
3		
4	Kenneth Lee Washington	
5	Direct Examination by Ms. Simmons	169
6	Cross-Examination by Mr. Rosemond	178
7	Redirect Examination by Ms. Simmons	181
8	Recross-Examination by Mr. Rosemond	182
9		
10	Tim Hunnicutt	
11	Direct Examination by Ms. Simmons	183
12	Cross-Examination by Mr. Rosemond	193
13		
14	Tyrel Woodring	
15	Direct Examination by Ms. Simmons	227
16	Cross-Examination by Mr. Rosemond	233
17		
18	Melinda Nicholson	
19	Direct Examination by Ms. Simmons	237
20	Cross-Examination by Mr. Rosemond	241
21	Redirect Examination by Ms. Simmons	242
22		
23	Meredith Lanford	
24	Direct Examination by Ms. Simmons	243
25	Cross-Examination by Mr. Rosemond	249
26		
27	March 20, 2013 (State's Outside Jury Presence):	
28		
29	Cortney Wright	
30	Direct Examination by Mr. Rosemond	259
31	Cross-Examination by Mr. Rosemond	263
32		
33		
34		
35		

	Index	
	Witnesses	Page
1		
2		
3	(State's Outside Jury Presence):	
4		
5	Tim Hunnicutt	
6	Direct Examination by Mr. Rosemond	269
7	Cross-Examination by Ms. Simmons	271
8		
9	(State's With Jury Presence)	
10		
11	Tim Hunnicutt	
12	Direct Examination by Ms. Simmons (continued)	279
13	Cross-Examination by Mr. Rosemond	281
14	Redirect Examination by Ms. Simmons	284
15		
16	Cortney Wright	
17	Direct Examination by Ms. Simmons	286
18	Cross-Examination by Mr. Rosemond	289
19		
20		
21	(Defense With Jury Presence)	
22		
23	James Willie Walker	
24	Direct Examination by Mr. Rosemond	303
25	Cross-Examination by Ms. Simmons	307
	Redirect Examination by Mr. Rosemond	313
	Recross-Examination by Ms. Simmons	314

	Index	
		Page
1		
2		
3	Jury Voir Dire and Selection	7
4	Defendant's Motion to Quash	41
5	The Court's Ruling on Defendant's Motion to Quash	44
6	Defendant's Motion to Suppress	46
7	The Court's Ruling, Defendant's Motion to Suppress	61
8	The Jury was sworn	97
9	Preliminary Instructions to the Jury by the Court	98
10	Opening Statement on behalf of the State	105
11	Opening Statement on behalf of the Defendant	110
12	The Court's Ruling on Defense Motion to Dismiss	280
13	Defendant's Motion for Directed Verdict	300
14	The Court's Ruling on Motion for Directed Verdict	301
15	Renewal of Defense Motion for Directed Verdict	320
16	The Court's Ruling on Motion for Directed Verdict	320
17	Charge Conference	320
18	Closing Argument on behalf of the Defendant	327
19	Closing Statement on behalf of the State	342
20	The Court's Charge to the Jury	356
21	Verdict of the Jury	403
22	Sentencing of the Defendant	408
23	Sentence of the Court/Indictments and Probation Violation	417
24	Motion to be Relieved as Counsel by Mr. Rosemond	424
25	Certificate of Court Reporter	427

1	No.	Description	Exhibits	Id/Ev
2		State's 1 through 15, Photos		23/68
3		State's 31, Miranda Statement 7/25/12		23/51/102
4		State's Exhibits 15 through 30, Photos		23/69
5		State's Ex. 32, the BEST Pack, and Drug Analysis Report		125/131
6		Defendant's Ex. 1, Search Warrant 7/24/12		79/--
7		Court's Ex. 1, search warrant		23
8		Court's Ex. 2, Search Warrant dated 7/24/12 with Return, certified copy		134
9		Court's Ex. 3, Copy of Court's Exhibit # 2 With DVD of computer		134
10		Court's Ex. 4, note from jury		194
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1           **\*\* Start of Requested Transcript of Record \*\***

2                               **March 18, 2013**

3                               **10:40 a.m.**

4           **THE COURT:** All right. Are we ready to proceed  
5 from the State?

6           **MS. SIMMONS:** Yes, Your Honor.

7           **THE COURT:** From the Defense?

8           **MR. ROSEMOND:** Yes, Your Honor.

9           **Jury Voir Dire and Selection:**

10           **THE COURT:** Very good.

11           Ladies and gentlemen, as I mentioned earlier, this  
12 is a term of General Sessions Court, sometimes called  
13 criminal court. Its purpose is to resolve questions of  
14 alleged criminal conduct arising between the State of  
15 South Carolina and the Defendant in a fashion which will  
16 ensure that justice under the law is accomplished.

17           The trial of a case begins with the selection of a  
18 Jury. Both the State and the Defendant are entitled to  
19 Jurors who approach the case with an open mind. The  
20 trial Jury must be free as humanly possible from any  
21 bias, prejudice, or sympathy for either side and free  
22 from any preconceived ideas on the facts of the case or  
23 the law on the case.

24           Therefore, certain questions will be asked of you,  
25 the Petit Jury Panel. The questions which will be asked

1 are designed to ensure that each side has a fair and an  
2 impartial Jury. As I said earlier, if any person should  
3 talk with you or attempt to talk with you about any case  
4 scheduled for this term of court, it will be your solemn  
5 duty to immediately report that matter to the Court so I  
6 might take the appropriate action.

7 Now, is there any member of the Jury Panel who  
8 cannot hear me or understand what I am saying? In other  
9 words, am I speaking clearly and loud enough so that you  
10 can hear? Would you please raise your hand? That's an  
11 interesting question, because if you couldn't hear me,  
12 you wouldn't know to raise your hand. But is there any  
13 member of the Jury Panel who sees my lips moving but  
14 cannot understand what I'm saying, if you would raise  
15 your hand. (No response.) Very well.

16 Madam Solicitor, call your first case.

17 **MS. SIMMONS:** Thank you, Your Honor. We call  
18 2013-GS-37-185, the State versus Daniel Lavert Temple,  
19 for possession of a controlled substance, a Schedule I  
20 through V, and 2013-GS-37-184, the State versus Daniel  
21 Lavert Temple, for possession with intent to distribute  
22 crack cocaine.

23 **THE COURT:** Ladies and gentlemen of the Petit Jury  
24 Panel, the Court now directs your attention to the  
25 following cases. The first case is entitled the State

1 of South Carolina versus Dan Lavert Temple, charged in a  
2 Bill of Indictment Number 2013-GS-37-184 with  
3 distribution of a controlled substance; and also in  
4 Indictment Number 2013-GS-37-185 with possession of a  
5 controlled substance.

6 Now, is any member of the Jury Panel related by  
7 blood or marriage, close personal friend, or business  
8 associate of the Defendant, Dan Lavert Temple? If so,  
9 please stand.

10 (There was no response.)

11 **THE COURT:** And I think that what we might also do  
12 is this. The State is represented by Ms. Simmons.

13 Ms. Simmons, if you would please stand, introduce  
14 yourself and anyone that will be assisting you in the  
15 trial of this case.

16 **MS. SIMMONS:** Thank you, Your Honor.

17 Good morning. My name is Lindsey Simmons. I am an  
18 Assistant Solicitor in the Oconee Solicitor's Office. I  
19 work for your elected Solicitor, Ms. Chrissy Adams.  
20 Assisting me in the trial of this case will be  
21 Investigator Tim Hunnicutt of the Seneca Police  
22 Department.

23 **THE COURT:** All right. Very good. Thank you very  
24 much.

25 Ladies and gentlemen, I realize that, you know,

1           **MS. SIMMONS:** Judge, the State is not required to  
2 prove evidence showing the exact location of the crime  
3 in the Indictment.

4           **THE COURT:** All right. Very good.

5           All right, Mr. Rosemond.

6 Defendant's Motion to Suppress:

7           **MR. ROSEMOND:** Secondly, Your Honor, the Defendant  
8 is asking that you suppress the drugs that were found in  
9 the hotel room as a result of an unlawful Search Warrant  
10 issued mainly because law enforcement didn't, number  
11 one, have probable cause; number two, it didn't attest  
12 to any informant's reliability; number three, the lack  
13 of jurisdiction in this particular case in where a  
14 County Judge signed a City Search Warrant, and the  
15 issuance of the search warrant violated the Fourth  
16 Amendment.

17           **THE COURT:** First, the issue that comes to my mind  
18 is the one about a County Judge not having jurisdiction  
19 over a City in the County. Without further elaboration  
20 I can remember certain County Sheriffs that said that if  
21 people didn't stop breaking the law in the County seat,  
22 he was gonna have to call the law because he was the  
23 County Sheriff and not the City Police. And I don't  
24 think that's the law. The County Sheriff has, the  
25 County Magistrate has jurisdiction.

1           **MR. ROSEMOND:** But the problem, Judge, is when you  
2 know the City Judge will not give you a Search Warrant  
3 because he doesn't think you have probable cause for  
4 that and then you start Judge shopping.

5           **THE COURT:** Let's go to probable cause. Now, if  
6 the City Judge knew that he didn't have probable cause,  
7 then the County Judge knew that he didn't have probable  
8 cause. Well, he just didn't exercise it, but he knew,  
9 so now let's go to the probable cause. I don't know  
10 what the basis of the probable cause was, but I'm gonna  
11 find again jurisdiction can be decided as to where  
12 somebody is located.

13           **MR. ROSEMOND:** Yes, sir, Your Honor, I certainly  
14 understand.

15           **THE COURT:** By the way, where is the County  
16 Magistrate's office in the Seneca Township located?  
17 Ms. Simmons might know.

18           **MS. SIMMONS:** East North First Street in Seneca,  
19 Your Honor.

20           **THE COURT:** So you are not saying that a Judge sits  
21 in a place he doesn't have jurisdiction? I mean, if  
22 he's a County Magistrate, we follow that the County  
23 Magistrate doesn't have jurisdiction in the City, then  
24 he would have to sit out in the County rather than the  
25 City.

1           **MS. SIMMONS:** Judge, it's the State's position that  
2 the Magistrate has County-wide jurisdiction.

3           **THE COURT:** I understand. But I do want to hear  
4 the basis of the lack of probable cause. And what is  
5 that? I mean, you said you had two. One, specificity  
6 of location and something else?

7           **MR. ROSEMOND:** It was the informant's reliability,  
8 Your Honor.

9           **THE COURT:** Reliability of the informant. All  
10 right. You are addressing the Search Warrant?

11           **MR. ROSEMOND:** Yes, I'm addressing the search  
12 warrant, Your Honor.

13           **THE COURT:** What does the Affidavit in the Search  
14 Warrant say?

15           **MS. SIMMONS:** Your Honor, I'll be happy to pass up  
16 what has been premarked Court's Exhibit 1 (handing).

17           (There was a pause in the proceedings while the  
18 Court read Court's Exhibit 1.)

19           **THE COURT:** All right. I'm looking, I think, at  
20 the Affidavit dated July the 24th, 2012. Is that the  
21 one we are concerned about?

22           **MR. ROSEMOND:** Yes, Your Honor.

23           **THE COURT:** All right. Does that apply to both  
24 Indictments, alleged contraband found on the premises  
25 under those Indictments?

1 MR. ROSEMOND: It would apply to both Indictments,  
2 Your Honor.

3 THE COURT: One Search Warrant, two Indictments.  
4 All right. Well, tell me about your -- well, I'll start  
5 with you, Madam Solicitor. Why do you think that is  
6 sufficient --

7 MS. SIMMONS: Your Honor --

8 THE COURT: -- as far as location?

9 Is 320 a street address?

10 MS. SIMMONS: Yes, Your Honor.

11 THE COURT: 320, Bypass 123, so that's Number 320,  
12 123 Bypass. And you were specifically looking at 123 in  
13 that building?

14 MS. SIMMONS: Yes, Your Honor.

15 THE COURT: I find that to be sufficient.

16 MS. SIMMONS: It's known as the Town & Country  
17 Motel and that's also made reference to in the  
18 Indictment.

19 THE COURT: Is that in --

20 MS. SIMMONS: It's in the description in the  
21 parentheses, Your Honor, the second paragraph. It  
22 references the GPS coordinates, the address, and the  
23 name of the establishment.

24 THE COURT: All right. And then the other one,  
25 though, is as to the sufficiency of the Indictment as to

1 the reliability of the CI?

2 MR. ROSEMOND: That's correct, Your Honor.

3 THE COURT: All right.

4 (Court reads document.)

5 THE COURT: All right, Mr. Rosemond. What  
6 specifically do you find --

7 MR. ROSEMOND: Your Honor, if you are looking at  
8 this particular Search Warrant, it goes to informants,  
9 Your Honor. And certainly the Affidavit in the Search  
10 Warrant does not contain any information about the  
11 reliability of the confidential informant in this  
12 particular case.

13 Certainly, if you are basing a search warrant on  
14 what your confidential informant did or told you or saw,  
15 then you have to have some information that goes to that  
16 confidential informant's reliability. That's in *State*  
17 *v. Johnson*, 302, S.C., 243, 395, S.E.2d, 1967, 1990.

18 But there's nothing in the Search Warrant that goes  
19 to the confidential informant's reliability. And  
20 certainly because of that, Your Honor, the Judge did not  
21 have that information in front of him to attest whether  
22 or not this confidential informant had been reliable in  
23 the past, whether or not there had been any chances of  
24 unreliability, and because it doesn't have that  
25 information in there, Your Honor, it doesn't meet the

1 statutory requirements for the issuance of this Search  
2 Warrant in this case.

3 THE COURT: All right. Ms. Simmons.

4 MS. SIMMONS: Thank you, Your Honor. I'll bring  
5 the Court's attention to *State v. Leroy Dupree*, which is  
6 354 S.C. 676. And it suggests that (reading):

7 In a search warrant case, a confidential informant  
8 can be probable cause, and it gives a totality of the  
9 circumstances analysis which is appropriate in cases of  
10 this nature.

11 Most importantly, I would also bring the Court's  
12 attention to *State v. Bellamy*, that is 336 S.C. 140,  
13 Justice Toal wrote the opinion holding that (reading):

14 A Magistrate had a substantial basis for concluding  
15 probable cause existed to issue the search warrant even  
16 though the Affidavit was weak as to the informant's  
17 reliability.

18 THE COURT: Do you have that last case that you  
19 referred to?

20 MS. SIMMONS: Yes, Your Honor. I can pass up my  
21 copy if you would like.

22 THE COURT: I don't.

23 MS. SIMMONS: Mr. Rosemond, I hand you a copy as  
24 well. (Handing to Counsel and Court).

25 THE COURT: Thank you, ma'am.

1           **MS. SIMMONS:** Judge, I apologize. I had written on  
2 the top.

3           **THE COURT:** All right. (Court reads document.)  
4 You wouldn't have a copy of your case with you,  
5 Mr. Rosemond?

6           **MR. ROSEMOND:** Which case is that?

7           **THE COURT:** *State v. Johnson*. Wait a minute, I've  
8 got it. (Court reads document.)

9           All right. Anything further, Mr. Rosemond?

10          **MR. ROSEMOND:** Yes, Your Honor. I just wanted to  
11 make sure that I was clear because my client didn't  
12 think I was that clear.

13           There were no controlled buys that occurred at 320  
14 Bypass 123 at the Town & Country hotel. All the  
15 controlled buys that they allege to have had occurred at  
16 other places. Certainly, Your Honor, that doesn't tie  
17 you to 320 Bypass 123.

18           And even the case that the State handed up, *State*  
19 *v. Dupree*, said that the CI buy can be used if the buy  
20 was properly conducted.

21           You know, certainly, Your Honor, without any  
22 information that this buy was properly conducted -- and  
23 that's on Page Number 8 in *State v. Dupree*, the first  
24 full paragraph at the top -- it states (reading):

25           If the controlled buy was properly conducted, it

1 can alone provide facts sufficient to establish probable  
2 cause for a Search Warrant.

3 Your Honor, we haven't established that the  
4 controlled buy was properly conducted. Mr. Hunnicutt  
5 hadn't said it was properly conducted. The confidential  
6 informants here haven't given any testimony as to what  
7 occurred on that particular day, and certainly the  
8 Magistrate did not have anything other than the Search  
9 Warrant in front of him as well as the attached  
10 Affidavit that said that it was a controlled buy.

11 Your Honor, certainly, if you add that to the fact  
12 that the Affidavit doesn't say anything about the  
13 reliability of the informant, which is the critical  
14 aspect of this particular case, then it is a Search  
15 Warrant that should be -- well, it's a Search Warrant  
16 that should be deemed to be unlawful.

17 Your Honor -- and that goes back to the other point  
18 that I was trying to make earlier, Your Honor. If you  
19 are a City Officer and you take this warrant to a City  
20 Judge, or you know that the City Judge might have  
21 problems with this warrant, you've got to find a way to  
22 get around that particular problem. He's a City  
23 Officer, it's in a City jurisdiction. You know that the  
24 City Judge may say, I'm not gonna give you a Search  
25 Warrant. Well, there's two City Judges in the City of

1 Seneca: One is Judge Singleton and the other one is  
2 Judge Lloyd (phonetic). And they know that they're not  
3 going to give you one, so you say, I got to figure out  
4 how to get one.

5 Well, the interesting thing about that is there's a  
6 Magistrate 400 yards away from the City Judge in Seneca.  
7 They bypass that Magistrate in Seneca to go all the way  
8 to Westminster to get a Judge that may give them a  
9 Search Warrant. And when you have that type of  
10 shenanigans going on, that's why you start looking hard  
11 as to whether or not, number one, there's probable  
12 cause, and whether or not, number two, that there's any  
13 indicia of reliability as to the Search Warrant.

14 And certainly, Your Honor, it makes you wonder why  
15 they bypass three judges to get all the way up to  
16 Westminster to get their Search Warrant when they had  
17 one judge that worked that day, and that was Judge  
18 Singleton, but they don't take it to him.

19 And, Your Honor, certainly, if you add all that  
20 together, then you start thinking about whether or not  
21 they actually had probable cause to get this Search  
22 Warrant. Without the informant's being here, we can't  
23 say that the controlled buy was properly conducted  
24 because we don't know what they're doing. We're just  
25 assuming that it was properly conducted.

1           But the case of *State v. Dupree* says that's what  
2 you have to do. And, certainly, if you have no  
3 information that the controlled buy was properly  
4 conducted in front of you, coupled with the fact of the  
5 problems I just shared with you, the indicia of lack of  
6 reliability as to the informant in this particular case.

7           **THE COURT:** You also talked about the indicia of  
8 reliability of judicial officers, and some of them have  
9 more virtue than others. I don't know if I want to go  
10 into that baby.

11           **MR. ROSEMOND:** I have a client going for  
12 distribution of third offense, Your Honor.

13           **THE COURT:** Again, maybe I'm mishandling your view.  
14 When I was practicing law, I can remember that,  
15 particularly with DUI cases in Oconee County, if you  
16 were arrested at Salem for a DUI on Highway 11, they  
17 took you past the Salem Magistrate, past the Walhalla  
18 Magistrate, by the Seneca Magistrate, the Westminster  
19 Magistrate down to the Oakway Magistrate, and for some  
20 reason that they would take you all the way, that's  
21 where the DUI cases were tried.

22           Now, I never did challenge the Judge there as far  
23 as being, you know, fair or anything like that. But  
24 obviously he was more amenable to law enforcement, at  
25 least in that area. But I learned to live with it

1 because I couldn't find anything that suggested that he  
2 was not proper in his decision. If he was biased or  
3 prejudiced, of course, he would be subject to  
4 impeachment. I think maybe that's how we determine  
5 whether Judges are biased or prejudiced is if we feel  
6 that there is basis for that, other than our own  
7 feelings about a particular Judge, that we would bring  
8 Bills of Impeachment.

9 MR. ROSEMOND: But the other problem with that is,  
10 Your Honor --

11 THE COURT: I mean, I don't know. You say that two  
12 minutes with Judges and a County Magistrate in Seneca  
13 Township, which all are in the same jurisdiction, except  
14 the Seneca Magistrate would not be county-wide.

15 MR. ROSEMOND: In the same block within each other,  
16 Your Honor.

17 THE COURT: I know. But the thing is, other than  
18 suggesting that, I don't find anything that suggests  
19 that it was done for any other reason than there was a  
20 little Judge shopping or something of that nature, which  
21 happens.

22 MR. ROSEMOND: Then you turn around on the same  
23 day, Your Honor, that you execute the Search Warrant and  
24 you go to the Seneca Judge, and oh, guess what? We need  
25 an arrest warrant for this individual.

1           **THE COURT:** Did the Search Warrant prove  
2 successful? Now, wouldn't that Seneca Magistrate be  
3 embarrassed if he had denied a Search Warrant, but yet  
4 another Magistrate had provided, or did they have a  
5 successful Search Warrant but also an arrest warrant?

6           There's too much -- I see where your concern might  
7 be, but unestablished concern, other than not really --  
8 I mean, do you have anything that says that the two  
9 Magistrates and two Seneca Judges were in favor of drugs  
10 being at the Town & Country Motel?

11           **MR. ROSEMOND:** No, Your Honor, we don't have that  
12 because they were never presented with that information.

13           **THE COURT:** Well, then, how can you say they were?

14           **MR. ROSEMOND:** I didn't say they were. They would  
15 not have given them the warrant. They were just never  
16 presented the warrant.

17           **THE COURT:** That's just it. They would give them  
18 if there was a basis in the warrant for issuing the  
19 warrant; would they not? Unless they were in favor of  
20 having, you know, controlled substances in the Town &  
21 Country Motel.

22           **MR. ROSEMOND:** And certainly they wouldn't be in  
23 favor of that, Your Honor.

24           **THE COURT:** That's what I'm saying. I don't know.  
25 That's in essence what your argument is, that they

1 wouldn't have given a Search Warrant for an improper  
2 case. And that's why you go to Westminster, or not down  
3 the street, even to the County Magistrates, because you  
4 wouldn't get one, because they wouldn't give you one. I  
5 mean, I don't know. I think the better thing to do is  
6 to look at the warrant itself and the Affidavit in  
7 support of the warrant rather than indict Magistrates  
8 and County and City Judges.

9 Which I have done. I have looked at the -- (and as  
10 now Chief Justice Toal said in the *Dupree* case,  
11 Affidavits can be unartfully drawn. And this might not  
12 be the best Indictment. But just looking at the case  
13 here --

14 Anything else from the Defendant on this matter?

15 MR. ROSEMOND: No, Your Honor.

16 THE COURT: From the State?

17 MS. SIMMONS: Judge, just briefly I would note that  
18 at 6:46 p.m., the Officer would not have had two judges  
19 within the block at 6:46 p.m., and this was Judge  
20 Derrick at the time.

21 THE COURT: I don't know Judges' work hours. I  
22 mean, I can't -- I don't know if I can take judicial  
23 notice of that. I think the better thing to do is to  
24 take judicial notice of what I do have in front of me,  
25 which is the Search Warrant and the attached Affidavit.

1           **MS. SIMMONS:** Your Honor, we would just rest on the  
2 totality of the circumstances and events described in  
3 the Search Warrant do give rise to probable cause.

4           **THE COURT:** Well, looking at *State v. Dupree*, and  
5 the statement by their citing a Georgia case but saying  
6 they did take all those elements that should be  
7 considered (reading):

8           The controlled buy supervised by law enforcement  
9 officers would alone have provided probable cause. Even  
10 if an Officer cannot provide information regarding the  
11 veracity of the informant or the basis of his knowledge,  
12 a tip may be proved reliable if portions of the tip are  
13 sufficiently corroborated.

14           Here, Officers witnessed the delivery of the  
15 cocaine and confirmed the accuracy of many of the  
16 informant's convictions concerning Defendant's behavior.  
17 This sufficiently corroborated the informant's  
18 information and showed its reliability.

19           And in this case, in Paragraph 6, it says  
20 (reading):

21           Within the last 72 hours an undercover operative  
22 working under the direction of the Seneca Police  
23 Department was distributed a quantity of Lortabs from  
24 Dan Temple at 318, 123 in Seneca. Temple was seen  
25 walking to and from the Town & Country Motel.

1           Looking again at *State v. Dupree*, now at *State v.*  
2 *Johnson*, (reading):

3           Although the Affidavit states that the informant  
4 saw the evidence in Johnson's home within 72 hours of  
5 the issuance of the warrant, it did not set forth any  
6 information as to the reliability of the informant, nor  
7 with the information corroborating it. The Officer  
8 testified he had worked with the informant on several  
9 other occasions -- cases. It is not clear from the  
10 record, however, whether the information was given to  
11 the Magistrate. Without any information determining the  
12 reliability of the informant, the inferences from the  
13 facts which led to the complaint would be drawn not by a  
14 neutral and detached Magistrate, as the Constitution  
15 required, but instead by police officers engaged in the  
16 often competitive enterprise of ferreting out crime.

17           Here, the Officer did state that he had the basis  
18 for his -- and he did it in his Affidavit. I haven't  
19 heard anything about any oral application of the facts.

20           So, but considering as a whole or totality of the  
21 events, it does seem that the basis for the Search  
22 Warrant on July the 24th, 2012, referring to various  
23 incidences on July the 17th and July the 23rd and within  
24 72 hours is sufficient to support the Search Warrant.

25

1 The Court's Ruling on Defendant's Motion to Suppress:

2 THE COURT: So the Motion to Suppress the  
3 contraband found is denied.

4 The Motion of the Defendant is duly noted.

5 All right. Anything further from the Defendant?

6 MR. ROSEMOND: No, Your Honor.

7 THE COURT: All right. I understand you have a  
8 statement?

9 MS. SIMMONS: Yes, Your Honor. For the record, can  
10 we admit Court's Exhibit 1, the Search Warrant and the  
11 accompanying Affidavit?

12 THE COURT: You mean as an exhibit?

13 MS. SIMMONS: As a Court's Exhibit, Your Honor.

14 THE COURT: A Court's Exhibit, it is that, I think.

15 MS. SIMMONS: Okay. Thank you, Judge.

16 THE COURT: Didn't we do that?

17 MS. SIMMONS: And, Judge, we do have a --

18 THE COURT: Yes, it's been marked as a Court's  
19 Exhibit.

20 MS. SIMMONS: Thank you, Your Honor.

21 We do have a *Jackson v. Denno* matter, two separate  
22 ones, that the State would like to take up at this time.

23 THE COURT: Very good.

24 MS. SIMMONS: We would like to call Captain Kenny  
25 Washington.

1           **MS. SIMMONS:** Thank you, Your Honor, may it please  
2 the Court.

3           Mr. Rosemond.

4 Opening Statement on behalf of the State:

5           **MS. SIMMONS:** Good morning, ladies and gentlemen.  
6 First of all, I want to remind you that my name is  
7 Lindsey Simmons and I am an Assistant Solicitor here in  
8 Oconee County.

9           And thank you for your service today. I know that  
10 there are hundreds of places you would rather be than  
11 here on jury duty, so I would thank you in advance for  
12 your time and your attention. Mr. Rosemond and I are  
13 gonna work really hard over the next couple of days to  
14 present the evidence in this case in an efficient  
15 manner, so it will cause minimal disruption to your  
16 lives.

17           The Defendant in this case is charged with  
18 possession with intent to distribute crack cocaine and  
19 the possession of Xanax, which the clinical name is  
20 alprazolam. I'm required to prove to you over the next  
21 couple of days that the Defendant is guilty beyond a  
22 reasonable doubt. At the end of this case the Judge  
23 will talk to you about reasonable doubt.

24           Reasonable doubt is not beyond all doubt. It is  
25 the doubt that would cause a reasonable person to

1 hesitate to act, but not beyond a shadow of a doubt. So  
2 the best thing that I can give you when you are looking  
3 at a case to the reasonable doubt standard, use your  
4 common sense. You brought it with you when you came  
5 here as Jurors, and it's the most important tool you  
6 will have over the next couple days.

7 I'm required to prove to you the Defendant  
8 possessed with intent to distribute crack cocaine.  
9 There's a couple ways to do that under the law in South  
10 Carolina. You can prove that by weight. The weight of  
11 the crack cocaine is sufficient under the law in South  
12 Carolina to prove intent to distribute. The Statutory  
13 amount that is set forth by our Legislature is one gram.  
14 You will hear testimony the amount of crack cocaine  
15 found in this defendant's hotel room was 1.22 grams, so  
16 point 22 grams more than is required to prove under the  
17 Statute.

18 In addition, you can prove possession with intent  
19 to distribute by circumstantial evidence and that can be  
20 two different packages of the drugs, a large amount of  
21 cash found in proximity to them, or statements the  
22 Defendant may make about the drugs, or you can look at  
23 the value of the drugs.

24 So all of those things are things to keep in mind  
25 when we look at possession with intent to distribute

1 over the next couple of days.

2 And the Xanax charge is straight possession,  
3 there's ten pills at issue here. It's just a, you can  
4 be convicted in South Carolina of one or ten. It's just  
5 the charge of possession of the Xanax.

6 You're gonna hear over the next day or two that law  
7 enforcement, particularly Investigator Tim Hunnicutt,  
8 obtained a Search Warrant from a Magistrate to search  
9 the Defendant's room at the Town & Country Motel in  
10 Seneca. He's gonna tell you that when they executed  
11 that Search Warrant, they were not voluntarily let in  
12 the room, they had to bust the door down, and they found  
13 the Defendant and his girlfriend, Crystal Henry, in the  
14 room.

15 You're gonna hear from Sergeant -- Investigator  
16 B.J. McClure from the Seneca Police Department, and he's  
17 gonna tell you that when he entered the room, the  
18 Defendant was in the bed on the side closest to the  
19 door, and he saw the larger amount of crack cocaine fall  
20 out of the bed with the Defendant right beside it. You  
21 will hear that from him and you will see photographic  
22 evidence to that effect. He's also gonna tell you that  
23 drugs were found on the nightstand, and that the  
24 Defendant's personal effects were all over this room:  
25 Social Security card, wallet, personal hygiene products

1 belonging to the Defendant, Dan Temple.

2 Tim Hunnicutt is gonna tell you how undercover drug  
3 enforcement works, how search warrants are obtained, how  
4 they're executed, what kind of surveillance they use to  
5 establish how someone is at a location before the Search  
6 Warrant is obtained.

7 His partner at the time, Cortney Wright, is gonna  
8 tell you how he has photographs at the scene the day  
9 before the execution of the Search Warrant.

10 You will also hear from Crystal Henry, the  
11 Codefendant of Dan Temple. She was his girlfriend back  
12 on July 25th of 2012 when this Search Warrant was  
13 executed. She is going to tell you that while the crack  
14 pipes in the room were hers, and she uses crack, that  
15 the crack that was found in proximity to the Defendant  
16 along the nightstand belonged to him.

17 You are also going to hear from Captain Kenny  
18 Washington of the Oconee County Sheriff's Office.  
19 Captain Washington is gonna tell you he was present at  
20 the scene when the Search Warrant was executed. He was  
21 approached by the Defendant who indicated that he wanted  
22 to speak with him about what had just happened.

23 After being fully apprised of his *Miranda* rights,  
24 the Defendant made incriminating statements to Captain  
25 Washington stating that all the drugs in the room were

1 his and he could get more if he allowed him to, and that  
2 he had purchased the drugs the night before.

3 Captain Washington was the backup investigator on  
4 this case. Investigator Hunnicutt was the lead officer,  
5 so he subsequently talked to the Defendant, as well. He  
6 obtained a written rights waiver, a waiver of his  
7 *Miranda* rights from the Defendant. He did that along  
8 with SLED Agent Tyrel Woodring, and it was after that  
9 rights waiver he once again claimed all the drugs in the  
10 room and that he bought them for \$300 the night before  
11 and again stated he could get more if they were  
12 interested in him doing that. You are again gonna hear  
13 incriminating statements from the Defendant in addition  
14 to the fact he was found in proximity to the drugs in  
15 this case.

16 You're finally gonna hear -- at the end of this  
17 case you're gonna hear more about the forensics.  
18 Melinda Nicholson is Evidence Custodian at the Seneca  
19 Police Department. She's gonna tell you Investigator  
20 Hunnicutt turned the drugs over to her. She's gonna  
21 tell you she maintained integrity of the sealed evidence  
22 throughout this process, she transported it to Meredith  
23 Lanford, Special Agent for the Anderson/Oconeel Drug Lab.  
24 She is going to tell you that she conducted a chemical  
25 analysis and a weight analysis on the drugs in this

1 case, and she's gonna give you the results of her report  
2 and how chemical analysis is conducted.

3 That's a brief overview of where we'll be going  
4 over the next couple of days. Again, I appreciate your  
5 time. At the end of all the evidence I get to speak to  
6 you once again at the end of the day or sometime  
7 tomorrow. I'm gonna ask you to find the Defendant, Dan  
8 Temple, guilty of possession with intent to distribute  
9 crack cocaine and possession of Xanax. Thank you.

10 THE COURT: Mr. Rosemond?

11 MR. ROSEMOND: Thank you, Your Honor.

12 Opening Statement on behalf of the Defendant:

13 MR. ROSEMOND: Dan Temple is not guilty. Dan  
14 Temple is not guilty. We're going to start a trial this  
15 morning, and a trial is like a television show. And you  
16 have certain segments and this is the opening credits of  
17 a show. And what you are going to see throughout this  
18 particular trial is certain foundations of our legal  
19 system that becomes pretty important at a time like  
20 this.

21 And the most important legal foundation is the  
22 presumption of innocence. And what that means is  
23 everybody that's charged with a crime is not guilty of a  
24 crime. Sometimes if you look in the paper, in *The*  
25 *Seneca Journal*, and you see those people whose names are

1 listed on that piece of paper and you say to yourself,  
2 "Oh, I know they're guilty. I know where he's come  
3 from."

4 But that's not what the Constitution says. The  
5 Constitution says everybody who is charged with a crime  
6 in America is entitled to the presumption of innocence.  
7 And when you look at Mr. Temple, he is an innocent man.  
8 He is an innocent man. Just because he's charged with a  
9 crime, that doesn't mean he's guilty.

10 But then you have what we call the burden of proof.  
11 Who has to prove to you that he's guilty? Mr. Temple  
12 doesn't have to prove to you anything. Mr. Temple  
13 doesn't have to offer any evidence. All the evidence  
14 must come from this table and that chair. They have the  
15 burden of proof to prove to you that on July 25th, 2012,  
16 that Dan Temple possessed with intent to distribute  
17 crack cocaine and possessed Xanax beyond a reasonable  
18 doubt.

19 And let's talk about reasonable doubt. The  
20 reasonable doubt is that there's certain, there are very  
21 few things in life that we know for certain. But the  
22 reasonable doubt is, if at the end of this trial, you  
23 have some doubt, and it's a reasonable doubt that you  
24 can put into your mind and say, "You know, I have a  
25 reason why I think he's not guilty," then it's your duty

*State v. Dan Temple -- Trial -- March 19, 2013*

1 and your obligation to say, "Mr. Temple is not guilty."  
2 And beyond a reasonable doubt is a word that we hear so  
3 often and we kind of just put it to the side sometimes,  
4 but it has to be beyond a reasonable doubt. If you can  
5 find a doubt in this trial that Dan Temple is not  
6 guilty, you have to find him not guilty.

7 And I submit to you, ladies and gentlemen, that you  
8 will find that doubt in this trial. You will find that  
9 doubt coming from the witness stand. You will find that  
10 doubt coming from Investigator Hunnicutt. You will find  
11 that doubt coming from Ms. Henry. "The crack pipe was  
12 mine but the crack wasn't."

13 In this particular trial you have to prove -- they  
14 have to prove that Dan Temple illegally possessed a  
15 controlled substance with the intent to distribute to  
16 somebody else. And they have to prove that to you, that  
17 he had the intent to distribute those drugs to another  
18 person. And I believe at the end of this trial you're  
19 going to say, I have a reasonable doubt that he didn't  
20 do that. If you possess drugs for yourself, you don't  
21 have any intent to distribute. If you possess drugs for  
22 Ms. Henry, you don't have any intent to distribute.

23 But what I'm saying to you, ladies and gentlemen,  
24 is as we pass this first credit here and we move into  
25 the actual show, pay close attention to the evidence

1 from that witness stand. You're gonna hear a lot of  
2 evidence today, and every witness will be important,  
3 their credibility will be important, whether or not they  
4 have a reason to lie, whether or not they are telling  
5 the truth, and it's gonna be important that we look at  
6 this and withhold judgment until the end of this case.

7 It's hard to make a judgment whether or not he's  
8 guilty or not guilty in the movies, but it's just like a  
9 TV show, just like the *Days of Our Lives*. And that last  
10 scene is awfully important on the show.

11 Thank you, ladies and gentlemen.

12 **THE COURT:** All right. You may call your first  
13 witness.

14 **MS. SIMMONS:** Thank you, Your Honor. We call  
15 Investigator B.J. McClure.

16 Whereupon,

17 **B.J. McClure**

18 Having first been duly sworn, was examined and testified  
19 as follows:

20 Direct Examination by Ms. Simmons:

21 **THE COURT:** All right. If you would please, sir,  
22 give us your full name for the record and spelling your  
23 last name.

24 **THE WITNESS:** My name is B.J. McClure. The  
25 spelling of my last name is M-c-C-l-u-r-e.

1 THE COURT: Thank you very much.

2 You may proceed.

3 MS. SIMMONS: Thank you, Your Honor.

4 By Ms. Simmons:

5 Q. Investigator McClure, where are you employed?

6 A. I'm employed at the Seneca Police Department.

7 Q. And how long have you been employed in law  
8 enforcement?

9 A. Seven years.

10 Q. And what division are you currently assigned to?

11 A. Currently I'm in the Narcotics Division.

12 Q. And what kind of training and education is  
13 necessary for that position?

14 A. First of all, we go through the South Carolina  
15 Criminal Justice Academy, at the time it was a nine-week  
16 course, I graduated from that. And I've also been to  
17 numerous other trainings since then. Of course, a high  
18 school diploma was one of the prerequisites.

19 Q. Have you also received additional training  
20 regarding narcotics enforcement?

21 A. Yes, ma'am, I have.

22 Q. Were you working on July 25th of 2012?

23 A. Yes, ma'am.

24 Q. And what division were you assigned to back then?

25 A. At that time I was a Staff Sergeant assigned as a

1 supervisor over the Patrol Division.

2 Q. And did you assist in the execution of a Search  
3 Warrant at the Town & Country Motel that day?

4 A. Yes, ma'am, I did.

5 Q. Do you remember what room that was?

6 A. That was in Room 103.

7 Q. Thank you. And is that in the City of Seneca?

8 A. Yes, ma'am.

9 Q. Is that in Oconee County?

10 A. Yes, ma'am.

11 Q. Okay. What did your team expect to find at the  
12 Town & Country Motel?

13 A. We were briefed, according to the briefing that  
14 week, from the Narcotics Investigators, Investigator  
15 Hunnicutt and Investigator Wright; the expectation was  
16 to find crack cocaine inside the room.

17 Q. And who did you expect to find there?

18 A. I expected to find a Dan Temple and also a Crystal  
19 Henry.

20 Q. Okay. And how were you able to confirm Dan  
21 Temple's identity?

22 A. At the time we went in?

23 Q. Yes.

24 A. I think he was in the bed. I've had previous  
25 contact with Mr. Temple, and I did recognize him when I

1 saw him in the bed. And also Ms. Henry.

2 Q. And how did the execution of the Search Warrant  
3 progress once you got there?

4 A. We had a plan of operation that we was briefed on  
5 that morning. According to that plan of operation,  
6 Sergeant, he was at the Oconee County Sheriff's Office  
7 at that time, Tyrel Woodring, he was gonna go to the  
8 motel, obtain the key to Room 103. And we was part of a  
9 SWAT team, we call it the tactical response team in  
10 Seneca, myself and three others, and we went by him. He  
11 handed us the key.

12 We went up to the Room 103, knocked, announced our  
13 presence. No one answered the door. The door was  
14 unlocked. We tried to push it open. It was barricaded.  
15 At that time we had a round, it was like a metal  
16 tube-type thing with handles on it. The door was struck  
17 with that, and it was still in resistance against the  
18 door, so we just pushed our way in and went into the  
19 room.

20 Q. And did you find Dan Temple and Crystal Henry  
21 there?

22 A. Yes. At first I didn't see Crystal Henry. As we  
23 went in Dan was laying in the bed closest to the door on  
24 that side. He had his hands under the covers and  
25 wouldn't show his hands. It's like a shock-and-awe-type

1 thing. We were like, "Show me your hands. Show me your  
2 hands. Put your hands up." Because the hands will hurt  
3 us, if it's a knife or gun or anything, it's gonna be in  
4 his hands. He would not ever get his hands up.

5 I had my weapon pointed at him and I kept yelling  
6 at him to get his hands up, and at that time another  
7 went to get on the bed to handcuff him, and I observed  
8 a, either a purplish or a bluish-color prescription  
9 bottle fall out of the bed onto the floor closest to the  
10 door.

11 Q. I show you what's been premarked for identification  
12 as State's Exhibit 17. Let me zoom that in for you. Is  
13 that a fair and accurate representation of the scene  
14 that day?

15 A. Yes, that looks like the room at the Town & Country  
16 Motel that day.

17 Q. And what side of the bed was Mr. Temple on?

18 A. This closest side, the side closest to me with part  
19 of the mattress exposed --

20 Q. Okay.

21 A. -- that's the side closest to the door, the right  
22 side where I observed him to be lying at. The blue  
23 thing on the floor there, that was the bottle I observed  
24 fall to the floor from the bed.

25 Q. I'm gonna show you what --

1 Mr. Rosemond (shows to Mr. Rosemond).

2 -- show you what's been premarked as State's 16.

3 Tell me a little bit about that.

4 A. That's the prescription bottle. I never picked it  
5 up or anything. I just saw it fall on the floor. And I  
6 informed the Investigators once they came in after we  
7 did our entry into the room that I saw it laying there.  
8 I sat at the door as sort of a sentry while they  
9 investigated to make sure no one entered unauthorized or  
10 anything. I did see when they opened it up it did  
11 contain ---

12 MR. ROSEMOND: Objection, Your Honor. Assuming  
13 facts not in evidence.

14 THE COURT: All right. Lay your foundation.

15 By Ms. Simmons:

16 Q. Did you keep your eyes on that bottle until the  
17 time that --

18 A. Yes, ma'am, I did.

19 Q. Until it was picked up by whom?

20 A. I think Investigator Hunnicutt picked it up.

21 Q. Did you ever see inside the bottle?

22 A. Yes. I told him -- he's the one I told about it,  
23 that I saw it. And he picked it up and opened it up and  
24 I saw some rock-like substance, beige-whitish color. I  
25 didn't get a good look at it. Just, when he was looking

1 at it, I looked down and saw it.

2 Q. And during your canvas of the room -- I know you  
3 actually didn't pick anything up -- but did you see any  
4 personal items in the room?

5 A. Personal items, there were some things on the  
6 stand. I can't myself recall any personal items that I  
7 remembered seeing. I wasn't really looking for that. I  
8 just, my part of that was just entry, secure the room so  
9 the investigators could come in and conduct their  
10 search. I wasn't part of the search.

11 Q. And just for purposes of scale, how far do you  
12 think the bottle was from Mr. Temple in the bed?

13 A. In the bed it would have to be where he was at. I  
14 didn't see it actually come out of his hand, I just saw  
15 it fall to the floor from the bed. He was -- it's gone  
16 there, but he was on the bed on that side of the bottle,  
17 it was lying on the floor, he was laying almost right to  
18 the edge of the bed up there.

19 MS. SIMMONS: Thank you. Please answer any  
20 questions Mr. Rosemond might have.

21 THE COURT: All right. You may cross-examine.  
22 Cross-Examination by Mr. Rosemond:

23 Q. You didn't see where that pill bottle came from,  
24 did you, Mr. McClure?

25 A. That is correct, sir, I didn't see it from under

1 the bed.

2 Q. And some other officer jumped on the bed while

3 Mr. Temple was in the bed; is that right?

4 A. That's correct. He wouldn't ever get his hands up  
5 and we had to secure him.

6 Q. When that weight hit the bed, that pill bottle  
7 popped out, didn't it?

8 A. I'm not certain of that. I just saw it fall. I'm  
9 uncertain of what events caused it to fall. I just saw  
10 it fall to that side of the bed.

11 Q. Mr. Temple was in the bed, right?

12 A. Yes, sir.

13 Q. Got his covers on him; is that correct?

14 A. Yes.

15 Q. His hands underneath the covers; is that right?

16 A. Partially under the covers and I could see  
17 something out from under the covers.

18 Q. And then who jumped on the bed?

19 A. That was Mike Teramano who was part of our tactical  
20 response team.

21 Q. Mike Teramano is probably 5'11", 225?

22 A. He's probably more my height. I wish I was 5'11".  
23 I'm 5'9".

24 Q. So you wish you could add a couple inches?

25 A. Yes, sir, you're correct.

1 Q. All right. But when Officer Teramano jumped up on  
2 the bed something fell out; is that right?

3 A. Honestly, I can't recall if it was before that or  
4 during that time. I just can remember -- like I said,  
5 we was at a heightened state of alert, and trying to --  
6 I just remember it falling from the bed is honestly all  
7 I can remember.

8 Q. You don't know which side of the bed it fell from;  
9 is that correct?

10 A. If you are lying in the bed, the right side closest  
11 to the door.

12 Q. And that was not the side Mr. Temple was on; is  
13 that right?

14 A. No. That was the side he was on.

15 Q. He was on the side of the bed closer to the door?

16 A. Closer to the door. If you're lying in the bed, it  
17 would be the right side.

18 Q. Now, you indicated that you expected to find  
19 Ms. Henry in the room as well; is that right?

20 A. You're correct, sir.

21 Q. Did you find her there?

22 A. We did. At first we didn't see her -- if you want  
23 me to elaborate?

24 Q. Where did you find her at?

25 A. She was behind the door.

1 Q. Now, when she -- she was behind the door?

2 A. Yes, sir. When we pushed the door open ---

3 MS. SIMMONS: Objection.

4 A. --- she was standing in front of the door. It  
5 pushed her to the side.

6 MS. SIMMONS: I just ask that the Witness have the  
7 opportunity to answer the question before Mr. Rosemond  
8 starts another one.

9 THE COURT: All right. Both sides understand, of  
10 course, the way we do this is that the attorney ask the  
11 question, wait till the attorney finishes his question.  
12 Then you answer the question, and if you need an  
13 opportunity to explain your answer, you will be  
14 permitted to do that.

15 THE WITNESS: Thank you, sir.

16 THE COURT: But let's do not talk over each other  
17 because the court reporter has to take down everything  
18 that is said, and it's hard to take down more than one  
19 person at a time.

20 THE WITNESS: Yes, sir.

21 THE COURT: Very good. And these rules apply to  
22 all witnesses and all parties.

23 You may proceed.

24 By Mr. Rosemond:

25 Q. You didn't get a good look and see where the pill

1 bottle came from; is that right?

2 A. It was just that side of the bed. I couldn't  
3 honestly tell you that it came from anyone's hands. It  
4 just came from under the bed.

5 Q. And also that was after Teramano jumped on the bed?

6 A. I can't recall if it was during that time or before  
7 that time. Everything happened pretty quick right there  
8 because he wouldn't ever get his hands up. That's  
9 usually cause of alarm when we do an entry like this  
10 because we don't know what to expect. If there was a  
11 weapon, we can't see their hands. I was yelling, "Get  
12 your hands up, get your hands up" trying to -- I knew  
13 somebody else was in the room, we hadn't observed her at  
14 the time. A lot was going on. All I recall is I  
15 remember seeing that bottle fall on that, on that side  
16 of the bed.

17 Q. Did he ever get his hands up?

18 A. His hands came out when Teramano jumped on the bed  
19 and that's when he was handcuffed and placed on the  
20 floor, and that's the time I was looking around and saw  
21 Ms. Henry behind the door. She was also ordered to the  
22 floor.

23 MR. ROSEMOND: No further questions for this  
24 witness, Your Honor.

25 THE COURT: Re-exam?

1 MS. SIMMONS: Nothing, Your Honor.

2 THE COURT: Very well. You may step down.

3 MS. SIMMONS: Thank you, Your Honor.

4 (Witness leaves stand.)

5 THE COURT: Call your next witness.

6 MS. SIMMONS: I call officer Cortney Wright.

7 Whereupon,

8 Cortney Wright

9 Having first been duly sworn, was examined and testified  
10 as follows:

11 Direct Examination by Ms. Simmons:

12 THE COURT: If you would, sir, please give us your  
13 full name, spelling your last name for the record.

14 THE WITNESS: Cortney Wright. The last name is  
15 W-r-i-g-h-t.

16 THE COURT: Very good. Thank you, sir.

17 By Ms. Simmons:

18 Q. Officer Wright, where are you employed?

19 A. Seneca Police Department.

20 Q. And how long have you been there?

21 A. Since March 2010, I believe.

22 Q. And how long have you been employed in law  
23 enforcement?

24 A. Since 2001.

25 Q. Were you involved in the execution of a Search

1 Warrant at the Town & Country Motel in Seneca, South  
2 Carolina?

3 A. Yes, ma'am, I was.

4 Q. And was that on July 25th, 2012?

5 A. Yes, ma'am.

6 Q. What room number at the Town & Country Inn were you  
7 interested in?

8 A. 103.

9 Q. Okay. And what was your role in executing the  
10 Search Warrant?

11 A. Mainly photographic evidence, documenting the  
12 evidence found.

13 Q. And were you also involved in the execution of the  
14 Search Warrant in this case?

15 A. Correct.

16 Q. Did you conduct the inventory and Search Warrant  
17 and Return in this case?

18 A. Yes, ma'am.

19 Q. And the Return in this case, did you file it with  
20 the issuing Magistrate?

21 A. That is correct, yes.

22 Q. What date -- did you sign the Return when you  
23 turned it in?

24 A. Yes, ma'am, the same day we executed the Warrant,  
25 on the 25th.

1 Q. And did you give the Return to the issuing  
2 Magistrate?

3 A. Yes, ma'am.

4 Q. And did you deliver a copy to the Defendant?

5 A. Yes, ma'am.

6 Q. And you were in charge of photographing in this  
7 case?

8 A. Yes, ma'am.

9 Q. I'm gonna show you what has been premarked as  
10 State's Exhibit 1 through 15. Do you recognize these as  
11 photographs you took?

12 A. Yes, ma'am.

13 Q. Okay. And when did you take these photographs?

14 A. It would have been on the 24th, the day before the  
15 execution of the Search Warrant.

16 Q. Were you conducting surveillance that day?

17 A. Yes, ma'am, I was.

18 MS. SIMMONS: Judge, at this time we would move in  
19 State's Exhibits 1 through 15 and ask to publish them to  
20 the Jury.

21 THE COURT: All right. Any objection?

22 MR. ROSEMOND: No objection, Your Honor.

23 THE COURT: All right. State's Exhibits Numbers 1,  
24 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are  
25 admitted without objection.

1 (State's Exhibits 1 through 15 were received in  
2 evidence.)

3 MS. SIMMONS: Thank you, Your Honor.

4 THE COURT: Publish those?

5 MS. SIMMONS: Yes, sir, Your Honor.

6 By Ms. Simmons:

7 Q. Officer Wright, are these photographs that you took  
8 on July 24th?

9 A. Yes, ma'am, they are.

10 Q. And what is that photo?

11 A. That's a picture of Room 103 at the Town & Country  
12 Motel in Seneca.

13 Q. And who was at the door?

14 A. That would be Ms. Henry.

15 Q. And another photograph of that?

16 A. Yes, ma'am, it is.

17 Q. And, based on your knowledge, who is entering the  
18 room?

19 A. That would be Dan Temple.

20 Q. I'm just gonna flip through all of these. If you  
21 see anything that you need to explain, feel free to do  
22 so.

23 A. That would be Mr. Temple returning back to the room  
24 that he had left from.

25 Q. Is that better?

1 A. Yes, ma'am.

2 Q. (Shows another photograph.)

3 A. That's the day before the execution of the Search  
4 Warrant and Mr. Temple is going up to a confidential  
5 informant's car.

6 Q. (Shows another photograph.) The same thing?

7 A. Yes, ma'am. That's him exiting the vehicle.

8 Q. (Shows another photograph.)

9 A. That's him walking up to the vehicle. That's him  
10 returning to the hotel room.

11 Q. Just an overview?

12 A. Right.

13 Q. Are these photos a fair and accurate representation  
14 of your surveillance that day?

15 A. Yes, ma'am.

16 Q. Okay. Were you also involved in photographing the  
17 Search Warrant itself?

18 A. Yes, ma'am.

19 Q. Okay. I'm showing you what's been premarked as  
20 State's Exhibits 6 through 30. Do you recognize these  
21 items?

22 THE COURT: Any objection?

23 MR. ROSEMOND: No objection, Your Honor.

24 MS. SIMMONS: Judge, at this time we would move  
25 into evidence State's 16 through 30.

1           **THE COURT:** State's Exhibits Number 16, 17, 18, 19,  
2 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 are  
3 admitted without objection.

4           (State's Exhibits 16 through 30 were received in  
5 evidence.)

6           **MS. SIMMONS:** Thank you, Judge.

7 By Ms. Simmons:

8 Q. Officer Wright, are all of these photos of the  
9 interior of the hotel room?

10 A. Yes, ma'am, they are.

11 Q. (Shows photograph.) Again at the scene?

12 A. Yes, ma'am, after we made entry. That's items  
13 found inside the room. The Defendant's driver's  
14 license, Social Security card, IDs, all in his name.

15 Q. (Shows another photograph.) More personal items?

16 A. Yes, ma'am. Outside of the room. Cash found and  
17 the nightstand and items found in it.

18 Q. (Shows another photograph.)

19 A. That's a beige, flakey, rock-like substance and a  
20 scale.

21 Q. Where was that found?

22 A. I believe that was found in the nightstand as well.

23 Q. (Shows another photograph.)

24 A. That's the pill bottle that was found at the side  
25 of the bed and the contents of the pill bottle.

1 Q. (Shows another picture.)

2 A. That's a better picture showing where the rock-like  
3 substance was found before we photographed it.

4 Q. (Shows another picture.)

5 A. That's the nightstand on the opposite side of the  
6 bed in which Mr. Temple was found.

7 Q. Mr. Temple was found on the other side of the bed?

8 A. Correct.

9 Q. And all these photographs are a fair and accurate  
10 representation of what you observed that day?

11 A. Yes, ma'am.

12 MS. SIMMONS: Please answer any questions  
13 Mr. Rosemond may have.

14 THE COURT: Cross-examine?

15 Cross-Examination by Mr. Rosemond:

16 Q. Officer Wright, you conducted surveillance on July  
17 24, 2012?

18 A. Yes, sir.

19 Q. And, based upon those pictures, my law office is  
20 right across the street from that hotel; is that right?

21 A. Roughly, yes, sir.

22 Q. And you were taking those photos before y'all  
23 executed that Search Warrant; is that correct?

24 A. Yes, sir, it is.

25 Q. And you went through a couple of those photos.

1 (Showing photograph.) Is that the right or left side of  
2 the bed?

3 A. If you are standing at the foot of the bed that  
4 would be the right side. Mr. Temple was found at the  
5 left side if you are standing on the foot of the bed.

6 Q. He was on the left side of the bed; is that  
7 correct?

8 A. Yes, sir.

9 THE COURT: If you could Mr. Rosemond identify  
10 which.

11 MR. ROSEMOND: That was State's Exhibit Number 30  
12 we were just looking at; is that correct.

13 A. Yes, sir.

14 Q. Looking at State's Exhibit Number 29, what is that  
15 dot right there?

16 A. That would be the beige rock-like substance we  
17 found.

18 Q. So that's the rock-like substance that you found on  
19 the other side of the bed from which Mr. Temple was on;  
20 is that right?

21 A. That is correct.

22 Q. Looking at State's Exhibit Number 27, is that the  
23 same piece of rock-like substance that we spoke about a  
24 few minutes ago?

25 A. Yes, sir, it is.

1 Q. Did you see Mr. Temple leave that location at any  
2 time while you were doing surveillance?

3 A. As far as the grounds or the room itself.

4 Q. The grounds?

5 A. During my surveillance no, sir, he did not.

6 Q. And you only did surveillance on July 24th or had  
7 you been conducting surveillance for a period of time?

8 A. That was the only time I was involved in  
9 surveillance.

10 Q. Now, you said there was some cash that you found as  
11 well?

12 A. Yes, sir, that is correct.

13 Q. And did you know whether or not Mr. Temple had a  
14 job?

15 A. Based on his statement he did not have a job.

16 Q. When you took these particular photographs -- let  
17 me show you State's Exhibit Number 23, is that the right  
18 side of the bed as well?

19 A. Yes, sir, the stand next to it.

20 Q. Was your sole job doing the photographing and  
21 conducting inventory?

22 A. On the day of the execution?

23 Q. On the day of the Search Warrant?

24 A. Yes, sir.

25 Q. And did you take any non drug related items out of

1 the room on your return?

2 A. Yes, sir, we did.

3 Q. What were those items that you took?

4 A. As listed on the return, \$622 cash.

5 Q. Okay?

6 A. There were I believe two crack pipes, there was  
7 also Acer spiral notebook, a Gateway laptop and a  
8 Samsung cell phone as well as a chore boy that's  
9 typically used in glass pipes and smoking crack.

10 Q. So you removed the cell phone; is that correct?

11 A. Yes, sir, it is.

12 Q. And you removed a Gateway laptop and an Acer spiral  
13 notebook; is that correct?

14 A. Yes, sir.

15 Q. And you removed also some cash; is that correct?

16 A. Yes, sir, that is correct.

17 Q. When you say you made a return what is a return  
18 for?

19 A. It's to give evidence of items taken during a  
20 Search Warrant, a Return given, a copy to the Defendant  
21 as well as the issuing Judge.

22 Q. So you gave Mr. Temple a copy of that return; is  
23 that correct?

24 A. Yes, sir, it is.

25 Q. And you also gave the issuing Judge a copy?

- 1 A. That's correct.
- 2 Q. That was Judge Derrick?
- 3 A. Yes, sir, it is.
- 4 Q. And Judge Derrick is in Westminster?
- 5 A. I think that's where he's based.
- 6 Q. He's an Oconee County Magistrate; is that correct?
- 7 A. Correct.
- 8 Q. But you are a City of Seneca Police Officer; is
- 9 that right?
- 10 A. Yes, sir, it is. As a matter of fact, he actually
- 11 came up to the PD that day and got a copy of the Return.
- 12 Q. When you say "he," I take it you mean Judge
- 13 Derrick?
- 14 A. Yes, sir, that is correct.
- 15 Q. Did you go in the room with everybody else or did
- 16 you wait from behind?
- 17 A. Everybody else being the TRT team?
- 18 Q. The TRT team.
- 19 A. No, sir, I did not.
- 20 Q. You were not part of that tactical response team?
- 21 A. No.
- 22 Q. You came in later to do your Return of the Search
- 23 Warrant and to collect evidence; is that right?
- 24 A. That is correct.
- 25 Q. But that crack pipe, that crack, that, the beige

1 substance you found that we talked about a few minutes  
2 ago was not found on Mr. Temple's side of the bed; is  
3 that right?

4 A. The single rock was not, no, sir.

5 MR. ROSEMOND: No further questions, Your Honor.

6 THE COURT: Re-exam?

7 Redirect Examination by Ms. Simmons:

8 Q. Officer Wright, your surveillance the day prior to  
9 the execution of the Search Warrant, was that daytime or  
10 nighttime?

11 A. It was daytime.

12 Q. And the nightstand where the single crack rock was  
13 found, were Mr. Temple's personal items also found  
14 there?

15 A. No, ma'am.

16 Q. Okay. And do Magistrates in this County have  
17 County-wide jurisdiction?

18 A. Yes, ma'am, that is correct.

19 MS. SIMMONS: Thank you very much.

20 Recross-Examination by Mr. Rosemond:

21 Q. Officer Wright, there were no personal items from  
22 Mr. Temple found on that side of the bed; is that  
23 correct?

24 A. To the best of my knowledge, no, sir.

25 Q. When you say the Magistrates have a County-wide

1 jurisdiction, does the City of Seneca have a Judge?

2 A. Yes, sir, they do.

3 Q. What's his name?

4 A. Danny Singleton.

5 Q. And he's employed by who?

6 A. The City of Seneca.

7 Q. The City of Seneca. Doesn't he issue warrants?

8 A. He does.

9 Q. Search Warrants and Arrest Warrants?

10 A. Yes, he does.

11 Q. But you all went to a County Judge to get a Search  
12 Warrant in this case; is that right?

13 A. Yes, sir.

14 Q. Any reason why you didn't go to your own City Judge  
15 to get a Search Warrant in this case?

16 A. I wasn't the Officer that signed the Search  
17 Warrant. But if I remember correctly, it was due to the  
18 time of day, all the judges were out of the office at  
19 that time.

20 Q. Due to the time of day?

21 A. Yes, sir.

22 Q. All right. You had been doing surveillance on this  
23 facility, or this hotel on July 24th; is that right?

24 A. That is correct.

25 Q. And you did that in the morning time; is that

1 right?

2 A. I don't think it was morning time.

3 Q. What time of day did you do that surveillance?

4 A. I want to say it was afternoon.

5 Q. Okay. Did you ever leave the surveillance or were  
6 you just there periodically?

7 A. My primary, I surveilled the hotel and the rooms  
8 the day before.

9 Q. Now, before, when I said surveillance, are you  
10 there for just a couple hours or are you there for the  
11 whole 24-hour period?

12 A. I was there for just a short period of time.

13 Q. Now, July 25th was a Wednesday; is that correct?

14 A. I do not recall...

15 Q. You don't remember?

16 A. No.

17 Q. You indicated that you went to a County Judge  
18 because of the time; is that right?

19 A. There again, I can't say with absolute certainty.

20 Q. You're not certain? All right. Did you surveil  
21 that location later that evening?

22 A. No, sir, we did not.

23 MR. ROSEMOND: No further questions from this  
24 witness, Your Honor.

25 THE COURT: Re, re-exam?

1 MS. SIMMONS: No, Your Honor.

2 THE COURT: Very well. You may step down. Thank  
3 you, sir.

4 THE WITNESS: Thank you, Your Honor.

5 (Witness leaves stand.)

6 MS. SIMMONS: Judge, may this Witness be excused?

7 THE COURT: Certainly.

8 (Whereupon, the Witness was excused.)

9 THE COURT: Counsel approach, please.

10 (Discussion at sidebar.)

11 THE COURT: All right. You may call your next  
12 witness.

13 MS. SIMMONS: The State calls Crystal Henry.

14 Whereupon,

15 Crystal Dawn Henry

16 Having first been duly sworn, was examined and testified  
17 as follows:

18 Direct Examination by Ms. Simmons:

19 THE COURT: If you would please ma'am give us your  
20 full name spelling your last for the record.

21 THE WITNESS: Crystal Dawn Henry, H-e-n-r-y.

22 THE COURT: Very good. Thank you, ma'am.

23 THE WITNESS: Uh-huh.

24 By Ms. Simmons:

25 Q. Ms. Henry, how old are you?

1 A. 32.

2 Q. What level of education have you gone to?

3 A. The 11th grade.

4 Q. Do you have a prior conviction in 2007 for petit  
5 larceny?

6 A. Yes.

7 Q. What was your relationship with Dan Temple back in  
8 July of 2012?

9 A. My boyfriend and I stayed with him.

10 Q. How long had y'all been together at that point?

11 A. A year and a half, a little over a year and a half.

12 Q. Did you all live together at this time?

13 A. Yeah.

14 Q. Where did you all live on July 25th of 2012?

15 A. Town & Country Motel in Room 103.

16 Q. Where did you all live prior to that?

17 A. The Executive Inn.

18 Q. Where is The Executive Inn?

19 A. Across the street on the other side.

20 Q. Okay. Your boyfriend, Dan Temple, do you see him  
21 present in court today?

22 A. I do.

23 Q. Or your ex-boyfriend.

24 Can you point him out for me?

25 A. He's right there.

1           **MS. SIMMONS:** Your Honor, please let the record  
2 reflect the Witness is pointing to the Defendant.

3           **THE COURT:** The record will so reflect.

4 By Ms. Simmons:

5 Q. Is that the same person who was at the Town &  
6 Country Motel with you on July 25th?

7 A. Yes, ma'am.

8 Q. Is that in Oconee County?

9 A. Yes, ma'am.

10 Q. What were you all doing in that motel room that  
11 day?

12 A. I was getting high.

13 Q. Were illegal drugs found in the room?

14 A. Uh-huh.

15 Q. Was drug paraphernalia found in the room?

16 A. Uh-huh.

17 Q. What, if any, of that belonged to you?

18 A. The crack pipe in the bed.

19 Q. Were any of the drugs that were left in the room  
20 yours?

21 A. The one piece right there is what I was smoking on.

22 Q. Okay. The bottle in that room?

23 A. No, ma'am, that was not mine.

24 Q. Why were you staying at the hotel?

25 A. Me and him had split up for a while, for a couple

1 months, and I didn't have nowhere to go, and me and him  
2 got back together and he placed me there in the motel  
3 until I would have a place to stay.

4 Q. Having known the Defendant for over a year and a  
5 half, was he known to do crack?

6 A. No. I've never seen him do no crack.

7 Q. What did he usually do with the crack he had?

8 A. Distribute it.

9 Q. The Xanax in the room, did that belong to you?

10 A. No.

11 Q. What did the Defendant do with Xanax?

12 A. He had -- I guess he had traded it or something.

13 **MR. ROSEMOND:** Objection, Your Honor. That calls  
14 for speculation.

15 **THE COURT:** Restate your question.

16 **MS. SIMMONS:** Let me restate my question.

17 By Ms. Simmons:

18 Q. Do you know for certain how he had come in  
19 possession of the Xanax?

20 A. Yes.

21 Q. How had that happened?

22 A. He had traded it for crack to someone else.

23 Q. The blue bottle that is in question, that rolled  
24 off the bed, do you know for certain if that belonged to  
25 the Defendant?

1 A. Yes.

2 Q. And you are here under a subpoena, correct?

3 A. Yes, ma'am.

4 Q. Why did you agree to cooperate with law  
5 enforcement?

6 A. Because it's the truth. I'm being honest.

7 Q. And being honest that you are a crack user?

8 A. I was a crack user. I've been clean for almost  
9 eight months.

10 Q. Have I promised you anything in exchange for your  
11 testimony?

12 A. No, ma'am.

13 MS. SIMMONS: Please answer any questions

14 Mr. Rosemond may have of you.

15 Cross-Examination by Mr. Rosemond:

16 Q. Now, you said the piece of crack that they found on  
17 the side of the bed was yours. You said that you were  
18 smoking on it; is that right?

19 A. That's correct.

20 Q. How long had you been in the Town & Country?

21 A. A few days.

22 Q. And certainly that wasn't the only piece of crack  
23 that you smoked while, is that right, you were in there?

24 A. At that moment it was the only piece of crack I had  
25 to smoke.

1 Q. At that moment.

2 A. I had to buy my own drugs.

3 Q. You buy your own drugs?

4 A. I had to.

5 Q. Okay. And you indicated that the reason why you  
6 were at the motel was because "I was getting high"; is  
7 that right?

8 A. I mean, that's what I was doing there while I was  
9 staying there was because I didn't have nowhere to go  
10 and he placed me in the hotel so I would have a place to  
11 stay.

12 Q. Okay. And the -- were you employed during that  
13 time?

14 A. No, sir.

15 Q. And, but you had enough money to go buy crack; is  
16 that right?

17 A. I didn't have enough money. I had money sometimes.

18 Q. And the opportunity to testify here today came  
19 about because you were arrested along with Mr. Temple;  
20 is that right?

21 A. Yes, sir.

22 Q. That morning at the Search Warrant you got  
23 arrested, too; is that correct?

24 A. Yes, sir.

25 Q. And you got arrested with possession with intent to

1 distribute crack cocaine and you got arrested for  
2 possession of Xanax; is that right?

3 A. Yes, sir.

4 Q. And you are here testifying; is that right?

5 A. Yes, sir.

6 Q. And what happened to your charges?

7 A. Actually, I went to jail, and I only recently got  
8 out December the 31st. I went for a fine I didn't pay,  
9 and then I ended up having to stay there because I  
10 hadn't gotten bonded out, so I continued to stay in  
11 there until I actually could get my lawyer to get me a  
12 bond.

13 Q. What happened to your possession with intent to  
14 distribute charges?

15 A. I still have them on me, yeah.

16 Q. Okay. And what happened to the possession of Xanax  
17 charge?

18 A. I still have that on me.

19 Q. And certainly -- when are you going to dispose of  
20 those charges?

21 A. Whenever I go to court for it.

22 Q. And that's gonna be after you testify; is that  
23 correct?

24 A. I suppose.

25 Q. And the better you testify, the better deal you get

1 in your charges; is that right?

2 A. No, sir. Nobody's made no deal to me.

3 Q. Nobody's made no promises to you?

4 A. Nobody.

5 Q. So you are up here on your own free accord; is that  
6 right?

7 A. I was subpoenaed because I was a codefendant, but  
8 I'm being honest --

9 Q. So they made you come to court; is that right?

10 A. They subpoenaed me with a paper and said I had to  
11 be in court to testify, and then I agreed to do this.

12 Q. They required you to be here. Isn't that right?

13 A. Yes, sir.

14 Q. Now, you do have these two charges on you, right?

15 A. Yes, sir.

16 Q. And have you talked with the Solicitor's Office  
17 about your case?

18 A. Once. Prior to today.

19 Q. Okay. And you walked in there and you said, "I'm  
20 just going to testify for you"?

21 A. No. They called and asked me --

22 Q. They called and asked you, right?

23 A. And I agreed to do it.

24 Q. Okay. And so they called to ask you to testify and  
25 you just agreed?

1 A. Yes.

2 Q. Now, the crack on the bed was yours; is that  
3 correct?

4 A. The one pill.

5 Q. And the pills were yours?

6 A. No. The pills was not mine.

7 Q. The pills weren't yours?

8 A. The pills was not mine. I had took one to see what  
9 they were, and it didn't do anything to me, so I put  
10 back down the bottle.

11 Q. So you took a pill --

12 A. I took a pill --

13 Q. -- that you found in the room; is that right?

14 A. I had took one of them --

15 Q. Okay.

16 A. -- along with him taking one.

17 Q. All right. So we know that you took a pill while  
18 you were in the room; is that right?

19 A. Uh-huh.

20 Q. And we know that you also smoked some crack while  
21 you were in the room; is that right?

22 A. Yeah.

23 Q. You never seen Mr. Temple smoke crack, have you?

24 A. He don't smoke crack.

25 Q. He don't smoke crack. All right. And the purple

1 pill bottle, what was in that purple pill bottle?

2 A. I guess it was crack cocaine.

3 Q. You guess it was crack cocaine. You mean to tell  
4 me you have never been in that pill bottle?

5 A. I -- no, I never touched his stuff.

6 Q. You was a crack addict and you had crack in the  
7 room but you wouldn't touch it?

8 A. I would not take it from him, no.

9 Q. Now, when did you speak with the Solicitor's Office  
10 about testifying in this case?

11 A. Shortly after I had gotten out of jail. I had  
12 called my lawyer and asked him when I needed to go to  
13 court and then I talked with the them about that  
14 afterwards.

15 Q. And on the date of July 25th, did you talk to any  
16 of the officers on that day?

17 A. On the day that they come in the room?

18 Q. Yes, ma'am.

19 A. No, sir.

20 Q. You didn't want to say, "Officers, I'm sorry. I  
21 made a mistake. I committed a crime. Let me talk to  
22 you all" on that day?

23 A. No.

24 Q. So you waited until it was convenient for yourself  
25 to talk to the Solicitor's Office about you testifying

1 against Mr. Temple; is that right?

2 A. The point of it is that it was not mine and it was  
3 his, and the point of it is that I went to jail that  
4 day, also, but it was not mine; I was being charged for  
5 something that was not mine.

6 Q. That happened July 25th; is that correct?

7 A. Yes.

8 Q. And you haven't pled guilty before now, have you?

9 A. I haven't had no chance to plead guilty to nothing.  
10 I only had a lawyer once I got into jail.

11 Q. I think Mrs. Simmons asked you about a petit  
12 larceny charge you had back in 2007?

13 A. Yes, sir.

14 Q. That particular morning, where were you when the  
15 police officers came in the door?

16 A. I heard them coming in the door. I got off the bed  
17 and went to look out the peephole. They busted the door  
18 in and busted my mouth open.

19 Q. Did they give you enough time to open the door?

20 A. I was trying to shut the door back.

21 Q. Okay. Did they give you enough time --

22 A. There was --

23 Q. I'm sorry. Go ahead and finish.

24 A. There was a chair and suitcase in front of the door  
25 so I didn't hear no one knock. I don't recall hearing

1 no one knock. I don't recall hearing no one knock on  
2 the door. I heard keys opening up the door, that's what  
3 I heard.

4 Q. Did you hear anyone say, "Search Warrant, Sheriff's  
5 Office, or Police"?

6 A. I seen that thing coming and that's when they  
7 hollered that and they hit my mouth and busted me when I  
8 went behind the door.

9 Q. So the police rammed the door and the door hit you  
10 in the mouth; is that right?

11 A. Yes, sir.

12 Q. And they didn't give you time to come open the  
13 door?

14 A. I don't know. I mean, like I said, I didn't know  
15 there were no one there. I heard a key in the door. I  
16 thought maybe it was the owners or something trying to  
17 come in. He was in the bed naked and I was half naked,  
18 so I was just trying to get the door shut back. When I  
19 looked out the peephole, that's when I saw them. They  
20 said "Seneca Police Department" or whatever and they hit  
21 the door, and that's when the door came open.

22 Q. And that day you didn't talk to the police, is that  
23 correct, July 25th?

24 A. No. Besides asking what I was being charged with.

25 Q. But you did talk to them on December the 11th,

1 2012; is that right?

2 A. Uh-huh. When I was in jail.

3 Q. That's when you were in jail?

4 A. Uh-huh.

5 MR. ROSEMOND: Let me have this marked for  
6 identification.

7 (Defendant's Ex. # 1, Search Warrant dated 7/24/12,  
8 was marked for identification.)

9 By Mr. Rosemond:

10 Q. Ms. Henry, about six months later you talked to the  
11 police about this case, didn't you?

12 A. Yes. After I had done been incarcerated again for  
13 it.

14 Q. Okay. And when you say "after I had been  
15 incarcerated again for it," what do you mean?

16 A. Because I went to jail was the day he did, and then  
17 I got bonded out, and then I got locked back up for the  
18 same thing for going off my bond.

19 Q. Okay. Now, why did it take so long for you to give  
20 a statement as to what happened that day?

21 A. Well, for the simple fact that I was his  
22 girlfriend. I wasn't gonna just throw him under the bus  
23 or nothing and hurt him, but I'm not going for it  
24 neither. Because I heard it was trying to get switched  
25 on me, and I'm not going for somebody telling that it

1 was mine when it was not.

2 Q. But one piece of the drugs found in the room was  
3 yours; isn't that correct?

4 A. One piece of the drug was mine, but that's it. I  
5 was smoking. I would have -- if all the other crack  
6 would have belonged to me, I would have been smoking it  
7 but it did not belong to me.

8 Q. Now, the night before the Search Warrant was  
9 executed, you indicated in this statement that you went  
10 to Pendleton; is that right?

11 A. Uh-huh.

12 Q. And the reason why you all went to Pendleton was to  
13 get drugs for you; is that right?

14 A. No, sir.

15 Q. You gave Mr. Temple \$80 to drive to Pendleton to  
16 get drugs?

17 A. No, sir. No, sir.

18 Q. Who all went to Pendleton to get drugs?

19 A. Me, him, and the guy that was driving.

20 Q. Who was driving?

21 A. James Walker.

22 Q. James Walker drove you to...

23 A. Pendleton.

24 Q. Pendleton to get drugs?

25 A. Not for me.

1 Q. Not for you, though?

2 A. No. I was riding.

3 Q. And did you mention James Walker's name in this  
4 statement at all?

5 A. No. I didn't mention the driver or nothing. I did  
6 not. I just said we went. They didn't ask specifically  
7 any name.

8 Q. Are you trying to protect Mr. Walker?

9 A. No, sir.

10 Q. Do you know Mr. Walker?

11 A. I do.

12 Q. But not telling them about Mr. Walker driving you  
13 to Pendleton is not the total truth; isn't that correct?

14 A. He did not drive me to Pendleton, he drove him to  
15 Pendleton.

16 Q. Did you go?

17 A. I went, yes. It was not to drive me, though.

18 Q. Not telling the police that James Walker drove the  
19 both of you to Pendleton isn't telling the truth; isn't  
20 that correct?

21 A. Correct. But they didn't ask names so I didn't  
22 specify the name.

23 Q. So, if they didn't ask you the name, you didn't  
24 tell them the truth; is that right?

25 A. Okay.

1 Q. Why not just be completely honest with them?

2 A. I have been mostly, yeah.

3 Q. Mostly?

4 A. Since you said I was lying about the driver.

5 Q. So you always kind of tell the full truth when  
6 someone asks you the question; is that right?

7 A. That's why I'm here now is telling the truth.

8 Q. You didn't tell the officers the truth on December  
9 the 11th, 2012, did you? Yes or no.

10 A. They didn't ask for a name.

11 Q. You didn't tell them the truth on July 25th when  
12 they burst into the motel room and took your piece of  
13 crack. Did you say that's my piece of crack?

14 A. They didn't give me a chance -- my mouth was  
15 bleeding. I didn't have a chance to say anything. I  
16 didn't have an understanding or know why I was even  
17 being arrested.

18 Q. Because you have in your possession crack cocaine  
19 and Xanax; is that right?

20 A. In our possession.

21 Q. Now you're gonna say it was in our possession?

22 A. Because you're saying it was in my possession. I  
23 had one piece of crack. The other crack was not mine.

24 Q. You are a crack addict and you only had one little  
25 piece of crack; is that right?

1 A. Crack costs money if you smoke it, and I didn't  
2 have money, so --

3 Q. The glass pipes found in the room, they were your  
4 glass pipes; is that right?

5 A. Yes.

6 Q. The chore boys found in the room. Your chore boys;  
7 is that right?

8 A. Yes, sir.

9 Q. Why not tell them on July 25th, 2012, that that  
10 stuff was yours?

11 A. One piece was mine. I didn't even get charged with  
12 it until 24 hours after I got to jail.

13 Q. Did you tell them on July 26th it was yours?

14 A. No. Because it was not. That pill bottle was not  
15 mine. That's why it was possession with intent because  
16 of the amount of it. The one piece that was there was  
17 maybe a 10-or-15-dollar piece that I was smoking. Other  
18 than that, there was nothing there besides the crack  
19 pipes and that that was mine.

20 Q. Ms. Henry, that room was in your name, wasn't it?

21 A. No. It was in Dan's name.

22 Q. It was only in Dan's name?

23 A. They had my ID, but it was in Dan's name.

24 Q. They had your ID because it was in both your names;  
25 isn't that correct?

1 A. I didn't sign nothing. He signed, I didn't.

2 Q. But they had a record of you being in the room; is  
3 that right?

4 A. Yes. I'm sure they did.

5 Q. Okay. (Reading): The night before we were  
6 arrested I do know he went to Pendleton to get his  
7 drugs.

8 "He went." That wasn't true. Why didn't you say  
9 the night before we were arrested, we went to Pendleton  
10 to get drugs?

11 A. I wasn't thinking, I guess.

12 Q. You weren't thinking because you wanted to make  
13 sure that all of the evidence goes against him; isn't  
14 that correct?

15 A. No, sir.

16 Q. You wouldn't tell the truth here?

17 A. I mean, I was incarcerated, I was aggravated by  
18 everything that was going on, I'm aggravated by the fact  
19 that I was his girlfriend and stood by his side for a  
20 year and a half, and then he's trying to put the charges  
21 on me of something he knows he does and has been doing  
22 before I ever met him. So -- that's how I met him was  
23 buying drugs. So why don't you read the first part of  
24 it where I put that in here?

25 Q. That (reading): I have been knowing Dan Temple for

1 almost two years?

2 A. And that I also met him by buying drugs.

3 Q. How long have you been addicted to crack?

4 A. I was for about three, two or three years, and then  
5 I got clean for four years, and then got back on it  
6 right before I met him. And then I've been clean for  
7 almost eight months now.

8 Q. Mr. Temple was employed, wasn't he?

9 A. Yes, sir, he was.

10 Q. Mr. Temple worked at Seneca Marina at the Tiki Hut,  
11 didn't he, as a cook?

12 A. A dishwasher. He might have cooked sometimes, I'm  
13 not sure.

14 Q. But he had a job; is that right?

15 A. He did.

16 Q. And there was a reason why that money was there,  
17 because he was employed?

18 A. Supposedly. He kept money all the time anyway,  
19 so... He didn't do nothing.

20 Q. Were you employed?

21 A. No.

22 Q. Ms. Henry, are you telling this Court that the  
23 reason why you are here to testify is because you want  
24 to be absolutely truthful?

25 A. Yes.

1 Q. And you don't have any inducements or promises for  
2 help or leniency when you get sentenced for your  
3 charges?

4 A. No, sir.

5 Q. But it wasn't until I told -- or it wasn't until I  
6 asked you about James Walker that you revealed that he  
7 was a participant the night before; is that right?

8 A. Uh-huh. He stayed around us all the time anyways.

9 Q. He stayed around you-all all the time?

10 A. Yeah.

11 Q. The Xanax in the room was not Mr. Temple's, was it?

12 A. Yes.

13 Q. It was?

14 A. He brought it there, yes.

15 Q. You indicated -- you testified earlier that you  
16 believe he had traded that Xanax for crack; is that  
17 right? Were you there when that deal went down?

18 A. No. It didn't happen there.

19 Q. Okay. So you don't know --

20 A. He brought them there.

21 Q. All right. But you weren't there and you didn't  
22 see an exchange for crack and Xanax, did you?

23 A. No. That's what I suppose happened because that's  
24 what happened before, so...

25 Q. So you are just assuming that; is that right?

1 A. Okay, yeah.

2 Q. Ms. Henry, I'm assuming as well. I assume that the  
3 better you testify, the better deal you get at  
4 sentencing; is that right?

5 A. No.

6 Q. That's not correct?

7 A. I'm testifying to tell the truth.

8 Q. Finally?

9 A. To my knowledge I'm telling the truth.

10 MR. ROSEMOND: No further questions, Your Honor.

11 THE COURT: Re-exam?

12 Redirect Examination by Ms. Simmons:

13 Q. Ms. Henry, I'm gonna show you what's been premarked  
14 for identification as Defense Exhibit 1. Mr. Rosemond  
15 has read you portions of this statement. At this time I  
16 would like you to read your complete statement.

17 A. (Reading): I have been knowing Dan Temple for  
18 almost two years. I do know that he does still sell  
19 crack cocaine drugs and that's how I met him. I then  
20 started dating him, and he moved in with me at my  
21 apartment and still sold the drugs.

22 I was using at the time, but I have been clean for  
23 five months now. We had a lot of fighting in our  
24 relationship, so I had left him for about three months  
25 and then went back to him and started staying at the

1 hotel with him.

2 The night before we were arrested I do know he went  
3 to Pendleton to get his drugs and he went to Toccoa,  
4 Georgia, to get drugs, too.

5 I'm not sure about this part, but I'd known it  
6 because I had heard his name before. But the man that I  
7 know in Toccoa is Chino (phonetic), Chico (phonetic), a  
8 medium complexion guy, in a tan Suburban, I'd seen him  
9 hand the money and receive the drugs.

10 When he came back to the room -- then we did come  
11 [sic] back to the room. They was his drugs, not mine.  
12 The very next morning, that's when we were arrested.

13 (End of reading.)

14 Q. So, when you say that you saw he and Chino -- or  
15 you think his name is Chino --

16 A. I don't know what his name -- that's what I -- I  
17 just heard his name come up.

18 Q. -- that means you were with him the night before?

19 A. Yes. I was with him.

20 Q. And the James Willie Walker that's been referenced,  
21 is he the closest friend of the Defendant?

22 A. Yes, ma'am.

23 MS. SIMMONS: I have nothing further.

24 Recross-Examination by Mr. Rosemond:

25 Q. Let's talk about Chino for a second. Chino lives

1 in Pendleton?

2 A. No. I'm not sure if his name's Chino, Chico,  
3 something or other. I'm not sure what his actual name  
4 is.

5 Q. So --

6 A. I'm not sure.

7 Q. You're not sure.

8 A. I'm going by what names I've heard him called  
9 before.

10 Q. Do you still have the statement up there?

11 A. (Handing).

12 Q. I want you to read that bottom line right there,  
13 please.

14 A. The very last line?

15 Q. Yes, ma'am.

16 A. (Reading): The very next morning we was arrested?

17 Q. Right after -- right before your signature.

18 A. (Reading): I have read this statement consisting  
19 of one page, each page of which bears my signature, and  
20 I do affirm that all facts and statements contained  
21 herein are true and correct.

22 Q. But that wasn't true because you're not sure of  
23 Chino's name; isn't that right?

24 A. I'm not sure if that's his name. I've heard the  
25 name called.

1 Q. But you don't know whether his name is Chino,  
2 right?

3 A. I'm not sure but I seen him physically buy drugs.

4 Q. But that's not what we're talking about here. We  
5 are talking about whether this is an accurate statement  
6 that you made. This is a false statement that you made;  
7 isn't that correct?

8 A. There might be a falsehood about the name, I might  
9 be mistaken over the name. Other than that, the  
10 statement is true.

11 Q. Might be mistaken over the name. Okay?

12 So, when it says (reading): I do know he went to  
13 Pendleton to get his drugs and that he went to Toccoa,  
14 Georgia, the man at Toccoa's name is Chino.

15 So he left Pendleton and went to Georgia; is that  
16 right?

17 A. Sometime within four, five, six hours apart, yeah.

18 Q. What time did he go to Pendleton?

19 A. Probably one, two in the morning. It was hours  
20 before we were arrested the next morning.

21 Q. So 1:00 in the morning, somewhere thereabout --

22 A. Somewhere.

23 Q. -- James Walker drove the both of you to Pendleton  
24 to buy drugs?

25 A. No. I rode. Drove him to buy drugs, not for me.

1 Q. And then James Walker drove the both of you to  
2 Toccoa, Georgia?

3 A. No, not that night. He did not drive us that  
4 night.

5 Q. You just said after you left Pendleton you went to  
6 Toccoa, Georgia?

7 A. I didn't say James Walker drove me anywhere to  
8 Toccoa.

9 Q. Okay. So, after you all got back from Pendleton,  
10 who drove yourself to Toccoa, Georgia?

11 A. Some White man that he knew.

12 Q. And you went with them?

13 A. Yes. Sometimes I went, sometimes I didn't.

14 Q. But you don't know this White man's name?

15 A. I don't remember his name. I only got to see him a  
16 few times. I don't remember his name.

17 Q. So what time did you go -- first of all, is there  
18 anything in this statement that says anything about a  
19 White man driving you to Toccoa, Georgia, that night?

20 A. No. I didn't -- they asked to put down the  
21 specifics. I put down the specifics.

22 Q. That's the second thing that's not true about this  
23 statement.

24 A. As far as them asking me who drove, I didn't put  
25 that in there because I wasn't asked to put it. You

1 know what I'm saying? I asked how much do I have to  
2 write? Because, actually, the time I've been with them,  
3 I could write a book.

4 Q. You only want to write what is good for you; is  
5 that right?

6 A. No. No. I wrote the main specifics of what this  
7 case is about, and it's drugs.

8 Q. So let's talk about you going to Toccoa and a man  
9 driving you all to Toccoa. What time did you leave -- I  
10 assume Seneca -- that night?

11 A. I couldn't tell you exactly what time it was. I  
12 was high all the time, so I couldn't tell you exactly  
13 what time it was.

14 Q. Because you were on crack all the time, right?

15 A. Uh-huh.

16 Q. But that was just your one little piece of crack in  
17 the room. But you stayed up smoking and you were high  
18 all the time?

19 A. He gave me drugs, too, but I bought my own if I had  
20 money, too, though.

21 Q. So when you went to Toccoa, Georgia, that night,  
22 you went to do what?

23 A. I rode with him. He went to purchase drugs, I  
24 suppose.

25 Q. You suppose. Would you care for some water?

1 A. Please. Thank you.

2 Q. You okay?

3 A. Yeah, I'm okay. Thank you.

4 Q. I do know that he went to Pendleton to get his  
5 drugs and then he went to Toccoa, Georgia. But you all  
6 went, is that right, the both of you?

7 A. Yes.

8 Q. Not "he" but "we"?

9 A. I guess I worded it wrong. I guess. My mistake.

10 Q. So this unidentified White man drove you to Toccoa.  
11 Did you sit in the car while -- what happened in Toccoa?

12 A. He gets out but I stay in the car.

13 Q. All right.

14 A. I don't never get out when I go to Toccoa.

15 Q. So, when he got out, did he meet somebody?

16 A. He talked with somebody, yeah.

17 Q. Ms. Henry, are you sure you went to Toccoa with  
18 him?

19 A. Yes.

20 Q. That night?

21 A. Yes.

22 Q. You are absolutely sure that the both of y'all went  
23 to Toccoa on July the 25th?

24 A. Yes.

25 Q. That morning?

1 A. I didn't go every time -- but I -- not the 25th,  
2 not the day we got locked up. We got locked up in the  
3 morning. But the day before that.

4 Q. You're misunderstanding. July the 25th starts at  
5 12 a.m.

6 A. Okay. It was the day before that that I went. I  
7 didn't go all the time.

8 Q. Okay. Let's slow down a little bit, Ms. Henry.  
9 July the 25th, 8:00 in the morning, the police kicks in  
10 your door at Town & Country; is that right?

11 A. Yes.

12 Q. But according to this statement, the night before,  
13 which I assume is in the early morning hours of July  
14 25th --

15 A. Okay.

16 Q. -- about 1:00 in the morning --

17 A. Yes, sir.

18 Q. -- you all went to Pendleton; is that correct?

19 A. Yes, sir.

20 Q. And then you testified that you went to Toccoa with  
21 Mr. Temple?

22 A. Yes, sir.

23 Q. On that night?

24 A. Yes, sir.

25 Q. Before they kicked in your door?

1 A. Yes, sir.

2 Q. And my question to you is: Are you absolutely sure  
3 that you went to Toccoa that night prior to them kicking  
4 in your door?

5 A. Yes, sir.

6 Q. And a White man drove you?

7 A. Yes.

8 Q. And you don't know -- what type of car was it?

9 A. A big Lincoln or something. Something like -- it's  
10 a big car. A big Town Car like something.

11 Q. You stayed in the car. Did the big man stay in the  
12 car with you?

13 A. The White man?

14 Q. Yes, ma'am.

15 A. Yes.

16 Q. He did. And then Mr. Temple went and met somebody;  
17 is that right?

18 A. Yes.

19 Q. Did they go in a house?

20 A. No.

21 Q. Did they stand outside?

22 A. Uh-huh. By where the cars were.

23 Q. Okay. And (reading): I seen him hand him the  
24 money.

25 Hand who the money?

- 1 A. The guy.
- 2 Q. You saw who hand who the money?
- 3 A. I seen him hand the money to the other guy.
- 4 Q. In Toccoa?
- 5 A. Uh-huh.
- 6 Q. What did you see him get back from the man?
- 7 A. A baggie of crack cocaine.
- 8 Q. A baggie of crack cocaine?
- 9 A. Uh-huh.
- 10 Q. So then he gets back in the car?
- 11 A. Uh-huh.
- 12 Q. And y'all go where?
- 13 A. Back to Seneca.
- 14 Q. About what time in the morning is this?
- 15 A. I'm not sure.
- 16 Q. You don't know, too high; is that right?
- 17 A. Uh-huh.
- 18 Q. But we know it was before 8:00 in the morning?
- 19 A. Yes. It was way before then.
- 20 Q. What type of baggie was it?
- 21 A. Just a regular sandwich baggie.
- 22 Q. Just a regular sandwich baggie. And it had what
- 23 you believe to be crack cocaine in it; is that right?
- 24 A. Uh-huh.
- 25 Q. I don't see a sandwich bag on the Search Warrant.

1 A. Uh-huh.

2 Q. So they didn't find it in the room?

3 A. I don't know. I don't know what he did with the  
4 baggie. I just know it was in the baggie. When he  
5 purchased it, it was in a baggie. What he did with it  
6 after that, I don't know.

7 Q. Let's go back to James Walker. He didn't drive you  
8 all to Toccoa?

9 A. Huh-uh. I've never rode with James Walker to  
10 Toccoa.

11 Q. But James Walker drove the both of you to  
12 Pendleton; is that right?

13 A. Uh-huh.

14 Q. And dropped you off at the hotel?

15 A. We went and got high for a minute and then he left  
16 because he got mad.

17 Q. When you say "he," I assume you mean Mr. James  
18 Walker?

19 A. Yes.

20 Q. He got mad at you?

21 A. At Dan.

22 Q. He got mad at Dan. So he left?

23 A. Uh-huh.

24 Q. And that's when the other guy came?

25 A. He, the other guy came a couple different times

1 throughout, the few days before that, too.

2 Q. The man in Toccoa named Chino, you just heard that  
3 name from somebody else?

4 A. No. I heard them talking about the name.

5 Q. Okay. But you don't know whether or not Chino  
6 lives in Toccoa or what?

7 A. I'm sure he does, yeah. I'm just not sure if  
8 that's exactly his name, though. Chino, Chico,  
9 something or other, I don't know.

10 Q. Where did the White man pick you up from?

11 A. The room.

12 Q. And he took you straight to Toccoa?

13 A. Uh-huh.

14 Q. Make any stops in between?

15 A. If we did, it wasn't but to the store maybe to get  
16 a beer, if that. I can't remember. It's been a while.

17 Q. You were arrested on July 25th but you didn't give  
18 that statement until December the 11th?

19 A. Nobody has ever asked me.

20 Q. You couldn't remember if it had been a while,  
21 right?

22 A. No. It's just nobody had ever asked me. And then  
23 when I got incarcerated, then that's when it was time to  
24 do something for myself.

25 Q. You got that right: That's when it was time to do

1 something for yourself.

2 A. I'm not going down for anybody else. I'm doing it  
3 for me. I'm telling the truth.

4 Q. You're telling the truth.

5 A. Uh-huh.

6 Q. Has Mr. Temple ever wrote a statement against you?

7 A. I'm not sure.

8 MR. ROSEMOND: No further questions, Your Honor.

9 THE COURT: Re-exam?

10 MS. SIMMONS: Nothing, Your Honor. We would ask  
11 this witness be excused.

12 MR. ROSEMOND: No objection.

13 THE COURT: Without objection you may be excused.  
14 Thank you, ma'am.

15 (Whereupon, the Witness was excused.)

16 THE COURT: Mr. Foreman, ladies and gentlemen of  
17 the Jury, it's 12:45. I'm going to suggest we take a  
18 break for lunch at this time.

19 How much time do you think you'll need? Just ask  
20 your Jury there in the Jury box. And it's not a  
21 unanimous verdict, it's a consensus. I'd say from 1:45,  
22 2:00? Which one?

23 (Jury confers in Jury box.)

24 THE FOREMAN: 1:45.

25 THE COURT: 1:45, very good. One hour. And then

1 we'll come back and continue with the trial of the case.  
2 Again, do not undertake discussion of the case among  
3 yourselves or permit anybody to discuss the case with  
4 you.

5 Everyone remain seated while the Jury retires from  
6 the courtroom.

7 (Whereupon, the Jury left the courtroom at  
8 approximately 12:45 p.m.)

9 **THE COURT:** All right. Anything from the Plaintiff  
10 before we take a break?

11 **MS. SIMMONS:** No, Your Honor.

12 **THE COURT:** From the Defense?

13 **MR. ROSEMOND:** No, Your Honor.

14 **THE COURT:** All right. See you back at 1:45.

15 (A luncheon recess occurred.)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Afternoon Proceedings

1:58 p.m.

THE COURT: Anything from the State before we bring the Jury back?

MS. SIMMONS: No, Your Honor.

THE COURT: From the Defendant?

MR. ROSEMOND: No, Your Honor.

THE COURT: Bring the Jury in.

(The Jury entered the courtroom at approximately 1:58 p.m.)

THE COURT: Let the record reflect the Jury is in the Jury box.

Mr. Foreman, ladies and gentlemen of the Jury, I apologize. We had a few technical difficulties again. We'll now proceed though with the trial.

Madam Solicitor, you may call your next witness.

MS. SIMMONS: Thank you, Your Honor. We call Captain Kenny Washington.

Whereupon,

Kenneth Lee Washington,

Having first been duly sworn, was examined and testified as follows:

Direct Examination by Ms. Simmons:

THE COURT: If you would please, sir, give us your full name for the record, spelling your last name.

1           THE WITNESS: Kenneth Lee Washington,

2 W-a-s-h-i-n-g-t-o-n.

3 By Ms. Simmons:

4 Q. Captain Washington, where are you employed?

5 A. With the Oconee County Sheriff's Office.

6 Q. And how long have you been in law enforcement?

7 A. I've been in law enforcement for approximately 20  
8 years.

9 Q. And back on July 25th of 2012 what was your  
10 capacity then?

11 A. I was the supervisor of the Oconee Sheriff's Office  
12 Narcotics Division.

13 Q. And you have since been promoted to Captain?

14 A. Yes, ma'am.

15 Q. What kind of training and education do you have?

16 A. Education is I have an Associate's Degree in  
17 criminal justice, I graduated from the South Carolina  
18 Criminal Justice Academy, and also some special training  
19 in drug enforcement which includes like the Drug  
20 Enforcement Administration and also ATF undercover  
21 schools and other schools which include clandestine lab  
22 certification.

23 Q. Does that involve methamphetamine?

24 A. Yes.

25 Q. Were you working back on July 25th of 2012?

1 A. Yes, ma'am.

2 Q. Were you part of the execution of a Search Warrant  
3 at the Town & Country Motel in the City of Seneca?

4 A. Yes, ma'am.

5 Q. And is that in Oconee County?

6 A. Yes, ma'am.

7 Q. Who were the targets of the investigation that day?

8 A. The target was Mr. Temple for that investigation.

9 Q. Do you know Dan Temple and his family?

10 A. Yes.

11 Q. And did you recognize the person at the motel as  
12 Dan Temple?

13 A. Yes.

14 Q. Did you have occasion to interview Mr. Temple --  
15 did you take part in the execution of the Search  
16 Warrant?

17 A. I did not take part of the execution of the Search  
18 Warrant. I was there. My role was the night before I  
19 received a phone call from at the time Sergeant Woodring  
20 stating that Seneca PD needed some assistance on the  
21 execution of a Search Warrant. I arrived there for the  
22 briefing that morning. When I arrived there, my role  
23 was to play the part of coming in after the execution  
24 and more or less just be in there for support.

25 Q. And after the execution did you have occasion to

1 come in contact with Mr. Temple?

2 A. Yes, ma'am, I did. After the TRT team executed the  
3 Search Warrant, I was parked up near the bowling alley,  
4 I think that's what that is, and after they executed it  
5 I actually walked down to the incident location. And  
6 when I walked down there at this time, Mr. Temple had  
7 been placed in the back of a patrol vehicle.

8 I remember as I was standing outside of the room  
9 out in the parking lot, I heard a banging, there was a  
10 banging on the window of the patrol vehicle. One of the  
11 patrol officers, Seneca Police Officers, actually came  
12 over to me and advised me that Mr. Temple wanted to  
13 speak with me.

14 I went over and I spoke to, actually to see what  
15 Mr. Temple wanted. He advised me that he wanted to  
16 cooperate. I then pulled out my rights card and I read  
17 to him his *Miranda* warning.

18 Q. And can you read us the warnings as you did that  
19 day?

20 A. Yes. Yes. I keep my *Miranda* warnings in my  
21 wallet, and on that particular day I actually pulled  
22 this card here from my wallet and I read him his rights,  
23 which states (reading):

24 You have a right to remain silent. Anything that  
25 you say can and will be used against you in court. You

1 have a right to an attorney and to have that attorney  
2 present during questioning. If you cannot afford an  
3 attorney, an attorney will be provided at no cost. You  
4 can decide at any time to exercise these rights and not  
5 answer any questions or make any statements.

6 The bottom part reads: Do you understand each of  
7 these rights I have explained to you?

8 And the second part is: Having these rights in  
9 mind, do you wish to talk to us now?

10 Q. What time did this take place, roughly?

11 A. It was that morning I would guess probably after  
12 9:00, 9:30.

13 Q. And he was seated in the patrol car at that point?

14 A. Yes.

15 Q. And it was just you and him essentially?

16 A. Yes.

17 Q. Did you make sure that Mr. Temple understood his  
18 rights?

19 A. Yes.

20 Q. Did he convey to you that he understood his rights?

21 A. Yes, he did.

22 Q. Either verbally or by gestures or...

23 A. He verbally stated that and he shook his head as  
24 though he understood his rights.

25 Q. Did he appear to be intoxicated or under the

1 influence of illegal drugs?

2 A. No, ma'am.

3 Q. Did you make any threats or promises to Mr. Temple?

4 A. No, ma'am.

5 Q. And so he approached you?

6 A. Yes. He, he was in a patrol car. He had another  
7 officer come over to get me.

8 Q. Did you intimidate him in any way?

9 A. No, ma'am.

10 Q. Was his waiver of rights voluntary?

11 A. Yes, ma'am.

12 Q. And did he indicate to you he wished to give a  
13 statement?

14 A. Yes.

15 Q. What did he tell you about?

16 **MR. ROSEMOND:** Objection, Your Honor, on the basis  
17 of hearsay and that he did not waive his rights.

18 **THE COURT:** Well, first of all --

19 Mr. Foreman, ladies and gentlemen of the Jury, two  
20 objections have been made, one as to hearsay. Hearsay  
21 is what the term implies as to what somebody says they  
22 heard somebody say, in other words, it's the third  
23 person, not the person that spoke to the person who says  
24 they heard it, but it's the third person who's relating  
25 their testimony.

1           The only thing is there are exceptions to the  
2 hearsay when the party to a particular action makes a  
3 statement. That is a statement by a party opponent and  
4 that is not hearsay. In other words, the witness then  
5 is just using their senses of hearing to express what  
6 the person involved in a particular legal action says at  
7 a different time, so that's not hearsay.

8           Now, the second thing is, and Mr. Rosemond is  
9 correct about that, that this statement by the Witness  
10 of an alleged statement made by the Defendant is for  
11 your determination as to whether or not that statement  
12 was given freely and voluntarily, knowingly and  
13 intelligently, in other words, that it cannot be the  
14 result of any threat, coercion, or fear; it cannot be  
15 done when somebody is under the influence; and it cannot  
16 be whether or not they felt like they had to make the  
17 statement; in other words, it must be a voluntary  
18 statement.

19           Also, the rights that they have guaranteed to the  
20 individual who makes those statements are the right to  
21 remain silent, the statement cannot and will not be used  
22 against him in a court of law, the right to an attorney,  
23 that if he does not have an attorney, an attorney will  
24 be provided; and the right to consult with the attorney  
25 and the right to interrupt and terminate the

1 interrogation at any time; and moreover, the  
2 interrogation will cease until given an opportunity to  
3 consult with his attorney prior to his interrogation.  
4 Those rights have to be read or stated to the individual  
5 and then the Defendant, as I say, must knowingly and  
6 intelligently waive those rights.

7       And if the statement or confession was freely and  
8 voluntarily given, without duress or coercion, without  
9 undue influence, without promise of lenience, without  
10 threat of injury, or without compulsion or inducement of  
11 any kind, and that such alleged incriminating statement  
12 was not the voluntary product of the free and  
13 unconstrained will of the Defendant, if it was none of  
14 those things, in other words, that if it was somehow not  
15 the free and voluntary statement, that is for your  
16 determination. If you determine it was not, those  
17 rights were not given, were not waived, then and the  
18 statement was not made, then you would disregard it.  
19 However, your finding must be beyond a reasonable doubt,  
20 not a mere preponderance of the evidence, but beyond a  
21 reasonable doubt that the statement was freely,  
22 voluntarily, knowingly and intelligently made.

23       But this statement will come in at this time for  
24 your determination whether or not it can be used against  
25 him, this alleged statement.

1 You may proceed.

2 MS. SIMMONS: Thank you, Your Honor.

3 By Ms. Simmons:

4 Q. Captain Washington, after waiving his *Miranda*  
5 rights, what did the Defendant say to you?

6 A. He advised me that he wanted to work or cooperate  
7 with me. He advised me that he could get some more  
8 drugs. He also stated that he had purchased some drugs  
9 in Pendleton the night before, and that he could  
10 actually purchase some more while cooperating with me.

11 He also stated that he could go to Georgia and get  
12 some drugs from an individual, he never did say the  
13 name, either from Pendleton or Georgia. He stated that  
14 he could go to Georgia and actually get some drugs from  
15 an individual in Georgia while cooperating with me.

16 At that time I advised him that I was there for  
17 support for Agent Hunnicutt; that I would relay that  
18 information to Mr. Hunnicutt and advise Mr. Hunnicutt of  
19 him wanting to cooperate. And that's when I got, went  
20 and told Mr. Hunnicutt that Mr. Temple wanted to  
21 actually cooperate and talk with him.

22 Q. And he said he had picked up an ounce the day  
23 before; is that --

24 A. Yes, that's what he told me. He told me that he  
25 went to Pendleton and had purchased an ounce.

1 Q. And did he say anything about the drugs that were  
2 in the room?

3 A. He just said that he could, that he could get some  
4 more and what he had left from the drugs that he had  
5 picked up in Pendleton is what was left in the room.

6 Q. And at that point in time did you refer him to  
7 Agent Hunnicutt?

8 A. That's correct.

9 MS. SIMMONS: Please answer any questions  
10 Mr. Rosemond might have for you.

11 Cross-Examination by Mr. Rosemond:

12 Q. Captain Washington, Mr. Temple was in the back of  
13 the patrol car, correct?

14 A. Yes, sir.

15 Q. He was handcuffed?

16 A. I can't remember if he was handcuffed or not. I  
17 know that he was in the back of the patrol vehicle.

18 Q. Was he free to leave at that particular time?

19 A. No.

20 Q. He was technically under arrest, though; is that  
21 right?

22 A. Yes, he was detained at that time.

23 Q. Now, Mr. Temple presumably heard you read him the  
24 *Miranda* warnings; is that right?

25 A. That's correct.

1 Q. And did he give you any indication that he  
2 understood what you were asking him?

3 A. Yes. He shook his head and said he understood.

4 Q. Okay. Was anybody else present for this  
5 conversation?

6 A. I think it was just myself and Mr. Temple that was  
7 actually at the rear of the patrol vehicle.

8 Q. You were standing outside of the window and he was  
9 inside; is that right?

10 A. Yes. I actually, if I can remember, I think I  
11 actually had the door open and was talking to him, I  
12 opened the door of the vehicle.

13 Q. And Mr. Temple allegedly gave a statement that said  
14 that the drugs in the room were his?

15 A. Yes. He told me that what was in the room is what  
16 was left from what he picked up in Pendleton the day  
17 before.

18 Q. Now, did he give you this statement in writing?

19 A. No, sir.

20 Q. Did you have access to a voluntary statement form  
21 that someone could use to write a statement on at that  
22 time?

23 A. I didn't ask for one. I don't know if someone, if  
24 maybe an officer maybe had one in the vehicle, but no, I  
25 didn't have one at the time.

1 Q. But normally if you want someone to give a  
2 statement sometimes, you have them write it out and have  
3 them sign it; is that right?

4 A. That is a good practice.

5 Q. And even in your case, you filled out a voluntary  
6 statement of your activity on that date; is that right?

7 A. That is correct.

8 Q. And essentially is this your voluntary statement of  
9 what you did on that day; is that right?

10 A. Yes, sir, that is correct.

11 Q. And you signed yours?

12 A. Uh-huh. Yes, sir.

13 Q. And the reason why you do that is to make sure a  
14 year from now you can remember about what occurred?

15 A. That's correct.

16 Q. Now, did anybody witness your statement?

17 A. No. It was just myself and Mr. Temple at the rear  
18 of the vehicle.

19 Q. Is there any corroboration of what Mr. Temple said  
20 to you at the back of the car, independent  
21 corroboration?

22 A. Just, just like I say, it was just myself and  
23 Mr. Temple that were back there. We were the only  
24 witnesses that were there.

25 Q. Did you have a tape recorder on you that day?

1 A. I didn't have a tape recorder. I did have a -- of  
2 course, cell phones now have recorders.

3 Q. An i-phone, a cell phone?

4 A. An i-phone, yes.

5 Q. And really on an i-phone you can record a  
6 conversation between you and somebody; is that right?

7 A. That's correct.

8 Q. And at least so that we would know that the  
9 conversation took place, you could have recorded the  
10 conversation between you and Mr. Temple; is that right?

11 A. Yes, sir, I could have.

12 Q. But we don't have -- but you didn't do that at that  
13 date; is that correct?

14 A. Yes, sir.

15 Q. And the only role you played in this particular  
16 case is coming in at the end, keeping eyes on things and  
17 talking to Mr. Temple; is that right?

18 A. Yes, sir.

19 MR. ROSEMOND: No further questions.

20 THE COURT: Re-exam?

21 Redirect Examination by Ms. Simmons:

22 Q. Captain Washington, you were approached by  
23 Mr. Temple; is that correct?

24 A. Yes. I was told by an Officer that he wanted to  
25 talk to me.

1 Q. So it would stand to follow that you didn't  
2 necessarily have a lot of time to grab a statement form  
3 or get a recording device if contact was initiated by  
4 him?

5 A. Exactly. My intent was not to speak with  
6 Mr. Temple that day as I was not the primary  
7 investigator.

8 MS. SIMMONS: Thank you very much.

9 Recross-Examination by Mr. Rosemond:

10 Q. It doesn't take much to reach in your pocket and  
11 pull out a phone, does it?

12 A. No, sir.

13 Q. And ultimately Mr. Temple was confined in a patrol  
14 car and he wasn't going anywhere; isn't that right?

15 A. That's correct.

16 Q. And you could have certainly walked to a Patrol  
17 Officer and said, could I get a form from you if you  
18 have one, and codify or put in writing what he said to  
19 you; is that right?

20 A. Yes, sir.

21 Q. And at the Academy, one thing that we learn at the  
22 Academy is write down people's confessions; is that  
23 right?

24 A. Yes. Take very good notes.

25 Q. Take very good notes. And if they give you a

1 statement as to their complicity in a crime, that you  
2 have them write it out; is that right?

3 A. That is a tactic, yes.

4 MR. ROSEMOND: No further questions, Your Honor.

5 THE COURT: Re, re-exam?

6 MS. SIMMONS: No, Your Honor.

7 THE COURT: Very good. You may step down. Thank  
8 you, sir.

9 THE WITNESS: Thank you, Judge.

10 (The Witness was excused.)

11 THE COURT: You may call your next witness.

12 MS. SIMMONS: I call Investigator Tim Hunnicutt.

13 Whereupon,

14 Tim Hunnicutt

15 Having first been duly sworn, was examined and testified  
16 as follows:

17 Direct Examination by Ms. Simmons:

18 THE COURT: If you would please, sir, state your  
19 full name for the record, spelling your last name.

20 THE WITNESS: Investigator Tim Hunnicutt,  
21 H-u-n-n-i-c-u-t-t.

22 THE COURT: Thank you, sir.

23 You may proceed.

24 MS. SIMMONS: Thank you, Your Honor.

25

1 By Ms. Simmons:

2 Q. Investigator Hunnicutt, where are you employed?

3 A. Seneca Police Department.

4 Q. And how long have you been in law enforcement?

5 A. For approximately 12 years.

6 Q. What unit are you currently assigned to?

7 A. Narcotics Division.

8 Q. And were you working on July 25th, 2012?

9 A. I was.

10 Q. And did you have occasion to obtain a Search

11 Warrant for Room 103 of the Town & Country Motel?

12 A. Yes.

13 Q. And who did you obtain that Search Warrant from?

14 A. Judge Derrick.

15 Q. Located in the City of Seneca and County of Oconee?

16 A. The incident location?

17 Q. Yes.

18 A. Yes, in Seneca.

19 Q. When did you obtain that Search Warrant?

20 A. On the 24th, the day before.

21 Q. And you executed it on the 25th?

22 A. Correct.

23 Q. Based on the information you had from your course

24 of the investigation, who did you expect to be present

25 in the hotel room?

1 A. Dan Temple.

2 Q. Were you able to confirm the identity of Dan Temple  
3 once you arrived?

4 A. Yes.

5 Q. How?

6 A. Just recognized him from past dealings, and IDs,  
7 his photo ID, his Social Security card that was there in  
8 the room.

9 Q. Who was usually with him?

10 A. Crystal Henry.

11 Q. And what's his relation to James Willie Walker,  
12 relation or affiliation?

13 A. James Willie Walker is kind of his runner.

14 Q. Who was the target of your investigation and  
15 execution of your Search Warrant?

16 A. Dan Temple.

17 Q. And how did the execution of the Search Warrant  
18 progress?

19 A. The Tactical Response Team made entry into the  
20 location. After they secured the area to make sure both  
21 subjects were detained, that's when myself and other  
22 Narcotics Investigators searched the room.

23 Q. And before the Tactical Response Team team made  
24 entry, did they knock and announce?

25 A. Yes.

1 Q. Once you went inside the room, what did you find?

2 A. In the room was, on the dresser closest to the  
3 bathroom, as you are looking at the bed it would be to  
4 the right side of the bed, there was a small crack rock  
5 sitting on the dresser or on the nightstand. I found  
6 two different crack pipes, glass crack pipes.

7 On the floor, if you are looking at the bedroom  
8 coming from the entryway to the motel room, on the floor  
9 next to the bed was a little pill bottle, purplish-blue  
10 looking in color.

11 Q. I'm gonna show you what's been premarked as State's  
12 Exhibit 23. Is this where the crack rock was found?

13 A. Yes.

14 Q. And you said there were personal items in the room?

15 A. Yes.

16 Q. Is that what you recall seeing?

17 A. Yes.

18 Q. And that is State's 21.

19 And also State's 20, do you recognize that?

20 A. Yes.

21 Q. And State's 16?

22 A. Yes.

23 Q. What is that?

24 A. That is the pill bottle containing the crack  
25 cocaine.

1 Q. And where was that located?

2 A. On the right, if you are facing the bed, on the  
3 right side of the bed, the same side where he was laying  
4 on, it was right below the bed and on the floor.

5 Q. Okay. I'm gonna show you what has been premarked  
6 as State's 32.

7 MS. SIMMONS: May I approach the Witness, Your  
8 Honor?

9 THE COURT: Certainly.

10 By Ms. Simmons:

11 Q. Do you recognize State's 32 as the pill bottle that  
12 you picked up that day in the hotel room?

13 A. Yes.

14 Q. Okay. And did you package it in any way or seal it  
15 to maintain its evidentiary integrity?

16 A. I did.

17 Q. When did you do that?

18 A. The same day.

19 Q. Once you packaged the -- did you also do the same  
20 with the Xanax that was found?

21 A. Correct.

22 Q. And the crack rock?

23 A. Correct.

24 Q. And when you packaged those items, what did you do  
25 with them?

1 A. Placed it in a BEST pack, the BEST kit that was  
2 sealed, we turned it in to the evidence locker where it  
3 would go to Melinda Nicholson, who is our Evidence  
4 Technician.

5 Q. You did all that the same day?

6 A. Yes.

7 Q. Did you later that day have occasion to interview  
8 the Defendant about what had gone on?

9 A. Yes. Right after the Search Warrant, yes, we did.

10 Q. Okay. And did you -- where did you interview him?

11 A. At the Police Department. Captain Ken Washington,  
12 Lieutenant Washington then, he advised me that Mr.  
13 Temple wanted to speak with me about the case.

14 Q. I show you what's been premarked as State's Exhibit  
15 31. Did you advise the Defendant of his rights prior to  
16 speaking with him?

17 A. Yes, I did.

18 Q. What did you say when you went over his rights?

19 Can you do it exactly as you did it that day?

20 A. Do it word for word?

21 Q. Yes.

22 A. This is the statement of *Miranda* rights form at the  
23 time and location where it took place, level of  
24 education on there. And each line read (reading):

25 You have the right to remain silent; that the

1 suspect understands the right or the, what you are  
2 telling him, he initials by each one.

3 You have the right to remain silent. He initialed.

4 Anything you say can and will be used against you  
5 in a court of law. He initialed beside that.

6 You have the right to talk to a lawyer and have him  
7 present to assist you while being questioned. He  
8 initialed beside that.

9 If you cannot afford a lawyer, one will be  
10 appointed to represent you before any questions if you  
11 wish. He initialed beside that.

12 If you decide at any time to exercise these rights,  
13 you do not have to answer any questions or make any  
14 statements. He initialed there.

15 And: Do you understand these rights that I've  
16 explained to you?

17 And he checked "yes" and initialed beside it.

18 Q. And did he subsequently sign the form?

19 A. Yes.

20 Q. And who was the form witnessed by?

21 A. Myself and Tyrel Woodring.

22 Q. Did he sign the form in your presence?

23 A. Yes, right in front of me.

24 Q. Okay. You said you went over the form and you made  
25 sure the Defendant understood his rights?

1 A. Correct.

2 Q. In your opinion did he seem to understand his  
3 rights?

4 A. Yes.

5 Q. Was he intoxicated or under the influence of drugs  
6 as best you could tell?

7 A. No, he was not.

8 Q. And he understood -- he indicated he understood his  
9 rights by signing the form?

10 A. Correct.

11 Q. And did he subsequently waive Miranda and speak to  
12 you?

13 A. Yes.

14 Q. Tell me what he said.

15 MR. ROSEMOND: The same objection, Your Honor, as  
16 earlier.

17 THE COURT: Again, it will be for the Jury to  
18 determine whether or not the statement was freely,  
19 voluntarily, knowingly and intelligently made.  
20 Overruled. But again, that determination must be beyond  
21 a reasonable doubt.

22 You may proceed.

23 A. He advised me that he, the drugs that were found in  
24 the hotel room, the crack cocaine was his. He went to  
25 Pendleton the night before and purchased them for \$300.

1 By Ms. Simmons:

2 Q. Based on your training and experience, is \$300'  
3 worth of quantity consistent with personal use or  
4 possession with intent to distribute?

5 A. With intent to distribute. Because most users will  
6 spend twenty or forty dollars and get a crack rock or  
7 two.

8 Q. And how many times did he claim the drugs during  
9 the course of your conversation?

10 A. He claimed it after we done it probably just one  
11 time.

12 Q. Did he say anything about Crystal Henry's  
13 involvement at that point in time?

14 A. He just said that they were all his.

15 Q. And you have seen the photographs that were  
16 taken --

17 MS. SIMMONS: I'm sorry. Judge, we would move to  
18 admit the Rights Waiver which has been premarked as  
19 State's Exhibit 31.

20 MR. ROSEMOND: Subject to the objection of the  
21 Defendant.

22 THE COURT: Subject to the objection of the  
23 Defendant. And that's 31?

24 MS. SIMMONS: Yes, Your Honor.

25 THE COURT: It will be admitted.

1 (State's Ex. # 31 was received in evidence.)

2 MS. SIMMONS: Thank you, Judge.

3 By Ms. Simmons:

4 Q. Investigator Hunnicutt, have you had occasion to  
5 review State's Exhibits 16 through 30, the photographs  
6 that were taken at the scene?

7 A. Yes.

8 Q. And are those a fair and accurate representation of  
9 what you saw that day?

10 A. Yes.

11 Q. And the drugs were found at two separate -- at  
12 three separate locations in the room?

13 A. That's correct.

14 Q. And which one was Mr. Temple closest in proximity  
15 to?

16 A. To the crack cocaine that was in the pill bottle.

17 Q. And you turned in all the drugs to Sergeant  
18 Nicholson?

19 A. Correct.

20 Q. And did you tamper or alter the drugs in any way  
21 before you turned them in?

22 A. No, ma'am.

23 Q. Based on Mr. Temple's admissions and the drugs that  
24 you found in the room, what did you charge him with?

25 A. Possession with intent to distribute crack cocaine.

1 Q. And what is the basis of the with intent to  
2 distribute charge?

3 A. The weight. Also the money he spent the night  
4 before was not a normal user amount you would spend on  
5 buying drugs.

6 Q. And was cash also found at the scene?

7 A. Yes. \$622.

8 Q. And did all events relating to this case occur  
9 within the City Limits of Seneca?

10 A. They did.

11 MS. SIMMONS: Please answer any questions

12 Mr. Rosemond may have.

13 Cross-Examination by Mr. Rosemond:

14 Q. Mister -- Investigator Hunnicutt, I'm sorry, you  
15 obtained that Search Warrant from Judge Derrick; is that  
16 correct?

17 A. That's correct.

18 Q. Judge Derrick is a County Magistrate and located in  
19 Westminster; is that right?

20 A. That's correct.

21 Q. And you are a City Police Officer; is that right?

22 A. Yes.

23 Q. The City of Seneca?

24 A. Yes.

25 Q. And the City of Seneca has a City Judge that issues

1 Search Warrants and Arrest Warrants; right?

2 A. Yes.

3 Q. This occurred on a Wednesday; is that right?

4 A. Yes.

5 Q. And that Tuesday you obtained a Search Warrant; is  
6 that right?

7 A. Yes.

8 Q. But you obtained it from Judge Derrick who is the  
9 County Judge and not Judge Singleton who is the City  
10 Judge; is that right?

11 A. That's correct.

12 Q. Now, you had been doing surveillance on the  
13 location on July 24th; is that right?

14 A. Correct.

15 Q. And you knew you were going to get a Search Warrant  
16 on July 24th; is that correct?

17 A. Not until that afternoon we didn't know.

18 Q. You didn't know until that afternoon you were gonna  
19 get a Search Warrant. About what time that afternoon?

20 A. I'm not sure exactly. Probably it would be between  
21 two to four. I'm not sure.

22 Q. And you knew you were going to get a Search Warrant  
23 between two and four, but you didn't call your City  
24 Judge to get a Search Warrant; is that right?

25 A. For some reason. I'm not sure he was out of town

1 or what it was. But when we got done, it was after  
2 hours and we called Judge Derrick.

3 Q. Was it your testimony he was out of town or do you  
4 not --

5 A. I can't remember. There was some reason why.

6 Q. Ordinarily you would go to a City Judge to get a  
7 Search Warrant; is that right?

8 A. I would go to County Judges and City Judges. It's  
9 our choice who we want to go to.

10 Q. The City Judge chastised you one day for going to a  
11 County Judge when he was working and you didn't go to  
12 him; isn't that correct?

13 MS. SIMMONS: Objection, Your Honor.

14 THE COURT: What's the objection?

15 MS. SIMMONS: Relevance. We're discussing a case  
16 that is not at issue.

17 THE COURT: Well, they have been discussing going  
18 to either a Magistrate -- I mean to either a City Judge  
19 or a County Magistrate. I'm going permit the question.

20 Answer the question if you can.

21 A. That's incorrect.

22 By Mr. Rosemond:

23 Q. Judge Singleton never chastised you from going  
24 outside of the City of Seneca to get a Search Warrant?

25 A. He's never chastised me for anything.

1 Q. You got the Search Warrant from Judge Derrick; is  
2 that right?

3 A. That's correct.

4 Q. Has Judge Singleton ever turned you down for a  
5 Search Warrant?

6 A. He has not.

7 Q. How long have you been doing this work,  
8 Investigator Hunnicutt?

9 A. Four years.

10 Q. You have been in Narcotics for four years?

11 A. Correct.

12 Q. You got the Search Warrant from Judge Derrick. Did  
13 Judge Derrick give you an Arrest Warrant for Mr. Temple  
14 as well?

15 A. I already had the Arrest Warrant.

16 Q. You already had the Arrest Warrant for what?

17 A. For the charge we picked him up on that day.

18 Q. For possession with intent to distribute?

19 A. No. What led to that.

20 Q. The arrest -- what was he arrested for on July  
21 25th, the day of the Search Warrant?

22 A. The day of the Search Warrant we actually charged  
23 him with possession with intent to distribute crack  
24 cocaine --

25 Q. Okay.

1 A. -- and possession of the Xanax.

2 Q. Exactly. And those Arrest Warrants were issued by  
3 Judge Derrick?

4 A. The Arrest Warrants on that were issued by Judge  
5 Singleton.

6 Q. On what day? July 25th?

7 A. I believe so.

8 Q. So you went to Judge Derrick to get the Search  
9 Warrant, but then you went to Judge Singleton to have  
10 the Arrest Warrant issued?

11 A. Right. He was right upstairs and it wasn't after  
12 hours, so I went to...

13 Q. Isn't it true, Investigator Hunnicutt, you went to  
14 Judge Derrick because he's not as stringent on Search  
15 Warrants as Judge Singleton?

16 A. No, that's not true.

17 Q. That's not true?

18 A. No.

19 Q. Did you talk to Judge Singleton that day about the  
20 Search Warrant?

21 A. No.

22 Q. In the City of Seneca they have two judges, don't  
23 they?

24 A. There's an assistant Judge. The Clerk, she does,  
25 like a part-time judge if he's gone.

1 Q. She's an Associate Judge; is that right?

2 A. Right.

3 Q. She issues Arrest Warrants; isn't that correct?

4 A. Correct.

5 Q. She issues search warrants; is that correct?

6 A. That's correct.

7 Q. And you could have -- if Judge Singleton was not  
8 available, you could have went to Judge Lawing; isn't  
9 that correct?

10 A. That's correct.

11 Q. But you chose not to go to either one of them; is  
12 that right?

13 A. Right. I have a choice to go to which judge I want  
14 to.

15 Q. They call that judge shopping; isn't that right?

16 A. No. We can go to any judge, any judge we want to  
17 in the County. It can be from Magistrates, any court to  
18 a Circuit Court Judge.

19 Q. In the City of Seneca, Judge Singleton and Judge  
20 Lawing are up above the Police Station right behind --  
21 right beside City Hall; isn't it that correct?

22 A. That's correct.

23 Q. And on the same block there's a Magistrate Judge in  
24 Oconee County; isn't that correct?

25 A. That's correct.

1 Q. Did you talk to him about issuing a Search Warrant?

2 A. It was after hours and they were all closed.

3 Q. Did you try and talk to him and call him and say  
4 you had a Search Warrant?

5 A. No.

6 Q. So you didn't call Judge Singleton, you didn't call  
7 Judge Lawing, you didn't call the Judge that's in the  
8 same block like 400 yards from City Hall in Seneca; is  
9 that right?

10 A. That's correct.

11 Q. You called the judge all the way in Westminster to  
12 give you a Search Warrant; isn't that right?

13 A. That's correct.

14 Q. So you bypassed three judges to get to Judge  
15 Derrick to give you a Search Warrant?

16 A. I didn't bypass anybody.

17 Q. You bypassed Judge Singleton. He's your judge; is  
18 that right?

19 A. There was some reason why, but I'm not sure. There  
20 was some reason he wasn't there or something and for  
21 some reason I went to Judge Derrick.

22 Q. But did you even call him and say, Judge Singleton,  
23 I am working on a Search Warrant, are you gonna be there  
24 to execute or sign it?

25 A. I don't remember that part.

1 Q. And the incident location is in the City of Seneca;  
2 is that right?

3 A. That's correct.

4 Q. You didn't go to Judge Singleton, you didn't go to  
5 Judge Lawing, you didn't go to the other judge in Seneca  
6 or the County Magistrate, but you went ten miles out of  
7 your way to get to Judge Derrick?

8 A. I actually met him at his house in Seneca.

9 Q. You went to his home?

10 A. Correct.

11 Q. How did you get in touch with Judge Derrick that  
12 day?

13 A. I had him paged.

14 Q. Did you try to page Judge Singleton?

15 A. I don't remember.

16 Q. Did you try to page Judge Lawing?

17 A. No. A lot of times when we have a joint case with  
18 the Sheriff's Office working with us, we'll go ahead and  
19 use a Magistrate.

20 Q. So you took the Magistrate [sic] to Judge Derrick's  
21 home; is that right?

22 A. Took the what?

23 Q. I said, did you take it to his home?

24 A. Correct.

25 Q. Okay. And he lived down past The Palms down off

1 of --

2 A. Old Clemson Highway.

3 Q. Old Clemson Highway; is that right?

4 A. Right.

5 Q. Do you know where Judge Singleton lived?

6 A. Somewhat further than that, yes, out towards Fair  
7 Play.

8 Q. Have you ever been to his house? I mean, if you  
9 don't know --

10 A. I've never been to his house. I just know it's  
11 down that way.

12 Q. When you got to the incident location, were you the  
13 first one in?

14 A. No.

15 Q. You said that you all had not been announced; is  
16 that correct?

17 A. That's what the Tactical Response Team did.

18 Q. Okay. And where were you at when they did this?

19 A. I was just a little ways behind them.

20 Q. And when you knock and announce, how does that  
21 occur?

22 A. You knock and tell them, Police Department, Search  
23 Warrant. And if they don't answer the door, then you'll  
24 find your way in there.

25 Q. Find your way in like a battering ram; is that

1 right?

2 A. That or a key.

3 Q. That or a key. Y'all had both?

4 A. Correct.

5 Q. And a young lady was trying to get to the door to  
6 open it when y'all came in; is that right?

7 A. I don't know if she was trying to let us in, but...

8 Q. She was behind the door and she got hit in the lip  
9 with the door?

10 A. Looking out the peephole sitting on a suitcase and  
11 chair that was propped up against the door so we  
12 couldn't get in.

13 Q. Did you see her sitting on the suitcase?

14 A. She was behind the door --

15 Q. No, I didn't ask you that. Did you see her sitting  
16 on the suitcase?

17 A. No.

18 Q. Did you see her sitting in a chair?

19 A. No, I didn't see her sitting there.

20 Q. Did you see her look out of the peephole?

21 A. That wasn't her testimony.

22 Q. Did you see her look out of the peephole?

23 A. No.

24 Q. So when the door came open, she's behind the door  
25 and she gets hit in the face with the door; is that

1 right?

2 A. That's correct.

3 Q. So then you go inside; is that right?

4 A. Yes.

5 Q. And you survey the scene?

6 A. Yes.

7 Q. You found a piece of crack or a piece of rock-like  
8 substance on a nightstand and looking at the bed on the  
9 right-hand side of the bed; is that right?

10 A. Yes, if you are facing the bed looking at it --

11 Q. I'm facing the bed, I'm looking at it.

12 A. The side closest to the bathroom.

13 Q. Okay. And you found a piece of crack over there;  
14 is that right?

15 A. That's correct.

16 Q. And then you said you found a purple pill bottle on  
17 the left side of the bed on the floor; is that right?

18 A. Correct.

19 Q. Tell me about that pill bottle. Was it a medicine  
20 bottle?

21 A. Yes.

22 Q. Did it have any tape on it?

23 A. Like where the stuff had been ripped off --

24 Q. Okay.

25 A. -- or the label would have been ripped off.

1 Q. So there was no label on the pill bottle?

2 A. Part of a label. It's not, it's not like, you  
3 can't read nothing.

4 Q. Did you have it tested for fingerprints?

5 A. I really don't remember if I did or -- I don't  
6 think so.

7 Q. The yellow Xanaxes, you found them where?

8 A. The top drawer of the nightstand closest to the  
9 bathroom.

10 Q. You found the Xanax on the nightstand in the same  
11 place you found the rock-like substance on the other  
12 side of the bed from Mr. Temple; is that right?

13 A. Correct.

14 Q. You've indicated that the reason why you charged  
15 him with PWID, it's possession with intent to  
16 distribute, but what we would normally call PWID was the  
17 weight amount, right?

18 A. Correct.

19 Q. And the weight amount was 1.22 grams; is that  
20 right?

21 A. Yes.

22 Q. Give or take a couple of -- okay.

23 And the presumption is if you have anything over a  
24 gram, it's with intent to distribute; is that right?

25 A. Correct.

1 Q. So he had point 22 over the limit where you can  
2 presume somebody of having the intent to distribute?

3 A. Correct.

4 Q. But that's just a presumption, isn't that correct,  
5 something that you can presume?

6 A. I mean, that's the, in the law there.

7 Q. That's a presumption in the law that if you have  
8 over a gram, you are presumed to have the intent to  
9 distribute; isn't that correct?

10 A. Okay.

11 Q. And just because you have over that gram amount  
12 doesn't mean that you have the intent to distribute; is  
13 that right?

14 A. (No response.)

15 Q. That's a yes or no.

16 A. I mean, not everybody -- I guess not everybody that  
17 had that amount would be distributing.

18 Q. And not everybody that buys \$300 worth of crack has  
19 the intent to distribute, either. Some of that could be  
20 for their own personal use; isn't that correct?

21 A. I don't believe that.

22 Q. Why don't you believe that? You believe that  
23 everybody who buys drugs that spends \$300 is going to  
24 give it to somebody else?

25 A. I've never known a crack head to spend \$300 on

1 crack. They can barely find money because they, they're  
2 out of work, they don't have a job, they have to steal  
3 the money and buy a twenty-or-forty-dollar crack rock.

4 Q. Are you telling me that only people that are crack  
5 heads are poor people that don't have a job and don't  
6 work?

7 A. No, that's not what ---

8 Q. You're not telling me that there's not rich people  
9 in this world that does crack; is that right?

10 A. I'm sure there are plenty.

11 Q. And those rich people who can afford \$300, they  
12 could purchase it for themselves, they could use it for  
13 themselves; isn't that correct?

14 A. I don't see that happening.

15 Q. You don't see that happening. But isn't that a  
16 possibility?

17 A. I guess anything is possible.

18 Q. A rich person who is employed goes and buys more  
19 than a gram or \$300' worth of crack, you don't think  
20 they could use all that for themselves?

21 A. They could over a period of time, yes.

22 Q. Now, Mr. Temple was working during that time; isn't  
23 that correct?

24 A. That's correct. That's what I hear.

25 Q. He had a job at the Tiki Hut at Seneca Marina;

1 isn't that right?

2 A. Yes.

3 Q. So, because he had a job, he also had the ability  
4 to make money, earn money, and to have money in his  
5 pocket; is that right?

6 A. Right.

7 Q. And you located \$600 in Mr. Temple's possession;  
8 isn't that right?

9 A. That's correct.

10 Q. Did you ever ask him was that money from work?

11 A. We spoke about the money, yes.

12 Q. Okay. Did you ask him did the money come from  
13 work?

14 A. He said he was working.

15 Q. Okay. You had spoke with Mr. Temple at the Police  
16 Station; is that right?

17 A. Yes.

18 Q. You had him transported from Town & Country over to  
19 the Police Station and you put him in a room and  
20 interrogated him?

21 A. I never interrogated him. I never questioned him  
22 about anything. He told me what he wanted to tell.

23 Q. You never interrogated him?

24 A. No.

25 Q. You call it interviewing him?

1 A. Well, he wanted to speak with us and we went in the  
2 room, filled out his form, and he told us what he had to  
3 say and that was it.

4 Q. So you didn't ask him any questions?

5 A. No. We didn't talk about the -- he told us what  
6 had happened.

7 Q. Right. But you didn't ask him any questions while  
8 you were in this interview room?

9 A. I asked about the money and that was it.

10 Q. Okay. It seems odd to have someone in a room --

11 A. He's the one who asked to talk to us. We didn't  
12 ---

13 Q. Yeah. I'm gonna ask questions back. I'm gonna ask  
14 who, what, when, where, and how. Isn't that basic  
15 police procedure?

16 A. He told me what he wanted to say.

17 Q. You didn't ask really any other questions?

18 A. No. Because I had enough ---

19 Q. So he told you what he wanted to say, he gave you  
20 what, an oral confession?

21 A. Correct.

22 Q. You were in a Police Station, weren't you?

23 A. That's right.

24 Q. Did you go get a Voluntary Statement form and have  
25 him write it out?

1 A. No.

2 Q. You went to the Academy; isn't that correct?

3 A. I did.

4 Q. And at the Academy they taught you to take good  
5 notes, and when someone confessed, have them give you a  
6 written statement; isn't that correct?

7 A. It's a good thing to do, right.

8 Q. But you didn't do it in this case?

9 A. No, I didn't.

10 Q. So how can this Jury believe that what you told us  
11 is what Mr. Temple said? Did you record it on an audio?

12 A. No.

13 Q. You didn't record it on the audio, you don't have a  
14 written confession?

15 A. Right.

16 Q. But you got a written confession from Ms. Henry;  
17 isn't that correct?

18 A. Right.

19 Q. You had her do a written confession here; isn't  
20 that right?

21 A. Yeah, later, yes.

22 Q. You had her sign it; is that right?

23 A. Correct.

24 Q. You had a witness to it?

25 A. Yes, sir.

1 Q. But you couldn't give Mr. Temple a chance to write  
2 his own confession because he didn't confess to you; is  
3 that right?

4 A. That's incorrect.

5 Q. Did she confess to you in this statement?

6 A. No.

7 Q. So the statement that you took that a person who  
8 was charged with a crime, the same crime as Mr. Temple,  
9 you took a statement from her, but she didn't confess,  
10 she just said it was all his. But with the person that  
11 you are trying to pin it on that you say confessed to  
12 you, you didn't get a statement from him; is that right?

13 A. That's right.

14 Q. When you took that statement from Mr. Temple, he  
15 was in handcuffs?

16 A. Yes, in the front, yes, sir.

17 Q. He was in a room. How long was he in that room?

18 A. A very short amount of time. Probably 20 minutes,  
19 maybe.

20 Q. All right. Were you in that room by yourself?

21 A. No.

22 Q. Did you have a recorder available to you?

23 A. I didn't at the moment, no.

24 Q. You could have gotten one; isn't that correct?

25 A. I probably could have found one.

1 Q. You, a few minutes ago you made an interesting  
2 comment that you said James Walker was a runner for my  
3 client?

4 A. Right.

5 Q. Did my client tell you that?

6 A. No.

7 Q. Did you know James Walker drove my client and  
8 Mrs. Henry to Pendleton?

9 A. No, I didn't know that.

10 Q. Have you ever met James Walker?

11 A. Yes.

12 Q. Have you ever talked with James Walker?

13 A. Yes.

14 Q. Did James Walker ever help you out before?

15 A. Yes.

16 Q. But on this case you didn't know James Walker drove  
17 them to Pendleton; is that right?

18 A. Correct.

19 Q. And that was on July 24th; isn't that correct?

20 A. That or the early morning on the 25th.

21 Q. Y'all had surveillance going on at that time; isn't  
22 that right?

23 A. Not that night, no. It was earlier in the day.

24 Q. So what time do you think they -- well, it was  
25 earlier in the day y'all were doing surveillance on

1 Mr. Temple; is that right?

2 A. Right.

3 Q. Sitting very close to my law office in the parking  
4 lot watching the hotel?

5 A. Correct.

6 Q. And that surveillance didn't capture -- or did it  
7 capture the, Mr. Temple leaving with anybody?

8 A. No.

9 Q. It didn't?

10 A. No. We got out of there earlier, it was before I  
11 went and got the Search Warrant, around six, and it was  
12 around six when I met the judge.

13 Q. When you get a Search Warrant, what are you  
14 supposed to do with the Search Warrant? I mean, how do  
15 you do the search? You get a Search Warrant, what do  
16 you do with it?

17 A. Are you talking about executing it?

18 Q. Yes.

19 A. We go over the Search Warrant with the suspect,  
20 give a copy to him, give a copy back to the judge with  
21 the Return of all the information that was taken from  
22 the residence or this motel room.

23 Q. So you gave him a Search Warrant, you gave  
24 Mr. Temple a copy of a Search Warrant?

25 A. I didn't. Mr. Wright did, Courtney Wright.

1 Q. I'm looking at the return on the Search Warrant,  
2 and it says one crack rock on end table, 822 in cash,  
3 maybe 622 in cash; 13 orange capsules, purple pill  
4 bottle containing crack, ten yellow tablets, Xanax; two  
5 crack pipes, two pink tablets, beige-brown bag, a  
6 Gateway laptop, an Acer Aspire laptop, Samsung cell  
7 phone.

8 How come you didn't charge anybody for the 13  
9 orange tablets?

10 A. The orange tablets ended up being something else,  
11 it wasn't a controlled substance.

12 Q. Do you remember what it was?

13 A. I don't remember right off, but it wasn't  
14 controlled. The two pills ended up being like a  
15 heartburn medicine or something.

16 Q. Those two pink tablets that I referred to?

17 A. Some of it was heartburn medicine and one was  
18 something else. I'm not sure. That's the reason they  
19 weren't charged with that.

20 Q. The Gateway laptop, the Acer Aspire notebook. Why  
21 did you take those?

22 A. I didn't. Investigator Wright took those.

23 Q. Okay. Well, but you were in charge of this  
24 investigation. Why did, why did you take those?

25 A. To see if there was any -- actually, he pulled a

1 Search Warrant on those for any incriminating evidence,  
2 anything to do with selling drugs or anything, like a  
3 cell phone would have photos, it would have text  
4 messages, anything like that.

5 Q. Would you repeat to me what you just said?

6 A. Which part?

7 Q. What he did with the cell phone and the Search  
8 Warrant. The cell phones and the computer.

9 A. He got a Search Warrant on those.

10 Q. Okay. He got it from whom?

11 A. The judge. I don't know -- I'm not sure which  
12 judge.

13 Q. Whose name was on the Search Warrant?

14 A. Courtney Wright.

15 Q. That's the person obtaining the Search Warrant?

16 Whose name ---

17 A. That's the one that --

18 Q. Whose name was on the Search Warrant?

19 A. Which judge?

20 Q. No. What did you get a Search Warrant for?

21 A. Did I or he?

22 Q. What did Mr. Wright get a Search Warrant for?

23 A. For the property, the electronics property.

24 Q. Who did you send the Search Warrant to?

25 A. Who did I send it to?

1 Q. Yes, sir.

2 A. The stuff was analyzed, it was taken to Anderson.

3 Jim Bolt of Anderson City --

4 Q. Okay.

5 A. -- he tries to check that stuff to see if they can  
6 get anything off of it.

7 Q. Let me understand something. You get a Search  
8 Warrant for a computer that's owned by somebody; is that  
9 right?

10 A. Right.

11 Q. It's owned by Mr. Temple?

12 A. I didn't have nothing to do with that part of it.  
13 That was Courtney's part of the case.

14 Q. You were in charge of this investigation; is that  
15 right?

16 A. It was a joint between us both. But I made the  
17 charges, so I guess he was more in charge of it.

18 Q. You and Courtney are the same rank?

19 A. Right.

20 Q. So you get a Search Warrant from a judge, and it  
21 says go search this piece of property; is that right?

22 A. That should be what it said, yes.

23 Q. And then you make a Return on the Search Warrant;  
24 is that right?

25 A. That will be the next thing to do, yes.

1 Q. And you return it to the owner, isn't that right?

2 A. The property?

3 Q. Yes, sir.

4 A. Return it to the owner, yes. It's probably still  
5 in evidence.

6 Q. What's in evidence?

7 A. The property.

8 Q. What else did you search? The phone?

9 A. The phone, and I believe he said two computers.

10 Q. Okay. So you all picked up the phone and looked at  
11 it; is that right?

12 A. No. We don't do that.

13 Q. You go and get a search warrant?

14 A. Correct.

15 Q. From Judge Derrick or Judge Singleton?

16 A. Like I said, Investigator Wright handled that and  
17 I'm not sure which judge he went to.

18 Q. There was a Return made?

19 A. Yes.

20 Q. Mr. Bolt said he found something on the Search  
21 Warrant; is that right?

22 A. I don't know. I really don't know. I can't  
23 testify to any of that. That's not my thing.

24 Q. Not your thing. The problem with that is I don't  
25 have a copy of that Search Warrant. Mr. Temple doesn't

1 have a copy of any Return. And if you are telling me  
2 that you searched a phone and two Gateway computers that  
3 may contain some inculpatory or exculpatory information,  
4 don't I deserve to have it?

5 A. I haven't given you any information from those  
6 phones, right?

7 Q. But you got the Search Warrant; is that right?

8 A. I didn't, no. There was a Search Warrant got,  
9 though, obtained.

10 **MR. ROSEMOND:** Judge, we don't have a Search  
11 Warrant then. We don't have a Search Warrant that they  
12 obtained for some property in this case.

13 **THE COURT:** Is he charged with the property, having  
14 the property?

15 **MS. SIMMONS:** Judge, there's no charges that came  
16 from that.

17 **THE COURT:** Mr. Rosemond?

18 **MR. ROSEMOND:** We don't know ---

19 **THE COURT:** Mr. Foreman, ladies and gentlemen of  
20 the Jury, I'm gonna ask you to retire to the Jury room  
21 for a moment so I can take up a matter of law with the  
22 attorneys.

23 Again, do not undertake discussion of the case  
24 among yourselves or with anyone else.

25 (Whereupon, the Jury left the courtroom at

*State v. Dan Temple -- Trial -- March 19 2013 -- Hunnicutt/Cross*

1           3:22 p.m.)

2           **THE COURT:** Let the record reflect the Jury is in  
3 the Jury box.

4           Madam Forelady, we will now continue with the  
5 examination.

6 By Mr. Rosemond:

7 Q. Let me show you State's Exhibit Number 16. Can you  
8 identify that object right there?

9 A. Yes.

10 Q. What is that?

11 A. That's the pill bottle that contained the crack  
12 cocaine.

13 Q. But you -- that pill bottle was already there when  
14 you walked into the room; is that right?

15 A. Correct.

16 Q. It was already on the floor?

17 A. Right.

18 Q. You didn't see where it came from, did you?

19 A. No.

20           **THE COURT:** What number was that, Mr. Rosemond?

21           **MR. ROSEMOND:** 16, Your Honor.

22           **THE COURT:** Thank you..

23 By Mr. Rosemond:

24 Q. Investigator Hunnicutt, that item right there  
25 appears to be a rock-like substance right there?

1 A. Yes.

2 Q. And that was on the opposite side of the bed that  
3 Mister -- that the pill bottle was found on; is that  
4 right?

5 A. Yes.

6 THE COURT: That was which one?

7 MR. ROSEMOND: That was State's Exhibit Number 29.

8 THE COURT: Thank you.

9 By Mr. Rosemond:

10 Q. I don't remember if I asked you this question or  
11 not, and if I have, I'll move on.

12 You have on gloves -- on State's Exhibit Number 28  
13 you have on gloves here?

14 A. Correct.

15 Q. And that is the bottle that you say was laying on  
16 the side of the bed; is that right?

17 A. That's right.

18 Q. And did you or did you not fingerprint this  
19 particular bottle for latents?

20 A. I didn't, no.

21 Q. But did you ask for it to be done?

22 A. I don't think so. I don't remember asking to have  
23 it done.

24 Q. Why would you not ask for a piece of evidence that  
25 could conclusively prove who touched it and who didn't

1 to be done?

2 A. Most of it's kind of sticky, where the wrapper was  
3 taken off, and you wouldn't be able to get any  
4 fingerprints off that.

5 Q. You been to a school to teach about fingerprints?

6 A. I have.

7 Q. And have you ever taken fingerprints before?

8 A. Yes.

9 Q. And you have taken fingerprints from people or from  
10 objects?

11 A. Different objects.

12 Q. Okay. And this has been while you were with the  
13 City of Seneca?

14 A. No. It was while I was at the Sheriff's Office.

15 Q. Okay. You were a forensic person at the Sheriff's  
16 Office?

17 A. No, I was not. But they had classes on  
18 fingerprinting.

19 Q. And you took those classes?

20 A. Yes.

21 Q. And you don't think you would be able to get  
22 fingerprints off of that?

23 A. There might be some parts that you could, but most  
24 of it, no.

25 Q. But you didn't check?

1 A. No.

2 MR. ROSEMOND: No further questions for this  
3 Witness Your Honor.

4 THE COURT: Re-exam?

5 MS. SIMMONS: Nothing further, Your Honor.

6 THE COURT: All right. You may step down.

7 (Witness leaves stand.)

8 THE COURT: All right. You may call your next  
9 witness.

10 MS. SIMMONS: Your Honor, the State calls Special  
11 Agent Tyrel Woodring.

12 Whereupon,

13 Tyrel Woodring

14 Having first been duly sworn, was examined and testified  
15 as follows:

16 Direct Examination by Ms. Simmons:

17 THE COURT: If you would, please, give us your full  
18 name for the record, spelling your last name.

19 THE WITNESS: Tyrel Allen Woodring,  
20 W-o-o-d-r-i-n-g.

21 THE COURT: Thank you, sir.

22 You may proceed.

23 MS. SIMMONS: Thank you, Judge.

24 By Ms. Simmons:

25 Q. Agent Woodring, where are you employed?

*State v. Dan Temple -- Trial -- March 19 2013 -- Woodring/Direct*

1 A. I'm employed by the South Carolina State Law  
2 Enforcement Division.

3 Q. How long have you been at SLED?

4 A. Since November of last year.

5 Q. And were you at the Oconee County Sheriff's Office  
6 before that promotion?

7 A. Yes, ma'am.

8 Q. And how long were you at the Sheriff's Office?

9 A. Approximately 12 years.

10 Q. And what is your specialized training and education  
11 and special -- area of law enforcement specialty?

12 A. I have an Associate's Degree in criminal justice.  
13 I graduated from South Carolina Criminal Justice  
14 Academy. I have advanced training in narcotics from the  
15 Department of Justice, U.S. Department of Homeland; the  
16 Department -- Division of Drug Enforcement  
17 Administration and the Federal Law Enforcement Training  
18 Center.

19 Q. Were you working for the Oconee County Sheriff's  
20 Office on July 25th of 2012?

21 A. Yes.

22 Q. And did you have occasion to assist in the  
23 execution of a Search Warrant at the Town & Country  
24 Motel in Seneca?

25 A. Yes.

1 Q. How did the execution of the Search Warrant  
2 progress from your participation?

3 A. I was contacted by Investigator Hunnicutt the night  
4 before. He advised that he had a Search Warrant for the  
5 location. I then contacted Captain Ken Washington and  
6 advised him of the situation also. He requested  
7 assistance the following day.

8 The following day on the 25th I, along with Captain  
9 Washington, met with Investigator Hunnicutt and other  
10 officers at the Seneca Police Department at a briefing  
11 location. We were briefed that he had a Search Warrant  
12 for the room at the Town & Country Motel in Seneca which  
13 is in Oconee County.

14 Q. And what was your role in the execution of the  
15 Search Warrant?

16 A. My role, I was driven to the location by  
17 Investigator Hunnicutt. My role was to obtain a key  
18 from the clerk, the receptionist at the Town & Country  
19 Motel, which I obtained after presenting him to let him  
20 know that I had a Search Warrant for the room.

21 At that time after I obtained the key, I gave the  
22 key to the Tactical Response Team at the Seneca Police  
23 Department and they executed the Search Warrant at Room  
24 103.

25 Q. Did you assist Agent Hunnicutt in searching the

1 room?

2 A. I did.

3 Q. Did he actually take all the items into evidence?

4 A. He did.

5 Q. I'm gonna show you what have been premarked as  
6 State's Exhibits 16 through 30, and just let me know if  
7 these are a fair and accurate representation of the  
8 scene that day (handing).

9 A. They are fair and accurate.

10 Q. Thank you. Were you also present later when the  
11 Defendant was interviewed by Tim Hunnicutt?

12 A. Yes, sir.

13 Q. Where did that take place?

14 A. That happened at the patrol room at the Seneca  
15 Police Department.

16 Q. I'm gonna show you -- you have it -- what has been  
17 premarked as State's Exhibit 31. Do you recognize this  
18 document?

19 A. I do.

20 Q. Tell me what it is.

21 A. This is a written statement of *Miranda* rights or  
22 warnings.

23 Q. Do you recognize your signature on that?

24 A. I do.

25 Q. Were you there when the Defendant was advised of

1 his rights?

2 A. Yes, ma'am.

3 Q. Do you remember Agent Hunnicutt going line by line  
4 with him?

5 A. Yes, ma'am.

6 Q. What time did this take place?

7 A. 9:05.

8 Q. And where were you?

9 A. I was present in the patrol room at the Seneca  
10 Police Department.

11 Q. At any point was Mr. Temple threatened,  
12 intimidated, or coerced into speaking with you?

13 A. No, ma'am.

14 Q. Before he was read the rights that the Defendant  
15 was apprised of?

16 A. Yes, ma'am.

17 Q. And based on your experience, did the Defendant  
18 understand his rights?

19 A. Yes.

20 Q. Were there any markings on the form to indicate  
21 that in your presence?

22 A. Yes, ma'am.

23 Q. Tell me about those.

24 A. These are his initials by each line item of each  
25 *Miranda* warning and his signature.

1 Q. Did he appear to be intoxicated or under the  
2 influence of illegal drugs?

3 A. No, ma'am.

4 Q. Were you present when the Defendant signed the  
5 form?

6 A. Yes, ma'am.

7 Q. Do you believe that this waiver of rights was  
8 voluntary?

9 A. Yes, ma'am.

10 Q. And did the Defendant subsequently agree to speak  
11 with you and Agent Hunnicutt?

12 A. Yes, ma'am.

13 Q. And tell me what he said.

14 A. He advised that he wished to cooperate with law  
15 enforcement; that the drugs found in the room when he  
16 was arrested were his; that he had previously purchased  
17 them the night before in Anderson for \$300. He could  
18 also purchase more drugs in Anderson and in Georgia.

19 Q. And, based on your training and experience in the  
20 City of Seneca, what is \$300' worth of drugs consistent  
21 with? Intent to distribute or possession?

22 A. Intent to distribute.

23 MS. SIMMONS: Thank you very much. Please answer  
24 any questions that Mr. Rosemond might have.

25

1 Cross-Examination by Mr. Rosemond:

2 Q. Agent Woodring, why is it consistent with intent to  
3 distribute if you buy \$300' worth of drugs?

4 A. Typically a crack rock would sell for \$20.

5 Q. Correct.

6 A. So, if you had five \$20 crack rocks, that would be  
7 one gram or more.

8 Q. Okay. So, if I'm going to see my supplier on  
9 Monday, and I got to work Tuesday through Sunday and I'm  
10 not going back, and I want to buy \$300' worth of drugs  
11 and they're all for me, that would be the same thing as  
12 just me buying for my personal use; isn't that correct?

13 A. That could be, yes, sir.

14 Q. So, just because you spend \$300 on drugs doesn't  
15 mean you are going to sell it to anybody; is that right?

16 A. Right.

17 Q. We all make mistakes, don't we, Agent Woodring?

18 A. Absolutely.

19 Q. And I assume when you say that he told you he went  
20 to Anderson, you really meant Pendleton; isn't that  
21 correct?

22 A. Anderson County is what I presume, yes, sir.

23 Q. Okay. Just a slip of the tongue, all right.

24 A. Yes, sir.

25 Q. Now --

*State v. Dan Temple -- Trial -- March 19 2013 -- Woodring/Cross*

1 A. Pendleton is in Anderson County.

2 Q. Okay. Investigator Hunnicutt contacted you?

3 A. Yes, sir.

4 Q. Were you in charge of the Narcotics Office of the  
5 Sheriff's Office at that time?

6 A. No, sir.

7 Q. Who was your boss?

8 A. Captain Kenny Washington.

9 Q. Wouldn't it seem like if I wanted to use some  
10 officers, I'm going to ask the Captain in charge of the  
11 officers to let me use those guys that day?

12 A. It's just common practice for an agent to call  
13 another agent. Then it's that agent's responsibility to  
14 contact his supervisor --

15 Q. Okay.

16 A. -- to obtain permission for assistance from the  
17 agency.

18 Q. So you and Hunnicutt are friends?

19 A. Absolutely.

20 Q. And he's the one that asked you to come do the  
21 execution of the Search Warrant; is that right?

22 A. Correct. He was asking the Sheriff's Office for  
23 assistance.

24 Q. And the assistance from the Sheriff's Office was  
25 you and Captain Washington?

1 A. Yes.

2 Q. Anybody else?

3 A. No, sir.

4 Q. You all were in a room at the Seneca Police  
5 Department and that is where Mr. Temple allegedly made  
6 those statements to you; is that right?

7 A. Right.

8 Q. You were taught to get statements like that in  
9 writing; isn't that right?

10 A. It is good practice to do that. We are not  
11 required to get them in writing.

12 Q. Well, that is the only way that you know that  
13 someone signed a written statement that they said it;  
14 isn't that right?

15 A. I believe testimony can also attribute to that.

16 Q. Your testimony?

17 A. Correct.

18 Q. But officers sometimes or anybody can sometimes not  
19 tell the truth; isn't that right?

20 A. Correct.

21 Q. So the better practice is to have a written  
22 statement signed by the person who is allegedly  
23 confessing to a crime?

24 A. That is good practice.

25 Q. And you have been an officer how long now?

1 A. Approximately 13 years.

2 Q. And you had the good fortune of getting a  
3 promotion, and by that promotion you took a step up and  
4 now you work for the State, for SLED?

5 A. I do.

6 Q. And certainly did you not ask him to give you a  
7 written confession?

8 A. Mr. Temple?

9 Q. Yes.

10 A. No, sir, I did not.

11 Q. Who was in charge of that interview that morning,  
12 that afternoon or so?

13 A. I was an assisting agent. Investigator Hunnicutt  
14 was in charge of that interview.

15 Q. The policy at the Sheriff's Office says you should  
16 get a written statement from a person; isn't that  
17 correct?

18 A. No, sir.

19 Q. It doesn't say that?

20 A. Our policy is to give, in law to give *Miranda*  
21 warning.

22 Q. Right.

23 A. It is the officer's discretion to obtain a verbal  
24 statement or a written statement.

25 Q. Okay. You didn't obtain a written statement, but

1 you didn't obtain an audio statement, either, did you?

2 A. No, sir.

3 MR. ROSEMOND: No further questions.

4 THE COURT: Re-exam?

5 MS. SIMMONS: Nothing further from this Witness,  
6 Your Honor.

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

8 (Witness leaves stand.)

9 MS. SIMMONS: Judge, may we mark an exhibit?

10 THE COURT: Certainly.

11 (The Drug Analysis Report was attached to State's  
12 Ex. # 32, the BEST Pack, at this time.)

13 MS. SIMMONS: The State calls Sergeant Melinda  
14 Nicholson.

15 Whereupon,

16 Melinda Nicholson

17 Having first been duly sworn, was examined and testified  
18 as follows:

19 Direct Examination by Ms. Simmons:

20 THE COURT: Give us your full name for the record  
21 spelling your last.

22 THE WITNESS: My name is Melinda Fay Nicholson,  
23 N-i-c-h-o-l-s-o-n.

24 THE COURT: Thank you.

25



1 forensic chemist with my previous employer, the  
2 Charleston Police Laboratory, as well as my current  
3 employer. I was trained in the area of forensic drug  
4 chemistry at the Drug Enforcement Administration. I'm a  
5 member of the American Chemical Society as well as the  
6 Clandestine Laboratory of Investigating Chemists, and  
7 each year I attend some kind of training and I complete  
8 proficiency tests.

9 Q. All those things you just discussed, do they  
10 involve training regarding prescription pills and crack  
11 cocaine?

12 A. Yes.

13 Q. How often do you analyze controlled substances for  
14 the presence -- analyze evidence for the presence of  
15 controlled substances?

16 A. Every day.

17 Q. How many times do you estimate you have done this  
18 over the course of your career?

19 A. Probably over five thousand times.

20 Q. And how many times have you testified in court as  
21 an expert witness in this area?

22 A. 14.

23 MS. SIMMONS: Judge, at this time we move to  
24 declare Agent Lanford as an expert in forensic drug  
25 chemistry.

1 THE COURT: Voir Dire?

2 MR. ROSEMOND: No objection, Your Honor.

3 THE COURT: At this time she will be qualified as a  
4 forensics drug investigating chemist?

5 MS. SIMMONS: Forensic drug chemist, Your Honor.

6 THE COURT: All right. Forensic drug chemist.

7 Mr. Foreman, ladies and gentlemen of the Jury, as  
8 you have heard, normally witnesses are limited to  
9 testimony that they acquire the information through the  
10 exercise of their own senses; in other words, what they  
11 hear, see, touch, or feel. However, if a witness by  
12 reason of background, training, or experience have  
13 acquired an expertise in a particular area, then that  
14 witness can be qualified as an expert in that area and  
15 can give their opinion rather than have firsthand  
16 knowledge but based on information that they acquired  
17 during their -- in preparation for their testimony.

18 However, all witnesses' testimony, be they fact  
19 witnesses or expert witnesses, is for your evaluation.

20 All right. You may proceed.

21 By Ms. Simmons:

22 Q. Agent Lanford, tell me about the composition of  
23 alprazolam.

24 A. Alprazolam usually, it comes in several different  
25 forms, and this is the brand name, Xanax. That's

1 usually a tablet.

2 Q. And the composition of crack cocaine?

3 A. Most of the time crack cocaine comes as a rock  
4 substance, but I have seen it in powder form as well.

5 Q. Agent, State's Exhibit 32 is before you. Can you  
6 identify this item?

7 A. Yes, I can.

8 Q. And do you have any personal markings that you have  
9 made on this item?

10 A. Yes. I have signed several of the baggies inside  
11 and on the outside.

12 Q. Who did you receive this item from?

13 A. I received it from Melinda Nicholson from the  
14 Seneca Police Department.

15 Q. On what date?

16 A. On August 3rd, 2012.

17 Q. Did you mark them when you received them?

18 A. Yes, I did.

19 Q. Where did you receive them?

20 A. I received them in the laboratory.

21 Q. And did these items remain in your care, custody,  
22 and control during the time they were at the laboratory?

23 A. Yes, they were.

24 Q. The items today, are they in substantially the same  
25 condition as they were when you received them?

1 A. Yes, they are.

2 Q. All right. During the analysis process is some of  
3 the item consumed?

4 A. Yes, it is.

5 Q. For what purpose did you -- do these exhibits come  
6 into your possession?

7 A. In order to test if any controlled substances are  
8 present.

9 Q. Are three separate bags inside this one larger bag?

10 A. Yes, there is.

11 Q. Can you tell me about the smallest, what's commonly  
12 known as a rock, in the bag?

13 A. Yes. It was found to have, cocaine base was found,  
14 0.12 grams.

15 Q. Cocaine base is what is commonly called crack  
16 cocaine?

17 A. Yes, it is.

18 Q. And was a blue pill bottle received by you?

19 A. Yes, it was.

20 Q. And what was the substance and total weight in the  
21 blue pill bottle?

22 A. It was -- contained cocaine base 1.10 grams.

23 Q. And was there also some pills in this baggie you  
24 received?

25 A. Yes.

1 Q. Did you conduct an analysis on the pills?

2 A. I conducted just drug lookup of the tablets, and it  
3 indicated that it was alprazolam based on the markings  
4 on the tablets.

5 Q. And is that standard practice?

6 A. Yes.

7 Q. And is alprazolam the proper name for Xanax?

8 A. It is.

9 Q. And was your forensic testing on each item  
10 conducted separately?

11 A. Yes, it was.

12 Q. And what is your expert opinion on each item that  
13 was analyzed?

14 A. The first item contained cocaine base at 0.12  
15 grams. The second item was ten yellow oval tablets, and  
16 that was alprazolam indicated. And the third item  
17 contained cocaine base at 1.10 grams, so the total of  
18 cocaine base of 1.22 grams.

19 Q. And when were these -- and after the analysis, did  
20 you store these items at the lab?

21 A. Yes, I did.

22 Q. Did they stay in your care, custody, and control?

23 A. Yes, they did.

24 Q. And did you alter or tamper with them in any way  
25 after analysis?

1 A. No, I did not.

2 Q. And when were they returned to Agent Nicholson?

3 A. They were returned on December 13th, 2012.

4 MS. SIMMONS: Judge, at this time the State would  
5 move into evidence State's Exhibit 32 and its  
6 accompanying attachments.

7 THE COURT: All right. Any objection?

8 MR. ROSEMOND: No objection, Your Honor.

9 THE COURT: All right. Without objection, State's  
10 Exhibit Number 32 with attachments is admitted into  
11 evidence.

12 (State's Ex. # 32 was received in evidence.)

13 MS. SIMMONS: Thank you, Ms. Lanford. Please  
14 answer any questions that Mr. Rosemond may have for you.  
15 Cross-Examination by Mr. Rosemond:

16 Q. Agent Lanford, you analyzed one plastic rock  
17 substance and then one rock substance that was contained  
18 in a blue plastic pill bottle; is that right?

19 A. That is correct.

20 Q. And the amount of crack that was found in the  
21 singular form was how much?

22 A. 0.12 grams.

23 Q. And then the amount that was found in that blue  
24 plastic pill bottle was how much?

25 A. 1.10 grams.

1 Q. And, for my edification, how much is that blue pill  
2 bottle over 1 gram?

3 A. Point 10 grams.

4 Q. Okay. A tenth of a percent?

5 A. Yes.

6 Q. And that's not counting the other piece of crack  
7 that was found; is that right?

8 A. That's correct.

9 MR. ROSEMOND: No further questions.

10 THE COURT: Re-exam?

11 MS. SIMMONS: Nothing further from this Witness.

12 THE COURT: You may step down.

13 (Witness leaves stand.)

14 MS. SIMMONS: May we excuse this witness?

15 THE COURT: Any objection?

16 MR. ROSEMOND: No objection, Your Honor.

17 THE COURT: Without objection, you may be excused.

18 Thank you, ma'am.

19 (Whereupon, the Witness was excused.)

20 MS. SIMMONS: Judge, we have reached a good  
21 stopping point because we have some matters that need to  
22 be taken up outside the presence of the Jury.

23 THE COURT: I understand.

24 MS. SIMMONS: Thank you, Judge.

25 THE COURT: All right. Ladies and gentlemen of the

1 THE COURT: From the Defense?

2 MR. ROSEMOND: Yes, Your Honor.

3 THE COURT: All right. Very good. Ask the Jury to  
4 join us, please.

5 (The Jury entered the courtroom at approximately  
6 10:39 a.m.)

7 THE COURT: Mr. Foreman, ladies and gentlemen of  
8 the Jury, at the close of the case yesterday  
9 Investigator Hunnicutt was on the stand and was being, I  
10 think we've done some Cross-Examination. But I'm going  
11 to at this time ask the State to continue their Direct  
12 Examination.

13 MS. SIMMONS: Thank you, Judge.

14 Direct Examination by Ms. Simmons (continued):

15 Q. Investigator Hunnicutt, for purposes of today, all  
16 we're going to be doing is discuss the phones and  
17 computers that were seized as a result of the Search  
18 Warrant that was executed in this case.

19 A. Okay.

20 Q. How many phones and computers were seized in this  
21 matter?

22 A. It was one phone and there were two computers.

23 Q. And is that one phone and two computers placed into  
24 evidence at the Seneca Police Department?

25 A. Yes.

1 Q. And who did that?

2 A. It was turned in by Investigator Courtney Wright.

3 Q. And what happened with those items subsequent to  
4 that?

5 A. They were -- he obtained a Search Warrant and they  
6 were taken to a Forensics Laboratory in Anderson to be  
7 analyzed.

8 Q. And you have seen Court's Exhibit 1 and Court's  
9 Exhibits 2 and 3. Were any items of evidentiary value  
10 recovered as a result of that search of those phones and  
11 the laptops?

12 A. No. One of the phones was a special phone, it was  
13 the type of phone that is hard to, the forensic officer  
14 to get any kind of information off of, there are certain  
15 kinds of phones that's harder than others; and the  
16 computers just have other regular information from  
17 searching the internet, stuff like that.

18 Q. And was the phone that you seized in question what  
19 is typically known as a throw-away phone or a track  
20 phone?

21 A. Yes, it was a prepaid track phone.

22 Q. So, based on your investigation, there is no  
23 evidence of the Defendant's guilt or innocence as a  
24 result of the search of those items that were seized?

25 A. No.

1 MS. SIMMONS: Thank you.

2 THE COURT: All right. Cross-Examination.

3 Cross-Examination by Mr. Rosemond:

4 Q. Investigator Hunnicutt, you said because of --  
5 let's start here. You obtained a Search Warrant for the  
6 cell phone and the two computers that you took out of  
7 the hotel room; is that right?

8 A. Investigator Wright did.

9 Q. Okay. And on that particular cell phone you said  
10 there was no helpful evidence or hurtful evidence on  
11 there regarding Mr. Temple; is that right?

12 A. Nothing could be pulled from the phone.

13 Q. Nothing could be pulled from the phones because of  
14 what?

15 A. He was unable to get any information from it.

16 Q. And who was the person that was searching the  
17 phones?

18 A. Jim Bolt.

19 Q. And who does Jim Bolt work for?

20 A. Anderson Police Department.

21 Q. Someone manufactured that phone, is that correct,  
22 the Samsung phone?

23 A. Correct.

24 Q. Did you send a Search Warrant to Samsung to say,  
25 Listen, we want you to search this phone for any

1 evidence that's helpful or hurtful to the Defendant?

2 A. No.

3 Q. Did you know whether or not Mr. Bolt did a complete  
4 examination of the telephone?

5 A. I'm not aware. I'm not sure.

6 Q. So you don't know whether or not he was able to  
7 examine the phone 100 percent to determine whether or  
8 not there was any helpful or hurtful things on that  
9 phone; is that right?

10 A. I know he couldn't get any kind of information from  
11 the phone.

12 Q. But that does not necessarily mean that the company  
13 can't get any information from that phone; is that  
14 right?

15 A. Right, the company that makes it.

16 Q. But you didn't do that.

17 A. Right. I'm not the one who took care of the Search  
18 Warrant.

19 Q. Ms. Crystal Henry had access to that telephone;  
20 isn't that correct?

21 A. I don't know.

22 Q. She was in the room with him. Is that right?

23 A. True.

24 Q. And so she had access to it; is that right?

25 A. If he let her use it.

1 Q. Did you find her phone in the room?

2 A. No. There was only one phone found.

3 Q. Everybody has a cell phone in America, Investigator  
4 Hunnicutt. You are telling me that there was only one  
5 cell phone found in that particular room?

6 A. Right. We would have, we would have checked that  
7 out, also.

8 Q. Investigator Wright was the only person that dealt  
9 with the phones; is that correct?

10 A. Correct.

11 Q. You didn't have anything to do with that. You were  
12 just the lead agent; is that right?

13 A. Correct, he handled that part.

14 Q. The Return from the Search Warrant is a document  
15 that you write down everything that was found on the  
16 Search Warrant; is that right?

17 A. Correct.

18 Q. And on that Return -- did you have a copy of that  
19 Return?

20 A. Do I have a copy?

21 Q. Did you have a copy of it?

22 A. There was a copy in the file, yes.

23 Q. There was a copy in your case file; is that right?

24 A. Correct.

25 Q. Because yesterday I indicated I didn't have a copy

1 because the Solicitor's Office didn't have a copy. Did  
2 you not turn it over to the Solicitor's Office?

3 A. Correct. Somehow I didn't -- with all the  
4 paperwork I send to them, somehow it didn't get put in  
5 there.

6 Q. So they didn't know about the Search Warrant or the  
7 Return until yesterday; is that right?

8 A. Correct.

9 Q. And that was just because of the amount of  
10 paperwork in this case; is that right?

11 A. Correct. Nothing intentional. It was just a  
12 mistake.

13 Q. Just a simple mistake?

14 A. Correct.

15 MR. ROSEMOND: No further questions, Your Honor.

16 THE COURT: Redirect?

17 Redirect Examination by Ms. Simmons:

18 Q. Just to be clear, Investigator Hunnicutt, there was  
19 no intentional conduct by you or Officer Wright to hide  
20 this information or -- and, in fact, there was no  
21 helpful or hurtful information found as a result of your  
22 investigation?

23 A. Right.

24 MS. SIMMONS: Thank you.

25 THE COURT: All right, you may step down.



1 THE COURT: Thank you. You may proceed.

2 MS. SIMMONS: Thank you, Judge.

3 THE COURT: Now, it's limited to just the testimony  
4 that was brought out at the close of the testimony  
5 yesterday.

6 MS. SIMMONS: Absolutely, Your Honor.

7 THE COURT: Very good.

8 By Ms. Simmons:

9 Q. Officer Wright, we're only going to discuss your  
10 involvement in this case as to the Search Warrant for  
11 the phones and computers that was obtained by you.

12 A. Okay.

13 Q. Did you obtain a Search Warrant for the phones and  
14 computers that were seized at the Town & Country Motel  
15 in Seneca?

16 A. Yes, ma'am, I did.

17 Q. And did you execute that Search Warrant?

18 A. Yes, ma'am.

19 Q. Where were those phones located upon execution of  
20 that Search Warrant?

21 A. Inside the room or -- they're in our possession  
22 after seizing it from the Search Warrant at the hotel.

23 Q. When you obtained that Search Warrant, did you  
24 leave a copy of the Search Warrant in Evidence?

25 A. Yes, ma'am.

1 Q. When you have phones and laptops searched, where do  
2 you take them?

3 A. To the Crime Lab at the Anderson City Police  
4 Department.

5 Q. And were you able to get that analysis done within  
6 the ten-day Statutory time frame for a Return on a  
7 Search Warrant?

8 A. In this particular case Sergeant Jim Bolt with the  
9 Anderson Police Department was their forensics computer  
10 technician. If I am not mistaken, he had been out  
11 several weeks due to illness and a vacation, and so  
12 within ten days, the Return was completed within ten  
13 days pending inventory and then returned back to the  
14 Judge. An additional Return was given once we actually  
15 received the information from Sergeant Bolt at the  
16 Anderson Police Department.

17 Q. So you executed two Returns?

18 A. That is correct.

19 Q. When did you receive the results on your Search  
20 Warrant?

21 A. August the 24th, 2012.

22 Q. And did those phones get returned to Evidence at  
23 that time?

24 A. Yes, ma'am.

25 Q. And would they have been available for return at

1 that time?

2 A. Yes, ma'am.

3 Q. Was there any helpful or hurtful information  
4 regarding this Defendant from the analysis of the phones  
5 as a result of your Search Warrant?

6 A. No, ma'am, there was not.

7 Q. Can you explain what information you were able to  
8 garner from this or what you were not able to?

9 A. The laptops and the net book, that was actually one  
10 laptop and a net book, that had typical information you  
11 would find on anyone's computer, internet searches,  
12 contact list, that kind of thing, but nothing of  
13 evidentiary value.

14 The cell phone itself was inaccessible by Sergeant  
15 Bolt. It's been my experience he has the best software  
16 in the State, including ICE and SLED, as far as  
17 accessing phones and computers, and this particular  
18 model was one that he was unable to get into.

19 Q. And Sergeant Bolt has high-tech equipment?

20 A. Yes, ma'am. He's spent a lot of money on several  
21 grants to maintain that software.

22 Q. And he was able to obtain that?

23 A. Correct.

24 Q. And at any point in time did you deliberately hide  
25 the existence of this Search Warrant or the Return?

1 A. No, ma'am.

2 Q. And essentially was it a communication paperwork  
3 error?

4 A. Yes, ma'am.

5 MS. SIMMONS: Thank you. Please answer any  
6 questions that Mr. Rosemond may have for you.

7 Cross-Examination by Mr. Rosemond:

8 Q. What type of high-tech equipment does Sergeant Bolt  
9 have?

10 A. It's not the equipment so much as the software.

11 Q. What type of software does he have?

12 A. You would have to ask him the specific names of it.

13 Q. Well, you just said that he has the best software  
14 in the State, even better than SLED.

15 A. I said in my experience.

16 Q. Tell me about your experience, then. What  
17 experience did you have with SLED with obtaining  
18 forensic information from a phone or a computer?

19 A. There again, you would have to get him to testify.  
20 I'm not a professional on that part.

21 Q. You just said in your experience that he has the  
22 best software in the State, even better than SLED. I  
23 just want to know, do you have any experience with SLED  
24 obtaining forensic analysis of a phone or a computer in  
25 your dealings in law enforcement?

1 A. Not from search warrants of mine, but I've been  
2 witness to, yes.

3 Q. You have been witness to SLED obtaining phone  
4 records and computer records?

5 A. I guess I should say that I have knowledge of cases  
6 that they were able to obtain information on.

7 Q. But you don't know what type of software they have,  
8 do you?

9 A. Not specifically.

10 Q. And you really don't know what type of software Jim  
11 Bolt has, do you?

12 A. The only thing I can tell you is -- I mean, I'm  
13 pretty much a computer nerd, so I don't try to keep up  
14 with stuff like that.

15 Q. Okay. But certainly to say that he's the best in  
16 the State or he's better than SLED, you don't have any  
17 evidence to support that, do you?

18 A. No, it's not a professional thing, no, sir.

19 Q. Okay. On July 25th you obtained a Search Warrant  
20 for the phones and the computer?

21 A. Correct.

22 Q. And on July 25th you arrested Mr. Temple for the  
23 drug charges?

24 A. Correct.

25 Q. And the Search Warrant, you have to make a Return

1 within ten days of executing that Search Warrant; is  
2 that right?

3 A. Yes, sir.

4 Q. You didn't do that in this case, did you?

5 A. I didn't. A pending inventory of the Return.

6 Q. You made a pending Return.

7 A. Correct.

8 Q. And that pending Return was filed on what?

9 A. The 2nd of August.

10 Q. Okay. And a Search Warrant Return is designed to  
11 tell the Judge what you found?

12 A. Correct.

13 Q. In your pending Return what did you tell the Judge  
14 that you found?

15 A. I told him that at the time we had not found  
16 anything because the evidence technician wasn't even, he  
17 wasn't even in his office to answer the phone.

18 Q. Okay. So at that point that Search Warrant  
19 becomes -- if he had not looked at the Search Warrant or  
20 the phones and the computer within that ten days, that  
21 Search Warrant should no longer be valid; is that right?

22 A. I guess technically you could say no. Or I'm not  
23 really sure, to be honest with you.

24 Q. Did you ever serve the Search Warrant at the hotel  
25 room at Town & Country, did you serve that on the

- 1 Defendant, Mr. Temple?
- 2 A. The Search Warrant over to the hotel room?
- 3 Q. Yes, sir.
- 4 A. I'm assuming it was, yes.
- 5 Q. Okay. The Search Warrant for his phone and the  
6 computer, did you ever serve that on the Defendant?
- 7 A. No, sir. We left it with his property.
- 8 Q. You left it with his property. The property was in  
9 the Police Department, the evidence locker room, right?
- 10 A. Correct.
- 11 Q. But Mr. Temple was in jail; is that right?
- 12 A. On the 25th?
- 13 Q. On the 25th.
- 14 A. Correct.
- 15 Q. And that's the same day you got the Warrant?
- 16 A. Correct.
- 17 Q. On July 25th he was put in under a temporary  
18 commitment order, is that right, TC0?
- 19 A. I don't know.
- 20 Q. You normally do that if you don't have arrest  
21 warrants available for somebody; is that right?
- 22 A. Yes.
- 23 Q. So later on that day he got served with those  
24 Arrest Warrants for the hotel drugs?
- 25 A. Okay.

1 Q. But he didn't get served with the Search Warrant on  
2 the same day that he got arrested?

3 A. Correct.

4 Q. Why is that?

5 A. The Search Warrant cell phone wasn't delivered  
6 until the 26th.

7 Q. Did you give it to him on the 26th?

8 A. No. It was left with Evidence.

9 Q. Did you give it to him on August 24th, 2012?

10 A. It was available for him, yeah.

11 Q. He was in jail, wasn't he?

12 A. I'm not aware.

13 Q. Did you look to see if he was in jail?

14 A. I did not, no.

15 Q. You search his property but you don't make a Return  
16 to him to tell him that you searched his property and  
17 what you found; is that right?

18 A. Right. We leave it with their property so that he  
19 or one of his designated friends or family members can  
20 come pick it up.

21 Q. And you leave it with their property because of  
22 that's your policy or procedure or that's your  
23 procedure?

24 A. That is correct.

25 Q. When you say procedure, is that something that the

1 Seneca Police Department has in its general orders?

2 A. Not to my knowledge, no.

3 Q. When you say procedure, what procedure are you  
4 speaking of?

5 A. Standard practice.

6 Q. Standard practice of whom?

7 A. The Narcotics Department.

8 Q. At the Seneca Police Department?

9 A. Yes, sir.

10 Q. But that's not a part of your policies that are  
11 written out in your Policies and Procedures Manual?

12 A. I'm really not sure how it pertains to the  
13 Narcotics Division aspect.

14 Q. You indicated that there was no attempt to conceal  
15 that information. You never told the Solicitor's  
16 Office, did you?

17 A. I did.

18 Q. You did?

19 A. Uh-huh.

20 Q. Okay. When did you tell them?

21 A. I don't remember the date. I just vaguely  
22 discussed there was no evidence on there.

23 Q. Did you turn the Search Warrant over to them?

24 A. I'm sorry?

25 Q. Did you turn the Search Warrant over to them?

1 A. To the Solicitor?

2 Q. Yes.

3 A. No. I left it with the case officer.

4 MR. ROSEMOND: No further questions, Your Honor.

5 THE COURT: Re-exam?

6 MS. SIMMONS: Your Honor, nothing further from this

7 Witness, and we would ask again that he be excused.

8 THE COURT: Any objection?

9 MR. ROSEMOND: No objection, Your Honor.

10 THE COURT: All right. You may be excused.

11 THE WITNESS: Thank you, Your Honor.

12 (Whereupon, the Witness was excused.)

13 THE COURT: Madam Solicitor?

14 MS. SIMMONS: Judge, at this time the State would

15 rest.

16 THE COURT: Mr. Foreman, ladies and gentlemen of  
17 the Jury, I now need to take up some matters of law with  
18 the attorneys, so I'm gonna ask you to retire to the  
19 Jury room while I do this. It should take us -- well, I  
20 don't know. It's 10:00 now. It could take some time.  
21 So, if you want to use this as the morning break, you  
22 may do so and then I'll call you back and we'll continue  
23 with the trial.

24 THE BAILIFF: How long, sir?

25 THE COURT: When I'm finished (laughter).

1 Whereupon,

2 James Willie Walker

3 Having first been duly sworn, was examined and testified  
4 as follows:

5 Direct Examination by Mr. Rosemond:

6 THE COURT: Please give us your full name for the  
7 record, spelling your last name.

8 THE WITNESS: James Willie Walker, W-a-l-k-e-r.

9 THE COURT: Very good. Thank you, sir.

10 You may proceed.

11 By Mr. Rosemond:

12 Q. Mr. Walker, you have to slide up to that microphone  
13 so we can hear you.

14 A. (Complies.)

15 Q. How old are you?

16 A. 40.

17 Q. And do you know Dan Temple in this case?

18 A. Yes, sir.

19 Q. What's your relationship to Mr. Temple?

20 A. He's a classmate. I've been knowing him for a long  
21 time.

22 Q. And when was the last time you saw Mr. Temple?

23 A. July 24th at the Town & Country Motel.

24 Q. What month was that?

25 A. July.

1 Q. Tell me what, if any, conversation did you have  
2 with Mr. Temple that night?

3 A. We were just talking, and then he was in the room  
4 with Crystal. And she was asking me --

5 MS. SIMMONS: Objection, Your Honor, hearsay.

6 MR. ROSEMOND: It's not hearsay, Your Honor.

7 803(b)(2). It's a statement made by a Codefendant.

8 THE COURT: I overrule the objection.

9 Very well. You may proceed.

10 Go ahead. I've overruled the objection. Go ahead.

11 THE WITNESS: Go ahead?

12 A. She was telling me to take her somewhere to get  
13 some drugs, take her to Pendleton to get some drugs.  
14 She had like, she had \$80 she said. She asked me would  
15 I take her to Pendleton to get some drugs.

16 Q. Now, how did you remember this particular night?

17 A. Because that was the last night I talked with Danny  
18 and Crystal.

19 Q. Okay. Did you know what, if anything, happened the  
20 next day?

21 A. The next day, I mean, I got a phone call from Danny  
22 saying he was in jail, that they kicked the motel room  
23 door open. And, you know, that's all he said, he was in  
24 jail.

25 Q. So what did Ms. Henry exactly tell you or ask you

1 to do?

2 A. Take her to Pendleton to get crack.

3 Q. And what, if anything, did you do?

4 A. I did it, because I smoked myself so I took her so  
5 I could have some.

6 Q. How did you get there?

7 A. I drove her in my friend lady's car.

8 Q. Now, who all rode in the car to Pendleton?

9 A. It was me and her at first, and Danny called back  
10 and said come back and get him, and he just rode. But  
11 at the time she was the only one who purchased. She  
12 brought \$80 and got two grams.

13 Q. Okay. And after she obtained those drugs on the  
14 24th, what did you do?

15 A. When we got back, she started arguing, trying to  
16 get the door open, and started hollering stuff, and so I  
17 said, I'm gone, and I left. And Dan called me the next  
18 day and told me where he was.

19 Q. And did anyone else purchase any drugs when you  
20 went to Pendleton that evening?

21 A. No. No, sir. Nobody had no money. Danny had to  
22 go to work the next day, so didn't really want to ride,  
23 but he wanted to ride because he didn't want to stay by  
24 himself.

25 Q. About what time did you go to Pendleton?

1 A. Right around about 8:30, 9:00, somewhere in that  
2 area.

3 Q. Now, have you ever testified before?

4 A. Yes, sir.

5 Q. Have you ever sat in that particular chair before?

6 A. I don't know if it was this one, but it was one of  
7 them.

8 Q. You testified in what case?

9 A. Tim Blassingame.

10 Q. And who did you testify for in that case?

11 A. The County.

12 Q. When you say County, what County?

13 A. Oconee.

14 Q. Who called you to testify in their case?

15 A. The Seneca Police Department and Ms. Simmons.

16 Q. Did you testify for them or against them?

17 A. For them.

18 Q. Now, about when did that occur?

19 A. I forgot what year. I know it was October  
20 sometime, but I forgot what year it was.

21 Q. Okay. But you testified on their behalf?

22 A. Yes, sir.

23 Q. Now, do you know Mr. Hunnicutt?

24 A. Yes, sir.

25 Q. How do you know Investigator Hunnicutt?

1 A. I did some work for Hunnicutt.

2 Q. When you say you did some work for him, explain  
3 that for me a little bit.

4 A. I'd get wired up to go buy, purchase drugs.

5 Q. And how long did you do that for Investigator  
6 Hunnicutt?

7 A. Well, I'd say about two or three years, somewhere  
8 in there.

9 Q. Now, so you had a two-or-three-year relationship  
10 with Investigator Hunnicutt. Now, how long ago was  
11 that?

12 A. Um, well, it was like something about last year.  
13 Recently. It ain't been that long ago. It's, you know,  
14 it's been like one, two, three -- probably year before  
15 last year, some last year and some before that.

16 MR. ROSEMOND: No further questions, Your Honor.

17 THE COURT: Cross-examine.

18 Cross-Examination by Ms. Simmons:

19 Q. Mr. Walker, did you have a driver's license the  
20 night you drove Ms. Henry to Pendleton?

21 A. No, ma'am.

22 Q. And do you recall giving Mr. Rosemond a statement  
23 in this case on March the 19th of 2013?

24 A. Yes, ma'am.

25 Q. And in that statement did you ever mention that Dan

1 Temple went with you guys to Pendleton that night?

2 A. No. I said, back when I was telling the statement,  
3 I told him that at first Dan didn't go, but Dan called  
4 back and said, Come get me, I want to ride.

5 (Counsel confer.)

6 MS. SIMMONS: Beg the Court's indulgence for one  
7 moment.

8 By Ms. Simmons:

9 Q. So you are saying today that Dan was with you.

10 A. At first he didn't want to ride, but then when we  
11 got right there at Ingles, he called and said he wanted  
12 to ride.

13 Q. But on the 19th you said, I took Crystal to  
14 Pendleton to buy \$80 of crack cocaine on the night  
15 before they were arrested.

16 A. Yeah.

17 Q. But you didn't include Dan.

18 A. Crystal asked me to take her.

19 Q. But today you say Dan was with ---

20 A. Crystal was asking me to take her, so I went to  
21 Pendleton with her.

22 Q. But you said she had the money. I was taking her  
23 to buy drugs, and she got the drugs from Duke Ramsey.

24 And Dan started working and didn't have any drugs?

25 A. Yeah.

1 Q. But now you are saying Dan was with you?

2 A. Yeah. At first he wasn't with us, but he called  
3 and I turned around and got him to ride with us. I  
4 mean, he didn't purchase anything.

5 Q. But on March the 19th, 2013, is the first time you  
6 gave a statement regarding this case at all?

7 A. Yes, ma'am.

8 Q. And Mr. Temple is your running buddy, right?

9 A. Yes, ma'am.

10 Q. And you drive him around when he does stuff?

11 A. Sometimes.

12 Q. Okay. But you had all this time to tell law  
13 enforcement, Hey, you know, those are Crystal's drugs.  
14 And you didn't do it?

15 A. I didn't know, I really didn't know until they  
16 asked me. Nobody asked me until yesterday.

17 Q. But you talked to Officer Hunnicutt at least two  
18 dozen times since July of 2012.

19 A. I have. Well, see, I mean, at the time that night  
20 right there I remember Dan had just got off work, Dan  
21 was tired, Dan was ready to go to bed. They was  
22 arguing. And she had the money. She had some money and  
23 said, Do you know of something, man? I said yeah, I  
24 know of something. And then we got in the car and rode  
25 to Pendleton.

1 Q. But you never told anybody this until Wednesday.  
2 In the middle of your buddy's trial, his back is against  
3 the wall, and you go, Oh, hey, let me tell you, I got  
4 something to say?

5 A. I wasn't the one that came and got me. I remember  
6 that night -- I remember that day. I was over there  
7 that day. They came and talked to me. Delane came and  
8 got me.

9 Q. On Wednesday, though?

10 A. I didn't mention nothing to anybody about the case.  
11 I didn't talk to anybody about the case.

12 Q. You hadn't talked to anybody. But you even told  
13 Officer Hunnicutt in the last couple weeks that you were  
14 gonna come watch this trial.

15 A. Yeah. He's my friend. I would have been up here,  
16 too.

17 Q. Yeah. You were gonna come up and watch this trial  
18 for your friend, and you don't bother to tell him, Oh,  
19 I've got the evidence that can save his soul.

20 A. I didn't know at the time. I knew at the time but  
21 I wasn't thinking.

22 Q. But you weren't thinking?

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

24 Q. So since July you weren't thinking. But this week,  
25 in the middle of your friend's trial, yes, you remember?

1 A. I really ain't seen Dan since then, since that day.

2 Q. Aren't you all living in the same place now?

3 A. Yeah, you can say that. We're sitting in the same  
4 jail, but different sides.

5 **THE COURT:** Let's move on.

6 By Ms. Simmons:

7 Q. And you are saying you have not talked to him since  
8 July?

9 A. I went and seen him a couple times --

10 **MR. ROSEMOND:** Objection, Your Honor.

11 **THE COURT:** All right. Let's move on to something  
12 else.

13 **MS. SIMMONS:** Thank you, Your Honor.

14 By Ms. Simmons:

15 Q. And, Mr. Walker --

16 A. Yes, ma'am.

17 Q. -- you have a prior criminal history, correct?

18 A. Yes, ma'am.

19 Q. Were you convicted of distribution of crack cocaine  
20 in 1998?

21 A. Yes, ma'am.

22 Q. And conspiracy in 1998?

23 A. Yes, ma'am.

24 Q. Fraudulent check in 2005?

25 A. Yes, ma'am.

- 1 Q. Forgery in 2005?
- 2 A. Yes, ma'am.
- 3 Q. Another forgery?
- 4 A. Yes, ma'am.
- 5 Q. Shoplifting in 2005?
- 6 A. Yes, ma'am.
- 7 Q. Another shoplifting in 2005?
- 8 A. Yes, ma'am.
- 9 Q. False information to the police in 2005?
- 10 A. Yes.
- 11 Q. Shoplifting in 2007?
- 12 A. Yes, ma'am.
- 13 Q. Shoplifting in 2008?
- 14 A. Yes, ma'am.
- 15 Q. Shoplifting in 2008?
- 16 A. Yes, ma'am.
- 17 Q. Another petit larceny in 2008?
- 18 A. Yes, ma'am.
- 19 Q. Shoplifting in 2009?
- 20 A. Yes, ma'am.
- 21 Q. Shoplifting in 2010?
- 22 A. Yes, ma'am.
- 23 Q. And another shoplifting in 2012?
- 24 A. Yes, ma'am.
- 25 MS. SIMMONS: Thank you.

1 THE COURT: Redirect.

2 Redirect Examination by Mr. Rosemond:

3 Q. Did Ms. Simmons have any problem with all of those  
4 shopliftings and whatever whenever she asked you to  
5 testify for her?

6 A. No, ma'am -- no, sir, I don't think so.

7 Q. Did Mr. Hunnicutt have any problem with all those  
8 shopliftings when he asked you to work for him?

9 A. No, sir.

10 Q. Has that ever been a problem in the past?

11 A. No, sir.

12 Q. When was the last time you saw me?

13 A. Yesterday.

14 Q. Before yesterday when was the last time you saw me?

15 A. It had been a long time, man.

16 Q. A long time?

17 A. Yes, sir.

18 Q. And you saw Investigator Hunnicutt sometime in the  
19 last month, I take it; is that right?

20 A. Maybe about two months.

21 Q. Did he ever ask you about this case?

22 A. No, sir.

23 Q. Did he ever ask you do you have any knowledge of  
24 this case?

25 A. No, sir.

1 Q. Did he ever ask you to do some work for him at that  
2 time?

3 A. Not at the time. I'll probably do some for him on  
4 down the line.

5 Q. So he was more concerned about you doing work for  
6 him as opposed to what knowledge you had in this case?

7 A. Yes, sir. Yes, sir.

8 Q. The reason why no one knew of your involvement  
9 until yesterday was simply because your name hadn't come  
10 up; is that right?

11 A. Yes, sir.

12 Q. What, if any, promises has anyone made to you about  
13 your testimony today?

14 A. None.

15 MR. ROSEMOND: No further questions, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. SIMMONS: Briefly, Judge?

18 THE COURT: Very well.

19 Recross-Examination by Ms. Simmons:

20 Q. Mr. Walker, you have not testified for the State  
21 since the Tim Blassingame trial, correct?

22 A. Yes, ma'am.

23 Q. And, in fact, I've never asked you to testify since  
24 then.

25 A. No, ma'am.

1 Q. And, when you testify in cases as a confidential  
2 informant, is it based solely upon your word?

3 A. Yeah.

4 Q. Isn't there audio and videotape evidence in a  
5 confidential informant case?

6 A. Yes, ma'am.

7 Q. And when you testify as a confidential informant,  
8 it's not just your word that something happened?

9 A. Yes, ma'am.

10 MS. SIMMONS: Okay. Thank you.

11 THE COURT: Re, Redirect?

12 MR. ROSEMOND: No, Your Honor.

13 THE COURT: Very well.

14 All right. You may step down. Thank you, sir.

15 (Whereupon, the Witness was excused.)

16 THE COURT: All right. You may call your next  
17 witness.

18 MR. ROSEMOND: The Defense rests, Your Honor.

19 THE COURT: Any Reply?

20 MS. SIMMONS: No, Your Honor.

21 THE COURT: Very well.

22 Mr. Foreman, ladies and gentlemen of the Jury, a  
23 Defendant has a Constitutional right to remain silent  
24 and require the State to meet its burden of proof beyond  
25 a reasonable doubt. The assertion of the Constitutional

*State v. Dan Temple -- March 20, 2013*

1           **MS. SIMMONS:** No, Your Honor.

2           **THE COURT:** Anything from the Defense before we  
3 bring the Jury out?

4           **MR. ROSEMOND:** No, sir, Your Honor.

5           **THE COURT:** All right. Ask the Jury to join us,  
6 please.

7           (The Jury entered the courtroom at approximately  
8 1:12 p.m.)

9           **THE COURT:** All right. Let the record reflect the  
10 Jury is in the Jury box.

11           Mr. Foreman, ladies and gentlemen of the Jury, as  
12 I've said earlier, this will be the final stage of the  
13 trial of the case, the argument by Counsel, and then the  
14 charge on the law by the Court. The parties have agreed  
15 that the Defendant will open and the State will close.

16           All right. I recognize Mr. Rosemond for his  
17 closing argument.

18           Closing Argument on behalf of the Defendant:

19           **MR. ROSEMOND:** Dan Temple is not guilty. Mr. Dan  
20 Temple is not guilty. And that's what I indicated to  
21 you in our Opening Statement, that there would be  
22 evidence presented that would show that he was not  
23 guilty.

24           And I told you, this trial is much like a TV show,  
25 a sitcom, a soap opera, where you have the opening

*State v. Dan Temple -- March 20, 2013*

1 credits, and then you have the meat of the show, and at  
2 then the end you have the closing credits. And that's  
3 where we're at now. We are almost at the end of this  
4 particular trial. But before we get there, we need to  
5 talk about the evidence that you have heard over the  
6 last two days and how that evidence applies to  
7 Mr. Temple.

8 We talked about earlier the foundations of our  
9 legal system. We talked about the presumptions of  
10 innocence and what that means, and when you open the  
11 paper and you see people charged with a crime, you don't  
12 automatically assume that they are guilty of that crime.

13 Sometimes we are all guilty of it when we see  
14 somebody walking down the street and we make assumptions  
15 about people. We see people in the paper and we assume  
16 that the police are right in what they said and what  
17 they charge them with, but that's not necessarily the  
18 case.

19 We talked about the burden of proof. Who has to  
20 give you the evidence? Where does that evidence have to  
21 come from to say that Mr. Temple beyond a reasonable  
22 doubt possessed with the intent to distribute crack  
23 cocaine or Xanax on July 25th, 2012? And I told you  
24 earlier that that evidence comes from that Witness  
25 chair, that Mr. Temple doesn't have to prove anything to

*State v. Dan Temple -- March 20, 2013*

1 anybody. All the evidence must be proven by the State  
2 of South Carolina. It must come from this table and  
3 that chair; not only does it come from that table, all  
4 the evidence must be proven beyond a reasonable doubt.

5 And what is a reasonable doubt? If, at the end of  
6 this trial, if you have a reasonable doubt in your mind  
7 that Mr. Temple is guilty of possession with intent to  
8 distribute crack cocaine or possession of Xanax, it is  
9 your obligation and your duty as a Juror to say he's not  
10 guilty. They didn't present enough evidence to convince  
11 you, they didn't present enough evidence to convince me  
12 that he was guilty of what the police said he did. And  
13 I submit to you, ladies and gentlemen, that they did not  
14 do that.

15 We talked about reasonable doubt. And what was  
16 that? And I believe that this case is ridden with  
17 reasonable doubt. James Willie Walker came into this  
18 courtroom an hour or so ago and sat up there on that  
19 Witness stand and told you that on July the 24th he was  
20 hanging out with Dan and he was hanging out with  
21 Crystal, and Crystal kept screaming, "I want some  
22 crack." She's already told you she's a crack addict.  
23 She says, "I get high all the time." "I want some  
24 crack."

25 And what does she ask James to do? She asks James

*State v. Dan Temple -- March 20, 2013*

1 to take her to Pendleton to get some crack. She had the  
2 money, she had the \$80. And he took her to Pendleton  
3 and she purchased that crack and she brought it back to  
4 the motel room. He said Dan had to work the next day.  
5 Dan said he had a job, or Dan has a job.

6 And then, when he was on Cross-Examination, what  
7 did Mrs. Simmons ask him? "You were driving without a  
8 license to ride around and do work for Mr. Hunnicutt?"  
9 Did that matter when he was working for Mr. Hunnicutt?  
10 Did it matter when he was working for the Seneca Police  
11 Department whether or not he had a driver's license?  
12 No, it didn't matter.

13 Did it matter to Ms. Simmons about his criminal  
14 record when she put him on the stand in the *State v. Tim*  
15 *Blassengame*? And he testified for her, for the State of  
16 South Carolina, for the Solicitor's Office.

17 Did she care about his shoplifting then? No, she  
18 didn't. Did she care about any other thefts on his  
19 record? No, she didn't. Did she care about the drug  
20 charges? No, she didn't. But conveniently today she  
21 cares about it.

22 Did Mr. Hunnicutt care about it when he was asking  
23 Mr. Walker to help him out on some cases, to give him  
24 some information, to go buy drugs for him? Did he care  
25 whether or not he had any shoplifting? No, he didn't,

*State v. Dan Temple -- March 20, 2013*

1 either. Did he care about what was on his record? He  
2 didn't care. He used him as an informant. He counted  
3 on his information. And then they want to stand up here  
4 today and want to discredit him, the same person that  
5 they used day in and day out to make cases.

6 And it's wrong. If you're gonna put somebody up  
7 there on the Witness stand, if you're gonna work with  
8 somebody, and then you're gonna say, Don't believe him,  
9 Jury, he's not telling the truth.

10 James Walker was not known in this courtroom until  
11 Crystal Henry only yesterday in her statement. And in  
12 her statement she said, Dan went to Pendleton. Dan  
13 bought the drugs. She didn't mention she went there.

14 And then I said, Well, how did you get there?

15 She says, James Willie Walker drove us.

16 So what did I do yesterday? Any good lawyer would  
17 go find James Willie Walker and ask him, "Tell me about  
18 that day. Do you remember it?"

19 "Yes, I do. That was the last time I saw Dan or  
20 saw Crystal. We was at the hotel together."

21 "Well, tell me what happened."

22 "Well, Crystal wanted some drugs. I took her to  
23 Pendleton. She had the money, she bought the drugs.  
24 She brought the drugs back."

25 But then we move to, if that doesn't give you the

*State v. Dan Temple -- March 20, 2013*

1 reasonable doubt, let's move to B.J. McClure. He was  
2 the first Witness that you heard on that particular day.  
3 And what did B.J. say?

4 B.J. said, well, he was trying to tell Mr. Temple  
5 to get his hands out from under the covers.

6 And then, when Mr. Teramano, a police officer,  
7 jumped up on the bed and his weight hit the bed, a  
8 purple pill bottle fell out. He didn't say it came from  
9 Mr. Temple. He just said it came out when Mike Teramano  
10 jumped up on the bed. And that's that same purple pill  
11 bottle in this case. But that's all B.J. McClure said.

12 But then, if you look at Lindsey Simmons' Opening  
13 Statement, what does she say? In her Opening she said  
14 the following. She said Crystal Henry only had the  
15 crack pipes, that the crack belonged to Dan Temple. It  
16 wasn't true. That wasn't true. 'Cause Crystal Henry  
17 got up on that Witness stand and said, That's my crack,  
18 at least that one piece of crack is my crack. And if  
19 you think a crack addict who gets high on crack all the  
20 time only had one piece of crack, that's not even  
21 believable. She's not believable.

22 But let's talk about what else is unbelievable.  
23 The City of Seneca has a police force. The City of  
24 Seneca has a Municipal Judge. The City of Seneca has an  
25 Associate Judge. And they went and got a Search Warrant

*State v. Dan Temple -- March 20, 2013*

1 in this case for the Town & Country Motel room in the  
2 City of Seneca right below the bowling alley. And they  
3 got it on July the 24th sometime between two and four.  
4 At least they were working on it between that time.  
5 They knew they were gonna get the Search Warrant.

6 But did they go to the Judge in Seneca? No, they  
7 didn't. Did they go to the Associate Judge in Seneca?  
8 No, they didn't. They bypassed their own Judge who sits  
9 on the second floor of the Police Department.

10 Not only that, there's a Magistrate in the same  
11 block of Seneca City Hall who works for the County,  
12 who's a County Magistrate. They bypassed him. They  
13 don't want to go to their Judge, Judge Singleton; they  
14 don't want to go to their City of Seneca Associate  
15 Judge, Tammy Lawing, Judge Tammy Lawing; they don't want  
16 to go to the Magistrate on that same block. They want  
17 to go to Judge Derrick who's based in Westminster.

18 But they say, oh, by the way, we found him at home  
19 at 6:40. But they knew early on that they needed that  
20 Judge to sign that Search Warrant. Call your own Judge  
21 and say, Judge, we're gonna need your signature. It  
22 makes you suspicious of what they are trying to pull.

23 You couple that with the other Search Warrant that  
24 we found out about yesterday, that they didn't disclose,  
25 they didn't give to Mr. Temple. He got the first Search

*State v. Dan Temple -- March 20, 2013*

1 Warrant, he didn't get the second Search Warrant. You  
2 have to watch the police.

3 And then Mr. Hunnicutt gets up on the stand and he  
4 testifies as to what he did. He testified as to him  
5 getting the Search Warrant, he testified as to what he  
6 went to do when he got to the scene.

7 That piece of crack right there, we talked about  
8 who's on what side of the bed. We said Dan Temple was  
9 on the left side of the bed. The right side was empty.  
10 And right beside the right side of the bed is a  
11 nightstand where that piece of crack is sitting right  
12 there.

13 We talked about it. We talked about the purple  
14 pill bottle. And I asked him, "Did you check the pill  
15 bottle for fingerprints?"

16 He said, "No, I didn't." He said, "Based upon my  
17 experience we could not have gotten anything off of it."

18 But did they at least try? Then you start trying  
19 to count how many rocks are in there.

20 And then they bring in and they introduce evidence  
21 of a bank card by a working individual, his Social  
22 Security card. But interestingly, they don't introduce  
23 anything from Crystal Henry. Nothing. No driver's  
24 license.

25 And, ladies and gentlemen, they want you to believe

*State v. Dan Temple -- March 20, 2013*

1 that Mr. Temple confessed to having the crack. They  
2 want you to believe that while he was in the back of a  
3 patrol car he told Mr. Washington, Captain Washington,  
4 "Come here for a second. I want to talk to you. I want  
5 to help myself."

6 And they want you to believe that he says that the  
7 balance of the drugs are his, that he had went to  
8 Pendleton the night before and spent \$300.

9 And what did I ask him to do? I said, "Captain  
10 Washington, did you go and get a voluntary statement  
11 form? Did you ask another officer to give you a  
12 statement form so Mr. Temple can write out his  
13 statement?"

14 They want you to believe that he wrote his name on  
15 this one.

16 He said, "I didn't do that."

17 Then I said, "Captain Washington did you have an  
18 iPhone, did you have an Android, did you have some  
19 recording device with you?"

20 He said, "Yes, I had a phone with me."

21 I said, "Well, why didn't you pull your phone out  
22 and record the conversation so this Jury could know  
23 exactly what Dan Temple said?"

24 "I didn't do that."

25 But then they take him to the station and put him

State v. Dan Temple -- March 20, 2013

1 in a room. And I said, Investigator Hunnicutt, did you  
2 interrogate him?

3 I didn't interrogate him. I just listened to him.

4 Do you believe that he's gonna sit in the room and  
5 they're not gonna ask him any questions? Hey, they got  
6 him to sign a *Miranda* waiver. They got him to sign  
7 this.

8 So then he says, "Dan Temple told me that the  
9 balance of the drugs in the room was his; that he went  
10 to Pendleton, that he spent \$300 the night before."

11 And I asked him, "You were in the police station.  
12 Did you not have a voluntary statement form just like  
13 the one Captain Washington signed when he did his  
14 statement?"

15 They went to the Academy. They were trained how to  
16 be police officers. They were trained how to take  
17 notes. They were trained how to get written confessions  
18 from people and have them sign it. And they want you to  
19 believe that Dan Temple confessed to them in a police  
20 station when no voluntary statement was ever given to  
21 them.

22 I said, "Did you have a tape recorder in there?"

23 "I probably had one somewhere in there."

24 "Did you have a phone somewhere?"

25 "I think I had a phone."

*State v. Dan Temple -- March 20, 2013*

1           The day that we live in, the technology-based  
2 society we are in, you can record anybody at any time  
3 for any reason. We all have that capability if you have  
4 a phone on you. And, if you're interviewing someone,  
5 that's what you want to do. But they didn't do that to  
6 Dan Temple.

7           And now they want you to believe that he confessed  
8 to that crime. But what you have to decide is whether  
9 or not he voluntarily did that beyond a reasonable  
10 doubt. You have to decide whether or not he was coerced  
11 or whether or not he was promised anything to do that.  
12 And I'm telling you, ladies and gentlemen, that on this  
13 day, that Dan Temple didn't confess to those police  
14 officers.

15           But what they want you to believe is that just  
16 because they wear a badge, just because they wear a  
17 uniform, just because they have been cloaked in the  
18 clothes of a police officer, that they always tell the  
19 truth. And just because you hear it from a police  
20 officer, it has to be the Gospel.

21           But we just, we know that they're just like anybody  
22 else. That just because you are a police officer, you  
23 don't always tell the truth. Just because you are a  
24 teacher, you don't always tell the truth. Just because  
25 you are a priest, you don't always tell the truth. So

*State v. Dan Temple* -- March 20, 2013

1 you just can't believe them just because they have a  
2 badge. You have to think about the evidence and how it  
3 relates to Dan Temple.

4 Possession with intent to distribute. The law says  
5 that anything over one gram, you can infer that the  
6 person had the intent to distribute the drugs if you  
7 have more than a gram. The chemist came in here  
8 yesterday and told you that there was 1.22 grams of  
9 crack found in that room. Certainly Ms. Henry claimed  
10 one piece of rock that weighed point 12, and that left  
11 1.10 worth of crack in that pill bottle. And that means  
12 that it was only a tenth more than a gram of crack  
13 cocaine left.

14 And although the law says that you can infer based  
15 upon the amount of evidence or the weight of the drug  
16 that someone intends to distribute it, that's not the  
17 case in this case. The better choice, the better bet is  
18 to say it wasn't a possession with intent to distribute,  
19 it was a possession.

20 Just like the possession of Xanax. You can have  
21 ten of those capsules. But the better choice is the  
22 possession.

23 Ladies and gentlemen, one of the most important  
24 things that we did this week was to find 12 Jurors who  
25 we believe that can listen to this particular evidence,

*State v. Dan Temple -- March 20, 2013*

1 who can listen to the witnesses, who can analyze the  
2 testimony and come away with what we thought was a very  
3 fair verdict in this case.

4 You know, not only is this day important to Dan  
5 Temple. This day is important to Crystal Henry as well.  
6 She's charged with the same crime. She's charged with  
7 the possession with intent to distribute crack cocaine.  
8 She's charged with the possession. But that's not how  
9 we do things. We don't make them any promises. We tell  
10 them, you go testify and we'll see what happens.

11 If you don't believe that in the background there  
12 is something that's going to either benefit Ms. Crystal  
13 Henry for testifying that all of those drugs in there  
14 was Dan Temple's, you are absolutely wrong about that.  
15 That's the reason why she hasn't pled guilty yet because  
16 she's already pled guilty. She's already said "I'm  
17 guilty." So then come up here and plead guilty. Go  
18 ahead and get your sentence.

19 But, no, they want her to testify first to see  
20 exactly what she testifies to. Who has the incentive to  
21 lie in this case? She blamed everything on Mr. Temple,  
22 but yet she's in the same boat paddling upstream. But  
23 she knows how to help herself out. You can tell by that  
24 statement that she wrote. She certainly helped herself  
25 out with that statement.

*State v. Dan Temple -- March 20, 2013*

1           But I promise you that when she was on that Witness  
2 stand, she was looking out for her benefit and not his.  
3 She was making sure that she protected herself so that  
4 when it was her time to stand in this courtroom and say  
5 "I am guilty," that she would get the benefit of  
6 testifying for the State for helping them out.

7           At the end of the day we all have a job to do. The  
8 State's job is to prosecute people for alleged crimes.  
9 Our job as defense lawyers is to make sure they operate  
10 under the confines of the Constitution. The Judge's job  
11 is to be the overseer. But it's your job that is most  
12 important. It is your job that you have to make sure  
13 that they convince you beyond a reasonable doubt that  
14 young man right there is guilty.

15           If you have any doubts in your mind, if you have a  
16 reasonable doubt in your mind, as hard as it may be, as  
17 hard as it may be, if you have a reasonable doubt in  
18 your mind that he didn't do what they accused him of  
19 doing, just say "not guilty." Sometimes you have to do  
20 that. Sometimes you have to say, you didn't give me  
21 enough evidence to convince me beyond a reasonable doubt  
22 that he's guilty. There's no harm in that. No harm in  
23 that if they don't give you the evidence to put on  
24 Mr. Temple, not the circumstantial evidence.

25           And the Judge will talk to you about what

*State v. Dan Temple -- March 20, 2013*

1 circumstantial evidence is and what actual evidence is.  
2 He will talk to you about mere presence. And what he  
3 will tell you is just your mere presence around drugs  
4 doesn't mean you possessed those drugs. Just your mere  
5 presence in the room doesn't mean that you possessed  
6 those drugs.

7 And, as I told you when we were beginning, and as I  
8 told you when I stood up a few minutes ago, that Dan  
9 Temple was not guilty, that he didn't have the intent  
10 that is required to distribute those drugs.

11 What do they have to prove to you? They have to  
12 prove every element of the crime: that Dan Temple  
13 illegally possessed the crack cocaine or the Xanax and  
14 the Xanax with the intent to distribute it to another  
15 party.

16 And, ladies and gentlemen of the Jury, I submit to  
17 you that from the evidence that you heard over the last  
18 two or three days, Dan Temple is not guilty. Dan Temple  
19 is not guilty. Dan Temple is not guilty. They did not  
20 give you enough evidence beyond a reasonable doubt. If  
21 you have a doubt, a reasonable doubt in your mind, I'm  
22 asking you to hold them accountable and tell them, I am  
23 sorry, but Mr. Temple, on this charge, on this day, is  
24 not guilty.

25 Your reasonable doubt in this case is Crystal

*State v. Dan Temple -- March 20, 2013*

1 Henry, a web of lies. James Walker, he told the truth  
2 after he was asked by the State of South Carolina to  
3 testify against him and after he worked with Hunnicutt  
4 as an informant, you can't say I believed him on one day  
5 but I don't believe him on the next.

6 Dan Temple is not guilty. Thank you.

7 **THE COURT:** Madam Solicitor.

8 **MS. SIMMONS:** Thank you, Your Honor, may it please  
9 the Court; Mr. Rosemond.

10 Closing Statement on behalf of the State:

11 **MS. SIMMONS:** Ladies and gentlemen, the time has  
12 now come for me to have my final opportunity to speak  
13 with all of you. Before we talk about the facts of this  
14 case and I get into arguing about what you heard over  
15 the last couple days, I want to inform you a little bit  
16 more about the law as it applies to this case.

17 The Defendant is charged with PWID crack cocaine,  
18 possession with intent to distribute. The Judge will  
19 then charge you with that information as well. He's  
20 gonna tell you that in South Carolina the statutory  
21 inference for possession with intent to distribute is a  
22 gram; that there is an inference you intended to  
23 distribute if you possess more than one gram of crack  
24 cocaine.

25 He's also gonna tell you another way to prove that

*State v. Dan Temple -- March 20, 2013*

1 is through circumstantial evidence. And an example of  
2 circumstantial evidence in cases is a large amount of  
3 cash present at the scene, other people testifying you  
4 have prior drug-related activity and prior evidence of  
5 drug distribution.

6 On the possession of Xanax charge, it's just a  
7 strict possession charge. You can possess 30 and it's  
8 still possession of Xanax.

9 Possession can be proved two ways: actual  
10 possession and constructive possession. Actual  
11 possession is if I had crack in my pocket, it's on my  
12 person. Actual possession. Constructive possession is  
13 I had dominion and control over the premises where the  
14 crack was located, an example being if the police came  
15 in and the crack rolled off the table that I was sitting  
16 at, it was constructive possession that it was in my  
17 dominion and control in my area.

18 The Judge is also gonna tell you that two people  
19 can have joint possession of something, and ownership is  
20 not a sole thing. You can even determine that two  
21 people possessed a drug.

22 And reasonable doubt is a big standard we've heard  
23 a lot about over the last couple days. It's not beyond  
24 all doubt, it's not a hundred percent. The standard is  
25 if it would cause a reasonable person hesitate to act.

*State v. Dan Temple -- March 20, 2013*

1 We told you your common sense is the most important  
2 thing you brought with you to jury duty. It's not an  
3 absolute certain requirement, it's a reasonable person  
4 standard. When you go into the Jury room to deliberate,  
5 please keep that in mind.

6 Also, the Judge is gonna tell you that Openings and  
7 Closings are not evidence. Openings are our opportunity  
8 to tell you what we expect the evidence will present in  
9 a case. That's not always how it comes out. Closings  
10 are your argument on the law. The Judge will tell you  
11 what I told you just now is not evidence. The only  
12 thing that you are to consider in the course of your  
13 deliberations is what you heard from that Witness stand  
14 and the evidence that has been admitted for you to  
15 consider.

16 Before I talk to you about our case, I wanted to  
17 spend a little time talking about the Defense case.

18 At the beginning of the Defense case they told you  
19 that this trial would play out kind of like a show.  
20 Well, on their side it was a show. A show and an entire  
21 case built around the facts that they want to get your  
22 attention away from Dan Temple and on everybody else  
23 that has something to do with this case. That is their  
24 show. They think if they throw up enough stop signs,  
25 enough roadblocks, and they throw a bunch of bright,

*State v. Dan Temple -- March 20, 2013*

1 shiny objects in front of you, you will lose track of  
2 the fact that Dan Temple is a guilty man. A lot of  
3 noise and a whole lot of distractions designed to get  
4 you off track and make you forget why you are here.  
5 They want you to think that all these drugs belonged to  
6 Crystal Henry and poor Dan Temple is the victim of  
7 circumstance. People like this flock together, folks,  
8 it's just a fact of life. There's a lot of people with  
9 culpability in this, the most important being Dan  
10 Temple.

11 The Defense is also asking you to convict him  
12 merely upon possession. You've heard from Witnesses  
13 multiple times that the quantities referenced by the  
14 Defendant are not consistent with personal use. And  
15 you've heard all about this drug-related behavior and  
16 he's traveling around all over creation to engage in  
17 these illegal activities.

18 And an attack on law enforcement credibility. They  
19 want you to believe be that not one, not two, but three  
20 sworn law enforcement officers, two of which had just  
21 received promotions, concocted a story to frame Dan  
22 Temple and put him away. They want you to believe that  
23 they, all three of them -- not one, not two, but  
24 three -- framed Dan Temple. That's not reasonable, and  
25 it's not true.

*State v. Dan Temple -- March 20, 2013*

1           There's also been a big argument about obtaining a  
2 Search Warrant from a County Judge. Officer Hunnicutt  
3 told you it is common practice if you're working in a  
4 County of the State that you might get your Search  
5 Warrant from a County Judge. Magistrates have  
6 County-wide jurisdiction in South Carolina.

7           In fact, at 6:42 p.m. when the Search Warrant was  
8 signed, Judge Derrick was the closest Judge in proximity  
9 to the Seneca Police Department because they testified  
10 he lives behind the woods. This was not a conspiracy to  
11 Judge shop. There was a lot of brouhaha over the  
12 signing of the Search Warrant. There was nothing there,  
13 nothing was hidden by law enforcement. The inadvertence  
14 was non-disclosure, but there was nothing to disclose.  
15 No useful information regarding this case was found on  
16 those phones or on those computers.

17           Let's talk about James Willie Walker. His record  
18 is atrocious, I'm not gonna lie to you. He works as a  
19 CI, he did do Confidential Informant buys for the Seneca  
20 Police Department. I did put him on the stand to  
21 testify. But I will tell you, and he agreed with me,  
22 that confidential informant buys are never solely based  
23 on the word of just a confidential informant. Those  
24 buys have audio and video evidence to back them up. You  
25 don't put a confidential informant on the stand without

*State v. Dan Temple -- March 20, 2013*

1 some proof other than their word, especially with a  
2 record like James Willie Walker's.

3 And he testified to you he has not testified since  
4 he testified in the Blassengame trial a few years ago.

5 Today the Defense wants you to believe a wholly  
6 uncorroborated statement by Mr. Walker. There is no  
7 video, there's no audio, there's no Witnesses. Nothing.  
8 They want you to put all your faith in James Willie  
9 Walker, the words of a convicted felon, and a man who  
10 has two dozen crimes of moral turpitude that involve  
11 giving false information to law enforcement, and they  
12 want you to rest solely on his word. It's not  
13 reasonable, ladies and gentlemen, it not reasonable at  
14 all.

15 James Willie Walker had at least two dozen  
16 opportunities to tell Tim Hunnicutt what he told you  
17 today. He said, Yes, I talked to him probably a dozen  
18 times, I talked to him on a regular basis. He had all  
19 these opportunities to say, "Hey, my friend, Dan Temple,  
20 is not guilty. Those were her drugs, not his."

21 He never said it, not -- he even discussed with  
22 Officer Hunnicutt, "I'm gonna come to this trial and  
23 watch."

24 Wouldn't you give the information that you think  
25 your friend is innocent? But after Crystal Henry

*State v. Dan Temple -- March 20, 2013*

1 testifies, his good buddy, back is against the wall, he  
2 gives a statement to save his friend just like that. He  
3 admits he's Dan Temple's friend and he admits he's his  
4 classmate and he admits he's his running buddy and he  
5 drives him around. Even today he didn't give you  
6 consistent testimony.

7 Yesterday he gave a statement to Mr. Rosemond that,  
8 "Oh, I drove Crystal Henry to buy drugs in Pendleton."  
9 And then today: "Oh, yeah, I drove Crystal Henry and  
10 Dan Temple to buy drugs in Pendleton, but only she  
11 bought drugs."

12 Then he also said, "I haven't talked with Dan since  
13 his July arrest." Then in his next breath he said, "He  
14 called me the day after he was arrested and told me he  
15 got arrested." And then he admitted on Cross that they  
16 had talked since. They're in the same place.

17 He said he dropped Crystal and Dan off about 8:30  
18 that night, the night of the 24th. I submit to you he  
19 would have no idea what happened the rest of that night.  
20 He wouldn't know if they went to Georgia to get more  
21 crack. He has no idea.

22 Remember, Crystal Henry said there was a second  
23 trip that night in the early morning hours out of state.

24 The only part of James Willie Walker's testimony  
25 that's credible is that he's Dan Temple's buddy and his

*State v. Dan Temple -- March 20, 2013*

1 criminal record is horrible.

2       The Defense case is a bunch of puffing designed  
3 to get you guys lost and make you lose track of the  
4 guilty man that sits at that table, Dan Temple.

5       Now I want to briefly talk to you about the case we  
6 presented to you. Unlike what the Defense said, and  
7 they said it in their Opening and their Closing, this is  
8 not a show. I disagree wholly. This case is nothing  
9 like *CSI*, *Law & Order*, *NCIS*, or *Forensic Files*. I'm not  
10 gonna wrap this case up in a pretty little bow and put  
11 it in for your consideration in 60 minutes or less.  
12 Real life doesn't permit that. In real life, mistakes  
13 are real, and people are real human beings, and they  
14 make mistakes.

15       Tim Hunnicutt testified how the service of a Search  
16 Warrant works, how the Search Warrant was executed in  
17 this case, that the bottle in the Search Warrant that he  
18 took into his custody was found on Dan Temple's side of  
19 the bed where his things were on the side closest to the  
20 door.

21       He talked to you about who was present. The chain  
22 of custody on the drugs is solid. He was somewhat  
23 nervous, but you heard his training, education and his  
24 experience. You as the Jurors are the judges of his  
25 credibility.

*State v. Dan Temple -- March 20, 2013*

1           Now let's talk about Crystal Henry. Again,  
2           credibility. You had the opportunity to observe her  
3           credibility and believability on the stand. And her  
4           overall consistency. No promises have been made to her.  
5           She held her own on Cross-Examination and admitted what  
6           she knew and what she didn't know. Her sole prior  
7           record is a petit larceny conviction. Her criminal  
8           history is not riddled with crimes of dishonesty.

9           The confession the Defendant later made to law  
10          enforcement actually corroborates what she told you.  
11          It's consistent. What he said to law enforcement is  
12          consistent with what she told you.

13          I want to look at a few things she said yesterday  
14          that stuck out in my mind. The Defendant sold drugs, he  
15          didn't use them. That's how she met him, selling drugs.  
16          She recounted driving all over creation to engage in  
17          illegal drug activity at all hours of the night.

18          She said, "I had to buy my own drugs, I would not  
19          touch his stuff." And she said there was a lot of  
20          fighting going on in their relationship.

21          She said she tried one of the Xanax, but that she  
22          didn't like it, and Dan had gotten them trading them for  
23          crack. And look at what she admitted. She admitted the  
24          crack pipes were hers and the crack rock on her  
25          nightstand was hers. Even if you believe she bought

*State v. Dan Temple -- March 20, 2013*

1 \$80' worth of crack in Pendleton the night before,  
2 that's nothing compared to the over one gram that was  
3 found on the Defendant's side of the bed. If you think  
4 she bought the crack the night before, she probably  
5 smoked it. That was the one crack rock she had left.  
6 She told you, one crack rock on my nightstand and the  
7 pipes were mine, they were mine.

8 She admitted to crimes under oath that can send her  
9 to jail. If she was really out to get Dan Temple, don't  
10 you think she would have got up there and said it was  
11 all his, absolutely none of it was mine, if she was  
12 really trying to save her own hide? She would say, None  
13 of it belonged to him -- I mean none of it belonged to  
14 me, all of it belonged to him, both sides of the bed.  
15 But, no, she admitted what part of this was hers.

16 And the two most compelling things she said, "The  
17 times I've been with him, I could write a book. And if  
18 all that other crack belonged to me, yeah, I would have  
19 smoked it."

20 Crystal Henry is not a liar. Let's just call  
21 Crystal Henry what she is. She's a crack head. She  
22 told you she was high most of the time back in 2012 and  
23 she lived at low-end motels with the Defendant. Crystal  
24 was just a pawn for Dan Temple. He used her, she used  
25 him. That simple. But the big fish in that

*State v. Dan Temple -- March 20, 2013*

1 relationship was not Crystal Henry, she was a crack head  
2 in tow. Crystal Henry was just a pawn.

3 You also heard from Meredith Lanford and Melinda  
4 Nicholson, probably not the most exciting testimony  
5 you've heard over the past couple days, but we have to  
6 present to you the chain of custody in this case and  
7 that the evidence was maintained in a secure manner and  
8 that it was not tampered with in any way.

9 Agent Lanford told you that she tested the Xanax  
10 and it was Xanax, or Alprazolam -- it's a little hard to  
11 say. And then the crack cocaine was actually crack, it  
12 was 1.10 grams in the blue bottle and point 12 in the  
13 rock on Ms. Henry's side of the bed. PWID can be  
14 anything over a gram. Keep that in mind during the  
15 course of your deliberations. It can be weight, the  
16 1.12 grams, just the blue bottle that rolled out of bed  
17 with Mr. Temple, or circumstantial evidence, the prior  
18 drug activity that you heard about, the \$622 in cash  
19 that he had, and a low-rent motel.

20 Most dish washers don't have \$622 in cash in their  
21 pocket when they also have a debit card. Most of us  
22 don't have \$622 cash period. He's got a large amount of  
23 money, drug activity the night before, as recently as  
24 the night before by his own admission, and statements  
25 made to law enforcement about the \$300 purchase, and "I

*State v. Dan Temple -- March 20, 2013*

1 could get more in Pendleton and Georgia; if you allow me  
2 to do so, I can get as much as an ounce."

3 That's not the behavior of somebody who uses drugs,  
4 that's the behavior of someone who sells them.

5 You also heard from B.J. McClure who was part of  
6 the entry team. He told you that Mr. Temple was naked  
7 in the bed. Crystal already told you he was naked, and  
8 Mr. McClure told you that when he was in the bed, he was  
9 in the bed under the covers. He wouldn't show his  
10 hands, he was not cooperative. They had to tackle him  
11 in the bed to get him out of the bed. That's when the  
12 blue bottle of crack rolled out of the bed on his side  
13 where his stuff was, on his nightstand the blue bottle  
14 rolled out. You will have the pictures in the Jury  
15 room. It's only logical and reasonable to believe that  
16 the drugs that rolled out of the bed of Dan Temple's  
17 were his.

18 I want to take a look at the confessions you heard.  
19 There's three of them -- well, two of them to three  
20 people. Captain Kenny Washington told you he's been in  
21 law enforcement for 20 years, he's recently been  
22 promoted to Captain at the Sheriff's Office.

23 He says Temple approached him in the parking lot  
24 and said, "I want to cooperate; I can get more drugs in  
25 Pendleton and Georgia." He Mirandized him prior to

State v. Dan Temple -- March 20, 2013

1 those statements. Sometimes things in law enforcement  
2 are a little bit on the fly. I don't think Captain  
3 Washington was probably anticipating interviewing  
4 anybody in the parking lot. But when he was called over  
5 to Mr. Temple, he listened to what he had to say, he  
6 Mirandized him, and then subsequently he took a detailed  
7 statement of what was told to him and he reported it in  
8 writing on that same day. You observed Lieutenant [sic]  
9 Washington's testimony and you are the sole judge of his  
10 credibility.

11 We then have Officers Hunnicutt and Woodring.  
12 Hunnicutt interviewed the Defendant after he was told by  
13 Captain Washington that he thought that he had some  
14 information for him. There was a thorough *Miranda*  
15 warning line by line, initialed line by line, signed on  
16 the bottom with not one, but two witnesses.

17 The Defendant said, "All the drugs in the room  
18 belonged to me; I bought them the night before for  
19 \$300." Which is consistent with the number of rocks  
20 that were found in the blue bottle.

21 "I can get more from Georgia and Pendleton. I can  
22 get you an ounce delivered."

23 All of these are promises of cooperation and are  
24 the words of a guilty man who got caught and is trying  
25 to find a way to mitigate his own guilt.

*State v. Dan Temple -- March 20, 2013*

1           It is true the confession is not in writing. You  
2 have heard some confessions are written and some of them  
3 are oral. This confession, while not written, does have  
4 a substantial benefit of being witnessed by another  
5 officer. We're not coming in here asking you to just  
6 believe Tim Hunnicutt that he confessed to him. Tyrel  
7 Woodring, who is now a SLED Agent, was in the room and  
8 heard the words and heard exactly the same thing Officer  
9 Hunnicutt told you, two officers that are totally  
10 consistent with each other.

11           So all in all we have two confessions to three  
12 separate law enforcement officers with a combined  
13 experience of over 40 years.

14           The Defense would like you to believe that they all  
15 conspired together to make up lies about Dan Temple.  
16 It's just not reasonable and, quite frankly, it's an  
17 insult to your intelligence as Jurors.

18           This is not about conspiracy against Dan Temple.  
19 The Defense wants you to believe that from top to bottom  
20 this is a persecution, from the Magistrate issuing the  
21 Warrant to B.J. McClure to Crystal Henry to Tim  
22 Hunnicutt to Ken Washington and Tyrel Woodring. Is it  
23 reasonable to believe that all these people concocted  
24 this grand scheme to get Dan Temple? It's wholly  
25 unreasonable and wholly unrealistic.

State v. Dan Temple -- March 20, 2013

1           The bottom line is that on July 25th, 2012, Dan  
2 Temple was found in bed at the Town & Country Motel with  
3 a blue bottle of crack rock in his constructive  
4 possession. It rolled out of bed with him on the entry  
5 of the team, of the search team. PWID of crack cocaine  
6 has been proved by words, deed, and weight. The Xanax  
7 that was in the room was his because he traded crack for  
8 it.

9           Ladies and gentlemen, use your common sense. Dan  
10 Temple is not an innocent man. Dan Temple is a guilty  
11 man, a guilty man whose time for accountability is here.  
12 Thank you.

13 The Court's Charge to the Jury:

14

15           Mr. Foreman, ladies and gentlemen of the Jury, as  
16 Jurors in this case you have certain functions and  
17 responsibilities to perform which are entirely separate  
18 and distinct from those of mine as the Trial Judge. I  
19 am prohibited by the Constitution of our State from  
20 charging you on the facts of this case. I am also  
21 prohibited from discussing the facts of the case with  
22 you or in any way intimating what my feelings, if any,  
23 are about the facts in this case.

24           It is your responsibilities and yours alone to pass  
25 upon all the issues and the facts presented in this

*State v. Dan Temple -- March 20, 2013*

1 case. I would, therefore, charge you that if, during  
2 the course of the trial or my charge, you have been  
3 given or left with the impression or feeling that I do  
4 have a personal feeling about the facts of this case, I  
5 would specifically instruct you to disregard that  
6 feeling or impression.

7 Moreover, you are the sole judges of what the  
8 testimony was and not the argument of Counsel. It is  
9 also your duty and yours alone to weigh the testimony  
10 and evidence in this case and pass upon the credibility  
11 or believability of the Witnesses.

12 In this connection you have the right to believe  
13 all that a Witness tells you or disbelieve all of what a  
14 Witness tells you. You have the right to believe a part  
15 of what a Witness tells you and to disbelieve a part of  
16 what a Witness tells you. You have the right to take  
17 into consideration any bias, prejudice or interest you  
18 feel a Witness might have in the case.

19 I say this merely to emphasize that the weight you  
20 see fit to give the testimony and the credibility of the  
21 Witnesses as well as all issues of fact are for your  
22 sole determination. As judges of the facts you are the  
23 sole judges of the credibility and that is the  
24 believability of the witnesses who have testified in  
25 this case.

1           In passing upon their credibility you may take into  
2 consideration many things, such as the appearance and  
3 manner of the witness on the stand, sometimes referred  
4 to as the demeanor of the Witness. Was the Witness  
5 forthright or hesitant? Was the Witness's testimony  
6 consistent or did it contain discrepancies? What was  
7 the ability of the Witness to know the facts about which  
8 he or she testified? Did the Witness have a cause or a  
9 reason to be biased or prejudiced in favor of the  
10 testimony he or she gave? Was the testimony of the  
11 Witness corroborated or made stronger by other testimony  
12 and evidence or was it made weaker or impeached by such  
13 other testimony and evidence?

14           As Jurors you have the right to believe a small  
15 portion of a Witness's testimony and discard the larger  
16 or vice versa. You may believe all of a Witness's  
17 testimony or none. You may believe a single Witness  
18 against that of many Witnesses or the other way around.  
19 Most certainly you do not determine the matter of  
20 credibility or believability by counting up the number  
21 of Witnesses who may have testified on behalf of the  
22 parties.

23           Now, the Rules of Evidence ordinarily do not permit  
24 Witnesses to testify to opinions or conclusions. An  
25 exception is a group of Witnesses we call Expert

*State v. Dan Temple -- March 20, 2013*

1 Witnesses. A Witness who, by education and experience,  
2 has become an expert in some art, science, profession or  
3 calling may state an opinion as to a relevant and  
4 material matter in which a Witness claims to be an  
5 expert and may also state the reasons for the opinion.

6 You should consider any expert opinion received in  
7 evidence in this case and, like any other evidence, give  
8 it the weight you think it deserves. If you decide the  
9 opinion of an Expert Witness is not based on sufficient  
10 education or experience, or if you conclude that the  
11 reasons given in support of the opinion are not sound,  
12 or that the opinion is outweighed by other evidence, you  
13 may disregard the opinion entirely.

14 An Expert Witness's testimony is to be given no  
15 greater weight than any other Witness's simply because  
16 the Witness is an expert. Further, you are not required  
17 to accept an expert's opinion even though it is not  
18 contradicted. Throughout this entire process you have  
19 but one single objective, and that is to seek the truth  
20 regardless of what Witness that testimony may have come.

21 Now, I instruct you and emphasize the fact that the  
22 Defendant did not testify is not a factor to be  
23 considered by you in any way in your deliberations or  
24 your consideration of whether the State has proven the  
25 Defendant guilty or not guilty of the charges in the

*State v. Dan Temple -- March 20, 2013*

1 Indictment. It must not be considered by you in any  
2 manner whatsoever. The Defendant has the Constitutional  
3 right to remain silent, and this exercise must not be  
4 considered by you in any way during your deliberations.  
5 You must not consider the fact the Defendant did not  
6 testify. The fact should not even be discussed in the  
7 Jury room. The burden of proof, as I have stated to  
8 you, is on the State. The Defendant is not required to  
9 prove his innocence. The burden of proof remains on the  
10 State to prove guilt beyond a reasonable doubt.

11 Now, by the same Constitution and law which makes  
12 you the finders of the facts and evidence, as I have  
13 discussed with you, I am as the Judge made the only  
14 instructor of the law. You must accept as correct the  
15 law I charge and apply it to the evidence as you find it  
16 and reach a verdict. If I should make an error in  
17 stating the law to you, there is another time and place  
18 that error can be considered and, if necessary,  
19 corrected. But for the purposes of this case today you  
20 must accept the law as I charge it to be the correct  
21 law.

22 Finally, I charge you in this regard. You, nor for  
23 that matter I, should not be concerned with what the law  
24 ought to be but rather what I charge you the law to be.

25 Now, the Defendant has pled not guilty to these

*State v. Dan Temple -- March 20, 2013*

1 Indictments and that plea puts the burden on the State  
2 to prove the Defendant guilty. A person charged with  
3 committing a criminal offense in South Carolina is never  
4 required to prove himself innocent. I charge you that  
5 it is an important rule of law that a Defendant in a  
6 criminal trial, no matter what the seriousness of the  
7 charge may be, will always be presumed innocent of the  
8 crime for which the Indictment was issued unless guilt  
9 has been proven by evidence satisfying you of that guilt  
10 beyond a reasonable doubt.

11 The presumption of innocence does not end when you  
12 begin your deliberations, but it accompanies the  
13 Defendant throughout the trial until you reach a verdict  
14 of guilt based upon evidence satisfying you of that  
15 guilt beyond a reasonable doubt. The presumption of  
16 innocence is like a robe of righteousness placed about  
17 the shoulders of the Defendant. It remains with the  
18 Defendant until it has been stripped from the Defendant  
19 by evidence satisfying you of the Defendant's guilt  
20 beyond a reasonable doubt.

21 The presumption of innocence is not a mere legal  
22 theory and it is not just a legal phrase. It is a  
23 substantial right to which every Defendant is entitled  
24 unless you, the Jury, are satisfied from the evidence of  
25 the Defendant's guilt beyond a reasonable doubt. As

1 I've said, reasonable doubt is that kind of doubt that  
2 would cause a reasonable person to hesitate to act.

3 Now, a statement alleged to have been made by the  
4 Defendant has been admitted into evidence in this case.  
5 While the Court has determined that the statement is  
6 admissible, I instruct you that you make the ultimate  
7 decision of whether or not the Defendant made this  
8 statement.

9 If you determine that the Defendant did make the  
10 statement, you must determine whether the Defendant made  
11 the statement voluntarily and of his own free will.  
12 This means that the statement was not caused by  
13 pressure, force, fear, threats, coercion or  
14 intimidation, or by hope or promise of leniency or of a  
15 reward of any kind.

16 In determining whether the statement was voluntary,  
17 you can consider both of characteristics of the  
18 Defendant and the details of the questions. Some of the  
19 factors that you must consider are the age of the  
20 Defendant, the Defendant's education or lack of  
21 education, the Defendant's mental ability or capacity,  
22 the Defendant's I.Q. or intelligence, the Defendant's  
23 background, and the environment, the place and length of  
24 detention; the nature of the questioning and the advice  
25 of lack thereof to the Defendant of his Constitutional

*State v. Dan Temple -- March 20, 2013*

1 rights, but not limited to the right to remain silent,  
2 that anything he stated could be used against him in a  
3 court of law, the right to have a lawyer present, that  
4 if he could not afford a lawyer, a lawyer would be  
5 appointed to represent him without any cost; and that he  
6 could stop making the statement at any time.

7       You must carefully consider all of the surrounding  
8 circumstances before you give any weight to an alleged  
9 statement. The State has the burden of proving beyond a  
10 reasonable doubt that the alleged statement was  
11 voluntary. If you determine it was, you may give that  
12 statement any further consideration that you deem  
13 proper. You must decide the weight, if any, that should  
14 be given to the alleged statement. If you determine the  
15 alleged statement was not the free and voluntary  
16 statement of the Defendant, you should not consider the  
17 statement at all.

18       Now, there are two types of evidence which are  
19 generally presented during a trial: direct evidence and  
20 circumstantial evidence. Direct evidence is the  
21 testimony of a person who claims to have actual  
22 knowledge of facts, such as an eyewitness. It is  
23 evidence which immediately establishes the main fact to  
24 be proved.

25       Circumstantial evidence is proof of a chain of

1 facts and circumstances indicating the existence of a  
2 fact. It is evidence which immediately establishes  
3 collateral facts from which the main fact may be  
4 inferred. Circumstantial evidence is based on inference  
5 and not of personal knowledge and observation. It is  
6 proof which does not actually establish the fact in  
7 question, but that asserts or describes something else  
8 from which you may reasonably infer the truth of the  
9 fact or at least reasonably infer the probability that  
10 the fact is true.

11 For circumstantial evidence to be sufficient to  
12 warrant the finding of a fact, the circumstances must  
13 lead to the fact with reasonable certainty. The facts  
14 and circumstances should be considered in light of  
15 ordinary experience and common sense.

16 The existence of a fact cannot be based upon  
17 speculation, surmise or conjecture. The law makes  
18 absolutely no distinction between the weight or value to  
19 be given to either direct or circumstantial evidence,  
20 nor is a greater degree of certainty required of  
21 circumstantial evidence than of direct evidence.

22 You should weigh all of the evidence in the case.  
23 If, after weighing all of the evidence, you are not  
24 convinced of the guilt of the Defendant beyond a  
25 reasonable doubt, you must find the Defendant not

1 guilty.

2       In order to establish criminal liability, criminal  
3 intent is required. For example, the mental state  
4 required to be proven by the State for a particular  
5 crime might be purpose, intent or knowledge. Criminal  
6 intent must be proven by the State beyond a reasonable  
7 doubt. Criminal intent is always a matter that must be  
8 determined by the Jury from the circumstances  
9 surrounding the situation.

10       There is no way to prove intent to a mathematical  
11 certainty. There is no way that medical science can  
12 dissect a person's brain and determine what the person  
13 had in mind. So the law says that criminal intent may  
14 be inferred from the circumstances shown to have  
15 existed. This is how a determination of whether or not  
16 the element requiring intent was present. It is not  
17 necessary to establish intent by direct or positive  
18 evidence, but intent may be established by inference in  
19 the same manner and way as other facts by taking into  
20 consideration the acts of the parties and all the facts  
21 and circumstances of the case. Criminal intent is a  
22 mental state, a conscious wrongdoing. It is up to you  
23 to determine what the Defendant intended to do based on  
24 the circumstances that are shown to have existed.

25       Criminal intent is a state of mind that operates

1 jointly with act or omission or commission of a crime.  
2 Criminal intent is a mental state. Criminal liability  
3 is normally based upon the concurrence of two factors:  
4 An evil meaning mind and an evil doing hand. A person  
5 who causes a particular result is said to act  
6 purposefully if he consciously desires that result,  
7 whatever the likelihood of that result happened from his  
8 conduct.

9 A person is said to act knowingly if he is aware  
10 that result is particularly certain to follow from his  
11 conduct, whatever his desire may be as to that result.

12 Suspicion, however strong, is not enough to sustain  
13 a conviction. The evidence presented by the State must  
14 be substantial evidence that tends to prove the guilt of  
15 the Defendant beyond a reasonable doubt.

16 Now, there are two Indictments in this case.  
17 Indictment Number 2013-GS-37-00184 charges the  
18 Defendant, Dan Lavert Temple, with the possession with  
19 the intent to distribute crack cocaine, and Indictment  
20 Number 2013-GS-37-185 charges the Defendant with  
21 possession of Xanax, both pursuant to the law of South  
22 Carolina.

23 I charge you that the fact that the Defendant was  
24 arrested, charged, and indicted in this case is not  
25 evidence in this case and cannot be considered by you as

1 evidence of guilt in this case, nor does it create any  
2 presumption or inference of guilt. An Indictment is  
3 simply a formal and written instrument which contains  
4 the charges made against the Defendant. It is the  
5 formal document by which a case is brought into court.

6 Now, mere presence at the scene is not sufficient  
7 to prove someone guilty of a crime. A Defendant's  
8 presence where a crime is being committed or mere  
9 association with a person who commits a crime does not  
10 make a Defendant an accomplice or an aider and abettor  
11 to a person committing a crime.

12 The burden is upon the State to prove every element  
13 of the crime charged. If you find, after reviewing all  
14 the evidence, that the State has proved that the  
15 Defendant was only present at the scene of the crime,  
16 and they have not proved beyond a reasonable doubt any  
17 other participation in the crime, then you must find the  
18 Defendant not guilty. The law is that proof of being at  
19 the scene of the crime is not sufficient to find someone  
20 guilty.

21 Now, the Defendant is charged with possession with  
22 intent to distribute crack cocaine. The State must  
23 prove beyond a reasonable doubt that the Defendant  
24 possessed crack cocaine with the intent to distribute  
25 it.

1           To prove possession the State must prove beyond a  
2 reasonable doubt that the Defendant had both the power  
3 and the intent to control the disposition or use of the  
4 crack cocaine. Possession may be either actual or  
5 constructive. Actual possession means that the crack  
6 cocaine was in the actual physical custody of the  
7 Defendant. Constructive possession means that the  
8 Defendant had dominion and control or the right to  
9 exercise dominion and control over either the crack  
10 cocaine itself or the property on which the crack  
11 cocaine was found.

12           Mere presence at the scene where the drugs were  
13 found is not enough to prove possession. Actual  
14 knowledge of the presence of the crack cocaine is strong  
15 evidence of the Defendant's intent to control its  
16 disposition or use. The Defendant's knowledge and  
17 possession may be inferred when a substance is found on  
18 a property under the Defendant's control. However, this  
19 inference is simply an evidentiary fact to be taken into  
20 consideration by you, along with other evidence in the  
21 case, and to be given the weight you decide it should  
22 have. Two or more persons may have joint possession of  
23 a drug.

24           The State must also prove beyond a reasonable doubt  
25 that the Defendant intended to distribute the crack

1 cocaine. Distribute means to deliver, other than by  
2 administering or dispensing, a drug. It may be shown by  
3 acts and conduct of the Defendant in other circumstances  
4 which may naturally and reasonably be inferred -- well,  
5 which may naturally and reasonably infer intent.

6 In determining whether the Defendant had the intent  
7 to distribute crack cocaine, you may consider the  
8 circumstances surrounding the Defendant's alleged  
9 possession. You may consider the amount of the  
10 substance alleged to have been possessed, the manner in  
11 which it was allegedly possessed, the place where it was  
12 allegedly possessed, and all other factors which you  
13 consider to be important.

14 You must find that the Defendant did not intend to  
15 have the crack cocaine solely for his own use.  
16 Possession of more than one or more grams of crack  
17 cocaine creates an inference that the Defendant  
18 possessed the crack cocaine with the intent to  
19 distribute it. This inference does not relieve the  
20 State from proving beyond a reasonable doubt that the  
21 Defendant intended to distribute it. It is simply an  
22 evidentiary fact to be taken into consideration by you  
23 along with all the other evidence in the case and to be  
24 given the weight you decide it should have.

25 Under South Carolina we have a principle known as

1 the lesser-included offenses. Some crimes that are of a  
2 lesser degree are included in crimes which are of a  
3 greater degree. In this particular case there is one  
4 lesser-included offense that you are to consider on  
5 Indictment Number 2013-GS-37-184, which charges the  
6 Defendant, Dan Lavert Temple, with possession with  
7 intent to distribute crack cocaine.

8 The offense of possession with intent to distribute  
9 includes the lesser-included offense of simple  
10 possession of crack cocaine. Therefore, you may  
11 consider the lesser-included offense of simple  
12 possession of crack cocaine on Indictment Number  
13 2013-GS-37-184.

14 If you find that the State has failed to prove  
15 beyond a reasonable doubt that the Defendant is guilty  
16 of possession with intent to distribute crack cocaine,  
17 you may consider whether the State has proved beyond a  
18 reasonable doubt the Defendant is guilty of simple  
19 possession of crack cocaine.

20 Simple possession does not require an intent to  
21 distribute the crack cocaine. If you find that the  
22 Defendant is charged with possession of crack cocaine,  
23 the State must prove beyond a reasonable doubt that the  
24 Defendant knowingly or intelligently possessed the crack  
25 cocaine.

1           Knowingly means with knowledge, consciously, and  
2 not accidentally. Intentionally means willfully  
3 intending the result which actually occurs, not  
4 accidentally or involuntarily. Intent may be shown by  
5 acts and conduct of the Defendant in other circumstances  
6 by which you may naturally and reasonably infer intent.

7           To prove that possession, the State must prove  
8 beyond a reasonable doubt that the Defendant had both  
9 the power and the intent to control the disposition and  
10 the use of the crack cocaine. Possession may be either  
11 actual or constructive.

12           Actual possession means that the crack cocaine was  
13 in the actual physical possession of the Defendant.  
14 Constructive possession means the Defendant had dominion  
15 and control over the right to exercise -- or the right  
16 to exercise dominion and control over either the crack  
17 cocaine itself or the property on which the crack  
18 cocaine was found. Two or more persons may have joint  
19 possession of a drug.

20           Indictment Number 2013-GS-37-185 charges the  
21 Defendant, Dan Lavert Temple, with possession of Xanax.  
22 To prove possession the State must prove beyond a  
23 reasonable doubt that the Defendant had both the power  
24 and intent to control the disposition or use of the  
25 Xanax. Possession may be actual or constructive.

*State v. Dan Temple -- March 20, 2013*

1 Actual possession, as I've said, means that the Xanax  
2 was in the actual physical custody of the Defendant, or  
3 constructive possession means that the Defendant had  
4 dominion and control or the right to exercise dominion  
5 and control over either the Xanax itself or the property  
6 on which the Xanax was found.

7 Mere presence at the scene where the drugs were  
8 found is not enough to prove possession. Actual  
9 knowledge of the presence of the Xanax is strong  
10 evidence of the Defendant's intent to control its  
11 disposition or use. The Defendant's knowledge and  
12 possession may be inferred when the substance is found  
13 on the property under the Defendant's control. However,  
14 this inference is simply an evidentiary fact to be taken  
15 into consideration by you, along with other evidence in  
16 the case, and to be given the weight you decide it  
17 should have. Two or more persons may have joint  
18 possession of a certain drug.

19 Now, Mr. Foreman, ladies and gentlemen of the Jury,  
20 if you have a reasonable doubt of the Defendant's guilt  
21 after considering all of the evidence on either  
22 Indictment, then you must find the Defendant not guilty  
23 on that Indictment. On the other hand, if you have no  
24 reasonable doubt of the Defendant's guilt after  
25 considering all of the evidence on either or both of the

*State v. Dan Temple -- March 20, 2013*

1 Indictments, then you must -- excuse me -- if you have a  
2 reasonable doubt as to the Defendant's guilt after  
3 considering all of the evidence on either Indictment,  
4 then you must find the Defendant not guilty on that  
5 Indictment.

6 On the other hand, if you have no reasonable doubt  
7 of the Defendant's guilt after considering all of the  
8 evidence on either or both of the Indictments, then you  
9 must find the Defendant guilty on that or both  
10 Indictments.

11 Now, Mr. Foreman, ladies and gentlemen of the Jury,  
12 you have been selected as fair and impartial Jurors  
13 sworn to impartially try and determine the facts of this  
14 case, and when you comply with your oath to do so, then  
15 no one will have the right to criticize your verdict and  
16 you will have fully discharged your duties as Jurors.

17 You should not be influenced by opinions or  
18 expressions of opinions you may have heard on the  
19 outside, but you are to decide this case according to  
20 the testimony that you have heard from the lips of the  
21 sworn Witnesses along with evidence which may have been  
22 introduced.

23 As I said earlier, you are the judges of the facts  
24 in this case and you are to determine only if the  
25 Defendant is guilty or not guilty of the Indictments

1 based on the testimony and evidence presented at the  
2 trial, after applying the law as I give it to you.

3 If from the evidence you have a reasonable doubt as  
4 to whether or not the Defendant is guilty, it is your  
5 duty to acquit him and write the words "not guilty" as  
6 to that charge. On the other hand, you took an oath,  
7 and you swore to try this case based only and solely on  
8 the testimony and evidence and the law presented to you  
9 in the case.

10 It is your duty to lay aside all bias, prejudice,  
11 or sympathy you may have in reaching your verdict. You  
12 have no friends to reward or enemies to punish in this  
13 case. I might note that the word "verdict" is taken  
14 from the Latin term "*veredicto*," which means to speak  
15 the truth. Abide by your oath and return a verdict  
16 which speaks the truth.

17 Mr. Foreman, I have prepared a verdict form for you  
18 to use in your deliberations. Now, again, whatever  
19 verdict you reach as to each of these charges must be  
20 unanimous. That means, of course, all 12 members of the  
21 Jury must agree to it. And the verdict form provides  
22 first with Indictment number 2013-GS-37-184, possession  
23 with intent to distribute crack cocaine, and it provides  
24 on that Indictment: We, the Jury, unanimously find on  
25 Indictment Number 2013-GS-37-184 that the Defendant, Dan

*State v. Dan Temple -- March 20, 2013*

1 Lavert Temple, is guilty of possession with intent to  
2 distribute crack cocaine or guilty of the  
3 lesser-included offense of possession of crack cocaine  
4 or not guilty. One of those verdicts, you must have one  
5 of those verdicts, but it must be a unanimous verdict as  
6 to all 12 members of the Jury.

7 And on the second page, Indictment Number  
8 2013-GS-37-184, possession of Xanax. Again: We, the  
9 Jury, unanimously find on Indictment Number  
10 2013-GS-37-185 that the Defendant, Dan Lavert Temple, is  
11 guilty of possession of Xanax, or not guilty. Whichever  
12 verdict you have on that Indictment would have to be  
13 unanimous.

14 Once the verdict form is complete, you would then  
15 sign on the line above your name, knock on the door, and  
16 we will then receive your verdict at that time. I'm  
17 gonna ask you to give the verdict form back to the  
18 Bailiff and also to retire to the Jury room, but do not  
19 begin your deliberations until I send the verdict form  
20 and all of the exhibits that have been introduced in  
21 this case in to you. The Bailiff will deliver them to  
22 you. Once you receive the verdict form and the  
23 exhibits, then begin your deliberations, and once you  
24 reach your verdict as to both Indictments, knock on the  
25 door and we will receive it.

State v. Dan Temple -- March 20, 2013

1 With that I'll ask you to retire to the Jury room.

2 (Whereupon, the Jury left the courtroom at  
3 approximately 2:25 p.m.)

4 THE COURT: All right. Any exceptions to any  
5 charge or additional requests to charge from the State?

6 MS. SIMMONS: No, Your Honor.

7 THE COURT: From the Defendant?

8 MR. ROSEMOND: Nothing from the Defendant, Your  
9 Honor.

10 THE COURT: All right. Very good. Do look at the  
11 exhibits and be sure that everything that goes back does  
12 and none of the exhibits that are marked Court's  
13 Exhibits or not anything that doesn't go back does.

14 (Discussion off the record.)

15 (The Jury started deliberations at approximately  
16 2:27 p.m.)

17 THE COURT: All right. It's now in the Jury's  
18 hands. But I do want to say thank you for the way you  
19 have tried this case. Obviously, it was a very  
20 challenging case for both parties, and you represented  
21 not only your clients but your positions very well and  
22 aggressively, which is the way that attorneys should,  
23 but you also did it in a very professional manner and I  
24 thank you for that.

25 MS. SIMMONS: Thank you, Judge.

1 a verdict?

2 THE FOREMAN: Yes.

3 THE COURT: If you would please hand it up to the  
4 Bailiff.

5 THE FOREMAN: (Complies.)

6 THE COURT: Madam Clerk, would you publish the  
7 verdict.

8 THE CLERK: In the matter of the State of South  
9 Carolina versus Dan Lavert Temple on Indictment Number  
10 2013-GS-37-184, possession with intent to distribute  
11 crack cocaine, we, the Jury, unanimously find on  
12 Indictment Number 2013-GS-37-184 that the Defendant, Dan  
13 Lavert Temple, is guilty of the lesser-included offense  
14 of possession of crack cocaine.

15 On Indictment Number 2013-GS-37-185, possession of  
16 Xanax, we, the Jury, unanimously find on Indictment  
17 Number 2013-GS-37-185 that the Defendant, Dan Lavert  
18 Temple, is guilty of possession of Xanax.

19 Ladies and gentlemen of the Jury, if this was your  
20 verdict and remains your verdict, please indicate so by  
21 raising your right hand.

22 (All members of the Jury raised their right hands.)

23 THE CLERK: Let the record reflect that all members  
24 of the Jury have raised their right hands.

25 THE COURT: Very good. Mr. Foreman, ladies and

1 (Off-the-record discussion between the Court and  
2 the Foreman of the Jury, after which the Foreman  
3 was excused.)

4 (Whereupon, several Jurors entered the courtroom to  
5 observe the sentencing of the Defendant at  
6 approximately 12:27 p.m.)

7 THE COURT: Yes, ma'am. The State is ready to  
8 proceed?

9 MS. SIMMONS: Yes, Your Honor.

10 THE COURT: Defense?

11 MR. ROSEMOND: Yes, Your Honor.

12 THE COURT: All right. Have the Defendant come  
13 around.

14 Yes, ma'am.

15 Sentencing of the Defendant:

16 MS. SIMMONS: Judge, for the record, and I do have  
17 true copies for the Court as far as for sentencing  
18 purposes, the Defendant does have prior convictions for  
19 distribution of crack cocaine, second offense;  
20 distribution in proximity of a school, distribution in  
21 proximity of a school, distribution of crack cocaine,  
22 distribution, conspiracy to distribute crack cocaine,  
23 conspiracy to distribute crack cocaine, and a Georgia  
24 conviction for conspiracy to violate the Controlled  
25 Substances Act. These have been provided in discovery,

1 Your Honor.

2 And I bring the Court's attention to *Robinson v.*  
3 *State*, which is 387 S.C. 568, which noted that signing a  
4 plea sheet as second offense puts you on notice for a  
5 third offense, and the sentencing sheets from Oconee he  
6 signed as second offenses.

7 THE COURT: Which puts you on notice for a third?

8 MS. SIMMONS: Yes, Your Honor. And I'd be happy to  
9 give you his entire prior record at the appropriate  
10 time.

11 Ms. Newton asked me to let you know that he is on  
12 probation.

13 Judge, in 1989 he was convicted in Georgia of theft  
14 and conspiracy to violate the Controlled Substance Act;  
15 in 1991, criminal conspiracy; in 1991, petit larceny and  
16 a probation violation; 1992, burglary third and petit  
17 larceny; 1992, petit larceny and criminal conspiracy;  
18 1996, five counts of distribution of crack or crack in  
19 proximity of a school. He received a seven-year  
20 sentence.

21 In 1997 he received a seven-year sentence for  
22 conspiracy. In 2004 he went to the Department of  
23 Corrections for 11 years for voluntary manslaughter.  
24 And in 2011, driving under suspension.

25 Judge, based upon his extensive prior history, he

1 has been in the Department of Corrections most of his  
2 adult life, I would ask that you impose the maximum  
3 sentence on both counts and run it consecutive. He has  
4 been a constant problem in our community.

5 THE COURT: All right. As I understand it, he's on  
6 probation as well?

7 PROBATION OFFICER GINGER NEWTON: Yes, sir.

8 THE COURT: What's the probationary sentence?

9 PROBATION OFFICER GINGER NEWTON: He was -- this  
10 was a case from back in 1997. It was distribution of  
11 crack cocaine within proximity of a school. He was  
12 sentenced by Judge Harwell on March 20, 1997. He got 12  
13 years on the service of seven years with five years'  
14 probation.

15 THE COURT: Do that one again for me.

16 PROBATION OFFICER GINGER NEWTON: He got 12 years  
17 on the service of seven years with five years'  
18 probation. And I think this case somehow got wrapped up  
19 in when he went in for that manslaughter charge, so this  
20 case didn't start until he got out on community  
21 supervision.

22 THE COURT: In other words, it was tolled. So  
23 again, I'm sorry, I guess I don't have the sheet before  
24 me.

25 PROBATION OFFICER GINGER NEWTON: (Handing.)

1 THE COURT: Thank you. All right. So it was 12  
2 years, service of seven years, and five years'  
3 probation?

4 PROBATION OFFICER GINGER NEWTON: Yes, sir.

5 THE COURT: Now, did he serve his seven years?

6 PROBATION OFFICER GINGER NEWTON: Yes, sir. I  
7 believe it was included in --

8 THE COURT: So he has five years left on this  
9 sentence?

10 PROBATION OFFICER GINGER NEWTON: Yes, sir.

11 (The Defendant conferred with Counsel off the  
12 record.)

13 THE COURT: All right. As I understand it,  
14 possession of --- excuse me --- possession of crack, third  
15 offense, would be what?

16 MS. SIMMONS: Up to ten years, Your Honor, and  
17 \$12,500.

18 THE COURT: And how about possession of Xanax?

19 MS. SIMMONS: Second offense, one year and \$2,000.

20 THE COURT: That would be a second offense?

21 MS. SIMMONS: On Xanax it tops out as a second  
22 offense.

23 THE COURT: Oh, it tops out, okay.

24 PROBATION OFFICER GINGER NEWTON: Yes, sir.

25 THE COURT: One and two?

1 MS. SIMMONS: Pardon?

2 THE COURT: I said one year and \$2,000?

3 MS. SIMMONS: Yes, Judge.

4 THE COURT: So, if he should be sentenced  
5 consecutively, he could be sentenced to ten years on the  
6 possession of crack, one year on the possession of  
7 Xanax, and the remaining five years on the probation  
8 violation, and fines of \$14,500?

9 MS. SIMMONS: Yes, Your Honor. And we would  
10 respectfully request that you consider a consecutive  
11 sentence.

12 THE COURT: All right. Anything else from the  
13 State?

14 MS. SIMMONS: No, Your Honor.

15 THE COURT: All right. Mr. Rosemond, what do you  
16 have to say on behalf of Mr. Temple?

17 MR. ROSEMOND: Your Honor, certainly in  
18 representing Mr. Temple, I would ask that you not give  
19 him the maximum sentence in this particular case.  
20 Certainly, Your Honor, I would ask that you deviate  
21 downward from the max that you can give him. Certainly,  
22 I think for a possession charge of this magnitude, that  
23 a sentence of five years would be certainly appropriate  
24 for Mr. Temple.

25 He's 42 years of age. He has a son who's 15. As

1 you see throughout this court trial today, his family  
2 has been with him all four days. Certainly, giving him  
3 an opportunity to come back to society and certainly be  
4 a good product in society, I think that's a quality that  
5 we should shoot for in every case.

6           Ultimately I would -- I know Mr. Temple wants to  
7 speak to you, and certainly I'm gonna give him that  
8 opportunity in a second. But certainly I would ask that  
9 you not give him the max on this particular case. He  
10 served seven years out of that 12, and he does have five  
11 years left on probation. And I would ask that you  
12 certainly --

13           **THE COURT:** The 12 that he got was for what,  
14 distribution of crack cocaine within proximity of a  
15 school?

16           **MS. SIMMONS:** Distribution of crack cocaine,  
17 second, and distribution of crack cocaine proximity.

18           **MR. ROSEMOND:** He did seven years on that. And  
19 certainly I ask you not to run that consecutively and  
20 certainly run all those sentences concurrently and allow  
21 Mr. Temple to serve his time that way.

22           **THE COURT:** All right. Does anybody else want to  
23 speak on behalf of Mr. Temple?

24           I do want to hear you, Mr. Temple, no question  
25 about that.

1 But does anybody else want to speak on behalf of  
2 Mr. Temple?

3 (A woman stands.)

4 THE COURT: If you would come forward, please,  
5 ma'am.

6 MS. ANDREANNA TEMPLE: I'm Andreanna Temple, and I  
7 know if you just give him five years, he will do better.  
8 He's not a bad person.

9 THE COURT: I understand. Thank you, ma'am.

10 MR. ROSEMOND: Your Honor, certainly Mr. Temple was  
11 facing a sentence of 30 years.

12 THE COURT: That's what I was curious about. The  
13 Jury obviously gave him the benefit of the doubt and  
14 they found him guilty of possession of the crack but  
15 gave him the benefit that rather than what would have  
16 been a 30-year sentence down to a ten-year. All right.

17 MR. ROSEMOND: That concludes any comments that I  
18 have, Your Honor.

19 THE COURT: All right.

20 THE DEFENDANT: Your Honor, I just want to say that  
21 the State indicted me for a second offense of possession  
22 of a controlled substance. I never had no pill charge,  
23 so she indicted me for something, a charge I never had  
24 before. As a second time offender, I pled guilty in  
25 1997 to a second offense from Georgia but Georgia was

1 for another non-controlled substance, not a scheduled  
2 controlled substance. So, therefore, she misapplied  
3 that Statute to my case here.

4 But I went before you in I think it was 2001 on a  
5 PCR about this same matter, and I still have the  
6 transcript based on this. They keep sentencing me for  
7 an out-of-state conviction. South Carolina is supposed  
8 to be my second offense, but they're misapplying it.  
9 They're misapplying it, Your Honor. And they have it as  
10 a third-time offense, which I ain't never had but a  
11 first-time offense.

12 But if you look at my rap sheet, if you look at the  
13 Georgia record, and you tell the Solicitor, they'll tell  
14 you it was a non-controlled substance. If you look at  
15 3-33-375 (phonetic), the Statute of South Carolina law  
16 says that a non-controlled substance is not a scheduled  
17 controlled substance. So, therefore, they used that  
18 Statute, they applied it wrong in my case.

19 So what the State is doing, Your Honor, she's being  
20 vindictive in trying to sentence me like this. See,  
21 that I never had a possession of a controlled substance  
22 charge, period, on my record. So that's what I was  
23 telling Mr. Delane when he gave me these Indictments, I  
24 told him that I have never been convicted of no pill  
25 charge. So how could the Grand Jury indict me for

1 possession of a controlled substance and I never had  
2 this charge? And one more thing.

3 **THE COURT:** Certainly.

4 **THE DEFENDANT:** Okay. Now, the Jury found me  
5 guilty under Section A, 375. Now, 375 A says, that  
6 Section says first offense of three years; second  
7 offense, five; third, ten. But in my case they  
8 convicted me for possession. I never had a possession  
9 charge. So how can she take the possession charge and  
10 enhance that and make it greater when it falls under  
11 Section A and not under B? That's my problem I have  
12 with this, Your Honor.

13 Do you understand what I'm saying?

14 **THE COURT:** I understand perfectly what you are  
15 saying.

16 Now, if you would, what was his record? And again,  
17 the South Carolina record.

18 **MS. SIMMONS:** The South Carolina record? Judge,  
19 1991, criminal conspiracy --

20 **THE COURT:** I'm talking about drug offenses.

21 **MS. SIMMONS:** Drugs. In 1996 he pled guilty on  
22 five drug convictions that were either distribution of  
23 crack or distribution in proximity and a conspiracy  
24 charge in 1997.

25 **THE COURT:** Five drug offenses involving crack as

1 far as the possession being the charge?

2 MS. SIMMONS: Five charges involving distribution  
3 or in proximity and a conspiracy to distribute.

4 THE COURT: And any other?

5 MS. SIMMONS: I'm sorry, Judge?

6 THE COURT: Any other drug offenses?

7 MS. SIMMONS: Not in South Carolina. There is the  
8 Georgia offense that has been passed up to the Court.

9 THE COURT: And anything else?

10 MR. ROSEMOND: Nothing from the Defense, Your  
11 Honor.

12 (Whereupon, the Defendant conferred with Counsel  
13 off the record.)

14 Sentence of the Court/Indictments and Probation  
15 Violation:

16 THE COURT: What was the Indictment on the  
17 probation?

18 PROBATION OFFICER GINGER NEWTON: 1997-GS-37-00089.

19 (Whereupon, the Defendant conferred with Counsel  
20 off the record.)

21 THE COURT: All right. Anything else from the  
22 State?

23 MS. SIMMONS: No, Your Honor.

24 THE COURT: From the Defense?

25 MR. ROSEMOND: I just want to ask for that credit

1 for 236 days. He's been in jail since July 27th of  
2 2012, Your Honor.

3 THE COURT: Very good.

4 All right. I do find that there has been  
5 substantial willful violations of the probationary  
6 sentence by reason of the sentence or the verdicts in  
7 this case as to two criminal convictions subject to the  
8 probation.

9 All right. On Indictment Number -- so, therefore,  
10 I do revoke the balance of the five-year sentence, or  
11 the 12-year sentence, the balance being five years.

12 On Indictment Number 2013-GS-37-184, it's the  
13 sentence of the Court that the Defendant, Dan Lavert  
14 Temple, be committed to the State Department of  
15 Corrections for a term of ten years, plus pay the costs  
16 and assessments as applicable.

17 Indictment Number 2013-GS-37-185, it's the sentence  
18 of the Court that the Defendant, Dan Lavert Temple, be  
19 committed to the State Department of Corrections for one  
20 year, plus pay the costs and assessments as applicable.

21 The Defendant to undergo drug and alcohol testing  
22 and treatment and substance abuse counseling as directed  
23 while incarcerated.

24 All sentences to run consecutive to each other and  
25 the Defendant be given credit for time served.

1           **PROBATION OFFICER GINGER NEWTON:** Does that mean,  
2 Your Honor, that you want the probation to run  
3 consecutive also?

4           **THE COURT:** As I said, the sentences to run  
5 consecutive on 2013-GS-37-184, consecutive to sentences  
6 on 2013-GS-37-185 and 1997-GS-37-89.

7           **PROBATION OFFICER GINGER NEWTON:** Yes, sir.

8           **THE COURT:** On Indictment Number 2013-GS-37-185, it  
9 is the sentence of the Court the sentence run  
10 consecutive on 2013-GS-37-184 and 1997-GS-37-89.

11          **PROBATION OFFICER GINGER NEWTON:** Thank you.

12          **MS. SIMMONS:** Thank you, Your Honor.

13           (Whereupon, the trial in the case of the State of  
14 South Carolina v. Dan Lavert Temple was adjourned  
15 at approximately 12:50 p.m., after which a luncheon  
16 recess was taken and the Court considered other  
17 matters, after which the following occurred at  
18 approximately 4:35 p.m.)

19           (Whereupon, the Defendant conferred with Counsel  
20 off the record.)

21          **THE COURT:** All right. We're back on the case of  
22 the State v. Dan Temple, 2013-GS-37-184, on which  
23 Indictment he was found guilty by the jury for  
24 possession of crack cocaine and sentenced by this Court  
25 to ten years, and on Indictment Number 2013-GS-37-185

1 where he was found guilty of possession of Xanax and  
2 sentenced to one year, and then violation of a  
3 probationary sentence on Indictment Number 1997-GS-37-39  
4 where he was sentenced to 12 years suspended upon  
5 service of seven years with five years' probation, and  
6 on that he was sentenced to five years, the balance of  
7 the sentence, the balance of the 12-year sentence after  
8 the service of five years.

9 Now, Mr. Temple, you did raise some issues about  
10 whether or not these were enhanced offenses?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Let me see if I can go through these  
13 just to be sure.

14 All right. The Court has reviewed your prior  
15 convictions and I find that here in South Carolina you  
16 have indictments from '97, 1997-GS-37-165, and  
17 Indictments Number 1997-GS-37-85 and 1997-GS-37-86,  
18 1997-GS-37-87, 1997-GS-37-88, and 1997-GS-37-89. You  
19 signed sentencing sheets on each of those Indictments on  
20 March the 20th, 1997, when you were sentenced by Judge  
21 Dix Harwell, the 1997-GS-37-165 being for conspiracy to  
22 distribute crack cocaine, you were sentenced to seven  
23 years and \$25,000.

24 On 1997-GS-37-85 you were sentenced on that date by  
25 Judge Harwell to seven years and \$50,000. And that was

1 to a distribution of crack cocaine, second offense. And  
2 you signed the sentencing sheet as such.

3 (Whereupon, the Defendant conferred with Counsel  
4 off the record.)

5 **THE COURT:** And then you signed on Indictment  
6 Number 1997-GS-37-86, you were sentenced to distribution  
7 of crack cocaine and received a sentence of seven years  
8 and \$25,000.

9 And then on 1997-GS-37-87 you were sentenced on  
10 distribution of crack cocaine within proximity of a  
11 school and received a sentence of 12 years and \$10,000  
12 reduced to seven years' active sentence.

13 And then on Indictment Number 1997-GS-37-88 you  
14 were sentenced on that date by Justice Harwell to seven  
15 years and \$50,000, to receive ATU and to complete your  
16 high school education on the Indictment charging  
17 distribution of crack, second offense; and you signed  
18 the sentence sheet.

19 And then you were sentenced on Indictment Number  
20 1997-GS-37-89 on that date to distribution of crack  
21 cocaine within proximity of a school, receiving a  
22 sentence of 12 years and \$10,000, suspended upon seven  
23 years' active sentence and five years' probation, and I  
24 think it was that seven years that was the probationary  
25 sentence that he also sentenced you to under the

1 sentence in this court today.

2 Without considering the Georgia convictions where  
3 you were charged and sentenced under conspiracy to  
4 violate the Georgia Controlled Substances Act, I find  
5 that that would also be applicable, but it's obvious  
6 that this was a third offense. It deals with  
7 distribution of crack cocaine, and not only distribution  
8 of crack cocaine but distribution of crack cocaine  
9 within proximity of a school, which requires a  
10 possession of crack cocaine in order to distribute it,  
11 so I find that the sentences were appropriate.

12 Anything?

13 **MR. ROSEMOND:** Judge, for the record, we would just  
14 object to the underlying convictions being sufficient to  
15 enhance him up to that third offense for the possession  
16 with intent to distribute crack and the possession of  
17 Xanax.

18 **THE COURT:** Well, does Mr. Temple challenge whether  
19 or not the certified true copy of his signing the  
20 sentence sheets on Indictments Number 1997-GS-37-85 were  
21 to distribution of crack cocaine, second offense?

22 **THE DEFENDANT:** Yes. But that was based on, they  
23 said the Georgia conviction was the first offense, and  
24 the one you refer to is the second offense.

25 **THE COURT:** It sounds like you had four other South

1 Carolina offenses of the same -- well, do whatever you  
2 want to, sir. But I'm just asking. The record reflects  
3 that it was a second offense, that you acknowledged the  
4 sentence and accepted the sentence on 1997-GS-37-85.  
5 You were sentenced by Judge Harwell on March the 20th,  
6 1997?

7 THE DEFENDANT: Yes, sir, and I still have the  
8 transcript.

9 THE COURT: To one, two, three, four, five, six  
10 offenses.

11 THE DEFENDANT: Including the Georgia conviction?

12 THE COURT: No, I'm not asking about the Georgia  
13 conviction. I'm asking if you were sentenced by Judge  
14 Harwell to seven in South Carolina Indictments. I'll  
15 read them out to you again: 97-GS-85, 97-GS-86,  
16 97-GS-87 -- and by the way, 37 I should say for the  
17 record -- 97-GS-37-85, 97-GS-37-87, 97-GS-37-88,  
18 97-GS-37-89 and 97-GS-37-165, and those were all South  
19 Carolina Indictments, and that you were sentenced by  
20 Judge Harwell on March the 20th, 1997.

21 THE DEFENDANT: Not knowingly and intelligently,  
22 though.

23 THE COURT: I didn't ask you about how knowingly  
24 and intelligent you were, but I'm just asking: Did you  
25 sign the sentencing sheet on those? (No response.)

1 Did you sign the sentencing sheets?

2 THE DEFENDANT: Not knowingly and intelligently I  
3 didn't.

4 THE COURT: Well, then you did sign it, though, so  
5 you are admitting that you did sign, or the Court finds  
6 that you did and it's a certified true copy.

7 Now, on those Indictments, 1997-GS-37-85 was  
8 distribution of crack cocaine, second offense; and  
9 1997-GS-37-88 was distribution of crack cocaine, second  
10 offense. The others did not indicate any prior  
11 convictions. And that's the record. None of them  
12 referred to the Georgia offense.

13 Motion to be Relieved as Counsel by Mr. Rosemond:

14 THE COURT: Very good. All right. Now, it's my  
15 understanding that you have made a complaint about your  
16 attorney; is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. And I think, Mr. Rosemond,  
19 I understand that this was received after you completed  
20 the trial this morning?

21 MR. ROSEMOND: Yes, sir, Your Honor. As soon as I  
22 left here this afternoon, I went by my Post Office Box,  
23 and in it I found one of those white envelopes from the  
24 Office of Disciplinary Counsel dated March 19th  
25 containing a handwritten letter by Mr. Temple that was

1 dated 2-14 -- well, February the 4th, 2013, and the  
2 Commission on Lawyer Conduct received it on February the  
3 8th, 2013, well before we started this particular trial,  
4 and certainly my interest becomes adverse at this point.

5 I am appointed to represent Mr. Temple on a litany  
6 of other charges that he still has pending in this  
7 court. And certainly Dan Temple filed a grievance, and  
8 thus I think it would be very difficult to go forward  
9 with any representation with this investigation hanging  
10 over my head.

11 **THE COURT:** Well, Mr. Temple, obviously I'm not  
12 going to put you in a situation where you might be  
13 tempted to say something that would not be in your own  
14 interests or could be held against you in a different  
15 circumstance or anything of that nature.

16 However, I do note and the record would so reflect  
17 that you were indicted for a distribution or rather  
18 possession of crack cocaine with intent to distribute as  
19 well as possession of Xanax under the two Indictments  
20 that you just received your sentence on; that is  
21 Indictments Numbers 2013-GS-37-184 and 2013-GS-37-185,  
22 respectively; and after really two days of deliberation  
23 and two days of trial, the jury acquitted you in essence  
24 of the distribution -- rather, the possession of crack  
25 with intent to distribute where the maximum sentence

1 would have been -- or the sentence would have been 10 to  
2 30 years and a \$50,000 fine, and found you guilty of the  
3 lesser-included offense of possession of crack cocaine,  
4 and you were found guilty of possession of the Xanax.

5 Without unduly exercising any sort of evaluation of  
6 attorneys and trials, I would suggest that you may have  
7 been premature in your complaint about your attorney  
8 because he gave you an excellent representation. I say  
9 that without reservation.

10 All right. Unless there's something else from the  
11 State?

12 MR. BLAIR STOUDEMIRE: (Standing in for Ms.  
13 Simmons.) Nothing, Your Honor. If Mister, Delane is  
14 moving to be relieved, we would have no objection.

15 THE COURT: All right. Without objection from the  
16 State, and I trust, Mr. Temple, that would be your  
17 request as well, I'm gonna relieve Mr. Rosemond from his  
18 responsibility for your representation --

19 And request that our Clerk of Court appoint the  
20 next appropriate counsel for you. Good luck to you,  
21 sir.

22 MR. BLAIR STOUDEMIRE: Thank you, Your Honor.

23 THE DEFENDANT: I appreciate it.

24 MR. ROSEMOND: All right.

25 (Whereupon, the trial in the matter of the State of

STATE OF SOUTH CAROLINA

County Of Oconee

Dan L. Temple  
320 Bypass 123 Room 103  
Seneca, SC 29672

---

**SEARCH WARRANT**

---

Date 07/24/2012

Officer Tim Hunnicutt

<b>COURT'S</b>
EXHIBIT NO. <u>1</u>
IDENTIFICATION/EVIDENCE
DKT. #
DATE: <u>3-18-13</u>

I CERTIFY THIS TO BE A  
TRUE COPY OF THE ORIGINAL.

W. J. Duncanson  
COURT CLERK / MAGISTRATE

STATE OF SOUTH CAROLINA

## SEARCH WARRANT

COUNTY OF OCONEE

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR OF THE MUNICIPALITY  
OF SENECA :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)  
TO BE SEARCHED

320 Bypass 123 Room #103 in Seneca, SC (34\*41'52.35"N / 82\*56'44.80"W). From the Seneca Police Department turn left onto E. N. 1<sup>st</sup> St. and travel approximately 1.4 miles. Take a left turn onto Bypass 123. Travel approximately 0.5 miles then take a right turn into the Town & Country Motel parking area. Room 103 has a red door and has the number 103 on it. Room 103 will be the third door past the office.; Further described as a one-story multi-unit brick building with red doors and a red metal roof. To be searched all persons, rooms, attics, and other parts within the premise of 320 Bypass 123 Room #103 including all garages, trash containers, vehicles, out buildings, and storage areas designated for the use of 320 Bypass 123 Room #103 and the curtilage of said property.

Now, therefore, you are hereby authorized to search the subject premises for the property described below and to seize such property if found:

## DESCRIPTION OF PROPERTY

Cocaine (and / or Crack Cocaine), a schedule II controlled substance, Lortabs, a schedule III controlled substance, counterfeit money and Paraphernalia, including but not limited to, containers of various types commonly associated with the storage of cocaine/lortabs/counterfeit money and implements used in administering or ingesting cocaine/lortabs as well as books and records associated with the purchase and sale of cocaine/lortabs. Also all items by personal property tending to establish the identity of persons in control of areas searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Dan L. Temple and Judge Derrick

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Seneca, S.C.

July 24, 2012  
6:46 pm

[Signature] (L.S.)  
Signature of Judge

STATE OF SOUTH CAROLINA

}

AFFIDAVIT

COUNTY OF OCONEE

Personally appeared before me, one T. Hunnicutt who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine (and / or Crack Cocaine), a schedule II controlled substance, Lortabs, a schedule III controlled substance, counterfeit money and Paraphernalia, including but not limited to, containers of various types commonly associated with the storage of cocaine/lortabs/counterfeit money and implements used in administering or ingesting cocaine/lortabs as well as books and records associated with the purchase and sale of cocaine/lortabs. Also all items by personal property tending to establish the identity of persons in control of areas searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

320 Bypass 123 Room #103 in Seneca, SC (34\*41'52.35"N / 82\*56'44.80"W). From the Seneca Police Department turn left onto E. N. 1<sup>st</sup> St. and travel approximately 1.4 miles. Take a left turn onto Bypass 123. Travel approximately 0.5 miles then take a right turn into the Town & Country Motel parking area. Room 103 has a red door and has the number 103 on it. Room 103 will be the third door past the office.; Further described as a one-story multi-unit brick building with red doors and a red metal roof. To be searched all persons, rooms, attics, and other parts within the premise of 320 Bypass 123 Room #103 including all garages, trash containers, vehicles, out buildings, and storage areas designated for the use of 320 Bypass 123 Room #103 and the curtilidge of said property.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON SUBJECT PREMISES

See Attachment A

Sworn to and Subscribed before me

*T. Hunnicutt*

this 24 day of July, 2012 }

Affiant

*[Signature]*  
(L.S.)  
Signature of Judge

Address 205 N. Depot St.

Seneca, SC 29678

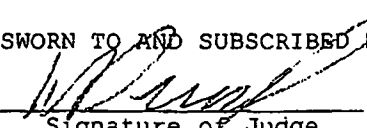
Phone (864) 885-2718

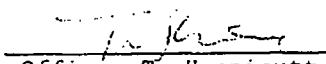
STATE OF SOUTH CAROLINA )      ATTACHMENT A  
 COUNTY OF OCONEE            )      AFFIDAVIT FOR SEARCH WARRANT

Personally appeared before the undersigned Officer T. Hunnicutt who on oath does depose and state:

1. That the affiant, Tim Hunnicutt, is an Investigator in the Narcotics Division with the Seneca Police Dept. and has been involved in numerous narcotics investigations and has been a sworn law enforcement officer for approximately eleven (11) years.
2. That during this time, the affiant has investigated various types of narcotic cases and has participated in the investigation, apprehension and arrest of numerous narcotic violators.
3. That on July 17, 2012 an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of crack cocaine from Dan Temple in the area of the 100 block of Bypass 123 Seneca, SC.
4. That on July 17, 2012 an undercover operative working under the direction of the Seneca Police Department/Oconee Sheriff's Office was distributed a quantity of crack cocaine from Dan Temple in the area of the 100 block of Bypass 123 in Seneca, SC.
5. That on July 23, 2012 an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of crack cocaine from Dan Temple in the area of the 1000 block of Bypass 123 in Seneca, SC.
6. Within the last 72 hours an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of lortabs from Dan Temple at 318 Bypass 123 in Seneca, SC. Temple was seen walking to and from the Town & Country Motel.
7. Within the last 72 hours an undercover operative working under the direction of the Seneca Police Department was given a counterfeit 100 dollar bill by Dan Temple at 318 Bypass 123. He asked the undercover operative to take it to a store and exchange it for real US currency. The undercover operative turned the counterfeit money over to agents. Agents gave the undercover operative 100 dollars in documented funds. The undercover operative met with Dan Temple at the Town & Country Motel and gave temple the documented funds. Temple was observed by agents exiting and re-entering room 103 at Town & Country Motel.
8. Based upon the Undercover Operation on the above listed dates, establishing a continuing criminal enterprise, the affiant believes illegal drugs, proceeds from illegal drug transactions, and drug paraphernalia and counterfeit money will be present at this residence.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 24th DAY OF July 2012.

  
 Signature of Judge

  
 Officer T. Hunnicutt

RETURN

I received the attached Search Warrant 7/24, 20 12, and have executed it as follows:

On July 25, 20 12 at 8:12 o'clock AM, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Dan Temple  
Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory taken pursuant to the warrant: 1 crack rock on end table,

822 cash, 13 orange capsule KH136, purple pill bottle containing crack, 12 yellow  
tablets (Xanax), 2 crack pipes, 5 pink tablets Z1150, clear baggie brown  
bag, gateway laptop SN - 91006108425, Acer Aspire one net-book  
SN 14113187876 Samsung Cell Phone Model SCH-R355C  
FCC ID A3L5CWR 353

This inventory was made in the presence of [Signature]  
AND Dan Temple

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 25

day of July 20 12

} \_\_\_\_\_  
(Signature of Officer Executing Warrant)

[Signature] (L.S.)  
Signature of Judge 345 pm

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Oconee )

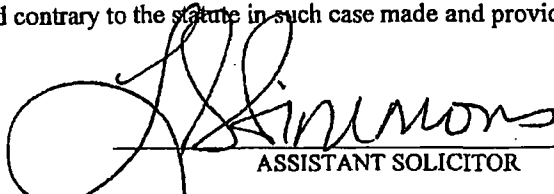
## INDICTMENT

At a Court of General Sessions, convened on JAN 23 2013, the Grand Jurors of Oconee County present upon their oath:

**DRUGS / POSS. OF OTHER CONTROLLED SUB. IN SCHED. I TO V -**  
**2ND OR SUB. OFFENSE**

That the Defendant, Dan Lavert Temple, on or about July 25, 2012, in Oconee County, South Carolina, did knowingly or intentionally possess a quantity of Xanax, a schedule IV controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 ASSISTANT SOLICITOR

DOCKET NO. 2013GS37 00185

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS  
JAN 23 2013

Term

THE STATE

vs.

Dan Lavert Temple

LSS

Indictment for

DRUGS / POSS. OF OTHER CONTROLLED SUB.  
IN SCHED. I TO V - 2ND OR SUB. OFFENSE

SC Code: 44-53-0370(d)(2)  
CDR Code: 0180

WITNESSES

Tim Hunnicutt, Seneca Police Dept.

*[Signature]*  
Frank Wooten

ARREST WARRANT NUMBER

2012A3720300037

ACTION OF GRAND JURY

True Bill

*[Signature]*  
Foreperson of Grand Jury  
Date Jan 23, 2013

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS **271**

COUNTY OF Oconee  
STATE VS.  
Dan Lavert Temple

INDICTMENT/CASE#: 2013GS3700184  
A/W#: 2012A3720300036  
Date of Offense: 7/25/2012  
S.C. Code §: 44-53-375(B)(3)  
CDR Code #: 3039

AKA: \_\_\_\_\_  
Race: B Sex: M Age: 41  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: SENECA, SC 29678  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
TO: poss. crack cocaine 3rd offense

in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 3016  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (defendant's initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST \_\_\_\_\_ 70224.  
Simmons, Lindsey Satterfield SC Bar# \_\_\_\_\_ Defendant Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; ~~the balance is suspended with probation for \_\_\_\_\_~~

~~months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.~~

CONCURRENT or  CONSECUTIVE to sentence on: 2013-GS-37-185 & 97-GS-37-89  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

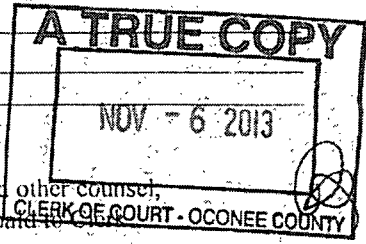
RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment

Recipient: \_\_\_\_\_

*Fine:	\$
§ 14-1-206 (Assessments 107.5%)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
Proviso 47.9 (Public Def/Prob)	\$500 \$
§ 14-1-212 (Law Enforc. Funding)	\$25 \$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150 \$ <u>150.00</u>
§ 50-21-114 (BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
Proviso 90.5 (SCCJA Surcharge)	\$5 \$ <u>5.00</u>
3% to County (if paid in installments)	\$ <u>8.40</u>
TOTAL	\$ <u>288.40</u>

Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund



Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to \_\_\_\_\_ during probation.

Clerk of Court/ Deputy Clerk Beverly H. Whitfield  
Court Reporter: Robins Hill

Presiding Judge [Signature]  
Judge Code: 103  
Sentence Date: 3/21/13

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 8, 2014



---

Carmen V. Ganjehsani  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 8, 2014



---

Carmen V. Ganjehsani  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT