

8
22518

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Michael G. Nettles, Circuit Court Judge

RECEIVED

JUN 14 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

VANESSA LAQUETTA FRAYER,

APPELLANT

APPELLATE CASE NO. 2015-001823

RECORD ON APPEAL

LAURA R. BAER
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

JENNIFER ELLIS ROBERTS
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (AUGUST 12, 2015)	1
MOTION <i>IN LIMINE</i>	5
PRELIMINARY INSTRUCTIONS.....	22
OPENING STATEMENT BY MS. LINDER.....	30
OPENING STATEMENT BY MR. KING	31
TESTIMONY	
PATRICK GILL	
Direct Examination by Ms. Linder	34
Cross Examination by Mr. King.....	43
STIPULATION RE: REDACTIONS	50
TESTIMONY	
CHRISTOPHER SINGLETON	
Direct Examination by Ms. Linder	53
Cross Examination by Mr. King	64
SEAN ENGLES	
Direct Examination by Ms. Linder	71
Cross Examination by Mr. King	82
LINDA WILSON	
Direct Examination by Mr. Maynor	90
SUSAN PAYNE	
Direct Examination by Mr. Maynor	94
ASHLEY EARL	
Direct Examination by Mr. Maynor	97
MOTION FOR A DIRECTED VERDICT.....	105
RULING BY THE COURT.....	106

CHARGE CONFERENCE.....	109
CLOSING ARGUMENT BY MS. LINDER	114
CLOSING ARGUMENT BY MR. KING.....	124
CHARGE ON THE LAW.....	128
VERDICT	141
SENTENCING	150
INDICTMENT	151
CERTIFICATE OF COUNSEL.....	153

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT 1 (DVD)**

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
STATE OF SOUTH CAROLINA,	)	CASE NO. 2014-GS-10-07082
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
VANESSA FRAYER,	)	
	)	
DEFENDANT.	)	

August 12, 2013

Charleston, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge; and a Jury.

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

Stephanie Linder, Assistant Solicitor
For the State

Scott Maynor, Assistant Solicitor
For the State

Jason King, Esquire
For the Defense

Shirene C. Hansotia, Esquire
For the Defense

Phyllis Norton, CVR *Nationally Certified Verbatim Court Reporter*
636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
PNorton@sccourts.org

I N D E X

(SW) - DENOTES STATE'S WITNESS

(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

Jury Voir Dire	--	5
Jury Selection	--	11
Pretrial Motion - Redact Parts of Video	--	20
Motion in Limine	--	35
Opening Statement by Ms. Linder	--	45
Opening Statement by Mr. King	--	46

WITNESSES(SW) Patrick Gill:

Direct Examination by Ms. Linder	--	49
Cross-Examination by Mr. King	--	58

(SW) Christopher Singleton:

Direct Examination by Ms. Linder	--	68
----------------------------------	----	----

(SW) Detective Sean Engles:

Direct Examination by Ms. Linder	--	86
Cross-Examination by Mr. King	--	97

(SW) Linda Wilson:

Direct Examination by Mr. Maynor	--	106
----------------------------------	----	-----

(SW) Susan Payne:

Direct Examination by Mr. Maynor -- 109

(SW) Ashley Earl:

Direct Examination by Mr. Maynor -- 112

Motions following the State resting

Directed Verdict -- 120

Mere Presence -- 127

Closing Argument by Ms. Linder -- 128

Closing Argument by Mr. King -- 139

Jury Charge -- 143

Verdict -- 161

Sentencing -- 170

CERTIFICATION OF TRANSCRIPT -- 171

Look for an original signature in blue ink on the certification sheet to verify that the court reporter has certified the transcript you are viewing.

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

S T A T E
E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	DVD	5	74
2	Lab Report 6/18/14	5	117
3	Aerial 11 x 17 Map	5	57
4	Drugs	5	118

D E F E N S E
E X H I B I T S

DEFENDANT'S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Confidential Inf. Payment Form	5	--

C O U R T
E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Jury Note	160	--

1 This is one time where you don't have to answer your
2 spouse or your significant other. You tell them that you
3 have been ordered not to discuss it.

4 At the conclusion of your service here this week you
5 will be happy -- you will be free to talk to anybody about
6 the case as you see fit. But until that time it would be
7 inappropriate to do that.

8 I am going to ask that you return to the jury room.
9 And once again, do not discuss the case. Everyone remain
10 seated as the jury exits the courtroom.

11 (WHEREUPON, jury exits courtroom 8/12/15, 10:15 a.m.)

12 THE COURT: Anything from the State before we recess
13 for five minutes?

14 MS. LINDER: Nothing from the State.

15 THE COURT: Anything from defense?

16 MR. KING: No, Your Honor. I just didn't mention this
17 in chambers, I do have a brief pretrial motion. It wouldn't
18 involve any testimony but it just would involve maybe
19 redacting parts of the video if we could address that at
20 some point.

21 THE COURT: Yes, we can do that right now if you would
22 like.

23 MR. KING: Yes, Your Honor. In the video it is about a
24 23-minute video, and the informant is dropped off at a
25 staging location and walks a few blocks to a house.

1 On his way there he encounters a man, and I am asking
2 to redact -- really redact the portions before and after he
3 has gone into the house.

4 At the beginning he runs into a man on the street and
5 they have a discussion. There is talk about -- I think the
6 informant is asking him to take him to a lady's house to buy
7 some drugs. So there is a person on the video and I
8 think that would involve hearsay, the confrontation clause;
9 and also I object under Rule 403 that any probative value is
10 outweighed by unfair prejudice.

11 There are some other things that are just not relevant
12 that, you know, he sees different people on the way there
13 and asked do you have anything, you know, I think just
14 looking for drugs. But the specific thing before the
15 alleged transaction is this man that is met that the
16 discussion has happened.

17 THE COURT: Okay. I will be glad to hear from the
18 State with regard to the individual before the buy where
19 there is a discussion about ---

20 MS. LINDER: Your Honor, as far as the buy video is
21 concerned I think as far as what happens I think Mr. King
22 wants something redacted or muted before the buy and then
23 something done after. As far as what is done before, Your
24 Honor, I think is important to show the entire thing.

25 What happens on it is this case there are two reasons -

1 and we will have testimony from the officers. Sometimes you
2 target a person, you make a phone call, you set up a buy.
3 And sometimes due to incidents happening in the general you
4 just kind of send someone who can buy from someone, anyone;
5 and that is what is done in this case.

6 The defendant -- or the CI in this case -- by playing
7 that it also shows why the narcotics, this specialized unit,
8 didn't do that step of planning and having a phone call and
9 making it happen. Otherwise, it just looks like he is
10 randomly walking around.

11 Also it helps explain why during the roving perimeter
12 of other narcotics individuals they didn't know exactly
13 where he was going. They knew a general area. He actually
14 went down the street, went through a cut, went on a
15 different street.

16 So it also explains why maybe we do not have a roving
17 perimeter unit who can get in and actually see them walking
18 into a certain place.

19 Furthermore, that conversation what happens is the CI
20 walks down one street, turns down another, sees a man and
21 says hey do you know where I can get any dope around here.
22 And the man talks about, oh, well yeah, well, I am waiting
23 for this guy in this white car; this guy in this white car
24 has dope, you know, but I am still waiting for him. So it
25 is like just kind of looking around for stuff.

1 The CI did not say I know there is a lady, I know where
2 she lives, can you take me to her. He is just kind of
3 talking to whoever on the street trying to buy drugs from
4 whoever he can. Because it is a general area.

5 And then furthermore I think it is important because I
6 am uncertain of exactly what the argument will be from the
7 defense about this matter; however, in this case \$60 were
8 given to buy some crack, but he was shorted. He was shorted
9 on the quantity. It was not point six. He was shorted by
10 about half.

11 And I think it is important because if you have a very
12 trained ear and you listen to that video many times you hear
13 on the walk that the lady shorts you. It said -- it says --
14 what does he say. He said her 20's look like 15's.

15 I think that is very important because I don't want my
16 CI who used to have a drug issue who has a record I don't
17 want there to be any whiff of oh, well, he could have that,
18 he used it, he snuck it for himself. And I think that that
19 part if they can understand it can help explain.

20 I don't think that that says -- nobody says I bought
21 from her five times before. Nobody says I bought this type
22 of drug from her before. Nobody says any of that. And I
23 think to cut off a vast majority of the beginning sound it
24 would just look like a man just kind of wandering around.

25 THE COURT: Does the video show the buy itself?

1 MS. LINDER: Yes. It shows -- it shows her face on it,
2 yes. But there's also multiple faces on it.

3 THE COURT: Right.

4 MS. LINDER: So you hear a lot of people talking in
5 there.

6 THE COURT: I understand what you're saying, but I am
7 not going to allow the voices of somebody who is not in this
8 to talk because they have got a right to cross-examine them.

9 Obviously if you were able to locate them and bring
10 them in you could do that. But -- and I don't think it
11 makes any difference one way or the other, but I am going to
12 order that you mute the conversation with the people, the
13 bystanders.

14 MS. LINDER: All right. Then, Judge, I would ask for
15 Mr. King -- because this guy he talks to a fellow and -- I
16 am trying -- how he walks -- you see a one-armed guy on a
17 bicycle go by and then he turns on a street. He talks to
18 another guy. They start walking. They are talking. They
19 talk all the way up until the door.

20 And at the door you see the one-armed bicycle guy again
21 and you see all these other people who were there. And I
22 think it is going to be very tricky of exactly when to cut
23 off. And I want to make sure Mr. King and I are on the same
24 page and the court is aware of exactly what second we are
25 supposed to be hitting mute or what second we can unmute it.

1 THE COURT: It is when third parties are talking.

2 MS. LINDER: I understand that, Judge. When the buy is
3 taking place you hear noise in the background of other
4 people's conversations.

5 THE COURT: Okay.

6 MS. LINDER: I don't have any way of ---

7 THE COURT: If they are not -- if it is just noise you
8 don't have to mute that, but -- and of course I haven't seen
9 it ---

10 MS. LINDER: Right.

11 THE COURT: --- and don't know the exact. You know, in
12 a vacuum it is very difficult to say. But it seems like to
13 me some small amount beforehand to buy and then a small
14 amount afterwards, that is the relevant stuff. I don't
15 know -- I might be missing something, but I haven't seen the
16 video.

17 MS. LINDER: Okay. All right. Then I will mute the
18 part where he is talking to the man on the way to do the
19 buy.

20 THE COURT: Okay. Is there any other request?

21 MR. KING: There are a couple more, Judge. Now once
22 they are inside the house where the alleged transaction
23 takes place -- this might get a little trickier. But there
24 is another guy who walks in who appears to be talking as
25 well. And this is sort of right at ---

1 THE COURT: What does he say?

2 MR. KING: It is kind of difficult to understand, but I
3 mean it is possible that he is asking to buy drugs as well.
4 It is kind of hard to understand exactly what is being said;
5 but, you know, ---

6 THE COURT: Okay. Well, if ---

7 MR. KING: --- but I am assuming what ---

8 THE COURT: If you can't really -- and that really is
9 not prejudicial to her and it's just -- I'm not going to --
10 and if you can't understand it I am certain the jury can't.

11 Really the issue is whether or not she sold the dope
12 and whether or not it is on video. So if that's an audible
13 conversation between the confidential informant or with the
14 defendant then -- and if it is just garbled up conversation
15 then I am not going to require it.

16 MR. KING: It is not very loud, but you can understand
17 some of what is being said.

18 THE COURT: Does he say anything about your client?

19 MR. KING: He approaches her, Your Honor.

20 THE COURT: Oh, okay.

21 MR. KING: My -- my translation would be -- I beg the
22 court's indulgence. It sounds like he says I just sold
23 something, I wanted to get a dime but all I got is seven.
24 It sounds like he may be offering trying to buy drugs for
25 seven dollars -- ten dollars for seven dollars. I can sort

1 of get that out of it. And, you know, one could argue that
2 he is there trying to buy drugs for seven dollars in the
3 middle of this alleged transaction.

4 THE COURT: And looking at the video you might could
5 conclude that he was trying to do that with the defendant?

6 MR. KING: Yes. Yes, Your Honor.

7 THE COURT: Okay. Well, I am not going to allow that.

8 MS. LINDER: Judge, I think we may need to try to watch
9 the video because ---

10 THE COURT: Let's do that. Let's ---

11 MS. LINDER: I am unaware of how to -- I am unaware
12 of how to mute everything especially when it is in the
13 middle -- the room is like the size of this table and there
14 are about six people in there.

15 I am not sure how to mute one part and not another once
16 they are in the house. It is one thing when they are on the
17 street on the way. But ---

18 THE COURT: What transpires between -- what do you
19 maintain transpires between the defendant and the
20 confidential informant?

21 MS. LINDER: The confidential informant goes up to her
22 and she asks -- he asks her for a 60. She is then telling
23 other people who are in the house to don't disrespect this;
24 and she is kind of giving orders as she is sitting on a
25 chair, and all these other people are wondering around. And

1 she is ---

2 THE COURT: What she says is admissible.

3 MS. LINDER: Right. And then she is doing something
4 with the drugs. The CI is kind of backing out. People are
5 leaving the house, coming back into the house. They are
6 kind of all over. There is -- different people are saying
7 things on the video. I don't know how to -- it is kind of
8 like she is running court when you watch it.

9 THE COURT: I will tell you what we are going to do is
10 we are going to watch it ---

11 MS. LINDER: Okay.

12 THE COURT: --- and I will tell you how we are going to
13 do it.

14 MS. LINDER: That is great, Judge.

15 THE COURT: Very good.

16 MS. LINDER: It is difficult with just trying to
17 explain what happened.

18 THE COURT: Very good.

19 MS. LINDER: Thank you.

20 THE COURT: Let's watch.

21 MR. KING: And, Your Honor, the final thing, after the
22 CI leaves the house he is walking back. He makes what
23 appears to be a phone call to I guess to the police, his
24 contacts. And he makes some statements there about I think
25 he is saying that she served me in the house. So he is

1 making some hearsay statements on the phone to police as he
2 is walking back.

3 THE COURT: Now is he going to be here?

4 MR. KING: The informant?

5 THE COURT: Yes.

6 MS. LINDER: He is going to be here. However, Judge,
7 again I would ask so much of showing what a CI buy is is
8 showing that the police is instructing the CI certain things
9 to do.

10 And the CI in this case is constantly singing on his
11 phone, talking on his phone. He calls Engles Mamma, you
12 know, to try and make it not look weird as he is saying I am
13 on Athens. And he is telling locations as he is going.

14 So much of this is showing that the narcotics unit is
15 running this buy. And if you take away everything that the
16 CI is doing directly as a result of being directed by the
17 police then I think it kind of guts everything.

18 He is here. He is going to testify. However, again, I
19 mean it was a year-and-a-half ago. I think that is more
20 contemporaneous to everything, and I think that shows the
21 whole video. He is not talking to anybody else.

22 THE COURT: Well, my point -- my reason for asking if
23 he was going to be here and if he is going to testify then
24 he can ask him about what he says on the video.

25 MS. LINDER: Yes, Judge, he can cross him on all of

1 that.

2 THE COURT: Well, that's I am going to let that in.

3 MS. LINDER: Judge, we are on our second laptop so far
4 this morning. She is getting it set up where if I can play
5 it on the defense one I will.

6 If I can approach to get the video.

7 THE COURT: Yes.

8 (WHEREUPON, break was had to set up video.)

9 (WHEREUPON, play video 8/12/15, 10:32 a.m.)

10 THE COURT: All right. That conversation, anybody got
11 something, you can't even hear what the other fellow said;
12 so I am going to allow that in.

13 Was that one of the conversations you were talking
14 about?

15 MR. KING: That was one but not my main ---

16 THE COURT: Okay, well that one is coming in. You
17 can't hear what the other fellow says. He says you got
18 something. All right.

19 MR. KING: In about a minute is the one that - the one
20 that I am concerned with, Your Honor.

21 THE COURT: Okay. Very good.

22 (WHEREUPON, resume video 8/12/15, 10:42 a.m.)

23 THE COURT: Okay.

24 (WHEREUPON, video paused 8/12/15, 10:45 a.m.)

25 THE COURT: All right, this conversation is to be

1 muted.

2 MS. LINDER: Okay.

3 MR. KING: It roughly starts about seven minutes and
4 forty-five seconds.

5 MS. LINDER: From here where they are walking or ...?

6 THE COURT: Well, the gentleman he was talking to him,
7 all the conversation between the CI and this gentleman is to
8 be muted.

9 MS. LINDER: It continues, Judge, as they are walking
10 towards the house. They are walking together.

11 THE COURT: Well, it sounded as though they were. But
12 the entire conversation.

13 THE COURT: We can go ahead.

14 (WHEREUPON, video resumed 8/12/15, 10:46 a.m.)

15 (WHEREUPON, stopped video 8/12/15, 10:51 a.m.)

16 THE COURT: The statements made by this fellow who is
17 supposedly making a buy, his voice is to be muted.

18 MS. LINDER: Okay, Judge, I want to look and make this
19 seconds to absolutely. I would say that when she is saying
20 I am making a 60 she is talking about the CI just ordered
21 the 60 that is her -- we can mute the him asking, but I
22 would ask that we can unmute it for her to be saying I am
23 making 60 because that ---

24 THE COURT: That's not a problem.

25 MS. LINDER: Okay.

1 THE COURT: It is what this gentleman said.

2 MS. LINDER: Okay.

3 THE COURT: All right. And the fellow who was acting
4 in a boisterous manner was walking in, what he has to say
5 can be muted as well. But what she says about that can be
6 let in.

7 MS. LINDER: Okay.

8 (WHEREUPON, resumed video 8/12/15, 10:51 p.m.)

9 (WHEREUPON, stopped video 8/12/15, 10:52 p.m.)

10 MR. KING: And, Your Honor, just that -- the other lady
11 there making statements as well I guess I would move to
12 exclude where she says let me wrap it up. The other lady in
13 the house thinks she is smoking a cigar or something. I
14 would move to exclude that as well.

15 THE COURT: All right. I couldn't even tell what she
16 was saying. I didn't know whether that was a lady or a man.
17 But she -- what did she say?

18 MR. KING: I think she says let me wrap that up for
19 you. I can ---

20 THE COURT: To the extent you can mute that, mute that
21 as well.

22 MS. LINDER: Judge, we will -- we will absolutely try
23 our best. It is tough when he is talking to her and the CI
24 is talking to the defendant and then somebody else is
25 yelling something and then -- we will absolutely do our best

1 trying to get all the seconds down according to what Mr.
2 King says and the court orders.

3 (WHEREUPON, video resumes and pauses 7/12/15, 10:53 a.m.)

4 THE COURT: I mean the buy has already taken place.
5 What do we need the rest of this for?

6 MS. LINDER: Judge, I would say the CI walks back
7 through the cut and then the CI is by himself and he is
8 reporting back to Engles the location, everything. He is
9 saying what happened.

10 And I think that that shows that the City is showing
11 they are controlling the situation, they are directing of
12 the situation and the CI is obeying their orders by, you
13 know, by telling them their location, by telling them what
14 is happening, by telling all of those so they know also
15 where the perimeter is having to go to try and keep him
16 surrounded as best as possible if distraction is needed.

17 THE COURT: How much further have we got to go?

18 MR. KING: It is I think about seven more minutes, Your
19 Honor.

20 THE COURT: Okay.

21 (WHEREUPON, video resumes 8/12/15, 10:55 a.m.)

22 (WHEREUPON, video paused.)

23 THE COURT: Is there anything from this point forward
24 that you have an objection to?

25 MR. KING: I think that is about it. I think at this

1 point he just walks back and ---

2 THE COURT: Okay. Well, good.

3 MR. KING: --- meets back up.

4 THE COURT: All right. Very good. To the extent these
5 people that I've deleted would not be present and would
6 violate the confrontation clause we are going to go ahead
7 and do that.

8 But really taken in the big picture you really can't
9 understand what any of them are saying really. So it makes
10 no difference. But I am going to require that they delete
11 it. And we will proceed forward in that fashion. Is there
12 anything else?

13 MR. KING: No, Your Honor.

14 MS. LINDER: Judge, I would just ask that -- we do not
15 have the ability to alter it so we are just going to have to
16 be muting it.

17 So I would ask that we do openings. I could do my
18 first witness. My next witness would be the CI. So I would
19 ask that over the lunch break Mr. King and I can agree on
20 what seconds and everything for the muting.

21 THE COURT: Okay.

22 MS. LINDER: So if we could just do our openings, have
23 that one witness and then we will make sure that we agree on
24 like exactly what seconds to achieve what the court has
25 ordered.

1 THE COURT: All right. We certainly won't play the
2 video before lunch.

3 MS. LINDER: Right. Thank you, Judge.

4 THE COURT: Very good. All right. Are y'all ready for
5 the jury?

6 MS. LINDER: Yes, Judge.

7 THE COURT: We are ready.

8 (WHEREUPON, pause awaiting jury.)

9 MS. LINDER: Judge, just in an abundance of caution I
10 guess I would like to do a motion in limine in response to
11 your ruling. We would just ask that the defense not try to
12 go into that the CI -- he can ask the CI any questions he
13 wants. Absolutely. But not make arguments for the jury
14 that potentially the CI was -- was buying drugs or trying
15 to -- trying to put sound to what we were instructed to
16 mute, in other words.

17 THE COURT: I have no idea what you just said.

18 MS. LINDER: Okay. What I don't want is -- and I don't
19 think Mr. King would, but I understand he is representing
20 his client. I don't -- I don't want it to get to a point
21 where Mr. King is kind of filling in the muted spaces in the
22 video by arguing to the jury like, you know, he could have
23 been talking to that guy on that street and he could have
24 bought crack from him. We don't know. I mean I don't want
25 him to try and make any of those kinds of arguments.

1 THE COURT: Well, you -- I will require that you make a
2 contemporaneous objection in that regard. I don't think that
3 he would do that, but if he does I want you to object.

4 MS. LINDER: I will, Judge.

5 THE COURT: Very good.

6 MR. KING: The only thing I can think of, Judge, is I
7 mean I had thought it is possible during that long walk
8 (pause) ---

9 (WHEREUPON, two jurors begin to enter courtroom.)

10 THE COURT REPORTER: Judge.

11 THE COURT: Yes.

12 (WHEREUPON, jurors were escorted out of courtroom.)

13 THE BAILIFF: Sorry, Judge.

14 THE COURT: Go ahead.

15 MR. KING: I had thought previously, you know, it could
16 be an argument. They searched the CI beforehand to see if
17 he has drugs. You know, I guess it is possible they could
18 pick something up along the way. I hadn't intended to argue
19 that he would have bought it from anybody else.

20 I mean if the CI wanted to set somebody up, you know,
21 during that long walk there might be some places where he
22 could have stashed it and grabbed it or something.

23 But I wouldn't be implying that he bought it from
24 anybody on there. So I mean I think -- I think muting it
25 would resolve that. But if that would open the door to what

1 we have excluded I can stay away from that too.

2 THE COURT: Very good. I will ask that you object
3 contemporaneously if he says anything that you find to be
4 objectionable.

5 MS. LINDER: Thank you.

6 THE COURT: Very good. We are ready for the jury.
7 (WHEREUPON, jury enters courtroom 8/12/15, 11:03 p.m.)

8 THE CLERK: All jurors are present, Your Honor.

9 THE COURT: Mr. Foreman, ladies and gentlemen of the
10 jury, we are about to begin the case of the State of South
11 Carolina versus Vanessa Laquetta Frayer.

12 She has been accused of distribution of cocaine base.
13 And as I mentioned to you, this indictment bears absolutely
14 no evidentiary value whatsoever. And to these charges Ms.
15 Frayer has pled not guilty.

16 And any time someone in the United States of America is
17 accused of a crime and they plead not guilty certain
18 constitutional rights come into play. The first of which is
19 Ms. Frayer is presumed to be innocent. It is like a
20 protective cloak that guards her as an American citizen
21 throughout this trial. She is presumed to be just as
22 innocent as me or you, and that protective cloak is with her
23 throughout the trial of this case on into the deliberation
24 process.

25 And she is presumed to be innocent only to the extent

1 that you and your deliberation would find that the State has
2 proven her guilty beyond a reasonable doubt.

3 The second constitutional safeguard is the State bears
4 the burden of proof. There are certain elements to the
5 offense of distribution of cocaine base, and the State is
6 going to be required to prove each and every one of those
7 elements.

8 And there are some practical reasons behind that is
9 that they are the ones with the wherewithal to gather all
10 this evidence. They are the ones bringing the charges.
11 They are going to be required to prove it.

12 There are some Third World countries where you can be
13 accused of a crime and hauled up before a court and they say
14 prove your innocence. We all know that quite often it is
15 impossible to prove your innocence. You aren't required to
16 do that in the United States of America.

17 They are the ones that bear the burden of proof, and
18 they have to prove each and every element of this offense.
19 The defendant need not testify; he need not present any
20 evidence whatsoever. The burden rests solely on this date.

21 The third constitutional safeguard is that the State
22 has to meet the highest burden of proof. Many of you have
23 served on a civil jury before where you're -- a car accident
24 would be a good example, a medical malpractice, a contract
25 dispute, where essentially you are arguing over money; and

1 those type proceedings imagine with me if you will the
2 scales of justice where the lady is blindfolded from all
3 bias and all prejudice. When the proceedings start the
4 scales are even. And in those cases if the plaintiff were
5 to tilt the scales ever so slightly in their favor then they
6 would prevail, a preponderance of the evidence, ever so
7 slightly, more likely than not. Because in that case really
8 all you are talking about is money.

9 But in this case we are talking about very important
10 constitutional rights and liberties, and the State has to
11 meet the highest burden of proof known to our judicial
12 system which is proof beyond a reasonable doubt which I
13 envision as locking up the scales. Proof beyond a
14 reasonable doubt I will define that in greater detail at the
15 conclusion of the case.

16 The -- we are going to start this proceeding. Many of
17 you have served on a jury before. Many of you have watched
18 television and seen proceedings on television.

19 I just kind of want to tell you what to expect. But
20 Ms. Linder is going to have an opportunity to stand before
21 you and kind of tell you a little about this case, a little
22 bit about the law and what she intends to prove.

23 And then the defendant although they are not required
24 to give a opening statement they are going to be given an
25 opportunity to do that. And I anticipate that they will

1 talk to you a little bit about the case and their defenses.

2 After that then we will begin the taking of evidence in
3 this matter. Evidence takes a number of different forms.
4 The first and perhaps most voluminous is oral testimony that
5 comes from the witness stand.

6 Witnesses will get up on the witness stand. They will
7 swear to tell the truth, the whole truth and nothing but the
8 truth. And then the State will have an opportunity to ask
9 them some questions. And then the defense will have an
10 opportunity to cross-examine them.

11 The State goes first in the presentation of evidence.
12 Evidence takes the form of oral testimony, stipulations of
13 counsel, documents that are entered into evidence. All of
14 those are going to be there for your consideration.

15 The State goes first. The defendant, although they are
16 not required to do anything, will be given an opportunity at
17 the conclusion of the State's case to present any evidence
18 that they might have to support any defense that they might
19 allege. But once again, they are not required to do that.

20 Mr. Foreman, ladies and gentlemen of the jury, you and
21 I have certain distinct roles in this matter. My job is to
22 be the trier of the law, and I am required to determine what
23 evidence you get to hear. I am to preside over the
24 proceeding, and I am going to charge you the law.

25 You are judges in a way as well. You are the judges of

1 the facts. You're the ones that listen to the evidence and
2 determine what the truth is.

3 Every case that is tried in this court or any court in
4 the United States of America there is always a conflict with
5 regard to the facts.

6 There is a very rare occasion where everybody agrees on
7 the facts, but there's differing inferences to be drawn from
8 the facts. But in both cases there is a question of fact
9 that you are going to be called upon in your collective
10 wisdom to resolve. And the law doesn't allow me to have an
11 opinion about the facts. That is going to be completely
12 your province, sole and exclusive duty to determine what the
13 truth is in this case.

14 Once you have heard all of evidence in your
15 deliberation process you are going to determine what the
16 truth is and apply it to the law as I charge it to you.

17 Ladies and gentlemen of the jury, as the triers of fact
18 you are necessarily going to be called upon to determine the
19 credibility of witnesses.

20 I will charge you the law in greater detail, but I want
21 to tell you from the very beginning that you are going to be
22 called upon to determine the believability of witnesses.

23 I will tell you from the outset that you are not to
24 leave your common sense at home. We all know how to
25 evaluate whether someone is telling us the truth or not in

1 our everyday lives. Ask yourself what opportunity these
2 people had to observe the things to which they are
3 testifying. Ask yourself whether or not what they say is
4 corroborated by other evidence or whether or not it is
5 contradicted.

6 You can believe one witness against many, many against
7 one, or none of what a witness says. Ask yourself whether
8 or not this particular witness has an interest or bias or
9 prejudice.

10 In addition to that, you know, any of you you have
11 raised teenage children. Sometimes it is just as important
12 to watch the manner in which they tell you as opposed to
13 what they tell you. Their demeanor.

14 And the law says you can take that into consideration
15 too, whether or not they look like they are telling a lie or
16 telling the truth. You have an opportunity to do that. I
17 will charge you in greater detail with regard to that at the
18 conclusion of the case.

19 There is always in every case that has been tried you
20 will hear the lawyer stand up and say I object, I have a
21 question of law I would like to take up with the court.

22 The reason for that is this is a procedure -- or
23 proceeding that is governed by the rules of evidence and the
24 rules of criminal procedure, and that's my job is to enforce
25 those rules. And quite often when they make an objection it

1 requires I comment on the facts. But of course as I have
2 already told you, that is your job; and it is inappropriate
3 for you to hear anything that I have to say about the facts.

4 At the conclusion of the case after you have reached
5 your verdict if there is a particular point of law that you
6 had an interest in and if I can remember what it was I will
7 be happy to share it with you at that time. But until then
8 it is inappropriate for y'all to hear those conversations.
9 So it is not as if I'm trying to keep something from you.
10 But that is the reason why those conversations take place
11 outside of your presence.

12 At the conclusion of the presentation of all of the
13 evidence the lawyers will have an opportunity to stand up
14 before you and give a closing argument.

15 And those are very similar in form to the opening
16 statements. They will stand up before you and talk to you.
17 They are summary in form.

18 But the closing arguments are truly argumentative in
19 nature because at that point in time you will have heard all
20 of the evidence and they can point to the evidence that
21 supports their relative theory.

22 These are very fine lawyers. They have been dealing
23 with the case for a long time. And although what they say
24 is not evidence it will aid you immensely in your
25 deliberation process, so pay very close attention.

1 I am going to ask and order and direct that you not
2 take notes given the subject matter of this case and the
3 length of the case. So it is going to require that you pay
4 very close attention.

5 I will also admonish you that it is very important that
6 you pay very close attention because this is an important
7 case. It is an important case to the State of South
8 Carolina. It is an important case to the defendant. It is
9 an important case to you because you have taken a solemn
10 oath to listen to the evidence, to find out what the truth
11 is and apply it to the law.

12 One of the things that you need to be aware of is that
13 if I make an error with regard to my job as a trier of law,
14 if I let into evidence what shouldn't come in or vice versa
15 or if I charge the law in an inappropriate way quite often
16 those errors can be corrected very easily; but one thing you
17 need to understand is if there is ever an error in the
18 findings of fact quite often those never can be corrected.
19 So that is why it is important for you to pay very close
20 attention as this case proceeds because it is a very
21 important matter.

22 You are participating in a time-tested system. You
23 have taken a very solemn oath to listen to the evidence and
24 apply it to the law. So pay very close attention. These
25 are important matters.

1 I know that y'all probably have things that you would
2 rather be doing this week, but I can promise you there is
3 not anything more important than what you are doing here
4 today. So pay very close attention and let's proceed
5 forward with very serious minds.

6 Ms. Linder, you are recognized.

7 MS. LINDER: Thank you, Your Honor. May it please the
8 court.

9 THE COURT: Yes.

10 **OPENING BY MS. LINDER:**

11 Good morning, ladies and gentlemen. The case that you
12 are going to be listening to today and maybe into tomorrow
13 is a fairly simple and straightforward one. Drugs are
14 illegal. It is illegal to possess drugs. It is illegal to
15 possess drugs with the intent to distribute. And it is
16 illegal to distribute drugs. In the State of South Carolina
17 cocaine base, also known as crack, is considered a drug.
18 That is why we are all here because back on June the 13th of
19 2014 this defendant, Vanessa Frayer, distributing cocaine
20 base crack here in Charleston County.

21 You are going to hear from a bunch of people on the
22 stand about this case. And you will hear that back on June
23 13th of 2014 the City of Charleston Police Department used
24 their narcotics unit. They had developed a confidential
25 informant. He was wired up with audio and video equipment.

1 And he went into an area to purchase drugs. He ended up
2 purchasing drugs from this defendant, Vanessa Frayer.

3 All that was on audio and video. Those drugs were
4 later tested by the lab and indeed came back as cocaine base
5 crack. Very simple and straightforward.

6 I would ask that you pay close attention over the next
7 day or day-and-a-half. And at the end I will address you
8 again and ask you to render a verdict of guilty for Vanessa
9 Frayer for distribution of cocaine base. Thank you.

10 THE COURT: Mr. King, you are recognized.

11 MR. KING: Thank you, Your Honor. May it please the
12 court.

13 **OPENING BY MR. KING:**

14 This is something that the police were in control of.
15 There is going to be a video in this case. Most of the time
16 in criminal cases there are videos, maybe a surveillance
17 video that is going to capture whatever it happens to
18 capture. If there is a robbery in the street and there is
19 City surveillance, if there is some sort of robbery in a
20 store and there are surveillance cameras, it captures what
21 it can capture and they show you what they can show.

22 Well, the difference in this case is that the police
23 are in complete control of this. This is something that
24 they tried to set up.

25 They equipped this informant with sophisticated audio

1 and video equipment and they said they are not going to be
2 monitoring this.

3 So the police are in control of this, and if the State
4 is asking you to convict someone when they are in control
5 then there should really be no doubt. There should really
6 be no speculation about what is going on in the video. And
7 it is not clear.

8 What you would expect to see is a video of Ms. Frayer
9 putting drugs in this informant's hand and the informant
10 putting money in her hand.

11 They would mark the money. They would take and
12 photocopy it and then take the serial numbers down. You
13 know, they should be able to show you that she was in
14 possession of that money that was marked. And they are not
15 going to be able to show you that she was in possession of
16 any money.

17 And they are dealing with confidential informants which
18 can be kind of a dirty business because you are dealing with
19 people, not police officers, not people who are trained or
20 anything but just people who go out on the street and then
21 they try to get them to bring back drugs.

22 This guy that you are going to hear from gets paid
23 every time he brings something back for the police. And he
24 may have some credibility problems that you may hear about.

25 Ms. Frayer was not arrested that day, so they can't say

1 that they arrested her and they found this marked money in
2 her pocket. They didn't arrest her as long as three months
3 later.

4 So as the judge told you, the burden of proof in this
5 criminal case is very high. It is the highest burden we
6 have in our court system. And we must hold them to this
7 burden, and that is what we ask you to do.

8 THE COURT: Thank you, Mr. King. Mr. Linder, you are
9 recognized and you may call your first witness.

10 MS. LINDER: Thank you, Your Honor. The State called
11 Patrick Gill.

12 THE CLERK: This way, sir. Up here, please.

13 THE COURT: Please follow the clerk's instruction. I
14 am going to ask you to place your left hand on the Bible and
15 raise your right hand as the clerk administers the oath.

16 (WHEREUPON, the witness was duly sworn.)

17 THE COURT: Have a seat in the witness chair. Pull up
18 real close to that microphone. I am going to ask that you
19 speak loudly, clearly, and slowly in order that we can hear
20 everything that you have to say. And let's start with your
21 full name, please, sir.

22 MR. GILL: Patrick Gill.

23 THE COURT: Very good.

24 Ms. Linder.

25 MS. LINDER: Thank you, Your Honor.

1 DIRECT EXAMINATION BY MS. LINDER OF PATRICK GILL:

2 Q. Good morning. Can you please tell the jury what is
3 your occupation.

4 A. I'm a narcotics detective with the City of Charleston
5 Police Department.

6 Q. And what do your duties include with narcotics?

7 A. On day-to-day we investigate narcotic complaints or we
8 either have proactive narcotics duties where CI's give us
9 information or we have complaints in certain areas and we
10 seek out local to mid-range to high-level drug dealers on a
11 day-to-day.

12 Q. And how long have you been employed by the City?

13 A. Six-and-a-half years.

14 Q. Can you tell the jury a little bit about your
15 education, your training, your experience.

16 A. I graduated from the Citadel. I have a bachelor's in
17 criminal justice. I went to the South Carolina Criminal
18 Justice Academy. Like I said, I have been a cop for about
19 six-and-a-half years. I have been with the narcotics unit
20 for about three years now.

21 Probably have over 100 hours of training in reference
22 to surveillance, CI work, interviewing people, narcotics
23 investigation, narcotics work, just to name a few.

24 Q. And were you working on June the 13th of 2014?

25 A. I was.

1 Q. Did you have the occasion to become involved in the
2 investigation of this case, the State versus Vanessa Frayer
3 in any way?

4 A. Yes, I was.

5 Q. And how did you become involved in that?

6 A. When we all have -- whoever is available at the day or
7 the time of the buy, a controlled buy, we send out
8 communication with each other and we all show up for safety
9 reasons for either the informant or other officers and we
10 have a briefing with the control -- with the case agent.

11 Q. So you are a part of the team so to speak?

12 A. Yes.

13 Q. And you said a controlled buy was done. Can you
14 explain to the jury what a controlled buy is?

15 A. A controlled buy is one of two things. Either it is an
16 undercover officer or it is a confidential informant. But
17 when we do it for this case it was a confidential informant.

18 A controlled buy is when the case agent has a
19 confidential informant and we give them a prerecorded sum of
20 narcotics money. We wire them up. We search them. We give
21 a briefing to the team. We make sure our patrol uniform
22 officers are there. And we give a complete briefing of what
23 is supposed to happen during the controlled buy.

24 Q. So you can use a UC, or undercover police officer, or a
25 CI. Is the buy always done the same way; or are there two

1 different types of buy, how to finish up the buy?

2 A. There's a couple ways of doing it. There's either a
3 buy-bust or a buy-walk. Lots of time for officer safety
4 reasons and confidential informant reasons and safety
5 reasons we do a lot of buy-walks.

6 Q. What is that; what is a buy-walk?

7 A. It is kind of exactly as it sounds. A buy-walk is
8 essentially when we do a briefing we get the CI wired up
9 with our equipment and we give them the pre-recorded money.
10 And that is our money.

11 And after he is searched and we are all briefed we go
12 to a predetermined area where we are doing the buy; and the
13 CI walks in, does a controlled purchase and walks back out
14 either to where the case agent is or whoever is assigned to
15 pick up the confidential informant. And we kind of let our
16 money and we do an investigational off of that.

17 Q. And what is the other kind of -- instead of a buy-walk
18 what else can you do?

19 A. A buy-bust would be almost the same thing but as soon
20 as the purchase is completed we go and arrest the
21 individual. But it hurts the investigation and we are not
22 allowed to fully investigate and it kind of puts in danger a
23 lot of officers and the confidential informant.

24 Q. And back on June the 13th of 2014 where did this buy
25 happen?

1 A. In the area of Poinsett Street at the dead end area.

2 Q. And is that Charleston County?

3 A. Yes.

4 Q. When -- when this buy was getting set up back on June
5 the 13th how did you first get involved they day?

6 A. That day we go to work. Usually sometimes we
7 communicate via text message through our work cell phones or
8 the case agent talks to us. We all have to share an office.
9 He communicates what time we have a briefing, what time he
10 plans on doing a buy, when the CI is going to be there.

11 So you usually have pre-determined location where we
12 all meet after we have an established time. Once we all
13 show up here ---

14 Q. What happens at the briefing?

15 A. Once we all show up at the briefing the case agent will
16 search the CI. He will wire up our equipment and make sure
17 he doesn't have any extra money, give him our money, like
18 our pre-recorded narcotics money.

19 He will then make sure a patrol officer is there so we
20 have a uniform presence. And then he will brief everybody
21 what their roles and duties are for that operation.

22 Q. And what are different roles and duties or safety
23 precautions that the -- that the unit takes -- I can't
24 speak. That the unit does in these buys?

25 A. The case agent and one other person is usually the

1 person that handles this confidential informant. If the
2 confidential informant ever, you know, asked for help or
3 feels unsafe the case agent and one other detective at the
4 time it is determine -- you know, it could be anybody as
5 part of our unit. They will take care of the confidential
6 informant, make sure he is driven in, make sure he is safe.

7 Certain people -- other detectives are used for
8 surveillance so we can watch either a house or the target or
9 the confidential informant so we don't lose sight.

10 We have a live-time wire that we can listen to so we
11 can hear everything in real time. So we are all listening
12 to that at the same time. And we have a supervisor that
13 overseas for safety. And then we have patrol that sits out
14 of the area just in case anything goes bad and we need a
15 uniform presence.

16 Q. And you described that the CI gets searched. Can you
17 describe the CI search?

18 A. It is usually done by the case agent. It can be -- or
19 it can be assigned by the case agent. But it is essential
20 the CI shows up and his outer garments or shirts, his mouth
21 if he is wearing a hat, all of his pockets, his shoes, his
22 socks.

23 And it is that for two reasons. One to make sure he
24 doesn't have any weapons for his safety, our safety; and so
25 we don't think he is going to do anything to a target or

1 whoever he is trying to buy drugs from or make sure he does
2 have not other drugs on him and that the drugs that he will
3 have on him is done -- is gotten from the target that we set
4 out to, and that he has no money on him. So he only has our
5 money, so he is not purchasing money (sic) with his money;
6 it is from our narcotics. And it is done before and after
7 each controlled purchase.

8 Q. And now you had mentioned that there is a real-time
9 audio feed. Is he wired up with anything else, the CI, the
10 confidential informant?

11 A. The real-time audio feed is kind of just like a cell
12 phone. We can just listen to it. It's, you know, cell
13 phone like a phone conversation and multiple people can
14 listen to it, so we can always hear everything.

15 And then there is also a camera that is put on the --
16 it is like a first-person view on the person and we will see
17 everything he sees and where he goes. And that is always
18 recording. It records audio and video.

19 Q. And after everyone has their duties and the location is
20 known, the CI is searched, what happens next?

21 A. When everything happens we will all leave the area.
22 the patrol officer will leave to go to his area where he is
23 supposed to go out of -- out of direct view.

24 All the other detectives under cover will go relatively
25 close to the buy location. And the case agent and his -- so

1 whatever detective he chooses will drive the CI into that
2 area and drop him off and make sure all of the equipment is
3 on him and everything is ready to go.

4 Q. And how did that go in this case after the CI was
5 dropped off?

6 A. After the CI was dropped off we all listened to the
7 wire. And the CI was dropped off about a block out of the
8 area so -- just for safety reasons so the target doesn't see
9 you getting in and out of the vehicle.

10 The target went down I believe it like Romney and
11 Athens. He cut through a little cut. It is like just
12 abandoned property. And it goes right to Poinsett Street.
13 And he went down it, Poinsett Street.

14 Q. And did the CI make a buy in this case?

15 A. Yes.

16 Q. And what happened after the buy?

17 A. After the buy the CI disengages from the target, walks
18 back to a predetermined location where ever again the case
19 agent decides it is safest to meet. And he will get picked
20 up by the case agent and we will go to our predetermined
21 location where we all can meet up again.

22 Q. And when the CI meets at that location for the
23 debriefing does the CI do anymore paperwork or anything like
24 that?

25 A. Once we get back to the station location where all the

1 other detectives show up where the case agent will take the
2 drugs from the CI that he just purchased, we will research
3 the CI and make sure he is not trying to take any of our
4 money or there's no extra drugs. Make sure nothing else is
5 on him, again. And then he will write a written statement
6 with the case agent.

7 MS. LINDER: Your Honor, may approach?

8 THE COURT: Yes.

9 Q. At this time I am going to show you what has been
10 marked as State's Exhibit 3. If you could look at that. Do
11 you recognize it?

12 A. Yes.

13 Q. How do you recognize it?

14 A. It looks like an aerial view of the area where we did
15 the buy and the two streets I just described.

16 Q. And is that a fair an accurate representation of that
17 area?

18 A. Yes.

19 MS. LINDER: I would seek to have State's Exhibit 3
20 admitted.

21 THE COURT: Any objection from defense?

22 MS. LINDER: No, Your Honor.

23 THE COURT: It is into evidence as State's exhibit and
24 it is denominated as State's Exhibit ...?

25 MS. LINDER: Three.

1 THE COURT: Three is into evidence.

2 (WHEREUPON, State's Exhibit Number 3 was admitted into
3 evidence.)

4 Q. And I am going to ask if you would look at the screen
5 in front of you. It is also behind you and over here
6 (pointing). But it is a touch screen in front of you.

7 Okay. Can you show on this map -- can you tell the
8 jury what this map is showing?

9 A. This map is showing the aerial view of the two streets
10 just described and the main street where the target was and
11 where the CI went to to make a controlled purchase.

12 Q. And can you using your finger on the screen kind of
13 show the jury everything.

14 A. This is -- I know this is Poinsett Street down here
15 (pointing). This is Romney Street up top. (pointing). This
16 would be Athens Court (pointing). And this would be the cut
17 (pointing).

18 The CI went down Romney Street, walked down through
19 Athens Court to the cut and then back towards the dead end
20 of Romney Street back this way (pointing) where I just put
21 that "X". And that is where he made the controlled purchase
22 from the target.

23 Q. And Detective Gill, do you know Vanessa Frayer; do you
24 recognize her in the courtroom?

25 A. I do

1 Q. And what is she wearing?

2 A. She is wearing all black. She is sitting at that table
3 over there next to Mr. King.

4 MS. LINDER: Beg the court's indulgence.

5 No further questions. If you could please answer
6 anything Mr. King may have.

7 THE COURT: Cross-examination, Mr. King.

8 **CROSS-EXAMINATION BY MR. KING OF OFFICER GILL:**

9 Q. Good morning. Did you write a report in this case?

10 A. I don't believe I did. I was just -- I wasn't the case
11 agent.

12 Q. You have testified about informants, confidential
13 informants?

14 A. Correct.

15 Q. And the experience you have had in narcotics and
16 dealing with informants?

17 A. Correct.

18 Q. You have had a good deal of experience with that?

19 A. Yes.

20 Q. Informants, they are not police officers; right?

21 A. Correct.

22 Q. There are occasions where undercover police officers
23 are used in these operations, right?

24 A. Yes.

25 Q. But in this case it was an informant? They are not

1 trained or anything, right, other than maybe some briefing
2 that you give them?

3 A. Correct.

4 Q. And you are kind or dealing with I guess maybe kind of
5 a dirty business, you're kind of -- you have kind of got to
6 deal with some unsavory people in that job; is that right,
7 when you are dealing with informants sometimes?

8 A. I mean they are your words. I don't believe that they
9 are unsavory or ---

10 Q. Well ---

11 A. It is a dirty job.

12 Q. What I mean is you deal -- when you try to get an
13 informant you normally don't get -- you are dealing with
14 someone who may have a criminal record, right?

15 A. They can, yes.

16 Q. Often drug addicts themselves?

17 A. I'm sure they could be, but they could not be as well.

18 Q. But you're looking for that type of person who could go
19 in and pull this stuff off, right?

20 A. Yes.

21 Q. So informants you have dealt with in general you have
22 dealt with some who have criminal records you said?

23 A. I have dealt with some with criminal records and with
24 no criminal records. I have dealt with both.

25 Q. And you treat the informants different than police,

1 undercover officers?

2 A. In what aspect?

3 Q. Well, you don't -- you don't really trust the
4 informants; right?

5 A. I don't really know how to answer that. I mean how are
6 you talking about trust? I mean we, yeah, we search them
7 and stuff. So yes, we are not going to take an informant's
8 word that they don't have any drugs. But that is for to
9 make sure our investigation is done properly.

10 Q. Right. Right. You said you make them sign some
11 paperwork right when they become an informant?

12 A. They have to sign paper- -- I didn't say that; but yes,
13 they do have to sign paperwork when they become an
14 informant.

15 Q. Promising not to get in any trouble, things like that;
16 there are promises that they have to agree to?

17 A. There's a list of rules. I believe there's five or six
18 roughly outlined. It's the rough rules, correct.

19 Q. I guess that's if someone violates those rules they
20 would -- you know, they could be terminated as an informant
21 and you wouldn't want to deal with them anymore?

22 A. They could be terminated depending on how or what rule
23 they broke, yes.

24 Q. So in addition to making them sign these promises you
25 search them before you send these informants out, right?

1 A. Yes, we search them before every controlled buy and
2 after every controlled buy.

3 Q. And you said that was for to make sure they don't have
4 any weapons?

5 A. Correct.

6 Q. And to make sure they don't have any drugs already on
7 them?

8 A. Correct.

9 Q. And to make sure that they don't have any money already
10 on them?

11 A. Correct.

12 Q. And that's because you said because you don't trust
13 them 100 percent to just take their word for it that they
14 may have nothing on them?

15 A. You said that. I said we do it to help our
16 investigation to make sure our investigation is done
17 properly.

18 Q. And a big part of what you do is writing reports as a
19 police officer, right?

20 A. Yes.

21 Q. You document -- try to document whatever you can?

22 A. Yes.

23 Q. But you didn't document anything in this case?

24 A. I wasn't the case agent. There was no need for me to
25 write a report being a surveillance and listening to the

1 wire.

2 Q. Is the case agent normally the only person who writes a
3 report in criminal cases?

4 A. It doesn't -- it depends. It depends on what the case
5 is, what other officers saw. There are certain times where
6 officers can observe things that the case agent didn't see
7 or confirm what a CI did or didn't do or what a CI did see
8 or didn't see.

9 Q. And in this case you didn't actually -- you weren't
10 present in this house on this video; you didn't actually
11 personally observe anything that happened; is that right?

12 A. Correct.

13 MR. KING: That's all the questions I have, Your Honor.

14 THE COURT: Any redirect, Ms. Linder?

15 MS. LINDER: No, Your Honor.

16 THE COURT: You may step down. Any objection to this
17 witness being excused?

18 MS. LINDER: None from the State.

19 THE COURT: Mr. King?

20 MR. KING: No. I might excuse this witness, Your
21 Honor.

22 THE COURT: You are free to leave. Thank you, sir.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: You may call your next witness.

25 MS. LINDER: Your Honor, there is a State matter that I

1 discussed with you before we started the trial.

2 THE COURT: Okay. Very good. All right. We are going
3 to recess until 1:30, 1:30 sharp. Once again, do not
4 discuss this case amongst yourselves or with anyone else.

5 There is not anything in the world that you can't look
6 up on the Google nowadays. And don't look up any of the --
7 any of the personalities here. Don't look at doing any
8 investigation about anything.

9 Everything that you need to know about this case you
10 are going to hear in this courtroom straight from the
11 horse's mouth. So don't look up any law. Don't look
12 through any independent investigations.

13 Some of y'all might be familiar with this area that we
14 are talking about. Don't go by and look at it and do any
15 independent investigation in that regard.

16 I am going to ask that you be back at 1:30, 1:30 sharp.
17 And I am going to ask that everyone remains seated as the
18 jury exists the courtroom.

19 (WHEREUPON, jury exits courtroom 8/12/15, 11:35 a.m.)

20 THE COURT: Anything from the State before we recess?

21 MS. LINDER: Nothing from the State, Judge.

22 THE COURT: Anything from the defense?

23 MR. KING: Your Honor, it may be an appropriate time to
24 ask if Ms. Frayer may remain out on a bond during the rest
25 of this trial after we break. I think she was in the wrong

1 courtroom this morning.

2 I was a little worried this morning, but she has always
3 appeared. When she has had to appear, she appears. She
4 showed up for a status conference. She did show up today.

5 THE COURT: Any objection from the State?

6 MS. LINDER: Your Honor, I would request that she be
7 taken in. She hasn't initially made all appointments with
8 Mr. King. She was late today. She is on probation.
9 She's -- I mean she has a lot of things -- a lot of moving
10 parts right here.

11 THE COURT: Well, I'm going to allow her to remain out
12 on bond.

13 However, you understand that if you don't show up
14 the trial is going on -- going on without you; do you
15 understand that?

16 MS. FRAYER: Yes, sir.

17 THE COURT: And do you also understand that you will be
18 subjected to an additional criminal prosecution for failure
19 to appear; do you understand that?

20 MS. FRAYER: Yes, sir.

21 THE COURT: Will you show back up at 1:30?

22 MS. FRAYER: Yes, sir.

23 THE COURT: Will you be 15 minutes early?

24 MS. FRAYER: Yes, sir.

25 THE COURT: All right. Very good. I will allow you to

1 remain on bond.

2 MR. KING: Thank you, Your Honor.

3 THE COURT: We will stand at ease.

4 (WHEREUPON, recess for lunch 8/12/15, 11:38 a.m.)

5 (WHEREUPON, resumed trial 8/12/15, 1:31 p.m.)

6 THE COURT: Anything from the State before we bring the
7 jury out?

8 MS. LINDER: Your Honor, I just wanted to put on the
9 record that over lunch blake -- blake. Over the lunch break
10 Mr. King reviewed the video input. We wrote down the areas
11 he thought should be muted.

12 We actually all went up in his office together, went
13 through it, every single part of it; and we agree that 7:45
14 to 12:15 needs to be muted; 13:50 to 14:04; 14:56 to 15:02;
15 and 15:21 to 15:32. Those are all the times that need to be
16 muted. We have watched it together and we are in agreement
17 with all of those items.

18 THE COURT: I like all of the togetherness and
19 cooperativeness. I like that.

20 MR. KING: I do agree, Judge, just preserving you have
21 overruled one objection when the CI is making the phone call
22 back and we are again just ---

23 THE COURT: Okay. And you have said it on the record.

24 MR. KING: Just preserve that on the record, Judge.

25 THE COURT: Very good.

1 MR. KING: One more. I just have to apologize, Judge.
2 Said on the record, of the next witness. The next experts
3 we have a little dispute over what part of the record may
4 come in.

5 THE COURT: Okay.

6 MR. KING: Specifically possession of cocaine base,
7 three convictions for possession of cocaine base. And I am
8 arguing that they come in under Rule 609-1. Because it
9 carries over a year.

10 And I believe according to the rule if it is not the
11 accused, if it is not the defendant, then the State would
12 have to argue that the probative value of convictions are
13 outweighed by the unfair prejudice under 403 analysis.

14 THE COURT: Right. What does the State have to say
15 about that? And this is whose record?

16 MS. LINDER: The confidential informant.

17 THE COURT: Okay.

18 MS. LINDER: And, Your Honor, we did discuss the
19 record. And he has a number of impeachment type items as
20 far as dishonesty in the past ten years; and we agreed on
21 all of those magistrate ones that come in.

22 I would just request that the possession of cocaine
23 base don't come in as they were all years before this. He
24 has not been charged or anything.

25 THE COURT: How long -- how long ago?

1 MS. LINDER: The last conviction was two years -- a
2 little more than two years before this occurred -- or this
3 buy occurred. THE COURT: Okay. That is certainly within
4 the ten-year framework. I am going to allow those in. And
5 everybody knows that, you know, a confidential informant we
6 all know that they have difficult backgrounds.

7 I think it is important for the jury to hear that. And
8 they will give it whatever weight they think is appropriate.
9 Anything else from anybody?

10 MS. LINDER: Nothing from the State.

11 MR. KING: Thank you.

12 THE COURT: We are ready for the jury.

13 (WHEREUPON, jury enters courtroom 8/12/15, 1:38 p.m.)

14 THE COURT: Mr. Foreman, ladies and gentlemen of the
15 jury, thank you for being here and being here on time. Once
16 again I ask that you pay very close attention.

17 The State, you are recognized. Ms. Linder.

18 MS. LINDER: Thank you, Your Honor. May it please the
19 court. The State calls Christopher Singleton.

20 THE COURT: Mr. Singleton, if you could please come
21 over here. The clerk will direct you around. I am going to
22 ask that you place your left hand on the Bible and raise
23 your right hand as the clerk administers the oath.

24 (WHEREUPON, the witness was duly sworn.)

25 THE COURT: I am going to ask you if you could to have

1 a seat in the witness chair. Pull up real close to that
2 microphone. Speak loudly, clearly, and slowly in order that
3 we can hear everything that you have to say. And let's
4 start with your full name, please, sir.

5 THE WITNESS: Christopher B. Singleton.

6 THE COURT: Thank you, Mr. Singleton.

7 Ms. Linder, you are recognized.

8 **DIRECT EXAMINATION BY MS. LINDER OF CHRISTOPHER SINGLETON:**

9 Q. Good afternoon, Mr. Singleton.

10 A. Yes, sir.

11 Q. Can you tell the jury a little bit about yourself.

12 Where are you from?

13 A. Charleston, South Carolina.

14 Q. And how far did you go in school?

15 A. Finished.

16 Q. Finished ...?

17 A. High school.

18 Q. High school?

19 A. Yes, ma'am.

20 Q. Have you done any college?

21 A. Trident Tech.

22 Q. Trident Tech. Have you ever served in the military?

23 A. Yes, ma'am.

24 Q. And are you currently in the military?

25 A. No, out. No, ma'am, out.

- 1 Q. You are out?
- 2 A. Yes, ma'am.
- 3 Q. Do you receive any disability from the VA?
- 4 A. Yes, ma'am.
- 5 Q. Have you ever cooperated with law enforcement before?
- 6 A. Yes, ma'am.
- 7 Q. Have you cooperated with the City of Charleston Police
- 8 Department before?
- 9 A. Yes, ma'am.
- 10 Q. Do you currently have any pending criminal charges?
- 11 A. No, ma'am.
- 12 Q. Did you have pending criminal charges when you first
- 13 started working with law enforcement?
- 14 A. No, ma'am.
- 15 Q. Were you paid by law-enforcement for your work?
- 16 A. No, ma'am.
- 17 Q. Were they -- did they give you money for your time?
- 18 MR. KING: Your Honor, I object to leading.
- 19 THE COURT: I will allow her to ask. That is a good
- 20 question.
- 21 Q. Did they pay you money for when you did work?
- 22 A. Yes.
- 23 Q. And do you know why you are here today?
- 24 A. Yes, ma'am.
- 25 Q. And what have I told you is the most important thing

1 about you being here today?

2 A. To be honest.

3 Q. You working with the City of Charleston back on June
4 the 13th of 2014?

5 A. Yes, ma'am.

6 Q. And who was your contact person; who was your person at
7 the City if you wanted to talk to someone?

8 A. Officer Engles.

9 Q. And is he in the courtroom?

10 A. Yes, ma'am.

11 Q. Can you point him out to the jury?

12 A. Right there (pointing).

13 Q. And did you buy drugs back on January -- I'm sorry,
14 June the 13th of 2012 while you were working for the City?

15 A. Yes, ma'am.

16 Q. And how much and what type of drugs?

17 A. I spent \$60. I was supposed to get a 60, but it didn't
18 look like a 60.

19 Q. A 60 of what?

20 A. Crack cocaine.

21 Q. Where did you buy it?

22 A. On -- I forget the street name. It is by Food Lion
23 back in there.

24 Q. Is that West Ashley, Downtown; where is that?

25 A. Downtown.

1 Q. And do you know the person you bought it from?

2 A. Yes, ma'am.

3 Q. Is she in the courtroom?

4 A. Yes, ma'am.

5 Q. What is she wearing?

6 A. Black. All black.

7 Q. Where is she sitting?

8 A. Right there over there (pointing).

9 MS. LINDER: Judge, I would like the record to reflect
10 that the defendant pointed at the CI. Mr. Singleton pointed
11 out the defendant.

12 THE COURT: Very good.

13 Q. Okay. We are going to get into specifics about that
14 actual day, okay. What happened when you first met with
15 Engles that day; what did he do?

16 A. He talked to me. You know, normal routine and all
17 that.

18 Q. What is the normal routine?

19 A. Well, do what we've got to do on your up day. And I
20 mean I went down Romney Street. I walked around the corner.

21 Q. Before you went to do the buy ---

22 A. Yes, ma'am.

23 Q. --- did you meet with him and just talk about what was
24 about to happen?

25 A. Yes, ma'am. Yes, ma'am.

1 Q. Okay. And when you talked to him did he -- did he
2 search you?

3 A. Yes, ma'am.

4 Q. And can you tell me how was his search; was it just
5 like an occasional pat-down, or what was his search like?

6 A. He searched, fully searched you; pockets, wallet,
7 everything on you. Take your shoes off. And he had another
8 officer, you know, go behind and check me again.

9 Q. All right. And did they find ---

10 A. No.

11 Q. --- anything bad on you?

12 A. No, ma'am. No, ma'am.

13 Q. And was this done before the buy or after the buy?

14 A. Before the buy and after when you come back.

15 Q. All right. Did he just kind of let you out or did he
16 give you anything to make the buy?

17 A. Yeah, he did.

18 Q. What did he give you?

19 A. He gave me the money to make the buy.

20 Q. Did you have any of your money on you?

21 A. No, ma'am. He did not allow me to have money on me.

22 Q. Did he put anywhere equipment on you at all ---

23 A. Yes, ma'am.

24 Q. --- before -- what did -- what did he put on you as far
25 as your understanding goes?

1 A. A camera.

2 Q. A camera?

3 A. Yes, ma'am.

4 Q. And when you were meeting with Engles -- take that
5 back. When you -- the camera was on you?

6 A. Yes, ma'am.

7 Q. Have you ever watched a video in my office?

8 A. Yes, ma'am.

9 MS. LINDER: And, Your Honor, if I may approach.

10 THE COURT: You may.

11 Q. At this time I show you what's been marked as State's
12 Exhibit 1 as evidence.

13 A. Yes, ma'am.

14 Q. Do you can recognize it?

15 A. Yes, ma'am.

16 Q. How do you recognize it?

17 A. My initials.

18 Q. Your initials. And is this the video we watched
19 together in my office?

20 A. Yes, ma'am.

21 Q. And by initialing it and here today is this a fair and
22 accurate representation of what happened back on June the
23 13th of 2014?

24 A. Yes, ma'am, accurate.

25 MS. LINDER: Your Honor, at this time the State would

1 seek to exhibit -- State's Exhibit 1 into evidence and
2 publish it for the jury.

3 THE COURT: Any objection from the defense?

4 MR. KING: Just the objections made before trial,
5 Judge.

6 THE COURT: Okay. Very good. You are protected on the
7 record. But it is admitted over your objection. And that
8 is denominated as State's Exhibit ...?

9 MS. LINDER: State's Exhibit 1, Your Honor.

10 THE COURT: State's Exhibit 1 is into evidence.

11 (WHEREUPON, State's Exhibit 1 was admitted into evidence.)

12 Q. All right. And I am going to actually play this right
13 now.

14 A. Yes, ma'am.

15 Q. So I am going to sit down. It is going to come up on
16 the screen in front of you.

17 A. Yes, ma'am.

18 Q. That screen behind you is pretty clear. And then it is
19 also going to be over here. So we are just going to kind of
20 sit quietly. And the clerk is probably going to dim the
21 lights a little bit so it is easier to see. And I will get
22 up and address you again after we watch it, okay?

23 A. Yes, ma'am.

24 (WHEREUPON, video played 1:46 p.m.)

25 MS. LINDER: I would like to go through a little bit of

1 what was on the video with you.

2 A. Yes, ma'am.

3 Q. On the video kept hearing things like on Athens, next
4 street over, dead end. What does all that mean; what are
5 you saying?

6 A. Because I am saying things -- letting him know where I
7 am going at.

8 Q. Let who know?

9 A. Officer Engles.

10 Q. And why are you telling him where you are going?

11 A. Because I let him know where I am going at in case any
12 trouble had come up. Any trouble.

13 Q. All right. And in the house when you say I need 60
14 what are you talking about?

15 A. Sixty dollars worth of crack.

16 Q. Worth of crack?

17 A. Yes, ma'am.

18 Q. And you are told in the video to go over there, go over
19 there; and then you said yes, ma'am, yes, ma'am. Who is
20 telling you to go over?

21 A. The lady of the house telling me to go over -- move
22 over there, move over there.

23 Q. And in there you hear a female voice talk about \$60 and
24 \$60. Who is that female who is saying that?

25 A. The lady in the courtroom.

- 1 Q. The lady in the courtroom?
- 2 A. Yes, ma'am.
- 3 Q. And was she standing or sitting?
- 4 A. Sitting.
- 5 Q. She was sitting. And if I'm not getting this right
- 6 tell me, but it sounded like you were talking and you said
- 7 I'm acting like I'm talking to Mamma. What does that mean?
- 8 A. I am talking to Officer Engles.
- 9 Q. Why would you say Mamma?
- 10 A. That's the way I talk.
- 11 Q. That is the way you talk?
- 12 A. Yes, ma'am.
- 13 Q. You want people to think you are talking to your mama?
- 14 A. Yeah.
- 15 Q. And again, why are you talking to Engles on the phone?
- 16 A. Because he will know where I'm -- my movement, my
- 17 awareness, where I'm going at, and where I'm coming from.
- 18 Q. So when you ordered up the 60 who did you order from?
- 19 A. The young lady in the courtroom.
- 20 Q. And that lady sitting down on the video, who is that?
- 21 A. The young lady sitting in the courtroom.
- 22 Q. After you got back with Engles kind of where the video
- 23 cut off ---
- 24 A. Yes, ma'am.
- 25 Q. --- when you were back with him ---

1 A. Yes, ma'am.

2 Q. --- and what did you do with the drugs that you
3 purchased?

4 A. I handed it to him.

5 Q. And was it \$60 worth?

6 A. It didn't look like \$60. But that is what I paid for.

7 Q. Okay. And you handed it to Engles. And did you do
8 anything else; did you have to give him any change from the
9 money he gave you?

10 A. No, I gave all -- gave the whole \$60 out.

11 Q. Did you -- who took off the video equipment?

12 A. Engles and his partner.

13 Q. And did you get searched again?

14 A. Yes, ma'am.

15 Q. And what was that search like; how did they do that
16 search?

17 A. The same way he searched me when I get to him, the same
18 way he took me back and searched me again. Foot, hand,
19 hands, everything; up shirt.

20 Q. And when you met with Engles did you -- did you write a
21 statement?

22 A. Yes, ma'am.

23 Q. And what was -- why did you write the statement?

24 A. That is the rules you have got to write the statement
25 with everything you do.

1 Q. And you wrote a statement for law enforcement that day?

2 A. Yes, ma'am.

3 MS. LINDER: Beg the court's indulgence.

4 Q. Have you ever been in trouble with the law before?

5 A. Yeah, a while back.

6 Q. Have you been convicted of some property crimes of
7 receiving stolen goods, ---

8 A. Yes, ma'am.

9 Q. --- bad checks?

10 A. Yes, ma'am.

11 Q. Have you ever been convicted ---

12 A. Yes, ma'am.

13 Q. --- a couple of years ago about possession of cocaine
14 base?

15 A. Yes, ma'am.

16 Q. Have you been clean?

17 A. Yes, ma'am.

18 Q. Life has been good?

19 A. Yes, ma'am. For years.

20 MS. LINDER: Please answer anything the defense may
21 have.

22 MR. KING: Yes, ma'am.

23 THE COURT: Yes, sir, you are recognized.

24 MR. KING: Thank you, Your Honor.

25 THE COURT: Mr. King.

1 CROSS-EXAMINATION BY MR. KING OF CHRISTOPHER SINGLETON:

2 Q. Mr. Singleton.

3 A. Yes, ma'am.

4 Q. Good afternoon. I just want to ask you a few
5 questions.

6 A. Yes, sir.

7 Q. Back during this timeframe you said -- you are on
8 disability. Were you working anywhere?

9 A. Yes.

10 Q. Where did you work?

11 A. I worked for roofing part-time, yard man.

12 Q. Did you also get disability?

13 A. No, I didn't get it right then.

14 Q. Part-time as a roofer?

15 A. Yes, ma'am -- yes, sir.

16 Q. Did you make money doing that?

17 A. No, they had me as the yard man just cleaning up.

18 Q. Do you have kids?

19 A. Yeah.

20 Q. Did you have any children to support back then?

21 A. No, because my kids are grown up now.

22 Q. So at some point back in 2014 you decided to enter a
23 new career path and become an informant; how does that come
24 about?

25 A. Not really, no. Met up because my brother had issues

1 seven times and then I figured I have got to clean myself
2 up. And then I talk -- I met up with Officer Engles and one
3 of his friends. We got together. And that's how it
4 happened.

5 Q. Was it your idea?

6 A. Both of us idea. Not mine. Not.

7 Q. So May 29th, 2014, I think you signed some paperwork to
8 kind of initiate you becoming an informant, right?

9 A. Yes.

10 Q. Code name Snakebite; ---

11 A. Yes.

12 Q. --- is that right?

13 A. Yes, sir, that's me.

14 Q. Did you come up with that one?

15 A. Yeah.

16 Q. Pretty cool name.

17 A. Yes, ma'am.

18 Q. Kind of vicious sounding though, right?

19 A. Yes, ma'am.

20 Q. Snakebite?

21 A. Yes, sir.

22 Q. You made money doing this, didn't you?

23 A. Yes, sir. Yes, sir.

24 Q. It looks like, if I am right on this, you did about 16
25 times this sort of thing?

- 1 A. Yes, sir.
- 2 Q. And you got paid it look like maybe as low as \$40,
3 sometimes \$60, \$80; right?
- 4 A. Yes, sir.
- 5 Q. And even as high as 150 one time?
- 6 A. Yes, sir.
- 7 Q. And do you think it is fair to say - I added it up -
8 \$880?
- 9 A. Yes, sir.
- 10 Q. Between May 29th, 2014, ---
- 11 A. Yes, sir.
- 12 Q. --- and January 9th, 2015?
- 13 A. Yes, sir.
- 14 Q. And you stopped January 9th, 2015?
- 15 A. Yes, sir.
- 16 Q. Why did you stop?
- 17 A. Because I'm going to stop for a little while to stop
18 doing it, because I was in the mental health court under
19 Judge Currie.
- 20 Q. Okay.
- 21 A. Yes.
- 22 Q. So you made close to 1000 bucks?
- 23 A. Yes, sir.
- 24 Q. In about six months?
- 25 A. Yes, sir.

1 Q. Did you get any other benefits?

2 A. No, that is when my disability started kicking in.

3 That is why I slowed down.

4 Q. Your disability kicked in about the time you finished
5 doing this?

6 A. Yes, sir. Yes, sir.

7 Q. So you had another income coming in at that point?

8 A. Yes, sir. Yes, sir.

9 Q. Because this could be a dangerous thing, right?

10 A. Yes, sir.

11 Q. It could be hazardous to your health?

12 A. Hazardous, yes, sir.

13 Q. So it is not something a lot of people might even want
14 to do?

15 A. Yes, sir.

16 Q. You put yourself out there and people on the street?

17 A. Yes, sir.

18 Q. It could be dangerous. So when you were doing this you
19 didn't have a lot of money coming in?

20 A. No, sir.

21 Q. But you didn't have to pay child support or anything
22 like that?

23 A. No, my kids were grown.

24 Q. Grown?

25 A. Yes.

1 Q. You had to pay rent I guess; you have got to live
2 somewhere?

3 A. Yes. Yes, sir.

4 Q. Food to eat?

5 A. Yes, sir.

6 Q. You weren't using it for drugs or anything?

7 A. No, no, I didn't buy any.

8 Q. Because drugs cost money.

9 A. Yes, sir.

10 Q. You said you met with the solicitor in preparation for
11 this?

12 A. Yes, sir.

13 Q. And how many times did you meet with her?

14 A. One time.

15 Q. And she has told you to be honest?

16 A. Yes, she said be honest.

17 Q. But you have got a record with some dishonest things on
18 it, right?

19 A. Yes, sir. Yes, sir.

20 Q. It was back in 2008 you had a conviction for possession
21 of cocaine base, right?

22 A. Yes, sir.

23 Q. In 2008 six counts of fraudulent checks?

24 A. Yes, sir.

25 Q. 2009 possession of cocaine base?

- 1 A. Yes, sir.
- 2 Q. And then in 2009 shoplifting?
- 3 A. Yes, ma'am.
- 4 Q. You weren't being honest then, were you?
- 5 A. Yes, I was honest.
- 6 Q. When you committed the shoplifting?
- 7 A. Yes.
- 8 Q. That was honest?
- 9 A. Yes, spent my time.
- 10 Q. I mean when you were actually shoplifting, ---
- 11 A. Yeah.
- 12 Q. --- stealing?
- 13 A. Yeah.
- 14 Q. That is not honest, is it?
- 15 A. Yeah, I was using it when I was stealing.
- 16 Q. And you also got convicted of petty larceny in 2009,
- 17 another ---
- 18 A. Yes, sir.
- 19 Q. --- like stealing?
- 20 A. Yes, sir.
- 21 Q. And then in 2012 possession of cocaine base?
- 22 A. Yes, sir.
- 23 Q. And then in 2013 receiving stolen goods?
- 24 A. Yes, sir.
- 25 Q. And you weren't being honest then when you were

1 receiving the stolen goods?

2 A. Oh, no, but I get my time for it.

3 MR. KING: That's all the questions I have, Your Honor.

4 THE COURT: Any redirect?

5 MS. LINDER: No redirect, Your Honor.

6 THE COURT: All right. Any objection to this witness
7 being excused from the defense?

8 MR. KING: No, Your Honor.

9 MS. LINDER: None from the State.

10 THE COURT: You are free to leave. Thank you, sir.

11 You may call your next witness.

12 MS. LINDER: The State calls Detective Sean Engles.

13 THE COURT: Yes, sir, if you could come forward and
14 place your left hand on the Bible and raise your right hand
15 as the clerk administers the oath.

16 (WHEREUPON, the witness was duly sworn.)

17 THE COURT: Have a seat in the witness chair. Pull up
18 real close to that microphone. Speak loudly, clearly and
19 slowly in order that we can hear everything that you have to
20 say. And let's start with your full name, please, sir.

21 THE WITNESS: Sean Engles.

22 THE COURT: Say that again.

23 THE WITNESS: Sean Engles.

24 THE COURT: Spell that last one for us.

25 THE WITNESS: E-N-G-L-E-S.

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

2 MS. LINDER: Thank you, Your Honor.

3 **DIRECT EXAMINATION BY MS. LINDER OF SEAN ENGLER:**

4 Q. Detective Engler, can you please tell the jury what is
5 your occupation.

6 A. I am a police officer. I am a narcotics detective with
7 the Charleston Police Department.

8 Q. And how long have you been employed by the Charleston
9 Police Department?

10 A. Over eight years.

11 Q. And what do your duties include with CPD and with the
12 narcotics unit?

13 A. I investigate narcotics-related offenses, whether they
14 come in as complaints or through our own proactive investi-
15 gations. I deal with informants. I deal with undercover
16 officers. Occasionally I will supervise operations. But
17 quite frequently I manage operations. And a part of that is
18 developing arrest warrants and search warrants.

19 Q. And can you tell the jury a little bit about your
20 education and your training and your experience?

21 A. So I'm about two-thirds of the way through my master's
22 degree with the Citadel. I graduated with a business degree
23 from the University of Maryland. 2007 I graduated the
24 Criminal Justice Academy in South Carolina in Columbia with
25 honors.

1 I have undergone countless hours of training related to
2 tactics, surveillance, informant management, a two-week
3 school with the DEA, the Drug Enforcement Administration.

4 Q. Were you working back on June the 13th of 2014?

5 A. Yes.

6 Q. And were you involved at all with this case, the State
7 versus Vanessa Frayer back on that day?

8 A. Yes, I was the case agent for this case.

9 Q. And as the case agent that day what was the objective
10 that day?

11 A. We had the Police Department in general was aware of
12 several recent incidents in a specific area of downtown. So
13 to develop information and help the other investigators out
14 we decided to conduct a narcotics operation in that area.

15 So developed an operation utilizing one of the
16 informants who I managed and deployed him out into that
17 area.

18 Q. And the jury has already heard some testimony. Can you
19 tell them exactly what a controlled buy is.

20 A. A controlled buy is a -- a controlled buy of narcotics
21 is a purchase of narcotics where law enforcement has a hand
22 and a level of control in the operation.

23 In this case and in most cases we provide the funds for
24 the purchase. We are able to document the purchase using
25 some sophisticated technology, video camera that records the

1 transaction.

2 And when the narcotics are purchased then the person
3 purchasing the narcotics, whether it is an undercover
4 officer or an informant, brings those back to the case agent
5 so that we are able to log them properly and submit them
6 into evidence.

7 Q. And on this buy in particular back on June the 13th
8 where was this buy conducted?

9 A. Poinsett Street towards the dead end.

10 Q. And that is here in Charleston County?

11 A. Yes, it is.

12 Q. And as the agent preparing and planning all of this why
13 did you decide to use a confidential informant instead of an
14 undercover officer?

15 A. Confidential informants have a lot of benefits. A lot
16 of times they are more familiar with the area as opposed to
17 an undercover officer you might be a new face and might draw
18 some suspicion from people in a certain -- on a block or in
19 a neighborhood that are very familiar with one another. So
20 the informant provides that access into those areas.

21 Q. Let's talk about the CI that was involved in this case,
22 Mr. Singleton. Or he goes by the nickname Snakebite, well,
23 the nickname with you?

24 A. Yes.

25 Q. Can you kind of explain your relationship with him and

1 if you can do that for the jury.

2 A. Yes. Snakebite was a very active informant with us.
3 And he assisted in numerous investigations of a similar
4 nature doing control buys.

5 He has always been reliable. When I have dealt with
6 him he has always been responsive to our instruction. And
7 he has been effective in conducting these operations.

8 Everything that we later review on the video has been
9 consistent with the statements he gives us after the buys.
10 And

11 Q. Now he had talked to Mr. King and gotten into him with
12 this. Was he a paid informant or did he have pending
13 charges with him?

14 A. He was a paid informant.

15 Q. And did you pay him only if he produced, only if he
16 brought you back drugs; is that the only time you paid him?

17 A. No, we had some incidents where there were attempted
18 buys and for whatever reason the buy didn't happen. So
19 Snakebite came back to me. He gave me the money and said I
20 couldn't buy today. And I would still pay him at the end of
21 the day.

22 Q. And generally speaking with CI's in general do you pay
23 them for intel ---

24 A. Yes.

25 Q. --- on occasions?

1 A. Yes. If they are -- if we are able to kind of run with
2 that intelligence, the information they give us, and develop
3 some -- or verify its credibility, yeah, we pay him for
4 that.

5 Q. All right. So back on the 13th once you kind of ironed
6 out some of the basics about what your plans were that day -
7 you have already talked about the location and everything -
8 who else gets involved with the buy aside from just you and
9 the CI?

10 A. So we have a -- our narcotics unit we have several
11 members. And I will -- if I am organizing a buy I will
12 alert everyone else hey I have a buy, come meet me and the
13 informant at this location at this time.

14 So then everyone will -- the unit will show up. I will
15 let them know kind of the course of where the investigation
16 is going, the location.

17 They will become familiar with what the informant looks
18 like. And I will identify whether or not we have a specific
19 target in mind, how much money the informant is going to be
20 buying worth of drugs, what kind of drugs. As many
21 specifics as I know at the time I will relay to my team
22 members.

23 Additionally we have a uniform officer who assists us
24 with these -- with these operations. And we also go over
25 some safety considerations in the event that an officer is

1 compromised in a way that is dangerous or if the informant
2 somehow gets into some kind of altercation or gets into
3 trouble.

4 Q. Do you give the informant specific instructions on what
5 to do or what not to do when they are out making a buy or
6 attempting to make a purchase?

7 A. Yes.

8 Q. What instructions do you give?

9 A. So I will provide them with the money and I will -- I
10 will tell the informant to continually keep us updated as to
11 their location. Because we have a -- we have an audio
12 monitoring system, but we are not able to do a live view.

13 After -- like the video like you saw, it is something
14 that is viewed after the fact. So I ask the informant to
15 give us update as to their location, tell us any pertinent
16 information such as specific people or houses that they have
17 come across while they are out deployed.

18 I give them instruction as to if they were to become in
19 trouble if they are able to just call my cell phone and we
20 will talk about it; or if it is an urgent matter I ask them
21 to say help help and through the live audio feed I have at
22 that point the officers, narcotics, and the uniformed
23 officers, would go in and take action to ensure that CI's
24 safety. I also ---

25 Q. Oh, go ahead.

1 A. I'm sorry. So also I instruct the informant to after
2 the transaction is made just proceed directly back to me and
3 once they reach me then I will take the drugs from them.

4 Q. Before you send the informant out to do the buy do you
5 search the informant?

6 A. Yes, thoroughly.

7 Q. Can you describe that search.

8 A. It is a very thorough search. I ask them to open the
9 webs of their fingers, open their mouth. I will take their
10 shoes off, feel their feet, feel their socks, in and out of
11 pockets, deep into the waistline. A very thorough search.

12 Q. And what are you -- what is the purpose of you doing
13 that search?

14 A. Well, we want to make sure that the informant or the
15 person that we are sending in to conduct this transaction is
16 not in possession of any weapons or in position of any drugs
17 that would compromise the investigation.

18 Q. Now when you -- after you search the CI what do you
19 leave him with aside from his clothing?

20 A. I would give the informant the money to make the buy
21 and I will make sure that they don't have any money on them
22 that they have brought. So, you know, if they show up with
23 \$20 in their wallet I will put \$20 in my glove box until the
24 deal is over with, and as we part ways I will give them
25 their money back.

1 Q. And do you give them anything to maintain communication
2 with you?

3 A. Yes, the informant is also given the audio monitoring
4 device. And then we also outfit them with a camera so that
5 we can later view the transaction.

6 Q. Okay. So you search him, everyone has their duties,
7 the CI knows the objective; what happens next kind of when
8 you break; what happens next?

9 A. So I will have given assignments to the other officers
10 in my unit and then the patrol officers what we will
11 generally do is form a parameter out of site but still close
12 enough to respond in the event of an emergency.

13 So we will have this perimeter around the informant.
14 And then I will take the informant to an area where I can
15 insert them or drop them off without them being seen so it
16 appears as if they are just walking up into the area.

17 Q. And where did you drop him off that day?

18 A. It was Enston Street. It was west of -- northwest of
19 King and Simons. A couple of blocks.

20 Q. All right. And can you explain where the CI went that
21 day?

22 A. Yes, the CI came down -- is it coming up on the map?

23 Q. I will. Okay. I'm sorry (map scrolling). All right.
24 I will hold it here. Go ahead.

25 A. My finger will make a mark?

1 Q. Yes.

2 A. Okay. So the CI came down on to Simmons Street, walked
3 to King Street, turned onto Romney Street, came down Athens
4 Court, and then ultimately came down this cut before
5 reaching Poinsett Street and coming to a house on the south
6 side of Poinsett Street.

7 Q. Did the informant end up buying drugs that day?

8 A. Yes.

9 Q. What happened after he bought the drugs; where did he
10 go?

11 A. He came back to me, and I was parked near that same
12 location where he was dropped off.

13 Q. How much drugs did he buy?

14 A. Sixty dollars worth of crack cocaine.

15 Q. And after he brought everything back to you what did
16 you do with the drugs?

17 A. When I -- when I received them from the informant we
18 went back to the staging area. Which basically there is the
19 drop-off point and then there is the staging area where we
20 can assemble and not have to worry about anyone watching our
21 actions.

22 But so we go back to the staging area and I looked at
23 it and it looked consistent with -- from my experience to be
24 crack cocaine, cocaine base.

25 And then I have a field test which is a chemical

1 solution and an eye dropper. And so I took a sample from
2 the rock, the cocaine base. And I used the eyedropper. And
3 our indicator is that that substance turns a bright blue,
4 which occurred. So I knew it was going to be a narcotic.

5 Q. So when he returns and you did that with the drugs what
6 else happened at the briefing location then?

7 A. So the units, the other officers, will all reassemble.
8 We will make sure that everyone knows the operation went
9 smoothly.

10 And then I will conduct a search of the informant. In
11 my cases I will conduct a secondary search. I will then
12 have a meeting with the informant and allow him to prepare a
13 statement.

14 Q. In this case did the informant write a statement?

15 A. Yes.

16 Q. When you searched the informant, Mr. Singleton, the
17 secondary time did he have anything on his person that he
18 was not supposed to?

19 A. No.

20 Q. Why do you take a written statement from someone right
21 after things happen?

22 A. After something happens it is the point where it
23 freshest in their mind. That is the primary reason.

24 Q. With the drugs after you field tested them what did you
25 do with them?

1 A. Our procedure is to take them back to the police
2 department where we have an evidence drop box. So that
3 evidence the cocaine base is sealed and initialed so that it
4 is obvious that it can't be tampered with. Then it is
5 placed in this lockbox where only the evidence custodian can
6 access it. Where after that it goes to the lab for
7 analysis.

8 MS. LINDER: May I approach?

9 THE COURT: You may.

10 Q. At this time I am going to show you what's been marked
11 as State's Exhibit 4. Will you look at this. Do you
12 recognize it?

13 A. Yes.

14 Q. How do you recognize it?

15 A. Well, I put my own initial on it. This is the sealed
16 bag that I was talking about that I placed into evidence.

17 Q. And did those drugs remain in your sole care, custody,
18 and control from the time you received them from the
19 informant until they went to evidence?

20 A. Yes.

21 Q. And do those appear to be in substantially the same
22 condition?

23 A. They do.

24 Q. Do you see the person in the courtroom today who sold
25 drugs back on June the 13th, 2014?

1 A. I do.

2 Q. And where is she?

3 A. She is at the defense table in the middle.

4 MS. LINDER: I have no further questions for this
5 witness. If you can please answer anything that the defense
6 may have.

7 THE COURT: Mr. King, you are recognized.

8 MR. KING: Thank you.

9 **CROSS-EXAMINATION BY MR. KING OF SEAN ENGLER:**

10 Q. Mr. Engler, how are you doing? Just a few questions
11 for you. You said you had been an officer for eight years
12 maybe over eight years.

13 A. Yes.

14 Q. Has that been in narcotics?

15 A. No.

16 Q. You have spent time dealing with CI's during your
17 employment there at the Police Department?

18 A. Yes, I have been with the narcotics unit for over three
19 years now.

20 Q. And when you are dealing with informants sometimes you
21 are dealing with people who have criminal records, right?

22 A. Yes.

23 Q. Sometimes people who are drug addicts?

24 A. Yes.

25 Q. Ex-cons; sometimes I guess even current criminals,

1 right; I guess there's been some CI who may have committed
2 some crime while they were an active CI in your experience?

3 A. Yes, that had occurred.

4 Q. So you are dealing with in general with sometimes
5 people who are not always upstanding citizens, let's put it
6 that way?

7 A. Some of them are not. Some of them are.

8 Q. And I guess sometimes in this business that is
9 necessary though, right; you would -- you wouldn't go to the
10 upper-class suburban neighborhood in Charleston and somebody
11 with a good job and get them to be a CI, right; you usually
12 are going to get someone who has some ---

13 A. That -- that is incorrect. I would love to have a CI
14 from that demographic if they were able to give me access to
15 narcotics. That is -- that is what I investigate.

16 Q. Yeah, it would be the same problem as I guess the
17 undercover cop, right, you need someone who is familiar with
18 the area and, you know, wouldn't be immediately recognized
19 as a police officer; right?

20 A. I'm sorry, can you just rephrase that. I'm not
21 understanding what you're asking.

22 Q. I guess what I'm saying is -- the same reasons you
23 wouldn't use -- you want to use somebody who is familiar
24 with the area they are going to; generally, right?

25 A. Yes, that is ideal.

1 Q. And someone who wouldn't stand out?

2 A. Yes.

3 Q. Someone who was able to interact with people who sell
4 drugs, right?

5 A. Yes.

6 Q. This was referred to as a controlled buy, right?

7 A. This type of incident, yes, this was a controlled buy.

8 Q. That's because you try to control -- you try to control
9 all aspects that you can, right?

10 A. That's right. Yes.

11 Q. You wire him up with you said sophisticated audio and
12 video equipment?

13 A. Yes.

14 Q. Now you mentioned undercover officers versus
15 confidential informants. I guess all things being equal you
16 would prefer to use an undercover officer, wouldn't you?

17 A. Yes.

18 Q. If that person could get in and not be recognized and
19 get it done, right?

20 A. All other things being equal, yes.

21 Q. Because when you are dealing with informants you are
22 dealing with people that you could have some trust problems
23 with? What I mean by that is you search him, ---

24 A. Yes.

25 Q. --- right? And you search him -- I don't know if at

1 some point in the past maybe somebody had some drugs on
2 them, but you search him to make sure he doesn't have drugs
3 already on him?

4 A. Yes.

5 Q. It is not a strip search?

6 A. It is not a strip search.

7 Q. Like if somebody goes to jail for drugs they are going
8 to strip them down and do a complete strip search, right?

9 A. Yes.

10 Q. So the search you did, it could have been more
11 thorough; right, it probably could have been a more thorough
12 search than what you did?

13 A. A complete strip search would have been more thorough
14 than what I did.

15 Q. You had mentioned that he was paid even though he
16 didn't bring back drugs, right?

17 A. Yes.

18 Q. That was only one time though, wasn't it?

19 A. I would have to see -- or obtain a document. I don't
20 recall exactly many times that was.

21 MR. KING: May I approach, Your Honor?

22 THE COURT: Yes, you may.

23 Q. I am just going to show you that is Exhibit 1.

24 A. Thank you.

25 Q. If that refreshes your memory. Let me ask this: You

1 wouldn't have worked with him if he kept coming back over
2 and over again with no drugs; you wouldn't have worked with
3 him very long?

4 A. That's probably true.

5 Q. And can you confirm there that I guess out of 16 times
6 there was once that he didn't bring back drugs?

7 A. Yes, that's right.

8 Q. And that was the fourth out of the 16?

9 A. Yes, the -- well, the first -- the first line item is
10 not a buy.

11 Q. That's right. It is 15. I am counting the debrief.
12 So a third time out of fifteen?

13 A. Yes.

14 Q. Let's talk a minute about what you do, about your job.
15 You find evidence, right; I guess we will start there. It
16 is a part of your job is to find evidence to bring to court,
17 right?

18 A. Yes.

19 Q. The more evidence you have the better?

20 A. Yes.

21 Q. The better for your case, right?

22 A. Yes.

23 Q. Now as part of this controlled buy you provide the
24 informant with funds, with money; right?

25 A. Yes.

1 Q. It is not his own money; it is official money that has
2 to be kept track of, right?

3 A. Yes.

4 Q. You photocopy that money, ---

5 A. Yes.

6 Q. --- right? And that was provided in discovery that
7 came here. So you would know the serial numbers on the
8 money, that \$60; right?

9 A. Yes, and I just want to make clear that it is regular
10 money just that it is tracked. It is not special ---

11 Q. Right, it is not special money.

12 A. It is not special money.

13 Q. But you could identify that money if you saw it?

14 A. Yes.

15 Q. For example in Ms. Frayer had been arrested and had
16 that \$60 on her you would have been able to identify
17 that ---

18 A. Yes.

19 Q. --- by referring back to your photocopy ---

20 A. That's right.

21 Q. --- and your paperwork that you have documented?

22 A. Yes.

23 Q. But in this case that is not --- well, you could have
24 in this situation went into the house and then just tried to
25 arrest Ms. Frayer, right; and that's what you call the

1 buy-bust?

2 A. Yeah, a buy-bust would have been if at the point of the
3 transaction that the police stormed in and took down the
4 drug dealer.

5 Q. Is that sometimes done, buy-bust as opposed to a buy-
6 walk?

7 A. Sometimes, but less frequently.

8 Q. And there is one benefit to that, right; on a buy-bust
9 you go in and you know exactly who the person is, right; no
10 question about an identification or anything; you have got
11 the person there, right?

12 A. That is one of the benefits despite the many drawbacks.

13 Q. And another one would be, you know, presumably it would
14 have the marked money on them?

15 A. Yes.

16 Q. And that would be evidence you could present in
17 court ---

18 A. You are right.

19 Q. --- when it came to trial? But you don't have that in
20 this case?

21 A. No, we don't.

22 Q. And you testified about, you know, Ms. Frayer sold
23 drugs. But you are not present inside of that house, right?

24 A. I was not there.

25 Q. You are just -- are you listening in to the audio while

1 this is going on?

2 A. I am, yes.

3 Q. And you are back at the staging location waiting there?

4 A. No, I am in the parameter capacity where I am not at
5 the staging area. I am within a reactionary distance in
6 case something were to happen.

7 Q. But you didn't personally observe what went on in that
8 house?

9 A. No, not until the video.

10 Q. You don't know any more than we do about -- we have
11 seen the video. You don't know anything more than we do
12 about what went on inside of that house?

13 A. That is accurate.

14 Q. So the informant comes back and he hands you what you
15 believed to be drugs, crack cocaine?

16 A. Yes.

17 Q. And you noted in your supplemental report you do a
18 field test and you noted it was point-four grams?

19 A. Yes.

20 Q. And you didn't arrest anyone that day back in June
21 2014, right; you didn't arrest anybody at that time, it was
22 almost three months later?

23 A. Correct.

24 Q. The warrant wasn't even drafted until almost three
25 months later; is that right?

1 A. Yes.

2 Q. And again, you didn't recover any marked money from Ms.
3 Frayer?

4 A. No.

5 MR. KING: That's all the questions.

6 THE COURT: Any redirect?

7 MS. LINDER: No redirect.

8 THE COURT: You may step down.

9 You may call your next witness.

10 MR. MAYNOR: The State calls Linda Wilson.

11 THE COURT: Yes, ma'am, please come forward. Follow
12 the clerk's instructions. I am going to ask you to come
13 behind. Place your left hand on the Bible and raise your
14 right hand as the clerk administers the oath.

15 (WHEREUPON, the witness was duly sworn.)

16 THE COURT: Have a seat in the witness chair. Pull up
17 real close to that microphone. Speak loudly, clearly, and
18 slowly in order that we can hear everything that you have to
19 say. And let's start with your full name, please, ma'am.

20 THE WITNESS: Linda Wilson.

21 THE COURT: Very good. Yes, sir.

22 **DIRECT EXAMINATION BY MR. MAYNOR OF LINDA WILSON:**

23 Q. Good afternoon, Ms. Wilson.

24 A. Hi.

25 Q. Can you turn and tell the jury where you are presently

1 employed.

2 A. I work at the City of Charleston Police Department,
3 evidence division.

4 Q. How long have you been with the City?

5 A. A little over six years.

6 Q. What is your position?

7 A. Evidence technician.

8 Q. And what are the duties of an evidence technician?

9 A. What I do I take in evidence. I secure it in our
10 evidence control room. And I maintain the chain of evidence
11 for each piece of evidence that comes in.

12 Q. So I guess more specifically how do you receive that
13 evidence?

14 A. I come in early in the mornings and I receive it from
15 our mailbox, locked mailbox, secured lock. And that's how I
16 bring it in. Or either the officers hand it to us during
17 the day.

18 Q. Generally an officer would place the evidence in that
19 secured lockbox?

20 A. Yes, sir.

21 Q. And can just anybody access that evidence lock box?

22 A. Not just anybody.

23 Q. Who can access that?

24 A. Myself and my supervisor and my coworker.

25 Q. How is it secured?

1 A. It is padded. It is locked.

2 Q. On June 16th, 2014, did you receive evidence from
3 Detective Engles?

4 A. Yes, ma'am.

5 Q. Was that evidence regarding this case, the State v.
6 Vanessa Frayer?

7 A. Yes, sir.

8 Q. And where were those items, in this case, where were
9 they dropped off?

10 A. They were dropped off in the mailbox.

11 Q. Once Officer Engles dropped that off could he retrieve
12 it back?

13 A. No, sir.

14 Q. And who has the ability to retrieve those items?

15 A. Myself, my supervisor and coworker.

16 MR. KING: Your Honor, may I approach the witness?

17 THE COURT: You may.

18 Q. I am going to hand you what has been marked as State's
19 Exhibit 4. Do you recognize this?

20 A. Yes, sir.

21 Q. And what is that?

22 A. This is the evidence which the voucher says is cocaine.
23 And it was evidence that Detective Engles turned in June the
24 16th, 2014.

25 Q. Is that in the same or substantially similar condition

1 as the first time you saw it?

2 A. Yes, sir.

3 Q. And who did you say -- whose name is on there that you
4 submitted it to you -- or to the lockbox?

5 A. Detective Engles.

6 Q. Detective Engles. And then can you tell me who
7 received it from evidence from Engles?

8 A. From me I received it from the mailbox on June 16th,
9 2014, about 6:16 that morning.

10 Q. And after that was logged in where was the evidence
11 placed?

12 A. It was placed in our secure evidence room until the lab
13 came and signed it out.

14 Q. And does a courier come and sign it out?

15 A. Yes, sir.

16 Q. Can you tell me the name of the individual who handled
17 that evidence next?

18 A. That was Susan Payne.

19 MR. KING: Court's indulgence for one moment?

20 THE COURT: Yes.

21 MR. KING: Ms. Wilson, thank you. Would you answer any
22 questions Mr. King has.

23 THE WITNESS: Yes, sir.

24 MR. KING: I have no questions for this witness.

25 THE COURT: You may step down and you may be excused.

1 Thank you, ma'am.

2 You may call your next witness.

3 THE COURT: Yes, ma'am. Please come forward. Follow
4 the clerk's instructions on how to get to the witness stand
5 there. Place your left hand on the Bible and raise your
6 right hand as the clerk administers the oath.

7 (WHEREUPON, the witness was duly sworn.)

8 THE COURT: Pull up real close to that microphone.
9 Speak loudly, clearly and slowly in order that we can hear
10 everything that you have to say. And let's start with your
11 full name, please, ma'am.

12 THE WITNESS: It is Susan Murray Payne.

13 THE COURT: Very good.

14 **DIRECT EXAMINATION BY MR. MAYNOR OF SUSAN PAYNE:**

15 Q. Good afternoon, Ms. Payne. Can you tell the jury
16 where you are presently employed.

17 A. The City of Charleston Police Department.

18 Q. How long have you been working with the City?

19 A. Ten years.

20 Q. What is your position?

21 A. I am loans administrator and evidence custodian for the
22 forensic services division.

23 Q. As the evidence custodian can you explain your duties.

24 A. Yes, sir. I am responsible for picking up evidence and
25 delivering it to the different disciplines for testing.

1 Q. And did you have any involvement with this case on June
2 16th, 2014?

3 A. Yes, sir.

4 Q. Can you explain that.

5 A. Yes, sir. I went to the station to pick up evidence
6 from our evidence room and then I brought it to our lab for
7 testing.

8 Q. And what item was it that you picked up?

9 A. It was a plastic bag with rock-like substance.

10 MR. MAYNOR: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 Q. I am going to hand you what's been marked as State's
13 Exhibit 4. Would you take a look at that. Do you recognize
14 that?

15 A. Yes, sir.

16 Q. Is that that same evidence?

17 A. Yes, ma'am.

18 Q. And when did you first see it?

19 A. On June 16th of 2004 -- or 2014. Excuse me.

20 Q. Is that in the same condition or substantially similar
21 condition as when you saw it the first time?

22 A. Yes, sir.

23 Q. And per the Charleston Police Department's procedure
24 what did you do when you checked out this evidence?

25 A. I made sure it was sealed and initialed and that the

1 description matched what was actually in the evidence bag.

2 Q. Now is there a way to determine who you received that
3 item from, who the last person was?

4 A. Yes, the chain of custody.

5 Q. And what was their name?

6 A. It was Linda Wilson.

7 Q. And can you tell me who retrieved the evidence from the
8 vault that you placed in there -- did you place that
9 evidence in -- what did you do with the evidence once you
10 had it?

11 A. I entered it into our database system and then I placed
12 it into the safe in the lab.

13 Q. Is there a way to identify on that evidence who picked
14 it up after you?

15 A. Yes, sir.

16 Q. What was her -- what was their name?

17 A. Ashley Earl.

18 Q. Thank you. Answer any questions Mr. King has.

19 THE COURT: Mr. King, you are recognized.

20 Cross-examination.

21 MR. KING: No questions, Your Honor.

22 THE COURT: You may step down, and you may be excused.

23 Call your next witness.

24 MR. MAYNOR: The State calls Ashley Earl.

25 THE COURT: Yes, ma'am. Please come forward and follow

1 the clerk's instructions there. Place your left hand on the
2 Bible and raise your right hand as the clerk administers the
3 oath.

4 (WHEREUPON, the witness was duly sworn.)

5 THE COURT: Have a seat in the witness chair. I am
6 going to ask you to speak loudly, clearly and slowly in
7 order that we can hear everything that you have to say. And
8 let's start with your full name, please, ma'am.

9 THE WITNESS: Ashley Carr Earl.

10 THE COURT: Thank you.

11 **DIRECT EXAMINATION BY MR. MAYNOR OF ASHLEY EARL:**

12 Q. Good afternoon, Ms. Earl. Can you tell us what you do.

13 A. I am an associate criminalist for the Charleston Police
14 Department.

15 Q. Were you working in June 2014 for them?

16 A. Yes,

17 Q. How long have you been employed there?

18 A. I have been working with them since November of 2012.

19 Q. Can you explain a little bit about the position?

20 A. Yes, I do controlled substances analysis for the
21 Charleston Police Department. Evidence will come in that
22 has been submitted to be tested for the presence of a
23 controlled substance, and I will perform different types of
24 tests in order to determine what it is.

25 Q. Could you explain to the jury what type of training or

1 education you have.

2 A. Yes, I have a bachelor's of science in biology from
3 Winthrop University. I have also gone through the
4 Charleston Police Department Forensic Services Training
5 Program which is a mentoring program as well as classes and
6 a type of course that you have to follow through in order to
7 become proficient.

8 I take yearly proficiency tests. And this is all in
9 accordance with our lab guidelines because we are a
10 nationally accredited lab. So it all falls within the
11 guidelines of that.

12 Q. And as part of your job do you chemically analyze
13 substances to determine whether they are narcotics or not
14 narcotics?

15 A. Yes.

16 Q. How many times would you say you have done that in your
17 career?

18 A. Today I have done almost 2,000 cases.

19 Q. And have you determined in some of these same tests
20 whether or not something is cocaine based?

21 A. Yes.

22 Q. How many times would you say you have done that?

23 A. Our program doesn't allow to track as far as what
24 number of samples we have used to determine what it is, but
25 I would say that cocaine base is one of our more common

1 substances that we get in. And I do perform the tests
2 weekly.

3 Q. Are these tests part of your regular activity with your
4 job?

5 A. Yes.

6 Q. And what kind of equipment would you use in your lab?

7 A. We have balances that we use weighing the items. We do
8 color tests to help determine what the item it. We also
9 have an FTIR which is a fourier transform infrared
10 spectratrascopy machine.

11 It shoots an infrared beam at the substance and is able
12 to reach across different wavelengths and is able to give it
13 the chemical footprint of what it is.

14 We also use a GCMS which is a gas chromatography-mass
15 spectrometer. And that -- that substance is put into a
16 liquid and it is shot into it. It kind of separates all of
17 the compounds. We are able to see exactly what is in there
18 and again read the results to known libraries in order to do
19 matches.

20 Q. If you took these different types of test and these --
21 this equipment collectively how precise or accurate would
22 you say it is when you test for the whether an item is in
23 fact narcotic or cocaine base?

24 A. It is very precise. It is able to tell you if it is or
25 not. There is no question.

1 Q. Now have you been admitted as an expert before?

2 A. Yes, I have.

3 Q. And have you testified in court before?

4 A. Yes.

5 Q. How many times have you testified?

6 A. I have testified once as an expert witness and then
7 another time just as a chain of custody issue.

8 MR. MAYNOR: Your Honor, at this time the State would
9 move to have Ms. Earl be declared as an expert in the field
10 of drug analysis.

11 THE COURT: Any query with regard to her
12 qualifications?

13 MS. LINDER: No, Your Honor. I have no objection.

14 THE COURT: All right. Mr. Foreman, ladies and
15 gentlemen of the jury, ordinarily a witness can only testify
16 as to things they see, hear, and feel and perceive directly;
17 however an expert witness is an exception to that, and if I
18 qualify her as an expert she can testify in her field of
19 expertise.

20 And because of her education, training or experience in
21 a particular field, she is not only allowed to testify as to
22 what she saw, heard, and felt, but render opinions in that
23 area of expertise.

24 The fact that she is an expert doesn't mean that you
25 have to believe what she has to say just by virtue of the

1 fact that she is an expert. You evaluate it just like you
2 would any other testimony.

3 Yes, sir. And she is so qualified.

4 Q. Thank you, Ms. Earl. As a result of completing your
5 drug analysis do you generate any sort of records or report?

6 A. Yes, we generate a lab report.

7 Q. Did you do a report for this case?

8 A. Yes, I did.

9 MR. MAYNOR: May I approach the witness, Your Honor?

10 THE COURT: You may.

11 Q. I am going to hand you what has been marked as State's
12 Exhibit 2. Do you recognize that?

13 A. Yes, I do.

14 Q. What is that?

15 A. This is the lab report I generated for this case.

16 Q. And you prepared that?

17 A. Yes, I did.

18 Q. And when did you do that?

19 A. I prepared the report on June 18th, 2014.

20 Q. And was that signed by you?

21 A. Yes, it is.

22 Q. Is that a fair and accurate representation of that
23 document as you -- when you generated it?

24 A. Yes.

25 MR. MAYNOR: Your Honor, the State would seek to submit

1 State's Exhibit 2 into evidence and publish to the jury if
2 we may.

3 THE COURT: Any objection with regard to this document?

4 MR. KING: No objection, Your Honor.

5 THE COURT: All right. It is in evidence without
6 objection from the State. And this is known as State's
7 Exhibit ...?

8 MR. MAYNOR: Number 2.

9 THE COURT: Number 2 is into evidence.
10 (WHEREUPON, State's Exhibit Number 2 was admitted into
11 evidence.)

12 MR. MAYNOR: Permission to publish?

13 THE COURT: Yes. Just wait one moment while we get
14 that -- there we go.

15 Q. It may be a little difficult to see. I will see if I
16 can (adjusting ELMO).

17 Q. Can you tell us what is on this report?

18 A. Yes, at the top of the report there is the lab number.
19 As well as on the other side of the top on the right-hand
20 side is the case number assigned by the Police Department.

21 It has the date published. It has the date it was
22 submitted to our laboratory. If you look on -- under the
23 line it has all of the evidence that was in that case, which
24 was one item. It has the description of the evidence. And
25 then the results as well as the methods used.

1 Q. Thank you.

2 MR. MAYNOR: May I approach the witness, Your Honor?

3 THE COURT: You may.

4 Q. I am going to hand you something else in conjunction
5 with what is on that screen. Do you recognize this?

6 A. Yes, I do.

7 Q. What is that?

8 A. This is the item that was submitted into the case.

9 Q. And how can you tell that?

10 A. It has on the outside of the plastic bag I have written
11 the lab number, the weight, and my initials on the items.
12 So I am able to tell that this is the case I analyzed.

13 MR. MAYNOR: Your Honor, at this time -- is that --
14 excuse me.

15 Q. Is that, right there in your hand, does that appear to
16 be in substantially the same condition as it was when you
17 first retrieved it?

18 A. Yes.

19 MR. MAYNOR: Your Honor, at this time we would like to
20 offer State's Exhibit 4 into evidence.

21 THE COURT: Any Objection from defense?

22 MR. KING: No, Your Honor.

23 THE COURT: State's Exhibit 4 is into evidence without
24 objection from defense.

25 (WHEREUPON, State's Exhibit Number 4 was admitted into

1 evidence.)

2 Q. Ms. Earl, can you tell us if that item has been
3 tampered with in any way?

4 A. It does not appear to be.

5 Q. And can you tell us how you know that; is that -- do
6 those items in that bag match the items in this report?

7 A. Yes, it does. It has the same weight as the one item
8 in this report. There was only one item that was submitted
9 to our lab for this case. This is the only item. And like
10 I said, it has been labeled with the lab case number as well
11 as the weight and my initials.

12 Q. What was the weight?

13 A. The weight is point-two-five grams.

14 Q. What was the outcome of your test?

15 A. The outcome of my test was that this contained cocaine
16 base.

17 Q. And from those tests were you able to form an expert
18 opinion as to what was that exhibit?

19 A. Yes.

20 Q. What was your opinion?

21 A. My expert opinion was that this substance in here is
22 point-two-five grams of cocaine base.

23 Q. Ms. Earl, thank you very much. Answer any questions
24 that Mr. King has.

25 A. All right. Thank you.

1 Q. Thank you.

2 THE COURT: Mr. King, you are recognized.

3 MR. KING: I have no questions, Your Honor.

4 THE COURT: You may step down. And you may be excused.

5 You may call your next witness.

6 MS. LINDER: The State rests.

7 THE COURT: Mr. Foreman, ladies and gentlemen of the
8 jury, at this juncture we are required to take up matters of
9 law outside of your presence. I am going to ask that you
10 return to the jury room. Do not discuss the case.

11 Everyone remain seated as the jury exits the courtroom.

12 (WHEREUPON, jury exits courtroom 8/12/15, 3:06 p.m.)

13 THE COURT: Glad to hear motions at this time.

14 MR. KING: Your Honor, at this time the defense would
15 make a motion for a directed verdict.

16 THE COURT: Okay. I will be glad to hear the State's
17 response.

18 MR. MAYNOR: Your Honor, the State's response would be
19 that in the light most favorable the court should consider
20 obviously in the light most favorable to the State the
21 existence or nonexistence of the evidence that we have heard
22 today and not so much the weight.

23 I would submit to you that this evidence we have heard
24 today does not support a directed verdict. And mostly
25 because we have heard from two Charleston police officers

1 who both were able to identify the defendant, they were able
2 to identify that there was in fact a controlled purchase of
3 drugs in the area and on Poinsett Street within the County
4 of Charleston.

5 And we also heard evidence and testimony from a
6 confidential informant Mr. Singleton who was able to also
7 identify the defendant and tell us about presenting \$60 in
8 pre-recorded currency to the defendant in exchange for
9 drugs. Those drugs were handed off by Detective Engles to
10 the Charleston Police Department's evidence custodian. She
11 transferred those drugs to the courier who in fact got them
12 to the lab and they were tested and came back positive for
13 cocaine base. So we would ask that you deny any motion for
14 a directed verdict.

15 THE COURT: It does appear to be a question of fact for
16 the jury. I deny the motion for directed verdict. However,
17 you are protected on the record.

18 Ms. Frayer, I am going to ask you to stand and raise
19 your right hand as the clerk administers the oath.

20 (WHEREUPON, Ms. Frayer was duly sworn.)

21 THE COURT: Ms. Frayer, how are you doing -- you can
22 put your hand down. How are you doing today?

23 MS. FRAYER: Fine.

24 THE COURT: All right. At this time I am going to
25 explain to you certain of your rights. If you do not

1 understand anything I say; please let me know. If you want
2 me to explain anything in more detail, let me know and I
3 will be happy to do that. Do you understand?

4 MS. FRAYER: Yes, sir.

5 THE COURT: All right. We have now reached the stage
6 in the trial where you may present your defense. You have
7 the right to claim the protections given to you by the Fifth
8 Amendment to the Constitution of the United States of
9 America.

10 This amendment states in relevant part no person shall
11 be compelled in any criminal case to be a witness against
12 him or herself.

13 This means that you cannot be required to testify in
14 this case. You have the right to testify on your own
15 behalf; however, no one can make you testify. This is a
16 personal right and no one can waive this right except you.

17 If you decide to testify you will be subject to the
18 same rules that govern other witnesses and you may be
19 examined and cross-examined on any relevant issue in this
20 case.

21 In addition if you have any convictions involving
22 dishonesty or false statements or for crimes punishable by
23 imprisonment for more than one year this court determines
24 that the probative value of admitting this evidence outweigh
25 the prejudicial effect to you. The solicitor will be able

1 to introduce your record to attack your credibility.

2 If you decide to testify, this decision on your part
3 must be freely, voluntarily and intelligently made; the
4 knowledge and the protections given to you by Fifth
5 Amendment and the consequences of your decision to testify.

6 If you decide not to testify I will instruct the jurors
7 they cannot give the fact that you did not testify any
8 consideration whatsoever in their deliberations.

9 There is to be absolutely no prejudice to you because
10 you did not testify. It is left entirely up to you whether
11 or not to testify. You may talk with your attorney, your
12 family members, friends or anyone else. But the final
13 decision will be left entirely up to you.

14 Do you understand what I have explained to you?

15 MS. FRAYER: Yes, sir.

16 THE COURT: Do you have any questions about what I have
17 explained to you?

18 MS. FRAYER: No, sir.

19 THE COURT: All right. Have you discussed with your
20 lawyer whether you should testify or not testify?

21 MS. FRAYER: Yes, sir.

22 THE COURT: Do you need any additional time to confer
23 with him?

24 MS. FRAYER: No, sir.

25 THE COURT: Do you wish to testify?

1 MS. FRAYER: No, ma'am.

2 THE COURT: Very good. You may be seated.

3 Mr. King, are you in -- will you be offering any
4 testimony?

5 MR. KING: No, Your Honor.

6 THE COURT: Okay. Very good. All right.

7 I will go over the charge. I am going to charge the
8 fact the indictment is not evidence, charge presumption of
9 innocence, reasonable doubt the differing roles of the judge
10 and the trial jury, direct and circumstantial evidence.

11 I will charge them the law about how to evaluate
12 credibility of witnesses, charge them the law with regard to
13 expert witnesses.

14 I am going to charge them the law with regard to
15 failure of the defendant to testify. I am going to charge
16 them the law with regard to the prior record of a witness
17 and how they are to evaluate that.

18 I am going to charge the law with regard to
19 distribution of crack cocaine and define what distribution
20 is. And I will ask that each of you come forward and take a
21 look at the verdict form.

22 (WHEREUPON, counselors complied.)

23 THE COURT: Is there any objection with regard to the
24 verdict form from the State?

25 MS. LINDER: No objections to regard with the verdict

1 form. But I do have a request for a charge for the jury.

2 THE COURT: All right. Any objection to the verdict
3 form from the defense?

4 MR. KING: No, Your Honor.

5 THE COURT: And I will be happy to entertain any
6 additional requests to charge.

7 MS. LINDER: Your Honor, the State would just ask for
8 some sort of instruction to the jury about the video. Mr.
9 King mentioned in his opening about how it's all audio,
10 video recorded and how things shouldn't be left up to
11 speculation and they are the technical people and they are
12 the ones in charge.

13 And I just didn't know if there is some sort of
14 instruction you could give to the jury that outside of their
15 presence there were some rulings made by the court and even
16 mention that something to the effect of the portions of the
17 video that were muted were based on prior rulings by the
18 court and it was not some sort of improper behavior by
19 the -- or there was no fault or default or problem with the
20 recording itself, it was based on prior rulings and that's
21 why they were only allowed to see a set -- or hear certain
22 portions.

23 THE COURT: What do you have to say on that, Mr. King?

24 MS. LINDER: I think that would be a charge on the
25 facts, Your Honor. I think we are allowed to charge the law

1 in South Carolina for the jury, but explaining to them
2 things about the video would be a charge on the facts.

3 THE COURT: If you -- if you make reference or try to
4 draw an adverse inference from things being muted it would
5 be unfair to the State to allow you to do that without there
6 being an appropriate explanation. Do you intend on doing
7 that?

8 MR. KING: No, Your Honor, I am planning to avoid that
9 at all costs.

10 THE COURT: All right. Well, I don't find it necessary
11 to give a charge in that regard. Are y'all ready to proceed
12 forward with closings?

13 MS. LINDER: Yes.

14 THE COURT: And the State goes first under these
15 circumstances. And we are going to rest -- we are going to
16 stand at ease for about five minutes. We will come back and
17 give the closing arguments.

18 MR. KING: Could we have a little more time for
19 closing, maybe ten to fifteen minutes just to get my notes
20 together and prepare?

21 THE COURT: Nine minutes. No, we will -- we will --
22 ten minutes. We will be back in in ten minutes.

23 MR. KING: Thank you.

24 THE COURT: It might be good for you to sit right there
25 for when we -- so when we get ready to come back. Don't let

1 me hunt you down. All right. Very good. We will stand at
2 ease.

3 (WHEREUPON, break was had 8/12/15, 3:15 p.m.)

4 THE COURT: Anything from the State?

5 MS. LINDER: Nothing from the State.

6 THE COURT: Anything from defense?

7 MR. KING: No, Your Honor.

8 THE COURT: All right. We are ready for the jury.

9 MR. KING: Your Honor, I apologize. I -- may I request
10 mere presence charge. I am just trying to make sure I don't
11 miss anything. Would it be possible -- I -- I guess I would
12 request a mere presence charge. I apologize.

13 THE COURT: I'm not real sure whether that -- whether
14 that applies. But I will be glad to hear from what the
15 State has. What does the State have to say?

16 MS. LINDER: Your Honor, our position is that it does
17 not apply. There has been no testimony that she was merely
18 present. In fact all the testimony that was from any
19 persons inside that place were that she had an active role
20 taking the order and making the sale and doing the
21 distribution itself.

22 There has been no testimony of it. And as Mr. King
23 pointed out in his opening you don't even see a hand to
24 hand. So there is no way to really point it at someone
25 else. So we would object to any mere presence.

1 THE COURT: All right.

2 MS. LINDER: Especially because the language of the
3 distribution includes conspiring, aiding, abetting, and all
4 of that. And I think that would cover things better.

5 THE COURT: All right. You are protected on the
6 record. I don't think it applies. And I think probably
7 where you have a constructive possession case with where
8 there is some amount of controlled substance in a room I
9 think that would apply. This case is there is no evidence
10 of that in this case.

11 We are ready for the jury.

12 THE BAILIFF: Thank you.

13 (WHEREUPON, jury enters courtroom 8/12/15, 3:35 p.m.)

14 THE BAILIFF: All jurors are present, Your Honor.

15 THE COURT: Mr. King, you are recognized.

16 MR. KING: I believe the State will go first. Oh, I'm
17 sorry, the defense rests. I apologize.

18 THE COURT: Very good.

19 MR. KING: I'm sorry.

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen of the jury, you have heard all of the evidence
22 that is going to be presented in this case. And at this
23 time you will hear closing arguments from counsel. Under
24 these circumstances the State goes first. Yes, ma'am.

25 MS. LINDER: Thank you, Your Honor.

1 CLOSING BY MS. LINDER:

2 So as I told you just a few short hours ago the case is
3 reasonable pretty -- it is pretty straightforward. Drugs
4 are illegal. It is illegal to possess drugs. It is illegal
5 to possess with intent to distribute. And it is illegal to
6 distribute drugs in the State of South Carolina. Cocaine
7 base crack is an illegal drug.

8 Back on June the 13th of 2014 this defendant did just
9 that. Vanessa Frayer did just that. She sold drugs. She
10 distributed drugs, crack cocaine, to a confidential
11 informant who was working under the direction and control of
12 the City Police Department.

13 What I would like to do is I would like to kind of take
14 you through a little bit about what you heard just in
15 summary. If anything I say doesn't match up with what you
16 remember, obviously go with what your thoughts are on it.

17 First, I want to talk to you about what you heard. The
18 first witness you heard from was Patrick Gill. Patrick Gill
19 told you he has been trained for who knows how long. He has
20 all these different courses he has taken. He has all these
21 different degrees. He has been in the narcotics unit for a
22 number of years. He told you kind of the basics, the
23 background; so you kind of knew settling you in and warming
24 you up about what you were about to hear.

25 He explained to you what a controlled buy is. A

1 controlled buy is one of many things that a narcotics unit
2 does within a police department to attempt or to do things
3 with narcotics.

4 A controlled buy is where law enforcement has as much
5 control as they can and they go make a buy of drugs. It is
6 not hard. You heard about what a buy-bust and a buy-walk.

7 A buy-bust is just what it sounds like. You go, you
8 make a buy. You are busted right there. The cops come
9 storming in. A buy-walk is you go you make a buy and then
10 the person walks away.

11 He told you about the pros and cons of each, about
12 compromising officer safety if they come rushing into a
13 location that they are not fully aware of.

14 He talked to you about CI safety, because if they are
15 in an area with a lot of people their safety could be
16 compromised. The CI safety could also be compromised
17 because they get burned in a sense. Their identity is
18 called to the world at that point.

19 That CI for all we know - it is up to the narcotics
20 unit - could be involved in other investigations. Maybe the
21 plan is two weeks later to go to that same street to buy
22 drugs. You know, if you go in and bust them the
23 investigation is over.

24 He also talked to you about why an informant is used as
25 opposed to an undercover police officer. I would agree I

1 would love to toss a police officer up there and say I went
2 undercover, I went and bought drugs. Great.

3 I wouldn't have to go through prior record. I wouldn't
4 have to, you know, kind of help him and ask him to
5 articulate a little bit better so you as a jury can
6 understand it.

7 But that is not realistic in all these cases. It is
8 just not. I would be -- I would look weird if I walked up
9 in my suit and I said hey can I buy some drugs.

10 I don't care what corner of Charleston County I am
11 going to to do that; unless I know you, a lot of times I
12 would submit to you that drug dealers don't deal with people
13 they don't know, especially in their home. You have to use
14 CI's who have access to people.

15 Gill also told you about the basic debriefing. A
16 search is done. They get wired up. They are given the pre-
17 recorded money to go make this buy. He also told you he
18 used a map. I am not going to try to put it up there
19 because I -- it was going all over.

20 This is just a map of Charleston County. It is zoomed
21 in. He drew that pathway for you. You are going to have
22 this back there. If you want to look at it and you want to
23 try to figure out how he walked or trace the steps, you will
24 have this back there in the room with you to go over.

25 We also heard from another law-enforcement officer. We

1 heard from Detective Engles. Engles is the case agent.
2 Engles similar to Gill told you about all of his training,
3 all of his education, all of his experience.

4 He went through the basics about a controlled buy. He
5 went through the basics about buy-bust, buy-walk, CI, UC.
6 But what really matters about what Engles was talking about,
7 Engles was in charge of this. He is the one who made the
8 decision.

9 That day the decision was not let's call this person,
10 let's call "x" and buy from them. That day he testified
11 there were complaints going on about certain incidents in
12 the area I believe were his words. And so they were trying
13 to get someone in there to try to see if they could learn
14 some information. They were trying to see what they could
15 do. They were targeting a general area.

16 So he told you where they were targeting. It was a
17 general area. He told you because of that he opted, he
18 chose, to use an informant, an informant who was an
19 informant for what I would submit to you is a long period of
20 time for an informant.

21 He used a paid informant. He wasn't someone who was
22 trying to get a sweet deal from the prosecutor. He was
23 paid. And he further explained to you though he wasn't paid
24 if he produced, he was paid for his time more or less. CI
25 as he testified, to get paid for information if it is

1 verified and corroborated. They get paid for making buys.
2 They get paid for trying to get buys. You like it, you
3 don't like, that is not really what we are here for. What
4 we here for is to see what happened that day. And you are
5 here as judges of the facts to determine what exactly
6 happened that day.

7 Engles further talked to you about what happened at the
8 briefing. He talked about that he explained what he did to
9 the other officers.

10 They all gathered. They all gather. Okay, you two
11 perimeter on these areas. Okay, and you two you are going
12 to be stationary here. And here is this -- here is this
13 word. If he said help, everyone get in there.

14 They have all got their walkie-talkies to the same
15 station so they could all listen. They were all ready to
16 go. They were there. This is what they do every day. So
17 they got ready. So all of the other officers were ready.
18 And then they had to get the CI ready.

19 They didn't say hey Chris here is some cash, head out.
20 No, no. They know that sometimes cases come to where we are
21 today. They come to trial. So they try to get everything
22 in line that they can.

23 So the case agent, Engles, described to you, and also
24 did Gill, that search was done, a thorough search. Shoes
25 off, socks off, pockets, body. I mean not a strip search

1 but they were after all outside in a debriefing.

2 He explained to you that search. He explained that the
3 CI didn't have anything on him. He didn't have cash, didn't
4 have drugs, didn't have weapons; had nothing. He had a
5 phone, and that phone was used for communication with law
6 enforcement.

7 He talked to you about the money. He gave the CI
8 money. That was the other thing that the CI had. The CI
9 was going to go by \$60 worth of cocaine base or crack.

10 So he also talked to you about the instructions that he
11 gives. He gives instructions to the CI, don't get in
12 someone's car I think was one of them. You know, let me
13 know where you are.

14 Especially in something like this I would submit to you
15 that there is an area. They are not saying, you know, go to
16 in the red brick house on the third floor in
17 the second bedroom on the left. They don't know exactly
18 where he is going.

19 They know he was targeting a specific area where
20 incidents were occurring and place were occurring, but that
21 is why it is super important; he said tell us where you are;
22 you have got all of us here listening on this live feed,
23 tell us where you are; don't get into a car.

24 He is telling him the extraction word, help. He is
25 telling him to let him know when the deal is done. He tells

1 him to walk -- as soon as the deal is done walk directly
2 back to him. He tells him all of that.

3 He gives him all of these instructions because he is
4 trying to be as in control of the situation as possible on
5 things like this.

6 You heard from the chain of custody witnesses. Chain
7 of custody witnesses just show you that he brought the crack
8 that came from her hand, I am going to submit to you, to the
9 CI's hand. Went to Detective Engle's hand, which went to a
10 mailbox that he didn't have access to. Was picked up by
11 Linda Wilson in evidence. She created more labels. It was
12 then picked up by Susan Payne, the courier. Took it to the
13 lab. The lab then created their labels.

14 You see all these seals and initials and writing. That
15 is all to show you that this is it, this is the same stuff.
16 From start to finish the same stuff.

17 And you heard Ashley Earl talk to you. And she
18 explained to you this report. She explained to you the
19 weight with the plastic bag and the rock-like substance,
20 two-point-five gram -- point-two-five grams of cocaine base.

21 Again, you will have this stuff back there with you. I
22 encourage you to look at it. Go through it. Think about
23 it. Talk about it.

24 Now we get to talk about the CI, Christopher Bernard
25 Singleton. I just want to say that he's not a saint. He

1 didn't say he was a saint. He was very honest. He was very
2 honest with the things he has been through in his life.

3 He told you about being born and raised in Charleston.
4 He told you he graduated high school. He told you he was in
5 the military. And he told you that he is currently
6 receiving disability benefits from the military.

7 As many people do he found himself with a substance
8 abuse issue and got into some legal trouble. Yes, he told
9 you that. But he was proud of himself for where he is
10 today. And he was proud of himself for where he was even
11 back in June of 2014. He hadn't been in trouble in years
12 before this happened. He was doing so good he has told you.

13 He is not a saint. But, you know, he has access. He
14 has access to do these buys. So he told you what he did.
15 He told similar, I would submit to you, as Engles and Gill,
16 about the searching, about the money, about all of this.

17 He told you about the instructions. I think he
18 referred to -- again, if my memory is wrong, use yours. I
19 think he referred to it as like because that is what you do,
20 that is the routine.

21 And he said that when I asked like why did you write a
22 statement. Because that's what you do. Why did you tell
23 Engles -- why did you say things like Athens Court. Because
24 that's what you do. Because he listened to the instructions
25 that Engles gave him and he followed those instructions to a

1 tee.

2 So you are going to get the video back there. Actually
3 you are going to get -- the video is in evidence. If you
4 would like to watch the video the judge will instruct you on
5 ways that we can go about playing that video for you. Feel
6 free to watch it once, ten times, however many times you
7 need to watch it.

8 I would submit to you listen. Listen and watch that
9 video. I think you should watch. I think you should watch
10 how this defendant holds court. She is the only one sitting
11 in there. Everyone else is standing. She is the one
12 sitting down.

13 Go back. Go back and look at twelve minutes and one
14 second and look at her. Decide if that is her. Go back at
15 twelve minutes and two seconds and look at her. Decide if
16 that is her. Go back to 14 minutes and 20 seconds and look
17 at it. Decide if it is her. Decide if it is her by
18 watching the whole thing. But it is not just the picture.
19 It is not just in the picture.

20 Listen to it. You hear the CI say he's on Athens, he
21 is going to the next street over, there is a dead end.

22 You hear when he enters the house he orders up. He
23 orders up from her. He needs a 60. He needs a 60. He told
24 you what a 60 means, \$60 worth of cocaine base crack.

25 So she goes through and -- if you hear him he is really

1 apologetic. He is afraid of her. She said get the "F",
2 whatever. Go stand over there. Go stand over there. Yes,
3 ma'am. Yes, ma'am. Apologize. Yes, ma'am. Yes, ma'am.
4 You will hear that on there. He is taking orders from the
5 woman in charge, from the woman who is passing out and
6 selling dope.

7 And you hear her say \$60, \$60. You hear her say -- \$60
8 means something to her. That \$60 -- that \$60 sale she just
9 caught.

10 You also hear the CI talking on there and you heard him
11 testify that when he is going as instructed from the house
12 after the buy directly back to Engles. I mean he is walking
13 a few different streets. You see him get in that minivan.
14 It is not a real tough vehicle, but you see him get in that
15 minivan and get unhooked.

16 You hear him saying hello, hello, she shorted me on the
17 60, I am acting like I'm talking to my mom, only a part of
18 that, on my way to you.

19 He says all these things because he knows there is a
20 live feed, he knows the routine, he knows what he is
21 supposed to do; and he does it. He did all of that. He is
22 giving the location as he was instructed to do. He is
23 telling them what is happening as he is instructed to do.

24 And you heard him on the stand. He pointed out. He
25 pointed out the defendant. Lady in black. Lady in black

1 sitting at that table. That is Ms. Frayer. That drug deal,
2 that is the lady who sold him cocaine base back on June the
3 13th of 2014.

4 There was no question in his mind. He said that, gosh,
5 I think maybe eight questions into it before the video. And
6 then he said it again. And then he said it again.

7 I ask that you think of everything that you heard
8 today, you think of the conduct that occurred. And I ask
9 that you render a verdict of guilty of distribution of
10 cocaine base crack for the defendant Vanessa Frayer. Thank
11 you.

12 THE COURT: Thank you, Ms. Linder.

13 Mr. King, you are recognized.

14 CLOSING BY MR. KING:

15 This hasn't been a very long trial, but it is a serious
16 trial. It is not simple, as the solicitor says. I guess as
17 she said illegal drug -- illegal drugs are illegal. But
18 that is not what we are arguing about. What we are arguing
19 about is whether they have proven that Vanessa Frayer sold
20 drugs that day.

21 And really the witnesses they put up that has
22 anything -- who even witnessed anything is this informant,
23 Mr. Singleton. And this is a guy who has a history of
24 stealing, has a history of doing dishonest things.

25 He is at least a former addict, crack cocaine, which

1 costs money. And addicts need money for drugs. And he was
2 getting paid money.

3 If he showed back up, gave Officer Engles those drugs,
4 he got money. Now one time he said he came back and didn't
5 have any and still got paid. But I don't think he would
6 have lasted very long if that happened more than once. If
7 you didn't come back with drugs 14 other times.

8 Now it sounds like an informant would be useful for
9 tips, information. But to rely on that person to make this
10 case, to put him on the stand and ask you to make the
11 decision based on his credibility is asking a lot.

12 A CI can give information. An informant can give
13 information. Inform, that is where the word comes from.
14 And then the police follow up on that and investigate and
15 bring evidence to court.

16 But they are relying really on him in this case. You
17 have to take his word for it. The police officers didn't
18 witness this or anything that happened.

19 And Mr. Singleton has done dishonest things. He has
20 been convicted of dishonest crimes. Can we trust him? You
21 know, he said -- he testified it was short. The one thing
22 he was supposed to go get \$60, and he didn't come back with
23 \$60 worth like he was supposed to. He claims it was short.
24 There's -- is there something there?

25 Engles notes in his report it is point-four grams, but

1 then the chemist is point-two-five grams. And if you look,
2 State's Exhibit Number 2, this form from the chemist, is has
3 point-two-five grams. What Engles had is point-four grams.
4 That's almost half; from point-four to point-two-five.

5 And you will notice on here if you look at this
6 back -- Exhibit Number 2 it has subjects, right. It doesn't
7 have Frayer, Vanessa Frayer's name written right there as
8 the subject of this investigation. He has it under
9 investigation.

10 So if Vanessa Frayer sold drugs on June 15th and they
11 are so sure of it why on June 16th is it under investigation
12 and why did it take almost three months for the arrest
13 warrant even to the come out?

14 So it is not simple. And as I said this morning in
15 opening, that, you know, the police have control over this.
16 It is a controlled buy. This is not something that happened
17 to get captured on video and the police can say well this is
18 all that we have, you know, the surveillance camera only
19 captured this.

20 They are in control of this investigation and they need
21 to be held to their burden. They have sophisticated
22 equipment. They have years of experience. Between Officer
23 Gill he is in narcotics and doing this sort of thing. And
24 all that experience and sophisticated equipment this video
25 is the best they can do to bring to you?

1 It is not a clear video. And if she were selling
2 drugs, if she is a drug dealer, they could go back. They
3 could go back the next day. And if she is selling drugs
4 they could easily get this drug deal captured on video.

5 One thing I brought up in the trial - and this is
6 important too - they act like the buy-bust is something they
7 just never do. But, you know, that's they have marked
8 money. What they do is they get cash. They photocopy it so
9 they have a record and serial number so they can identify
10 that cash. They give it to the informant and he is supposed
11 to have given it to Ms. Frayer, but they can't prove it.
12 They didn't go in and arrest her and find marked money on
13 her. They didn't arrest anybody for almost three months.

14 So there's a big piece of evidence missing that you
15 would expect in a case like this, a controlled buy where
16 they have control. They could have arrested for then, but
17 they didn't.

18 So as I said, it is a very serious matter. The State
19 wants to convict her with a serious crime, for you to make
20 this decision.

21 And the burden in this criminal cases is high. It is
22 very high. It is not did she probably do it, did she maybe
23 do it; it is proof beyond a reasonable doubt that she did
24 it.

25 And this burden protects all of us. It protects

1 everybody so people aren't falsely convicted. It is
2 important. And for them to ask you to make this decision
3 they have got to supply you with the evidence to make that
4 decision and to make the right decision.

5 And if the evidence isn't there it would be the wrong
6 decision. And that's what we want to avoid in our criminal
7 system. That is why we have that high burden of proof to
8 avoid false convictions.

9 So send a message that there will be no convictions in
10 this county without the evidence, without proved beyond a
11 reasonable doubt.

12 Don't let it happen to Vanessa Frayer. And don't let
13 it happen in Charleston County today. Thank you.

14 THE COURT: Thank you, Mr. King.

15 Mr. Foreman, ladies and gentlemen of the jury, you have
16 taken a very solemn oath that you will listen to the
17 evidence to determine what the truth is, apply it to the law
18 and render a verdict that speaks the truth. And I am
19 convinced that you will do that.

20 I have watched you throughout today, and I have noticed
21 that y'all have paid very close attention throughout the
22 trial of this case. And you've got all the tools necessary
23 to determine what the facts are. But you have to in order
24 to apply it to the law you have got to understand the law.

25 I am going to charge you the law here momentarily. And

1 it is sort of like taking a dose of medicine, there is no
2 easy way to do it. It is not the most exciting thing. And
3 I know it is getting into mid-afternoon. I am going to ask
4 you to perk up a little bit because these are important
5 matters and you have got a very solemn duty to perform, so
6 pay very close attention.

7 Mr. Foreman, ladies and gentlemen of the jury, the
8 indictment charges the defendant with distribution of crack
9 cocaine. I will remind you the fact that the defendant was
10 arrested, charged, and indicted is not evidence, cannot be
11 considered by you as evidence of guilt, nor does it create
12 any presumption or inference of guilty.

13 This document is simply the formal written instrument
14 which contains the charges made against the defendant. It
15 is the formal document by which this case is brought to
16 court.

17 I will remind you that during this trial you and I have
18 certain duties to perform. As the trial judge it is my
19 responsibility to preside over the trial, and I also have
20 the duty to rule on admissibility of evidence all during
21 this trial. You are to consider only the competent
22 evidence before you. You are to consider only the testimony
23 which has been presented from this witness stand, any
24 exhibits which have been made a part of the record and any
25 stipulations of counsel.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge I am the
3 sole judge of the law. It is your duty as jurors to accept
4 and apply the law as I now state it to you.

5 If you already have an idea as to what the law is or
6 what the law ought to be and it does not agree with I now
7 tell you what the law is, you must abandon this idea because
8 you are sworn to accept the law and apply the law exactly as
9 I state it to you.

10 In every case tried in this court before a jury the
11 jury becomes the sole and exclusive judge of the facts in
12 any given case.

13 The trial judge cannot intimate, state, comment on or
14 make any statement to a trial jury about the facts in the
15 case. Since you the jury are the sole judge of the facts in
16 the case you are not to infer from what I have said during
17 the progress of this trial and ruling upon admissibility of
18 evidence or otherwise or anything that I say now during the
19 course of this instruction to you that I have any opinion
20 about the facts.

21 The law simply does not allow me to have an opinion
22 about the facts. This is a matter solely for you the jury
23 to determine. As jurors it is your duty to determine the
24 effect, value, weight, and truth of the evidence presented
25 during this trial.

1 Mr. Foreman, ladies and gentlemen of the jury, the
2 defendant has pled not guilty to this indictment. That plea
3 puts the burden on the State to prove the defendant guilty.

4 A person charged with committing an criminal offense in
5 South Carolina is never required to prove him or herself
6 innocent.

7 I charge you that it is an important rule of law that
8 the defendant in a criminal trial no matter what the
9 seriousness of the charge might be will always be presumed
10 to be innocent of the crime for which the indictment was
11 issued unless guilt has been proven by evidence satisfying
12 you of that guilt beyond a reasonable doubt.

13 This presumption of innocence does not end when you
14 begin your deliberations but it accompanies the defendant
15 throughout the trial until you reach a verdict of guilt
16 based on the evidence satisfying you of that guilt beyond a
17 reasonable doubt. Presumption of innocence is like a robe
18 of righteousness placed about the shoulders of the defendant
19 which remains with the defendant until it has been stripped
20 from the defendant by evidence satisfy you of the
21 defendant's guilt beyond a reasonable doubt.

22 Presumption of innocence is not a mere legal theory.
23 It is not just a legal phrase. It is a substantial right to
24 which every defendant is entitled unless you the jury are
25 satisfied from the evidence of the defendant's guilt beyond

1 a reasonable doubt.

2 What is reasonable doubt in the law? A reasonable
3 doubt is the kind of doubt that would cause a reasonable
4 person to hesitate to act.

5 The State has the burden of proving the defendant
6 guilty beyond a reasonable doubt. Some of you have served
7 as jurors in civil cases where you were told that it is only
8 necessary to prove that a fact is more likely true than not,
9 such as by a greater weight or the preponderance of the
10 evidence.

11 A criminal case is the State's proof must be more
12 powerful than that. It must be beyond a reasonable doubt.
13 Proof beyond a reasonable doubt is proof that leaves you
14 firmly convinced of the defendant's guilt.

15 There are very few things in the world we know with
16 absolute certainty. In a criminal case the law does not
17 require proof that overcomes every possible doubt.

18 If based on your consideration of the evidence you are
19 firmly convinced the defendant is guilty of the crime you
20 must find the defendant guilty.

21 If on the other hand you think there is a real possible
22 the defendant is not guilty you must give the defendant the
23 benefit of the doubt and find her not guilty.

24 Ladies and gentlemen of the jury, there are two types
25 of evidence generally presented during a trial, direct

1 evidence and circumstantial evidence.

2 Direct evidence directly proves the existence of a fact
3 and does not require deduction. Circumstantial is proof of
4 a chain of facts and circumstances indicating the existence
5 of a fact.

6 Crimes may be proven by circumstantial evidence. The
7 law makes no distinction between the weight or value to be
8 given to either direct or circumstantial evidence.

9 However, to the extent the State relies on
10 circumstances evidence all of the circumstances must be
11 consistent with each other and when taken together point
12 conclusively to the guilt of the accused beyond a reasonable
13 doubt.

14 If these circumstances merely portray the defendant's
15 behavior as suspicious, the proof has failed.

16 The State has the burden of proving the defendant
17 guilty beyond a reasonable doubt. This burden rests with
18 the State regardless of whether the State relies on direct
19 evidence, circumstantial evidence, or some combination of
20 the two.

21 Ladies and gentlemen of the jury, necessarily you must
22 determine the credibility of witnesses who have testified in
23 this case.

24 Credibility simply means believability. It becomes
25 your duty as jurors to analyze and to evaluate the evidence

1 and determine which evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case you may believe one witness over
4 several witnesses or several witnesses over one witness.
5 You may believe a part of the testimony of a witness and
6 reject the remaining part of the testimony of that same
7 witness. You may believe the testimony of a witness in its
8 entirety or reject the testimony of a witness in its
9 entirety.

10 You make consider whether any witness has exhibited to
11 you any interest, bias, prejudice, or other motive in the
12 case. You may also consider the appearance and manner of a
13 witness while on the witness stand, their demeanor.

14 Rules of evidence ordinarily do not permit witnesses to
15 testify to opinions or conclusions. An exception to this
16 rule exists for witnesses we call expert witnesses.

17 A witness who by education, experience has become an
18 expert in some art, science, profession or calling may state
19 an opinion as to relevant material matter in which the
20 witness claims to be an expert and may also state the
21 reasons for the opinion.

22 You should consider any expert opinion received in
23 evidence in this case like any other evidence. Give it the
24 weight you think it deserves. You decide that the opinion
25 of a witness is not based on sufficient education and

1 experience, if you conclude that the reasons given in
2 support of the opinion are not sound or that the opinion is
3 outweighed by other evidence you may disregard the opinion
4 entirely.

5 An expert witness's testimony it to be given no greater
6 weight than that of other witnesses simply because a witness
7 is an expert. Further you are not required to accept an
8 expert's opinion even though it is not contradicted.

9 Mr. Foreman, ladies and gentlemen of the jury, I
10 instruct you and emphasize the fact the defendant did not
11 testify is not a factor to be considered by you in any way
12 in your deliberations and in your consideration on the
13 question of guilt or innocence of the defendant.

14 It must not be considered by you in any manner
15 whatsoever. A defendant has a constitutional right to
16 remain silent, and the assertion of this right must not be
17 considered by you in your deliberations.

18 Mr. Foreman, I am going to ask that you enforce that
19 rule. There will be no discussion about the fact that the
20 defendant did not testify. I repeat, under your oath you
21 are to draw no conclusion whatsoever from the fact the
22 defendant in this case did not testify. The fact that this
23 defendant did not testify should not even be discussed in
24 the jury room.

25 The burden of proof as I have stated it to you is on

1 the State. The burden -- the defendant is not required to
2 prove her innocence. The burden of proof remains on the
3 State to prove guilt beyond a reasonable doubt.

4 Mr. Foreman, ladies and gentlemen of the jury, a person
5 who has a past criminal record is competent to testify
6 during a trial. Their past record does not affect the
7 ability of that witness to testify. Past record may only be
8 considered by you if at all in determining the witness's
9 believability. Remember you are the sole judges of the
10 facts in the case and the believability of any and all of
11 the evidence.

12 The defendant is charged with distribution of crack
13 cocaine. The State must prove beyond a reasonable doubt the
14 defendant distributed crack cocaine.

15 Distribute means to deliver or to actually
16 constructively or attempt to transfer a drug other than
17 administering or dispensing.

18 To deliver means to actually, constructively or attempt
19 to transfer a drug. A transfer can involve an exchange for
20 money, for barter, or a gift. There does not have to be
21 anything given in exchange for the drugs for a transfer to
22 constitute distribution.

23 Mr. Foreman, I am going to come forward and share with
24 you the verdict form.

25 (WHEREUPON, verdict form provided to foreman.)

1 THE COURT: Mr. Foreman, I am going to ask you to stand
2 up. I will go over this form with you. It is fairly
3 simple. The State of South Carolina, County of Charleston,
4 the State versus Vanessa Frayer. It has got General
5 Sessions here in the 9th Circuit. It has got the warrant
6 number and the indictment number. It is just one charge,
7 distribution of crack cocaine.

8 It says we the jury by unanimous consent find the
9 defendant non guilty or guilty. It is completely within
10 your province to make those determinations.

11 The verdict must be unanimous. It can't be eleven to
12 one, eight to four, six to six. Everyone has to agree.
13 Notify the bailiff upon reaching a verdict. There is a
14 place for you to sign and date.

15 I would ask you if you can have a seat.

16 The other thing that I wanted mention, Mr. Foreman, is
17 that you are to preside over the deliberation process and
18 just ensure that everybody's voice is heard.

19 In the event someone would get up and use the restroom,
20 stop deliberations. Because everybody has to participate
21 in all of the deliberation process.

22 From time to time questions come up in the jury room.
23 But I don't anticipate this is going to happen because y'all
24 have paid attention to the evidence and to the testimony.
25 Y'all have the ability and the tools to resolve factual

1 issues in this case. And you have heard me charge the law.

2 Once again, y'all have the difficult question is to
3 determine what the facts are in the case. And if you have a
4 question and it is a factual question, I can't answer. Like
5 you have heard the law as I charged it to you.

6 If there is a question in your mind whether -- whether
7 or not the problem is a question of law or question of fact
8 reduce it to writing, give it to the foreman and he will
9 give it to the bailiff.

10 If it is something I can help you with, I will. But I
11 don't anticipate that is going to happen. Y'all have
12 everything that is necessary to resolve this case and I am
13 confident that you won't need to do that.

14 I am going to ask the alternates to remain with me. I
15 have told you every time that you left the courtroom do not
16 begin deliberations. And once again I am going to tell you
17 to do that once again because I am going to have to talk
18 with these very fine lawyers to determine whether or not
19 they have an objection to the manner in which I have charged
20 the law.

21 If there is a clarification that I need to make I will
22 bring you back in here and we will do that. Otherwise, we
23 will gather up the documentary evidence. I will ask the
24 bailiff to bring the documentary evidence into the jury
25 room. He will probably give you some paper and some pencils

1 to aid you in the deliberation process and tell you to begin
2 deliberations.

3 But do you begin deliberations until you receive
4 instructions from the bailiff to do so. I am going to ask
5 each of you to follow the bailiff into the jury room and all
6 the alternates to remain with me. Thank you.

7 (WHEREUPON, jury exits courtroom 8/12/15 4:00 p.m.)

8 THE COURT: I want to speak with the alternate for a
9 moment. Thank you so much for coming. I know that y'all
10 feel like y'all were invited to a dance and didn't get to
11 dance. But your service is very valuable.

12 You know, there is a lot of time and resources gone
13 into the preparation and the presentation of this case; and
14 if we were to lose one of the jurors, if one of them were to
15 get sick, get involved in an automobile accident, or if they
16 later discovered that they had a relationship with one of
17 the witnesses who they know as Bubba but there name is
18 Theodore when we read it out, quite often those things
19 happen and we have to activate one of the alternate jurors
20 so we don't have to start all over again.

21 That happens quite often. But in this case fortunately
22 it did not. But your service is valued, and it is concluded
23 for the day.

24 This is indeed a public forum. You are welcome to stay
25 with us if you are interested to see what happens.

1 Have either of you served on a jury before?

2 ALTERNATE JUROR: No, sir.

3 ALTERNATE JUROR: (Juror shakes head.)

4 THE COURT: All right. Well hopefully it has been a
5 learning experience. Do y'all have any questions?

6 ALTERNATE JUROR: No, sir.

7 THE COURT: All right. Well, y'all are free to leave.
8 Thank you very much. And y'all do not need to come back.
9 You are through for the week.

10 ALTERNATE JUROR: Thank you.

11 THE COURT: Good. Have a good week.

12 Any objection with regard to the jury trial from
13 the -- jury charge from the State?

14 MS. LINDER: No objection, Your Honor.

15 THE COURT: Any from defense?

16 MR. KING: Just the mere presence charge (inaudible).

17 THE COURT: Very good. All right.

18 THE COURT REPORTER: I'm sorry, I didn't hear that.

19 MR. KING: I'm sorry, the mere presence charge that I
20 requested earlier.

21 THE COURT: All right.

22 MR. KING: I just renew that objection.

23 THE COURT: I am going to ask that you come forward and
24 we are going to ask the court reporter to assist us in
25 getting all of the documentary evidence together. I am

1 identification.)

2 (WHEREUPON, recess 5:32 p.m.)

3 (WHEREUPON, resumed trial 8/12/15, 6:22 p.m.)

4 THE BAILIFF: All jurors are present, Your Honor.

5 THE COURT: Mr. Foreman, ladies and gentlemen of the
6 jury, we are waiting on the solicitor to show up and we will
7 receive your verdict momentarily.

8 (WHEREUPON, 6:24 p.m. solicitor enters.)

9 THE COURT: Mr. Foreman have you received a verdict --
10 I mean have you reached a verdict?

11 THE FOREMAN: Yes we have, Your Honor.

12 THE COURT: Is it unanimous?

13 THE FOREMAN: Yes, it is, Your Honor.

14 THE COURT: I would ask you to give the verdict form to
15 the bailiff.

16 (WHEREUPON, the foreman complied.)

17 THE COURT: The verdict form appears to be in order.
18 And I will ask the clerk to publish it.

19 THE CLERK: Thank you, Your Honor. Please have the
20 defendant stand.

21 The verdict form in the matter of the State of South
22 Carolina versus Vanessa Frayer, defendant, as to
23 distribution of crack cocaine we the jury by unanimous
24 consent find the defendant guilty. Signed by the foreperson
25 of the jury on 12th of August, 2015.

1 Ladies and gentlemen, if this was your verdict, please
2 raise your right hand.

3 THE CLERK: Thank you. Please let the record reflect
4 that all 12 jurors raised their right hand.

5 THE COURT: Any additional polling from the State?

6 MS. LINDER: None from the State, Your Honor.

7 THE COURT: Any from the defense?

8 MR. KING: Yes, Your Honor.

9 THE COURT: Very good.

10 THE CLERK: Ladies and gentlemen, what we are going to
11 do now is called polling the jury. When I call your juror
12 number please raise your hand. I will acknowledge you; you
13 can put hand down. I will then ask you two questions: Was
14 that your verdict? And is that still your verdict?

15 Please answer verbally to both of those questions.

16 THE CLERK: Juror Number 211 was that your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Is that still your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Thank you. Juror Number 1 was that your
21 verdict?

22 THE JUROR: Yes.

23 THE CLERK: Is that still your verdict?

24 THE JUROR: Yes.

25 THE CLERK: Thank you. Juror Number 21 was that your

1 verdict?
2 THE JUROR: Yes.
3 THE CLERK: Is that still your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Juror Number 88 was that your verdict?
6 THE JUROR: Yes.
7 THE CLERK: Is that still your verdict?
8 THE JUROR: Yes.
9 THE CLERK: Is that still your verdict, sir?
10 THE JUROR: Yes.
11 THE CLERK: Thank you. Juror 114 was that your
12 verdict?
13 THE JUROR: Yes.
14 THE CLERK: Is that still your verdict?
15 THE JUROR: Yes.
16 THE CLERK: Thank you. Juror 115 was that your
17 verdict?
18 THE JUROR: Yes.
19 THE CLERK: Is that still your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Thank you. Juror 116 was that your
22 verdict?
23 THE JUROR: Yes.
24 THE CLERK: Is that still your verdict?
25 THE JUROR: Yes.

1 THE CLERK: Thank you. Juror 158 was that your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is that still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is that still your verdict, ma'am?

7 THE JUROR: Yes.

8 THE CLERK: Thank you. Juror 188 was that your
9 verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is that still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Thank you. Juror 240 ---

14 THE JUROR: Yes.

15 THE CLERK: Ms. Parks, was that your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Is that still your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Was that still your verdict, ma'am?

20 THE JUROR: Yes.

21 THE CLERK: Thank you. Juror Number 281 was that your
22 verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is that still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Thank you. Juror Number 349 was that your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is that still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Thank you.

7 Was there any juror whose number I did not call, please
8 raise your right hand?

9 (WHEREUPON, no one raised their hand.)

10 THE CLERK: Thank you. Your Honor, the jury has been
11 polled and the verdict stands.

12 THE COURT: Mr. Foreman, ladies and gentlemen of the
13 jury, Thank you for your service. You have been able to do
14 what nobody else in this courtroom has been able to do is to
15 bring finality to this matter.

16 Thank you for your time and your consideration. I have
17 got good news for you. You -- your jury service is
18 concluded for the week. You have earned a three-year
19 exemption.

20 If you are subpoenaed to participate in this court
21 within the next three years you can exercise an exemption
22 and opt out. Or you can serve if you want to, but it is up
23 to you in that regard. It does not apply to federal court,
24 magistrate's court or municipal court. But for court you
25 have earned a three-year exemption.

1 You will be paid handsomely for your services here, I
2 think ten dollars a day and twenty-five cent a mile. It is
3 a small token of our appreciation.

4 How many of you have never served on a jury before?
5 (WHEREUPON, show of hands.)

6 THE COURT: Hopefully is hasn't -- I know it has been
7 an inconvenience for you, but hopefully it has been a
8 learning experience. Thank you for that.

9 This is a public forum. Under the laws of the State of
10 South Carolina I am responsible for sentencing the
11 individual who has been convicted of a crime. It is a
12 public forum. If you would like to have a seat in the
13 courtroom and see what the sentence is you are welcome to do
14 that.

15 But your duty has been discharged. You are free to
16 leave at this time. No need to report back. Your service
17 is concluded. Thank you very much.

18 (WHEREUPON, jury exits courtroom 8/12/15, 6/26 p.m.)

19 THE COURT: I will be glad to hear from the State with
20 regard to sentencing, particularly her past record.

21 MS. LINDER: Thank you, Your Honor. May it please the
22 court. As far as this defendant's prior record she has a
23 1989 shoplifting, 1993 simple assault, 1994 shoplifting,
24 1997 a distribution of cocaine. Two thousand ---

25 THE COURT: What was the sentence on that one?

1 PROBATION: Your Honor, she is currently on probation
2 for that offense.

3 MS. LINDER: No, not for that offense; for a later one.

4 PROBATION: Another one. I'm sorry. I apologize.

5 MS. LINDER: I'm sorry. She also has a 2002
6 shoplifting and in 2010 she pled guilty to two distributions
7 and two proximities, and for that she received a 10-year
8 sentence suspended upon probation.

9 THE COURT: Okay. All right. And so this ---

10 MS. LINDER: And Your Honor ---

11 THE COURT: This is a third offense which would
12 make ---

13 MS. LINDER: Ten and thirty with a nonsuspendible ten.

14 THE COURT: Okay. All right.

15 Be glad to hear from the defendant with regard to
16 mitigation.

17 MR. KING: Thank you, Your Honor. I always advise
18 clients to remain silent at this point pending the appeal.
19 But what I can say, Judge, is that she has never been to
20 prison before. She does have a record.

21 It is all misdemeanors except for the drug charges. In
22 '95 she got two years probation. And what she is currently
23 on now is probation. So she has never gotten any prison
24 time.

25 There was an offer in this case of a distribution

1 second for five years. That would have been at 85 percent.
2 I think that was just for her to hear, that was -- it was
3 just difficult for her to I guess taking that and getting
4 that kind of time. So it ended up here in trial.

5 The minimum is ten, Judge. That's a pretty harsh
6 sentence. We would ask that you would consider the minimum.
7 Even though she does have a record that is the minimum for a
8 third offense.

9 She doesn't have a lot of, you know, terrible other
10 stuff on her record. But like I said she's -- it's not like
11 she's been to prison before and just keeps doing it. She
12 has gotten probation. So this is her first time actually
13 going to prison, and eight-and-a-half out of ten would be
14 quite a long time. So we would ask you consider that based
15 on the fact she has never been to prison before.

16 THE COURT: Okay. I am going to judicially terminate
17 her probation.

18 PROBATION: Yes, Your Honor.

19 THE COURT: Any financial obligations that have not
20 been met, reduced to a civil judgment. Those that cannot be
21 waived.

22 PROBATION: Yes, ma'am.

23 THE COURT: No administrative monitoring.

24 PROBATION: Yes, Your Honor.

25 THE COURT: Anything else from the defense with regard

1 to mitigation?

2 MR. KING: If her family wanted to speak, Judge. I
3 don't know if they do. You don't have to, but if anybody
4 wanted to speak now is the time.

5 MR. KING: This is her daughter, Your Honor.

6 THE COURT: All right.

7 MR. KING: Please state your name.

8 MS. DAWSON: Geacnia Dawson. I want to say, Your
9 Honor, I know what she did was wrong, but the only think I
10 am saying that she has got 14 kids and no help. She
11 couldn't get a job. She tried. I mean I help her from day
12 one. I am a thankful of her. I don't know what happened to
13 my mamma, but I mean.

14 THE COURT: Thank you for being here. I know she
15 appreciates your concern. Thank you.

16 THE COURT REPORTER: Could I get your name again,
17 please.

18 THE COURT: Your name once again.

19 MS. DAWSON: Geacnia Dawson

20 MR. KING: Please spell your first name.

21 MS. DAWSON: G-E-A-C-N-I-A. Dawson, D-A-W-S-O-N.

22 THE COURT: Very good. Anything further?

23 MR. KING: I believe that is all I have, Your Honor.

24 THE COURT: And you have indicated that you're -- you
25 have spoken with your client but she would like -- not like

1 to say anything with regard to mitigation?

2 MR. KING: That is right, Your Honor. And that is
3 based on my advice to remain silent at this point.

4 THE COURT: All right. Very good. All right. Ms.
5 Frayer, if you could stand.

6 On Indictment 2014-GS-10-07082 distribution of crack
7 cocaine the sentence of the court is you be committed to the
8 State Department of Corrections for a period of 12 years.

9 Is she entitled to any credit?

10 MR. KING: Yes, Your Honor, she served 128 days.

11 THE COURT: She is given credit for 128 days. Good
12 luck to you, Ms. Frayer.

13 (WHEREUPON, trial concludes 8/12/15, 6:34 p.m.)

SLB20140909779

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1409843

ARREST WARRANT NUMBER

2014A1010900552

DATE OF ARREST

September 4, 2014

ACTION OF GRAND JURY

Foreperson of Grand Jury Date: *Cynthia* DEC 1 - 2014

VERDICT

*Guilty*Foreperson of Petit Jury Date: *12 Aug 2015*

INDICT

DOCKET NO. 2014GS1007082

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December Term 2014

THE STATE

vs.

VANESSA LAQUETTA FRAYER

DOB:

B/F

Indictment for

Distribution of Cocaine Base

FILED
2015 AUG 21 PM 12:07
JULIE J. ARMSTRONG
CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., S.S. & F.C.
By: *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

INDICTMENT

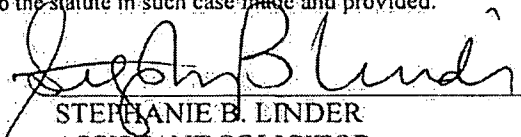
At a Court of General Sessions, convened on December 1, 2014 the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine Base

That in Charleston County, South Carolina, on or about June 13, 2014, the Defendant, VANESSA LAQUETTA FRAYER, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: cocaine base; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

FILED
 2015 AUG 21 PM 12:07
 JULIE J. ARMSTRONG
 CLERK OF COURT

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

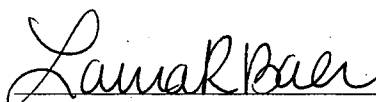

 STEPHANIE B. LINDER
 ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK, C.P., C.S. & F.C.
 By 
 DEPUTY CLERK

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."

June 14, 2016



Laura R. Baer
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

RECEIVED
JUN 14 2016
SC Court of Appeals