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ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable R. Knox McMahon, Circuit Court Judge

RECEIVED

JAN 11 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KENDRICK LAMONT MIMS,

APPELLANT

APPELLATE CASE NO 2016-000291

RECORD ON APPEAL

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1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions

3
4 Indictment No.: 2013-GS-32-01463
5

6 State of South Carolina,)
7 Plaintiff.)

8 vs.)

Transcript of Record

9
10 Kendrick Lamont Mims,)
Defendant.)

11
12 February 10-11, 2016
13 Lexington, South Carolina
14

15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge, and a jury.
17

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1 WEDNESDAY, FEBRUARY 10, 2016

2 THE COURT: Madam Clerk, are all our jurors here.

3 THE CLERK: No, sir, Your Honor. Number 21,
4 Nicholas Bowers and Number 80, Tiara Green have not shown.

5 THE COURT: Now, Ms. Green was late --

6 THE CLERK: She's a student.

7 THE COURT: Was she late the other day?

8 THE CLERK: Yes, sir, she was. She was late in
9 returning. She was in the panel that we had come back and
10 she was late returning.

11 THE COURT: And the other gentlemen's name?

12 THE CLERK: Nicholas Bowers. He did not show at
13 all yesterday and upon being contacted yesterday, it was
14 made very clear for him to call the number; he forgot.
15 Lisa made it very clear to him to call it and check for the
16 message for the balance of the panel last night after 6..
17 She just spoke to him again here in the courtroom and he
18 said that the message was for the balance of the panel to
19 be back; that's the ones that are seated on the case. Upon
20 her saying no, that's you; he said well, I don't have any
21 transportation then.

22 THE COURT: All right. Sheriff, check on that
23 juror and if he doesn't have transportation, have someone
24 bring him up here.

25 THE OFFICER: Yes, sir.

1 THE COURT: All right. And I'm going to have a
2 contempt hearing on him after he arrives.

3 All right. Solicitor, you may call your next case
4 for trial.

5 MR. BELL: Thank you, Your Honor.

6 At this time, the Solicitor's Office would call the
7 case of State v. Kendrick Lamont Mims, Indictment Number
8 2013-GS-32-1463, indicted for trafficking cocaine greater
9 than 400 grams.

10 THE COURT: All right. Mr. Williams, good morning.

11 MR. WILLIAMS: Good morning, Your Honor.

12 THE COURT: You represent -- I don't have the
13 indictments. You represent Mr. Mims?

14 MR. WILLIAMS: I do, Your Honor.

15 THE COURT: Is he present?

16 MR. WILLIAMS: He is, Your Honor.

17 THE COURT: Ready for trial?

18 MR. WILLIAMS: We are, Your Honor.

19 THE COURT: All right. Thank you. Thank you very
20 much.

21 **JURY VOIR DIRE**

22 THE COURT: All right. Again, ladies and gentlemen
23 of the jury panel, please consider yourselves still under
24 oath for purposes of this proceeding. You've heard, you've
25 heard the lead in to these questions twice I think, already

1 this week. However, I will -- I will repeat it. We're
2 fixing to go through a procedure whereby we select a trial
3 jury for the trial of this specific case. As you recall,
4 Monday you were generally qualified to serve as jurors in
5 this court and now we're selecting twelve of your number
6 and perhaps one, maybe two, alternates to serve as jurors
7 in the case of the State v. Kendrick Lamont Mims.

8 I'm going to read and publish to you the indictment
9 in the case. The indictment is not evidence. The
10 indictment is the formal charging document by which an
11 individual is placed on notice of the charges that have
12 been brought against him or her. It contains mere
13 allegations and is in no way, evidence of any of the
14 allegations contained therein. I read this indictment to
15 you based on certain questions I will ask you concerning
16 your eligibility and qualifications to serve as a member of
17 this trial jury.

18 Indictment Number 2013-GS-32-01463 reads that
19 Kendrick Lamont Mims did, in Lexington County, South
20 Carolina, on or about February 18th, 2013, knowingly and
21 intentionally, willfully and unlawfully, sell, cultivate,
22 manufacture, deliver, purchase, or bring into this state or
23 did provide financial assistance or otherwise aid, abet,
24 attempt or conspire to sell, manufacture, cultivate,
25 deliver, purchase or bring into this state or was knowingly

1 and intentionally in actual or constructive possession of
2 or did knowingly and intentionally attempt to become in
3 actual or constructive possession of cocaine, a controlled
4 substance under the provisions of 44-53-110 of the South
5 Carolina Code of Laws, 1976, as amended, in a quantity of
6 997 grams in violation of Section 44-53-370(E)(2)(e), Code
7 of Laws for South Carolina, 1976, as amended. This is an
8 indictment for trafficking in cocaine 400 or more grams.

9 The State is represented by Assistant Solicitors
10 and if you'd please, Solicitors, stand and introduce
11 yourself to the jury panel and any other member of the
12 solicitor's staff that may assist you in the prosecution of
13 this case.

14 MR. BELL: Thank you, Your Honor.

15 My name is Gill Bell. I'm Assistant Solicitor here
16 in Lexington County. I work for your elected Solicitor,
17 Donald Myers. With me prosecuting this case today is Ms.
18 Casey Rankin, also an Assistant Solicitor in our office as
19 well, Investigator Kevin Wilson with the Solicitor's Office
20 is assisting in this case.

21 THE COURT: Thank you. Mr. Mims is represented by
22 Mr. Williams. If you'd please stand, introduce yourself
23 and your client to the jury panel.

24 MR. WILLIAMS: Thank you, Your Honor. I'm Theo
25 Williams. I practice in the firm of Williams, Hendrix,

1 MR. WILLIAMS: None from the defendant, Your Honor.

2 THE COURT: Well, what we're going to do, ladies
3 and gentlemen, is do our opening arguments and then y'all
4 will take a brief recess before the first witness is called
5 in the trial because of a matter I have to take up outside
6 of your presence.

7 All right. With that being said, Solicitor, you
8 may address the jury.

9 MR. BELL: Thank you, Your Honor. May it please
10 the Court.

11 THE COURT: Yes, sir.

12 **OPENING STATEMENTS**

13 MR. BELL: Actions speak louder than words. Ladies
14 and gentlemen, that is a saying that I have heard time and
15 time again throughout my life; and it's a saying that time
16 and time again throughout my life has proven to be true.
17 Actions speak louder than words and that's a big reason
18 that I don't want to waste a lot of time with words with
19 you right now because I'm eager for you to get into the
20 evidence to hear Corporal Antley's testimony; to see
21 dashboard video from his vehicle from the incident location
22 because the actions that day of Mr. Mims speak much louder
23 than his words did; because you're going to see on February
24 18th of 2013, Trooper Antley stopped a vehicle in which Mr.
25 Mims was a passenger.

1 You'll see what the trooper does, what he's trained
2 to do. He approaches, surveys, and determines the
3 situation and at some point, he asks Mr. Mims out of the
4 vehicle. You're going to see Mr. Mims becomes very
5 nervous; he's trying to conceal something in his groin
6 area. The trooper starts questioning what it is because of
7 his own safety concerns and that's when you'll see the gig
8 is up.

9 Mr. Mims tears away from the trooper, bolts off
10 into the woods leading the trooper on about a three tenths
11 of a mile foot chase off I-20 here in Lexington County.
12 Ultimately the trooper is able to close the distance and as
13 he is a short distance away, he sees Mr. Mims pull the bag
14 out of his pants, place it on the ground in the woods and
15 attempt to scoop up some leaves and sit it on top before
16 surrendering. Actions will speak louder than words.

17 There's a couple of things I want you to be aware
18 of as this trial progresses regarding the law. You're
19 going to hear more about the law than you ever wanted to by
20 the end of this trial. So I won't waste too much time now.
21 But very briefly, in South Carolina, when it comes to
22 possession, we have two kinds of possession: There's
23 actual possession and constructive possession. Now actual
24 possession is me holding this pen that's in my hand that is
25 on my person. Constructive possession is me taking my pen,

1 sitting it down and walking away. Now, just because I put
2 my pen down doesn't mean I don't intend to return later and
3 take my pen back; that's constructive possession. It's the
4 exact same as actual possession under the law.

5 The other thing I want you to keep in mind is
6 you're going to hear all about reasonable doubt and how you
7 have to be beyond a reasonable doubt, but what reasonable
8 doubt is not, is just as important as what it is. I want
9 you to keep that in mind because what reasonable doubt is
10 not is it is not beyond all doubt. At the end of this
11 trial, the Judge, the best source of the law in this
12 courtroom, is going to tell you that. That you don't have
13 to be a hundred percent certain; there are very few things
14 in this world that you can be a hundred percent certain of;
15 all you have to be is firmly convinced. That's beyond a
16 reasonable doubt.

17 Ladies and gentlemen, I thank you for your time, I
18 thank you for being here. I ask that you keep in mind as
19 you listen to the evidence that actions speak louder than
20 words.

21 THE COURT: Thank you. Thank you very much,
22 Solicitor.

23 Mr. Williams.

24 MR. WILLIAMS: May it please the Court?

25 Ladies and gentlemen of the jury, we've met.

1 Obviously we -- my office is across the street, so you know
2 who I am, but you don't know anything else about the case
3 yet. You don't know anything about my client yet. You've
4 just come in here and you just -- you're just supposed to
5 make decisions after you hear some evidence what you
6 determine to be facts in a case. I heard what the
7 Solicitor said about actions speaking louder than words.

8 Well, one of the things that has always concerned
9 me is the fact that a lot of times, people misinterpret
10 what you say. A lot of times, people misinterpret what you
11 do. And I don't pretend to understand what goes on inside
12 of peoples minds, but to a certain extent, what the
13 solicitor has said does make a little bit of sense and for
14 that reason, I want you to watch the video because the
15 video will show any actions that are going on.

16 You know, we're humans. We're the ones that
17 ascribe motive. We humans ascribe what we think is going
18 on in somebody else's mind, but unless we're that person
19 involved and unless we're using his brain, we don't know
20 what that person is really thinking. We don't know why a
21 person does a particular thing because we're not
22 clairvoyant. So that video really is the most important
23 piece of evidence I would suggest to in this particular
24 case; because that video doesn't have a mind; it doesn't
25 have any -- it doesn't have any axe to grind, it doesn't

1 have any prejudice, it doesn't have any type of thought
2 process that it can ascribe meaning to. It is simply a
3 rendition of what happened on that particular day and by --
4 for that reason, it is the most important thing that you
5 can look at.

6 What you will see, I suggest, and you see we as
7 lawyers, and as prosecutors, as defense lawyers, we ascribe
8 what we think is met by these actions. I'm going back to
9 what we think are meant by these actions, but obviously
10 we're not inside anybody's mind. But from our viewpoint,
11 what we think as a defense lawyer and as his attorney, what
12 we think was happening is that you had an individual who
13 was very scared when he was pulled over.

14 Now, what you'll learn is that Kendrick Mims is
15 from Georgia. Actually Georgia/Florida, he's actually from
16 the -- if you can imagine how Florida's -- how it actually
17 looks on a map. It's got this little thing which kind of
18 hangs over and I think it's called a panhandle. So he is
19 right there on the edge of Georgia and Florida and he was
20 visiting his -- his nephew who lives in Ridgeway.

21 Now, the reason I'm telling you these things is
22 because as you, as this trial progresses, you'll learn that
23 there's a certain amount of consistency in what is
24 testified to, but how you ascribe those actions are the
25 things which may not be provable. What you interpret these

1 actions to be may not be provable because what you will
2 learn is that his nephew was driving his truck. Mr.
3 Mims -- it was not Mr. Mims' truck, but he was driving his
4 truck. His name was Vanderhall. And the reason that's --
5 the reason why that is important is because there were two
6 people charged in this particular case, Mr. Vanderhall and
7 Mr. Mims. Mr. Vanderhall was driving his truck and you'll
8 see from Officer Antley's vehicle -- the little camera that
9 he has -- you'll see that Mr. Vanderhall's truck speeds up,
10 he pulls him over and when he pulls him over, you'll see
11 there's a lot of conversation going on with Mr. Vanderhall.
12 And you'll see there's some sort of conversation going on
13 with Mr. Mims, who is the passenger in Mr. Vanderhall's
14 truck.

15 For whatever reason, Mr. Antley tells the guy
16 that's not from South Carolina to get out of the truck. At
17 that point in time, I want you to start watching because
18 you see, up until that point in time it's just a regular
19 traffic stop for speeding. There'll be some allegations
20 about maybe some seatbelts, there may be something said
21 about an open container, but this is how this case begins.

22 It's a simple speeding case. So you have Mr. Mims,
23 he's outside, he's on the side of the truck and you'll see
24 Mr. Antley -- Officer Antley, tell him to lean up against
25 the truck and you'll see him grabbing him; what's that,

1 what's that in your pants? And I don't mean to use that
2 tone, but you listen to the tone as you listen to the
3 video. For whatever reason, Mr. Mims is afraid. From that
4 point on, the camera's still on and you will see the camera
5 just sitting there and sitting there. The other individual
6 who was driving the vehicle, Mr. Vanderhall, he's out there
7 on the side of the road and you'll sit there and you'll
8 watch Mr. Vanderhall kind of look around; it's on the
9 video, then he gets in the truck and leaves.

10 You'll hear the audio part of the officer's camera
11 or audio recording and I'll let you make your own
12 interpretations as to what you hear. What you will hear is
13 you'll hear that he tells him I've already tased you twice.
14 You'll hear that. You'll hear the officer probably
15 testify, but he actually pulls his gun on him, but I want
16 you to keep your common sense throughout this whole thing
17 and think for yourself if what the solicitor has suggested,
18 that my client, that he actually sees my client burying
19 something on the ground. Why my client would do it after
20 all this running and after he -- he's clearly in the vision
21 of the officer. There will be a lot more I'm going to talk
22 to you about what makes sense, but I don't -- it's like you
23 don't want to pull out all your surprises right here in the
24 opening.

25 It's kind of -- kind of what it is because I, you

1 know, I want him to put on his case because you know who's
2 got the burden of proof of proving this case? The State.
3 My client doesn't have to testify. He doesn't have to
4 prove a thing and what we're counting on is you twelve plus
5 one jurors to do what you're sworn to do and that is
6 examine the evidence and make a determination as to whether
7 or not you feel that my client's guilty beyond a reasonable
8 doubt or do you think maybe there's a question about it.
9 Who had these drugs, if they are drugs; who possessed them,
10 actually or constructively, and whether or not my client's
11 guilty.

12 I thank you for listening to me and hopefully it
13 won't be -- it should be fairly interesting. It won't be
14 real boring. Thank you.

15 THE COURT: Thank you.

16 MR. WILLIAMS: Thank you, Your Honor.

17 THE COURT: Thank you very much, Mr. Williams.

18 Mr. Foreman, ladies and gentlemen, if y'all would,
19 please, we're going to take about a 15 minute recess. If
20 you'll please step to your jury room; do not discuss the
21 case during this brief recess. Thank you. Thank you very
22 much.

23 (The jury left the courtroom at 10:34 a.m.)

24 THE COURT: All right. Court will be in recess for
25 about 15 minutes. Thank you very much, Solicitor, Mr.

1 Williams.

2 MR. BELL: Thank you, Judge.

3 MR. WILLIAMS: Thank you, Your Honor.

4 (A brief recess was observed.)

5 THE COURT: All right. Anything from the State
6 before we bring in our jury?

7 MR. BELL: Nothing, Your Honor.

8 THE COURT: Defense?

9 MR. WILLIAMS: Nothing from the defendant, Your
10 Honor.

11 THE COURT: Thank you. Bring us our jury, please.

12 (The jury entered the courtroom at 10:57 a.m.)

13 THE COURT: All right. Our jury is back in place
14 so welcome back, ladies and gentlemen. Thank you. Thank
15 you very much for your patience with the Court.

16 We're now going to begin the trial of the case by
17 the presentation of evidence and testimony by the State in
18 its case in chief. If you would please give all the
19 parties your complete and undivided attention. Thank you.

20 Solicitor, you may call your first witness.

21 MR. BELL: Thank you, Your Honor. At this time the
22 State would call Corporal Adam Antley to the stand.

23 THE COURT: All right. If you'd come around and be
24 sworn for us please.

25 ///

Adam L. Antley - Direct Examination by Mr. Bell

1 ADAM L. ANTLEY,
2 having been duly sworn, testified as follows:

3 THE CLERK: Have a seat please, sir. Once you're
4 seated, state your full name spelling your last for the
5 record please.

6 THE WITNESS: Adam Lewis Antley. A-N-T-L-E-Y.

7 **DIRECT EXAMINATION**

8 BY MR. BELL:

9 Q Corporal, who are you employed by?

10 A The South Carolina Department of Public Safety and
11 the South Carolina Highway Patrol.

12 Q And who were you employed by February of 2013?

13 A Department of Public Safety South Carolina Highway
14 Patrol.

15 Q Okay. In what role were you employed in 2013?

16 A State Trooper.

17 Q What was your rank at that time?

18 A Senior Trooper.

19 Q What is your rank currently?

20 A Corporal.

21 Q Can you tell us a little more about your
22 educational background and so forth?

23 A Yes, sir. I went to high school in Orangeburg
24 County at Edisto High School. I graduated from there in
25 2004. After I graduated from high school, I went to the

Adam L. Antley - Direct Examination by Mr. Bell

1 Citadel in Charleston, graduated from the Citadel with a
2 major in Criminal Justice, a Bachelor's of Science in
3 Criminal Justice in 2008. During my senior year at the
4 Citadel or junior and senior year, I began applying at the
5 South Carolina Highway Patrol. I was accepted into their
6 87th Training Class and began in July of 2008 and then
7 graduated from South Carolina Highway Patrol Training in
8 December of 2008. Upon graduation I was assigned and
9 stationed in Lexington County. I've been working in
10 Lexington County ever since.

11 Q So in February of 2013, how long would you have
12 been working in law enforcement?

13 A Just shy of 5 years.

14 Q And do you recall working February 18th of 2013?

15 A Yes, sir.

16 Q Tell us about what kind of shift you were working
17 that day.

18 A I was working dayshift. It began between 6 and 7
19 in the morning and ended around 6 or 7 in the evening.

20 Q Can you tell us a little bit about what you did
21 during a typical shift at that time?

22 A Our responsibilities are to enforce traffic,
23 enforcement of traffic laws whether it be working
24 interstates, primary and secondary roads, investigating
25 collisions. If we have court on those days during

Adam L. Antley - Direct Examination by Mr. Bell

1 dayshift, we attend court to prosecute magistrate level
2 cases we've made, but primarily other than administrative
3 type duties, court, and administrative stuff, we're on the
4 roads either enforcing traffic laws or investigating
5 collisions.

6 Q What are the primary kinds of offenses you run into
7 during a typical shift?

8 A Well other than the collision investigations, our
9 main -- our main focus is traffic laws that -- that -- our
10 enforcement of traffic laws that can prevent injury or
11 collisions on the roadways; speeding, seatbelt usage,
12 things like that.

13 Q Now on February 18th of 2013,--do you recall having
14 interaction with Mr. Kendrick Mims?

15 A I do, yes, sir.

16 Q Can you tell us how that initially began?

17 A About -- I think it was about 5:58, just prior to 6
18 o'clock, I was, I was getting close to getting -- getting
19 off the shift or had about an hour left in my shift and I
20 was traveling up I-20 Eastbound in Lexington County near
21 the 378 overpass. Once I got just past 378 bridge, I
22 pulled over on the shoulder. It was still somewhat of a
23 rush hour. A lot of the traffic had already subsided and
24 on that -- that time of the day on I-20 usually the
25 Westbound traffic is thicker coming back into Lexington,

Adam L. Antley - Direct Examination by Mr. Bell

1 but I was on the Eastbound side attempting to just enforce
2 the speeding law out there on I-20.

3 The speeding -- or the speed limit is 60; it's
4 heavily posted. There's one sign saying it's a 60 ahead;
5 there's a 60 mph sign on each side of the road next to the
6 emergency lane and next to the hill barrier about a mile
7 and a half to two miles prior to the 378 bridge at the 60
8 mile marker.

9 Q Okay. I'm going to slow you down for a second.
10 Now, first off you said you were facing Eastbound. For
11 those of us who are directionally impaired, such as myself,
12 can you tell us what landmark Eastbound would be facing?

13 A We were -- if you're coming, if you're coming from
14 Aiken County or from Georgia going towards Columbia,
15 Eastbound; is that what you're asking?

16 Q Sure. If you keep heading eastbound down that road
17 what will you run into that some of us might recognize?

18 A I-26, I-95.

19 Q Is there any sort of geographic landmark down that
20 way? A river by chance?

21 A The Saluda River.

22 Q All right. Now, you said that you were pulled over
23 to the shoulder and were potentially monitoring for
24 speeding; is that correct?

25 A Yes, sir.

Adam L. Antley - Direct Examination by Mr. Bell

1 Q And what was the speed limit again?

2 A 60.

3 Q Now when you're monitoring for speeding, how do you
4 go about that process?

5 A I normally park on the shoulder of the road and
6 look either in my rearview mirror or a side-view mirror and
7 I just watch traffic. It's, you know, once you've done it
8 for, for several years, it's pretty easy to see the, when
9 traffic is pretty steady pace and most all the cars are
10 running together, it's easy to tell the ranges that the
11 cars are traveling in. Usually I wait until I observe a
12 vehicle that appears to be traveling much faster than
13 everyone else or, you know, if there's other traffic where
14 you can gauge it against. But I wait until I see a vehicle
15 that appears to be exceeding the speed limit, I make an
16 estimate of what I think that vehicle is doing or as far as
17 their speed and then I use the radar that's installed in my
18 car to determine the speed.

19 Q Now, is judging speed and using a speed radar
20 something that you've been trained to do?

21 A Yes, sir.

22 Q And tell us a little bit about the training that
23 goes into that.

24 A Well you -- it's about a week-long class at the
25 academy and then every three years you recertify, but you

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1 go through a classroom setting where they teach you to
2 principals or radar, how it all started, you know the early
3 on uses for police radar and how it's progressed from the
4 50's and 60's until now. It teaches you the considerations
5 to be mindful of when -- when using radar to observe or
6 make speeding violations or observe speeding violations and
7 it teaches you how to test the radars, how to -- how to
8 know the vehicles that you're looking at.

9 Q And at the time of this incident, were you
10 certified as a radar operator?

11 A Yes, sir.

12 Q And are you certified still today?

13 A Yes, sir.

14 Q At any point in time, have you had your
15 certification revoked for any reason?

16 A No, sir.

17 Q Okay.

18 MR. BELL: Now I beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 (State's Exhibit Number 1 was marked for
21 identification.)

22 BY MR. BELL:

23 Q Corporal, I'm showing you a picture. Can you tell
24 me what that is a picture of?

25 A It's an aerial view of I-20 and the surrounding

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1 roads and businesses around I-20.

2 Q Does it fairly and accurately represent the area
3 that you were working on that day?

4 A Yes, sir.

5 Q And at this particular time when the incident
6 occurred?

7 A Yes, sir.

8 MR. BELL: Your Honor, permission to ask the
9 trooper to step down for a moment?

10 THE COURT: Of course.

11 BY MR. BELL:

12 Q Trooper, if you'll join me down here.

13 (The witness stepped down from the witness stand.)

14 MR. BELL: Your Honor, at this time, the State
15 would move State's 1 into evidence.

16 MR. WILLIAMS: No objection, Your Honor.

17 THE COURT: State's 1 is in evidence.

18 (State's Exhibit Number 1 was entered into
19 evidence.)

20 MR. BELL: Permission to publish, Your Honor?

21 THE COURT: Of course.

22 BY MR. BELL:

23 Q Trooper, I'm handing you a laser pointer. If you
24 would stand off to the side and also if you would step over
25 towards me so the court reporter can hear you.

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1 Would you please show us both the direction you
2 were facing and where you were posted on the shoulder.

3 A I was sitting right here on the side of I-20 just
4 past the bridge, and I was looking in this direction. The
5 front of my car was facing this direction. The traffic I
6 was monitoring was coming from here traveling this way when
7 I was looking out through my rearview mirror.

8 Q Trooper, would you please take a seat.

9 (The witness returned to the witness stand.)

10 BY MR. BELL:

11 Q Trooper, the area that you've just identified for
12 the jury, what county is that area located in?

13 A Lexington.

14 Q Is that within Highway Patrol's jurisdiction?

15 A Yes, sir.

16 Q Now, as you're posted on that shoulder looking in
17 your rearview mirror, what can you tell us about what
18 happened in this case?

19 A I saw a green Ford F150 traveling in the left lane,
20 the lane closest to the median wall, I think to some people
21 it's also known as the fast lane or the passing lane. In
22 that area there's three lanes -- normally three lanes of
23 traffic and right where I was sitting there was actually
24 also a fourth lane where traffic is entering in from U.S.
25 378, but I observed a green F150 that was passing the other

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1 traffic in the area. I could tell that it was going a lot
2 faster than the rest of the traffic on the road.

3 Q Now, do you typically pull people over for going 5
4 miles an hour over the speed limit?

5 A No, sir, typically I don't.

6 Q What sort of leeway is typically given in these
7 speeding cases?

8 A I think just about everybody out there is running
9 around 10 miles over the speed limit. I believe it's
10 common knowledge to everybody and it seems like everybody
11 says, well don't you give us 10; no. It would be mindless
12 or pointless to stop everybody running 10 over or 5 over
13 when everybody is out there doing it.

14 Q Looking at this vehicle approaching in your
15 rearview mirror and passing your vehicle, did that vehicle
16 appear to just be going 10 miles an hour over the speed
17 limit?

18 A No, sir, not at all.

19 Q Did it appear to be in excess of that?

20 A Yes, sir.

21 Q Ultimately do you run your radar and get an
22 official reading on that vehicle?

23 A Yes, sir, before I even read radar, the estimate I
24 made was in excess of 90 miles an hour. I activated the
25 radar and it gave the reading of 93 doppler, excuse me, the

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1 doppler toned radar gave was clear. I watched the vehicle
2 for just a second or two as it, you know, 93 miles an hour
3 appeared on the radar screen and I confirmed that that was
4 the vehicle that the radar was picking up at the time.

5 Q And if that vehicle was going 93, how many miles
6 per hour over the speed limit in that area would it be?

7 A 33.

8 Q Does that seem unusual in your experience?

9 A Very, at that time of the day, yes, sir.

10 Q Now, once you clocked that vehicle speeding 33
11 miles an hour over, how did you proceed?

12 A I put my car in gear as quick as I could, activated
13 lights, blue lights and siren and tried to get over to that
14 left lane as quickly as I could to get it stopped.

15 Q What kind of vehicle were you operating at the
16 time?

17 A I had a 2011 Dodge Charger that was black unmarked.

18 Q And do you typically operate with a partner in the
19 same vehicle as you?

20 A No, sir.

21 Q If you need backup, do you have to radio for it?

22 A Yes, sir.

23 Q How fast do you have to accelerate to catch up with
24 the individual you clocked?

25 A I was over 100. I try not to look at my speed too

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1 much when I'm catching up because with the lights and siren
2 cut on, the other traffic, you got to pay attention to what
3 they're doing because it sometimes can make people do or
4 take action they wouldn't normally take I guess, swerve or
5 slam on brakes in front of you and stuff. So I know I was
6 in over 100 trying to catch up to the vehicle.

7 Q About how long did it take you to close distance?

8 A A quarter to a half a mile at the most.

9 Q How did the vehicle react when you pulled up behind
10 with your blue lights on?

11 A He changed to the -- he changed to another lane
12 first, the second lane, and traveled for a short distance,
13 moved to the right lane, continued to travel. The spot
14 that I initially -- we were initially in whenever I got
15 behind him there was a guardrail next to the emergency lane
16 and then after the guardrail ended where I thought the
17 vehicle would probably pull over, I was hoping they would
18 pull over because there's more room where you don't have to
19 worry about working right next to guardrail and they
20 continued on, continued to travel for about a mile or so,
21 somewhere close to a mile I guess.

22 Q So when you initially closed that distance, did the
23 changing -- did the vehicle changing lanes they were
24 acknowledging your presence?

25 A It appeared so, yes sir.

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1 Q In your opinion, should they have pulled over
2 sooner than they did?

3 A It seemed weird to me that they didn't and it just
4 depends on the driver when they pull over, but it seemed
5 like there were plenty of opportunities.

6 Q Now upon pulling the vehicle over, did you notice
7 anything or were you able to judge anything as to how many
8 occupants may have been in the vehicle?

9 A When I got behind them -- when I closed the
10 distance, got behind them and was waiting on them to pull
11 over, I could see them moving around a lot. I could see
12 them both -- it appeared like they were reaching, putting
13 on or attempting to put on seatbelts; I see that a lot, you
14 know working in traffic, stopping cars. I've grown
15 accustomed to looking for that whenever -- whenever a
16 vehicle is pulling over. In this case it was a single cab,
17 a Ford pickup. I had a pretty clear view of -- through the
18 back glass of the two people, the two occupants that were
19 in there.

20 Q Seeing individuals move around like that put you on
21 caution at all?

22 A It can. The fact combined with the length of time
23 they took to pull over, kind of makes me nervous to what
24 they were doing.

25 Q Upon stopping the vehicle, tell us about how you

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1 approach a situation like that.

2 A I walk up on the passenger side because if I'm on
3 the driver's side, I'm extremely close to the traffic. I
4 was always trained if possible to go to the passenger side.
5 It gives you more room for, I guess, driver error, meaning
6 somebody coming down the road that pays too much attention
7 to the lights and cross the line or something. You don't
8 have to worry about getting clipped by a mirror. So I go
9 to the driver, proceed to the passenger side as much as
10 possible. In this case, that's the side of the truck I
11 went to.

12 Q And was the window up or down?

13 A When I went up, I'm not sure what it was whenever
14 they passed me, but whenever I walked up to it, it was
15 down.

16 Q And were you able to confirm how many occupants
17 were in the vehicle?

18 A Yes, sir.

19 Q And how many?

20 A There were two.

21 Q Okay. And what race were they?

22 A Both were black males.

23 Q Okay. Did they appear to be the same age?

24 A No, the driver appeared to be around twice the age
25 of the passenger, I believe.

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1 Q And when you first looked in the vehicle and
2 confirmed how many occupants, what was the next thing that
3 you visually noticed?

4 A I could smell alcohol coming from the vehicle as I
5 stood at the passenger's open window.

6 Q Okay. And how about when you saw the movement in
7 the cab and thought they might be manipulating their
8 seatbelts; did you have a chance to see if their seatbelts
9 were secure?

10 A When I was standing there upon walking up, both of
11 them were, they were holding the seatbelt, the buckles in
12 their hands. They weren't actually buckled into the, they
13 weren't buckled into the seatbelt, just only attached to
14 the seat.

15 Q Did you see anybody in your experience do that
16 before?

17 A Yes, sir.

18 Q Typically what is the purpose of holding it in
19 place like that?

20 A To make it appear that you were wearing it.

21 Q Now you said you smelled alcohol. Did you
22 determine where the alcohol was coming from?

23 A Not which person, but I could just smell it coming
24 out of the truck. It's not -- I didn't smell it when I got
25 out of the car, but once I stood at the passenger window, I

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1 could smell it. While I was standing there talking with
2 them, I could see next to the -- it was a manual
3 transmission or the truck had a manual transmission. Next
4 to the gear shifter that's in between the -- in between
5 the, I guess in between the two front -- between the driver
6 and the passenger, next to that gear shifter, I could see a
7 box. It looked like it was originally a 12 pack of Bud
8 Light that had been cut in half to make a 6 pack instead of
9 buying I guess a 6 pack with the plastic things that hold
10 the cans together, somebody had taken a 12 pack and cut it
11 in half and just had a 6 pack made out of that.

12 Q Now, when you smelled alcohol and saw a 6 pack; is
13 that in and of itself an arrestable offense?

14 A No, sir.

15 Q How did you proceed?

16 A While sitting there speaking with them, I saw what
17 appeared to be a Bud Light can in there. I asked if there
18 was, I asked if they had been drinking. The -- the
19 passenger ended up, Mr. Mims, ended up saying that he had
20 been drinking and there was -- ended up being an open Bud
21 Light can in the passenger area of the pickup truck while I
22 was speaking with him.

23 Q Did you seize that can?

24 A Yes, sir.

25 Q What did you do with that?

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1 A I poured it out on the ground right next to where I
2 was standing, crunched the can up and threw it in the back
3 of the truck.

4 Q And based on your training and experience, did the
5 contents of that can smell like alcohol?

6 A Yes, sir, it looked like alcohol when I poured it
7 out.

8 Q Now, did you eventually confirm the identities of
9 these two individuals in the vehicle?

10 A Yes, sir. When I first walked up I asked the
11 driver for his driver's license and it took him several,
12 you know -- you know more time than normal to find it. He
13 kept talking about things, other things other than just
14 looking for his license. I ended up asking the passenger
15 for his ID or license while I was waiting on the driver to
16 produce his.

17 Q I apologize for interrupting you, but why would you
18 ask for a passenger's ID?

19 A Well, he had admitted that he had been drinking an
20 open container of beer. So if anything, he was going to
21 get a ticket for having an open container of beer in the
22 vehicle.

23 Q Now, is it your discretion on an open container
24 whether you issue a ticket or whether it's an arrestable
25 offense?

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1 A Yes, sir.

2 Q Now, what did the ID's of these individuals reveal?

3 A I got the passenger's first, Mr. Mims, he handed me
4 a Florida identification card and on his identification
5 card his name was listed as Kendrick Lamont Mims.

6 Following or after I got his ID, the driver produced his
7 South Carolina driver's license that identified him as
8 Brian Vanderhall.

9 Q How did you proceed?

10 A While speaking with him, after giving the open
11 container at that point, they'd also been looking for the
12 registration. They had started digging the glove box and I
13 couldn't really see what all was in there. I opened the
14 passenger door so I could see what all they were reaching
15 for. While they did that, the entire time they were
16 talking about another vehicle that had cut them off on the
17 interstate, about somebody else that had some road rage.

18 It just appeared to me that each time that I asked
19 a question about either who they were or what was in the
20 truck or where they were going or coming from it was like
21 they were trying to shift focus to something else.

22 Q Now, do you recall if they gave you a description
23 of the vehicle that was causing them problems?

24 A I believe they said like a white car or white Honda
25 or something like that.

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1 Q Do you recall seeing a white vehicle when you saw
2 them pass by?

3 A There wasn't a white car right there close to them
4 that I remember, no, sir, and there wasn't anybody else
5 that I saw going the same speed as them.

6 Q And have you had a chance to review the video from
7 your vehicle from this stop?

8 A Yes, sir.

9 Q And do you recall there being a white vehicle in
10 your recording?

11 A Not that I recall, no, sir.

12 Q Now, could you estimate how many traffic stops
13 you've done in your time, back in 2013 how many traffic
14 stops you had conducted?

15 A I'd say around 2 to 3,000 that year.

16 Q Is it abnormal for individuals to be somewhat
17 nervous when dealing with law enforcement?

18 A No, sir; a lot of people are -- are nervous.

19 Q Was the demeanor of these individuals in this, that
20 green truck, Mr. Mims and Mr. Vanderhall, was it outside
21 the normal level of nervousness you deal with?

22 A Yes. Usually the normalness or the nervousness I
23 see causes the driver to either not speak very much or kind
24 of just speak very softly. They were more -- they were
25 very controlling, very matter of fact. You know, when I

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1 walked up there, we were speeding weren't we, is what they
2 said to me. Usually it's why did you stop me; oh, I didn't
3 realize I was speeding, but they readily admitted they were
4 speeding. You know, readily admitted that they were wrong,
5 that it was this other car that were -- that was bothering
6 them on the road, I guess.

7 You know, at one point, I wish you had stopped both
8 of us. It's just they -- they were very helpful; most
9 people are not. They were very -- I guess when I say
10 overly helpful as if they were guilty; we sped, we were
11 speeding or he was speeding, just not something I normally
12 see.

13 Q Did you ever get an answer as to where the vehicle
14 was coming from?

15 A They said Georgia.

16 Q Were they able to narrow it down for you?

17 A Later they were. Vanderhall said they were coming
18 from the other side of Augusta. Mims said about 66 miles
19 on the other side of Augusta or other side of the line or
20 something like that.

21 Q Were those answers readily given to you?

22 A No, sir, they weren't. I had to ask several times,
23 but you know, he was very plain or very generic, Georgia or
24 Augusta, the other side of Augusta; answers like that. It
25 was never, they never could give a specific location of

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1 they were coming from his house or his friend's house or
2 anything like that.

3 Q When you approach a vehicle, you smell alcohol, you
4 see a 6 pack or a 12 pack and you see an open container,
5 how do you typically proceed then?

6 A I'm going to make sure that the driver or whoever
7 is driving the vehicle, since there's open containers in
8 there, I'm going to make sure that he hasn't been drinking,
9 make sure he's not impaired or that he shouldn't be
10 driving.

11 Q Did you test the driver, Mr. Vanderhall, in this
12 incident?

13 A I did. I asked him to exit the vehicle and walk to
14 the rear, to meet me at the rear of the car.

15 Q And did you do what is called a field sobriety test
16 on him?

17 A I did.

18 Q And how did he fair?

19 A I didn't observe any clues that he was under the
20 influence at that time.

21 Q How did you proceed at that point?

22 A After speaking with -- with him for a few minutes
23 about, he spoke more about the other driver that had cut
24 him off. You know, and anytime I kept asking about things
25 that were going on at that instant, the truck, the speed,

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1 where they were coming from, he kept shifting focus back to
2 this other vehicle that was -- that was causing road rage
3 or something, the way he described it.

4 Q Is that the white vehicle you spoke of earlier?

5 A Yes, sir.

6 Q Is that the vehicle you couldn't locate when you
7 viewed your dash video footage?

8 A Yes, sir.

9 Q Now, once you finished the field sobriety test on
10 Mr. Vanderhall, why not just end the traffic stop at that
11 point?

12 A I wasn't done with -- with my investigation as far
13 as what, you know, as far as what was going on in the
14 vehicle with the occupants at the time.

15 Q And tell me about why you had reason to hold the
16 occupant, Mr. Mims on the scene?

17 A Well he's -- I mean he had violated the open
18 container law.

19 Q Now, did you eventually make further contact with
20 Mr. Mims?

21 A I did.

22 Q Can you tell me how that went?

23 A Yes, sir. I went back to the -- I went by -- after
24 ending my conversation with Vanderhall, I had him sit on
25 the bumper of his truck. I went back to Mr. Mims and asked

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1 him -- well I opened the door and I asked him to exit the
2 vehicle and told him I was going to check him for weapons,
3 pat him down for weapons.

4 Q Now, is removing drivers and passengers from
5 vehicles something that you are trained to do or something
6 that you're not trained to do?

7 A I'm trained to do it.

8 Q What is the purpose of being allowed to do that?

9 A Well safety reasons, to -- to further investigate
10 crimes. I mean, it's just --

11 Q Is it, I apologize, go ahead.

12 A -- I'm, I'm done.

13 Q Did you have any backup on the scene?

14 A No, sir.

15 Q Were you the only officer there?

16 A Yes, sir.

17 Q So how many individuals did you have in the
18 vehicle?

19 A Well, there was two and I was having to speak with
20 Vanderhall. There was one outside the truck and one inside
21 the truck.

22 Q So were you outnumbered?

23 A Yes, sir.

24 Q Now, why would you pull somebody out of a vehicle
25 to check for them for weapons?

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1 A Safety, I mean if he's got a weapon, you know, I'm
2 not -- not, it's just not safe. If he's got a weapon that
3 he hasn't told me or he hasn't produced a concealed weapon
4 permit for, we might check weapons to make sure that I'm
5 safe; that's he's safe.

6 Q Now, can you walk us through some of the things
7 that would have led you to believe that he might possibly
8 be armed?

9 A Yes, sir. The whole -- the whole stop, I -- it's
10 a -- you know, after doing it for several years, you kind
11 of get a hair on the back of your neck stands up; you get a
12 feeling and in this case, I guess it started off with the
13 fact that they took a very extended amount of time to pull
14 over and stop. Then after they did pull over and stop and
15 while they were pulling over and stopping, there was a lot
16 of movement in the vehicle by both of them. Whenever I was
17 up there talking with them, they were mostly helpful, you
18 know, shifting focus or trying to shift my focus as to the
19 questions I asked, wanting to talk about other things,
20 wanted to point or point my attention to another driver
21 that I -- that I didn't see or didn't know what they were
22 speaking of as far as the other reckless driving that they
23 spoke of.

24 There was open containers in the vehicle, their
25 stories weren't matching up as far as exactly where they

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1 were coming from, the purpose of their trip or anything
2 like that. Whenever --

3 Q Was the level of excessive speeding abnormal to
4 you?

5 A Very, yes, sir.

6 MR. WILLIAMS: Objection; leading.

7 THE COURT: Rephrase the question.

8 BY MR. BELL:

9 Q In your experience, did the speeding cause any
10 concern to you?

11 A Yes, sir, it's not very often you get a vehicle at
12 93 miles an hour at five o'clock in the afternoon.

13 Q Technically is that an arrestable offense?

14 A It is.

15 Q Is that something left in your discretion?

16 A Yes, sir.

17 Q Now, when you asked Mr. Mims out of the vehicle;
18 tell us about that.

19 A When I asked him to exit the vehicle, he stepped
20 out and as soon as he stepped out, he -- he was holding his
21 hands down around his pants and he was kind of hunched
22 over; he wouldn't stand up straight. It appeared that he
23 was trying to hold something up in his pants.

24 Q Is that abnormal in your experience?

25 A Yes, sir.

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1 Q How did you proceed?

2 A Well, I had already told him that I was going to
3 pat him down. I asked him to put his hands on the car.
4 Instead of immediately doing that, he said I'm going to and
5 then he asked, you want me to do what, almost like he
6 didn't hear me, but I was, I mean I was standing right
7 there beside him whenever I was talking to him. I wasn't
8 yelling at him; I wasn't being rude. I was just simply
9 telling him what I would like him to do and he wasn't doing
10 it at that point.

11 Q How many times did you ask him to comply?

12 A I guess 2 or 3; I don't --

13 Q And did he comply?

14 A Eventually he put his hands or he put his hands up
15 there on the side of the truck so that I could pat down
16 his -- pat down his person.

17 Q And did you pat him down?

18 A Yes, sir.

19 Q Tell us what a pat down is.

20 A Well, I started at the point where whenever he was
21 hunched over holding around his pants, it looked like he
22 was holding something near his groin. So that's the first
23 place I started. For us I was trained to pat down as
24 you're checking for weapons, whether it be guns, knives,
25 anything like that; anything that could potentially harm --

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1 harm you.

2 Q Is a pat down invasive?

3 A No, sir. We check the outer clothing. We don't go
4 in pockets; we don't look up shirts and all that stuff.
5 We're just merely making sure that you don't conceal any
6 weapons around the area most people keep weapons.

7 MR. BELL: Your Honor, permission to ask Trooper
8 Antley to step down.

9 THE COURT: You may step down, yes, sir.

10 (The witness stepped down from the witness stand.)

11 BY MR. BELL:

12 Q Now, would you demonstrate for the jury how you
13 would conduct a typical pat-down.

14 A Well, if you were outside of the car, I would ask
15 you to put your hands on, on the edge of the car. I would
16 ask you to take a step back. I would ask you to spread
17 your feet out -- wider, that way it puts you at a -- at a
18 position of disadvantage so if I -- if I come in here to
19 pat you down and I feel something that -- that I think is a
20 weapon, at least at this point, you're not standing up
21 straight on me where it's easier for me to control you if
22 something goes bad I guess.

23 So at this point, whenever I have them standing
24 like this so that I can pat them down, I take a foot, put
25 it inside here to kind of control the person. I leave,

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1 normally leave one hand here on their back and I start here
2 by checking the belt, come around; after I check the whole
3 belt on both sides, then I would normally like the inside
4 of the thigh and groin area on both sides and then I would
5 check the legs down to the ankles and back up.

6 Q Thank you, Corporal; if you would take a seat.

7 (The witness returned to the witness stand.)

8 BY MR. BELL:

9 Q Is that how you went about the patting down on Mr.
10 Mims?

11 A With him, I didn't start at the belt; I went --
12 well I didn't go around the belt first. I started with the
13 belt and went straight down to the groin because that's
14 where it appeared -- appeared that he was concealing
15 something.

16 Q Was what you just showed the jury the same level of
17 invasiveness that you may have used with Mr. Mims?

18 A Yes, sir.

19 Q Did you reach in any of his pockets?

20 A No, sir.

21 Q Did you rough him up at all?

22 A No, sir.

23 Q Is all of this recorded on your vehicles dashboard
24 video?

25 A Yes, sir.

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1 Q Now, as you patted down and went towards his groin,
2 tell us what happened.

3 A I found a hard object inside his pants that it was
4 obvious to me it was not any part of his anatomy.

5 Q And roughly what size was the object?

6 A It was big enough when I put the, you know, the
7 palm and the fingers of my hand, I could feel a hardness on
8 the tips of my fingers and on the palm.

9 Q How does that make you react?

10 A I was nervous.

11 Q What did you think it could possibly be?

12 A I thought it was a gun.

13 Q Now at any point, did you question him as to what
14 that item was?

15 A Yes, sir. I said what's this in your pants?

16 Q And do you recall his response?

17 A I don't have anything.

18 Q Is that the only time you asked him?

19 A I -- I think I asked him more than once what was in
20 there. I asked him to, you know, at that point when I felt
21 that, I asked him to go down, get on his knees, because I
22 thought it was a weapon. I wanted to get him down where he
23 could not reach it. I was trying to watch his hands to
24 make sure he didn't reach down towards his pants, but my --
25 my plan or my intention was to get him down either on his

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1 knees or on his belly, put handcuffs on him and then
2 retrieve whatever it was, which I thought was a weapon,
3 inside his -- that was inside the front of his pants.

4 Q Did you try to get him to his knees?

5 A Yes, sir, I told him more than once.

6 Q And why would you try to get someone to their
7 knees?

8 A He was much larger than me. I didn't want to reach
9 inside of his pants or try reaching in there to retrieve
10 what I thought to be a weapon with him in a position where
11 he could easily fire or resist.

12 Q Are you still solo at this point?

13 A Yes, sir.

14 Q Does he comply with your order to get on the
15 ground?

16 A No, sir.

17 Q Do you recall how many times you asked him to
18 comply?

19 A Two or Three.

20 Q At this point, are you de-escalating or escalating?

21 A Oh, I'm escalating, my voice and my commands
22 because he's not listening with me just asking him nicely
23 or talking to him in a normal voice so I escalate my voice
24 and tell him to get on his knees; do it now.

25 Q As he fails to comply, how does that make your

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1 reaction?

2 A I'm just getting ready for what's going to happen
3 next; I'm not sure what it is. I'm trying to, trying to
4 maintain control of him and control of the situation, but I
5 can, I can tell that it's not going well -- going to.

6 Q Ultimately, when he failed to comply, how did you
7 then proceed?

8 A Well, I took a hold of his left arm after I had
9 told him several times to go down to his knees to -- to
10 comply; he wasn't paying me any attention. I took a hold
11 of his left arm. I was going to attempt what's called an
12 arm-bar take down, is for me to take his arm, rotate and
13 put him -- put him on the ground by force because there
14 again, I -- I thought it was a weapon. I wasn't sure what
15 it was exactly. I knew it was hard and I knew he didn't
16 want me to know what it was or it felt to me he didn't want
17 me to know what it was because he said he didn't have
18 anything and it was obvious to me something was there.

19 Q Is an arm-bar take down what might be considered a
20 destructive maneuver?

21 A What do you mean by destructive?

22 Q Is there a likelihood of injury to the person you
23 perform it on?

24 A There can be, yes, sir.

25 Q And why would that occur?

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1 A Well, because they're -- they're standing straight
2 up on their feet and I'm taking them off balance to the
3 ground. I've already got a holding point, I'm going to
4 have a holding point on the person's arm so they're only
5 going to have one arm to catch their self. So more than
6 likely, they're, either they're chest, stomach, possibly
7 their face might hit the ground.

8 Q As far as the move itself though, is it intended to
9 cause injury to the arm that you're manipulating?

10 A No, sir.

11 Q And were you intending in any way to injure Mr.
12 Mims's arm?

13 A No, sir.

14 Q Do you believe that you used any sort of excessive
15 force in manipulating his arm?

16 A Not at all.

17 Q When you ultimately attempted this arm-bar take
18 down, were you successful?

19 A I didn't even get to the point where I actually had
20 started to put pressure on his arm and as soon as I got
21 hold of his arm, he looked to his right, snatched away and
22 took off running.

23 Q What does law enforcement call it when someone
24 takes off running?

25 A Say what now?

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1 Q What does law enforcement call it when someone
2 takes off running from the scene of a stop?

3 A We call it bush balling.

4 Q And why do you call it that?

5 A To be honest with you I don't know. That's what it
6 was called when I got on the Highway Patrol. It's kind of
7 I guess, pretty funny when you hear somebody say it on the
8 radio.

9 Q At that point, did you pursue Mr. Mims?

10 A I did.

11 Q And what direction did he head?

12 A We ran off the -- off the eastbound shoulder
13 straight into the wood lines at the south, I guess, you
14 know, the interstate doesn't actually run a true west/east
15 in that area, but we ran directly -- directly away from the
16 eastbound lanes into the woods.

17 Q Now what month was this?

18 A February.

19 Q What was the temperature like?

20 A It was pretty chilly outside.

21 Q Is that your preferred running weather?

22 A No, sir.

23 Q Tell us about the foot chase?

24 A Well we -- we -- Mr. Mims took off first. I
25 immediately took off after him. He was -- had his hands in

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1 front of him like he was still trying to hold on to
2 whatever was in his pants. I immediately told him to stop
3 or I'm going to tase you. I couldn't see his hands, I
4 wasn't sure -- still wasn't sure what he had and at this
5 point I'm -- I'm -- I'm trying not to get into a physical
6 altercation with him in these woods.

7 Q Is your goal as a law enforcement officer when
8 dealing with a suspect to stay on the same level as them as
9 far as potential aggression goes?

10 A No, sir, no.

11 Q Can you tell us a little bit about the levels of
12 escalation that law enforcement utilizes?

13 A Well we -- our use of force on anyone starts at --
14 at officer presence, just being on scene or -- or dealing
15 with a suspect in any other form. That's the first level,
16 I guess, of authority or the first level of -- of, force
17 that you -- that's there. You're there and you're giving
18 commands in a normal -- normal manner, excuse me.

19 The -- from -- after officer -- after officer
20 presence is verbal commands where you're giving commands
21 for somebody to do something whether it be commands like
22 may I see your driver's license or commands like get on the
23 ground. From there there's soft hand control, which is
24 things like joint locks or manipulations where you're using
25 pressure points or something to get -- in an attempt to get

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1 somebody to comply with what you're asking them to do.

2 Q Is a arm-bar take down an example of that?

3 A An arm-bar take down is a -- it would be more of a,
4 it's in that range. It's a take down. It's not -- I guess
5 it's not -- it's -- it's above officer verbal commands, but
6 not in the range of using intermediate weapons like OC
7 Spray, baton strikes, or taser.

8 Q At what point does a taser become deployed?

9 A Well when -- for us -- or for, I guess, law
10 enforcement in general, when, when all the steps prior to
11 that have failed or the steps prior to that -- in this
12 situation, I was there in my uniform, I told him -- gave
13 him commands of what to do. I attempted, I was going to
14 attempt an arm-bar take down when he snatched away and
15 pulled away from me, but at the time I had a hold of his
16 arm.

17 So I was trying to control him just by using my
18 hands and that didn't work. It's obvious to me at this
19 point grabbing a hold of him is not going to be the answer
20 while he's sprinting away from me in the woods. That's why
21 I escalated to the taser.

22 Q Do you have any idea what he is concealing in his
23 pants at that time?

24 A No, sir.

25 Q Now, tell us about the first deployment of the

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1 taser?

2 A Well, as we got several feet into the woods, it
3 appeared that I'm going to be tripped on a root or
4 something or he just wants to slip, but Mr. Mims fell. As
5 he fell, he went face first and I was catching up to him
6 and as soon as he fell and started to get up almost like as
7 if you're doing a pushup, he pushed up with his hands and
8 started to get up where his rear end, thighs and butt area
9 was facing me.

10 As soon as he started to get up, I was telling him
11 to stay on the ground. He was still trying to get up. So
12 I pulled the taser aiming towards the thigh and -- and the
13 area toward his rear end.

14 Q Did you strike him?

15 A I did.

16 Q And was it effective?

17 A I guess it -- it appeared to be at first, but as
18 far as over all, it didn't. It didn't completely control
19 him. The -- when the taser -- when I deployed the taser,
20 it appeared that I thought I could see the dart striking
21 him in the upper thigh in the buttocks area; I was a couple
22 of feet from him when it happened. The -- I can -- I
23 remember him kicking and I remember him flipping over and
24 facing me. Once he's on the ground now, he's on the ground
25 with his feet in the air in between me and him as I'm

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1 trying to come in to try and grab hold of him and while
2 he's laying on the ground with his -- he's flipped over on
3 his back now. He starts kicking his feet and he's swiping
4 trying to grab the leads to the taser is what it appeared
5 to me.

6 Q Were you able to secure him at that time?

7 A No, sir.

8 Q Was he able to regain his sprinting?

9 A He was.

10 Q Did you reinitiate pursuit at that point?

11 A I did. I continued to -- I continued to chase him
12 through the woods about another 20 yards or so. Just at
13 the edge of the woods there's a barbed-wire fence. It's an
14 old -- it's not like a cyclone or chain link fence, but
15 it's a -- like an old fence you might see around a cow
16 pasture or something. It's got large square holes in it;
17 at the top it's lined with a couple of strands of barbed
18 wire. Whenever I got -- whenever I was coming up to the
19 fence, Mims -- he was -- he kind of dove over it or -- or
20 rolled over it one of the two, but he got over it pretty
21 quick.

22 As I was running up to the fence, I change the
23 taser cartridge because there's one that's on the end of
24 the taser that's ready to be used and then there's an extra
25 one that stays on the bottom of it that you can change out

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1 if the first one -- if you for whatever reason, you know,
2 you need a second cartridge. So while I was running, I had
3 taken the first one, stripped it off, threw it on the
4 ground and, and inserted the second cartridge into the end
5 of the taser.

6 Q Did you warn him that you were going to deploy
7 again?

8 A Yes, sir.

9 Q And what was your hope in telling him that?

10 A I was hoping he was going to stop.

11 Q Would you have tased him if he stopped?

12 A No, sir.

13 Q Ultimately, did you deploy the taser the second
14 time?

15 A I did. When he got -- when he jumped over the
16 fence or went over the fence, I attempted to climb it and
17 when I attempted to climb it or as I was coming to it, I
18 reached out with the taser, could see clearly at his back,
19 pulled the trigger on the taser, it deployed the prongs and
20 I was -- as he -- as the taser went off, I thought I could
21 hear him moan like normal sounds when people get hit with
22 it, but the taser leads, it actually looks like fishing
23 lines, what connects the -- or it's about the size of
24 fishing line is what connects the little darts to the
25 cartridge itself. They got wrapped up in that barbed wire

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1 fence and then as I was trying to climb over it with the
2 taser still in one hand, I don't know if it popped the
3 leads or it, him falling down on the -- on the ditch back
4 on the other side of the ditch, something caused it to
5 disconnect and it didn't subdue him.

6 Q Did he continue running?

7 A He did. At the time I tried to climb over the
8 fence. The barbed wire cut through my pants and cut into
9 my left thigh. And as I was trying to get untangled off
10 the fence with the all the -- with all the gear on, he was
11 already running across the Davega Drive Drive. There was a
12 car that was coming up. It was a little red car, a female
13 driver. And she blew the horn at him as he ran across the
14 street in front of her because she almost hit him.

15 Q At any point in time, did you pull your firearm?

16 A Later on after I got -- after I had chased him.
17 Well, he crosses the road; the car blows the horn; I try to
18 go over the fence to get or try to get it unhooked from the
19 fence and as I take my right leg and try to throw it over
20 and loose my footing and I flip completely over and land on
21 my back on the other side of the fence.

22 It hurt and I think I said like damn it or
23 something like that because it hurt pretty bad. And at
24 that point, he's still running away from me up like a paved
25 or paved driveway that goes into a little business area.

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1 So as we're running up in there, as I'm running across the
2 Davega Drive and coming up that driveway, I've already used
3 the taser twice, I still don't know what's in his pants, I
4 do. I put the taser up and pulled my firearm out.

5 Q Did you warn him that you were drawing your weapon?

6 A At some point, when we get back in there, I think I
7 at least told him, you know, let me see your hands; don't
8 make me shoot you.

9 Q Is shooting somebody something you look forward to?

10 A No, sir, not at all.

11 Q Did you try to do everything possible to avoid
12 that?

13 A Yes, sir.

14 Q Did you fire your gun in this incident?

15 A No, sir, I did not.

16 Q How much further did you have to chase him?

17 A Somewhere between a hundred and 200 yards, I guess.

18 Q And what does that run back to?

19 A There's -- there's some type of church back there,
20 some church office buildings in the area where we ran,
21 there's a long driveway that kind of goes up a slight hill
22 and it leads to a little small parking area with a building
23 that is right there surrounded by woods.

24 Q Now, at any point in time, did you lose visual
25 contact with him?

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1 A Whenever he cleared -- or whenever he went around
2 the building, I lost sight and that's about the time where
3 I had drawn my firearm. You know, whenever in training,
4 you always -- in training you always are told, you know,
5 to -- you know in a situation like this, when you're in a
6 foot pursuit or something like that, you've got to slow
7 down enough to be able to not over pursue them. By that I
8 mean not run out into an area where you're not sure what's
9 waiting for you on the other side and so the point where he
10 crossed around the corner of a building or went around the
11 corner of a building, I didn't see or I couldn't see him at
12 that point.

13 So I slowed down and came around the building, took
14 a quick peek with my firearm drawn just to clear the corner
15 to make sure he wasn't standing there waiting.

16 Q Did you regain visual contact?

17 A I did. As soon as I came around the corner, he was
18 not -- he was not close to the building. He was actually
19 about maybe 20 to 30 yards past or away from me. He had,
20 he was not running at that point; he was walking into the
21 woods. It appeared, to me -- it appeared that he was
22 getting tired. I was getting tired.

23 Q Now the individual that you saw when you cleared
24 the corner of that building, were they wearing the same
25 clothing as Mr. Mims when you initiated contact with him?

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- 1 A Yes, sir.
- 2 Q Did there appear to be any differences at all?
- 3 A No, sir.
- 4 Q Was the gentleman also an African American that you
- 5 saw around the corner?
- 6 A Yes, sir.
- 7 Q Same height?
- 8 A It appeared to be, yes, sir.
- 9 Q The same build?
- 10 A Yes, sir.
- 11 Q Same color of pants?
- 12 A Yes, sir.
- 13 Q All right. So how far, how long in all is he out
- 14 of your visual sight?
- 15 A Less than or somewhere between 20 to 30 seconds at
- 16 the most. Long enough for whenever I got caught in the
- 17 fence, he got a little of bit of a head start on me and I
- 18 had fallen down. I slowed down intentionally when I got to
- 19 the building to clear it -- some, no more than a half a
- 20 minute.
- 21 Q What was he doing when you saw him in the distance?
- 22 A He was walking to the woods facing away from me.
- 23 Q Did you close distance with him?
- 24 A I did.
- 25 Q And what did you see him doing at that point?

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1 A When we got into the woods, I still had my firearm
2 drawn and he was facing away from me and he had his hands
3 in front of him. I told him, you know, show me your hands,
4 get on the ground and I was giving commands the whole time
5 I'm chasing him, I'm yelling at him to stop, get on the
6 ground, but the point when we got into the woods, I was
7 probably the distance from about me to the -- to the
8 prosecutor's table there. He was facing away from me, I
9 saw him reach and I could see his elbows, I couldn't
10 actually see his hands because they were concealed; I was
11 looking at his back.

12 I saw his arms reach down to appeared to be towards
13 the groin area, I saw him pull up. I saw him lean down,
14 bend over at the waist and put a bag on the ground. When
15 he put that bag on the ground, he immediately went right
16 beside the bag with both hands, scooped leaves up on top of
17 the bag -- didn't dig a hole, but just put leaves on top
18 and he turned around and he started walking kind of
19 straight towards me.

20 Q And ultimately did he surrender to you?

21 A He did. Once he -- once he started walking
22 straight towards me, I told him to put his hands up. He
23 put his hands up like this and he walked within about from
24 here to the bailiff and at that point he fell backwards on
25 his rear end and pretty much laid back with his arms

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1 straight out away from him.

2 Q And why did he do that?

3 A It appeared he was tired. I was telling him to --
4 I told him to get over, roll over and put his hands behind
5 his back; he said he can't and it appeared that he was wore
6 out and tired I guess. I'm not a hundred percent sure why
7 he laid all the way back like he did.

8 MR. BELL: Permission to approach the witness, Your
9 Honor?

10 THE COURT: Yes, sir.

11 BY MR. BELL:

12 Q I'm showing you another overhead. Does this
13 overhead fairly and accurately represent the pursuit route
14 that you would have taken?

15 A Yes, sir.

16 Q Does it encompass the stop area as well?

17 A Yes, sir.

18 MR. BELL: Your Honor, at this time the State would
19 move State's 2 into evidence?

20 MR. WILLIAMS: No objection, Your Honor.

21 THE COURT: State's 2 is in evidence.

22 (State's Exhibit Number 2 was entered into
23 evidence.)

24 MR. BELL: We move to publish State's 2, Your
25 Honor?

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1 THE COURT: You may publish. Just give me a minute
2 to come around there where I can see it too.

3 You want the officer to step down.

4 MR. BELL: If he could, Your Honor.

5 THE COURT: All right. He can do that.

6 BY MR. BELL:

7 Q Trooper, I've handed you a laser pointer. If you
8 would please indicate on State's 2 where the initial stop
9 took place.

10 A It was right in this area here. That's -- this is
11 how it's pointing. There's three lanes and that's the
12 emergency lane. So we were somewhere right around in here.

13 Q And when he -- when Mr. Mims bush bonded as you
14 call it, will you show us what direction he took off in?

15 A Like I said, the green Ford that I stopped was on
16 the shoulder, I was directly behind it and he ran -- he
17 turned to his right and ran and took a -- pretty much
18 almost a straight line straight into the woods in this area
19 here.

20 Q Trooper would you take another step back so that
21 the whole panel can see it?

22 Now, would you trace with the laser pointer and
23 then narrate a little bit for us the rest of the route that
24 was taken during the foot pursuit.

25 A When we started, we came into the woods, I'd say

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1 right in this area. We got about maybe a third of the way
2 into the woods is where he first fell down, the first time
3 I had pulled the taser. After he got up and kept running,
4 we got here; this is where that fence is. The fence runs
5 along this whole section here, but when we came out, I
6 remember that when I came over the fence, we weren't
7 directly across from this driveway, we were just a little
8 bit down from it. The car that had blown the horn had, it
9 must have been because he ran out in front of them, was
10 traveling in this direction. But we came up to the fence
11 here is where I deployed the taser the second time.
12 Whenever I was stuck on the fence, he was running across
13 the road here and up this driveway and I fell over the
14 fence, lost my campaign hat off the top of my head right
15 here on the edge of this road and I followed him. We ran
16 pretty much up the shoulder of this driveway. I don't
17 remember there being any cars parked there, obviously, when
18 all of this occurred, but there's some parking spaces.

19 We ran up the shoulder of this driveway right here
20 and the corner of the building is, I think it's right here
21 in that area according to that picture.

22 Q Trooper, would you please circle the building
23 you're indicating as that picture with the little shadow in
24 it?

25 A That appears to be the building right there in that

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1 area.

2 Q And what corner of the building did he pass?

3 A The one where I lost him and I couldn't see him is
4 whenever he ran this way and turned and started going back
5 this way. I was still here so when he got on the other
6 side, on this side of it I could not see him.

7 Q Ultimately, where did the pursuit end?

8 A There's a parking lot or a small little area to
9 park and turn around right here on this side of the
10 building. We were probably initially -- initially he was
11 about 30 yards in the woods. I was about 20 yards in the
12 woods and I arrested him about 20 yards in the woods.
13 He -- when he ran in, he got about 30 yards in or so and I
14 had gotten about 20 yards in because I was about 10 yards
15 from him whenever I saw him remove the item from his pants
16 and he walked back towards my direction whenever he
17 surrendered. Once he surrendered I got him in handcuffs
18 and I immediately went to where I saw him put the bag down
19 or the item down and cover it with leaves. I grabbed it,
20 picked it up and carried it back to him and I waited there
21 with him until some other units got there.

22 Q Thank you, Trooper, you can take your seat.

23 Trooper, tell us about the item that you found on
24 the ground under the leaves?

25 A It was in a shopping bag. It was hard. It felt

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1 like the same hardness that I felt before. It was about as
2 big as my hand or maybe a little bigger than my hand, but
3 it was a pretty -- a large package wrapped in black tape
4 and cellophane inside of the grocery bag.

5 Q At any point in time did you conduct any sort of
6 field test on the substance of that bag?

7 A I didn't use a field test, but I -- whenever we --
8 once we got out the woods, there were some other -- well
9 some other troopers got there and helped me get him out the
10 woods because he -- he wouldn't stand up on his own and I
11 was too tired to pick him up and carry him out or help him
12 out. But once some other troopers got there, they -- I let
13 them help him out the woods. I walked behind, directly
14 behind them with the package that he had taken out of his
15 pants.

16 Once we got to that little parking lot that we had
17 run through, I took my knife out my pocket, stuck it in the
18 package that was wrapped in black tape and cellophane and
19 stuck it in maybe a quarter of an inch, enough to just pull
20 back the wrapping. I could see it appeared to be a light
21 powder. When I pulled my knife, there was white powder on
22 the tip of my knife.

23 Q And in your training and experience as a law
24 enforcement officer are you trained to be able to identify
25 at least visually what substances may be?

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1 A It appeared to me that -- I am and it appeared to
2 me that it appeared to be a powder cocaine.

3 MR. BELL: Please mark this as 3.

4 (State's Exhibit Number 3 was marked for
5 identification.)

6 BY MR. BELL:

7 Q Corporal, I'm handing you State's 3 for
8 identification; would you please identify the items in that
9 picture?

10 A The top item is the package that, that I, that was
11 inside the grocery bag that Mr. Mims covered up with
12 leaves. The items below it is the taser; it's missing the
13 two cartridges, they're not, they're not in this photo.
14 And then right there in the -- it appears the cut I made
15 into the packages is --

16 Q If you would not hold it up at this point in time.
17 Do those items fairly and accurately present the
18 way that you located them or had them on you that night?

19 A Yes, sir.

20 Q And is the item on top, which you identified as
21 having the cocaine -- the substance that looked like powder
22 cocaine in it, is that how it was originally packaged?

23 A Yes, sir, that's how I found it, minus that grocery
24 bag that it was in.

25 Q When was this picture taken?

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1 A This was taken at the office approximately -- or
2 just once I got back to our office and was entering this
3 stuff into evidence.

4 MR. BELL: The State would move to State's 3 into
5 evidence.

6 MR. WILLIAMS: No objection.

7 THE COURT: State's 3 is in evidence without
8 objection.

9 (State's Exhibit Number 3 was entered into
10 evidence.)

11 BY MR. BELL:

12 Q A couple more quick questions for you, Trooper.

13 How many troopers showed up to assist you at the
14 end of the pursuit?

15 A I believe four total and then two Lexington County
16 deputies.

17 Q Did those individuals have any meaningful
18 interaction with either the pursuit or the evidence?

19 A No, sir.

20 Q Did you transport Mr. Mims?

21 A No, sir, he was -- after -- after everything was
22 over with -- after he was in handcuffs, he was breathing
23 heavily and just based on the fact that he had been
24 drinking and that his -- it had just appeared that he was
25 pretty labored, we called the ambulance to come check him

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1 out and they decided just to take him up to the hospital
2 just to get him -- just to make sure he was clear, that
3 nothing medically was wrong with him.

4 Q Do you recall if one of the troopers that arrived
5 was Trooper Ellis?

6 A Trooper Ellis did come to the scene, yes, sir.

7 Q Do you recall his interaction?

8 A Trooper Ellis came and assisted with helping me or
9 helping me get Mr. Mims out of the woods. You know,
10 once -- once I stayed in the woods or I stayed in the woods
11 with Mr. Mims and the package until -- until Ellis and some
12 other troopers came and helped him out the woods and then I
13 walked out behind them.

14 Q Ultimately, did you submit the bag that you located
15 under the leaves into evidence?

16 A The -- the package that was inside the grocery bag,
17 yes, sir, I did.

18 Q Did you put it in any sort of container that has a
19 label so that you could identify it later?

20 A Yes, sir.

21 Q What was that called?

22 A It's called a BEST Kit.

23 Q And do you recall doing one for this case?

24 A Yes, sir.

25 Q Okay. Ultimately, where did you submit that

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1 evidence?

2 A Into the -- the evidence locker at our Lexington
3 Office, which is, again on the third floor of the Lexington
4 Police Department.

5 Q Is that the final interaction that you would have
6 had with that evidence?

7 A Yes, once I logged it into the log, that's the last
8 time I saw it.

9 Q Okay. Was it in your care, custody, and control
10 from the time that you removed it out of the leaves in the
11 woods until the time that you submitted it to the drop
12 box -- the evidence drop box?

13 A Yes, sir.

14 Q At any point in time, did you ever hand it off to
15 anybody?

16 A No, sir. I might have shown it to the troopers
17 over there, but I -- at no point did it leave my, my
18 sight -- my -- my general area.

19 Q Aside from penetrating the exterior with your
20 knife, did you manipulate that evidence in any other way?

21 A No, sir.

22 MR. BELL: Your Honor, permission to approach?

23 THE COURT: Yes, sir.

24 (There was a bench conference out of the hearing of
25 the jury and the court reporter.)

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1 MR. BELL: I beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 (There was a pause in the proceedings.)

4 (State's Exhibit Number 4 was marked for
5 identification.)

6 BY MR. BELL:

7 Q Now, Trooper, typically when you conduct a traffic
8 stop, do you record that stop?

9 A Yes, sir.

10 Q And how is it recorded?

11 A On the -- there's a camera inside of the car and
12 there's a body mic that's -- it's about the size of like
13 old pagers used to be or a small cell phone that it clips
14 to your belt and it records audio and the camera is inside,
15 inside the car, mounted inside the windshield facing out
16 towards the front of the car.

17 Q Did your Charger come with a video system and body
18 mic system at the time of this incident?

19 A Yes, sir, it did.

20 Q And was it properly recording?

21 A Yes, sir.

22 Q Trooper, I'm handing you what's marked for ID as
23 State's 4. Have you had a chance to review the contents of
24 that disc?

25 A Yes, sir.

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1 Q And how do you know that is the same disc that you
2 reviewed the contents of?

3 A My initials are on it.

4 Q Are the contents of this disc the contents of your
5 video recorder from the incident?

6 A Yes, sir.

7 Q And do they fairly and accurately represent the
8 incident as it occurred on February 18th?

9 A Yes, sir.

10 MR. BELL: Your Honor, at this time, the State
11 would move State's 4 into evidence.

12 MR. WILLIAMS: No objection, Your Honor.

13 THE COURT: State's 4 is in evidence without
14 objection.

15 (State's Exhibit Number 4 was admitted into
16 evidence.)

17 MR. BELL: Permission to publish, Your Honor?

18 THE COURT: Yes, sir, you may publish.

19 MR. BELL: I apologize, Your Honor, the sounds not
20 playing.

21 TH WITNESS: It would not be any sound to it.

22 MR. BELL: Okay.

23 THE COURT: Say that again.

24 THE WITNESS: There's not going to be any -- what
25 you just saw is a 30 second pre-record; there's no audio

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1 during that portion; it just captures the 30 seconds prior
2 to me cutting the blue lights on.

3 MR. BELL: Okay.

4 THE WITNESS: It should come on once I start
5 getting on the road.

6 (The video was playing for the Court and the jury.)

7 (The video was stopped.)

8 BY MR. BELL:

9 Q Trooper, the individual that just asked you is
10 there anything we can do about people like that and who was
11 that.

12 A That was Mr. Vanderhall, the driver.

13 Q Okay. And if another voice is heard on this video,
14 who would that belong to?

15 A Mr. Mims.

16 Q Okay. And is Mr. Mims present in the courtroom?

17 A He is.

18 Q Where is he seated?

19 A Next to the Mr. Williams, his attorney, at this
20 table over here.

21 (The video resumed playing.)

22 (The video was stopped.)

23 BY MR. BELL:

24 Q Trooper, we heard a sudden shift in the quality of
25 sound from the voices that we're hearing; what caused that

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1 shift?

2 A It's just the distance that the microphone was
3 getting away from that car. The further it gets, the --
4 the -- I'm not sure exactly how far it'll reach, but I
5 guess it's getting towards as far as it'll reach, the
6 quality is breaking down.

7 Q Do you know roughly what the reception is on this
8 thing?

9 A Whenever I got it, the guy -- you know, we were
10 told that it -- I guess in a straight line with clear sight
11 and no obstructions, a half a mile, but it's at this point
12 through the trees it might not be as good.

13 Q Are those body mics that you carry intended to go
14 on foot pursuits?

15 A No, sir, they're -- I mean they're made to, you
16 know, capture what's right there around the car I guess.

17 (The video resumed playing.)

18 (The video was stopped.)

19 BY MR. BELL:

20 Q Trooper, at this point, what's going on?

21 A When I -- when I called Lexington, I called the
22 dispatcher and said that I was 1067 and that's our code for
23 meaning that I had somebody in custody. So at this point I
24 just placed him under arrest and I'm trying to -- I just
25 told them, you know, if somebody could get my campaign hat.

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1 It was on the side of the road; and I'm trying to direct
2 them where I'm at. I initially told them during the foot
3 pursuit that we had crossed Cromer Road, but it was
4 actually Davega. Cromer Road is about a mile back. It's
5 on the other side of 378; it's the other frontage road. I
6 was just mistaken whenever I was running on foot, I said
7 the wrong road name.

8 Q What's a campaign hat?

9 A It's the hat that everybody sees troopers wearing.

10 Q Why did you lose it?

11 A When I tripped over the ditch it came off -- or
12 flipped over the fence, it came off my head.

13 (The video resumed playing.)

14 (The video was stopped.)

15 BY MR. BELL:

16 Q Trooper, is that you?

17 A No, sir.

18 Q Do you know who it is?

19 A I think that's -- after listening to him talk on
20 the radio just now, I think it's Trooper Kyle Fowler. He's
21 the one that radioed to me. He actually tried to lock my
22 car and it wouldn't lock without having the keys. That's
23 Trooper Fowler.

24 Q And what is he looking for?

25 A I'm really not sure.

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1 Q Was that F150 supposed to have left?

2 A No, sir. I told him when he got there to, to
3 arrest the guy for speeding, for the speeding violation
4 because it was jailable. So I told him to go ahead and
5 arrest the driver for that at that point; and then called
6 me back and said they were gone, when he called back on the
7 radio.

8 Q Is there an offense for leaving a traffic stop?

9 A Depending on, I guess, the circumstances. I mean
10 if it's a -- it was resisting arrest I guess. But there's
11 not, I'm not sure where to go with that.

12 Q Okay.

13 (The video was resumed).

14 (The video was stopped.)

15 MR. BELL: Permission to approach, Your Honor?

16 (There was a bench conference out of the hearing of
17 the jury and the court reporter.)

18 THE COURT: All right. Mr. Foreman, ladies and
19 gentlemen of the jury panel, in talking with the solicitor
20 and Mr. Williams, there's about another 18 or 20 minutes of
21 this tape most of which is consistent with the last few
22 minutes we have seen. Rather than publish that to you,
23 that video is in evidence. You will have that video with
24 you in the jury room at the time of your deliberation.

25 If you want to watch the tape from beginning to

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1 end, you will be certainly welcome to do so when you have
2 it in your jury room for your deliberations or if you want
3 to watch just the last 18 to 20 minutes of it. It's
4 entirely up to y'all, but we're not going to publish that
5 part at this time since that is substantially the remainder
6 of the 18 to 20 minutes. All right.

7 All right. Solicitor, you may continue with your
8 direct of Trooper Antley.

9 MR. BELL: Thank you, Your Honor.

10 BY MR. BELL:

11 Q Trooper, in the last 18 or 20 minutes of that
12 video, is there anything important to your knowledge?

13 A No, sir, just -- it sits there on the side of the
14 road until somebody, not myself, another one of the guys
15 goes and picks the car up, go down to the next exit, turn
16 around and bring it over there to where we were at, but the
17 spot where they park it over there, you can't see anything
18 at that point. I think the ambulance is already there
19 attending Mr. Mims.

20 Q Why are they attending to Mr. Mims?

21 A As I said he's just extremely exhausted and out of
22 breath from -- from the -- from the pursuit. I didn't -- I
23 was worried that there might be, you know -- you know, I
24 don't know how conditioned he was as far as medically, but
25 you know after a pursuit like that, especially --

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1 especially since I tasered him twice and I didn't want that
2 to cause a problem medically, a heart problem, or anything
3 like that. So we just felt it best to call and get him
4 checked.

5 Q About I believe about 18:10 on that video, you
6 yelled something along the lines of, I'm going to get a
7 dog. Could you tell us about that?

8 A I said I was going to get a dog meaning I had told
9 them -- I had told -- I had already radioed to the
10 dispatch, you know, to get a dog, get a K-9 because if he
11 had got -- if he had continued too much more, I didn't, I
12 didn't know how much further in these woods I was going to
13 be able to go and especially when I knew it was going to
14 get dark soon. But we would call up, you know, call
15 Lexington County and get a canine if they had to track him
16 or send a dog to apprehend him. I wasn't -- I just wasn't
17 sure where it was going, so I wanted to have that option if
18 I needed it.

19 Q Trooper, when you deposited the BEST Kit that we
20 spoke of earlier into the evidence locker that contained
21 that package of cocaine, did you place it into a box or did
22 you place it just as the BEST Kit into the evidence locker?

23 A I just put the BEST Kit into the evidence locker.

24 MR. BELL: I beg the Court's indulgence?

25 THE COURT: Yes, sir.

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1 (There was a pause in the proceedings.)

2 (State's Exhibit Number 6 was marked for
3 identification.)

4 MR. BELL: Your Honor, permission to approach.

5 THE COURT: Yes, sir, of course.

6 (There was a bench conference out of the hearing of
7 the jury and the court reporter.)

8 MR. BELL: Thank you, Judge.

9 THE COURT: All right. Thank you, Solicitor.

10 Thank you, Mr. Williams.

11 BY MR. BELL:

12 Q Trooper, do your notes reflect what the BEST Kit --
13 Control Number for the BEST Kit you submitted would have
14 been?

15 A Not on -- not on this -- not on this report that I
16 have in front of me, but there is a -- there is a chain of
17 custody that I completed with that BEST Kit Form. But I
18 don't know if the -- I'd have to look at it to see if the
19 actual BEST Kit Number was on it. I know it, you know, my
20 signature and stuff would be on the outside of the package,
21 but --

22 Q If I showed you a copy of the Chain of Custody Form
23 with your signature, would that refresh your memory as to
24 the Control Number on the BEST Kit?

25 A Yes, sir.

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1 MR. BELL: Permission to approach the witness, Your
2 Honor?

3 THE COURT: Yes, sir, of course.

4 BY MR. BELL:

5 Q Corporal, can you identify the documents I'm
6 handing you?

7 A That's the -- our Chain of Custody Form for
8 Department of Public Safety.

9 Q And do you see your signature anywhere on that
10 document?

11 A Yes, sir.

12 Q And what is that signature attesting to?

13 A I was trying to sign my name saying I -- you know,
14 I'm the one that's putting in the -- in the evidence drop
15 box.

16 Q And what date did you submit it?

17 A The 18th of February, 2013.

18 Q How does that compare with the incident date?

19 A It's the same day.

20 Q Now, on that same form does it indicate what the
21 Control Number of the BEST Kit you submitted would have
22 been?

23 A It does.

24 Q Would you read that into the record?

25 A SLED BEST Kit Number B227395.

1 MR. BELL: No further questions at this time, Your
2 Honor. However, we would request the ability to recall
3 Corporal Antley.

4 THE COURT: All right. I'll grant you that
5 ability.

6 MR. BELL: Thank you, Your Honor.

7 THE COURT: You may step down. At this time,
8 you're subject to cross-examination and perhaps redirect,
9 perhaps recross; and you may not discuss your testimony
10 with anyone during this luncheon recess. Thank you.

11 THE WITNESS: Yes, sir.

12 THE COURT: Mr. Foreman, ladies and gentlemen of
13 the jury, perhaps now would be a good time to take our
14 luncheon recess. I'd remind you during this recess, you
15 may not discuss the case with anyone, that includes your
16 fellow jurors, lunch mates, family, friends, or anyone
17 else. You may not read, watch or listen to any news
18 reports about the case, should there be any. You may not
19 use your computer, cellular phone, or any other electronic
20 device with communication capabilities to obtain or
21 disclose information about the case which is prohibited.

22 Information about the case which is prohibited
23 includes, but it is not limited to the following:
24 Information about a party, a witness, an attorney or a
25 court officer, news accounts of the case present or should

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1 THE COURT: Sheriff, if you would take into
2 custody.

3 (This case was in recess for lunch.)

4 THE COURT: Anything from the State before we bring
5 in our jury, Solicitor?

6 MR. BELL: No, Your Honor.

7 THE COURT: Defense, Mr. Williams?

8 MR. WILLIAMS: Nothing from the defendant, Your
9 Honor.

10 THE COURT: Okay.

11 (The jury entered the courtroom at 2:31 p.m.)

12 **CROSS-EXAMINATION**

13 BY MR. WILLIAMS:

14 Q Corporal Antley, we've heard kind of a detailed
15 testimony I guess, if you will, about factors that
16 influenced how you reacted that particular day and why it
17 led you to taking these individuals out of the car and
18 things like that; and obviously, you have a video because
19 the video -- that video turns on what, actually 30 seconds
20 before your blue light is turned on, right?

21 A Yes, sir.

22 Q And that's what you were trying to explain to the
23 jury is that it's running at all times, correct?

24 A From what I understand, yes, sir, it's also
25 recording through a hard drive and for the 30 seconds prior

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1 to that stop, once you activate the blue lights, you cut
2 the camera on record and it captures those 30 seconds. If
3 you don't -- if you don't activate the blue lights or cut
4 the camera on, then after a certain amount of time, that,
5 all that stuff that was burnt to the hard drive is I guess
6 getting deleted or whatever.

7 Q At any point in time, did you ever check before
8 that 30 seconds to see if there was indeed a white Honda,
9 if you will, that was driving up and down the interstate
10 driving erratically, fast or what have you, something that
11 you thought would not be the correct way of driving? Did
12 you go back and check your tape in any way?

13 A The only -- the only thing I could check was the 30
14 seconds that -- prior to it. I don't -- I didn't have any
15 other thing to check.

16 Q So you're saying that even though -- even though
17 this machine functions, if you will, so that you can
18 capture the first 30 seconds before your blue light comes
19 on, it doesn't possess the ability to go beyond the 30
20 seconds to capture what was happening before the 30
21 seconds; is that right?

22 A No, sir, I believe there is a -- there is a way for
23 it to be done; I just wasn't trained or given the authority
24 to do it. You have to -- from what I understand, you have
25 to have a pass code to be able to do that. But as far as I

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1 can recall in the time that I had been sitting there, which
2 I wasn't sitting there long whenever this occurred, I never
3 observed a Honda that was driving in, as he told me, a
4 reckless manner, or I would have stopped him, but I didn't,
5 I didn't see it. And no, sir, I didn't have the ability to
6 go back and look at that.

7 Q Well -- and essentially what both of the
8 individuals told you in reference to where they were from,
9 the driver told you he was from Ridgeway and when you
10 checked his paperwork, it indicated indeed he was from
11 Ridgeway; the car was registered in Ridgeway, right?

12 A Yes, sir.

13 Q So they were honest to you in that regards and then
14 Mr. Mims gave you his ID card which gave his full name?

15 A Yes, sir.

16 Q So there was no -- there -- it wasn't like an alias
17 or any information that he gave you on that; it was his
18 correct name insofar as you understood?

19 A Yes, sir, from what I understood, yes, sir.

20 Q And he said that he told you he was coming like
21 from Georgia, I want to say, on the other side of Augusta.
22 And you had said something about that there was something
23 suspicious between how they said they were coming from
24 Georgia or one's from the other side of Georgia, something
25 like that?

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1 A Yes, sir, just they never gave me like a clear
2 answer of where exactly they were coming from, just, you
3 know, they'd say Georgia; well, where at in Georgia? Well,
4 the other side of Augusta; it's just pretty generic because
5 as soon as you cross I-20 into the State of Georgia, you're
6 in the Augusta area. It just seemed off.

7 Q Well, I guess -- I guess the point I'm trying to
8 get to, I guess, they were both consistent with what they
9 said and who cares?

10 A Well, I do.

11 Q If they say they're from Augusta or if they that
12 they're from Rock Hill or they say they're from Charleston;
13 who cares; what's the point?

14 A Well, where they -- where they're actually from
15 does not matter as much to me as -- as them both giving the
16 same answers, being able to give a specific answer. Giving
17 a general answer, both of them saying the other side of
18 Augusta; the other one saying 66 miles on the other side of
19 Augusta. It's not as important about where exactly, the
20 physical location, but them giving the same story. If they
21 can't give the same story or if they don't give the same
22 story, to me it seems that it might not be true or
23 something could be off.

24 Q Well, if I were driving down the road, would you
25 ask me where I was coming from?

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1 A It depended on the circumstances.

2 Q If I was driving fast coming down the road, would
3 you ask me where I'm coming from?

4 A Usually I ask about everybody I stop where you're
5 coming from and where are you going?

6 Q What difference does that make?

7 A It makes a difference to me. I ask a question as a
8 law enforcement officer, it's my job to just be a robot on
9 the side of the road; I talk to people.

10 Q I understand. Okay. So there was a little
11 difference, one said from the other side of Augusta and one
12 saying 66 miles on the other side of Augusta and I believe
13 you said that when you saw them going down the road the
14 fact that one was speeding made you nervous. It makes me
15 nervous too. But that seemed to heighten your sensibility
16 is the fact the guy was doing 93 going down I-20. Is that
17 one of the factors that kind of keyed you into how you were
18 going to make the stop or handle the stop?

19 A Not how I was going to handle it. I didn't say it
20 made me nervous, I just said that it was unusual to be
21 going that type of speed that time of day. Normally I --
22 normally don't see that type of -- that high of speed that
23 often for one; and two it was during rush hour. I just
24 don't see that many people doing that type of speed.
25 That's my experience.

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1 Q I'm sorry. I believe you said that they looked
2 like they might have been moving around in the truck?

3 A There was movement in the truck whenever I was
4 behind them.

5 Q And that made you nervous, it seemed unusual; is
6 that right?

7 A Well, it makes me wonder what they're moving for.

8 Q Well, you used the word made me nervous, right,
9 about what they're doing? Made you nervous about what they
10 were doing because you saw them moving in the truck; is
11 that right?

12 A Yes, sir, that's what I said.

13 Q Well, I mean you said it earlier. Is it not true
14 now, but it was true earlier; I mean, is that what you
15 meant that you saw two guys moving in the truck and it made
16 you nervous?

17 A Well, yes, sir.

18 Q What else made you nervous about these two guys in
19 this truck that led you to believe that maybe there might
20 be more to this than just a speeding case?

21 A It was the totality of everything going on. The
22 fact that they were -- the fact that they were speeding in
23 and of itself is nothing and none of these factors that I
24 talked about earlier in of itself mean, really mean a whole
25 lot, but when you combine all of them together, in my

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1 training and my experience, to me it appeared that
2 something more was going on than just a little simple
3 speeding violation or just an open container violation. It
4 appeared to me that there was something more afoot.

5 Q Well, the way they pulled over, I think you
6 remarked on that, that they were in the fast lane, that
7 they went to the middle lane, then they went to the slow
8 lane, and then they pulled over, but they didn't pull over
9 exactly where you thought they should have pulled over?

10 A Well, it's not that they didn't pull where I
11 thought they should; it's just that once they got -- once I
12 got my eye on it, it was clear that they -- you know they
13 obviously changed lanes, they knew I was going to, that I
14 thought they knew I was stopping them. And then when they
15 got in the slow lane and all the movement that was going on
16 inside of the truck, they continued in the slow lane where
17 there was plenty of room. You can see in the video where I
18 started to begin the -- I had already cut the siren off
19 once they knew I was coming.

20 I activated the siren and chirped it a couple of
21 times again just to say hey, I am still here because to me,
22 at the time, it didn't appear that -- it appeared that they
23 could have stopped or should have been stopping sooner than
24 what they were.

25 Q So they pulled over and actually the area where

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1 they pulled over didn't have much of an emergency parking
2 area, did it? It's too narrow. If you look at the truck
3 when they pulled over, they had to pull over a little bit
4 on the grass there, didn't they; it was a narrow, I guess
5 the Highway Department's saving money. But it wasn't much
6 of an area to pull a vehicle over was it?

7 A Well, I mean it's the emergency, it's about the
8 same there as everywhere else. It's not -- I mean it's the
9 emergency lane.

10 Q Well, and now you've already said all these things
11 made you a little nervous so clearly you called in the tag
12 to the highway, to the dispatch to let them know you were
13 stopping a vehicle, right?

14 A Yes, sir.

15 Q Did you wait until you found out who the driver or
16 the owner of the truck was or anything like that?

17 A Waiting for what?

18 Q Waited for the dispatch to tell you -- did you ask
19 them what the owner of the tag was before you got out of
20 the car because --

21 A No, sir.

22 Q -- you can't always hear that?

23 A No, sir, I didn't, I didn't ask for that.

24 Q But you were not to that stage where you were so
25 nervous that you felt like you needed to call for backup,

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1 right?

2 A No, sir, not at the time. I wasn't -- I mean I
3 didn't think I had bank robbers on my hands, I just like I
4 said, it led me, it raised my suspicions during my time --
5 during my encounter with them.

6 Q Well, you actually took one guy out of the vehicle
7 and did a field sobriety test on him. The film is accurate
8 in regards to what you did that day, right?

9 A Yes, sir.

10 Q So you took him over there and you did the field
11 sobriety test, HGN Test, Horizontal Gaze Nystagmus Test on
12 him; you did that on him and it looked like he was not
13 intoxicated, right?

14 A I didn't observe anything that led me to believe he
15 was, no, sir.

16 Q So that's why you didn't do any further field
17 sobriety tests on him?

18 A I mean, he had complained about a problem with his
19 leg as soon as I started the HGN test.

20 Q Did you ask him to do any other tests?

21 A No, sir, I did not.

22 Q He was just complaining about his leg?

23 A As soon as I asked him to you know stand together,
24 feet together arms down by his side, he said something
25 about his leg. And I said I'm not asking you to walk in a

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1 line, I just want to look at your eyes is what I told him.

2 Q Did that raise your suspicions that maybe he was
3 DUI and didn't want to do the rest of the field sobriety
4 test?

5 A No, sir.

6 Q Okay. So you get -- you get them pulled over and
7 then you go to the passenger. Now, generally the offenses
8 that are committed going down the road are normally
9 attributed to the driver, right; the passenger is not
10 driving are they?

11 A No, sir. That's correct, yes, sir.

12 Q So you go up to the passenger and you ask him who
13 his name is and you ask him where he's coming from; why did
14 you do that, what was the purpose behind that?

15 A You mean initially whenever I stopped them or --

16 Q Yeah.

17 A -- or after I gave Vanderhall the sobriety test?

18 Q Yeah, when you stopped them initially.

19 A Well, I went to the passenger side because that's
20 the side I usually always try to go to on the interstate
21 and even on back county roads, I always try to go to that
22 side just because it's safer.

23 Q That's right, safety reasons because those trucks
24 come down that have those side mirrors and stuff you can
25 clip somebody pretty easy, couldn't you?

Adam Antley - Cross-Examination by Mr. Williams

1 A Yes, sir.

2 Q So when you pulled -- when you actually went to the
3 passenger window, the passenger side and the window was
4 down, did that seem to put you ill at ease, the fact that
5 the window was down; was it normal that the window would be
6 down?

7 A What do you mean by ill at ease?

8 Q Well you -- you testified a lot of things that kind
9 of made you nervous, kind of made you think that something
10 might be more this and was the fact that the window was
11 down and it was cold -- I mean you said it was cold?

12 A Yes, sir, it was.

13 Q Did that -- did that seem to you like, I don't
14 know, that maybe they're smoking marijuana or something in
15 the truck and they're just letting it air out or -- I don't
16 know what you were thinking; did you think that was maybe
17 something weird or anything like that?

18 A No, sir, I don't know when he put the window down.
19 I mean, it wasn't weird, no, sir.

20 Q So that didn't bother you. But you -- did you open
21 the car door or did he open the car door?

22 A I did.

23 Q And why did you open the car door?

24 A Because they were -- whenever they were reaching
25 around looking for registration and all that stuff, I could

Adam Antley - Cross-Examination by Mr. Williams

1 not see where they were reaching.

2 Q And -- and you were fearful that they might be
3 reaching for some sort of weapon or something?

4 A Well, I wouldn't say fearful, but there's always a
5 possibility on every traffic stop that there might be a
6 weapon in the car. There's a lot of, I mean there's a lot
7 of incidents with holders these days; there's a lot of
8 people that don't have concealed permits, but also be
9 unlawful to have a weapon in their vehicles. So it's
10 something I do look for, yes.

11 Q Was there anything distinctive about those two
12 individuals that made you more fearful than not, I mean
13 did -- did one of them look meaner than the other one, or
14 was there something that, that made you think that maybe
15 they would have a weapon or something like that? How they
16 looked?

17 A You said more than who?

18 Q More than normal. I mean obviously if you have two
19 little old ladies riding down in the truck, would you treat
20 them the same way; would you come around, open up the door
21 and make sure they didn't have any weapons in their -- in
22 their purses if they were 70 years old?

23 A Well, these weren't two ladies that were riding in
24 the car. I don't understand what your question is.

25 Q The point of it is, you were treating them a little

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1 bit differently than you would if there were two little old
2 ladies driving around in a truck?

3 A Well, I can't answer that question. You're asking
4 me to say what I would do in a hypothetical situation and
5 it's not hypothetical.

6 Q Okay. So after you talked to Mr. Mims and you get
7 his -- get his information, you remark about something
8 that's in the truck and I think you testified that it
9 looked like a 12 pack which had been cut in half; is that
10 right?

11 A Yes, sir, I had seen it done before where you -- it
12 was a 12 pack of beer comes in a cardboard box and you take
13 a razor blade and cut the 12 pack in half and they have two
14 6 packs.

15 Q Kind of like your egg cartons, if you don't have
16 the money to buy a dozen eggs you can go to the grocery
17 store and sometimes they sell 6 eggs?

18 A Some of them do, yes, sir.

19 Q So when you were looking at this 6 pack, if you
20 will, did it have all the beer containers in the, in the 6
21 pack?

22 A I don't believe it did, no, sir, because there was
23 one that was -- there was one that was open.

24 Q And where is that one that was open; where was it
25 located?

Adam Antley - Cross-Examination by Mr. Williams

1 A Right next to it in a bag or something. It was, I
2 can't tell you exactly where it was located. I remember
3 asking if, you know, what was in the bag, if there was an
4 open container in the bag and that's what I was -- or
5 that's what was produced was an open Bud Light 12 ounce
6 can.

7 Q So you're saying that the 6 Bud beers were in the
8 bag in the -- in the cardboard container and the one Bud
9 was in the same paper bag or --

10 A No, sir, I'm saying I don't recall whether all of
11 them were in that half of a twelve pack or not. I don't
12 recall if there were six in there or whether there were two
13 in there or three in there. I just remember distinctly
14 there being a twelve pack carton that had been cut in half.
15 I can't tell you exactly how many was in there and really,
16 to be honest with you, I didn't get the chance to look at
17 it again after later in the, during the traffic stop, I
18 didn't have a chance to even look at it anymore.

19 Q What was the name of the driver that you arrested?

20 A Brian Vanderhall.

21 Q Well, you arrested Mr. Vander, what's his name,
22 Vanderhall?

23 A I believe Vanderhall.

24 Q When you arrested Mr. Vanderhall, you filled out an
25 incident report and you indicated that you thought that he

Adam Antley - Cross-Examination by Mr. Williams

1 was using alcohol and drugs; do you remember doing that?

2 A That I filled out an incident report saying he was
3 using alcohol and drugs? I mean I remember filling out an
4 incident report.

5 Q Would it be helpful if I gave you a copy to look
6 at?

7 A Sure, that's fine.

8 Q You know what I'm -- I'm referencing the little
9 check marks where you have the little boxes and you put
10 down what --

11 A Okay. Yes, sir, I do recall that.

12 Q Okay.

13 A I mean I don't recall clicking them, but if says
14 that on the report, then I must have had to click them.
15 That was a couple of years ago.

16 Q Okay. Certainly. So you check off on those little
17 boxes that -- that Vanderhall and -- is using drugs and
18 alcohol. Did you smell alcohol about Vanderhall?

19 A I believe I -- I mean to be honest with you, I
20 can't tell you a hundred percent whether I smelled alcohol
21 on his breath at the back of the truck whenever he got out;
22 he lit that cigarette. Whenever I asked him to put it out,
23 he took big drag of it and I'm not sure if, you know, I
24 can't distinctly say what I smelled on his breath. I know
25 I smelled it coming out of the truck.

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1 Q Well, you made him do a field sobriety test, you
2 made him do an HGN, which is an indication that you thought
3 he was using alcohol, right?

4 A Well, I mean, the HGN test is not just for alcohol,
5 but yes, sir, I gave him the HGN just to make sure he had
6 not been drinking because the truck smelled of alcoholic
7 beverage, the passenger admitted to it. I wanted to make
8 sure that Vanderhall was not under the influence or
9 impaired as far as his driving.

10 Q And he had one can; is that right, one can that you
11 found in the cab of the truck that had not been, which was
12 essentially empty, wasn't it?

13 A The can that I poured out and put in the back of
14 the truck?

15 Q Well, let me ask you this: Is the video that we
16 looked at, is that -- is that an accurate reflection of
17 what happened on that date, the amount of liquid that came
18 out of the can that we see on the video? Would that be
19 accurate in terms of how much came out of the can?

20 A Yes, sir.

21 Q And I believe you said you crushed it, right?

22 A Yes, sir.

23 Q By crushing it, I assume you crushed it with your
24 hand and then threw it in the trunk of the car, I mean the
25 bed of the --

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1 A The bed of the truck, yes, sir.

2 Q Did you -- you obviously didn't stand on it to
3 crush it like that?

4 A No, sir.

5 Q Okay. All right. So you had this -- you had this
6 beer container, which is crushed, you threw it, you threw
7 it in the bed of the truck and so now you have an open
8 container charge and I believe the solicitor asked you
9 this, whether or not you had to arrest anybody based on
10 this open container charge or not and your response was,
11 you don't have to?

12 A Yes, he asked if it was in my discretion and I said
13 it was. You can either be, I mean you can get arrested for
14 open container or you can get a summons and be released for
15 open container; there's both of those options.

16 Q And that's, it's totally up to you, right, just
17 like speeding?

18 A Yes, sir.

19 Q You don't have to be arrested for that 93 in a 60;
20 it's totally up to you?

21 A That's correct, yes, sir.

22 Q And did you charge Vanderhall with the open
23 container?

24 A No, sir.

25 Q Okay. So you charged -- but you did charge him

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1 with the trafficking in drugs, didn't you?

2 A Yes, sir.

3 Q Okay. So up until this point in time, you found an
4 open container which you crushed and you've thrown it in
5 the back and you've got him speeding. So then you start
6 searching for guns, weapons; is that right; what were you
7 searching for in the cab of the truck?

8 A What was I searching for in the cab?

9 Q What were you looking -- what were your intentions
10 at that point in time?

11 A That was the point in time when --

12 Q You could have just given them a ticket, couldn't
13 you, a courtesy summons, a blue ticket?

14 A Could I, yes, sir, they could have gotten tickets,
15 not at that point I wasn't, I haven't even got done with
16 what I was doing at that point.

17 Q Well what; you had enough to charge them?

18 A Yes, sir, but I didn't. I didn't think that was
19 all that was going on. I mean, whenever I'm standing
20 there, I give Vanderhall his sobriety test, I get him out,
21 frisk him, I go to give Mr. Mims -- he's already admitted
22 to having an open container; I go to get him, frisk him,
23 but my intention, being there's a beer one of them had in
24 the car, there's a lot of other things in the vehicle that
25 I can't tell what everything is because there was bags

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1 here, boxes there, but my intention is to get both of them
2 out of the vehicle and question to see what else is in
3 there; is there anymore open containers in the vehicle to
4 try and see if maybe Vanderhall might have had one as well.
5 Because at that point, you know the passenger, Mims,
6 admitted to having an open container. Because really and
7 truthfully I'm not sure why he admitted to an open
8 container, but he admitted to the open container, in my
9 experience. All drivers won't admit to open container
10 because it tends to lead someone to believe they might be
11 driving under the influence, but I had not done or was not
12 completed with my investigations as far as what else was
13 inside that vehicle at that point.

14 Based on the fact that they had an open container,
15 I had probable cause to search the truck to see if there
16 was any more open containers in there.

17 Q You really didn't believe the fact that maybe they
18 might have been coming from Augusta and that they'd only
19 had one beer and the fact that there might have been some
20 white Honda that -- you didn't believe any of that?

21 A I didn't say I didn't believe it.

22 Q Okay.

23 A I mean I don't know -- I didn't know exactly what
24 to believe at that point and what not to believe. I was
25 taking information they were giving me and to be honest,

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1 Mr. Williams, I didn't have a whole lot of time to, this
2 was a lot of on the fly stuff.

3 Q Why didn't you call for backup? If you had these
4 two guys and all these suspicions that you had, why didn't
5 you call for backup at that point in time?

6 A At that point in time, I didn't feel I needed it at
7 that point in time. I'm used to working on my own all the
8 time and normally six o'clock in the afternoon there's not
9 a whole lot of -- there's not a whole lot of backup
10 available as far as just, you know, routine stuff like
11 that. I mean it's just, I'm used to working on my own.

12 Q All right. Well, you subsequently got the truck,
13 didn't you, you subsequently found the truck or someone
14 seized the truck and someone went through the truck, didn't
15 they?

16 A Not that I know of, no, sir.

17 Q Are you telling me that the vehicle that you
18 stopped that had these two guys in there which you suspect
19 was hauling marijuana or whatever drug, cocaine, or some
20 drugs, was never searched after you arrested Mr.
21 Vanderhall?

22 A Well, Vanderhall, he came to Lexington the next day
23 and turned himself in. I don't -- I never had any
24 interaction with the truck after that point.

25 Q Okay. So you never searched the truck?

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1 A I didn't, no, sir.

2 Q Do you know if anybody did?

3 A I don't recall anybody going through it. I'm not
4 sure.

5 Q Okay. So when you get my client, Kendrick Mims,
6 out of the truck and you see him, you think he's, something
7 weird is going on because he's pulling his pants up, right?

8 A I don't remember him pulling them up. He was
9 actually, he was bending over and just holding the pants.
10 He didn't get out and grab them up like -- well every time
11 I get out of my patrol car or even when I stand up from
12 this witness stand, I grab both sides of my belt and pull
13 it up because it always falls down. That's not what he
14 did; he was leaned over at the waist holding himself around
15 the groin area and it just, to me it was, it looked like
16 something was in there.

17 Q Were his pants too big because a lot of young guys,
18 I don't know about -- I don't know how old he is, but a lot
19 of young guys, they wear big pants that are too big for
20 them. Were these pants, did they look too big for him?

21 A I mean I can't say whether they were too big for
22 him; that's -- I mean, I don't know.

23 Q Did he have a belt on?

24 A I don't recall.

25 Q Okay. So he's pulling his pants up and you think

Adam Antley - Cross-Examination by Mr. Williams

1 he's grabbing something in his groin area, so you suspect
2 it might be a gun or something?

3 A I first thought it was a weapon, yes, sir.

4 Q So -- and you said you questioned him again to do
5 something and he says what or what do you mean or something
6 like that or I'm doing it; what did he say?

7 A I can't remember his exact words. It was, I had
8 asked him to put his hands on the car and I think he said,
9 I think he said what is it you want me to do or something.
10 I'm not a hundred percent without looking at the video
11 again.. I'm looking at the report.

12 Q Well, let's talk about Mr. Vanderhall. So far
13 you've got him speeding and you did the HGN test on him?

14 A Yes, sir.

15 Q Why did you -- why did you put him up against the
16 car to be frisked?

17 A Because I was fixing to turn my back on him and try
18 to deal with -- speak with Mr. Mims. The more I talked to
19 Vanderhall, even after I gave him the HGN, the more he just
20 made my suspicions arise that he could possibly be armed,
21 possibly could be something more than just a simple
22 speeding violation.

23 Q How often do you frisk people on the side of the
24 road for speeding violations?

25 A Well, I don't always get, I don't get people out of

Adam Antley - Cross-Examination by Mr. Williams

1 the car just for speeding violations.

2 Q Why did you get these guys out of the car?

3 A To get -- first to give Vanderhall the HGN and then
4 I got Mims out talking about the open container.

5 Q Okay.

6 A To answer, if you -- usually when I get somebody
7 out the car for whatever reason, if there is a -- if there
8 is a good likelihood that they could be concealing a
9 weapon, whether they're -- they have on a thick heavy coat
10 or I can't see the waist down and it looks like there could
11 be a bulge in their jacket, pants, something like that, if
12 it gives me a reason to believe I should check the person,
13 I do. If it's summertime and they're wearing shorts and no
14 shirt, I don't frisk them because it doesn't -- to me
15 there's obviously nothing that I see anything that could be
16 hidden in the sides of those pants or waistband or whatever
17 it may be.

18 Q Did you ever find a gun?

19 A Did I -- no, sir, I never found a weapon.

20 Q So there was no weapon found in the truck. Mr.
21 Vanderhall, you didn't find a weapon when he turned himself
22 in. You didn't find a weapon on Mr. Mims, right?

23 A No, sir, I did not.

24 Q As a matter of fact, you didn't find any drugs or
25 Mr. Mims when you actually arrested him, did you?

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1 A No, sir, I didn't find any drugs on Mr. Mims's
2 person when I arrested him.

3 Q Throughout this whole video, exactly at what point
4 did you tell anybody they were under arrest?

5 A At the point where, I mean I don't know if you can
6 actually hear it in the video, but not long after I, not
7 long after we were in the woods whenever Mims was
8 handcuffed, that's when he was advised that he was under
9 arrest.

10 Q So all this stuff went on. I mean you got these
11 two guys, you get the driver out of the car, you do the HGN
12 test; you get -- you get my client out of the car and he's
13 got an open container, you frisk them both. My guy runs
14 and you never tell anybody they're under arrest until you
15 say find these drugs in the -- in the field somewhere and
16 then you tell them they're under arrest, right?

17 A No, sir, I never said I found drugs in a field
18 somewhere. I said I found drugs -- or I said I found a
19 package with a white powder in the leaves after watching
20 Mims appear to remove them from his pants, put it on the
21 ground and cover it up with leaves while I was standing
22 closer to him than you're standing to me right now. That's
23 what I said; that was my testimony.

24 Q Why didn't you tell them they were under arrest?

25 A When; I did.

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1 Q At any point in time?

2 A Once Mims was handcuffed, he was advised he was
3 under arrest.

4 Q Okay. All right. Now, I think you've already told
5 us that you tased him. You first tried to throw him down
6 or use an arm tackle with him to put him to the ground,
7 right?

8 A I said I was going to attempt a arm-bar take down.

9 Q And when he didn't cooperate with you throwing him
10 to the ground and he took off, that's what happened, right;
11 I mean that's what happened?

12 A What's that?

13 Q You tried to put him to the ground and he took off?

14 A I had ordered him to go down to his knees. I don't
15 know if he knew that I was gonna attempt to put him, to use
16 the arm-bar takedown or not. I didn't tell him, hey, I'm
17 gone put you on the ground or I'm going to tackle him as
18 you said, I didn't tell him that. That was what I was
19 planning on doing, because he was not voluntarily going to
20 his knees as I had asked him to do several times.

21 Q What do you think went through his head when he was
22 on his knees?

23 A I have no clue.

24 Q I know. You never know what's in anybody's mind,
25 do you?

Adam Antley - Cross-Examination by Mr. Williams

1 A No, sir.

2 Q But you tell him to go on his knees and you attempt
3 to arm tackle him and he takes off?

4 A No, sir, I asked him, go down to your knees, very
5 calmly. I'm not yelling at him the first time I asked him
6 then I asked him what it was in his pants; he said he
7 didn't have anything. I said there's something here; just
8 go down to your knees. He didn't do it. After he didn't
9 do it several times, then yes, sir, I said go down to your
10 knees right now. At that point, he still -- he said I'm
11 about to, I'm about to and then he turned and ran.

12 Q All right. So how far off of the highway was he
13 before you shot him the first time with the taser?

14 A How far from the interstate?

15 Q From the location where the vehicle was pulled
16 over, how many steps was it before you shot him with the
17 taser?

18 A I'm not sure how many exact steps. It was between
19 the -- we were probably halfway through the wood line from
20 where the woods start to from where that little fence is.
21 When I look back through there, it's about maybe 25, 30
22 maybe 30 yards worth of woods or about halfway through it.

23 Q So he ran 30 yards before you tased him; is that
24 about right?

25 A I can't, I can't say yes or no on that. I know we

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1 had got into the wood line. He fell, I told him to stay
2 down, he went to get up and when he went to get up, I tased
3 him.

4 Q Well, at some point, at some point in the -- in the
5 video, you said something like I've already shot, I've
6 already tased you twice, warning him that you'd already
7 tased him twice?

8 A I wasn't talking to him, I was on the radio. I
9 said he had been tased twice.

10 Q So you were telling somebody else that you had --

11 A I was -- I was on the radio telling my dispatcher
12 than when I was giving the description, he had been tased
13 twice. I think I told him he was a black male, black
14 shirt, black pants, I told him we were going on Cromer
15 Road, which in fact was Davega Road.

16 Q You were wrong about that?

17 A About the road, yes, sir.

18 Q Is that when he fell -- at some point in time, he
19 fell; did he fall before he went over the fence or after he
20 went over the fence?

21 A He fell in the woods once whenever we first ran
22 into the wood line, he fell. I don't -- I don't know if
23 he, if he, if he kicked a root or something and tripped or
24 if he just lost his footing and tripped, but when he fell I
25 told him to stay on the ground because I was running in

Adam Antley - Cross-Examination by Mr. Williams

1 behind him. When he went to get up, that's when I deployed
2 the taser the first time.

3 Q So that's the first time you tased him. Was that
4 before he got on the fence or after?

5 A That was before, yes, sir.

6 Q Is that when he had his feet up in the air and his
7 feet were kicking up in the air?

8 A After the -- after the taser was deployed is when
9 he started kicking his feet at me.

10 Q Did you think he was having a seizure?

11 A No, sir.

12 Q Well, why would his feet be kicking in the air?

13 A Well, they weren't like wildly like -- it was to
14 me, he was, whenever I went and I got close, his feet were
15 kicking almost like -- like you were trying to kick
16 somebody that was walking on you if you're on your back;
17 that's what it appeared to me.

18 Q So then he jumped the fence and you tased him
19 again?

20 A Yes, sir.

21 Q Then he runs further around these buildings and he
22 gets out of your sight and that's when you pull your
23 service weapon?

24 A Yes, sir.

25 Q Service revolver -- you call it a service revolver?

Adam Antley - Cross-Examination by Mr. Williams

1 A No, sir, it's not a revolver.

2 Q Because it's not a revolver anymore; it's got more
3 bullets in it, doesn't it?

4 A It does.

5 Q How many bullets does it have in that gun?

6 A Eleven.

7 Q What did it used to have in the revolver?

8 A I believe six or seven, I'm not sure. I never -- I
9 was never issued one.

10 Q And you tell him that you've got your gun out; is
11 that right; did you tell him that?

12 A I don't know if I tell him I've got my gun out. At
13 some point, when he is walking towards me in the woods, I
14 believe I remember telling him, don't make me shoot you
15 because he wouldn't show his hands. He kept having his
16 hands concealed. There again, I still -- up to the point
17 that I actually pulled it out and saw that it was a big
18 package of white powder, I still thought it was a weapon
19 the whole time.

20 Q Let's talk about that big package. At some point,
21 we're probably all going to get a chance to look at it, but
22 at least in the picture, referring to State's Exhibit
23 Number 3, this is that package that we referenced, right?

24 A Yes, sir.

25 Q And this is the taser, how big is that taser; about

Adam Antley - Cross-Examination by Mr. Williams

1 that big?

2 A No, sir, it's smaller than that.

3 Q Do you have one on you?

4 A Yes, sir.

5 Q Can you show it without shooting me, just kind of
6 hold it up?

7 A Yes, sir. There's two cartridges. That's what's
8 in the picture.

9 Q Is that the same one?

10 A It should be, yes, sir.

11 Q And it's one that it's X-26; right, that's the one
12 assigned to you?

13 A Yes, sir.

14 Q So the item that you have, the item that the, that
15 the -- that Mr. Mims has in his pants is bigger than that?

16 A Well, I don't know exactly how big it is, but
17 according to that picture, yes, sir. As far as what I felt
18 in the pants, I wasn't sure exactly how big it was, I just
19 knew that I could feel the hardness about the length of my
20 hand.

21 Q Can you -- can you stretch your hand from end to
22 end on that taser.

23 A I mean --

24 Q The package, if you'll step down here and --

25 MR. WILLIAMS: Can he step down, Your Honor?

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1 THE COURT: Yes, sir.

2 BY MR. WILLIAMS:

3 Q Step down and show the jury the size, if you will.

4 (The witness stepped down from the witness stand.)

5 BY MR. WILLIAMS:

6 Q So the package we're talking about is bigger than
7 the palm of your hand?

8 A Yes, sir.

9 Q Actually bigger that way too?

10 A Yes, sir.

11 Q Thank you, sir.

12 (The witness returned to the witness stand.)

13 BY MR. WILLIAMS:

14 Q Now when you said that you checked him out,
15 searched him and you felt something hard in his groin area?

16 A Yes, sir.

17 Q I assume by referencing the groin area, you're
18 talking about the thigh; are you talking about the leg, the
19 fatty part of the leg; is that what you're talking, is that
20 what you're referencing?

21 A No, the groin area, his groin.

22 Q Okay. Is that right in front?

23 A Yes, sir.

24 Q And these pants that he had on, what kind of pants
25 were they?

Adam Antley - Cross-Examination by Mr. Williams

1 A He had some jeans or -- or it could be jeans I
2 guess, black.

3 Q Jeans. Do you have a pair of jeans?

4 A Do I have jeans; yes, sir.

5 Q Would you normally have difficulty putting
6 something like that in a pair of your jeans?

7 A Yes, sir.

8 Q Well, I'll move on. After you got him arrested,
9 after you went back to the Lexington County Jail -- and I
10 assume you take him to the Lexington County Jail after he
11 goes -- he goes to the hospital first because of his
12 medical condition, right?

13 A I didn't take him to the jail.

14 Q Somebody took him to jail, right?

15 A Yes, sir.

16 Q When he goes to the jail, I assume he doesn't get
17 to keep his clothing on that he normally has in the
18 civilian world, right?

19 A No, sir.

20 Q He changes out to a jumpsuit of some color?

21 A That's normal procedure, yes, sir.

22 Q Okay. Did you seize the pants that he had --

23 A No. I'm sorry.

24 Q -- I was going to ask you if you seized them so
25 that you could use them at trial for trial purposes?

Adam Antley - Cross-Examination by Mr. Williams

1 A No, sir.

2 Q Well, if we had those jeans here today then
3 obviously you could see whether or not -- I don't want to
4 steal a line, if it doesn't fit or anything like that, but
5 the point of it being is that you could at least see the
6 size of the jeans, the size of the person, and to see
7 whether or not that would have fit easily, whether or not
8 you might be able to see it; you could have had all that,
9 right?

10 A If I would have seized them?

11 Q Yeah.

12 A I guess they would have been in here in court.

13 Q Did you -- did you -- did you tell anybody you
14 thought you might need the jeans for trial purposes?

15 A No, sir.

16 Q Okay. Okay. So y'all run, you get him around the
17 building, you actually lose sight of him, you see him 30
18 yards from you and he's actually pointing in the other
19 direction and he his hands in front of him, right?

20 A Well, they're not completely in front of him at
21 that point. He's walking into the woods and as he's
22 walking away, I -- seems like I can remember seeing one
23 side of his body, but I can't see, it's not like he's
24 walking in the woods like this or he's not -- like he's
25 facing where I can see his hands.

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1 He's walking away from me with his hands in front
2 of him. Whether he's holding them down like you just were
3 or not, I'm not sure. I couldn't see the front. I could
4 just see him walking away from me and his hands weren't
5 clearly visible.

6 Q And you're yelling at him telling him to look, I
7 don't want to shoot you?

8 A Telling him to stop, show me your hands, get on the
9 ground, telling him you're not going to get away, there's a
10 dog coming, I told him all those things.

11 Q And is that when he gets on his knees and tries to
12 hide the cocaine?

13 A Well, whatever it was --

14 Q The white substance, whatever it is?

15 A Whenever we got into the woods -- whenever --
16 whenever I got into the woods behind him, he was still just
17 walking slowly away from me. He wasn't running at that
18 point, he was just walking and wouldn't look at me. I got
19 about the distance between from here to that projector or
20 here to the prosecutor's desk, no further than that. He
21 stopped. I give him commands the whole time you know, show
22 me your hands, get on the ground, he does this, pulls
23 something up out. I see a bag that wasn't -- he didn't
24 pick anything up off the ground. I can see that clearly,
25 but he does this and I see his elbows come up like he's --

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1 arms come up like it appeared to remove something either
2 from his stomach or waist area. And then I see a bag go
3 down to the ground while he's holding onto it with both
4 hands. Having that he leans over -- he doesn't put his
5 knees on the ground, he doesn't sit down beside it, he just
6 leans over, grabs a scoop of leaves with both hands and
7 just covers it one time and then he turns around and walks
8 straight towards me.

9 Q So while you're -- you're about a distance from you
10 to me?

11 A That would be the furthest I would -- I would say.
12 That's probably as far as it could have been.

13 Q Well let me get to where you think it was?

14 A Like I said just now, it's somewhere the distance
15 between here and that projector stand or the prosecutor's
16 desk, that would be about as far as it would be.

17 Q Okay. So we're about this distance?

18 A Yes, sir.

19 Q And he knows you're right there, right?

20 A Yes, sir, I have to hope he did. I was yelling at
21 him the whole time.

22 Q You're in the woods now, is it such a thick woods
23 that you can't see anything, but you could see in the
24 woods; it wasn't a thick woods with bushes and stuff,
25 right?

Adam Antley - Cross-Examination by Mr. Williams

1 A No, sir, it wasn't that thick.

2 Q So he knows you're there. He calmly bends over and
3 puts it on the ground and covers it up in leaves and turns
4 around and looks at you; then he starts walking forward to
5 you?

6 A Yes, sir. And as weird as it looks, that's the way
7 it looked that day.

8 Q Okay. So he's too tried to do anything else. You,
9 he lays -- lays down, you cuff him. How long is it before
10 the next officer comes on scene besides you?

11 A It's a few minutes, maybe, it felt like forever,
12 but probably 3 or 4 minutes I guess. I'm not sure.

13 Q Who was the first officer to get on the scene?

14 A It would be -- I think it was supervisor at the
15 time.

16 Q Would that be Chris Shelton?

17 A Well, he was a supervisor, but he was not my direct
18 supervisor. The first person on the scene was my Corporal,
19 Brian Kyzer.

20 Q And Corporal Kyzer, does he drive a Highway Patrol
21 car? Obviously, he does. Well, I don't know.

22 A And he --

23 Q Was he on duty at the time?

24 A Yes, sir, he was on duty. He was working that day.
25 He was driving a patrol car.

Adam Antley - Cross-Examination by Mr. Williams

1 Q Now, the vehicle that you had was an unmarked
2 stealth vehicle, right?

3 A Yes, sir.

4 Q What type of vehicle did Corporal Kyzer possess?

5 A I believe at the time he had a Crown Vic.

6 Q Now did -- as a corporal, I assume he makes arrests
7 on the road for speeding, drunk driving, whatever; he does
8 the same thing you're doing now, right? I assume you still
9 arrest people for going down the road too fast; he would do
10 the same thing, right?

11 A I do still make arrests.

12 Q So that means that the vehicle that he possessed
13 had a video camera, right?

14 A Yes, sir.

15 Q So his vehicle pulls in where you're at, where the
16 drugs are with his video camera, right?

17 A It didn't pull into actually where we were. He --
18 he pulled -- there's another entrance to the church that he
19 initially pulled into that's not the driveway that we went,
20 that we ran down. He pulled into the cul-de-sac next to
21 that.

22 Q So how close did his vehicle get to -- when you saw
23 him, was he in his car or out of his car?

24 A When I first saw him, I saw him pull up. I could
25 see his headlights coming through and I'm using -- I took

Adam Antley - Cross-Examination by Mr. Williams

1 the taser off and used the lights because I didn't have a
2 flashlight on me, but I used the light that was on my taser
3 kind of waving it to get him to see where I was because we
4 were still -- I had gotten Mims partially -- you know, I
5 got him up and then he, I just couldn't carry him or
6 support his weight to get him out of those woods so we just
7 stayed where we were until I got somebody to come help me
8 get him out of the woods.

9 Q He had his blue lights on, didn't he?

10 A Corporal Kyzer? I mean I would imagine he probably
11 did on the way there. Whether he had them on when he
12 pulled up, I'm not sure.

13 Q You don't remember seeing his blue lights on at the
14 scene?

15 A I'm not sure. I mean I would think they would be,
16 but I just --

17 Q You've got an officer chasing a suspect you'd have
18 blue lights on, wouldn't you?

19 A That's why I said they probably were, but I just, I
20 don't recall that, no, sir.

21 Q So since the blue lights were on, his camera would
22 have been operational, wouldn't it?

23 A Yes, sir.

24 Q Have you looked at his camera to see if there's
25 anything on his video to show anything about this event?

Adam Antley - Cross-Examination by Mr. Williams

1 A I have never got -- I never watched his video, no,
2 sir.

3 Q All right. Who was the next person that showed up
4 on the scene?

5 A I believe it was -- it was -- I believe it was
6 Deputy Ellis who's, it was Trooper Ellis, but he's a deputy
7 now.

8 Q Okay. So he's a -- he's a county guy?

9 A He works for Lexington County now, yes, sir.

10 Q Did he pull down to where you were? Was he close
11 to you?

12 A I believe so.

13 Q And does he have a video camera?

14 A He should have, yes, sir.

15 Q And were his blue lights on?

16 A I mean, I imagine they were. I can't say whether
17 they were or not, but I'm pretty sure they were and they
18 should have been if he --

19 Q Go ahead, I'm sorry. I didn't mean to interrupt
20 you?

21 A You can see a couple of them coming down the
22 interstate as they were trying to get to where we were and
23 they were on then. So --

24 Q Did you check to see if there was a video that
25 showed anything about where it was located or him doing

Adam Antley - Cross-Examination by Mr. Williams

1 anything or --

2 A I never saw the video, no, sir.

3 Q How many other officers actually come down to the
4 scene where you were at?

5 A I believe Snyder was the only one that was there
6 before the ambulance got there.

7 Q Okay. And Snyder is a --

8 A He's a trooper.

9 Q A trooper?

10 A Yes, sir.

11 Q So he's got blue lights and cameras and stuff like
12 that?

13 A Yes, sir and I haven't reviewed his or was never
14 able to review his video either.

15 Q Who were the two troopers that were out there on
16 the interstate looking around the ground like they're
17 looking for something?

18 A One of them was Trooper Fowler and the other one
19 appeared to be Trooper Lind.

20 Q And they were searching the road for something in
21 front of your patrol car and next to the wood line, weren't
22 they?

23 A Yes, sir. After watching the video, at the time
24 whenever -- whenever they -- whenever I frisked him
25 earlier, I wasn't sure exactly what they were looking for,

Adam Antley - Cross-Examination by Mr. Williams

1 but one thing I can think is the -- when tasers deploy,
2 we're supposed to collect that cartridge for evidence and I
3 imagine that could have been what they were looking for,
4 but I'm not sure exactly what they were looking for. If it
5 was that or just looking back, I don't remember --

6 Q Is that what, I'm sorry, I didn't mean to cut you
7 off; go ahead?

8 A I mean I just don't remember exactly what they were
9 looking for.

10 Q Well, if they were looking for it next to the road,
11 that would have meant that you would have shot the taser
12 right there at the vehicle, wouldn't it?

13 A I mean, I don't, like I said, that's why I'm not
14 sure what exactly they were looking for and I don't know if
15 at that time they knew exactly where the taser was deployed
16 or not.

17 Q Did any other officer see the location where this
18 package was found in these leaves? Any other officer that
19 you're aware of see the location where the package was
20 found?

21 A Did they see the --

22 Q The area -- did they see it in the area where you
23 said you saw it with the leaves on it?

24 A Did they see the package itself sitting on the
25 ground?

Adam Antley - Cross-Examination by Mr. Williams

1 Q With the leaves on it?

2 A No, sir. I picked the package up as soon as I
3 rolled -- as soon as I got Mr. Mims handcuffed, as soon as
4 I got him handcuffed and rolled over, I retrieved it from
5 the ground.

6 Q And then at some point in time, you show it to
7 these other officers just like that --

8 A Well, when he got there I was -- when they got
9 there, I had it in one hand and was holding on to him with
10 the other.

11 Q All right. Did you -- you obviously took the
12 package and turned it over to evidence where at some point
13 in time someone is going to do a chemical analysis of it.
14 Did you ask that they perform any type of DNA or any type
15 of fingerprint analysis to determine who had had control or
16 possession of the item?

17 A No, sir.

18 Q Do you know where Mr. Vanderhall is today?

19 A Today?

20 Q Yes, sir?

21 A No, sir, I don't.

22 Q When you charged Mr. Vanderhall on these charges,
23 when you filled out your report for the subsequent trial we
24 had in the case, you indicated that the evidence that you
25 had against Mr. Vanderhall was a large cellophane package

Adam Antley - Redirect Examination by Mr. Bell

1 containing a white powder substance, which is this item
2 right here? That is the evidence which you are saying Mr.
3 Vanderhall is guilty of possessing?

4 A Yes, sir.

5 MR. WILLIAMS: Your Honor, I think that's all the
6 questions I have.

7 THE COURT: Thank you, Mr. Williams. Redirect,
8 Solicitor?

9 MR. BELL: Thank you, Your Honor.

10 **REDIRECT EXAMINATION**

11 **BY MR. BELL:**

12 Q Trooper, in approaching this vehicle, if all the
13 other surrounding circumstances were the same, the
14 speeding, the slow departure off to the shoulder of the
15 road, the movement in the cab, had all of the same things
16 occurred and you approached that vehicle and two little old
17 ladies had been inside of it, would your actions have been
18 the same?

19 A Yes, sir, I have arrested little old ladies before
20 that didn't turn out to be so little.

21 Q Was it the surrounding circumstances of this case
22 that caused you to act the way you did upon approach of
23 that vehicle?

24 A I'm sorry; what was your -- could you repeat that
25 one more time please?

Adam Antley - Redirect Examination by Mr. Bell

1 Q Is the reason that you acted the way you did in
2 this particular case with this particular vehicle because
3 of the circumstances surrounding the speeding and the
4 traffic stop and the approach to the vehicle?

5 A Yes, sir. Everything I did was based on the
6 information I was getting and what I was seeing, hearing,
7 smelling. I had never met Kendrick Mims. I had never met
8 Brian Vanderhall. I had never seen that green truck never
9 before in my life and everything that day was my first
10 interaction with any of them. So I -- I didn't have any
11 reason to -- to do anything different than -- than what the
12 evidence I saw or the situations that I was put in.

13 Q Do you recall Mr. Williams questioning you about
14 why you checked boxes that Mr. Mims was under the influence
15 of drugs and alcohol?

16 MR. WILLIAMS: Objection, Your Honor, that wasn't
17 the question.

18 THE COURT: Rephrase the question, Solicitor. I
19 don't know remember the precise question, but you can ask
20 the court reporter to play it back if you need to.

21 BY MR. BELL:

22 Q If I showed you a copy of your incident report,
23 would it refresh your memory as to what boxes you checked
24 relating to Mr. Vanderhall or Mr. Mims?

25 A Yes, sir.

Adam Antley - Redirect Examination by Mr. Bell

1 Q Do you have a copy of your report on the stand with
2 you today?

3 A No, sir, my copy is on the table.

4 MR. BELL: I beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 (There was a pause.)

7 BY MR. BELL:

8 Q Now, before we go any further, these incident
9 reports that you generated, your narrative of the case,
10 when are those recorded?

11 A Immediately after the -- or I guess when I get back
12 to the office and type them.

13 Q So when you drafted the incident report for this
14 particular case, that would have occurred after these
15 gentlemen were arrested or after Mr. Mims was arrested?

16 A Yes, sir, I mean I did it that night at the same
17 time I did the, logged the evidence in and everything like
18 that. That was -- that was -- this all happened about just
19 prior to six o'clock. I remember that it was -- I remember
20 not getting home that night until almost midnight because
21 I -- I mean -- I remember joking with my supervisor about
22 it, you know, the next day because he was tired, I was
23 tired because we didn't get home until late.

24 Q Now, would you have collected the cocaine from this
25 case before or after you drafted this incident report?

Adam Antley - Redirect Examination by Mr. Bell

1 A That would have been before. That incident report
2 was done after the fact, after everything was over with.

3 MR. BELL: Permission to approach the witness, Your
4 Honor?

5 THE COURT: Yes, sir.

6 BY MR. BELL:

7 Q Trooper, I'm handing you two pages of your incident
8 report, is that the incident report you generated pursuant
9 to this case?

10 A Yes, sir.

11 Q Now, would you locate the section where it refers
12 to Mr. Vanderhall for me?

13 A Yes, sir.

14 Q What do the boxes referring to drugs and alcohol
15 reflect as to Mr. Vanderhall in your report?

16 A It says using alcohol, no; using drugs, unknown.

17 Q So was it your opinion when you drafted that report
18 that Mr. Vanderhall was or was not under the influence of
19 drugs?

20 A Under the influence -- I mean I didn't feel that he
21 was. I didn't have any reason to believe he was.
22 Otherwise, I would have put it in here.

23 Q Now, those same boxes, how were they reflected on
24 Mr. Mims section of the report?

25 A On Mr. Mims's it says using alcohol, I checked yes;

Adam Antley - Redirect Examination by Mr. Bell

1 drugs, yes.

2 Q Now, that report you testified earlier would have
3 been generated once again before or after the cocaine was
4 recovered?

5 A After.

6 Q Did you find the cocaine on Mr. Vanderhall?

7 A No, sir.

8 Q Did you charge Mr. Vanderhall the same as you
9 charged Mr. Mims?

10 A As far as the drug charge?

11 Q That's correct.

12 A Yes, sir.

13 Q Do you recall what else you charged Mr. Vanderhall
14 with?

15 A Speeding 93 in a 60 and littering.

16 Q From start to finish -- from the time that you
17 initiated your blue lights to the time you took Mr. Mims
18 into custody in the woods, do you know roughly how long or
19 how much time had elapsed?

20 A I think it was around 10 to 11 minutes from what I
21 remember from viewing it.

22 Q Does that 10 to 11 minutes include your initial
23 approach to the vehicle?

24 A Yes, sir.

25 Q Does it include Mr. Vanderhall's field sobriety

Adam Antley - Redirect Examination by Mr. Bell

1 test?

2 A Yes, sir.

3 Q Does it include your conversation with Mr. Mims in
4 the passenger seat?

5 A Yes, sir.

6 Q Does it include removing him from the vehicle and
7 attempting the pat downs?

8 A Yes, sir.

9 Q Does it include the foot chase that followed?

10 A Yes, sir.

11 Q All of that occurred within 10 to 11 minutes?

12 A Right at 10, yes, sir, I believe so.

13 Q During this traffic stop, at any point, did you
14 feel like you were unnecessarily extending the amount of
15 time you kept them on the side of the road?

16 A No, sir.

17 Q Now Mr. Williams had you present your taser to the
18 jury. I don't want you to touch it all for me, but with
19 Your Honor's permission, I'd ask Trooper Antley if you
20 would stand up so the jury can see the size of your primary
21 firearm. Would you please indicate without touching the
22 firearm where it is located to the jury?

23 A (Standing) It's here in my holster.

24 Q Is that firearm bigger than your taser?

25 A Yes, sir.

Adam Antley - Redirect Examination by Mr. Bell

1 Q Are typical firearms bigger than taser's?

2 A Yes, sir. I mean they're, some are bigger; some
3 are smaller, but most of the time when I think of a
4 firearm, I think of a -- like a semi-automatic type pistol.
5 They're always -- they're usually larger than a taser.
6 There are some, my backup weapon is larger than my taser.

7 Q Are firearms ever covered by anything?

8 A Yes, sir.

9 Q Can you give me an example?

10 A It may be like inside the pants like holsters,
11 little neoprene holsters because a lot of times it's kind
12 of hard to keep a firearm just in your pants without it
13 being secured in some way, shape or form. So --

14 Q Do some of those things add size or bulk to the
15 firearm?

16 A It can, yes, sir.

17 Q So when you felt the bulge in Mr. Mims' pants, was
18 the size consistent or inconsistent potentially with a
19 firearm?

20 A I thought -- I thought it was a firearm. It felt
21 like it was hard and it was in an area that it could have
22 been a firearm.

23 Q Trooper, if you would please step down one more
24 time. I'd ask that you stand over here so the court
25 reporter can hear you. I'm showing the jury State's Number

Adam Antley - Redirect Examination by Mr. Bell

1 2, which is the area of the foot pursuit. Once again can
2 you indicate roughly where the pursuit ended.

3 A It ended in the woods here on the other side of
4 this building.

5 Q And when your fellow troopers and deputies showed
6 up to back you up, do you recall where they pulled their
7 vehicles up? For instance Trooper Kyzer?

8 A I remember Kyzer being over here in this large
9 cul-de-sac because that's where the -- that's also where
10 the ambulance ended up pulling is in that large cul-de-sac.

11 Q And is that cul-de-sac separated by anything to the
12 area where you were?

13 A There's a grass yard and a few small trees that
14 were there.

15 Q Would that have obstructed the view?

16 A It could have, yes, sir.

17 Q Would you please take your seat again. Did those
18 additional units arrive after you recovered the baggy from
19 the ground or the bag from the ground?

20 A Yes, sir.

21 Q Even if their cameras were pointed directly at your
22 location when they arrived, would you recovering the bag
23 off the ground be on their video?

24 A I don't believe you could have seen through the
25 trees, but I can't be absolutely -- I don't know for sure,

Adam Antley - Redirect Examination by Mr. Bell

1 but we were in the woods. We weren't in the parking lot
2 when I recovered it; we were in the woods.

3 Q Chronologically, were those units even in a
4 position to record your recovering that bag at the time
5 that you did?

6 A No, sir, it took them a couple of minutes before --
7 it was several minutes before everybody got there.

8 Q Now, one last short series of questions, Trooper.
9 Once again, how many years had you been in law enforcement
10 back in 2013?

11 A Almost five.

12 Q And have you ever been involved in a case relating
13 to narcotics before?

14 A Yes, sir.

15 Q Was it just one or two or more?

16 A Multiple I guess. I've made arrests for anything
17 from marijuana, cocaine, crack, methamphetamine, pills,
18 other controlled substances. I've made weapons charges.

19 Q In your experience as a law enforcement officer, do
20 the people who were caught with illegal substances
21 typically own up to it or do they try to get rid of it?

22 A Very rarely have I ever had anybody just flat out
23 own up to possessing something knowingly that was illegal.

24 Q Are you aware of whether or not Mr. Vanderhall's
25 case is still pending?

Adam Antley - Recross-Examination by Mr. Williams

1 A It -- from what I understand it is pending.

2 MR. BELL: Your Honor, no further questions for
3 Trooper Antley?

4 MR. WILLIAMS: Just two quick questions.

5 **RECROSS-EXAMINATION**

6 BY MR. WILLIAMS:

7 Q Obviously, Officer, you didn't check any of the
8 videos to see what was reflected on the videos, did you,
9 the video cameras of the other vehicles?

10 A No, sir, I haven't seen the other videos.

11 Q And did you say just a few minutes ago when the
12 solicitor was talking about how long this thing went on,
13 that 10 or 11 minutes included the foot chase?

14 A I believe so, yes, sir.

15 Q So the video that we watched, are you saying that
16 this video is only 10 or 11 minutes that we watched?

17 A No, sir, his question was different. I thought his
18 question was from the time it started until the time that I
19 arrested Mims; the entire video was, I mean the entire time
20 from the time that I made the stop to the time Mims was
21 taken to the hospital was about an hour, but from start to
22 finish from the time I activated the blue lights to the
23 time that I, you know, arrested Mims in the woods was about
24 10 to 11 minutes from what I recall.

25 Q So if -- if we sit down and look at this video and

Adam Antley - Recross-Examination by Mr. Williams

1 put a watch on, put a clock on it, we can sit there and
2 watch this video from the time the blue lights are on up
3 until the time in which you actually apparently have him
4 arrested and it's only going to be 10 or 11 minutes on this
5 video?

6 A I'm not a hundred percent about the exact stop
7 watch time, but that's what I believe.

8 MR. WILLIAMS: That's all the questions I have,
9 Your Honor.

10 THE COURT: Thank you. Thank you very much,
11 Corporal Antley. You may step down.

12 All right. Solicitor, you may call your next
13 witness.

14 MR. BELL: Thank you, Your Honor. I call Deputy
15 Adam Clayton to the stand.

16 THE COURT: All right.

17 ADAM CLAYTON

18 having been duly sworn, testified as follows:

19 THE CLERK: Have a seat, sir. Once you're seated,
20 state your full name, spelling your last for the record,
21 please.

22 THE WITNESS: My name is Adam Clayton. Last name
23 is C-L-A-Y-T-O-N.

24 ///

25 ///

Adam Clayton - Direct Examination by Mr. Bell

DIRECT EXAMINATION

1
2 BY MR. BELL:

3 Q Deputy, tell us a little bit about your background.

4 A I've been in law enforcement 15 years and I've had
5 a K-9 for 15 years. I've been with Lexington County a
6 little over 10, almost 11 now.

7 Q Were you still working K-9 in February of 2013?

8 A Yes, sir.

9 Q And do you recall responding to assist Highway
10 Patrol on February 18th of 2013?

11 A Yes, sir.

12 Q Do you recall the nature of the reason you were
13 responding to assist?

14 A Dispatch advised that Highway Patrol had requested
15 K-9 for a bush-bond, which as stated earlier, somebody had
16 run from him.

17 Q Why would a K-9 be contacted for that situation?

18 A He -- we didn't know that he had caught him at the
19 time and so he could have been running off into the woods
20 and so he needed a dog to come find him.

21 Q And at the time, was your dog trained for tracking?

22 A Yes, sir.

23 Q And ultimately did you ever have to deploy the dog?

24 A No, sir.

25 Q Where were you responding to?

Adam Clayton - Direct Examination by Mr. Bell

- 1 A Where was I responding to?
- 2 Q Yes.
- 3 A The side of the interstate to the traffic stop.
- 4 Q Did you pull up behind Trooper Antley's vehicle?
- 5 A Yes, sir.
- 6 Q Is that where you left your vehicle?
- 7 A Yes, sir.
- 8 Q What did you do when you arrived?
- 9 A When I arrived -- I don't recall if we were told
- 10 then or in route that he had actually caught the guy on
- 11 foot. So when we arrived, we knew that we weren't gonna
- 12 track and we knew that he was down in the woods somewhere
- 13 so we started walking towards that direction.
- 14 Q And did you walk off the side of the interstate?
- 15 A I did.
- 16 Q Did you encounter any barriers as you walked
- 17 through those woods?
- 18 A I did.
- 19 Q What kind of barrier was it?
- 20 A Well, as he stated, you come down off the
- 21 interstate and it goes into the woods and the woods were
- 22 dense and 20 to 30 yards into the woods there was a
- 23 barbed-wire fence and a little more woods another 20 to 30
- 24 yards and then a road.
- 25 Q And did you continue to attempt to follow what you

Adam Clayton - Direct Examination by Mr. Bell

1 believed the foot pursuit path was?

2 A We were able to follow the path.

3 Q Did you find anything along the way that told you
4 you were on the right path?

5 A I did.

6 Q What did you locate?

7 A Trooper Antley's campaign hat.

8 Q Okay. And where did you locate it?

9 A Right along side of the road. Once we came, went
10 into the woods for a little ways, crossed over the fence
11 where we saw where they crossed over the fence, went a
12 little bit further in the woods and came out on Davega; is
13 that right? What's the name of that road there?

14 Q We'll cover that in just a minute.

15 A I'm not sure of the name of it.

16 Q Did -- on finding that hat, what did that indicate
17 to you?

18 A That's where he went; that's the direction that he
19 went in.

20 Q Troopers typically leave their hats behind in your
21 experience?

22 A No, sir.

23 Q Do they like their hats?

24 A Oh, yeah.

25 Q Deputy, if you'd step down for me.

Adam Clayton - Direct Examination by Mr. Bell

1 (The witness stepped down from the witness stand.)

2 BY MR. BELL:

3 Q I'm going to show you State's Number 2, if you
4 would walk to the far side and talk back towards the Court
5 Reporter. If you'd stand back so the jury on the end can
6 see. Would you indicate roughly where you think you
7 located the campaign hat at, to the best of your
8 recollection?

9 A Well, it's the first time I've seen this so let's
10 see, that's the road I was referring to as Davega and where
11 is I-26 in reference to this.

12 Q Can you tell me.

13 A Here; is that it?

14 Q That is an interstate.

15 A Okay. Well that, all right. Well, then it would
16 have to be along here somewhere wherever we came out of the
17 woods. If the traffic stop was here, then we came through
18 the woods that hat was right here somewhere.

19 Q The area that you indicated, what is that right
20 beyond?

21 A This side?

22 Q Correct. What did he have to cross to get to that
23 area?

24 A You have to cross Davega Road and get into more
25 woods.

Adam Clayton - Direct Examination by Mr. Bell

1 Q Just to clarify, what do you have to cross as you
2 leave the interstate and cross through the woods to get to
3 that road; is it that barbed-wire fence?

4 MR. WILLIAMS: Objection to leading, Your Honor.

5 THE COURT: Rephrase the question, Solicitor.

6 THE WITNESS: I understand. When we left the
7 interstate, as I stated, we went down the embankment into
8 the woods; 20 or 30 yards, there's a barbed-wire fence.
9 You could plainly see where they went over it. We cross it
10 there; went a little bit farther through the woods; the
11 barbed-wire fence approximately middle ways there, go a
12 little bit farther, a little bit farther through the woods
13 and came out on this road and his campaign hat was just
14 laying on one side of the edge, the grassy area.

15 BY MR. BELL:

16 Q What side of the barbed-wire fence was it on?

17 A The opposite of the interstate.

18 Q All right. Deputy, if you would take a seat.

19 After locating the hat, what did you do?

20 A We continued in the direction that we were going
21 and again, at -- at this point, I don't recall if it was
22 told to us on the radio exactly where it was because once
23 you hit the road, it's kind of hard to follow. You can't
24 follow signs anymore. So I'm assuming that we just went,
25 followed the road because we're going in the same

Adam Clayton - Direct Examination by Mr. Bell

1 direction. So I picked his hat up and just kept going in
2 the same direction and we ended up running into them around
3 the corner.

4 Q Ultimately, did you locate Corporal Antley?

5 A We did.

6 Q Do you recall where you made contact with him at?

7 A I believe we made contact with him in that
8 cul-de-sac.

9 Q Was he out of the woods at that point?

10 A Yes.

11 Q Do you recall whether he had anybody in custody at
12 that time?

13 A I recall that he had someone in custody.

14 Q Did everything that you witness after arriving on
15 the scene match up with the reason that you're responding
16 to dispatch?

17 A Yes, sir.

18 Q And what did it appear had occurred?

19 A That he had performed a traffic stop and somebody
20 ran from the vehicle that he stopped and he chased them on
21 foot and caught them.

22 Q Did you have any interaction with any of the
23 evidence in this case?

24 A I did not.

25 Q Did you have any other substantive interaction in

Adam Clayton - Cross-Examination by Mr. Williams

1 this case?

2 A No, sir.

3 Q Please answer any questions Mr. Williams may have
4 for you.

5 CROSS-EXAMINATION

6 BY MR. WILLIAMS:

7 Q Officer, you weren't sitting in the courtroom
8 during all the testimony from Officer Antley?

9 A I believe I missed the first few minutes, sir.

10 Q But you caught -- you caught most of it?

11 A I believe I did.

12 Q Okay. So you were looking at an exhibit and I know
13 you couldn't exactly identify; you said you hadn't seen it
14 before?

15 A Just today.

16 Q Okay. Is it State's Exhibit Number 2; is that the
17 one you were looking at that you said you hadn't seen
18 before; is that the one?

19 A Yes, sir.

20 Q And am I correct when you said that you said that
21 this was an interstate and you said it was I-26?

22 A I-20, sorry, I'll correct myself. Thanks for
23 pointing that out.

24 Q Well, did you go to I-26 or to I-20 on that
25 particular day?

Adam Clayton - Cross-Examination by Mr. Williams

1 A I-20, you're correct; I was wrong.

2 Q And this was after you were sitting in here
3 listening to his testimony, right?

4 A I just misspoke.

5 Q Let me ask you about your dog that you have. What
6 kind of dog do you have?

7 A He's a German Shephard.

8 Q And what is the vehicles -- not vehicles. Dogs are
9 trained in different manners, right; you have attack dogs,
10 you have protection dogs, you have drug dogs, you have
11 cadaver dogs; what kind of dog is your dog?

12 A He's a full service patrol dog.

13 Q What does that mean?

14 A That means that he can track people, he can find
15 drugs and he can apprehend people.

16 Q Okay. Did you have your dog with you on this
17 particular occasion?

18 A I did.

19 Q And did you have him out of your -- I assume he
20 rides in your car with you, right?

21 A Yes, sir.

22 Q Did you get him out of your car?

23 A No, sir.

24 Q Well, if you had gotten him out of your car with
25 you, it would have assisted you in terms of finding where

Adam Clayton - Cross-Examination by Mr. Williams

1 Officer Antley was, wouldn't it?

2 A Correct.

3 Q And it may have assisted you with finding the
4 location where the alleged drugs were placed, wouldn't it?

5 A He is narcotics trained, yes, sir.

6 Q So if you'd taken your dog, if you'd merely taken
7 your dog out of the car and walked along the route where
8 you suspect that Corporal Antley was, went across that
9 fence that we just talked about and went in the general
10 area where my client supposedly placed some drugs down,
11 your dog could have sniffed the area and made a
12 determination if drugs had ever been located on the ground,
13 couldn't it?

14 A It's a possibility.

15 Q But you didn't do that did you?

16 A I did not.

17 Q Weren't asked to do that?

18 A No, sir.

19 MR. WILLIAMS: That's all the questions I have,
20 Your Honor.

21 THE COURT: Redirect, Solicitor?

22 MR. BELL: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. BELL:

25 Q Deputy, were you aware of whether or not the

Adam Clayton - Cross-Examination by Mr. Williams

1 narcotics had already been recovered when you arrived on
2 the scene?

3 A No, sir.

4 Q When you got to the cul-de-sac were you aware of
5 whether or not they had been recovered?

6 A No, sir.

7 Q At any point in time, were you ever asked to deploy
8 a K-9 because they couldn't locate narcotics?

9 A No, sir.

10 Q And once again, why were -- why were you initially
11 dispatched to this location?

12 A I was dispatched to that location because we were
13 advised by our dispatch that a trooper was in a foot
14 pursuit from a traffic -- following a traffic stop and that
15 they -- at that time, they weren't sure if he had caught
16 the person, so we needed to come and respond to track the
17 suspect.

18 Q And upon arrival, what did you learn had occurred
19 as far as the foot pursuit?

20 A Either while we were in route or when we were on
21 scene, we learned that he had -- that Trooper Antley had
22 caught him.

23 MR. BELL: No further questions, Your Honor.

24 MR. WILLIAMS: No questions, Your Honor.

25 THE COURT: Thank you. Thank you very much,

Adam Clayton - Cross-Examination by Mr. Williams

1 Deputy.

2 THE WITNESS: Yes, sir.

3 THE COURT: We're going to take our afternoon
4 recess, ladies and gentlemen. We'll take about a 15 minute
5 recess. Please do not discuss the case with anyone during
6 this recess. Thank you very much.

7 (The jury left the courtroom at 3:45 p.m.)

8 THE COURT: Court will be in recess 15 minutes.

9 MR. BELL: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (A brief recess was observed.)

12 THE COURT: Anything from the State before we --
13 please be seated. I'm not speaking loud enough and I
14 apologize. I can't see that far anyway so if you go on and
15 sit down, I won't know the difference.

16 All right. Anything from the State before we bring
17 in our jury, Solicitor?

18 MR BELL: Your Honor, we just ask that Deputy Adam
19 Clayton be released from his subpoena.

20 THE COURT: Any objection?

21 MR. WILLIAMS: No objection.

22 THE COURT: Of course. Thank you. Thank you for
23 being with us, Deputy Clayton.

24 MR. BELL: Nothing further, Your Honor.

25 THE COURT: All right. Anything from the defense,

Phillip Ellis - Direct Examination by Mr. Bell

1 Mr. Williams?

2 MR. WILLIAMS: No, Your Honor.

3 (The jury entered the courtroom at 4 o'clock.)

4 THE COURT: Are y'all keeping the same seats? I
5 tried to figure that out on my own, but --

6 All right. If you'd please continue to give the
7 parties your complete and undivided attention as you have
8 done throughout the trial of this case.

9 Solicitor, you may call your next witness.

10 MR. BELL: Thank you, Your Honor. The State would
11 call Deputy Phillip Ellis to the stand.

12 THE COURT: All right. Deputy Ellis, if you'd come
13 around and be sworn for us, please.

14 PHILLIP ELLIS,

15 having been duly sworn, testified as follows:

16 THE CLERK: Have a seat please, sir. Once you're
17 seated, state your full name spelling your last please?

18 A Phillip Ellis. Last name, E-L-L-I-S.

19 **DIRECT EXAMINATION**

20 **BY MR. BELL:**

21 Q Deputy, who are you employed by?

22 A Lexington County Sheriff's Department.

23 Q How long have you been with them?

24 A A little over two years.

25 Q And in February of 2013, who were you employed by?

Phillip Ellis - Direct Examination by Mr. Bell

- 1 A South Carolina Department of Public Safety.
- 2 Q And how long was your stint with Highway Patrol?
- 3 A Six and a half years.
- 4 Q Is that the extent of your law enforcement
5 experience or is there anything else?
- 6 A No, sir, that's it.
- 7 Q Prior to that, were you in school?
- 8 A I was.
- 9 Q What school did you go to?
- 10 A University of South Carolina.
- 11 Q What year did you graduate?
- 12 A December of 2006.
- 13 Q Now, do you recall responding to assist one of your
14 fellow troopers on February 18th of 2013?
- 15 A I do, sir.
- 16 Q Do you recall the nature of the call that you were
17 responding to?
- 18 A I don't remember exactly if I was monitoring their
19 channel, which I did a lot as a Richland Trooper or if I
20 was dispatched to it, but I knew that he was -- somebody
21 was running from Deputy Antley and I was coming to help
22 him.
- 23 Q Ultimately, do you recall where you arrived to?
- 24 A Yes, sir, Davega Drive.
- 25 Q Were you on the interstate side or the interior

Phillip Ellis - Direct Examination by Mr. Bell

1 side of that road? In other words, were you on the Davega
2 side or the interstate side of that tree line?

3 A I was on the Davega Side.

4 Q Ultimately where did you stop your vehicle?

5 A That little -- if I'm not mistaken, I believe it's
6 that little cul-de-sac is where I pulled in and was able to
7 find him.

8 Q And when you pulled up, where was Trooper Antley
9 located?

10 A In the woods.

11 Q Was he by himself?

12 A No, sir.

13 Q How many individuals were with him?

14 A I believe his Corporal and the young man sitting
15 over there next to his attorney.

16 Q How far into the woods were they?

17 A Probably 20 or 30 yards.

18 Q Did you ultimately make contact with him?

19 A I did, sir.

20 Q And what was your understanding of the situation
21 once you made contact?

22 MR. WILLIAMS: Objection; calling for hearsay, Your
23 Honor.

24 THE COURT: Rephrase the question, Solicitor.

25 ///

Phillip Ellis - Direct Examination by Mr. Bell

1 BY MR. BELL:

2 Q Did you recover -- where or what had occurred when
3 you pulled to the -- the incident location?

4 A After speaking with Corporal Antley, he advised me
5 that he was arresting the gentleman for cocaine or he had
6 cocaine.

7 Q Did you ever see the cocaine?

8 A I believe I did. I believe he showed it to me.

9 Q Did you have any other substantive interaction in
10 this case?

11 A No, sir.

12 Q Do you recall where your dashboard camera would
13 have been facing?

14 A No, sir, I do not. It would have been facing out
15 to the woods, but I don't know if it would have been facing
16 where they were or not. It was in the heat of the moment
17 when I pulled up.

18 Q Did you question the defendant at all?

19 A No.

20 Q Please answer any questions Mr. Williams may have?

21 THE COURT: Thank you, Solicitor.

22 Mr. Williams.

23 MR. WILLIAMS: Thank you, Your Honor.

24 ///

25 ///

Phillip Ellis - Cross-Examination by Mr. Williams

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Officer, you said I believe he showed it to me?

A Yes, sir.

Q Is any significance with the fact that you said, I believe he showed it to me versus he showed it to me?

A I believe he did. I'm not going to say something a hundred percent if I'm not sure.

Q That's all the questions I have.

THE COURT: Redirect?

MR. BELL: No further questions, Your Honor.

THE COURT: Thank you. Thank you very much, Deputy. You may step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Solicitor, you may call your next witness.

MR. BELL: Thank you, Your Honor. We'd also ask to release Deputy Ellis.

MR. WILLIAMS: No objection, Your Honor.

THE COURT: All right. Thank you. You may be released from your subpoena. Thank you for being with us today.

THE WITNESS: Thank you, Your Honor.

MR. BELL: The State would call First Sargent Christopher Shelton to the stand.

Christopher Shelton - Direct Examination by Mr. Bell

1 CHRISTOPHER SHELTON,

2 having been duly sworn, testified as follows:

3 THE CLERK: Once you're seated, state your full
4 name, spelling your last on the record please.

5 THE WITNESS: My name is Christopher Shelton,
6 S-H-E-L-T-O-N.

7 DIRECT EXAMINATION

8 BY MR. BELL:

9 Q Who are you employed by?

10 A The South Carolina Highway Patrol.

11 Q How long have you been with them?

12 A April, 24 years.

13 Q And what is your current role with Highway Patrol?

14 A I am the Post Commander here in Lexington County.

15 Q And in February of 2013, what was your role?

16 A I was a Sargent.

17 Q Tell us about some of your duties as a Sargent back
18 in 2013?

19 A One of them was the evidence custodian.

20 Q And do you recall recovering any of the evidence
21 relative in the case today?

22 A I do.

23 Q Where did you recover that evidence from?

24 A The evidence locker.

25 Q And where is that located?

Christopher Shelton - Direct Examination by Mr. Bell

1 A At the Administrative Office.

2 Q Now any time it comes to the deposit or pickup of
3 evidence in a case, do you maintain a log?

4 A We do.

5 Q Did you bring a copy of that log with you today?

6 A I did.

7 Q Is that log something that you keep in the ordinary
8 course of your business?

9 A Yes, sir.

10 Q Now, do you recall putting your signature on that
11 form?

12 A Yes, sir.

13 Q And do you recall what date that occurred?

14 A It was February the 20th, 2013.

15 Q Now, tell us a little bit about retrieving evidence
16 from that locker; how does that go?

17 A Well the -- the way our locker is, we have a --
18 a -- a room within our office. Our office is over here at
19 111 Maiden Lane, which is actually across the street from
20 here. Inside there is sealed room, but outside of that we
21 have a drop box that has locks on it. The trooper or the
22 officer would in turn -- we have a drop box log that the
23 trooper would come in, he would write the -- the
24 information along with the case, the case number in regards
25 to this would -- would be this case number on this one was

Christopher Shelton - Direct Examination by Mr. Bell

1 13DW031306HP32.

2 He would write that information down on the log
3 book and write that information down on the book and in
4 doing so, he would fill out a Chain of Custody and -- and
5 at the same time he would complete a SLED BEST Evidence Kit
6 and then at the completion of that, he would drop that into
7 the evidence drop box; it's locked; it is secured, prior to
8 me coming in as far as me taking the evidence from that
9 drop box.

10 Q Now, when you pick up the evidence in this
11 particular case, do you recall whether or not it was a BEST
12 Kit?

13 A It was.

14 Q And do you recall whether or not that BEST Kit had
15 signed a control number?

16 A It did.

17 Q And do BEST Kits have -- do any two BEST Kits have
18 the same control number?

19 A They do not.

20 Q Are they unique?

21 A They are unique. As -- as stated on the Chain of
22 Custody that Corporal Antley filled out and I even notated
23 it on the Chain of Custody, the BEST Kit number that's
24 assigned was B, the control number was B227395, which was
25 actually -- I notated it myself on the Chain of Custody.

Christopher Shelton - Direct Examination by Mr. Bell

1 Q When you removed that evidence from the drop box,
2 where do you take it?

3 A I actually took it out. It is sealed so there's no
4 way for me to actually open it up. It's sealed within the,
5 the SLED's evidence bag that SLED has. The only thing I do
6 is I go into our Police Central Login System, I type in the
7 essential information.

8 Once I've done that, it prints out a label just as
9 for tracking purposes. Once I've done that, I again it's
10 for purposes of as far as itemizing it or as far as
11 sticking it on the, the Chain of Custody. Once I've done
12 that, I then transfer it, put it in my car and I drive down
13 to our Central Evidence Facility, which is located on Shop
14 Road.

15 Q Where did you put it in your car?

16 A In my trunk.

17 Q Does anybody else have access to your vehicle?

18 A No, sir.

19 Q Who has keys to the vehicle?

20 A Just me.

21 Q At any point in time, did you leave your vehicle
22 unattended?

23 A No, sir.

24 Q Did you allow anybody else access to your vehicle?

25 A No, sir.

Christopher Shelton - Direct Examination by Mr. Bell

1 Q From the time that you removed that evidence from
2 that drop box until the time that you got over to CEF, I
3 believe that's what you called it, was it in your sole,
4 care, custody, and control?

5 A Yes, sir.

6 Q And was that evidence when you removed it from your
7 trunk in the same condition as when you removed it from the
8 drop box?

9 A It is.

10 Q Ultimately, did you remove that evidence from your
11 trunk and take it inside of the Central Evidence Facility?

12 A I did.

13 Q What did you do with it once you were inside the
14 facility?

15 A At that point in time, I transferred it from my
16 custody to First Sargent Mendel Rivers.

17 Q Did you have any other interaction with the
18 evidence once it was handled -- once it was handed off to
19 Rivers?

20 A No, sir.

21 Q Please answer any questions Mr. Williams may have
22 for you.

23 THE COURT: Mr. Williams.

24 ///

25 ///

Christopher Shelton - Cross-Examination by Mr. Williams

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Chris, you're First Sargent now; is that correct?

A That is correct.

Q And in that you are First Sargent, your responsibilities entail what, the entire Lexington County area troopers in the entire Lexington County area?

A That's correct.

Q Do you have any other counties besides Lexington County?

A I do not.

Q And on February of 2013, you were a Sargent?

A I was a Sargent.

Q Now, in that you were a Sargent, is that like a shift sargent meaning that you -- that you are responsible for certain shifts or were you just one underneath the First Sargent? Am I -- have I been clear? Were you more on the road in charge of the other troopers?

A I was in charge of two rotating shifts at that point in time.

Q Okay. And -- and the reason I'm asking that is that you're the approving officer on the work that was done by -- by Officer Antley in terms of his reports and stuff like that, you're the approving officer that goes through what he does and then type in that you've read it and stuff

Christopher Shelton - Cross-Examination by Mr. Williams

1 like that, right?

2 A Currently or back then?

3 Q Back then in 2013.

4 A Well. Actually on -- on 2/18/13 I had taken on --
5 on a temporary, I guess you can say, an interim role as the
6 Interim Post Commander at that point in time because our
7 current First Sargent at that time had actually transferred
8 to Richland County effective February 2nd of 2013. So --

9 Q So you were not, on that particular day, your job
10 was not that of being supervisor of two rotating shifts; is
11 that right?

12 A I was more or less of the interim role as the Post
13 Commander, I guess you could say.

14 Q Okay. And really the reason I'm asking these
15 questions is that you've referenced an evidence log and
16 you've referenced an evidence location, which is, it's not
17 at the Highway Patrol in terms of Columbia, it's not at the
18 Lexington Sheriff's Department, but the Highway Patrol
19 rents 3 or 4 offices from the Town of Lexington over here
20 on Maiden Lane; is that correct?

21 A We rent one location.

22 Q You just rent one location?

23 A That's correct.

24 Q One, well it's more than one room, isn't it?

25 A One office space.

Christopher Shelton - Cross-Examination by Mr. Williams

1 Q Got you. Got you. But you don't have individuals
2 that man that particular area 24 hours a day, that location
3 on Maiden Lane; you don't have an -- if we walk over there
4 now, well, is it after 5? If we walk over there and knock
5 on the door, will there be an officer normally there?

6 A Probably not.

7 Q Right, there are no hours like at the Sheriff's
8 Department. You go over to the Sheriff's Department, you
9 going to find somebody there, aren't you, hopefully?

10 A I would assume so.

11 Q So -- and that's because you don't have as many
12 troopers as you do people that work at the sheriff's
13 department, right?

14 A Yes.

15 Q And because of the procedure in that you're a
16 highway patrolman, your procedures say that you maintain
17 the evidence that your patrol officers seize, right?

18 A Correct.

19 Q You don't mix and mingle; you don't go to the
20 Sheriff's Department and turn your items over to Lexington
21 County Sheriff's Department, right?

22 A That's correct.

23 Q Okay. So you have an area over on Maiden Lane that
24 you rent from the town, an office space, and there's no
25 individual that Antley would have turned these items over

Christopher Shelton - Cross-Examination by Mr. Williams

1 to. He has -- does it look like the post office box like
2 they have at the sheriff's department, meaning is it like a
3 stand-up deal, where you know, it's got a lock on it and
4 you slide it in and you can't get it out; is it one of
5 those deals?

6 A We do have one, but that's not what it's put in.

7 Q Describe, if you will, what it looks like?

8 A A locker with a lock on it.

9 Q Okay. So --

10 A Like a -- like a locker in a locker room? Like a
11 men's locker room, a ladies locker room.

12 Q Okay.

13 A It's tall.

14 Q Is it to the floor?

15 A It is.

16 Q Okay.

17 A To the wall.

18 Q Is it about the same size as a locker in the men's
19 locker room?

20 A It could be.

21 Q Okay. All right. So if Trooper or Sargent
22 whatever designation; I'm old as you know and I refer to
23 everybody as like Trooper. But if an officer comes in
24 there and takes his evidence, he opens up the locker and he
25 places the item in there and then he locks it back, right?

Christopher Shelton - Cross-Examination by Mr. Williams

1 Is that correct?

2 A That's correct.

3 Q So it's not exactly like at the sheriff's
4 department where if you put an item in there, you can't get
5 that item back. I mean you actually -- when you open up
6 the locker, anybody that's got evidence in there is
7 available for anybody who opens up the locker?

8 A No, sir.

9 Q It's not; tell me how it is?

10 A Well, once it's locked, it's locked.

11 Q Okay.

12 A Whoever the evidence custodian is, is the one
13 that's going to be the one that's opening the locker.

14 Q Okay. Is he the only one with a key?

15 A That is correct.

16 Q And it's on this, on this particular time with you
17 the only one with a key?

18 A Myself and a backup. We have a primary evidence
19 custodian and a backup evidence custodian. I am the
20 primary evidence custodian and I have a backup evidence
21 custodian. We're the only two that have access to the
22 evidence.

23 Q Okay. So in February the 18th of 2013, you had
24 access to it as well as the backup evidence custodian; who
25 would that have been?

Christopher Shelton - Cross-Examination by Mr. Williams

1 A I'm not even sure who the backup evidence custodian
2 would have been. I believe it was -- I want -- for some
3 reason I want to say, I want to think it was, it was
4 Sargent Hughes. For some reason I'm wanting to say Sargent
5 Hughes was still here or right there in transition and I
6 want to think that Sargent Hughes was still here at that
7 point in time.

8 Q Do you change assignments based on rank or do you
9 change assignments based on the months involved or anything
10 like that?

11 A Well, obviously it's dealing with the rank
12 structure at the same time personnel change, but it's
13 dealing with the rank structure for the most part.

14 Q All right. And when we were talking about a BEST
15 Kit, which is basically the method of maintaining control
16 over the items which were seized, so that when it leaves
17 your location and it goes to SLED or wherever it goes to be
18 analyzed, it's consistent so that you know what items are
19 taken to wherever you took it to be analyzed, right; I mean
20 that's the reason why you have a BEST Kit and the BEST
21 numbers and all that so that you keep up with it, right?

22 A I mean, obviously that's something that's -- I
23 think SLED is going to have to answer more than I'm going
24 to have to answer.

25 Q Okay. So you picked it up two days -- you took it

Christopher Shelton - Cross-Examination by Mr. Williams

1 out of the locker two days after the event supposedly
2 happened; is that right?

3 A That's correct.

4 Q All right. And the reason you know that is because
5 you've looked at your sheet, you saw your signature. Did
6 you assign any numbers to it? I think you said you
7 assigned the number to it?

8 A No, we -- the numbers that are assigned to it is,
9 is basically generated off a CAD System that every -- every
10 call that a trooper is -- whether it be a traffic stop or
11 wreck or any -- any kind of call that -- that a trooper
12 deals with is assigned a number. That number stays with
13 that call for its lifetime. That number would be that call
14 number and that's how that number is assigned to that case.

15 In this case it was the 13 is the year and the BW
16 goes to the dispatch center, which is Blythewood and then
17 at the same time the 03106 is actually the call number and
18 the HP is for the Highway Patrol; 32 is the County Code No.
19 That's how that number is generated.

20 Q Great. Tell me what 1306 call number means?

21 A It is the --

22 Q You said it's the call number?

23 A Right. It is the 031306; what is it?

24 Q What is the call number?

25 A That's the number of call for that year.

Christopher Shelton - Cross-Examination by Mr. Williams

1 Q Okay. Okay. So that number represents the
2 dispatch number that was dispatched on that particular
3 year. It was the 1300th call that came over the dispatch?

4 A That's -- that's correct.

5 Q Okay.

6 THE COURT: 1300.

7 MR. WILLIAMS: 13,000. One thousand 3 --

8 THE COURT: 031306?

9 BY MR. WILLIAMS:

10 Q Did you say --

11 THE COURT: 031306?

12 THE WITNESS: The 31306.

13 THE COURT: It's more than 1300.

14 BY MR. WILLIAMS:

15 Q 31,000? Obviously I'm dyslexic. 01306; so it's
16 031, correct?

17 A 031, yes, sir.

18 Q Okay. Now, this information -- obviously it's a
19 sticker or something that you put on the box or bag to keep
20 up with it; is that right?

21 A That's correct.

22 Q Do you recall how large the item was that you took
23 with you?

24 A I don't.

25 Q Well, do you know what is in that BEST Kit at the

Christopher Shelton - Cross-Examination by Mr. Williams

1 time that you take it two days after this event occurs?

2 A I could tell you that it's -- I mean as stated here
3 on the -- on the chain of custody, it's a cellophane
4 package containing a white powder substance; field weight
5 1,000 grams.

6 Q All right. That information which is on that BEST
7 Kit, is the information which has been provided by the
8 officer who makes the seizure; is that correct?

9 A That's correct.

10 Q No one else has been involved in determining that
11 particular identifying information, which is on the bag,
12 right? Or on the BEST Kit?

13 A That is correct.

14 Q On that particular item, does it reference anything
15 about a Dillard's bag?

16 A No, sir.

17 Q Now, you were the supervising officer on this case,
18 so you knew that this item was allegedly found in a
19 Dillard's bag, didn't you?

20 A I'm just going -- well when you say the supervising
21 officer, I was not the supervising officer out on the
22 scene.

23 Q Well, you were the approving officer, correct?
24 Approving officer?

25 A As far as to what though?

Christopher Shelton - Cross-Examination by Mr. Williams

1 Q What -- I don't know. I mean on these forms, on
2 these incident reports that are turned over; if it lists
3 your name as C.M. Shelton --

4 A Just because it's approving officer, doesn't mean
5 I -- I -- as far as reading line by line as far as that
6 goes?

7 Q What does that mean; what are you approving?

8 A Mr. Williams, I look at 3,000 wreck reports a year
9 too.

10 Q Okay. So --

11 A So my name is on 3,000 wreck reports a year at the
12 same time.

13 Q Whether or not you had seen them or not, correct?

14 A That's what I'm saying as far as that goes. What
15 I'm telling you is on the Chain of Custody it says
16 cellophane package containing white powder substance, field
17 weight 1,000 grams. On the other copy, SLED Drug Analysis
18 Request Report, cellophane package white powder substance.
19 Requesting Officer A.L. Antley, signature of Officer A.L.
20 Antley.

21 Q Can I ask you to look at the Supplemental Incident
22 Report and tell me, reading this if this refreshes your
23 memory about anything on this case.

24 A No, sir, it's not going to refresh my memory.

25 Q It's not?

Christopher Shelton - Cross-Examination by Mr. Williams

1 A I mean, it's not. The only thing I had to do with
2 this case is dealing with the Chain of Custody.

3 Q So you don't know if the items which were found and
4 marked by the BEST Kit were found in a Dillard's shopping
5 bag, paper bag, a jacket, a pair of pants or anything,
6 right?

7 A No, sir.

8 Q Okay. Now, your task in terms of receiving these
9 items two days after -- after these items were allegedly
10 found was to take these to Blythewood; is that correct?

11 A No, sir, Shop Road.

12 Q Shop Road?

13 A Central Evidence.

14 Q All right. And what is located at Central
15 Evidence? Is that -- is there a chemical location,
16 analysis place there?

17 A No, sir, it's our Central Evidence Facility. It
18 just houses evidence.

19 Q Okay. Go ahead.

20 A It just houses evidence.

21 Q So you take it from one box to another box?

22 A No, sir, I take it to the --

23 Q One location to another location?

24 A -- First Sargent Mendel Rivers.

25 Q Okay. And you deliver your box or your -- that you

Christopher Shelton - Redirect Examination by Mr. Bell

1 seized out of your BEST Kit to him and then now he's going
2 to take this to some other location; is that right?

3 A I'm not sure exactly what he's going to do with it.

4 Q Okay. But -- but he's not a chemist; he's not
5 going to be the one to testify about the chemical analysis
6 or anything like that?

7 A I'm sure when you ask him that question, I know
8 he's going to tell you the answer.

9 Q Was anything else seized in this case, to your
10 knowledge?

11 A No, not to my knowledge.

12 Q Hence, Dillard's bag, anything?

13 A Not to my knowledge.

14 Q Any tests done? Are you aware of any tests that
15 were done besides the chemical analysis like fingerprints
16 or DNA or anything like that?

17 A Not to my knowledge.

18 MR. WILLIAMS: That's all the questions I have,
19 Your Honor.

20 THE COURT: Redirect, Solicitor?

21 MR. BELL: Thank you, Your Honor.

22 **REDIRECT EXAMINATION**

23 BY MR. BELL:

24 Q First Sargent, is it your job to reinvestigate
25 every incident report that you sign off on?

Christopher Shelton - Redirect Examination by Mr. Bell

1 A No, sir.

2 Q What is the purpose of having a supervising officer
3 sign off on reports?

4 A Simply as signing off on the report.

5 Q Does that mean that did or did not complete the
6 proper paperwork?

7 A No, sir.

8 Q It's just something that you put your signature on?

9 A That's correct.

10 Q Now one more time, would you read the description
11 of the item contained in the BEST Kit that Trooper Antley
12 submitted to that evidence locker?

13 A You talking about from the Chain of Custody?

14 Q That's correct.

15 A Cellophane package containing white powder
16 substance, field weight 1,000 grams.

17 Q And do you recall recovering this evidence from
18 that evidence locker?

19 A Yes, sir.

20 Q Did the item that you recovered from the evidence
21 locker appear to match the description that Trooper Antley
22 left in the report?

23 A It was sealed into evidence as far as SLED BEST
24 Kit.

25 Q Do you recall if the weight matched?

Christopher Shelton - Redirect Examination by Mr. Bell

1 A I can't tell you as far as -- describe it as far as
2 the weight match or anything of that nature on that side.

3 Q Did anything -- when you took custody of that
4 evidence, strike you as unusual or odd?

5 A I don't -- I don't really recall on that side of it
6 as far as that goes.

7 Q Do you recall any red flags when you recovered that
8 evidence?

9 A I can't sit here and -- sit here and say yay nor
10 nay on that.

11 Q If you were to recover evidence, but it didn't
12 match in the report, would you take it?

13 A Well, I wouldn't have a choice but to take it as
14 far as that goes. I mean that's -- it's evidence and that
15 would be my job on that side of it.

16 Q Would you report the fact that you believe that the
17 evidence you recovered doesn't match what was supposed to
18 be submitted?

19 A If it was improprieties in there then I would say I
20 would do my part on the -- on the lines of that, yes.

21 Q Do you recall having to do anything on your part in
22 this case?

23 A No, sir.

24 Q Was there any physical damage to the locker when
25 you showed up to recover the evidence?

Christopher Shelton - Redirect Examination by Mr. Bell

1 A It was not.

2 Q Did there appear to be any forced entry?

3 A No, sir.

4 Q Any idea what Trooper Hughes is up to now?

5 A He works in headquarters.

6 Q Still employed by Highway Patrol?

7 A He is.

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

9 MR. WILLIAMS: No questions, Your Honor.

10 THE COURT: Thank you. Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: You may step down. Any objections to
13 Sargent being excused?

14 MR. WILLIAMS: The defendant has no objection.

15 MR. BELL: No objection from the State, Your Honor.

16 THE COURT: Thank you. Thank you again for being
17 with us.

18 All right. Solicitor, you may call your next
19 witness.

20 MR. BELL: Thank you, Your Honor. The State would
21 call Mendel Rivers, Trooper Mendel Rivers.

22 MENDEL RIVERS,

23 having been duly sworn, testified as follows:

24 THE CLERK: Have a seat, sir. Once you're seated,
25 state your full name, spelling your last for the record

Mendel Rivers - Direct Examination by Mr. Bell

1 please.

2 THE WITNESS: Mendel Rivers, R-I-V-E-R-S.

3 DIRECT EXAMINATION

4 BY MR. BELL:

5 Q Sir, who are you employed by?

6 A South Carolina Highway Patrol.

7 Q And what is your current rank over there?

8 A First Sargent.

9 Q And what does your job duty entail?

10 A My job duty entails I'm the supervisor of the
11 Central Evidence Facility that is located at -- on Shop
12 Road where we store and preserve all evidence as collected
13 by the DES Officers.

14 Q And do you recall handling any evidence in the case
15 of State v. Kendrick Mims?

16 A Yes, sir.

17 Q Do you recall when you first came into contact with
18 that evidence?

19 A Yes, sir. According to the Chain of Custody, I
20 first came into contact with the evidence on February the
21 20th of 2013.

22 Q And did you put your signature on that Chain of
23 Custody you're referring to?

24 A I did.

25 Q Does that Chain of Custody that you're referring to

Mendel Rivers - Direct Examination by Mr. Bell

1 indicate a BEST Kit number?

2 A It does; SLED BEST Kit number B227395.

3 Q Does it also reference a case number?

4 A It does; case number 13BW031306HP32.

5 Q Now, who did you receive the evidence from on
6 February 20th?

7 A First Sargent Shelton.

8 Q And do you recall what form it was in when you
9 recovered it from him?

10 A Repeat the question?

11 Q Do you recall what form it was in; what kind of
12 packaging it may have been in?

13 A I don't recall. It states a SLED BEST Kit so
14 that's what I would take according to the Chain of Custody
15 that it was in, which is provided by SLED.

16 Q Now, when you recover a piece of evidence over at
17 CEF, what is it your job to then do with it?

18 A Our job in Central Evidence is to take possession
19 of the -- the evidence that needs to be analyzed and needs
20 to be transported over to SLED for a laboratory -- for the
21 analysis to take place. What we do at that point is
22 initially we look at all the paperwork and make certain
23 that the paperwork is in the proper order as well as the
24 integrity of the package itself. With everything then in
25 place and in order, we will take possession and we will

Mendel Rivers - Direct Examination by Mr. Bell

1 secure it in our -- our drug locker in our facility.

2 Q Now, upon taking custody of the evidence from First
3 Sargent Shelton, had you noticed that the description in
4 the Chain of Custody did not match the item you were
5 receiving?

6 A The description from what I could see, which the
7 BEST Kit itself in the evidence bag that it has has a form
8 that is required to go inside that -- that BEST Kit and
9 that evidence bag that is already sealed. That is the
10 requirement in the instructions from SLED in order for it
11 to be done that way. So the instructions that are provided
12 on the envelope, that's the same state that we would find
13 that evidence in. So sometimes we are able to see and
14 recognize what the -- the item itself is shown and saying
15 compared to what is on the Chain of Custody. What was able
16 to see appeared to match what is described on the Chain of
17 Custody itself.

18 Q Had the item you received not matched the
19 description in the Chain of Custody, would you have notated
20 that somewhere?

21 A I would not because it would be -- because of the
22 fact it's already sealed. We're going by the description
23 that's been provided by the collecting officer as we
24 receive it. If there are some notations that need to be
25 made, then we make that notation. In this case and in this

Mendel Rivers - Direct Examination by Mr. Bell

1 instance, I do not see any additional comments that were
2 put there with my initials. I would say that it was
3 received in the form in which has been described.

4 Q Did you have any reason to believe whatsoever that
5 the evidence you were receiving had or had not been
6 tampered with since it was initially put in the drop box?

7 A No, sir.

8 MR. BELL: Permission to approach the witness, Your
9 Honor?

10 THE COURT: Certainly.

11 BY MR. BELL:

12 Q Could you tell me what case that box I'm handing
13 you belongs to?

14 A According to the labels that are -- are -- that are
15 on this box, it is Case Number 13BW031306HP32. The
16 Investigating Officer, Antley and the name Mims slash
17 Vanderhall, as well as their paperwork that is provided in
18 this sleeve which in this instance on this box this sleeve
19 is going to provide for us the original Chain of Custody
20 that remains with the evidence and tracks all this movement
21 and it does bear the very same information.

22 MR. BELL: For the Court's edification, that is an
23 item that is marked for identification purposes as State's
24 6.

25 ///

Mendel Rivers - Direct Examination by Mr. Bell

1 BY MR. BELL:

2 Q Now, when you received the evidence from First
3 Sargent Shelton, was it in that same container that we're
4 looking at here today?

5 A It was not in this container, no, sir.

6 Q Why is it now in that container?

7 A It is now in container because that -- once the
8 evidence has been analyzed at SLED and is ready to be
9 returned back to our facility, it comes back in a ziplock
10 bag that is already -- well not a ziplock bag, but a
11 heat-sealed evidence bag. Because of the size of the bag,
12 we stored it in this box for storage purposes in order to
13 put it on our shelf.

14 Q Upon receiving the evidence back from SLED, who put
15 the evidence inside of that box?

16 A I'm not exactly sure who put it in this box. The
17 Chain of Custody shows that the evidence was picked up from
18 SLED by one of my Central Evidence Technicians, D.K. Fouty,
19 who returned it to the site.

20 Q In reviewing the packaging you're looking at, would
21 it appear that that individual followed CEF's protocol's?

22 A He did.

23 Q If you would, please; do you have a set of keys on
24 you, Trooper? If you would please at this time open that
25 package; this is State's 6?

Mendel Rivers - Direct Examination by Mr. Bell

1 A They seal them pretty good.

2 THE COURT: You got your knife, Sargent? You want
3 one?

4 THE WITNESS: There we go.

5 BY MR. BELL:

6 Q I know it's going to be difficult to hide it, but
7 if you would withdraw the contents of that box without
8 holding it up for display at this point? Do you have any
9 way of identifying the contents of the box that you
10 removed?

11 A Yes, I do, on the backside of the sealed bag.

12 Q And how are you able to identify the contents?

13 A It matches the description that has been applied
14 along the Chain of Custody. It also has the original SLED
15 evidence bag that is required for it to be sealed in prior
16 to us delivering it to -- to SLED for analysis which bears
17 the name of the sealing officer, which is A. Antley, his
18 signature, the agency, SCHP, date sealed 2/18 of '13.

19 Q Now, that SLED bag you're referring to also is
20 referred to as a BEST Kit?

21 A Yes, it is.

22 Q And does that BEST Kit have the control number
23 printed on it?

24 A Yes, it has Control Number B227395.

25 MR. BELL: Your Honor, please let the record

Mendel Rivers - Direct Examination by Mr. Bell

1 reflect that the contents of State's 6 for ID is now marked
2 as State's 5 for ID.

3 (State's Exhibit Number 5 was marked for
4 Identification.)

5 BY MR. BELL:

6 Q Is there a date written on that BEST Kit as to when
7 it was created.

8 A The date being the date sealed 2/18 of '13.

9 MR. BELL: I beg the Court's indulgence?

10 THE COURT: Yes, sir.

11 BY MR. BELL:

12 Q The item that you're holding in your hand that is
13 marked as State's 5 for identification purposes, is that
14 the item that you received from First Sargent Shelton on
15 February 20th of 2013?

16 A It appears to be, yes, sir.

17 Q And did you ultimately log that evidence into CEF?

18 A Yes, sir, according to the Chain of Custody, I did.

19 Q And to be clear, subsequent to that, did that
20 evidence leave CEF for any reason?

21 A Yes, sir, it left on February 21st of 2013 for the
22 purposes of going to SLED for analysis.

23 Q And did you ultimately receive that item back to
24 CEF?

25 A Yes, sir. Received it back on March 19th of 2013.

Mendel Rivers - Cross-Examination by Mr. Williams

1 Q Do you have any reason to believe, whatsoever, that
2 there was any tampering done with the evidence between the
3 time it was sent to SLED and returned?

4 A No, sir.

5 Q To clarify, who would have transferred that
6 evidence over to SLED?

7 A One of my technicians, D.K. Fouty, transported it
8 and transferred it over on February 21st of 2013.

9 Q And how would it have been received back from SLED?

10 A It's received in the current state that it's in
11 now.

12 Q Who would receive it back from SLED?

13 A On this particular situation, this day it was D.K.
14 Fouty. It just depends on whoever is going over there at
15 that time and they let us know when evidence is ready to be
16 returned. Whoever that technician will be will be the one
17 that actually returned it back to our facility for storage.

18 Q Please answer any questions defense may have for
19 you.

20 THE COURT: Thank you, Solicitor.

21 Mr. Williams.

22 MR. WILLIAMS: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. WILLIAMS:

25 Q First Sargent Rivers, the item that you're looking

Mendel Rivers -- Cross-Examination by Mr. Williams

1 at, do you independently recall that item or is your memory
2 based on the numbers that you're seeing on the package?

3 A It's based on the description looking at the
4 particular Chain of Custody, the description and the
5 uniqueness of it. It's not something that we see on a
6 regular basis. So it kind of helps jar my memory.

7 Q And was -- was the item that you received on the
8 20th from First Sargent Shelton, was it in the same package
9 that you're looking at now?

10 A The only difference is, is that it is currently in
11 a large ziplock bag. It was not in that ziplock bag. It
12 was in the SLED analysis evidence bag that is in this
13 ziplock bag. It was in that.

14 Q Okay. So there is, there is a separate SLED bag
15 which the items are normally placed in when it goes to
16 SLED; is that correct?

17 A That's correct, part of the BEST Kit that they
18 provide.

19 Q So the bag that you're actually looking at is a --
20 is a regular ziplock bag like you could find at your house
21 or my house or gallon storage types of things?

22 A Yes, and those bags are sealed and secured within
23 this ziplock bag.

24 Q Okay. So it's not exactly in the same shape as
25 you're looking at it now as when it was taken to SLED?

Mendel Rivers - Cross-Examination by Mr. Williams

1 A Minus the ziplock bag.

2 Q So it was in a -- now the SLED bag that it was
3 taken to SLED in; was that a clear bag or was that a
4 colored bag?

5 A It is a clear bag.

6 Q All right. And is it inside the ziplock bag you
7 possess there?

8 A Yes, sir, it is.

9 Q And when you received this item, did you take it
10 directly from First Sargent Shelton?

11 A Yes, sir.

12 Q So he didn't just drop it in a box there or
13 something like that; he gave it to you, you signed off on
14 the sheet or custodial sheet, if you will, some Chain of
15 Custody form and then you placed it in a secure location
16 and then you directed that a technician from Shop Road take
17 it to SLED; is that right?

18 A Yes, I, First Sargent Shelton came to our facility
19 in my office, that's where possession took place. It was
20 notated on the Chain of Custody that is provided that
21 follows the evidence throughout its movement and at a later
22 date, the evidence was transported over to SLED for
23 analysis by one of my other technicians.

24 Q You perform those services in securing this
25 evidence, testing this substance; all you -- all you did

Mendel Rivers - Cross-Examination by Mr. Williams

1 was transport the items that were secured by some other
2 officer to SLED to be analyzed?

3 A Yes, sir.

4 Q So you don't know what was seized and the condition
5 it was seized, you just know that when you received those
6 items, you took those items to SLED?

7 A I know the condition in which it was received on
8 the part of the description that was provided on the
9 evidence Chain of Custody and that the integrity of the
10 package was secure. It was sealed and I know that it was
11 in that state when I received it and once it left our
12 facility.

13 Q And that information was provided by Officer Antley
14 when he filled out the form and placed the item in the BEST
15 Kit?

16 A Yes, the paperwork that is provided inside the BEST
17 Kit is the paperwork that we -- we look at and compare.

18 Q Which came from Officer Antley?

19 A In this case, I received it from First Sargent
20 Shelton. I know -- I don't know who actually completed it.
21 It would appear that, that Corporal Antley did complete the
22 paperwork.

23 Q And not First Sargent Shelton?

24 A Like I said, I don't know as far as -- what we're
25 required to do on these Chain of Custody's is that the

Mendel Rivers - Cross-Examination by Mr. Williams

1 person that is -- has possession of it, they print their
2 name and their initial beside it so that it does dictate to
3 us who that person was and that it was actually them. Any
4 other notations that may be made anywhere else, if there's
5 not an initial by it, then I have no way of verifying who
6 actually wrote that.

7 Q Is there included in that package and heat-sealed
8 piece of plastic that would have been about the white
9 substance that was in the BEST Kit?

10 A Yes, that is the SLED drug analysis evidence bag
11 that has to be sealed and it does have the initials and
12 signature of Corporal Antley.

13 Q How many years you been an officer with the Highway
14 Patrol?

15 A Twenty-four and a half years.

16 Q About the same as Chris Shelton has?

17 A Yes, sir, I have a little bit more experience than
18 he does.

19 Q I can see that. The -- obviously the items, when
20 they're seized from a suspect, subject, whatever you want
21 to call him, they're in another container of some kind
22 because it wasn't -- it'd just blow away in the dust, blow
23 away in the wind.

24 Does your bag include the bag which the substance
25 was in when it was seized, which it should have been in

Mendel Rivers - Cross-Examination by Mr. Williams

1 from a suspect, subject, whatever you want to call the
2 individual who would -- they would have taken this from?

3 A Are you referring to this bag I currently hold?

4 Q I am.

5 A Okay. I cannot tell. I do not see that from this
6 point, in regards to our department evidence bag.

7 Q If you will look at State's Exhibit No. 3 to make
8 sure my question is getting to you the right way, in case
9 I'm confusing. Obviously, whatever item that was that was
10 seized has some sort of packaging about it to keep it
11 together?

12 A Yes, sir.

13 Q Is there anything in that bag that indicates that
14 that same packaging would have been in the bag that you
15 have?

16 A It is. It is in this bag.

17 Q All right. So whenever it gets to its final
18 location where it's going to be analyzed, all of the items
19 that are reflected in State's Exhibit No. 3 would have been
20 in the bag to be analyzed, tested or what have you?

21 A As far as I know.

22 Q Okay. Now was there a Dillard's bag --

23 THE COURT: You're saying all of the items
24 included?

25 MR. WILLIAMS: No. No. All of the items -- I

Mendel Rivers - Redirect Examination by Mr. Bell

1 understand. That may be misleading.

2 MR. WILLIAMS:

3 Q All of the items dealing with the contraband would
4 have been in the bag; not referring obviously to a taser,
5 because I assume you didn't seize the taser?

6 A No, I did not.

7 Q Okay. And you wouldn't be testing the taser?

8 A No, I don't seize them nor do I test any of those
9 things. We just preserve and we protect.

10 Q Okay. So there was no Dillard's bag or any other
11 items that were seized into evidence as far as you know?

12 A I do not recall.

13 Q Thank you, First Sargent?

14 THE COURT: Redirect?

15 MR. BELL: Very briefly.

16 **REDIRECT EXAMINATION**

17 BY MR. BELL:

18 Q We talked a lot about the Chain of Custody Form.
19 What is the overall purpose of these Chain of Custody
20 forms?

21 A The purpose of the Chain of Custody Form is to --
22 to actually give a description of what person is involved,
23 who the Investigating Officer is, who collected the
24 evidence. It is also notated to where it gives a brief
25 description and pertinent information related to the day

Mendel Rivers - Recross-Examination by Mr. Williams

1 that it took place that it was actually seized or recovered
2 as well as who the suspects may be in this situation. The
3 main purpose of the Chain of Custody is to insure that the
4 evidence, that there's a tracking system that shows every
5 moment that this evidence moved that there's a notation to
6 say who actually moved it or whose possession that it was
7 in to include the date as well as the reason for why it may
8 have been moved all the way to its final destination.

9 So that's the purpose of the Chain of Custody to
10 insure that there's integrity, that the -- we can actually
11 look back and determine who actually had possession of that
12 particular evidence at any given time.

13 Q And from your review of the Chain of Custody so
14 far, does there appear to be any gaps in time that are not
15 accounted for in the chain?

16 A No, sir.

17 MR. BELL: No further questions, Your Honor.

18 THE COURT: Recross?

19 **RECROSS-EXAMINATION**

20 BY MR. WILLIAMS:

21 Q And of course, your knowledge with this item deals
22 with the time in which you received it from First Sargent
23 Shelton to the time in which it was taken by a technician
24 in your command to the SLED Chemist to be analyzed?

25 A Yes.

1 MR. WILLIAMS: That's all the questions I have,
2 Your Honor.

3 THE COURT: Thank you. Thank you very much, First
4 Sargent. Thank you. Thank you for being with us today.

5 THE WITNESS: Thank you, Your Honor.

6 MR. BELL: Your Honor, may we approach?

7 THE COURT: Yes, sir.

8 May the First Sargent be excused.

9 MR. WILLIAMS: No objection, Your Honor.

10 MR. BELL: Your Honor, I'm not sure how he wants to
11 handle the evidence, but if he doesn't need to be here for
12 the evidence.

13 THE WITNESS: Someone has signed for the evidence.

14 THE COURT: The evidence now goes to my court
15 reporter and goes to the clerk's office. It's marked for
16 identification.

17 Isn't that correct, Madam Clerk.

18 THE CLERK: Yes, sir, Your Honor, it's in my
19 custody and the reporter's now.

20 THE WITNESS: So I can get you to sign for it.

21 THE COURT: I had him leave it there just to --
22 because you didn't want him to display it. If you want me
23 to send the jury out?

24 MR. BELL: Your Honor, I certainly have no problem
25 with it. I've been told in the past that if it's just ID,

1 THE COURT: Bring us our jury please.

2 THE BAILIFF: Yes, sir.

3 THE COURT: Then you have Ms. Crooks and Ms. --

4 MR. BELL: Lynn Black, Your Honor.

5 THE COURT: -- Ms. Black; is that right.

6 MR. BELL: Yes, Judge.

7 THE COURT: And is Ms. Black the chemist?

8 MR. BELL: Yes, sir.

9 THE COURT: All right. That's your only two
10 witnesses left, Solicitor?

11 MR. BELL: I apologize, Your Honor?

12 THE COURT: Only two witnesses?

13 MR. BELL: Your Honor, we would need to recall
14 Trooper Antley for the --

15 THE COURT: Yes, sir.

16 (The jury entered the courtroom at 5:15 p.m.)

17 THE COURT: All right. Welcome back, Mr. Foreman,
18 ladies and gentlemen of the jury.

19 The State has two additional witnesses present this
20 afternoon that he can call and present. I would like to do
21 that. I would like to press on with those two witnesses,
22 but however, I want to make sure y'all are willing to -- to
23 continue on, press on with me with. Child care issues,
24 anything like that? Is everybody kind of good to go for a
25 while longer?

Adam Antley - Direct Examination by Mr. Bell

1 All right. Hearing no objections, thank you.

2 Thank you very much.

3 Solicitor, you may call your next witness.

4 MR. BELL: Thank you, Your Honor. At this time,
5 the State would recall Trooper Antley to the stand.

6 THE COURT: All right. Come around.

7 THE CLERK: Still under oath, Your Honor?

8 THE COURT: You're still under oath, yes, sir,
9 Corporal.

10 **DIRECT EXAMINATION**

11 BY MR. BELL:

12 Q Trooper, the exhibit marked for ID purposes, it's
13 State's 5. Would you take a look at that item, please. Do
14 you recognize that item?

15 A Yes, sir.

16 Q What is it?

17 A The first thing here is a -- the SLED -- the BEST
18 Envelope Kit or the BEST Kit, the bag that I signed on the
19 date that -- that all this occurred, the 18th of February
20 2013. It's got my printed name and my signature on it, the
21 bag that I sealed.

22 Q And what is the BEST Kit Control Number?

23 A B227395.

24 Q And is that the same BEST Kit that you filled out
25 and secured the cocaine evidence in the case of State v.

Adam Antley - Cross-Examination by Mr. Williams

1 Kendrick Mims?

2 A Yes, sir.

3 Q Now, the contents of that bag, is that exactly how
4 you seized the evidence on the scene?

5 A No, sir, not exactly.

6 Q Do you know why it would appear different in that
7 bag now?

8 A I imagine they could have gone ahead and tested it
9 at SLED.

10 Q And is that the evidence in the BEST Kit that you
11 submitted in the post office box you mentioned earlier in
12 your testimony?

13 A Yes, sir, it looks like the original package, the
14 one I took a picture of next to the taser. It looks like
15 that's also in here, cellophane and black tape. So but
16 it's the same thing that I put into evidence, into that
17 lock box.

18 Q Please answer any questions Mr. Williams may have
19 for you.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: Just one.

22 CROSS-EXAMINATION

23 BY MR. WILLIAMS:

24 Q Did you not seize the Dillard's bag that supposedly
25 was in?

Adam Antley - Cross-Examination by Mr. Williams

1 A It was, I mean there was a Dillard's bag. It was a
2 Dillard's bag, the Foot Locker bag, this was inside or that
3 little -- the package that's in that picture was inside
4 those two bags.

5 Q Did you not seize those two bags which this item
6 purportedly was in?

7 A I picked them up, I don't know what you mean by
8 seize. I mean I didn't take them home, no, sir.

9 Q Did you take them to the evidence locker?

10 A Well, they went to the office with me with the
11 package of -- here.

12 Q Do you know where they are?

13 A Well, once I took the wrapped package of what I
14 believe to be cocaine out of them that night, the Dillard's
15 bag and the Foot Locker bag were discarded in the trash
16 can. They weren't -- they didn't have any more of what I
17 thought to be drugs inside of them.

18 Q No questions, Your Honor.

19 THE COURT: Redirect?

20 MR. BELL: No, Your Honor.

21 THE COURT: Thank you. Thank you very much,
22 Corporal, you may step down.

23 All right. You may call your next witness.

24 MR. BELL: Thank you, Your Honor. The State would
25 call Ms. Patricia Crooks to the stand.

Patricia Crooks - Direct Examination by Mr. Bell

1 PATRICIA CROOKS,
2 having been duly sworn, testified as follows:
3 THE CLERK: Have a seat please, ma'am.
4 THE WITNESS: Thank you.
5 THE CLERK: Once you're seated state your full
6 name, spelling your last please.
7 THE COURT: All right.
8 THE WITNESS: Patricia Crooks. C-R-O-O-K-S.

DIRECT EXAMINATION

9
10 BY MR. BELL:

11 Q Good evening, Ms. Crooks?
12 A Good evening.
13 Q Ms. Crooks, are you still employed by the South
14 Carolina Law Enforcement Division?
15 A No, I am not. I'm retired.
16 Q And how long have you been retired?
17 A About a year and a half.
18 Q Do you miss it?
19 A I miss the people.
20 Q How long were you working with SLED?
21 A About 30 years.
22 Q And what was your role over there at SLED?
23 A The last job was in the evidence room.
24 Q And how long were you working in that position?
25 A Probably about 6 or 7 years.

Patricia Crooks - Direct Examination by Mr. Bell

1 Q Can you tell us a little bit about the purpose of
2 your job working in evidence at SLED?

3 A Yes. SLED maintains a secure evidence room. When
4 evidence is submitted to SLED by a submitting officer, that
5 evidence -- evidence is logged in and the person who logs
6 the evidence in places that evidence in the evidence room.
7 Once Forensic Scientist or Forensic Technician requests
8 that evidence for examination, I pull the evidence,
9 transfer it to myself, and in turn transfer that evidence
10 the person who is picking it up.

11 The evidence is then examined and after
12 examination, that evidence is returned to the evidence
13 room. When submitting agencies come into the evidence room
14 to, into the login section to submit evidence, I always
15 check to see if they had any evidence that was ready to be
16 returned to the agency and if so, at that time, it was
17 returned to the agency.

18 Q Thank you, Ms. Crooks. Now do you keep any sort of
19 log that documents all of this movement that you were just
20 telling us about?

21 A Yes, we have an electronic Chain of Custody that
22 tracks the evidence as soon as it comes into SLED until it
23 is returned to the submitting agency.

24 Q And do you recall handling evidence in the case of
25 the State v. Kendrick Mims?

Patricia Crooks - Direct Examination by Mr. Bell

1 A What I recall is, maybe not this specific evidence
2 because I handled tens of thousands of pieces of evidence.
3 I can identify this evidence by this unique laboratory
4 number that's assigned to the evidence L13 means it came in
5 2013 and it was the 2440th case we had.

6 Q Now regarding the Chain of Custody, Ms. Crooks, did
7 you bring a copy of that Chain of Custody with you today?

8 A Yes, I have it here.

9 Q Is that Chain of Custody something that y'all
10 ordinarily keep in the typical course of your business
11 there at SLED?

12 A Yes.

13 Q Now, in looking at that Chain of Custody, how do
14 you know the Chain of Custody you have in front of you
15 matches that evidence that you were just handling?

16 A Because this Chain of Custody has this same unique
17 laboratory number on it as this evidence does.

18 Q And one more time, would you repeat the lab number
19 present on the Chain of Custody Form?

20 A That's L132240.

21 Q Would you repeat that number?

22 A L1302440.

23 Q To clarify, am I correct in saying it's 130440?

24 A Correct.

25 Q And does that number match the lab number on the

Patricia Crooks - Direct Examination by Mr. Bell

1 evidence you handled?

2 A Yes, it does.

3 Q Now, what is the first date that SLED came into
4 possession of that evidence?

5 A That was on February the 21st of 2013.

6 Q And who initially took possession of it?

7 A It was logged in by a Forensic Technician, Amy
8 Stephens.

9 Q Who is Amy Stephens?

10 A Amy works in the Evidence Control in the login
11 section.

12 Q When you were working with SLED, did you know Ms.
13 Stephens?

14 A Yes.

15 Q Did she have essentially the same duties as
16 yourself at the time?

17 A No, there are two separate parts of Evidence
18 Control. One is the initial area and that's where evidence
19 is actually logged in, assigned a unique bar code. That
20 person, the person who logged this evidence in would have
21 then placed it in a specific place in the Evidence Room.
22 In this case it would have been Evidence Room 150 and we
23 have a special place for -- that all drugs are kept.

24 Q Now, after it was submitted to that intake room you
25 just mentioned, when did you come into contact with it?

Patricia Crooks - Direct Examination by Mr. Bell

1 A I came into contact with it the same day and I took
2 custody of the evidence and transferred it to Forensic
3 Technician, excuse me, Forensic Scientist, Lynn Black.

4 Q Okay. Now, I could ask you this to clarify, what
5 date did that evidence end up at the intake storage room?

6 A February 21st, 2013.

7 Q And what date did you remove it from the intake
8 storage room?

9 A February 21st, 2013.

10 MR. BELL: Permission to approach the witness, Your
11 Honor?

12 THE COURT: Yes, sir.

13 MR. WILLIAMS: Your Honor, I have a matter of law
14 to take up with the Court outside the presence of the jury.

15 THE COURT: All right. Thank you. Mr. Foreman,
16 ladies and gentlemen, you may step to your jury room. Do
17 not discuss the case during this brief recess.

18 (The jury left the courtroom at 5:30 p.m.)

19 THE COURT: All right. Mr. Williams?

20 MR. WILLIAMS: Your Honor, this witness has
21 testified as to when this witness had received the items
22 and their first time that they received the item. I know
23 of no easy way to make this objection, but as I saw the
24 Solicitor going up there to obviously receive the report,
25 we would object to any further questioning with regards to

Patricia Crooks - Direct Examination by Mr. Bell

1 when she received these items or didn't receive these items
2 as well as would you look at that again or would you check
3 this again and items like that, Your Honor.

4 MR. BELL: Your Honor, I think I at least need the
5 ability to approach and see the report she's reading from.
6 The certified Chain of Custody that we were sent relating
7 to this case indicates on our form that the evidence was
8 logged into the Evidence Room on February 21st and Ms.
9 Patricia Crooks took it out of evidence on February 26th.
10 So I would like to see the Chain of Custody she brought
11 with her and see if there is an error or if I'm reading
12 this incorrectly.

13 THE WITNESS: That was my mistake.

14 THE COURT: Her response to me just now was that
15 was my mistake. I think you can correct it. I think it's
16 Rule 607. I say correct it, I mean the credibility is up
17 to the jury anyway and plus 803 -- 803 although that's the
18 Hearsay Rule, 803(5) recorded recollections to refresh her,
19 refresh her memory.

20 So I would allow it.

21 MOTION FOR MISTRIAL

22 MR. WILLIAMS: Your Honor, I would make for the
23 record, a motion for a mistrial on the basis on what the
24 Solicitor is actually doing amounts to leading in a
25 different form and he's correcting a witness's testimony

Patricia Crooks - Direct Examination by Mr. Bell

1 where clearly it would have indicated a gap in the Chain of
2 Custody.

3 THE COURT: All right. Mr. Williams, I would -- I
4 would deny the motion for a mistrial on several grounds.
5 State v. Rolands, State v. Raven, Croft, Bilton, there's a
6 manifest necessity that -- and of course a mistrial is
7 within my discretion whether to grant it or not to grant it
8 and I don't see that that testimony is such nor the
9 rehabilitation of the witness as such.

10 Since you can impeach your own witness now under
11 607, it's such that it would be a manifest of necessity for
12 me to grant a mistrial. Further, under Rule 611(b), of
13 course you should not use leading questions, but at the
14 same time, on Direct Examination of a witness except as may
15 be necessary to develop a witness's testimony and, of
16 course, coupling that with 607, I would respectfully deny
17 the motion for a mistrial.

18 MR. WILLIAMS: Thank you, Your Honor.

19 THE COURT: Anything further, Mr. Williams?

20 MR. WILLIAMS: No, Your Honor.

21 THE COURT: Solicitor?

22 MR. BELL: No, Your Honor.

23 (The jury entered the courtroom at 5:35 p.m.)

24 THE COURT: All right. Thank you, ladies and
25 gentlemen, for your patience with the Court.

Patricia Crooks - Direct Examination by Mr. Bell

1 Thank you, Mr. Williams.

2 Solicitor, you may continue.

3 MR. BELL: Thank you, Your Honor.

4 BY MR. BELL:

5 Q Now, Ms. Crooks, do you have your Chain of Custody
6 for this case in front of you?

7 A I do.

8 Q Would looking at your Chain of Custody refresh your
9 memory?

10 A Yes, it does.

11 Q Now, once again, what is the date that the evidence
12 was deposited into the Evidence Room with SLED?

13 A February 21st, 2013.

14 Q Now, the next line down on your Chain of Custody
15 Form, what date is that?

16 A February the 26th, 2013.

17 Q And what occurred on that day?

18 A I removed the evidence from the Evidence Room and
19 transferred custody of the evidence to Forensic Scientist,
20 Lynn Black.

21 Q Now did you eventually receive the evidence back
22 from the chemist?

23 A Yes, I did.

24 Q And on what date was that?

25 A On March the 12th of 2013.

Patricia Crooks - Direct Examination by Mr. Bell

1 Q And what did you do with it?

2 A I took custody of that evidence, returned it to a
3 place in the evidence room on the drugs for return shelf
4 and then on March the 19th, I took custody of that evidence
5 again and transferred that to the agency, who picked it up
6 was David Fouty of the South Carolina Highway Patrol.

7 Q Did you have any further contact with the evidence,
8 Ms. Crooks?

9 A No, I did not.

10 Q Ms. Crooks, State's Number 5 for ID that you have
11 in front of you, is that the item that you're referring to
12 that you were transferring along these dates?

13 A Well, this was the number I was transferred, the
14 SLED laboratory number, but it's also marked as State's
15 Exhibit 5.

16 Q Do you normally receive back the BEST Kit in the
17 same condition as you sent it to a chemist?

18 A Well, no, because the chemist would have opened it
19 to examine the evidence.

20 Q Please answer any questions Mr. Williams may have
21 for you.

22 A Thank you.

23 THE COURT: Mr. Williams?

24 MR. WILLIAMS: Thank you, Your Honor.

25 ///

Patricia Crooks - Direct Examination by Mr. Bell

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q Ms. Crooks, earlier when you gave the date that you received it or that you had your first contact with it on February the 21st of 2013, you were in error on that particular statement, weren't you?

A That's correct. I misspoke on that.

Q And the first time that you actually had any contact with this, with this item was actually on February 26th of 2013?

A That's correct.

Q And when you testified earlier about the numbers that were on the -- I think you originally said 02240 and then it was corrected with the Solicitor to 02440; is that correct?

A That's correct.

Q So you were in error on that particular item too?

A Correct.

Q That's all the questions I have.

THE COURT: Thank you.

Any -- anything in redirect, Solicitor.

MR. BELL: No, Your Honor.

THE COURT: Thank you very much. Thank you. Thank you for being with us.

THE WITNESS: Thank you.

1 THE COURT: It's nice to see you.

2 THE WITNESS: Good to see you too.

3 THE COURT: Any objections to Ms. Crooks being
4 excused, Solicitor?

5 MR. BELL: No, Your Honor.

6 THE COURT: Mr. Williams?

7 MR. WILLIAMS: No, Your Honor.

8 THE COURT: You may be excused.

9 THE WITNESS: Okay.

10 THE COURT: How long will your next witness be,
11 Solicitor? Do you have an idea?

12 MR. BELL: Your Honor, State's side should be at
13 very most 20 minutes, Your Honor.

14 MR. WILLIAMS: It's probably going to take me 10 or
15 15, Your Honor.

16 THE COURT: All right. Perhaps now would be a good
17 time to take our evening recess, ladies and gentlemen. I
18 remind you during this recess, do not discuss this case
19 with anyone, fellow jurors, family, friends or anyone else.
20 Do not read, watch or listen to any news accounts about the
21 case. Do not do any research, independent research or any
22 research on the internet as to that information that I have
23 told you is prohibited. And I will question you about that
24 in the morning as far as that's concerned.

25 With that being said, I'm going to release you for

1 the remainder of the evening and ask you to please be back
2 promptly at 9:30 in the morning; promptly at 9:30 in the
3 morning. Thank y'all. Thank y'all very much. I hope you
4 have a pleasant evening.

5 (The jury left the courtroom at 5:44 p.m.)

6 THE COURT: All right. Mr. Williams, although the
7 State has not yet rested, do you object if I advise Mr.
8 Mims of his rights this evening so he can think about it
9 over the evening hours?

10 MR. WILLIAMS: I do not object to the Court's
11 instruction on that, Your Honor.

12 **QUESTIONING OF THE DEFENDANT BY THE COURT**

13 THE COURT: All right. If you would please come
14 around for me, Mr. Mims?

15 KENDRICK MIMS,

16 having been duly sworn, testified as follows:

17 THE COURT: Now, tell me, tell me your full name.

18 THE DEFENDANT: Kendrick Lamont Mims, sir.

19 THE COURT: And how old are you, Mr. Mims?

20 THE DEFENDANT: 34.

21 THE COURT: How much education do you have?

22 THE DEFENDANT: 11th grade.

23 THE COURT: Today are you under the influence of
24 any medication, drugs or alcohol?

25 THE DEFENDANT: No, sir.

1 actual and constructive, I thought that charge was part
2 of --

3 MR. WILLIAMS: Of the statute.

4 THE COURT: -- of that general charge, but I'll
5 look at it.

6 MR. WILLIAMS: It does, Your Honor, include mere
7 presence in that the drugs were not found on his person.

8 THE COURT: Let me look at that charge. Because
9 it's different from hand of one hand of all.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: Do you agree?

12 MR. BELL: Yes, Your Honor.

13 THE COURT: Okay. Let me look at that actual and
14 joint charge.

15 We have a jury?

16 THE BAILIFF: Yes, sir.

17 MR. WILLIAMS: Your Honor, there is one actually
18 matter, a different matter aside from the charges that I
19 would -- that we would request the Court to entertain. We
20 have -- I think we have two witnesses left, the chemist and
21 then we have Investigator Gunter or Detective Gunter, whose
22 testimony as I understand it, is simply to talk about the
23 value, the monetary value of the drugs that were found.

24 Your Honor, we would object to his testimony in
25 that it's not relevant to the facts in this particular

1 case, meaning he wasn't present at the scene, the issue of
2 how it was, whether or not it was baggies or something like
3 that. He was going to testify that this is how it's,
4 that's how you could tell that he is a distributor of the
5 drugs or something like that. In essence, the only thing
6 that he could testify to would be the street value of the
7 drugs involved, which we don't see it being -- it's more
8 prejudicial than probative. It's not probative of any
9 issue that needs to be decided by the jury in this case.

10 THE COURT: All right. Solicitor?

11 MR. BELL: Thank you, Your Honor. I believe that
12 the primary case that's sort of a rule and progeny on this
13 right now is still State v. Jamison, Your Honor, located at
14 372 S.C. of 649, that's a Court of Appeals case of 2007 and
15 it's rather on point, Your Honor. But the entire reason
16 that they allowed wholesale and retail valuation in that
17 case was because they found that the valuation of a
18 narcotic such as cocaine is outside of the typical
19 knowledge of an average juror and that in this particular
20 case, it would go towards evidence that this -- nobody
21 would leave this amount of this value of cocaine in the
22 middle of the woods, which makes it much more likely that
23 Mr. Mims is the one who had it on him and dropped it in the
24 woods as opposed to him just happening -- just happening to
25 stumble across approximately \$30,000 worth of cocaine in

1 the woods.

2 So we do believe that that sort of testimony would
3 be proper and relevant in this case, Your Honor.

4 THE COURT: Do you have a copy of Jamison?

5 MR. BELL: I do not have a copy but I'll be happy
6 to get one for you though.

7 THE COURT: I'll get it. 372 S.C. --

8 MR. BELL: 649, Your Honor.

9 THE COURT: 649. All right. Mr. Williams, you
10 familiar with that one?

11 MR. WILLIAMS: No, Your Honor.

12 THE COURT: All right. I will allow that very
13 limited in scope as within the State v. Jamison decision
14 for whatever weight and value it may have. I think it
15 would be circumstantial evidence in that -- at the location
16 where Mr. Mims surrendered so to speak. It was found that
17 large amount of cocaine or I don't know if it's large or
18 small, but I know that 997 grams of cocaine and that it
19 would be unlikely, that a third party had hid that amount
20 of cocaine in the woods with whatever value it has and
21 there be a dot to connect that he surrendered -- he
22 happened to surrender in inches of feet where that amount
23 of cocaine was located. You are certainly protected on the
24 record, Mr. Williams.

25 MR. WILLIAMS: Thank you, Your Honor.

1 MR. BELL: Thank you, Judge.

2 THE COURT: My possession charge, actual and
3 constructive reads as follows: To prove possession, the
4 State must prove beyond a reasonable doubt that the
5 defendant had both the power and the intent to control the
6 disposition or use of the cocaine. Possession may be
7 either actual or constructive. Actual possession means
8 that the cocaine was in the actual physical custody of the
9 defendant. Constructive possession means that the
10 defendant had dominion and control or the right to exercise
11 dominion or control over either the cocaine itself or the
12 property on which the cocaine was found. Mere presence at
13 the scene where the drugs were found is not enough to prove
14 possession.

15 The defendant's knowledge and possession may be
16 inferred when a substance is found on the property under
17 the defendant's control; however, this inference is simply
18 an evidentiary fact to be taken into consideration.

19 Actually that part is really not relevant as far as
20 dominion and control over the property and the final
21 sentence of this charge is two or more persons may have
22 joint possession of a drug. So both mere presence and
23 joint possession are in the definition of constructive
24 possession.

25 All right. Anything further before we bring in our

1 jury.

2 MR. BELL: No, Your Honor.

3 MR. WILLIAMS: Nothing from the defendant, Your
4 Honor.

5 (The jury entered the courtroom at 9:51 a.m.)

6 THE COURT: All right. Good morning, ladies and
7 gentlemen of the jury panel. Welcome back. Y'all have
8 changed places; several of you have. I hope y'all had a
9 pleasant evening.

10 We're continuing the trial of the case by the
11 presentation of evidence and testimony by the State in its
12 case in chief. If you would please continue to give the
13 parties your complete and undivided attention as you have
14 done throughout the trial of this case.

15 Solicitor, you may call your next witness.

16 MR. BELL: Thank you, Your Honor. The State would
17 call Ms. Black to the stand.

18 THE COURT: All right. If you'd come around and
19 join us please, Ms. Black?

20 LYNN BLACK,

21 having been duly sworn, testified as follows:

22 THE CLERK: Have a seat, please, ma'am. Once
23 you're seated, state your full name, spelling your last on
24 the record, please.

25 THE WITNESS: My name is Lynn Black. B-L-A-C-K.

Lynn Black - Direct Examination by Mr. Bell

DIRECT EXAMINATION

BY MR. BELL:

Q Good morning, Ms. Black.

A Good morning.

Q Ms. Black, who are you employed by?

A I work for the South Carolina Law Enforcement Division commonly known as SLED in the laboratory, the Forensic Services Laboratory.

Q And how long have you been with SLED?

A I've been with SLED approximately 7 and a half years.

Q Ms. Black, would you mind telling us a little bit about your background?

A Certainly. I have a Bachelor of Science Degree in Chemistry from Kentucky, Wesleyan College; a Certificate of Medical Technology from the University of Louisville and a Master of Science Degree in Forensic Science from Marshall University.

Prior to my job at SLED, I worked as a Drug Analyst at the Georgia Bureau of Investigation in Atlanta, Georgia for about 8 years.

Q And can you tell us a little bit -- a little bit more about your specific duties with SLED?

A My duties at SLED include -- well I'm a Drug Analyst at SLED, but my duties include receiving and

Lynn Black - Direct Examination by Mr. Bell

1 analyzing substances brought in by law enforcement
2 personnel; and I determine whether they are controlled
3 substances or not.

4 Q And have you ever testified in court before
5 relevant to that information?

6 A Yes, sir, I have.

7 Q How many times?

8 A Approximately 122.

9 Q And as part of your job, have you ever had to deal
10 with or test cocaine specifically?

11 A Yes, sir.

12 Q Have you ever testified in court related to cocaine
13 specifically?

14 A Yes, I have.

15 MR. BELL: Your Honor, at this time, we would move
16 to qualify Ms. Black as an expert in Forensic Chemistry?

17 MR. WILLIAMS: No objection, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Foreman, ladies and gentlemen of the jury,
20 normally a person cannot give opinion testimony. Normally
21 when a person testifies, they must testify as to either
22 what they saw, heard or sensed by smell or something of
23 that nature. However, there is an exception when someone
24 is qualified because of education, experience or training
25 in a particular area or theory. They are permitted to give

Lynn Black - Direct Examination by Mr. Bell

1 their opinion in certain areas if the Court qualifies them
2 that way.

3 This witness, Agent Lynn Black, will be testifying,
4 will be qualified in the area of Forensic Chemistry and
5 Drug Analysis to give opinion testimony in those areas. It
6 does not mean that you must accept the opinion or the basis
7 of the opinion, but it is evidence for you, the jury, to
8 use in any way you see fit.

9 Thank you, Solicitor, you may continue.

10 MR. BELL: Thank you, Your Honor. Permission to
11 approach the witness?

12 THE COURT: Yes, sir.

13 BY MR. BELL:

14 Q Ms. Black, I'm handing you what is marked as
15 State's 5 for ID purposes. Will you take a look at that
16 item for us?

17 Ms. Black, did you ever receive that item for
18 testing?

19 A Yes, I did.

20 Q And how do you know that you received that item for
21 testing?

22 A I know that by the unique Crime Lab case number
23 that is on this yellow barcode sticker. Also the inner bag
24 has that same laboratory case number. Also my initials and
25 the date are on this and on the inner bags also are the

Lynn Black - Direct Examination by Mr. Bell

1 same laboratory case number and my initials as well.

2 Q Now, would you please read that laboratory case
3 number into the record for us?

4 A That would be L13-02440.

5 Q And what was the date that you initialed?

6 A The date that I initialed is February 28th, 2013.

7 Q Now, when you receive evidence, where do you
8 actually receive it from?

9 A I receive it down in the login section at the
10 laboratory.

11 Q And can you tell us about how you go about
12 retrieving evidence from that location?

13 A When I am ready to receive evidence, I usually go
14 down and pick up a batch of evidence. I usually don't pick
15 up one at a time unless it's a specific reason to do that.
16 I -- I'm pretty sure in this case, that it was a batch that
17 I picked up and I usually will go down to login and I will
18 have e-mailed them ahead of time and tell them that I'd be
19 down to pick up evidence and I give them a list of what
20 cases I'm going to pick up and they'll tell me when I can
21 come down and have time to retrieve the evidence.

22 So I go downstairs and at that point in time, Ms.
23 Pat Crooks was the lady who would retrieve evidence for not
24 just me, but all the Forensic Scientists in the laboratory,
25 and so she would have the box of evidence for me and she

Lynn Black - Direct Examination by Mr. Bell

1 would scan all the evidence to herself, each piece of
2 evidence will have this barcode or a similar barcode on it
3 and usually they're, like I said, there's numerous pieces
4 of evidence and she'll scan them to herself and then she'll
5 scan it to me.

6 Everybody in the lab has a barcode sticker that
7 they keep with them that is -- will show that the evidence
8 will be in their possession when it is scanned to them. So
9 that's what I did. I went downstairs, got all the evidence
10 scanned to me and then I took it upstairs and we have a
11 drug vault in my lab, in my section and that's where I
12 would keep my evidence until I'm ready to test it.

13 Q How much distance is between the area you pick up
14 the drugs and the area you take them for testing?

15 A The login section is on the first floor and I'm on
16 the fourth floor.

17 Q And do you ever leave the building with the drugs?

18 A No, sir.

19 Q Were they ever out of your custody during that
20 transfer?

21 A No, sir.

22 Q Can you tell us a little bit about what a BEST Kit
23 is?

24 A A BEST Kit, BEST is actually an acronym for Best
25 Evidence Sample Testing. It's a kit that SLED came up with

Lynn Black - Direct Examination by Mr. Bell

1 to kind of help law enforcement to submit drug evidence.
2 It's specifically for drug evidence and what it is, is a
3 manila envelope, a large manila envelope a little bigger
4 than, you know, an 8 x 11 sheet of paper and inside is a
5 tamper evident plastic bag and then paperwork that the
6 submitting agencies will fill out and submit to SLED.

7 They have to request -- there are several copies of
8 the request and one of them goes inside the BEST Kit and
9 then they -- they keep one and they submit one when they
10 bring it in so that the login person can use that
11 information to enter into our computer system, but that's
12 generally how the evidence will come in. They will
13 actually put the tamper-evident bag, which is what this bag
14 is. You can see it here; it's got green on the top; that's
15 the tamper-evident bag that's in the BEST Kit and they will
16 put their evidence in there and then it's got a sticky, the
17 green part is a sticky glue, if you will, that they will
18 tear off a piece of plastic that's stuck to it and then
19 they'll fold it over and that sticks to the bag and keeps
20 the bag closed until -- it's tamper evident, so if you mess
21 with that seal, it's very evident, as the name implies,
22 that somebody has messed with it. And that's when I'm
23 opening up my evidence, I look at that to make sure that
24 that seal is intact.

25 But the BEST Kit, like I said, they'll put that bag

Lynn Black - Direct Examination by Mr. Bell

1 back into that manila envelope and that's what I get as
2 part of my evidence. I'll get a whole box full of just
3 manila envelopes that have -- the login person will put the
4 unique Crime Lab sticker on there, Once they enter all the
5 information into the computer system, they will generate
6 this sticker and place it on that manila envelope.

7 The BEST Kit also has that B number that's been
8 thrown around, the BEST Kit number and that is on the
9 envelope and it's also on the tamper-evident bag and that's
10 a way to track that evidence as well.

11 Q Ms. Black, do any two BEST Kits have the same
12 control number?

13 A No, they do not. They are unique.

14 Q And what is the purpose of that?

15 A To be able to track the evidence. We -- we don't
16 use that barcode in our computer system, but it's a way for
17 the submitting agency to keep track of it and also if
18 they're calling us to ask about a particular case,
19 sometimes they might have the same case number in various
20 cases, but they can tell us the BEST Kit number and we can
21 look at that in our computers, in the documents that we've
22 scanned into the computer to know which case they're
23 specifically talking about.

24 Q And the control number on this specific BEST Kit,
25 what is that?

Lynn Black - Direct Examination by Mr. Bell

1 A It is B227395.

2 Q And upon receiving that BEST Kit, did you examine
3 it to see if there was any evidence of tampering?

4 A Yes, I did.

5 Q Did there appear to be any?

6 A There did not appear to be any.

7 Q Now, once you get it back to your lab, can you talk
8 to us a little bit about how you go about testing
9 substances such as this?

10 A Yes, in general, I will take the evidence, I'll
11 take a batch of evidence, because I just don't do one test
12 at a time. I'll put a whole batch on, but I will open only
13 one piece of evidence at a time. So I will take the
14 evidence, take the bag out of the manila envelope and
15 inspect it to make sure that the seal is intact, that the
16 bag doesn't have any holes in it and I will write on the
17 bag actually that particular thing, I'll say seal intact
18 and I have that on here and the date that I opened the
19 evidence with my initials.

20 I also handwrite the case number, the laboratory
21 case number on the bag and then I will open it. Like as I
22 said, this is the part where the officer sealed it where
23 the green is. I will open it at the other end using
24 scissors and I will take out whatever the substance,
25 packaging, whatever it is and either open it, in this

Lynn Black - Direct Examination by Mr. Bell

1 particular case I believe I had to cut it open; yes, I had
2 to cut it open and get the substance out because when I
3 would weigh it, I'm going to take a net weight; I don't
4 want the packaging on there. I want just the substance and
5 I had to place it -- had to place it in another bag because
6 it would not fit back into the packaging.

7 It was a compressed powder substance. It was kind
8 of hard, but when it came out of the bag, it just kind of
9 fell apart. There's still some chunks in there, but it's
10 mostly powder. But that's what I will -- I will weigh it
11 and then take a small part of it for my analysis.

12 Q Talk a little more about weighing it; how precise
13 are your measurements related to weight?

14 A Well, within any measurement, there's always, you
15 know, some uncertainty, but our policies and procedures
16 are, that are in place, you know, are to assure that the
17 measurement that we take is as accurate as possible. With
18 this particular one, I had to take it to a balance that had
19 a very large weighing pan because it was such a large
20 thing. My normal balance is small because mostly we deal
21 with small amounts of substances, but this one was so
22 large, I had to take it to a bigger balance and like I
23 said, it kind of fell apart when I cut it open.

24 So what I did was, the bag that it's in, which is a
25 ziplock bag, I placed that onto the balance and tear it,

Lynn Black - Direct Examination by Mr. Bell

1 which means I'm zeroing out that weight, whatever the
2 weight is of the bag by itself, I zeroed that out and then
3 I placed the substance in the bag and placed the bag with
4 the substance in it on the balance and then I get a net
5 weight of that substance and that's what I recorded.

6 Our balances are checked once a year by the company
7 that makes them, Mettler-Toledo. We also weekly check the
8 calibration of the balance. We use specific stainless
9 steel weights that are calibrated and have certificates of
10 calibration as well and so I do that before, especially
11 this balance, which is not used that often. It was either
12 done that day or the day before, you know, the balance
13 calibration was checked.

14 Q Once you're done weighing it, what do you do next?

15 A Then I'll take a small piece for my analysis. I
16 had a small piece for my color or chemical test and I took
17 a small part of it for my instrumental test.

18 Q And ultimately did you run the substance contained
19 in that BEST Kit through tests, different tests?

20 A Yes, sir.

21 Q And as part of your practice, do you generate a
22 report that reflects the findings of your tests?

23 A Yes, sir, I do.

24 Q And is that a report that you keep in the ordinary
25 course of your business?

Lynn Black - Direct Examination by Mr. Bell

1 A Yes.

2 Q Is it a report that you would typically rely on for
3 your testimony in Court?

4 A Yes, sir.

5 Q And did you bring a copy of that report with you
6 today?

7 A Yes, I did.

8 MR. BELL: Permission to approach the witness, Your
9 Honor?

10 THE COURT: Yes, sir.

11 BY MR. BELL:

12 Q May I see that report, Ms. Black?

13 (State's Exhibit Number 7 was marked for
14 Identification.)

15 BY MR. BELL:

16 Q Ms. Black, I'm handing you back what is now marked
17 for ID as State's 7; what is that?

18 A It's a copy of my report in this particular case.

19 Q And how do you know that report belongs to this
20 particular case?

21 A I know this because of the SLED Lab Number. It
22 also has the agency case number and also two defendant's
23 names and also I know it's my case because my signature is
24 at the bottom.

25 Q And anywhere on there, does it reflect the control

Lynn Black - Direct Examination by Mr. Bell

1 number belonging to the BEST Kit that you tested?

2 A Yes, it also has that.

3 Q Would you please read that BEST Kit number?

4 A B227395.

5 Q Now, would you start to tell us a little bit about
6 what your testing found?

7 A Would you like me to go into the testing itself
8 or --

9 MR. WILLIAMS: Your Honor, I would object to
10 testimony about what she found until after the item has
11 been placed into evidence and that is -- it would appear to
12 be proper.

13 THE COURT: All right. Solicitor?

14 MR. BELL: Your Honor, at this time, the State
15 would move State's 5 into evidence?

16 MR. WILLIAMS: And, Your Honor, we would object in
17 that the Chain of Custody has not been proven to its
18 fullest extent, Your Honor.

19 THE COURT: All right. I would allow State's 5
20 into evidence. I think there has been, based on State v --
21 not the here Williams, but State v Williams. Thank you.

22 You may proceed, Solicitor.

23 MR. BELL: Thank you, Your Honor.

24 BY MR. BELL:

25 Q Ms. Black, if you would continue telling us about

Lynn Black - Direct Examination by Mr. Bell

1 your findings in the case related to that BEST Kit?

2 A I found that it was positive for cocaine.

3 Q And did you come back with a weight for that
4 cocaine?

5 A Yes, I did.

6 Q And what was the weight?

7 A It was 997 grams.

8 Q And you said a little bit earlier that there is
9 always some uncertainty with weighing an item. Is it
10 possible that there could be 497 grams worth of
11 uncertainty?

12 A I would not think that would be possible, no, sir.

13 Q Would you consider that likely or unlikely?

14 A Unlikely.

15 Q Now, do you ever reflect on your reports what
16 schedule a substance is classified as?

17 A Yes, sir.

18 Q And how do you --

19 A In the normal course of business, we do, yes.

20 Q And how do you denote that?

21 A It's by C -- this one particular is C-II, which
22 means it's a controlled substance in a II.

23 Q And would that match for cocaine?

24 A Yes, sir, it does.

25 Q Now, once you're done weighing and testing the

Lynn Black - Direct Examination by Mr. Bell

1 substance, what do you do with it then?

2 A Then I would package it back up. In this case, I
3 would -- or any case I put the laboratory case number, I
4 write it back on the bag that I put it in. I also put the
5 packaging in a separate bag as well. And it also has the
6 laboratory case number and my initials on it and then I
7 place all of it back into this bag, which originally was
8 just a ziplock bag, but I also heat sealed it up here.

9 We took it and we have smaller bags that we put our
10 evidence in, but this was so large I had to go for a much
11 bigger bag, but I heat seal it, initial it, and date it,
12 and then I also generate the barcode sticker like this and
13 place that on there so it can be scanned back to login.

14 Q And are you aware of whether or not that BEST Kit
15 was ultimately returned to its proper agency?

16 A Yes, according to our Chain of Custody, it was
17 returned to the submitting agency.

18 MR. BELL: Your Honor, at this time, the State
19 would seek to move State's 6 into evidence.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: I assume that that's just the box.

22 MR. BELL: Correct.

23 MR. WILLIAMS: We don't have any objection to that,
24 Your Honor.

25 THE COURT: State's 6 is in evidence without

Lynn Black - Cross-Examination by Mr. Williams

1 objection.

2 (State's Exhibit Number 6 was entered into
3 evidence.)

4 BY MR. BELL:

5 Q Ms. Black, if you would please answer any questions
6 Mr. Williams has for you?

7 A Yes, sir.

8 THE COURT: Thank you, Solicitor.

9 Mr. Williams.

10 MR. WILLIAMS: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. WILLIAMS:

13 Q Agent Black, the -- your involvement with this case
14 as the chemist obviously only began once this item was, you
15 went down to retrieve this item from whoever your
16 technician person was that had received it, right?

17 A That's correct.

18 Q So you have -- you have no obviously, absolutely no
19 contact with this case with regards to where this item was
20 found, who found this item, the condition of this item when
21 it was found, anything like that; is that correct?

22 A That's correct.

23 Q Now, the item --

24 MR. WILLIAMS: If I can approach, Your Honor?

25 ///

Lynn Black - Cross-Examination by Mr. Williams

1 BY MR. WILLIAMS:

2 Q This item right here, there appears to be a bag.

3 Is this -- this bag right here, is this a bag that I'm

4 hold -- that I have my fingers on right here?

5 A Yes, sir, that's the packaging that it came in.

6 Q When you say that's the packaging that it came in,

7 is that a law enforcement type of package that it came in?

8 A No, sir, that was just some cellophane, layers of
9 cellophane. It also had, according to my notes, there was

10 some, some sort of oily substance in between the layers.

11 It was really messy when I cut open into it, but that was

12 the packaging when I cut into it, that's where the cocaine

13 powder was in and then I placed that packaging in a ziplock

14 bag.

15 Q If I asked you to look at Defense Exhibit Number

16 3 -- and I'm sorry, State's Exhibit Number 3, does that

17 appear to be the same packaging that -- what you're

18 referencing right here?

19 A Yes, sir, it appears to be the same.

20 Q And am I to understand that when you received this

21 item, it was in this packaging that I have my hand on right

22 here?

23 A Correct.

24 Q And that package was inside another package?

25 A That package was inside the BEST Kit, the

Lynn Black - Cross-Examination by Mr. Williams

1 tamper-evident BEST Kit bag.

2 Q All right. So this package was inside a law
3 enforcement type of package?

4 A Correct.

5 Q And this package itself is what appears to be the
6 packaging on the photograph that you have there?

7 A That's correct.

8 Q And when you examined -- I assume you took it out
9 of the BEST Kit, took this package out of the BEST Kit?

10 A Yes, sir.

11 Q And did you examine this package before you did
12 anything with it?

13 A I'm sure I looked at it. I didn't, you know, I
14 don't examine it to make sure there's no holes or anything
15 because a lot of times law enforcement will cut into it to
16 do a field test. I don't recall if that was on there. I'd
17 have to -- you'd have to look at the packaging to see.

18 Q So you don't know whether or not it had a hole in
19 it or not?

20 A I do not.

21 Q Did you do some sort of analysis on what the oily,
22 you said that there were several layers; is that correct?

23 A Correct; several layers of cellophane.

24 Q All right. Now, when you use the word cellophane,
25 is that like different from Saran Wrap?

Lynn Black - Cross-Examination by Mr. Williams

1 A I would equate it to Saran Wrap, yes, sir.

2 Q So what we're referring to is that there was a
3 bunch of Saran Wrap wrapped around a bunch of items and had
4 some oily layers between the Saran Wrap?

5 A Yes, sir, I did not count the layers of cellophane
6 or the layers of oil, I just know when I cut into it, it
7 was quite messy and, you know, I just wanted to get the
8 powder of it as soon as I could.

9 Q So the powder was touching the oily layers?

10 A No, sir, the inner layer was just cellophane or
11 Saran Wrap, but --

12 Q Okay.

13 A -- in between, you know, when I cut through it,
14 some of the oily stuff oozed out of the other layers.

15 Q Is there a reason why in State's Exhibit Number 3,
16 the package appears to be dark and clearly this looks like
17 salt or baking soda when you look at it here it looks
18 white?

19 A I'm not sure -- sure I understand you. Can I see
20 the picture and --

21 Q Sure. Sure?

22 A What are you referring to in that package?

23 Q I'm referring to the substance that looks like it's
24 white that looks like salt or looks like baking soda or it
25 could be cocaine. It's -- clearly it's white?

Lynn Black - Cross-Examination by Mr. Williams

1 A Correct. Well, when you wrap something up in a lot
2 of cellophane, it's going to look -- it may not look the
3 same color in all that cellophane and the oil or whatever
4 else was between the layers can cause the color to be
5 distorted, not to mention there's quite a glare in the
6 picture too.

7 Q So is it your testimony that had we had the item
8 which was taken in State's Exhibit No. 3, if we had that
9 item in the same condition that it was in on that
10 particular date and brought that item back here, it would
11 be dark looking, black looking?

12 A It's possible.

13 Q Possible, well, it would have to look the same if
14 it's the same item, right?

15 A I'm not sure I understand your comparison there.

16 Q Well, I'm comparing the two --

17 A Would you rephrase it.

18 Q Okay. I'm comparing the two items that are
19 supposed to be the same.

20 A Correct.

21 Q One's black and one's white?

22 A Correct. I don't -- I don't consider that black,
23 but that that's -- everybody has a different opinion of
24 colors.

25 Q All right. Tell me what color you think that is?

Lynn Black - Cross-Examination by Mr. Williams

1 A It looks silvery and shiny.

2 Q Okay.

3 A I mean the taser looks black, yes, but I mean, if
4 you look at the -- the bag that it came in, in there, I
5 mean it has the powder all over it now, which makes it look
6 a different color as well, today.

7 Q So when you took this item, you first weighed it,
8 right?

9 A Correct.

10 Q What was the weight on it?

11 A 997 grams.

12 Q And how heavy is that in -- in, I know that is a
13 measurement of heavy, but pretend that I'm -- went to
14 Clemson. So tell me how -- so kind of tell me how much
15 that would kind of like weigh in terms of pounds or
16 something like that?

17 A It's a little over 2 pounds.

18 Q Okay. And what was the measurement, if you had to
19 measure the width and the length of the package that you
20 had?

21 A That, I do not know. I did not take measurements
22 of it. You can look at the packaging in there and kind of
23 estimate how big it was.

24 Q So you would say that the item that State's Exhibit
25 Number 5 is an accurate representation of how it appeared

Lynn Black - Cross-Examination by Mr. Williams

1 when you received it on that day in terms of volume and in
2 terms of length and width?

3 A The packaging, yes.

4 Q The packaging --

5 A But the substance has broken apart and is -- is --
6 looks much bigger because it was compressed when it was in
7 the package.

8 Q Uh-huh (affirmative response).

9 A It was compressed, but as soon as I opened it up
10 and had to get it out of that package, it just kind of fell
11 apart and a lot of it's still in chunks, but some of it is
12 in powder, so it looks a lot larger than it was.

13 Q Well, it at least should have been the size of this
14 particular package, which is reflected on State's Exhibit
15 Number 13 -- State's Exhibit Number 3, right?

16 A Yes, sir.

17 Q Now, did you do any -- any type of fingerprint
18 analysis or DNA analysis on any of the items which you
19 received?

20 A No, sir, there was no request for those.

21 Q And did you find a Dillard's shopping bag or a Foot
22 Locker bag in any of the items that you received?

23 A No, sir, those were not submitted to me.

24 Q No receipt from Dillard's or anything like that?

25 A No, sir.

Lynn Black - Cross-Examination by Mr. Williams

1 Q When you do your testing, I think you said you
2 actually tested twice, right?

3 A I do. I did two types of tests.

4 Q And the two types of tests are what?

5 A One of them was a chemical also known as a color
6 test and the other was an instrumental test.

7 Q All right. And you say chemical test, a color
8 test, is it kind of like a Data Master, meaning are you
9 testing and using some sort of light to see where it shows
10 up on the spectrum when you test your -- test your chemical
11 because it's going to look a certain color when you check
12 it out?

13 A No, sir, it's actually taking a small portion of
14 the -- of the substance and exposing it to specific
15 chemicals and I'm looking for a color change and, you know,
16 no instruments. All it is is a plate with wells in it and
17 you place a little small part of the sample in there and
18 then I have specific chemicals that I put on that and I'm
19 looking for specific color changes. It gives an indication
20 of what the substance could be or what class of substance
21 it could be. It does not give me, you know, specific
22 substances that it could be.

23 Q So you're saying when you test it for the color, it
24 doesn't tell you what substance it is?

25 A No, it just gives a class of substances or just an

Lynn Black - Cross-Examination by Mr. Williams

1 indication of what it could be. It just gives me a
2 direction to go, where to go with my next test.

3 Q All right. So how much of this substance that you
4 have here did you use in that test?

5 A A very small amount, probably maybe the size of
6 pencil eraser, probably less than that really.

7 Q Less than a pencil eraser?

8 A Yes, sir.

9 Q And how many times do you -- do you do that
10 particular test?

11 A In this particular case, I only did it, did one
12 test, the color test.

13 Q Okay. So you took an amount a little bit smaller
14 than a pencil eraser out of here?

15 A Correct.

16 Q And you tested it for color?

17 A Yes, sir.

18 Q What color was it?

19 A The particular chemicals that I used, it turned it
20 blue. And then I used a second chemical and then it
21 stayed. And that's an indication of what we call the
22 caines family, like cocaine is part of that, benzocaine,
23 lidocaine, procaine, a lot of those substances will turn
24 the chemicals that I use blue.

25 So that's why it's just an indication what that

Lynn Black - Cross-Examination by Mr. Williams

1 substance could be. That's why we go to the second test,
2 which is an instrumental test, which is the confirmatory
3 test.

4 Q Okay. So that, but that is the amount that you
5 actually tested, a little bit smaller than a pencil eraser?

6 A Correct, it's called a representative sample.

7 Q And where in this large bag did you, did you pull
8 that representative sample from?

9 A Probably since it had fallen apart, probably the
10 middle of it is my general way that I do things.

11 Q Do you remember?

12 A I just know that when I have a large substance like
13 that, I will dig down in the middle of it and take a
14 portion of it. This one just fell apart so that it was,
15 you know, I didn't have to dig; it was already in pieces
16 and powder. So --

17 Q What other substances did you find in your
18 sampling?

19 A Aside from cocaine?

20 Q Yes.

21 A The only thing I can tell you is that my
22 instrumental test showed that there was another cutting
23 agent in it.

24 Q All right. So there's a second test that you run,
25 which is -- how do you do that test?

Lynn Black - Cross-Examination by Mr. Williams

1 A The instrumental test that I used was Gas
2 Chromatography-Mass Spectrometry, which is a mouthful and
3 we call it GCMS for short. It's basically sending the
4 sample through two chemical analyzers and the first
5 chemical analyzer is called the Gas Chromatograph. And in
6 this instrument, the sample is broken down into its
7 components and then each of those components goes directly
8 into the second chemical analyzer, which is called a Mass
9 Spectrometer.

10 And in this instrument, the sample is broken down
11 into the smaller fragments and they're called ions. I also
12 run known drug standards through these two instruments.
13 And what you get at the end kind of looks like a bar graph.
14 And so what I do is compare the bar graph of the unknown
15 sample to those of the known drug standards and based on
16 both tests, the color or chemical test and the GCMS I can
17 make a positive identification of a substance.

18 Q So when you -- did you do that on the same sample
19 that you referenced that had already turned blue or did you
20 take another sample?

21 A It was another sample, yeah. Once you do the color
22 test, you can't use it again.

23 Q You can't use it again?

24 A Correct.

25 Q So the other sample that you used was about the

Lynn Black - Cross-Examination by Mr. Williams

1 same size of a pencil eraser?

2 A Approximately, yes.

3 Q And what was the other substance that you
4 determined was in that sample besides cocaine?

5 A I cannot say for certain because I did not have a
6 standard for this since it is not a controlled substance,
7 but it is possibly a substance called levamisole, which is
8 a common cutting agent used with cocaine or crack. It's --
9 it's a de-worming agent that veterinarians use and -- but
10 it's, like I said, it's commonly used as a cutting agent in
11 cocaine and crack; that's normally where I see it.

12 Q And what amount of the sample did it, was the
13 cutting, that was the cutting agent in your sample?

14 A That I cannot say for certain. Since I did not do
15 a quantitation on the cocaine and I wouldn't do one of the
16 cutting agent either. I cannot tell you how much of that
17 cutting agent was in there, but it's typical for cocaine
18 sellers to do that. They want to cut their cocaine or
19 whatever they're selling with something else to make it go
20 further so they can get more money.

21 Q So it would be impossible -- or at least -- at
22 least -- well it wouldn't be impossible now, but at least
23 you wouldn't know how much of a cutting agent was in here
24 and how much might have been cocaine or not cocaine?

25 A No, sir.

1 MR. WILLIAMS: That's all the questions I have,
2 Your Honor.

3 THE COURT: Redirect, Solicitor?

4 MR. BELL: Your Honor, the State would move for
5 State's 7 to be entered into evidence; that would be the
6 drug report, Your Honor?

7 MR. WILLIAMS: Only subject to my prior objections
8 dealing with the chain, Your Honor.

9 THE COURT: All right. State's 7 is in evidence
10 subject to objection.

11 (State's Exhibit Number 7 was entered into
12 evidence.)

13 THE COURT: Anything further, Solicitor?

14 MR. BELL: No further questions, Your Honor.

15 THE COURT: Thank you. Thank you very much, Agent
16 Black, for being with us. You may step down.

17 Any objections to the witness being excused?

18 MR. BELL: None from the State.

19 MR. WILLIAMS: None from the defendant, Your Honor.

20 THE COURT: Thank you. You may be excused.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: All right. Solicitor, you may call
23 your next witness.

24 MR. BELL: Thank you, Your Honor. At this time the
25 State would call Lieutenant Samuel Gunter to the stand.

Samuel B. Gunter - Direct Examination by Mr. Bell

1 SAMUEL B. GUNTER,

2 having been duly sworn, testified as follows:

3 THE CLERK: Have a seat. Once you're seated, state
4 your full name, spelling your last please, for the record.

5 THE WITNESS: Samuel B. Gunter. G-U-N-T-E-R.

6 DIRECT EXAMINATION

7 BY MR. BELL:

8 Q Lieutenant, who are you employed by?

9 A Lexington County Sheriff's Office.

10 Q And what is your current role with Lexington County
11 Sheriff's Office?

12 A I'm Lieutenant over the Lexington County
13 Multi-Agency Narcotics Enforcement Team.

14 Q And what is that typically called in short?

15 A The MET Team.

16 Q And what is your role specifically with the MET
17 Team?

18 A I supervise the agents.

19 Q And how many agents do you supervise?

20 A Eleven.

21 Q And what are the primary duties of the MET Team?

22 A Narcotics enforcement.

23 Q Can you give us a few examples of what kind of
24 operations you run?

25 A We use informants, we buy drugs, we execute search

Samuel B. Gunter - Direct Examination by Mr. Bell

1 warrants based off of our probable cause buys.

2 Q Now, can we back up and let you tell us a little
3 bit about your education?

4 A I attended Northern Illinois University. I've been
5 with the Sheriff's Office for since 1991 so 24 and a half
6 years. During that time, I obviously, my first position
7 was road deputy. From there I went into narcotics,
8 highway/roadway interdiction. From there I went and did
9 parcel interdiction, then I worked as a regular, normal
10 agent.

11 At that point, after about 10 years, I left
12 narcotics and went major crimes; from there, property
13 crimes where I was an investigator, then a Community
14 Services Sargent and now Lieutenant over narcotics.

15 Q So could you estimate how long you've worked
16 specifically in narcotics?

17 A Approximately 13 years.

18 Q And how many of those 13 years was spent on the
19 field side of working narcotics?

20 A Roughly 10 years.

21 Q And the other 3 years consists of what?

22 A Supervising the narcotics unit.

23 Q Now, in your 10 years of working the field side of
24 things, were you involved in any cocaine related cases?

25 A Yes, sir.

Samuel B. Gunter - Direct Examination by Mr. Bell

1 Q And were you related in what are called controlled
2 buys; were you involved in controlled buy cases?

3 A Yes, sir.

4 Q And could you tell us a little bit about what the
5 purpose of a controlled buy is?

6 A The purpose ultimately to have the suspect
7 distribute a quantity of -- in this case, what we're
8 talking about cocaine -- to you, whether it be directly to
9 an undercover agent or to a confidential informant that's
10 working for law enforcement.

11 Q And through those kind of cases are you authorized
12 to allow a certain amount of currency to be exchanged in
13 order to complete --

14 A Yes, sir.

15 Q -- the cocaine purchase?

16 A Yes, sir. We buy it.

17 Q So are you familiar with what the typical pricing
18 of cocaine is when it's located on the street?

19 A Yes, sir.

20 Q And could you estimate roughly how many controlled
21 buy cases you've worked in your 13 years narcotics career?

22 A That I specifically worked and was in charge of in
23 13 years, it's got to be close to a thousand.

24 Q And in the most recent 3 years of your narcotics
25 experience, have you been able to keep up with what cocaine

Samuel B. Gunter - Direct Examination by Mr. Bell

1 prices are typically on the street?

2 A I do, because one of my duties is that I oversee
3 the funds that we distribute. When an agent comes to me
4 and tells me how -- what he's looking to go buy, I have to
5 know approximately how much money he's going to need to
6 make that buy or we may be getting screwed. We may be
7 getting, kind of getting ripped off and we have to be
8 cognizant of that fact.

9 Q Okay. And aside from the valuation, are you
10 familiar with the typical presentation of cocaine as it is
11 found on the street?

12 A Yes, sir.

13 Q Could you estimate how many just general cocaine
14 cases you've worked?

15 A That -- I've been involved in some shape, form or
16 manner, whether it be an assisting agent or supervising
17 agent, it's going to be into the thousands.

18 Q Lieutenant, have you ever testified in court before
19 relevant to your experience as a narcotics officer?

20 A I have.

21 Q What courts have you testified in?

22 A Magistrate's Court, General Sessions Court in both
23 the State and Federal Court.

24 Q Have you -- excuse me, have you testified more than
25 once?

Samuel B. Gunter - Voir Dire Examination by Mr. Williams

1 A Yes, sir.

2 Q Have you ever not been qualified as an expert?

3 A No, sir.

4 MR. BELL: Your Honor, at this time, the State
5 would seek to qualify Lieutenant Samuel Gunter as an expert
6 in cocaine and its valuation?

7 THE COURT: All right. Mr. Williams?

8 MR. WILLIAMS: May I question the witness, Your
9 Honor?

10 THE COURT: Yes, sir, you may.

11 VOIR DIRE EXAMINATION

12 BY MR. WILLIAMS:

13 Q Detective Gunter, you testified that you worked as
14 a narcotics officer on many occasions and that you have
15 testified in court on many occasions. In those times that
16 you have testified in court, on how many occasions have you
17 testified as an expert dealing with valuation of cocaine?

18 A Cocaine specifically, I don't recall any
19 specifically as to cocaine valuation. I have done -- I've
20 done different drug valuations, but specifically cocaine, I
21 can't recall any.

22 MR. WILLIAMS: Your Honor, that's all the questions
23 I have?

24 THE COURT: All right. Anything further, Mr.
25 Williams?

Samuel B. Gunter - Voir Dire Examination by Mr. Williams

1 MR. WILLIAMS: We would object to his
2 qualifications as being an expert.

3 THE COURT: All right. Thank you. Thank you very
4 much.

5 I think that would go to the weight and not the
6 admissibility of the witness's testimony.

7 Again, ladies and gentlemen, you heard me say this
8 previously, normally a person cannot give opinion
9 testimony. Normally when a person testifies as to what
10 they either saw, heard, or sensed by smell, or something of
11 that nature. However, there is an exception, when someone
12 is qualified because of education, experience, or training
13 in a particular field, profession, or science, they're
14 permitted to give their opinion in certain areas if the
15 Court qualifies them that way.

16 This witness, Lieutenant Gunter, will be qualified
17 to testify in the area of cocaine and cocaine's evaluation
18 to give opinion testimony in that area and the basis of
19 that opinion. It does not mean you must accept the
20 opinion, but it is evidence for you, the jury, to see in
21 any way, to use in any way you see fit. Thank you.

22 Solicitor, you may continue.

23 Thank you, Mr. Williams.

24 MR. BELL: Thank you, Judge. Permission to
25 approach the witness.

Samuel B. Gunter - Direct Examination Continued by Mr. Bell

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. BELL:

4 Q Lieutenant, I'm handing you what is marked and
5 entered as State's 5; would you take a look at the contents
6 of that bag? In your training and experience, what does
7 that substance appear to be to you?

8 A Cocaine.

9 Q You sure about that?

10 A That's what it looks like, yes, sir.

11 Q From what you have in your hand, does it appear to
12 be a little or a lot?

13 A A lot.

14 Q If you were to seize that off of the street during
15 your time as a narcotics officer, what would you charge an
16 individual with?

17 A Trafficking in cocaine.

18 Q Now, are you aware of what a thousand grams is
19 called?

20 A Kilo.

21 Q And what is that short for?

22 A Kilogram.

23 Q Is there an also another term that is used
24 sometimes to refer to that, slang terms?

25 A Most of the time it's referred to as a kilo.

Samuel B. Gunter - Direct Examination Continued by Mr. Bell

1 Q And have you ever dealt with a kilo of cocaine
2 before?

3 A I have.

4 Q And what you have in your hand, is that, what would
5 you estimate that weighs?

6 A A kilo. 2.2 pounds typically is what a kilo is.

7 Q And are you aware of what typical pricing ranges
8 would be as it relates in South Carolina to a kilo of
9 cocaine?

10 A Currently it's between 30 and \$35,000.

11 Q And what kind of, what kind of value is that
12 generally referred to when you buy a kilo all at once?

13 A If you're buying a kilo, you're buying wholesale
14 prices, if that's what --

15 Q And typically if it's broken down and further
16 distributed, does it maintain the same valuation?

17 A No, sir.

18 Q How is the valuation affected?

19 A It increases. In other words, as -- you get a
20 discount for buying in bulk. As you break it down further,
21 the price goes up.

22 MR. BELL: I beg the Court's indulgence?

23 THE COURT: Yes, sir.

24 BY MR. BELL:

25 Q One more quick question, Lieutenant. Are you aware

Samuel B. Gunter - Cross-Examination by Mr. Williams

1 of how much one gram would sell for if broken down?

2 A Right now, typically around a \$100 a gram.

3 Q And how many grams are in a kilo?

4 A 1000.

5 Q Please answer any questions Mr. Williams may have
6 for you.

7 THE COURT: Thank you, Solicitor.

8 Mr. Williams?

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q What was the value in 2013?

12 A Approximately -- of what a gram or a kilo.

13 Q What you're testifying to; either one?

14 A A kilo was about 30 to \$35,000.

15 Q So the market is stagnant; is that correct?

16 A It's all about supply and demand.

17 Q And does it matter if it's good -- if it's good
18 cocaine or bad cocaine?

19 A No, sir.

20 Q It doesn't matter?

21 A Typically not.

22 THE COURT: What is good cocaine? Just explain
23 that question to me; you talking about quality?

24 MR. WILLIAMS: Quality.

25 ///

Samuel B. Gunter - Cross-Examination by Mr. Williams

1 BY MR. WILLIAMS:

2 Q Does it matter if one has more cocaine in the
3 substance that you're selling or less?

4 A Well, obviously it matters to the person that's
5 buying it, but you don't know what you're getting until
6 after you've bought it.

7 Q Would you pay more if it had more cocaine in it?

8 A Typically not, no, sir.

9 Q Well --

10 A Typically what happens is the guy who buys it and
11 it doesn't have much cocaine in it is getting ripped off.

12 Q Okay. Okay. And the purpose of the cutting agent
13 in the cocaine is to what?

14 A Make more money for the guy selling it.

15 Q Okay. So if the guy is buying it, if it had more
16 cocaine in it, you would get a better deal than if it had
17 less cocaine in it; is that correct? Because you could
18 step it down; you could make more --

19 A Yes, ultimately the guy that's buying the cocaine
20 is looking to step on it. Now -- now if he's buying
21 cocaine that's already been stepped on too much, he's not
22 going to be able to do that so his cocaine is not going to
23 be valued on the street as much.

24 Q Do you know what the -- what the quality of the
25 cocaine you're looking at is?

Samuel B. Gunter - Recross-Examination by Mr. Williams

1 A No, sir, I do not.

2 MR. WILLIAMS: I don't have any more questions,
3 Your Honor.

4 THE COURT: Redirect, Solicitor?

5 **REDIRECT EXAMINATION**

6 BY MR. BELL:

7 Q Just for clarification, Lieutenant, not all of us
8 have so much experience in narcotics. What do you mean by
9 stepping on it?

10 A Typically they're going to take that cocaine and
11 they're going to add more cutting agent to it and turn one
12 kilo of cocaine into multiple kilos.

13 Q And do people selling cocaine in bulk advertise the
14 fact that they like to cut the substance to make it appear
15 like more?

16 A Absolutely not. They want the guy buying it to
17 think they're getting pure cocaine.

18 Q No further questions.

19 THE COURT: Mr. Williams?

20 MR. WILLIAMS: Just one question.

21 **RECROSS-EXAMINATION**

22 BY MR. WILLIAMS:

23 Q Were you involved with this particular cocaine in
24 any degree whatsoever?

25 A No, sir.

1 Q That's all the questions I have.

2 THE COURT: Thank you. Thank you very much,
3 Lieutenant. Thank you for being with us.

4 THE WITNESS: Yes, sir.

5 THE COURT: Any objections to Lieutenant Gunter
6 being excused?

7 MR. BELL: No, Your Honor.

8 MR. WILLIAMS: None from the defense, Your Honor.

9 THE COURT: Thank you. You may be excused.

10 THE WITNESS: Thank you, sir.

11 THE COURT: All right. Solicitor, you may call
12 your next witness.

13 MR. BELL: Your Honor, I beg the Court's
14 indulgence?

15 Your Honor, at this time, the State would rest its
16 case.

17 THE COURT: All right. Thank you. Thank you very
18 much, Solicitor.

19 As you've heard, ladies and gentlemen, the State
20 has rested and you have heard all the evidence and all the
21 testimony you're going to hear from the State in its case
22 in chief. I now have a matter of law to take up, so we'll
23 take and perhaps now would be a good time anyway. We'll
24 take us about a 15 minute recess.

25 Let me see where we're at administratively. Please

1 do not discuss the case during this brief recess. Thank
2 you. Thank you very much. You may go into your jury room.

3 (The jury left the courtroom at 10:43 a.m.)

4 THE COURT: All right. Any motions, Mr. Williams?

5 **MID-TRIAL MOTIONS**

6 MR. WILLIAMS: Yes, Your Honor. We'd move for a
7 directed verdict of not guilty on the basis that the
8 evidence in light most favorable to the -- the light --
9 taken in the light most favorable to the State is
10 insufficient as a matter of law for my client to be
11 convicted of trafficking in cocaine.

12 THE COURT: Thank you, Mr. Williams.

13 MR. WILLIAMS: Thank you, Your Honor.

14 THE COURT: Solicitor?

15 MR. BELL: Your Honor, I believe the testimony of
16 Trooper Antley coupled with the dashboard cam corroborating
17 the first half of his testimony, the initial officers
18 corroborated where the foot chase ended up and where they
19 were located at the edge of the woods, as well as the
20 chemist who was able to testify of the substance located
21 was cocaine and a kilo's worth. Based on the testimony and
22 that evidence, we certainly believe in the light most
23 favorable to the State that we should survive directed
24 verdict, Your Honor.

25 THE COURT: Thank you. Thank you, Solicitor.

1 Anything further, Mr. Williams?

2 MR. WILLIAMS: No, Your Honor.

3 THE COURT: All right. In ruling on the directed
4 verdict motion, the Court views the evidence in the light
5 most favorable to the State and the non-moving party and
6 must submit the case to the jury if there is any direct or
7 substantial circumstantial evidence which reasonably tends
8 to prove the guilt of the accused or from which is guilt
9 may be fairly and logically deduced, the Court must concern
10 itself solely with the existence or non-existence of the
11 evidence from which a jury can reasonably infer guilt.

12 In ruling on the motion where the State has also
13 provided not only direct, but circumstantial evidence, the
14 Court must determine whether the evidence presented is
15 sufficient to allow a reasonable jury to find the defendant
16 guilty beyond a reasonable doubt.

17 In the light of the testimony that has been
18 presented by Corporal Antley, Deputy Clayton, Deputy Ellis,
19 both the number of chain witnesses, Agent Black and
20 Lieutenant Gunter, I would respectfully deny the motion for
21 directed verdict. I think there is sufficient direct
22 testimony of Corporal Antley himself and circumstantial
23 evidence for which the case must be submitted to the jury.

24 In viewing the video cam, observing the flight of
25 the defendant, also in viewing that video cam, observing

1 the actions of the co-defendant at that time, Mr.
2 Vanderhall and the observations of the -- the flight and
3 the officer's testimony concerning the observations and the
4 discovery of the drugs. So motion for directed verdict is
5 denied.

6 Mr. Williams, I take it when they come out, I
7 typically tell the jury where we're at administratively,
8 direct my attention to the -- say something about the
9 presumption of innocence. I direct my attention to the
10 defense attorney. I take it that you would then rest
11 formally?

12 MR. WILLIAMS: We would, Your Honor.

13 THE COURT: All right. And then I'll tell the jury
14 what that means and then we'll be ready for closing
15 arguments. Do you want to take a recess and we'll go
16 directly into closing arguments when the jury gets back?

17 MR. WILLIAMS: I would, Your Honor, and I would
18 also ask that -- which is -- in that he will not be
19 testifying, had he testified there would be a change in the
20 standard obviously and that would be based on the totality
21 of the evidence. I'd ask the record to note that we would
22 have made that motion for directed verdict at the close of
23 his case also, Your Honor.

24 THE COURT: And I will note that on the record. If
25 I fail to note it, just please, please remind me.

1 MR. WILLIAMS: All right.

2 THE COURT: All right. So y'all want to take about
3 15 minutes, Solicitor?

4 MR. BELL: Your Honor, if I could put one more
5 thing on the record.

6 THE COURT: Yes, sir.

7 MR. BELL: Given Mr. Williams cross-examination of
8 the chemist and partially of Lieutenant Gunter, we do want
9 to insure that Your Honor's charge relating to trafficking
10 does include the portion of the statute that -- and I am
11 paraphrasing, I apologize, I can quote directly shortly --
12 but paraphrasing, it says that the trafficking statute
13 specifically states the weight of cocaine includes any
14 mixtures containing cocaine.

15 THE COURT: Give me a copy of that.

16 MR. BELL: Yes, Your Honor.

17 THE COURT: Just print it out for me during the --
18 during the break. I've been looking, that's what I've been
19 looking at the entire time. I've been trying to locate
20 that language and my -- I was not successful in locating
21 that, Solicitor, but if you'd print it out for me and make
22 a copy for Mr. Williams.

23 MR. BELL: Yes, Your Honor.

24 THE COURT: Okay. All right. We'll take about a
25 15 minutes recess and we'll be ready to go. Thank you.

1 Thank you very much.

2 (A brief recess was observed.)

3 THE COURT: How long y'all need to argue?

4 MR. BELL: I always underestimate, so let me
5 overestimate it for -- I think 20 minutes, Your Honor.

6 THE COURT: Thank you. Mr. Williams?

7 MR. WILLIAMS: 20 minutes, Your Honor.

8 THE COURT: Thank you.

9 MR. WILLIAMS: Maybe 30 minutes, Your Honor, I've
10 been corrected by the peanut gallery.

11 (The jury entered the courtroom at 11:11 a.m.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen. As you recall, the State has rested. You've
14 heard all the evidence, all the testimony you're going to
15 hear from the State in its case in chief. The defense may
16 now present evidence and testimony if the defense chooses
17 to do so. As I told you at the beginning of the trial, a
18 criminal defendant is always presumed to be innocent
19 regardless of the seriousness of whatever the crime may be.
20 A criminal defendant is always entitled to the presumption
21 of innocence. He doesn't have any burden to prove himself
22 or herself innocent. However, a defendant may present
23 evidence and testimony if the defendant chooses to do so.

24 So we will turn our attention to Mr. Williams and
25 ask Mr. Williams, does the defense intend to present any

1 evidence or testimony?

2 MR. WILLIAMS: No, Your Honor, we're ready to
3 argue.

4 THE COURT: All right. Thank you. Motions are
5 noted for the record, Mr. Williams, and I would reaffirm my
6 previous rulings thereon.

7 You've now heard all the evidence and all the
8 testimony you're going to hear in the trial of this case.

9 We're now at the point in the trial of the closing
10 arguments by the attorneys. Closing arguments are
11 different from opening statements. They are true
12 arguments. The attorneys may comment on the facts, the
13 inferences to be drawn from the facts and how the facts in
14 those inferences apply to the law, the elements of the law
15 as I will instruct you on those elements after the
16 conclusion of the closing arguments.

17 I understand the procedure that we will follow is
18 first the Solicitor will close on behalf of the State,
19 thereafter followed by Mr. Williams, thereafter followed by
20 my instruction. I would ask you as you've done throughout
21 the trial of the case, please give the attorneys your
22 complete and undivided attention.

23 Thank you very much.

24 With that being said, Solicitor, you may address
25 the jury.

CLOSING ARGUMENTS

1
2 MR. BELL: Thank you, Your Honor and Mr. Williams.
3 May it please the Court?

4 THE COURT: Yes, sir.

5 MR. BELL: Actions speak louder than words. That's
6 the principal that we talked about yesterday when I first
7 spoke with you. Actions speak louder than words. I stand
8 by that today. And I don't want you to get me wrong, it's
9 not just Mr. Mims' actions I want you to judge. By all
10 means, I encourage you to judge the actions of this
11 Trooper, Corporal Antley. I am sure he'd be happy for you
12 to judge his actions because he has nothing to hide.

13 Let's talk about Mr. Mims's and Trooper Antley's
14 actions. Mr. Mims's actions are fairly short. He's a
15 passenger in a vehicle, pulled over for going 33 miles an
16 hour over the speed limit. The vehicle pulls over on the
17 blue lights, goes further past the guardrail than it should
18 have; you'll see the video, judge for yourself. You can
19 almost taste the hesitation of that vehicle pulling all the
20 way over to the shoulder.

21 The trooper walks up, examines the area, open
22 container, seatbelts being held as if they're buckled, but
23 they really aren't. Some issues and hesitations about
24 where they're coming from ultimately leads to Mr. Mims
25 lawfully being asked to leave the vehicle so he can be

1 checked for any weapons.

2 The trooper demonstrated to you just as he did to
3 me here in court, that as he was going about the pat-down,
4 he felt something in the groin area of Mr. Mims and that is
5 when Mr. Mims's action spoke so much louder than his words.
6 Because what were his words? Trooper says, Hey, what's
7 that? He says I ain't got nothing on me, sir; and the
8 trooper says, Hey, what is that? As he's indicating to the
9 bulge coming out of his pants.

10 Mr. Mims's response; that ain't nothing, sir, but
11 his actions said it was something. A lot of something,
12 because shortly thereafter, the trooper then asked him to
13 get down on his knees and comply because he won't reveal
14 what he has in the front of his pants. And at that point,
15 you'll see the trooper go and attempt that arm-bar takedown
16 and he barely gets his hands on Mr. Mims when Mr. Mims
17 tears his arm away, bolts off into the woods. Actions
18 speak louder than words.

19 Now even after being tased twice, he continued to
20 run. He's running awfully hard about nothing that's in his
21 pants. Eventually about .3 or so of a mile away, the
22 trooper closes distance and says the only time that he was
23 out of his field of vision was when Mr. Mims rounded a
24 corner and the trooper had to slow down just long enough so
25 that he could secure the corner and go around it without

1 being ambushed.

2 As he comes around the corner, he can see Mr. Mims
3 right away, the same individual matching every single
4 detail, off in the woods. He continues to close that
5 distance and that is when he sees with his very own eyes
6 Mr. Mims with his back to him in the woods, he said about
7 20 or so yards. He says he can't see his hands, but what
8 he can see is his elbows lift up as if he's pulling
9 something out of his pants and then it drops down to the
10 ground between his legs and then he takes those leaves and
11 piles it on top. Actions speak louder than words. Those
12 are Mr. Mims' actions.

13 Now, I am happy to also talk about Corporal
14 Antley's actions. And you'll have the video to see for
15 yourself once again. And, of course, you only get the
16 first half until Mr. Mims runs out of frame, but then you
17 can hear the body mic for a little while until it gets out
18 of reception, but what you're going to see that Trooper
19 Antley is on the side of the road an hour before he gets
20 off shift monitoring for speeding.

21 The truck comes; he clocks it at 93 miles an hour.
22 He initiates a stop like he would on any other vehicle
23 going that fast, pulls onto the side of the vehicle, walks
24 up. He's not showing any aggression whatsoever, very
25 calmly, politely, courteously, speaks to the occupants;

1 asked them for their registration. He's very patient as
2 they take a while; you can hear them fiddling around trying
3 to find things.

4 He then sees them holding the buckle and all that
5 and he asked Mr. Vanderhall, the driver, to get out of the
6 vehicle and he does that field sobriety test on him. Judge
7 his actions because if you watch his actions during that
8 field sobriety test, he is incredibly kind to Mr.
9 Vanderhall. He shows no force. He doesn't hold them there
10 and try to make him stand on one leg for an hour and hop
11 scotch down the road. He does that little eye test and
12 then he was pretty much convinced at that point and he
13 wasn't trying to find a reason to charge him with anything.

14 He then moves on over to the open container that
15 Mr. Mims claims was his to investigate that issue. That is
16 when he asked Mr. Mims ultimately out. Right away he tells
17 him, Hey, man, I'm going to get you out; I just need to pat
18 you down for weapons, okay? He says will you put your
19 hands on the truck; and then Mr. Mims says Do what? And he
20 says just put your hands on the truck. And he never raises
21 his voice at that point and very calm.

22 Ultimately he goes about the pat down as he talked
23 about. Judge for yourself if you think he's being
24 aggressive, shoving his hands in his pockets or jerking him
25 around because I think you'll find that his actions were

1 speaking much louder than words in that he was going about
2 his business as he would with anybody.

3 Ultimately he detects that object in the groin. We
4 all know what happens next; he starts asking for compliance
5 from Mr. Mims and he won't tell him what it is and he won't
6 get on his knees. It is only then after the trooper has
7 located a concealed object that he starts to raise his
8 voice. Shortly thereafter, I think it's two or three times
9 he asked him to get on his knees is when Mr. Mims takes off
10 running.

11 The trooper pursues and he says, Stop, man. Get
12 down. I'm going to tase you. Tells him, warns him; Stop
13 or I'm going to have to tase you. Mr. Mims keeps running
14 and he does get tased. However, he's able to pull those
15 leads out and continue running. He's able to jump that
16 barbed-wire fence. All the while, you're going to hear the
17 trooper saying, Stop, man. Don't make me tase you again.
18 I'm going to tase you again. He goes on. Mr. Williams
19 says he shot Mr. Mims with that taser. However, the barbed
20 wire gets caught upon the wires and he yanks it out. We're
21 back to square one.

22 You're going to hear the trooper curse as he tries
23 to barrel over that barbed-wire fence and he gets cut up on
24 his groin. Ultimately he gets back on his feet and they
25 continue running down that road. You have a map you can

1 look at. And as they're running, you're going to hear the
2 trooper say, Stop, get down. Don't make me shoot you, man.
3 That is the plea of a trooper who was an hour before
4 getting off of his shift, wants nothing less in his life
5 than to have to deploy a pistol and potentially kill a
6 human being.

7 His actions, please, by all means, judge Trooper
8 Antley's actions.

9 Ultimately you won't be able to hear the body mic
10 anymore because it gets out of reception; it gets very
11 spotty. You will hear around 18:12 I believe in that, in
12 that video, you'll hear something along the lines of Hands,
13 Shoot. And what the trooper says is happening at that
14 point is that after Mr. Mims has put the bag down and now
15 Mr. Mims starts walking back towards the trooper. Instead
16 of just getting down, like the trooper was asking, so he
17 says again something along the lines of don't make me shoot
18 you or I'm going to have to shoot you; get down.

19 Trooper Antley gave Mr. Mims every courtesy and
20 every chance to comply so that he wouldn't have to
21 experience pain or potentially be killed. Trooper Antley's
22 actions were kind.

23 Now, there was a line of questioning about how
24 Trooper Antley might have acted, had the occupants of the
25 vehicle been two little old ladies instead of two black

1 men. I think we all know what that line of questioning was
2 designed to get at and I think Trooper Antley was very
3 clear that any occupants, given the situation and the
4 events that occurred up to the point where he approached
5 and even found out that the individuals were African
6 American, he would have treated anybody the same in that
7 scenario. If it was my grandmother and he had to ask her
8 out of the car, I don't think he could have been any nicer.
9 Actions speak louder than words.

10 So let's talk about some of the defense
11 contentions. One is that the trooper never actually saw
12 the bag come directly out of Mr. Mims' pants, that maybe I
13 guess it was already on the ground. Well, you heard our
14 expert get up here and talk about the value and he said
15 between 30 and \$35,000. I don't know exactly where it
16 falls in there; maybe it's a little less; maybe it's a
17 little more. Either way you put it, that's a lot of money.
18 How likely is it that somebody had just left that much
19 cocaine sitting in the middle of the woods where Mr. Mims'
20 just happened to surrender. Very unlikely.

21 Another issue that was brought up by defense was
22 the fact that cutting agents are often used in cocaine to
23 increase the weight and that, I guess, somehow the fact
24 that cutting agents are used means that the actual cocaine
25 weight is less. Well, the Judge is going to talk to you

1 about the law. He's going to charge you on what exactly
2 trafficking means. And our law is very clear on that.
3 It's cocaine or any mixture of cocaine thereof; it's all
4 the exact same thing by law.

5 Now let's go over about what exactly trafficking
6 is. Trafficking is simply the possession of something over
7 400 or more grams. In this case, it has nothing to do with
8 movement. You don't have to prove that he took it from
9 here to there. It's just that he had possession of 400 or
10 more grams. You heard from our chemist, who even told you
11 they had to bring out the special scale because it was so
12 big. They had to have somebody come in and essentially
13 calibrate it that day or the day before because it's so
14 rarely used. And then ultimately, her report reflects the
15 weight is 997 grams; 3 grams shy of a kilogram or a kilo or
16 a Ki, 30 something thousand dollars worth wholesale. And
17 then beyond that when you break it down to a gram, it's
18 about a \$100 a gram is what Lieutenant Gunter told you.
19 I'm no mathematician, but y'all can figure that one out;
20 it's a lot of money.

21 So what does possession mean? Well, we talked
22 about that a little bit during our opening; it's actual or
23 constructive. The actual was me holding a pen; it's in my
24 possession. Constructive possession is me, I don't know,
25 let's say putting that pen down and taking leaves and

1 putting on top of it and then walking away. Constructive
2 possession, it's just the same as actual under the law.

3 And I think Trooper Antley told you about that too
4 that typically when he locates individuals with narcotics
5 on them, they typically don't want to keep it on their
6 body. They try to throw it down because they don't want to
7 be caught and they want to be able to argue that they
8 weren't in possession of it.

9 Now, Mr. Vanderhall has been brought up a few
10 times. He was the driver of the vehicle. His case is
11 still pending at our office. He's charged the exact same
12 way as Mr. Mims. Mr. Mims had committed to trial first.
13 The issue of whether or not the cocaine might have been his
14 and maybe he threw it at Mr. Mims and made Mr. Mims take it
15 and run.

16 Ladies and gentlemen, actions speak louder than
17 words. You judge based on the video of what you think
18 happened, but beyond that, you're going to hear that under
19 the law there is such thing as joint possession; that two
20 or more individuals can both have possession of something
21 at the same time. It doesn't have to just belong to one or
22 the other. If you believe they both knew it there or
23 Vanderhall knew it was there, so long as you still believe
24 Mims knew it was there and they had it on him, he's still
25 guilty, possession.

1 Now, all of this comes down to one concept and it
2 is the concept that makes our justice system better than
3 any other one on this planet. It is the fact that we
4 require individuals be found guilty beyond a reasonable
5 doubt; best in the world. It may not be perfect, but it's
6 the best. As I told you earlier, beyond a reasonable doubt
7 is not an impossible standard. It's a very high one and it
8 is one that we welcome, but it is not an impossible
9 standard because the judge is going to tell you, you don't
10 have to be a hundred percent certain. It's not beyond all
11 doubt, a reasonable doubt.

12 At the end of this trial, all you have to be firmly
13 convinced of the defendant's guilt. Actions, they speak
14 louder than words.

15 Watch the video. Watch it as many times as you
16 need to. Watch how Trooper Antley approached the scene.
17 Listen to how he pursued Mr. Mims. His actions were the
18 absolute pinnacle of restraint. His actions show that he
19 has earned that campaign hat and he deserves that badge.
20 Mr. Mims's actions show that as soon as the officer or the
21 trooper realized he had something concealed, he ran. He
22 said it was nothing and he ran. He didn't run a little
23 ways, he didn't run uncontended; he ran about .3 of a mile
24 through the woods, up a hill, around a building, back into
25 the woods, all while being tased twice and being chased

1 with a gun, ultimately to pull out almost a kilo of cocaine
2 and try to hide it in the woods.

3 Actions speak louder than words, ladies and
4 gentlemen.

5 I ask that you keep that in mind as you deliberate.
6 I ask that you return a verdict that speaks the truth, that
7 Mr. Mims is guilty of trafficking 400 or more grams of
8 cocaine in Lexington County. Thank you.

9 THE COURT: Thank you. Thank you very much,
10 Solicitor.

11 Mr. Williams?

12 MR. WILLIAMS: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. WILLIAMS: Mr. Foreman, ladies and gentlemen of
15 the jury, I want to thank you for attention for the last
16 two days. It's almost over and it gets to be your time
17 where you can actively make decisions. The judge will
18 normally tell you; I think he may have already told you
19 this, that you don't -- you don't start making decisions on
20 guilty or innocence until after all the evidence is in,
21 until after you've heard the arguments of counsel, until
22 after you've heard the judge tell you what the instructions
23 of the law are because he is the judge of the law and you
24 are the judge of facts and that's the way it should be.

25 My client, Kendrick Mims, is getting a trial today

1 on the charge of trafficking in cocaine. He almost didn't
2 get that trial. If he hadn't gotten that trial, we
3 wouldn't have you twelve jurors here today. We wouldn't be
4 asking witnesses questions. All because Kendrick did
5 something stupid and he's my client, I know he is, but he
6 ran and you don't know what goes on. It's kind of like a
7 shadow.

8 If anybody is old enough to remember the shadow;
9 who knows what evil lurks in the minds of man, you know.
10 There are all kind of little sayings that you can say where
11 you try to impart something to someone whether or not it
12 applies or not. So knowing this statement that was made in
13 opening argument and that is that actions speak louder than
14 words.

15 I actually looked it up to see what was the
16 origination of that phrase. It actually comes from a 17th
17 Century Proverb, which references as the solicitor has
18 indicated what his mother used to say. It references that
19 you're supposed to do what you tell someone you're going to
20 do. My mother used to tell me that all the time when I
21 promised I'd, you know, take out the -- take out the trash
22 or that I would -- that I would clean up my room and she
23 would say, Well, Son, actions speak louder than words.

24 So that's actually what that proverb and what that
25 phrase goes to. To a certain extent, it's applicable here

1 and it's yours because when you were sworn as a -- as a
2 juror, you swore that you would truthfully listen to the
3 evidence, make decisions based on the evidence and then
4 based on your unbiased opinions, that y'all would make a
5 decision as to the guilt or innocence of my client. So
6 your actions by doing that, will fulfill the requirement of
7 your words. That's actually where the phrase comes from
8 though. It's kind of interesting to know these kind of
9 things.

10 I take a different light on this. When I look at
11 what set things in motion, it would be a shame today if we
12 had to explain to Mr. Mims's mama that he died over an open
13 container. He had already been tased twice. The gun was
14 out and it's all because he stupidly ran from the police
15 officer. I don't know what he was thinking. I don't think
16 anybody knows. But if you look at how the events unrolled
17 maybe that will help you determine what actually happened.

18 We know that, that Trooper Antley was working
19 radar. He was determining the speed of people going down
20 the interstate. He determined that this truck went by him
21 doing 93 miles an hour in a 60 mile an hour zone and the
22 one thing that he could observe was that it was a green
23 F150 truck, had two occupants in it. I think he said that
24 they were two males, black African American males; one was
25 older than the other one. The driver was about twice the

1 age as the passenger and his words, they started moving in
2 the cab, made me nervous.

3 His words, they moved from the fast lane to the
4 middle lane to the slower lane and they didn't immediately
5 pull over in an area where I thought they should have
6 pulled over, but he pulled over in a different location.
7 These are triggers; no pun intended. These are things
8 which are getting your -- getting your attention. So he,
9 he calls in the license tag and gets out and he walks over
10 to the passenger side and the window was down.

11 He remarked on the window was down a little maybe
12 unusual because it's cold; I don't know. He's talking to
13 them. You hear him talking about the open container.
14 You'll have the video again so you can look at it again. I
15 want you to look at the video again because the one thing I
16 told you in opening argument is that a video is not subject
17 to change. It is what it is, what it is, what it is. The
18 video shows exactly what happened.

19 So the trooper walks up there and he says about
20 this open container and you see him reach in there. If you
21 can tell me how much liquid came out of his reportedly a
22 can and squashed and thrown in the back of the truck then
23 you have better eyesight than I do. But that's -- you see
24 him throw something in the back of the truck and he talks
25 to the defendant and he said I thought it was okay to drink

1 beer through a passenger. He's not driving.

2 Well, obviously, it's against the law. It didn't
3 used to be against the law, but it is now against the law
4 of course, I'm giving my age on that. But it is against
5 the law. So he had the choice, the officer had the choice
6 that he could charge him and could actually take him to
7 jail, I think he said, for an open container or he could
8 have given a warning ticket, a blue ticket, a courtesy
9 summons. You have to make your own mind as to what was
10 going on here.

11 He gets the -- he gets the driver out and the
12 drivers -- he does a field sobriety test on the driver and
13 he said he thought it was unusual he kept talking about
14 this white Honda. Well, if you're really interested in
15 finding out if there was a white Honda that had been
16 driving erratically, I guess what you should have done was
17 checked that tape and gone back and pulled that 30 second,
18 you remember that discussion and I know that was
19 interesting for you because I'm sure we've all been stopped
20 by a police officer. Now, we learn that they actually have
21 cameras now that will automatically pick up the 30 seconds
22 from when you turn the blue light on, but actually it's
23 recording at all times. I know, at all times. If the
24 police officer is around you with a camera, it is recording
25 at all times. But in any event, they didn't check that.

1 So he, he gets the individual out and does the
2 field sobriety test and he's concerned about the guy in the
3 truck; he doesn't appear to be concerned about the guy in
4 the truck because he's sitting there talking to him and I
5 mean, if Kendrick had a gun, he could have had a gun and
6 could have pulled it out and came around done whatever. At
7 what point in time, if you think that there is a gun or if
8 you think there's anything more than an open container and
9 a speeding, do you actually call for backup. That's why
10 you have backup. That's why you call it in. But he didn't
11 do that.

12 He gets Kendrick out and he's talking to him about
13 what is that package there; what is that sorello; what's
14 that blunt box doing there. You know all of this, I
15 haven't seen that. I haven't seen any of that. I haven't
16 seen a blunt box. I haven't seen anything that allegedly
17 was in that truck that was seized.

18 So he gets Kendrick out and he's talking to him and
19 Kendrick, he grabs him, tells him to get out and put his
20 hands up on the car. He's already done it to the driver.
21 How many individuals do you know that have been stopped for
22 a speeding case or for an open container case who have
23 actually been up against the car being searched? Well, he
24 gets him out and he's allegedly grabbing something in his
25 legs, tells him, What you got there? I got nothing; I

1 don't have anything.

2 So he throws him, throws him down; it's a take
3 down, that's what he's trying to do, it's a physical move,
4 it's like playing football, I guess, tells him to get to
5 his knees. I don't know what goes in your mind if someone
6 tells you to get to your knees like that, but he's scared
7 and he runs.

8 Now the solicitor would have you believe that the
9 reason why he's running is because he possessed all of
10 these drugs in his jeans. I don't recommend you trying
11 that, but I would suggest to you that's probably difficult
12 to do. Not only does he have all these drugs in his jeans,
13 he runs from Trooper Antley 200 yards, jumps fences,
14 somehow it doesn't come out. I mean that's what you're
15 asked to believe. So I guess if you believe that, you
16 believe that.

17 Well he says that he tases him twice. He pulls the
18 leads out of his body and after he's used his cartridges
19 up, he pulls out his weapon, which has 11 shots in it. I
20 don't know why you have 11 versus 12, but he has 11 and he
21 comes around the corner because he's afraid and
22 fortunately, my client is so tired that he is walking. It
23 would be bad to be shot for an open container, wouldn't it?

24 But anyway, he says for whatever reason, he's as
25 far as from me as to this wall, 20, 30 feet, my client is

1 walking. He places the bag, he covers it up with leaves;
2 it's incredible. I mean it's incredible. The same guy who
3 ran all this distance is just going to say, okay, I'm going
4 to cover it up; you don't see me. I'm going to cover it up
5 with leaves and then he comes back and then he's arrested.

6 Here is why we have standards and here is why we
7 have a requirement that the State has to prove its case
8 beyond a reasonable doubt. The defendant doesn't have to
9 do anything. He's already told you he's not guilty. He's
10 resting on you to make that determination if they've proven
11 their case beyond a reasonable doubt. Because that is the
12 State's case at that point because then you learn that even
13 though there were at least four or six other officers out
14 there, nobody has a video camera. No one has looked at a
15 video camera. One officer is brought to testify, who was
16 actually on the scene and he is asked did you see the bag
17 that Trooper Antley had; he said I believe so. And do you
18 remember what my cross-examination question was; well do
19 you know? No, if I can't testify a hundred percent then
20 I'm going to say I believe so. That's their proof. Where
21 are all the other four to six officers. Where is the
22 ambulance people who examined him and had to cart him off
23 to the hospital because he had been electrified. Wouldn't
24 they have seen the bag maybe?

25 Speaking of the bag, do you remember how it was

1 allegedly packaged? It was a Dillard's bag, I'm sorry.
2 This package was inside a Foot Locker bag, which was inside
3 a Dillard's bag and all that's in my client's britches.

4 Well what happened to the Dillard's bag and the
5 Foot Locker bag; I threw that away. Why did you throw that
6 away? Why would you throw it away? Why wouldn't you just
7 keep it? Why wouldn't you keep it to show that indeed
8 that's what it was in; why wouldn't you take those items;
9 why wouldn't you fingerprint those items; why wouldn't you
10 do DNA? You've got two defendants that have been charged.
11 Why wouldn't you do that to at least to determine who had
12 actually touched the drugs, if either one of them had?

13 Well you got -- you got the other guy with the
14 truck, you can watch what he's doing. He's throwing stuff
15 in the back of the truck; he's waiting around and he just
16 takes off. Anybody ever check his truck? No. Did he come
17 here and say, Well, yeah, he had drugs, I saw him run; no.

18 So that's the case. That is the case. So the only
19 other witnesses who have testified would be Adam Clayton.
20 You know why they brought him? Just like in all stories,
21 you like to have a human interest story. You know, you
22 like to have a spin to it; you like to put a little sugar
23 on the story. Adam came there and he is the K-9 Officer
24 and he came there and he retrieved Trooper Antley's
25 campaign hat for him. Well that's, that's good. This K-9

1 Officer could have had the dog, could have taken that dog,
2 could have gone to the area where they say that these drugs
3 were allegedly found, could have had proof of that,
4 everybody and their brother probably has a cell phone
5 except you jurors who are in here today, which you
6 shouldn't have. Somebody could have taken a picture of the
7 area, but that wasn't done. So that's what the officer
8 testifies to.

9 Trooper Shelton, I'm sorry, First Sargent Shelton,
10 Chris Shelton, says and we were going through these
11 investigative reports and it says approving officer and he
12 says I haven't read that. I don't know anything about
13 that. Well why, why is your name on here? You know what
14 he said about that; he's the approving officer. His
15 testimony was only as to what they called the Chain of
16 Custody of drugs and there's a reason why you talk about
17 Chain of Custody because when you introduce -- when a
18 chemist does analysis of items, you want to prove that
19 there hasn't been a change, someone hadn't tampered with
20 it -- it's the same drugs that were seized on such and such
21 a date, that's why we've got all these numbers and stuff
22 like that, that's why they keep up with it.

23 What we learned is that if you're with the Highway
24 Patrol, you actually rent a building, it's right over here
25 at Lexington Town Hall; you know where it is; it's right

1 there on Maiden Lane. You go up to the second floor. You
2 can walk up there; you don't have to pass a guard or
3 anything. You can walk up the stairway, you can walk down
4 the hallway and there's a door that says Highway Patrol.
5 They don't have anyone staffing that 24 hours; they don't
6 have anyone staffing that on regular hours, but you've got
7 to have a key to go in the door. You go in the door and
8 there's a locker there that the troopers can put their
9 items in.

10 Well the reason why that's important is that two
11 days later, Chris Shelton, First Sargent Shelton, goes and
12 takes this item, which has been marked by Trooper Antley
13 and he takes this item and he takes it down to Shop Road
14 and turns it over to First Sargent Mendel Rivers, who then
15 turns it over to one of his technicians who then takes it
16 down to SLED.

17 Now, we never heard from that technician. His name
18 is like Fouty, but he didn't testify, but that's kind of
19 the chain as to how it works. Once it's turned over and
20 then it's handed up to another technician and we heard Ms.
21 Crooks. She made a couple mistakes. We all make mistakes.
22 You can't really jump all over a witness because they make
23 mistakes because I make mistakes too. But anyway, she made
24 a couple mistakes when she was talking about numbers, but
25 her real purpose was to say that these items were received

1 by her and that she marked them in and some chemist did the
2 analysis on them.

3 Well I'm going to suggest to you that if anything
4 was wrong with these drugs, it happened before that and I
5 didn't realize it until I started looking at the exhibits.
6 You'll have these; State's Exhibit Number 3 and State's
7 Exhibit Number 5, which is the white substance. I don't
8 know why the color in this picture is so much different
9 than that white substance. I think there was a statement
10 that maybe it was the glossiness of it. You will see that
11 there is some tape on the white bag that supposedly was in
12 around the edges, but that it's clear, I mean it's white
13 and you'll have this; you can look at it.

14 That goes to two, that goes to two items. Whether
15 or not it's the same item, that's something you decide.
16 Whether or not you think that item is so big it wouldn't
17 fit in his jeans; all these items. And part of the reason
18 why I was talking about the Lexington Highway Patrol Office
19 is not that I feel, you know, I have anything to add about
20 the Highway Patrol, but it's just how easy it is to go in
21 there and just walk in and find the locker.

22 I don't know how many items they have in there, and
23 grab one of them and take it down to SLED two days later.
24 Well, that's what Chris Shelton does. He testifies about
25 what Rivers does. You had Ms. Crooks, you had Agent Black,

1 who is the chemist, who testifies that she took an amount
2 about the size of an eraser and tested it, that tested as
3 to cocaine and then we heard Detective Gunter talk about
4 how expensive that was, what the value was; 30 to \$35,000.

5 Well you know, it would have been nice to know that
6 when my client was arrested and finally got out of the
7 hospital and was taken over to the jail when they checked
8 him that he had, I don't know, rolls of cash on him because
9 if you got 30 to \$35,000 worth of drugs, you probably going
10 to have a bunch of money on you. Did you hear anybody say
11 that?

12 And the thing that really sticks, why wouldn't you
13 keep his pants; why wouldn't you keep his pants? You know,
14 this was -- this was -- this was a situation which almost
15 turned, almost turned real bad and I just hope that when
16 you analyze this that you remember what, I hope your
17 actions speak louder than my words.

18 I hope you go by your jurist oath and you make sure
19 that the State has proven to you beyond a reasonable doubt
20 that my client is guilty of this offense and that you have
21 an explanation for all of these things which the State
22 didn't do, all of the witnesses that he didn't bring, all
23 of the holes that they have in their story because if they
24 don't have the answer to those questions, then it's your
25 duty to find him not guilty. Thank you.

1 THE COURT: Thank you. Thank you very much.

2 JURY CHARGE

3 THE COURT: Mr. Foreman, ladies and gentlemen of
4 the jury, if you would please give me your complete and
5 undivided attention. I'm now going to charge and instruct
6 you on the law that you are to apply to the facts of the
7 case as you find the facts to be. The way I instruct a
8 jury in a case such as this is I charge the general
9 criminal law that applies to all cases in South Carolina.

10 When I change from one topic or one subject matter
11 to the next, I will give you the caption of that particular
12 subject matter I'm fixing to cover. After I cover the
13 general law, I will instruct you on the specific charge in
14 the indictment. Thereafter, I will charge you the form of
15 the verdict.

16 Charge, arrest, indictment is not evidence: The
17 indictment charges the defendant with trafficking in
18 cocaine 400 or more grams. I remind you again, that the
19 fact that the defendant was arrested, charged, and indicted
20 in this case is not evidence in this case and cannot be
21 considered by you as evidence of guilt in this case, nor
22 does it create any presumption or inference of guilt.
23 Again, this document, this indictment is simply the formal
24 written instrument, which contains the charge made against
25 the defendant. It is the formal document which brings this

1 THE OFFICERS: We're good.

2 THE COURT: We've got extra sheriffs today. Glad
3 to have you.

4 (The jury entered the courtroom at 1:10 p.m.)

5 **VERDICT**

6 THE COURT: All right. Madam Clerk?

7 THE CLERK: Mr. Foreman, have you reached a
8 verdict?

9 MR. FOREMAN: We have.

10 THE CLERK: Please pass it up by the bailiff.

11 THE COURT: All right. The verdict appears to be
12 in the proper form, signed by presiding juror dated today's
13 date. Madam Clerk, will you publish our verdict please.

14 Mr. Mims, will you please stand.

15 THE CLERK: Indictment 2013-GS-32-01463, the State
16 v. Kendrick L. Mims indicted as to trafficking in cocaine
17 more than 400 grams. We, the jury, unanimously find the
18 defendant guilty and it is so signed by Mr. Lopez, Foreman,
19 2/11/2016.

20 THE COURT: Thank you. Thank you very much.

21 THE CLERK: Ladies and gentlemen, if this is your
22 verdict, please indicate each of you by raising your right
23 hand?

24 All hands are raised, Your Honor.

25 THE COURT: Thank you. Thank you very much..

1 each and every one of you this week. Thank you. Thank you
2 very much.

3 Mr. Foreman, the Clerk will meet you in the hallway
4 to sign the indictment out in the back. Thank you very
5 much. You are excused.

6 (The jury left the courtroom.)

7 THE COURT: All right. Motions, Mr. Williams?

8 MR. WILLIAMS: Yes, Your Honor. I'd ask the Court
9 to note all prior motions and grant defendant a new trial.
10 The evidence taken as a whole was -- should have been
11 insufficient as a matter of law for the jury to have
12 returned a verdict of guilty.

13 THE COURT: Thank you. Thank you very much. I
14 respectfully deny that motion. I think there was clearly
15 sufficient, if not overwhelming evidence of guilt. The
16 jury being the determiner of the facts of the case and
17 credibility of the witnesses, I do not think Mr. Mims is
18 entitled to a new trial and I'm going to deny that motion.

19 Anything further.

20 MR. WILLIAMS: No, Your Honor.

21 THE COURT: Any reason sentence cannot be imposed
22 at this time from the defense?

23 MR. WILLIAMS: No, Your Honor.

24 THE COURT: From the State?

25 MR. BELL: No, Your Honor.

1 THE COURT: If you'd come around please to the
2 podium, Mr. Mims.

3 SENTENCE

4 THE COURT: All right. Anything from the State
5 additional before sentence is imposed?

6 MR. BELL: No, Your Honor. May I approach with the
7 sentence sheet?

8 THE COURT: Yes, sir.

9 MR. BELL: Penalty provisions are also there.

10 THE COURT: Thank you. Thank you very much.

11 Mr. Williams, anything from the defense?

12 MR. WILLIAMS: Your Honor, I've explained to my
13 client what he's facing sentence-wise and obviously that's
14 25 to 30 based on the charge that he has. I'd ask the
15 Court to note whatever consideration you could give him, I
16 would appreciate it based on the fact that he's 34 years of
17 age. He is -- has a fiance. He has five children. He has
18 three children with this young lady who is here. We're --
19 he's regretful, obviously, of the situation, that happened.
20 We would appreciate any consideration the Court may deem
21 that it might be able to give us.

22 THE COURT: All right. Anything you'd like to say,
23 Mr. Mims?

24 MR. MIMS: Yes, sir. That's --

25 THE COURT: Speak up for me please.

1 MR. MIMS: I said that's basically about what he
2 was just saying, sir. I would just ask you if you could to
3 give me a light sentence, man. Anything you can give.

4 THE COURT: All right. Thank you. Thank you very
5 much.

6 As you know, Mr. Williams, and, of course, I'm sure
7 you've explained it to Mr. Mims, there is very little
8 consideration that I give Mr. Mims based on the sentencing
9 statute.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: When it's in excess of 400 grams of
12 cocaine, this being 997 basically a kilo of cocaine,
13 according to the testimony a kilo is 2.2 pounds. I will
14 give him what consideration I can, but it is very limited.

15 2013-GS-32-01463, Kendrick Lamont Mims, the jury
16 having returned a verdict of trafficking in cocaine of 400
17 grams or more, the defendant is committed to the State
18 Department of Corrections for a determinate term of 25
19 years and he shall pay a fine of \$200,000. Good luck to
20 you; good luck to you, Mr. Mims.

21 MR. WILLIAMS: Thank you, Your Honor.

22 THE COURT: Thank you. Thank you, Mr. Mims.

23 MR. MIMS: Could I have a word with my fiance.

24 THE COURT: I do not object if the Sheriff would
25 allow that, I do not object, of course, Mr. Mims. I do

1 allow security -- but Sheriff, if you'll allow that, I have
2 no objection.

3 THE COURT: Thank you. Thank you very much.

4 Thank you, Solicitor.

5 Thank you, Mr. Williams.

6 MR. BELL: Thank you, Your Honor.

7

8 * * * * * END OF TRANSCRIPT * * * * *

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WITNESSES

S.C. Highway Patrol Headquarters

A. L. Antley

Law Enforcement Case #:

GB

ARREST WARRANT NUMBER

2013A3210200308

ACTION OF GRAND JURY

TRUE BILL

Ron Brasington
Foreperson of Grand Jury

Date: 5-6-13

VERDICT

Guilty

Mr. [Signature]
Foreperson of Petit Jury

Date: 2/11/16

DOCKET NO. 2013-GS-32-01463

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

Kendrick Lamont Mims

CDR #: 0281

Indictment for

Trafficking Cocaine, 400 or more grams

§ 44-53-0370(e)(2)(e)

DONALD V. MYERS, SOLICITOR

A TRUE COPY
Lex. Co. C.C.P., G.S. & F.C.

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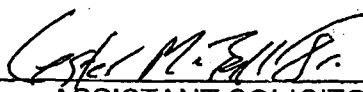
STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Trafficking Cocaine, 400 or more grams
§ 44-53-0370(e)(2)(e)

At a Court of General Sessions, convened on May 2013, the Grand Jurors of Lexington County present upon their oath:

That **Kendrick Lamont Mims** did in Lexington County, South Carolina on or about February 18, 2013, knowingly and intentionally; willfully and unlawfully sell, cultivate, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise, aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of cocaine, a controlled substance under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of nine hundred and ninety seven grams (997g), in violation of § 44-53-370 (e)(2)(e), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

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."

Respectfully Submitted,



Taylor D Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 11th day of January, 2017.

RECEIVED

JAN 11 2017

SC Court of Appeals

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JAN 11 2017

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

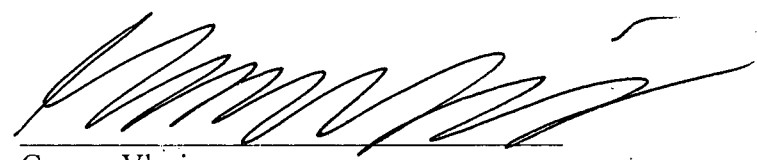
V.

KENDRICK LAMONT MIMS,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 11th day of January, 2017.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 11th day of January, 2017.

Uly (L.S.)
Notary Public for South Carolina

My Commission Expires 5/12/2025.