

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

THE HONORABLE J. DERHAM COLE, Circuit Court Judge

Appellate Case No. 2012-213141

The State, Respondent

v.

Alphonso Chaves Thompson, Appellant

RECORD ON APPEAL

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SC Court of Appeals

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ARREST WARRANT

M-120755

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE

2010050638

against

Alfonso Chaves Thompson

Address: 110 Larchwood Dr

Simpsonville, SC 29681-

Phone: SSN: 249-51-2104

Sex: M Race: B Height: 6 1 Weight: 285

DL State: SC DL #: 007639386

DOB: 8/29/1979 Agency ORI #: SC0420000

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: Chris Raymond - 0099

Offense: Drugs / Trafficking in cocaine, 200 g or more, but less than 400 g

Offense Code: 0288

Code/Ordinance Sec: 44-53-0370(e)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Personally appeared before me the affiant Chris Raymond

being duly sworn deposes and says that defendant Alfonso Chaves Thompson

did within this county and state on or about 05/12/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Spartanburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking in cocaine, 200 g or more, but less than 400 g

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 12, 2010, in the county of Spartanburg, one Alfonso Chaves Thompson did knowingly sell, manufacture, bring into this state and/or possess between 200 and 400 grams of cocaine, a Schedule II controlled substance, without authority to do so, KPD.

Affiant's belief is based upon police investigation.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address 8045 Howard Street

Spartanburg, SC 29303-

Affiant's Telephone

MAY 14 2010

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/12/2010 defendant Alfonso Chaves Thompson

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 200 g or more, but less than 400 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 05/13/2010

(L.S.)

Signature of Issuing Judge

Charles William Jones

Judge Code: 7084

Judge's Address Spartanburg County Magistrate

Spartanburg, SC 29306-

Judge's Telephone (864)596-2564

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Printed Approval By
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 MAY 14 AM 11:17

M. HOPE BLACKBERRY

A CERTIFIED COPY

CLERK OF COURT

SPARTANBURG COUNTY

BY R. B. BOWEN, D.C.

-100-

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

5-13-10

Date _____

Officer _____ C.D. Raymond _____

-002-

COPY

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

From Spartanburg travel East Main St. to Drayton Avenue turn left onto Drayton Ave. Travel Drayton Ave. to River St. Turn Right onto River St. Residence to be searched is 120 River St. The premises to be searched is a two story residence with beige vinyl siding, white trim and burgundy shutters. The residence has a red wooden privacy fence around it as well as a detached two car garage with a single garage door. Search to include all cartilage area and outbuildings and any vehicles on the property.

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine A schedule II controlled substance; Cocaine Base A schedule II controlled substance. Records, diaries, scales, baggies, anything related to the sale and/or storage of illegal drugs; U.S. currency.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

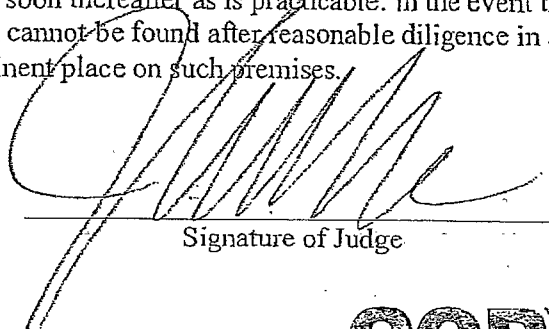
A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
May 13, 20 10



Signature of Judge (L.S.)

COPY

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

Personally appeared before me

Chris Raymond

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine A schedule II controlled substance; Cocaine Base A schedule II controlled substance. Records, diaries, scales, baggies, anything related to the sale and/or storage of illegal drugs; U.S. currency.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

From Spartanburg travel East Main St. to Drayton Avenue turn left onto Drayton Ave. Travel Drayton Ave. to River St. Turn Right onto River St. Residence to be searched is 120 River St. The premises to be searched is a two story residence with beige vinyl siding, white trim and burgundy shutters. The residence has a red wooden privacy fence around it as well as a detached two car garage with a single garage door. Search to include all cartilage area and outbuildings and any vehicles on the property.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

In June of 2007 Investigators from the Spartanburg County Sheriff's Office Narcotics Division had two different Confidential Reliable Informants (CRI) give information that they had been buying large amounts of cocaine from a black male that they only knew as "POO BEAR". These two CRI's stated that several large cocaine transactions took place over the course of several months. These CRI's furnished information that was able to be corroborated such as vehicle descriptions and photo identifications. Both CRI's stated that they knew POO BEAR to drive a gray in color Honda Accord Station wagon when he would conduct these drug deals. It was learned through this investigation that "POO BEAR" was positively identified as Alfonso Thompson and he also had an F350 Ford Dually blue and Gold in color. In August of 2007 the SCSO Narcotics Division arrested Keith Jeter who stated that he was being supplied 4 1/2-9 oz of cocaine at a time from Alfonso Thompson aka "POO BEAR". Jeter further stated that "POO BEAR" would bring the cocaine to his residence on Huxley St. in Spartanburg City. In September of 2008 the SCSO Narcotics Division interviewed a individual named Fred Meadows who stated that he was being supplied cocaine from "POO BEAR" and that "POO BEAR" drove a blue and gold Ford F-350 Dually. Meadows further stated that he grew up with "POO BEAR" in the city and has known him for a long time. Meadows stated that "POO BEAR" would deliver the cocaine to his house on Virginia St. in the city of Spartanburg. Also in late 2008 Spartanburg City Police Narcotics had an informant who came forward and stated the "POO BEAR" had a residence at the end of River St. on the left hand side and that "POO BEAR" was a large scale cocaine Trafficker. In January of 2009 the Spartanburg County Narcotics Division had two more different CRI's that came forward and stated that they had purchased 18 ounces of cocaine from "POO BEAR". They identified Alfonso Thompson in a photo lineup as being the "POO BEAR" that they had dealt with. These two CRI's also confirmed that "POO BEAR" had an F-350 Ford Dually and it was Blue and Gold in color. On February 11, 2009 The Spartanburg County Narcotics Division arrested Jose Luis Diaz-Arroyo with a kilo of cocaine. During the interview with Arroyo he stated that his brother in law Alejandro Sosa Galvan was supplying a black male named "POO BEAR". Arroyo further stated that Sosa Galvan had multiple Kilos of cocaine delivered to "POO BEAR" at this River St. address on several different occasions. On July 30, 2009 a fifth CRI stated he was being supplied by a Deangelo Young aka "LITTLE MAN" and that Young was getting his cocaine from his cousin "POO BEAR". This CRI made a controlled buy from "LITTLE MAN" by taking him \$4000 in Spartanburg County Sheriff's Office recorded funds. "LITTLE MAN" left the buy location and was followed to 1868 Tamara Way where he met "POO BEAR" (THOMPSON). Thompson was driving a white in color Honda Civic Sc tag number 1968. This Civic is registered to a Pamela D. Jones of 1868 Tamara Way. Pamela Jones is a known girlfriend of "POO BEAR". "LITTLE MAN" left "POO BEAR" and met with the CRI at the buy location where he turned over 4 ounces of Cocaine to him.

(Pamela D. Jones)

Over the past 6 months the Spartanburg County Sheriff's Office Narcotics Division has conducted surveillance on 120 River St. and on several occasions has seen Thompson driving different vehicles to include the Ford F-350 Dually blue and gold in color and the white in color Honda Civic to and from this location. Investigators have also seen the gray in color Honda Accord station wagon come and go from this residence.

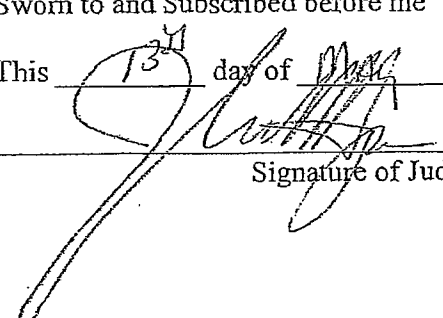
Over the past 6 months Investigators have witnessed Thompson visit this 120 River St. address just before making cocaine deliveries throughout Spartanburg City.

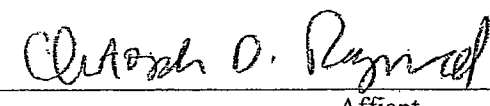
On May 11, 2010 Investigators bought ½ ounce of cocaine base from Authur Jones. When Jones was approached he started cooperating with the SCSO Narcotics Division. Jones stated that he was buying his cocaine from Alfonzo Thompson aka "POO BEAR". Jones stated that "POO BEAR" was fronting him about 9 ounces of Powder Cocaine a month. Jones stated that he would take the powder and then turn it into cocaine base and then sell it. When it was all gone he would call "POO BEAR" and tell him that he was ready for him. Jones stated that he was paying \$1000 an ounce for the cocaine. On 05-11-2010 Jones placed a recorded telephone call to Thompson stating that he was ready to re-up. Thompson agreed to come by. Jones stated that Thompson's M.O. was to come by in the next couple of days. On 05-12-2010 Jones called "POO BEAR" again with no response. At approximately 6:30 PM Jones received a telephone call from "POO BEAR" (541-5066) asking Jones if he was going to be home. Jones stated yes and hung up. Jones knew this to mean that "POO BEAR" was coming shortly. At Approximately 7:19 PM Thompson pulled into Jones driveway driving the white Honda Civic. Thompson exited the vehicle and came inside. Once inside Jones handed Thompson \$9000.00 in recorded funds. Thompson stated that he would bring the package in the morning. Jones knew this to mean that Thompson would bring the cocaine to him the next day. Investigators were inside the residence watching the transaction take place as well as the transaction being Video and Audio recorded. There was also outside surveillance units near the scene. Thompson was loosely followed in the Honda Civic after the transaction.

This investigator feels that Thompson has demonstrated a pattern over the course of the last 2 years of large scale cocaine trafficking. It is believed that Items related to the Drug Trafficking Trade will be located inside this residence as well as Cocaine and or Cocaine Base. It is also known by Investigators that Drug Traffickers hide their drugs and proceeds from drugs sales in various places about the residence and cartilage areas. Due to the violent Nature of Drug Trafficking Organizations a "NO KNOCK WARRANT IS REQUESTED"

Sworn to and Subscribed before me

This 13th day of May; 20 10


Signature of Judge


Affiant

Address 8045 HOWARD ST

SPARTANBURG, SC

Phone 29301

COPY

Motions

1 (Proceedings January 23, 2012)

2 THE COURT: All right. This is State vs. Alfonso
3 Chaves Thompson.

4 Mr. Baity, you represent Mr. Thompson.

5 MR. BAITY: I do, Your Honor.

6 THE COURT: And this matter is scheduled for trial.

7 Mr. Baity, you've got a motion prior to jury
8 selection?

9 MR. BAITY: Yes, Your Honor. I have several.

10 THE COURT: Okay.

11 MR. BAITY: If it please the Court, Your Honor.

12 I would like to take up first my motion to suppress
13 that has been filed and served on the solicitor ten days
14 ago.

15 Your Honor, I believe I've handed up a memorandum to
16 the court in support of that motion, and I've also provided
17 Mr. Bulsa with a copy of that as well.

18 Just by way of introduction, Your Honor, this is a
19 drug case. The defendant is charged with possession with
20 intent to distribute marijuana, trafficking in cocaine in
21 excess of 400 grams and possession of a firearm during the
22 commission of a violent crime.

23 My client makes this motion, Your Honor, to quash the
24 search warrant and suppress the evidence obtained in the
25 search warrant which was issued in this action,

Motions

1 particularly as it relates to 121 River Street in
2 Spartanburg.

3 We base this motion, Your Honor, on Article I, Section
4 10, of the South Carolina State Constitution; of course on
5 the Fourth Amendment of the United States Constitution; on
6 statute 17-13-140 of the South Carolina Code; and on the
7 federal and state case law interpreting those -- those
8 laws.

9 Your Honor, my client was arrested on May 13th of
10 2010. We believe it was without a warrant. No warrant was
11 served on him.

12 He was at his place of employment at a garage in
13 Spartanburg County. Just after he was arrested at 5:30 the
14 search warrant was executed at three locations -- at 121
15 River Street in Spartanburg, Your Honor, in the Drayton
16 community, which is the residence of the defendant's
17 parents Edward -- excuse me -- Charles and Loretta
18 Thompson.

19 The defendant's address at 110 Larchwood was also
20 searched and the defendant's girlfriend's house at 1848
21 Tamara Way was also searched. I believe they were all more
22 or less simultaneous searches.

23 Your Honor, the search of the defendant's parents'
24 home revealed and produced several bags of green plant
25 material, three bags of white powder and several handguns

Motions

1 and rifles, shotguns. The field test indicated that the
2 green plant material was marijuana. The white powder was
3 cocaine. That was what was found at the parents' house.

4 The search of the defendant's home on Larchwood
5 produced \$8,940 in United States currency and a handgun.
6 No drugs were found at his residence. And the search of
7 the girlfriend's house on Tamara Way produced a handgun
8 that was stuck under a pillow and nothing else of
9 consequence, Your Honor.

10 He, my client, was thereafter charged with five
11 warrants -- trafficking in cocaine for 200 grams or less,
12 manufacturing, possession of marijuana with intent to
13 distribute it, trafficking in cocaine more, greater than,
14 400 grams, possession of a weapon during the commission of
15 a violent crime and possession of a stolen weapon.

16 We asked for and received a preliminary hearing in
17 this matter, Your Honor, and the 200-gram cocaine charge
18 was dismissed by the magistrate for want of probable cause.
19 And I believe the stolen-weapon warrant was never offered.
20 I believe it was withdrawn at that time as I was told they
21 discovered that it was not stolen also.

22 What was left was the trafficking in cocaine
23 400 grams, possession of weapon in a violent crime and
24 P.W.I.D. marijuana.

25 On October 12th of the same year, 2010, a superceding

Motions

1 federal indictment was returned, and my client was charged
2 with others with conspiracy. And it was based on the same
3 averments and facts that were extant in the state warrants.

4 Those warrants were subsequently withdrawn, Your
5 Honor, and the case was taken up by the federal district
6 court.

7 Also, a civil forfeiture action was commenced in
8 Greenville County to seize the United States currency found
9 at the defendant's residence.

10 On January the 12th of 2011, Your Honor, after -- and
11 voluminous discovery was made in this case, several motions
12 and so forth -- the United States government decided to
13 dismiss their case or end their case against my client.

14 They filed a motion to dismiss the indictment, and in
15 a hearing before the Honorable G. Ross Anderson, Your
16 Honor, the assistant U.S. Attorney Andrew Mormon explained
17 that he had had misgivings about the probable cause in this
18 case from the beginning and that nothing that he had
19 learned since then had caused him to change his mind and
20 that he did not want to go forward with the case.

21 Your Honor, I do have a transcript of that hearing
22 before Judge Anderson. I would offer it to the Court for
23 the Court's edification. It has some procedure. It has a
24 history of the case. It might help the Court to understand
25 the history of the federal case that superseded the initial

Motions

1 state case in this -- in this matter.

2 I understand that Mr. Bulsa said he was going to
3 object, so.

4 MR. BULSA: Yes, sir. We object, Your Honor.

5 That's hearsay. We don't feel that's admissible in
6 this court. Whatever the federal court did should have no
7 bearing on Your Honor's decision. This is a separate
8 jurisdiction and separate hearing requiring a separate
9 finding.

10 THE COURT: Mr. Baity, how will that -- anything
11 contained in that transcript, how will that assist me in
12 determining what I have to determine today?

13 MR. BAITY: It talks about many of the same facts and
14 circumstances, Your Honor, and it talks -- it states that
15 what had happened in that case is two federal magistrates
16 had rejected their attempt to obtain a search warrant and
17 that the U.S. attorney himself did not believe that there
18 was probable cause.

19 THE COURT: Well, it's not any sort of estoppel, is
20 it?

21 MR. BAITY: Not saying that, Your Honor.

22 THE COURT: Well, it's not of any benefit, so.

23 MR. BAITY: All right. Thank you very much, Your
24 Honor.

25 Subsequent to the dismissal of the federal case, Your

Motions

1 Honor, four additional warrants, four new warrants, were
2 issued -- trafficking in cocaine 400 grams, trafficking in
3 cocaine 200 grams, possession of a weapon in the commission
4 of a violent crime and possession of a stolen weapon.

5 For some reason there was no warrant issued with
6 respect to the marijuana, however, direct indictments were
7 obtained against my client on one count of P.W.I.D.
8 marijuana, one count of trafficking cocaine of 400 grams
9 and one count of possession of a weapon during the
10 commission of a violent crime, and that's before you today,
11 Your Honor.

12 The civil action, Your Honor, on the -- about three
13 days before trial this -- the County of Greenville took a
14 voluntary nonsuit withdrawing their case indicating that
15 they did not believe they could carry the burden of proof
16 in that case.

17 The funds that were seized at my client's house, the
18 \$8,940, were returned to my client, along with a handgun
19 that was taken and all of the items that were taken from
20 his residence, which is in Simpsonville in Greenville
21 County.

22 Your Honor, I don't know if Your Honor has a copy of
23 the search warrant and the affidavit.

24 THE COURT: I do not.

25 MR. BAITY: May I approach and provide the Court with

Motions

1 a copy of that?

2 THE COURT: Sure.

3 MR. BAITY: If I may approach, Your Honor.

4 Your Honor, it is our position that the search warrant
5 that you have before you today which we just handed up
6 should be quashed and the fruits of that search should be
7 suppressed in this action on the grounds that I've already
8 stated, that they are in violation of both the state and
9 federal constitutions and the statute that governs search
10 warrants in this case and the federal and state case law
11 that has commented on that law.

12 Your Honor, I have set out the basic tenets of the
13 search-warrant law. I'm certain that it's very familiar
14 with Your Honor.

15 It's set forth in my memorandum, and I would ask the
16 Court to take a look at that starting on page four, but
17 essentially obviously a search warrant in this state must
18 be presented to a judge with an accompanying affidavit.

19 The judge can only take into account the matters that
20 are provided to him in the affidavit and perhaps other
21 sworn testimony. But as I advised the Court in chambers,
22 that Judge Hayes who issued the search warrant indicated
23 that there is no file on the search warrant, which is
24 unusual. He says it's missing -- and that he had no
25 independent recollection of any -- any sworn testimony

Motions

1 supplementing the affidavit. So I believe the affidavit
2 itself is what we have to justify the search warrant.

3 Obviously, probable cause has to be set forth in the
4 affidavit in order for the search warrant to be
5 appropriate.

6 The magistrate or the judge in this case is to take
7 the totality-of-the-circumstances approach using common
8 sense given all the circumstances set forth including the
9 veracity and basis of the knowledge of persons supplying
10 hearsay information and must conclude after all of that
11 that there's a fair probability that the contraband or
12 evidence will be found in a particular place.

13 And of course that's law straight from the famous
14 Illinois vs. Gates case, and it is, Your Honor -- it has
15 been adopted by our Supreme Court in the Weston case which
16 I will hand up a little later.

17 Your Honor, our attack on this affidavit is as
18 follows: First of all, we believe that the affidavit gives
19 the judge very stale information on which to proceed.

20 It mentions several unidentified confidential
21 informants who stated that in June of '07, August of '07,
22 September of '08, January and February of '09 that they had
23 seen drugs in the possession of my client.

24 The closest in time that any of those confidential
25 informants could recall such an accusation against my

Motions

1 client was one and a half years approximately prior to the
2 issuance of the search warrant.

3 Your Honor, I would hand up some case law on that and
4 provide counsel a copy. If you will bear with me I have
5 three cases I want to hand up.

6 May I approach, Your Honor?

7 THE COURT: You may.

8 MR. BAITY: Thank you, Your Honor.

9 These cases, Your Honor, the Baker case, State vs.
10 Baker, State vs. Winborn and State -- or that is United
11 States vs. McCall -- in the Baker case essentially the
12 Court ruled that 42 days from the time the affidavit was
13 obtained and served was too long and it rendered any
14 evidence seized as stale. And I believe in that case that
15 was unlicensed whiskey.

16 In the Winborn case it clearly says that in order for
17 an affidavit in support of a search warrant to show
18 probable cause it must state facts so closely related in
19 time of the issuance of the warrant as to justify a finding
20 of probable cause and the time should be sufficiently short
21 to justify the conclusion that the evidence is likely still
22 in the place where it was seen.

23 Now, and of course in the -- in the McCall case, on
24 page eight of that opinion, the Fourth Circuit said, "We
25 cannot approve generally a search that's conducted pursuant

Motions

1 to a warrant issued many months after evidence is observed
2 in a criminal suspect's dwelling place."

3 In the first place, 121 River Street is not his
4 dwelling place. It's where his parents live.

5 But, more importantly, the confidential informant's
6 mention in the affidavit with some exceptions -- but most
7 of them talk about evidence or talk about seeing cocaine in
8 my client's possession more than a year and a half prior to
9 the application for the search warrant.

10 Now, there is a statement in the affidavit, Your
11 Honor, at the top of the second page of the affidavit in
12 which Mr. Raymond, the affiant, says that, "Over the past
13 six months the Spartanburg County Sheriff's Office
14 Narcotics Division has conducted surveillance on 120 River
15 Street and on several occasions has seen Thompson driving
16 different vehicles to include a Ford dually and a white
17 Honda to and from this location.

18 "Investigators have also seen a gray Honda come and go
19 from this residence, and that over the past six months
20 investigators have witnessed Thompson visit this 120 River
21 Street address just before making cocaine deliveries
22 throughout Spartanburg County."

23 Your Honor, we believe that is totally a conclusory
24 statement. It does not give any details as to exactly when
25 it occurred. It just says during the past six months.

Motions

1 There's no specifics as to -- other than just cocaine
2 deliveries -- not who, what, when, where.

3 There's no corroboration whatsoever. Did not say that
4 it resulted in arrest or seizure of drugs.

5 There's no witnesses, no identification, absolutely
6 nothing other than just a statement that we've seen him
7 visit his mom and dad's house and also make deliveries of
8 cocaine, but with no information whatsoever.

9 We believe that that is just a conclusory statement
10 which is -- which is forbidden, Your Honor, by the Weston
11 case. I've already mentioned the Weston case earlier. I
12 will hand that up for Your Honor's consideration.

13 May I approach, Your Honor?

14 So we have the stale informant information and we have
15 a conclusory statement in the affidavit.

16 Very important, Your Honor, is our second -- is our
17 second attack on the affidavit in that in my view of the
18 affidavit there doesn't appear to be any declaration given
19 to the judge as to the reliability of the informants or as
20 to the basis of their knowledge. They simply call them
21 C.R.I.'s, confidential reliable informants.

22 Generally, it is essential that an affidavit contain
23 some indicia of the reliability of the informants and their
24 source of knowledge.

25 The famous Illinois vs. Gates case which was adopted

Motions

1 by our Weston case which I just handed up, Your Honor, they
2 say that it's essential that the veracity and knowledge of
3 persons supplying information.-- the veracity and basis of
4 knowledge be provided in the affidavit. Your Honor, I have
5 quoted a passage from that. I won't read it, but it is on
6 page five of my memorandum.

7 This is particularly important, Your Honor, with
8 respect to hearsay information that may be contained in the
9 search warrant.

10 Now, it is -- it is permissible to provide hearsay
11 information. And I can't speak for him, but I think
12 just -- you can tell by reading the affidavit that the
13 affiant did not witness all of these things or talk to all
14 of these people or witness all of the events that he
15 discusses. And so I think hearsay is definitely being used
16 in this affidavit.

17 Well, there is a case. And I am sorry I don't have
18 the case law. I apologize. I had it and I lost it
19 somehow. But the Sachs case, S-A-C-H-S case, 264, South
20 Carolina, 541, 216, Southeastern 2d., 501, is a very
21 important case.

22 It says, "Hearsay is admissible as long as the
23 magistrate is afforded a basis for determining the
24 credibility of informants."

25 And the sachs case was also cited in the more recent

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1 Martin case, State vs. Martin -- and again I'm sorry I
2 don't have that to hand up -- 347, South Carolina, 522, and
3 556, S.E. 2d., 706, 2001 case.

4 Our third attack on the affidavit, Your Honor, is that
5 there is a lack of specific facts giving the magistrate the
6 basis to believe that the evidence will be found in the
7 location to be searched.

8 In the United States vs. Lalor which is cited in my
9 memorandum, and also the United States vs. Doyle, Your
10 Honor, the -- the Court says that, "In determining whether
11 a search warrant is supported by probable cause the crucial
12 element is not whether the target of the search" -- that
13 would be my client -- "is suspected of a crime but whether
14 it is reasonable to believe that the items to be seized
15 will be found in the place to be searched."

16 And I believe that the affidavit is devoid of any
17 credible information from which a magistrate or judge could
18 make that determination.

19 In the Thompson case, Your Honor, which I have a copy
20 of -- in the Thompson case Mr. Thompson's conviction was
21 reversed when the informant saw drugs on the suspect within
22 72 hours but not in the location that was searched that
23 found drugs, if I may approach with that case.

24 In our case, Your Honor, no one saw any drugs on my
25 client, any drugs whatsoever on my client, at any time

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1 within a year and a half -- not 72 hours but a year and a
2 half. And no one -- no witness, no informant, absolutely
3 no one, no police officer -- ever saw or visited the place
4 that was searched, which is 121 River Street.

5 So I believe the Thompson case is right on -- right
6 on -- on all fours there, Your Honor.

7 In the United States vs. Doyle case -- may I approach?
8 Thank you.

9 On page four of that opinion it says, "The critical
10 element in a reasonable search is not that the owner of the
11 property is suspected of a crime" -- which is clearly the
12 case here -- "but that there is reasonable cause to believe
13 that the specific things to be searched for and seized are
14 located on the property to which entry is sought."

15 Again, I think that is right precisely on point with
16 our case here, Your Honor, and that's the United States
17 Fourth Circuit opinion.

18 A more recent opinion, Your Honor, the Gentile case
19 argued by my former partner, Joe Savitz, now retired.

20 If I may approach. Thank you, sir.

21 Mr. Savitz -- or excuse me -- Mr. Gentile in the State
22 vs. Gentile case -- a man was arrested outside the actual
23 residence of the defendant -- not his parents house but
24 outside the residence of the defendant -- and he was
25 arrested, I believe, in the driveway or in the street in

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1 front. And they found marijuana on this man. And on the
2 basis of that they went to a magistrate and got a search
3 warrant.

4 Our Court of Appeals reversed that and said the
5 evidence should have been suppressed even though there had
6 been community complaints and even though there was
7 evidence found near the residence because there was no
8 evidence in the affidavit to substantiate that the drugs
9 seized had been procured or obtained inside the residence
10 that was to be searched.

11 Again, the key is what evidence is given in the
12 affidavit that states that there's reason to believe that
13 there are drugs in the place to be searched.

14 In this affidavit, Your Honor, the place to be
15 searched, 121 River Drive, is mentioned three times in this
16 affidavit.

17 The first time it's mentioned it says in, quote, "Late
18 2008 an unnamed affidavit stated that my client had a
19 residence there."

20 Turns out that's not correct, but perhaps he did say
21 that. But that was way back in 2008.

22 There is nothing in the affidavit, again, that
23 provides any basis for the judge to -- to judge the
24 credibility of that witness. I mean, it's stale to start
25 with, but no evidence that that information, that that

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1 informant had given any information to the Court that had
2 resulted in any arrests or he'd made any controlled buys or
3 that he had provided reliable information in the past. So
4 nothing there. Just says, you know, back in 2008 he said
5 Mr. Thompson lived there.

6 Second time it's mentioned it says February of '09,
7 almost two years before this case -- no. I'm sorry. A
8 year and a half -- Jose Luis Diaz was arrested and he was
9 interviewed by the officials that arrested him.

10 Now, the affidavit states that Jose Luis Diaz said to
11 the police that his brother-in-law, a man named
12 Sosa-Galvan -- Alejandro Sosa-Galvan delivered drugs to the
13 defendant at River Street.

14 Again, absolutely no indication of the reliability of
15 this witness, no indication as to the source of his
16 knowledge, no independent corroboration that any of those
17 deliveries that he talked about took place.

18 And also, Your Honor, it's very important to note that
19 in the discovery that has been provided me in this case,
20 part of the discovery are the debriefings that were
21 basically the summaries of the interview of the -- of the
22 witness.

23 If you'll bear with me one moment and let me get the
24 correct one -- yeah. And I'm going to refer to the
25 discovery number that you were kind enough to provide.

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1 On page 1157, 1158 and 1159 is the report of the
2 investigation of Jose Luis Arroyo on March of 2009,
3 approximately a month after he was arrested.

4 And, Your Honor, I can hand this up, and I can tell
5 you that he does mention my client, but he does not mention
6 River Street whatsoever.

7 MR. BULSA: I'm going to object to that.

8 MR. BAITY: Also, on -- he was investigated again or
9 he was interviewed again -- and, again, this is on pages
10 1161, 1162 and 1163 -- again a report of investigation. My
11 client is mentioned, but there is no mention of an address.

12 In the affidavit it says that they had some kind of
13 contact with my client. They sold him drugs, and it was
14 delivered to him at 161 -- I mean, excuse me -- 121 River
15 Drive.

16 But this investigative report which was part of the
17 discovery in this case does not mention that in the two
18 interviews that we were provided. I would hand this up to
19 the Court but I understand there's an objection.

20 MR. BULSA: Your Honor, he's going outside of the
21 scope of the search warrant.

22 If he wants testimony from an officer about that to
23 challenge the information in the search warrant perhaps
24 that would be more appropriate, but I cannot agree to three
25 pages out of over 2000-page discovery.

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1 MR. BAITY: Well, the affidavit says that when this
2 gentleman was arrested he said that cocaine deliveries were
3 made at 121 River Street. That's what it says in the
4 affidavit.

5 In the investigatory summaries where many addresses
6 and many names and many dates and so forth are mentioned --
7 and my client is one of the people mentioned -- he does
8 mention my client. But it does not mention the place to be
9 searched, and that is 121 River Street, which is not even
10 my client's residence.

11 THE COURT: These are reports that were provided by
12 the state to the defense?

13 MR. BULSA: Yes, sir.

14 THE COURT: By you or someone else?

15 MR. BULSA: It came through the D.E.A., but we did
16 provide -- he probably got it twice. He got it once from
17 the federal --

18 MR. BAITY: I got it once from the feds and got it
19 once from --

20 THE COURT: Well, there's no question these are
21 reports prepared by the Spartanburg County Sheriff's
22 Department?

23 MR. BULSA: No, sir. They were prepared by the D.E.A.

24 MR. BAITY: This was a task-force case, Your Honor,
25 which involved agents from both agencies. And part of the

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1 discovery in the state case was the entire federal file.

2 THE COURT: Well, is the person who made that report
3 available?

4 MR. BULSA: Who made that report?

5 MR. BAITY: Russell Davis.

6 MR. BULSA: Yes, sir, he is.

7 THE COURT: Okay. I'll accept it.

8 MR. BAITY: Thank you.

9 MR. BULSA: May I have a copy of it?

10 MR. BAITY: Of course.

11 THE COURT: I'm going to have the March 25th of
12 2009 -- well, let's do it this way.

13 Pages 1157, 1158 and 1159 that have been handed up
14 will be marked as Defendant's Exhibit No. 1. Pages 1161,
15 1162 and 1163 will be marked as Defense Exhibit No. 2 for
16 purposes of the motion.

17 (Pages 1157, 1158 and 1159 marked Defendant's
18 Suppression Exhibit No. 1; pages 1161, 1162 and 1163 marked
19 Defendant's Suppression Exhibit No. 2.)

20 MR. BAITY: Thank you, Your Honor.

21 So, again, the place to be searched is not described
22 in that investigative report, although it is stated that
23 those interviews produced this -- this address. But that's
24 not mentioned anywhere in those investigative summaries and
25 reports.

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1 And then the other -- the last time that 121 River
2 Street is mentioned in the affidavit, Your Honor, is the
3 part which I believe I've already gone into where the
4 affiant states that in the last six months we've seen
5 Mr. Thompson visit 121 -- 120 River Drive or River Street.
6 He's seen him visit this location, and that he believes
7 that after he -- some of the times that he visits this
8 location he goes and makes cocaine deliveries in
9 Spartanburg County.

10 Absolutely nothing specific as to what he's talking
11 about. No basis for the source of this knowledge is
12 provided in the affidavit.

13 I think that in the last six months is stale. There's
14 no corroboration; there's no source of information
15 identified; and it is simply a -- simply a conclusion --
16 conclusory statement, Your Honor, by the investigator.

17 And conclusory statements are -- cannot be the basis
18 of probable cause according to the recent Bakis case of
19 2006 if I may approach, Your Honor -- 2006 opinion where it
20 says that specifics have to be mentioned, credibility has
21 to be provided and you can't just simply say that I believe
22 the defendant is guilty of this and that. You have to give
23 some basis for the judge to believe that that conclusory
24 statement is true.

25 Mere conclusory statements which give the magistrate

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1 no basis to make a judgment regarding probable cause are
2 insufficient according to Bakis.

3 Finally, Your Honor, the affidavit mentions an attempt
4 at a controlled buy, one of the last things that is stated
5 in the affidavit.

6 It says that a controlled buy was attempted from the
7 defendant where the confidential informant or corroborating
8 witness, Arthur Jones who had been arrested the day before,
9 was wired and videoed at his house -- his house -- not
10 Mr. Thompson's house, not his residence, not 120 River
11 Drive, none of the places searched in this case, but at
12 the -- at Mr. Jones' house.

13 They set up video and audio, and they had a -- it
14 mentions a recording where he invited my client to come
15 over to his house. My client did show up.

16 There is a video. I don't think it was shown to the
17 judge. It doesn't indicate that he was. But essentially
18 my client came and left. He was handed a black package, a
19 sock, and that was it.

20 According to the affidavit, this was supposed to be a
21 cocaine buy from my client, but my client did not -- there
22 were no drugs recovered in this.

23 My client did not -- there were no drugs in that
24 transaction whatsoever, and that transaction took place at
25 the informant's house and not anywhere else.

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1 And, again, it's, you know, it's not at 121 River
2 Drive, and there is -- there is nothing in the affidavit
3 indicating that River Drive or River Street had anything to
4 do with this particular transaction which -- in which no
5 drugs were recovered.

6 Just some miscellaneous items, Your Honor. The
7 affidavit states that in July of '09 that a controlled buy
8 was -- was made by someone, my client's cousin, Deangelo
9 Young. And it says in the affidavit that the -- that
10 Mr. Deangelo Young was followed to my client's girlfriend's
11 house where he met with the defendant.

12 That's what it says. It says, says, "Little Man" --
13 that's Deangelo -- "left Pubar [sic] and met with the
14 C.R.I. at the buy occasion."

15 Well, again, Your Honor, if you go to the investi --
16 the report of investigation on page 107 through 109 of
17 the -- of the discovery that's been provided us in this
18 case it clearly states that they were following this
19 Mr. Deangelo Young. "But based upon low traffic and the
20 close-knit community in the area, surveillance units did
21 not follow Young in the C.S.'s vehicle downtown or away,"
22 and goes on to say that they saw him turn off of Tamara Way
23 and go to a carwash where they met someone else, not the
24 defendant.

25 So I think he got that story completely wrong. It's

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1 misstated in the affidavit, or at least it does not match
2 the report of investigation. And, again, this is stale
3 information. This is from 2009 if I may approach. Did I
4 give you a copy?

5 MR. BULSA: You did.

6 MR. BAITY: May I approach, Your Honor?

7 THE COURT: Pages 107 and 108 and 109 are marked as
8 Defendant's Exhibit 3 for the purpose of your motion.

9 (Pages marked Defendant's Suppression Exhibit No. 3.)

10 THE COURT: Okay.

11 MR. BAITY: Thank you, Your Honor.

12 Basically speaking, Your Honor, there's nothing in
13 this affidavit that indicates that a confidential informant
14 witness, police officer or anyone else with information
15 that is contained in this affidavit ever went to 120 River
16 Drive, the place to be searched.

17 Surveillance was made on it, but there's no -- there's
18 nothing reported there other than my client coming and
19 going and visiting his parents. There was no controlled
20 buy in the premises and no one ever said they saw any drugs
21 in that area.

22 The public records and the surveillance inform the
23 Court -- inform the police that River Drive was not the
24 defendant's residence but that of his parents. And it's a
25 place that he of course visited because they were his

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1 parents.

2 And the police also established through public records
3 that the defendant's residence was 110 Larchwood which was
4 searched, and nothing of consequence was found other than
5 some U.S. currency that was not the marked funds that were
6 supposedly given to him by Arthur Jones and a weapon, all
7 of which has been returned to my client pursuant to the
8 civil action.

9 In summary, Your Honor, the -- the courts have said
10 that South Carolina has even a higher standard for search
11 warrants than the United States Constitution requires, and
12 that is because our constitution in Article I, Section 10,
13 specifically mentions a right to privacy.

14 we also have a statute that require -- that have
15 strict requirements about affidavits and how it has to be
16 done within ten days. It imposes a timetable.

17 Just to finish it off, Your Honor, I'm going to hand
18 up the State vs. Weaver case which if I may approach --
19 it's a 2007 case where our court recognizes that our
20 standards for search warrants are higher in this state than
21 even required by the United States Constitution in the
22 Fourth Amendment.

23 We would maintain that although there may have been
24 suspicion, stale suspension, of my client's involvement in
25 drugs and that that might have justified a search of his

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1 residence, there is absolutely nothing that's credible,
2 reliable, corroborated in this affidavit to give the judge
3 a basis to believe that there were any -- that there was
4 any contraband at their residence, at his parents'
5 residence, at 120 River Street. And that is where all of
6 the drugs that is the basis of this prosecution were found.

7 Your Honor, again, I would ask you to find that there
8 was no probable cause supporting the issuance of this
9 search warrant and would ask that you quash the search
10 warrant and suppress the fruits of the poisonous tree that
11 resulted from this improper search.

12 I would believe that that would not only include
13 the -- the marijuana and the cocaine found at the
14 defendant's parents' house but also the weapons and for
15 that matter -- we can get into this further later -- his
16 statement which was merely his acknowledgment of the drugs
17 that I am seeking to be suppressed. Thank you, Your Honor.

18 THE COURT: Mr. Bulsa.

19 MR. BULSA: Your Honor, I'll first begin my response
20 by, apparently by, stating that apparently the defendant
21 may not even have standing to challenge this search
22 warrant.

23 The defense attorney time and time again commented
24 that this was his parents' home. If this is indeed his
25 parents' home, I don't know how the defendant himself has

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1 any standing to challenge any illegal search of that home.

2 The parents were not charged in this case.

3 Could I have a ruling on that? Do we even need to
4 continue with this hearing?

5 THE COURT: Well, Mr. Baity, what's your position by
6 the state' --

7 MR. BAITY: Your Honor, in the case of State vs.
8 Missouri the issue of standing was addressed, if I may
9 approach on that.

10 Essentially, Your Honor, in that case the Court --
11 which is a 2004 case -- stated that a person had standing
12 if the location to be searched is a place where he can
13 expect to find comfort.

14 There is a formula on the first page that provided
15 standing for a party to challenge the search of a residence
16 that was not his own, and the grounds for that were that
17 the defendant and the owner were friends -- in this case
18 parents and child.

19 The owner had given the defendant a key. My client
20 had a key. The defendant had a suit and shirt in the
21 apartment. And part of the state's case is that there was
22 property belonging to the defendant at the parents' house.
23 That the defendant had slept in this place once before, at
24 least once before. And that was clearly the case here.
25 And that basically that's the so-called overnight guest

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1 exception to the standing that he did expect to find
2 comfort there. He was a frequent visitor there. He had a
3 key. And he had an expectation of privacy in that area.
4 So I believe he did have standing.

5 THE COURT: So your position is he had a reasonable
6 and legitimate expectation of privacy in his parents'
7 residence?

8 MR. BAITY: Yes, sir, Your Honor.

9 THE COURT: Based upon the facts that are stipulated
10 to, or are they in the record somewhere, or is that
11 something that has to be established by testimony or other
12 evidence?

13 MR. BAITY: I could certainly put my client up to
14 establish those things. I don't know if he would dispute
15 any of the things that I said.

16 MR. BULSA: Your Honor, we agree property of his was
17 found, mainly a pistol, TEC-9, was found in one of the
18 bedrooms.

19 There was a piece of mail that had the defendant's
20 name on it, however, it had a different address.

21 Those were essentially the only two items that were
22 directly linked to the defendant in the search of this
23 residence.

24 MR. BAITY: Their affidavit also states that he was a
25 frequent visitor there.

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1 THE COURT: Which affidavit?

2 MR. BAITY: The affidavit for the search warrant, Your
3 Honor.

4 THE COURT: Search-warrant affidavit?

5 MR. BAITY: Yes, sir.

6 MR. BULSA: He was clearly a visitor. That's his
7 parents' home. We believe he was using it as a stash house
8 for his cocaine.

9 THE COURT: Well, if you're under that belief, then
10 would he not have a reasonable and legitimate expectation
11 of privacy?

12 MR. BULSA: I was just merely raising the argument
13 because it didn't come across that way with the defense
14 attorney. He kept referring to it as his parents' home,
15 and I don't know how he's going to argue it in front of the
16 jury.

17 THE COURT: Well, is that a disputed fact, that it was
18 his parents' residence?

19 MR. BULSA: I'm not sure whose residence it was, Your
20 Honor, actually.

21 MR. BAITY: Your Honor, I have as -- I don't mean to
22 interrupt -- but I have as part of the discovery which was
23 sent to me not long ago by Mr. Bulsa in which an indenture
24 contract between my client's mother and the actual owner of
25 that house in which more or less they are buying the house

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1 on contract, and that was in the state's possession.

2 MR. BULSA: I recovered that.

3 I'm sorry, Mr. Baity, but I don't quite believe that
4 that document -- but I'll move on with the argument, Your
5 Honor. I'm not going to accept that he had a legitimate
6 expectation of privacy, but I will argue as if he did.

7 THE COURT: Well, the question is are you contesting
8 that he has standing.

9 MR. BULSA: I think there's a legitimate argument that
10 he does not have standing.

11 THE COURT: Because he does not have a reasonable
12 and/or legitimate expectation of privacy in the residence
13 on River Drive?

14 MR. BULSA: That, and based on the argument that it is
15 his parents' house. I don't have a reasonable expectation
16 of privacy in my father's house. I don't know that just
17 because you --

18 THE COURT: Well, you may not, but that doesn't mean
19 people do not. That does not mean that children do not
20 have a reasonable expectation of privacy. It obviously has
21 to be shown to have standing.

22 So do you want to contest the issue of a reasonable
23 expectation of privacy?

24 MR. BULSA: Yes, sir.

25 THE COURT: Okay. All right. Mr. Baity.

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 MR. BAITY: Your Honor, we can do it now or do it
2 later, put my client up to testify on that point.

3 THE COURT: Okay. Well, how many witnesses are we
4 going to have on that issue?

5 MR. BAITY: Just my client, Your Honor.

6 THE COURT: Is the state going to have any?

7 MR. BULSA: No, sir.

8 THE COURT: No. Okay. call him.

9 MR. BAITY: We would call Alfonso Thompson to the
10 stand, Your Honor.

11 ALFONSO CHAVES THOMPSON,
12 having been first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BAITY

14 Q Please give us your full name and address if it please
15 the Court.

16 A Alfonso Chaves Thompson, 39 Bridgebain Drive, Fountain
17 Inn, South Carolina 29644.

18 Q All right. And, Mr. Thompson, are you familiar with
19 120 River Street in the Drayton community of Spartanburg
20 County?

21 A Yes.

22 Q And whose home is that?

23 A My mama and my daddy.

24 Q All right. Now, is your father alive today?

25 A No. He died.

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

- 1 Q How long ago did he pass away?
- 2 A A little bit over a year.
- 3 Q Was it after this arrest?
- 4 A Yeah, six months after.
- 5 Q But your mother is still -- is still alive?
- 6 A Yeah. She still stays there.
- 7 Q And she still lives there.
- 8 A Yeah.
- 9 Q Do you visit that home on a regular basis?
- 10 A Yes.
- 11 Q Are you provided a key to that address?
- 12 A Yes.
- 13 Q Do you stay there from time to time overnight?
- 14 A Yes.
- 15 Q And have you been a frequent visitor to that place?
- 16 A Yes.
- 17 Q Do you have personal property stored at the house
- 18 there?
- 19 A Yes.
- 20 Q And do you have free access to it without restriction
- 21 whatsoever?
- 22 A Yes.
- 23 Q Do you go there to feed the dogs or/and take care of
- 24 the animals there?
- 25 A Yes.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

1 Q And do you have your mother's permission to come and
2 go as you like without notice or warning whatsoever?

3 A Yes, yeah.

4 Q Have you eaten there on a regular basis?

5 A Yes.

6 MR. BAITY: I have no further questions, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BULSA

9 Q Who is buying the home, sir?

10 A My mother.

11 Q Your mother?

12 A Yeah.

13 Q When did she purchase it?

14 A I don't know. I think '02, '03, something like that.

15 Q And how is she paying for it?

16 A You would have to ask her that.

17 Q Are you helping her pay for it?

18 A No.

19 Q Was your father?

20 A I guess. You would have to ask her that.

21 Q It's your mother. You don't know?

22 A I'm saying I don't be into their business like that.

23 Q So you don't be into their business.

24 A Uh-uh.

25 Q Okay. Did you have a room at that house?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 A I used to.
- 2 Q What do you mean, you used to?
- 3 A I moved out.
- 4 Q When?
- 5 A It's been a couple of years back.
- 6 Q When did you live there, sir?
- 7 A I think around about '04.
- 8 Q For how long did you live there?
- 9 A Maybe a couple of months.
- 10 Q A couple of months?
- 11 A Yeah.
- 12 Q Which room was yours?
- 13 A The one towards the back.
- 14 Q All right. Describe how the house is laid out.
- 15 A Come in the front door, that's the living room.
- 16 There's the kitchen. That's the bathroom in the back.
- 17 Then you go up the steps, and this is my mama's room to the
- 18 left, and there's another room, and there's the back room.
- 19 Q So does your mother stay in the master bedroom?
- 20 A Yeah. My mama and my daddy did.
- 21 Q And that was the first room on the left?
- 22 A Yeah.
- 23 Q First bedroom on the left.
- 24 A Uh-huh.
- 25 Q And there was another bedroom to the right of that?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Balsa

- 1 A Yeah.
- 2 Q Whose bedroom was that?
- 3 A It's an empty bedroom basically.
- 4 Q And then there was a third bedroom?
- 5 A In the back toward the back by the bathroom.
- 6 Q So it's a 3-bedroom house?
- 7 A Uh-huh.
- 8 Q How many bathrooms upstairs?
- 9 A One.
- 10 Q Is it off the master bedroom or off the hall?
- 11 A It's off the hallway.
- 12 Q Who else lived with your parents?
- 13 A Nobody. Just them two.
- 14 Q Just them two.
- 15 A Yeah.
- 16 Q Do you have any brothers or sisters?
- 17 A I have one brother.
- 18 Q What's his name?
- 19 A Tyrone Young.
- 20 Q Tyrone Young?
- 21 A Yeah.
- 22 Q He's a Young and you're a Thompson?
- 23 A Yeah.
- 24 Q What your mother's name?
- 25 A Her maiden name is Young.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 Q What's her name?
- 2 A Loretta Thompson.
- 3 Q So you and Mr. Tyrone Young are half brother and
- 4 sister?
- 5 A Yeah.
- 6 Q Excuse me. Half brothers.
- 7 A Full brothers.
- 8 Q Is your daddy his daddy?
- 9 A Yeah.
- 10 Q He's got your mother's maiden name?
- 11 A Yeah.
- 12 Q You've got your daddy's name?
- 13 A Yeah.
- 14 Q Is he also known as Shandra Young?
- 15 A That's his middle name.
- 16 Q That's his middle name?
- 17 A Yeah.
- 18 Q He stayed at that house?
- 19 A Sometime.
- 20 Q Did you own a pistol that was found at the house?
- 21 A One of them.
- 22 Q okay. what kind of property do you have, did you
- 23 have, at that house?
- 24 A I have some shoes and maybe some jackets, a couple of
- 25 shirts.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Balsa

- 1 Q And where were they located?
- 2 A In the closet.
- 3 Q Of which room?
- 4 A In the back room.
- 5 Q Did your brother have a room in the house?
- 6 A Not that I know of, no.
- 7 Q Did you have a key to the front gate?
- 8 A Yeah.
- 9 Q Was that fence built? Was it already there when you
- 10 bought the house?
- 11 A When my parents bought the house?
- 12 Q Yes, sir.
- 13 A No. My daddy had it put up.
- 14 Q Your daddy had it put up?
- 15 A Yeah.
- 16 Q So you had a key to the fence as well as to the front
- 17 door?
- 18 A Uh-huh.
- 19 Q What about a garage?
- 20 A I didn't have a key to the garage.
- 21 Q You didn't have a key to the garage?
- 22 A Uh-uh.
- 23 Q How did you get in?
- 24 A The door has to open.
- 25 Q You have a garage door opener?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 A It's in the house.
- 2 Q Did you have one in your car --
- 3 A Uh-uh.
- 4 Q -- or in your possession?
- 5 A No.
- 6 Q So the only way you could get in the garage door is
- 7 through the door opener in the house.
- 8 A Yeah.
- 9 Q The key --
- 10 A Not to the house, just --
- 11 Q -- to the house didn't fit the key to the garage?
- 12 A No. I never had a key to the garage, which I always
- 13 used the garage door opener.
- 14 Q How often would you visit your parents?
- 15 A I would just check on my daddy maybe every day just
- 16 about.
- 17 Q When was the last time you spent the night there?
- 18 A Maybe about a month or so.
- 19 Q Before now?
- 20 A Yeah, before now.
- 21 Q How about before your arrest?
- 22 A Probably a couple of months before that too.
- 23 Q So how often would you spend the night there?
- 24 A What do you mean, how often?
- 25 Q How often -- once a month, once a week, once a year?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

1 A I couldn't tell you. I couldn't tell you that. I
2 don't really -- I don't really know how to tell you that.
3 I can't say once a month. I can't say once a year. It's
4 just like whenever I feel like going down there, I go spend
5 the night.

6 Q How far is River Street from where you actually lived
7 on a daily basis?

8 A About 40 minutes.

9 Q How?

10 A About 40 minutes.

11 Q Forty minutes. So some nights you'd visit and you
12 wouldn't want to drive 40 minutes, so you'd stay at your
13 parents?

14 A Yeah. Like I might go drinking or something and I
15 don't want to drive home, you know, can't get on the road
16 drunk.

17 Q Okay. Thank you.

18 MR. BAITY: Nothing further, Your Honor.

19 THE COURT: Step down.

20 Anything further?

21 MR. BAITY: From me, Your Honor?

22 THE COURT: Yes.

23 MR. BAITY: No, sir. That's our witness.

24 THE COURT: All right. Mr. Bulsa.

25 MR. BULSA: We have no witnesses.

1 THE COURT: All right. I find that the standard has
2 been established.

3 MR. BULSA: Yes, sir, Your Honor.

4 If Your Honor has the search warrant, affidavit, Your
5 Honor has read it I'm sure. If Your Honor sees it, it sets
6 out an extensive investigation that dates back to 2007.
7 Defense attorney claims it's stale.

8 Plus, Your Honor, it contains information just as
9 recent as a couple of days before the actual execution of
10 the search warrant on May the 11th transaction involving
11 Art Jones.

12 Your Honor, the information builds upon itself. It's
13 not conclusory in that the conclusions reached are
14 basically conclusions based upon the investigation set out
15 by the officers.

16 In the past six months before this affidavit was
17 obtained and prepared and brought to Judge Hayes the
18 officers had witnessed him visiting that address before
19 making cocaine deliveries. That information is very
20 consistent with the Art Jones information on May 11th.

21 It's very clear to show that the officers have
22 probable cause to believe that the cocaine that was meant
23 for Art Jones would be located at the River Street address,
24 because that's consistent with what their investigation had
25 previously shown.

1 Art Jones was an individual who decided to cooperate
2 and assist the police in the transaction, and money was
3 actually recorded -- monies that were seized from Art Jones
4 when his home was hit with a search warrant after
5 controlled buys at his residence.

6 Your Honor, he claimed the money was money for drugs
7 owed to Mr. Thompson. The transaction was -- excuse me --
8 the transfer of the money was set up, and the police were
9 basically hoping to see the transaction when the \$90,000
10 passed hands. They were expecting cocaine. However that
11 did not happen that way. Mr. Jones decided he no longer
12 wished to cooperate.

13 The police decided to take the information they had
14 that they'd built upon all the other information, put it in
15 this affidavit and took it to Judge Hayes, Circuit Court
16 Judge who, Your Honor, we would argue had ample opportunity
17 to meet with the officer, read the affidavit and decide if
18 he felt probable cause did exist. And, in fact, he felt it
19 did because he signed the search warrant allowing the
20 search into 120 River Street.

21 Your Honor, that alone should carry great weight with
22 this Court. Another circuit court judge passed a ruling on
23 probable cause at the time of this offering of this search
24 warrant.

25 Your Honor, the defense attorney has handed up several

1 cases. I'm going to reference some of them. The McCall
2 case he handed up concerning staleness is actually
3 referenced in a Fourth Circuit case, United States Court of
4 Appeals for the Fourth Circuit, United States vs. Eric
5 Brown, where the various courts have found that information
6 that was five months old or even seven months old was not
7 so stale as to support a finding of probable cause.

8 We have information in our affidavit that sets out
9 this investigation during the past six months prior to the
10 May 13th affidavit. That's an ongoing investigation.

11 Then we have the information on the May 11th arrest of
12 Art Jones, plus the -- I believe it was on May the
13 12th when the transfer of the monies -- so it's clearly not
14 stale, Your Honor. The money -- the information was built
15 upon itself through 2007, 2008, 2009, 2010.

16 This is an inclusive search warrant containing
17 numerous, different individuals which provided substantial
18 information linking the defendant to River Street, whether
19 it was his residence or not. Different informants and
20 suspects put the defendant at River Street where cocaine
21 was also observed and actually delivered to that location.

22 Your Honor, also in the Brown case -- I'm going to
23 reference it, because it goes to another point the defense
24 attorney makes regarding conclusory statements.

25 "The magistrates in making probable-cause

1 determinations may rely upon an experienced police
2 officer's conclusion as to the likelihood the evidence
3 exists where it's located -- and where it is located."

4 Your Honor, we clearly have that in this case. The
5 officers provided an extensive description of the
6 investigations that -- the cite for the Brown case, Your
7 Honor, is -- well, that's the Lexis cite. 958, Defense
8 2d., 396.

9 I've got one extra copy, Mr. Baity. I have an extra
10 copy for the Court. I can get that to you, Your Honor.

11 Mr. Baity referenced the totality-of-the-circumstances
12 test, Your Honor. We would argue that that's the proper
13 test for the Court to apply to this search warrant.

14 Just because different people -- the different
15 people's names are mentioned in the report doesn't mean
16 that each one has to be corroborated -- excuse me -- has to
17 be identified as reliable.

18 The accumulation of the information corroborates
19 itself and establishes the reliability of the information
20 therein.

21 Mr. Baity has provided the court with some portions of
22 discovery from the report of investigation. We don't
23 believe that has been complete.

24 We will attempt at lunchtime to find the information
25 within that discovery that we believe supports the

1 investigation notes referenced in the affidavit pertaining
2 to Mr. Arroyo. We believe there's information where Arroyo
3 actually gave the directions to the actual River Street
4 address which gave raise to information put in the search
5 warrant.

6 And depending on what we find in the lunch break, Your
7 Honor, it may require testimony of the officers to set out
8 the information in the affidavit since Mr. Baity is
9 attacking the underlying facts of the search warrant.

10 We thought he was just going to argue that it was not
11 complete enough to establish probable cause. But it
12 appears that he's actually attacking the underlying
13 information.

14 If we can't -- I think we should be able to find the
15 information that would refute that which would negate the
16 need for testimony, however, I don't want to tell the Court
17 that we may not need it. I'd like to reserve that right if
18 possible. Actually there was --

19 THE COURT: Well, do y'all want to break for lunch now
20 and locate that information if it exists?

21 MR. BULSA: I had one other case I wanted to
22 reference, Your Honor, before I broke. I know it's
23 getting -- we're past the lunch hour, however, I think this
24 case will be important to the Court. It's a Ninth Circuit
25 Court of Appeals. It's Rero [sic] Lopez.

1 Mr. Baity has said time and time again that nobody's
2 seen actual drugs at the defendant's -- at 120 River
3 Street.

4 Your Honor, in this, in this Candelario case it says,
5 "Direct evidence that contraband or evidence was at a
6 particular location is not essential to establish any
7 probable cause to search the location. The magistrate is
8 entitled to draw reasonable inferences about where evidence
9 is likely to be kept based upon the nature of the evidence
10 and the type of the offense. In the case of drug dealers
11 the evidence is like to be found where the dealers live.
12 Its fair probability exists that it can be present at the
13 assistance residence" -- which in this case it's the
14 parents' residence we're claiming is a stash house. And he
15 did have access to it and he has to have been observed at
16 that residence. He's been observed at the residence prior
17 to other cocaine deliveries being made throughout
18 Spartanburg.

19 So you don't have to have specific direct information.
20 Clearly, circumstantial evidence based upon the
21 investigation should be admissible, and that is essentially
22 what is set out in the affidavit in addition to the
23 information that Mr. Roy sets out that Alejandro
24 Sosa-Galvan supplied cocaine directly to Covar [sic] at the
25 River Street address.

1 while that in itself might be stale, it is consistent
2 with the other facts set out over the two-and-a-half-year
3 investigation, which is consistent within the past 6-month
4 investigation showing the defendant at the residence and
5 cocaine deliveries being made during that six months, which
6 is consistent with the May 11th - May 12th investigation
7 with Mr. Jones.

8 All of this is clearly probable cause to determine
9 that the defendant would have cocaine at that residence in
10 which the bag was found. Thank you. Thank you.

11 THE COURT: All right. We'll take lunch, and then you
12 can provide me with any other information you need to.

13 And, Mr. Baity, you can respond if you need to
14 respond.

15 Okay. Court is in recess until 2:30.

16 (Whereupon, a recess was taken.)

17 THE COURT: All right. Mr. Bulsa.

18 MR. BULSA: Your Honor, we searched through the U.S.
19 attorney's file that was provided to us. A lot of this has
20 been redacted. We can't find a specific report setting out
21 what is referenced in the affidavit, but we do have a case
22 agent here today. We can take testimony from him.

23 MR. BAITY: Are you calling Mr. Davis?

24 MR. BULSA: I was going to if the Court is going to
25 allow it.

1 THE COURT: Okay.

2 MR. BAITY: Your Honor, if I may, I would object to
3 that because he is not the affiant and he was not the one
4 that provided the information to Judge Hayes when this
5 search warrant was applied for and granted.

6 THE COURT: All right. What would be the benefit of
7 his testimony?

8 MR. BULSA: He would have been the one that would have
9 supplied the information to Chris Raymond who prepared the
10 affidavit.

11 THE COURT: Did he -- did he accompany Mr. Raymond to
12 Judge Hayes' office to get the search warrant?

13 MR. BULSA: No, sir, he didn't. But the information
14 that Chris Raymond put in the affidavit was obtained from
15 different sources. Mr. -- Agent Davis would have been the
16 source of the information relating to Mr. Arroyo.

17 THE COURT: Well, are you wanting him to expound on
18 information set forth in the affidavit? Because, I mean, I
19 thought this motion was based upon the face of the
20 affidavit itself and not what other information might
21 reveal or what Judge Hayes might have been privy to or
22 informed of.

23 The exhibits offered by the defendant were accepted,
24 because I thought they were being offered to assist the
25 Court in understanding the facts in the affidavit and how

1 that ought to be interpreted and that sort of thing, not to
2 actually provide additional information.

3 MR. BULSA: Okay. Well, based on that, Your Honor,
4 respectfully we will stand on the affidavit.

5 THE COURT: Okay. All right. Mr. Baity, do you want
6 to respond to Mr. Bulsa's argument?

7 MR. BAITY: Yes, I do, Your Honor. Thank you very
8 much.

9 Your Honor, with respect to -- at the beginning of his
10 argument he said that some of the things in the affidavit
11 may or may not have been stale but they had some
12 information that was as recent as May 11, 2010, which was
13 two days before the search warrant was -- was executed.

14 Again, this is the Arthur Jones situation where a
15 police undercover person, Arthur Jones, attempted to make a
16 controlled buy off of my client, and the client, my client,
17 the defendant, went to the residence of the informant where
18 allegedly money was exchanged, no drugs. Again, that was
19 not River Street. That was the residence of Mr. Jones.

20 So I don't see how that in any way would give Judge
21 Hayes any expectation that any drugs would be at River
22 Street.

23 As a matter of fact, nothing in the affidavit says
24 that this transaction which really never came off, you
25 know, started at River Street or emanated from there or

1 there was any surveillance showing that the defendant had
2 left from River Street.

3 They just said he showed up in a white Honda, walked
4 in, took a sock with something in it and left. No drugs
5 and no connection whatsoever with River Street.

6 So I would say that that does not cure the staleness
7 argument.

8 He said that, you know, Arthur Jones provides some
9 consistency of Mr. -- of the defendant making deliveries of
10 cocaine.

11 Well, what's consistent? He didn't bring any cocaine
12 to that transaction with Mr. Jones. So that's not
13 consistent with him making any kind of deliveries at all.

14 And, again, what I am attacking in the affidavit, Your
15 Honor, is that just this barebones conclusory statement
16 that Mr. -- that the defendant would -- had been making
17 cocaine deliveries throughout the Spartanburg area in the
18 six months before. Again, not specific, somewhat stale, no
19 indicia of any kind of reliability. We don't even know
20 what they're talking about.

21 It just said he was making deliveries, but not that it
22 netted any drugs or that they had any proof that it
23 happened. It's just their opinion that was happening.

24 He handed up two cases, Your Honor, the McCall case,
25 which he said that they found it five months or seven

1 months was sufficient. And that referenced Brown, United
2 States vs. Brown.

3 In Brown, Your Honor, the drugs were seen at the
4 defendant's residence in February and the arrest was made
5 in June. I think that's neither stale nor -- that is
6 probable cause. That's not what happened here.

7 These drugs were seized as his parents' house, not his
8 residence. And the last person who said they saw any drugs
9 in his presence never said that it was at River Street and
10 said that the last person that said that was in -- it was a
11 year and a half before this occurred.

12 Secondly, Your Honor, in Brown there were a number
13 of -- I believe it was four -- witnesses, and it stated
14 that the -- that they had given reliable information on
15 numerous occasions before.

16 That type of language is absolutely devoid in our
17 affidavit, so, and that affidavit if I'm not mistaken -- I
18 had to read it at lunch quickly -- but I believe it was 13
19 pages long, and it talked about the history just as this
20 does, but it talked about these informants they're relying
21 on giving good and valuable information that was not stale,
22 that had proved to be useful and correct in the past.

23 None of that is in our affidavit. And what they said
24 is what we have here, is the barebones sort of affidavit
25 which is deplored by our Supreme Court. So, and then in

1 Lopez, same situation.

2 It was -- it was the defendant's residence. It was --
3 the arrest was made a month after -- no. It was made in
4 the same month, May of '85, that the -- the drugs were seen
5 at the residence of the defendant, and there were people
6 that were giving information that were considered to be
7 reliable in that case for various reasons, one of which was
8 that they had a pecuniary -- I mean a penal interest to
9 being reliable. But, again, they -- they were reliable
10 citizen informants, and they had provided good information
11 in the past. So those cases are easily distinguishable
12 from our cases right here.

13 Now, Your Honor, I do have some case law in South
14 Carolina which -- well, I tell you what. The issue hasn't
15 been raised, and I'm not going to raise it yet.

16 So again, Your Honor, the -- all of the information
17 was stale. There was no specific information linking it to
18 the River Street address.

19 There was no indicia whatsoever of reliability of any
20 of the witnesses, and I believe one of these cases says
21 that that's absolutely required.

22 It was the Spinelli case that overruled the Illinois
23 vs. Gates, which we all learned in law school, and Spinelli
24 said we're going to show the totality of the circumstances
25 but if any kind of hearsay evidence is used hearsay must

1 carry indicia of reliability as to both veracity of the
2 original source and the basis of the latter's knowledge.
3 Nothing of that sort is in this affidavit.

4 So again, Your Honor, it's -- and these are federal
5 cases. In South Carolina we have case law that says has
6 even a higher standard than the Fourth Amendment that these
7 courts would be ruling on.

8 So, again, I think for all of the reasons already set
9 forth, it's stale. It's nonspecific. There's no indicia
10 of reliability or veracity. There's nothing to connect to
11 River Street except information that is unreliable and
12 extremely stale.

13 There was this attempted and aborted controlled buy.
14 It's the best way to establish credibility and reliability.
15 It didn't come off; it didn't happen; and it didn't happen
16 in River Street.

17 So for those reasons, Your Honor, I would ask you to
18 suppress the evidence.

19 THE COURT: Anything further?

20 MR. BULSA: Yes, Your Honor, briefly.

21 Irrespective of the search warrant, Your Honor, we
22 feel the police could surely act on the search warrant in
23 good faith reliance due to the incredible evidence
24 presented and the lengthy description and the investigation
25 and the 2-day prior instance with Art Jones.

1 All of this should have given rise to the officers'
2 belief that they presented probable cause. Judge Hayes
3 issued the search warrant based upon probable cause.

4 Surely, the officers could have had a good-faith
5 reliance on that search warrant as being valid, and
6 therefore in the absence of corresponding probable cause on
7 the affidavit we surely can rely on the good-faith
8 exception to suppression.

9 MR. BAITY: May it please the Court, Your Honor.

10 Now I have the case law to hand up. South Carolina
11 has commented on good-faith exception. I'll hand up two to
12 save the parade. One is State vs. Austin and the other one
13 is State vs. Johnson if I may approach, Your Honor.

14 THE COURT: Yes, sir.

15 MR. BAITY: Thank you, sir.

16 State vs. Johnson just flat out says that the
17 good-faith exception does not apply in South Carolina to a
18 case that would appear to be a rubber stamp and that the
19 Court should not defer to another judge's opinion if
20 there's no evidence that is normally required in an
21 affidavit if it's not present in the affidavit. Reviewing
22 courts will not defer to a warrant based on an affidavit
23 that does not provide the magistrate with a substantial
24 basis for determining the existence of probable cause.
25 Sufficient information must be presented to the magistrate

1 to allow that official to determine probable cause. This
2 action or his action cannot be a mere ratification of the
3 bare conclusions of others. We have already -- I'm
4 skipping around. I'm sorry.

5 "Therefore the good-faith exception may not be
6 employed to validate this warrant." That's from the
7 Johnson case, Your Honor.

8 In the Austin case the Court found that there was no
9 probable cause, but, nonetheless, allowed the case to go
10 forward on the good-faith exception that was reversed.
11 And, again, the Court -- the affidavit did not contain
12 information sufficient for the issuing magistrate to make a
13 determination of probable cause.

14 Specifically, the affidavit contained no information,
15 circumstantial or otherwise, regarding the reliability of
16 the informant, nor did it have any information supplied
17 that the informant had been corroborated. The good-faith
18 exception does not apply in this case.

19 So I thought that they may make that argument, but
20 that's been ruled on in South Carolina.

21 There's a case in -- there's a Fourth Circuit case,
22 Leon, that says the same thing.

23 So, Your Honor, I would -- again, I think what the
24 courts are saying is that there are certain good-faith
25 exceptions of course, and people make mistakes and so

1 forth.

2 However, it doesn't -- I think in one of these cases
3 it said we don't even get to the totality of the
4 circumstances if we just have a barebones affidavit that
5 doesn't say anything, doesn't give us anything. We don't
6 even get to the totality of the circumstances.

7 We do have a higher standard in the state of South
8 Carolina. We've had case law say that the good-faith
9 exception doesn't apply.

10 And one more thing, Your Honor. We had said in our
11 argument before lunch that information in this affidavit
12 was incorrect or we believed it was incorrect.

13 The affiant says that my client's cousin was followed
14 to my client's girlfriend where he met with the defendant
15 and thereafter made a cocaine sale.

16 If you look at the report of that investigation it
17 says they didn't follow that cousin. They saw him later
18 off another street meet up with another person. That's
19 just clearly a completely different scenario.

20 And also they said that one of the people who
21 mentioned River Street a year and a half before this
22 occurred identified River Street as where he made his
23 deliveries. But their own investigatory notes, which they
24 cannot find any to contradict, say nothing about River
25 Street.

1 It mentions my defendant -- no doubt about that -- but
2 says nothing about the place that this warrant was going --
3 was authorized to search. Therefore, Your Honor, we would
4 renew our motion and ask that you suppress the evidence.
5 Thank you.

6 THE COURT: All right. After considering the facts
7 and the circumstances as set forth in the affidavit for the
8 search warrant and the reasonable inferences that might be
9 derived from those facts as alleged, I do find that
10 probable cause has been established for the issuance of the
11 warrant. Therefore the motion for suppression is denied.

12 What other matters do we have to address?

13 MR. BAITY: Your Honor, we have a motion to suppress
14 the defendant's statement.

15 I made a motion for the defendant to provide us with
16 any Lyle evidence that he was going to submit and also a
17 motion in limine to discuss what we -- what limits would be
18 on the testimony concerning Lyle and other matters in this
19 case that is so large.

20 THE COURT: Okay. Do you want to deal with any
21 statement first?

22 MR. BULSA: Yes, sir. I'll do a Jackson vs. Denno.
23 The state calls Chris Raymond.

24
25

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 CHRIS RAYMOND, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BULSA

4 Q Officer Raymond, did you have an occasion to speak
5 with the defendant at the residence on 120 River Street?

6 A Yes, I did.

7 Q And how did you come about meeting with him on that
8 occasion?

9 A We were conducting a search warrant at 120 River
10 Street, and the defendant was brought back to that scene by
11 some other members of our unit. And at that time I read
12 him his Miranda rights and had him sign a preinterrogation
13 waiver form.

14 Q Do you have those forms with you?

15 A I do.

16 Q Where?

17 A They are in my case file.

18 Q Do you know if he had been Mirandized prior to your
19 meeting with him?

20 A I believe that he was, but I wasn't present for that.

21 Q Why do you believe that he was?

22 A I believe it being mentioned to me by Sergeant Joe
23 Pharis that he was read Miranda. I can't say that for a
24 hundred percent because I wasn't there, but I believe that
25 may have happened.

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 Q In any event, even though you had that information you
2 went ahead and had him prepare a written --

3 A Yes, sir.

4 Q Written preinterrogation waiver form.

5 A Yes, sir.

6 (Preinterrogation waiver form and statement marked
7 State's Suppression Exhibit No. 1 for Identification.)

8 Q I show you what's been marked State's Exhibit No. 1
9 for this hearing. Does that -- what is that form?

10 A This top paper is the written preinterrogation waiver
11 form that I had read to the defendant and had him to sign.

12 Q And what is the second page?

13 A The second is a voluntary statement that the defendant
14 gave me, a written voluntary statement.

15 Q Is it written in his own hand?

16 A Yes.

17 Q Did he sign each of those pages?

18 A Yes, he did.

19 Q Did you witness each page?

20 A I did.

21 Q Was anyone else present when you were speaking with
22 Mr. Thompson?

23 A I believe Special Agent Davis with the D.E.A. was
24 there.

25 Q Whereabouts at River Street did you speak with

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 Mr. Thompson?

2 A It's a real narrow -- it's almost like an alley, this
3 street. So when you pull in you can't -- I mean, you're
4 pretty much parked in the roadway. And my vehicle was
5 right on the edge of the property into the roadway, and we
6 talked basically on the back of my truck.

7 Q So he was brought to River Street, and then you took
8 custody of him.

9 A Yes.

10 Q Okay. And you stayed outside the house with
11 Mr. Thompson?

12 A I did.

13 Q Okay. Did he ever go inside the house while he was
14 being searched?

15 A No.

16 Q Did he go inside the garage?

17 A No.

18 Q Did he appear to understand what was going on?

19 A Yes.

20 Q You put on here that he has finished 11 years in
21 school. Is that what he told you?

22 A That's what he provided to me, yes.

23 Q Okay. And did he appear to understand English?

24 A Yes, absolutely.

25 Q And did you read this to him, or did he read it?

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 A I read it to him, and I had him read it to make sure
2 he understood.

3 Q Okay. And he signed it on two -- he signed the top
4 form, preinterrogation waiver form, in two spots.

5 A Yes.

6 Q Okay. One where he understands his rights, is that
7 right?

8 A Yes.

9 Q And then where he agreed to waive those rights.

10 A Yes.

11 Q Okay. How is it that he came to write his own
12 statement?

13 A I asked him if he would prefer to have me write it as
14 he dictated it to me or if he would rather write it
15 himself, and he told me he would rather write it out
16 himself.

17 Q So you actually had these forms with you at the scene.

18 A Yes.

19 Q Okay. Was there any tape recording made of any of
20 this conversation?

21 A Yes. There was an audio recorded.

22 Q Explain how that took place.

23 A In this particular case I had my audio recorder with
24 me at the search warrant. And in addition to the written
25 statement there was an audio recording made in which the

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 defendant claimed everything found at the residence,
2 substances found at the residence were his.

3 Q Okay. And would that audio have taken place before or
4 after the written statement?

5 A It was after the written statement.

6 Q Okay. It actually was a little more detailed than his
7 written statement.

8 A Yes.

9 Q But it took place. Clearly, he was Mirandized prior
10 to that.

11 A Yes.

12 Q Okay. Were there any promises made to Mr. Thompson?

13 A No.

14 Q Any threats made to him?

15 A No.

16 Q Was anyone else present at River Street during the
17 execution of the warrant?

18 A His father was present when we arrived, and I believe
19 his mother arrived after the search warrant was opened up.

20 Q Okay. Would Mr. Thompson have been in a position to
21 see either his mother or his father?

22 A He may have seen his mother when she arrived. Like I
23 said, it's a real narrow street. So he may have seen her
24 pull up. But I don't think he had any way to see where his
25 father was sitting.

Chris Raymond (In-camera)
Direct examination by Mr. Bulsa

1 Q Do you know if he had any contact with his mother or
2 father during the search?

3 A He did not.

4 Q Was there any conversation regarding his mother or
5 father from your initiation?

6 A From my initiation, no.

7 Q Did you or Agent Davis mention anything about his
8 father or mother?

9 A No.

10 Q Okay. Is there anything on the audio tape concerning
11 his father or mother?

12 A No.

13 Q We saw there was nothing written in the statement.

14 A Correct.

15 Q Okay.

16 MR. BULSA: Your Honor, this C.D. has some language on
17 that. I'll copy it to a blank C.D.

18 (Video marked State's Suppression Exhibit No. 2 for
19 Identification.)

20 Q State's Exhibit 2 has got some notations on it. Does
21 that appear to be a disc that memorialized the interview
22 with Mr. Thompson?

23 A Yes.

24 Q Okay.

25 MR. BULSA: Your Honor, we would like to play that for

Chris Raymond (In-camera)
Cross-examination by Mr. Baity

1 the Court, Your Honor.

2 (Whereupon, the tape was played.)

3 Q Thank you, Officer. Answer any questions Mr. Baity
4 may have.

5 MR. BAITY: May it please the Court, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. BAITY

8 Q Mr. Raymond, you were not there when Mr. Thompson was
9 arrested.

10 A No, sir.

11 Q Do you know where he was arrested?

12 A I believe at his place of employment.

13 Q Okay. And that was a good distance from River Street.

14 A It's in the Boiling Springs community, so it's
15 probably ten or 15 minutes.

16 Q Okay. And you said something a moment ago, and I
17 didn't quite understand what you said. You said you never
18 went in the house or Alfonso never went in the house?

19 A No. I went in the house. Alfonso never went in the
20 house.

21 Q Okay. And he never went in the garage.

22 A Not while I was there, no, sir.

23 Q Okay. All right. Now, you told him that he could
24 write this statement if he wanted to, is that correct?

25 A I offered him either I could write it as he dictated

Chris Raymond (In-camera)
Cross-examination by Mr. Baity

1 it, or he could write it himself.

2 Q He indicated that he wanted to write it.

3 A Yes, sir.

4 Q Okay. Did he attempt to write this in a way that you
5 didn't like and that you objected to that?

6 A Not that I recall.

7 Q Did he attempt to write a confession that attributed
8 the reason for the confession being that his -- his parents
9 were going to go to jail if he didn't accept
10 responsibility?

11 A I don't recall that.

12 Q Okay. And you do recall his father being there.

13 A Yes, sir.

14 Q All right. And his father did -- can you describe his
15 appearance? Did he appear to be in good health?

16 A I remember he was an older gentleman. I don't really
17 know his health condition at the time.

18 Q Did he require a wheelchair or any assistance in
19 getting around?

20 A We put him in a chair. We had him sit in a chair
21 outside, but it wasn't a wheelchair.

22 Q Okay. And he had to sit down?

23 A He did -- well, we were there for such a long time
24 that, you know, we did provide him a chair.

25 Q Okay. Did he or anyone else tell you that he was ill

Chris Raymond (In-camera)
Cross-examination by Mr. Baity

1 and not doing very well?

2 A I don't recall that. I don't recall anybody telling
3 me that.

4 Q The defendant did not tell you that when you asked him
5 to confess to these drugs?

6 A I know he has since passed away, so I'm not sure. I
7 really can't remember if he told me that or not.

8 Q So he may have told you that his father was real ill
9 and --

10 A It's possible, but I don't remember it.

11 Q Okay. And you say his mother drove up while the
12 search was going on?

13 A Yes.

14 Q Okay. Did you say to him that his mother and his
15 father could go to jail for those drugs?

16 A I never threatened him with that, no.

17 Q Did you ever discuss the possibility of their being
18 charged?

19 A The only time it came up was at his -- when he was
20 being transported to jail. He thanked me for not arresting
21 his parents. He brought it up. I never brought it up to
22 him.

23 Q Okay. And did you administer that recording?

24 A Yes. I ran the digital.

25 Q You were holding the mic, I mean, the --

Chris Raymond (In-camera)
Cross-examination by Mr. Baity

1 A It was a digital recorder, yes, sir.

2 Q All right. It sounds to me that he might have started
3 talking, and then you stopped and erased it and started
4 over, is that correct?

5 A No. That's not accurate.

6 Q Didn't you hear his voice for there a moment and then
7 it started, it happened again?

8 A I don't know what's happened with the recording, but I
9 can't recall that at all.

10 Q Isn't it true that at that time he said so my parents
11 won't have to go to jail, I'm taking responsibility for
12 this?

13 A I don't remember that at all.

14 Q Could that have happened?

15 A No. I would have remembered that.

16 Q And he said he didn't remember how much was in there,
17 or didn't know.

18 A I don't think he ever gave an amount, no.

19 Q Well, didn't he say he didn't know? You asked him,
20 and he said he didn't know?

21 A It's probably -- without having to listen to it a
22 couple of times, it's been so long, word for word I
23 couldn't tell you.

24 Q Okay. And essentially you concluded by saying
25 everything illegal in here is your responsibility.

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 A I think everything that we found, is the way I put it,
2 yes, sir.

3 Q And that was in the garage where you found most of
4 that.

5 A Yes.

6 Q Okay. And he didn't go in the garage.

7 A He didn't leave -- no. He did not go in the garage
8 while we were there.

9 MR. BAITY: Nothing further.

10 MR. BULSA: Nothing further.

11 THE COURT: Step down.

12 MR. BULSA: Your Honor, that's the state's showing
13 regarding the statements.

14 MR. BAITY: We call the defendant, Your Honor.

15 THE COURT: You've been sworn before. You are still
16 under oath.

17 ALFONSO CHAVES THOMPSON,
18 having been previously duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BAITY

20 Q Mr. Thompson, did anybody give you a warrant when you
21 were arrested?

22 A No.

23 Q Did anybody tell you what you were being arrested for?

24 A No.

25 Q What happened or where were you when you were

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 arrested?

2 A I was at work.

3 Q Okay. And that's at the garage where you work?

4 A Yes.

5 Q Okay. Where were you taken after you were placed
6 under arrest?

7 A Down at my parents' house.

8 Q At 120 River Drive?

9 A Yes.

10 Q Okay. And tell us what happened when you first got
11 there.

12 A Well, when I got there, you know, they opened the
13 door.

14 Q When you say they please --

15 A The police officers opened the door, and Chris Raymond
16 came to the car and started talking to me. And, you know,
17 they were asking me about, you know, drugs. So I said I
18 didn't know nothing about any drugs. I said I don't know
19 nothing about any drugs and stuff like that.

20 So the next thing I know they took me back and put me
21 on the -- on the bed of a truck and was talking to me. And
22 then the next thing I know he talking about, oh, we found
23 something. I was like found something. And, you know,
24 they just kept going back and forth to the garage.

25 So, you know, I'm sitting there. And then I seen my

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 daddy sitting -- I seen my daddy. He was sitting in the
2 chair by the garage. So I seen him. He was looking at me.
3 And, you know, I'm just like I don't know what's going on.

4 So the next thing I know they talking about they found
5 something, and I kept arguing with them back and forth. I
6 said, man, I said, y'all ain't found no drugs back there.
7 I said I don't know nothing about no drugs.

8 So they kept telling me, well, if you don't confess to
9 these drugs, we're going to take your parents to jail, your
10 daddy to jail.

11 I was like, man, I said I don't know nothing about no
12 drugs. And, like I told them, I said look at my daddy,
13 man, I said my daddy can't go to jail. I said my daddy's
14 sick. And, you know, he was like, well, if you don't
15 confess to it, he's going to jail.

16 Q You say your father was sick. Was he physically ill?

17 A Yeah. He had -- he had cirrhosis of the liver.

18 Q Okay.

19 A And like his -- his feet will swell up, and he
20 couldn't walk hardly, and he couldn't stand for long
21 periods of time. He had to sit down and elevate his feet.

22 Q And is he with us today?

23 A No. He passed.

24 Q How long after this arrest did he pass away?

25 A Six months.

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 Q Did he die of cirrhosis of the liver?

2 A Yeah. well, kidney failure and stuff.

3 Q Now, when Officer Raymond asked you to write this out,
4 this -- you say, "The cocaine and marijuana that was found
5 in the garage" and something that's marked out -- "was mine
6 and this is my confession."

7 A Uh-huh.

8 Q Did you write that?

9 A Yes.

10 Q Did you attempt to write it a different way?

11 A I attempted to write it the way that I wanted to say
12 it on the tape recorder, but he shut the tape recorder off
13 and told me I couldn't say it like that. He said no. He
14 said you can't say it like. He said you can't say it like
15 I'm promising you something. I said you is promising me
16 something.

17 Q What did you want to say?

18 A I said in order for my parents not to go to jail I
19 confess to these drugs.

20 And he was like -- he held the tape reader up to my
21 mouth. Her recorded it, and then jerked it back and said,
22 no, you can't say it like that, you can't say it like I'm
23 promising you something. I said you is promising me
24 something. I said you promising me that my parents won't
25 go to jail if I confess to these drugs. He was like, well,

Alfonso Chaves Thompson (In-camera)
Direct examination by Mr. Baity

1 you can't say it like that, don't say it like I'm promising
2 you something.

3 So I just said it like that because he said I couldn't
4 say it like I wanted to say it. And then when I went to
5 write the confession he said -- and I got to writing, he
6 said, oh, you can't, you can't write it like that either,
7 and that's why.

8 Q You're saying the recording was first and the writing
9 was second?

10 A Yeah. The recording was first and the writing was
11 second.

12 Q All right. So were you promised that your parents
13 would go to jail if you did not confess?

14 A Yes. He promised me. He said -- he said if you
15 confess, said your parents won't go to jail.

16 Q And when you confessed did they go to jail?

17 A No.

18 Q When you confessed to everything illegal in the garage
19 had you even been in the garage?

20 A They took me in the garage.

21 Q And did you even see what you were confessing to?

22 A I didn't even see anything because I kept arguing with
23 them. I said -- I said y'all ain't found no drugs back
24 there. He was talking about, yes, we did, yes, we did,
25 because after I signed the confession, you know, they

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

1 walked off from me and went to the garage, and they was
2 like, oh, we found some more. And I looked them. I said,
3 man, I said, come on. I said so that how -- so that's how
4 y'all do, and you know.

5 Q Did you have a key to that garage?

6 A No.

7 Q What was in that garage?

8 A I don't know.

9 Q Well, was there a car in there?

10 A Yeah, a Monte Carlo.

11 Q And that Monte Carlo belonged to who?

12 A Deon Jackson.

13 Q And how did it get there?

14 A He brought it down there.

15 Q Were you working on it?

16 A Yes.

17 Q Did your work on it require you to get into the trunk?

18 A No.

19 MR. BAITY: No further questions, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. BULSA

22 Q Who all did you speak to at the house?

23 A Russell Davis, Christopher Raymond. And there was
24 another police officer.

25 Q Who was that one?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 A I don't know his name.
- 2 Q Was he the one that picked you up from --
- 3 A No, he wasn't the one -- he wasn't the one that picked
- 4 me up.
- 5 Q Who picked you up at the body shop?
- 6 A Russell Davis and the guy sitting in front of me.
- 7 Q This one here?
- 8 A Yeah.
- 9 Q Okay. And you're telling us they didn't tell you what
- 10 you were under arrest for?
- 11 A No, no, they didn't.
- 12 Q Did he read you his -- your rights?
- 13 A No, he didn't. He started reading them, and then he
- 14 stopped.
- 15 Q Okay. Now, you listened to that tape. Your
- 16 conversation with them actually was more than just about
- 17 what was going on --
- 18 A Yeah.
- 19 Q -- at River Street, wasn't it?
- 20 A No.
- 21 Q What else did y'all talk about?
- 22 A Nothing.
- 23 Q Huh?
- 24 A Nothing else.
- 25 Q You didn't talk about the night before?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

1 A No. What's the night before?

2 Q You didn't talk about other marijuana deals?

3 A No.

4 Q Something about \$50,000?

5 A No.

6 Q Who made this supposed threat to you?

7 A Christopher Raymond.

8 Q What was Investigator Davis doing?

9 A Investigator Davis was in the garage, and he was going
10 back and forth, because Investigator Davis was the one who
11 took me in the garage.

12 Q Took you into the garage?

13 A Yes, sir.

14 Q What did you do in the garage?

15 A Nothing. He just said -- he just took me in there,
16 but I didn't see anything.

17 Q Where did you go in the garage?

18 A He took me behind the car.

19 Q Okay. And what happened in there?

20 A He just -- he just looked -- opened the trunk, and he
21 was like you see. And I said I don't see nothing, and that
22 was it. He walked me back out.

23 Q What happened after that?

24 A After that, that was it.

25 Q What do you mean, that was it?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Balsa

- 1 A That was pretty much it.
- 2 Q So what happened?
- 3 A Nothing.
- 4 Q Nothing?
- 5 A What do you mean, what happened?
- 6 Q You tell me. You get a trip into the garage, trunk
- 7 opened up. Then you say you walked out and that was it.
- 8 A That was it. They sat me down in the car.
- 9 Q Sat you down in the car and --
- 10 A And that was it. After that they took me on to jail.
- 11 Q Took you on to jail.
- 12 A Yeah.
- 13 Q And so you had already written out your statement?
- 14 A Yeah.
- 15 Q You had already given that taped interview?
- 16 A Yeah.
- 17 Q All of that was before you went into the garage.
- 18 A It was all before I went into the garage.
- 19 Q Okay. So you don't know what in the world you went
- 20 into the garage for.
- 21 A No.
- 22 Q Huh. Did you see your daddy?
- 23 A Yes.
- 24 Q Where was he?
- 25 A Sitting by the garage.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 Q outside?
- 2 A Yeah.
- 3 Q Did you see your mama?
- 4 A She had pulled up afterwards.
- 5 Q Did you talk to them then?
- 6 A No.
- 7 Q Try to?
- 8 A They wouldn't let me. No.
- 9 Q Did you have a gun in the house?
- 10 A Did I have one?
- 11 Q Yes, sir.
- 12 A Yes.
- 13 Q Which bedroom was it in?
- 14 A I don't know.
- 15 Q You don't know what you did with your gun?
- 16 A Uh-uh. I had left it there. I don't know where my
- 17 daddy put it at.
- 18 Q You had left it?
- 19 A Yeah.
- 20 Q Where did you leave it?
- 21 A I gave it to my dad.
- 22 Q What was it?
- 23 A It was a TEC-9.
- 24 Q And what about all of those rifles?
- 25 A Those weren't mine. Those were his.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 Q Those were your daddy's?
- 2 A Yes.
- 3 Q All of those TEC-9's?
- 4 A No. TEC-9 is mine.
- 5 Q You had all of those rifles?
- 6 A Yeah.
- 7 Q Okay. How about this surveillance system?
- 8 A That's his.
- 9 Q That's his?
- 10 A Yes.
- 11 Q Who put up the fence?
- 12 A He put the fence up.
- 13 Q Was your daddy dealing drugs?
- 14 A No.
- 15 Q Your mama? Was she?
- 16 A No comment.
- 17 Q Okay.
- 18 A No, she wasn't.
- 19 Q Does that mean, yes, she was, and you don't want to
- 20 say it?
- 21 A No.
- 22 Q What kind of work were you doing on Mr. Jackson's car?
- 23 A Fixing the electric fans on it.
- 24 Q Fixing the what?
- 25 A Electric fans.

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 Q Eletric fans? Like the air conditioner?
- 2 A No. It's like the cooling fans.
- 3 Q Why were you doing it at your house?
- 4 A Because it gets dirty at my shop. It gets real dirty
- 5 at my shop.
- 6 Q He left the keys in the car?
- 7 A I don't know. You'd have to ask him.
- 8 Q It was in your garage.
- 9 A That's in my -- that's my parents' garage. That's not
- 10 my garage.
- 11 Q Okay. Well, what was it doing in your parents'
- 12 garage?
- 13 A I was working on it.
- 14 Q You were working on it in your parents' garage, right?
- 15 A Yes.
- 16 Q Were the keys with it?
- 17 A I don't know. He left the keys on the seat, I guess.
- 18 Q Wouldn't you have had to turn it on to check whether
- 19 your work was good?
- 20 A We kept switching fans out.
- 21 Q Huh?
- 22 A We kept having to switch fans out. We didn't really
- 23 know.
- 24 Q How do you -- how do you tell if the fan is any good
- 25 if you don't have the keys?

Alfonso Chaves Thompson (In-camera)
Cross-examination by Mr. Bulsa

- 1 A You can always tell. You can run a straight wire and
2 just run the fan, run the wire on it, and just see if it
3 comes on.
- 4 Q Isn't it easier to do it with a key?
- 5 A It is.
- 6 Q What do you mean by it gets real dirty at your garage?
- 7 A We do a lot of body work.
- 8 Q Huh?
- 9 A We do a lot -- we do body work.
- 10 Q And how would that get your friend's car dirty?
- 11 A It's just dust everywhere.
- 12 Q Did anybody else hear the supposed threat against your
13 parents?
- 14 A No.
- 15 Q Okay. Did you see the police talking to your mother?
- 16 A Yeah, when she walked up.
- 17 Q How did they treat her?
- 18 A You know, she was fussing. She was fussing.
- 19 Q Fussing?
- 20 A Yeah, she was fussing. When she walked up they told
21 me that she was going to jail too.
- 22 Q When she walked up they told you?
- 23 A They told me she was going to jail too.
- 24 Q Do you remember thanking the officer going to the
25 jail?

Joe Pharis (In-camera)
Direct examination by Mr. Bulsa

1 A No.

2 Q You didn't?

3 A I don't know -- think.

4 Q Okay. Thank you.

5 MR. BAITY: Nothing further, Your Honor.

6 THE COURT: Step down.

7 MR. BAITY: That's all we have.

8 THE COURT: Okay.

9 MR. BULSA: May I call Joe Pharis, Your Honor?

10 THE COURT: Okay.

11 JOE PHARIS, having been first
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BULSA

14 Q Officer Pharis, you work for the sheriff's office?

15 A Yes, sir, I do.

16 Q Were you involved in the search warrant at 120 River
17 Street?

18 A I later came to the search warrant after it was
19 opened.

20 Q Okay. And what was your initial role to be?

21 A My initial role that day was to sit near the shop of
22 Mr. Thompson's. And once they gave us the okay we went in
23 and affected the arrest off an arrest warrant we had.

24 Q Okay. And you actually had a written arrest warrant?

25 A Yes, sir.

Joe Pharis (In-camera)
Direct examination by Mr. Bulsa

1 Q And what was that for?

2 A I believe it was for trafficking in cocaine.

3 Q And what was the basis for that search warrant or --
4 excuse me -- that arrest warrant?

5 A I believe the basis off that was for maybe a buy that
6 happened earlier. I don't have the date in front of me.

7 Q Okay.

8 A I had the -- like I said, I had the -- I just had the
9 warrant with us.

10 Q Warrant in hand?

11 A Yes, sir, I believe I had it in hand.

12 Q Okay. And what did you do when you got to where -- to
13 go in and get him?

14 A I pulled into the shop on Old Furnace Road and saw
15 Mr. Thompson standing inside his shop with, I believe, at
16 least one other individual.

17 I approached Mr. Thompson and let him know that we had
18 an arrest warrant for him and that he was to come with us.
19 Put him in my vehicle along with Special Agent Jerry Davis.

20 Q Do you recall telling him what the warrant was for?

21 A I'm pretty sure we told him what the warrant was for.

22 (Arrest warrant marked State's Suppression Exhibit No.
23 3 for identification.)

24 Q Let me show you State's Exhibit 3 for this hearing.

25 Do you recognize what that's a copy of?

Joe Pharis (In-camera)
Direct examination by Mr. Bulsa

1 A Appears to be a copy of the arrest warrant that we had
2 the day we arrested Mr. Thompson.

3 Q Okay. And that warrant would have been signed by the
4 magistrate on May 13.

5 A Yes, yes, sir, it looks like May 13th on it.

6 Q And that's actually -- the search actually took place
7 May the 13th.

8 A Okay.

9 Q So this would have been -- this would have been signed
10 before the actual search?

11 A Yes.

12 Q Is that right?

13 A Yes.

14 Q And it references in that arrest warrant that it was
15 for an incident that occurred on May the 11th, I believe.

16 A May the 12th.

17 Q May the 12th. Okay. When you arrested him what did
18 you do?

19 A We put Mr. Thompson in my vehicle and let him know
20 that we was going back to the residence on River Street and
21 started driving him to the residence.

22 Just in case any statements was made, I read him his
23 Miranda as we were going down the road. I didn't ask him
24 any more questions, told him that I wasn't interested in
25 asking him questions, that he would talk to somebody once

Joe Pharis (In-camera)
Cross-examination by Mr. Baity

1 he got to the residence. Drove to the residence on River
2 Street.

3 Q Was there any conversation in the car?

4 A I don't recall any conversation in the car.

5 Q Okay. Was there any admissions made?

6 A No.

7 Q It was you and Mr. Davis and the defendant.

8 A Yes, sir.

9 Q Okay. All right. Thank you.

10 MR. BAITY: Could I see the exhibit?

11 CROSS-EXAMINATION

12 BY MR. BAITY

13 Q Whose signature is that?

14 A I don't have a clue.

15 Q Do you know whose signature that is?

16 A No, I don't.

17 Q Okay. Well, it does say return. That's part of the
18 form, right?

19 A Yes, it is.

20 Q And does it not say that it was delivered to the
21 defendant, Alfonso Thompson, on 5/14/2010?

22 A Does appear to say that.

23 Q Okay. And you say that -- you say that you gave it to
24 him on 5/13.

25 A I had the arrest warrant with me on 5/13 when we

Joe Pharis (In-camera)
Redirect examination by Mr. Bulsa

1 approached him at his shop.

2 Q And you gave him that warrant and you served that on
3 him and you told him what he was being arrested for?

4 A I did. I told him what he was arrested for. I did
5 not give him a copy of it.

6 Q So did you did not serve him on -- at that time.

7 A I had the arrest warrant with me, and we picked him
8 up.

9 Q And it wasn't given until -- so you don't have any
10 reason to dispute what the record says, that it was given
11 to him the next day.

12 A No, sir. I don't have any reason to dispute it.

13 MR. BAITY: Nothing further, Your Honor.

14 MR. BULSA: Just briefly.

15 REDIRECT EXAMINATION

16 BY MR. BULSA

17 Q You had the warrant, and you arrested him on it. But
18 do you know the process under which he would get a copy of
19 it?

20 A Once it is actually read to him using the officer that
21 reads it to him -- will sign it and hand him a copy.

22 Q Where is that normally done, at the jail?

23 A Sometimes it's done at the jail, yes.

24 Q Okay.

25 A So could have been done by the transporting officer.

Joe Pharis (In-camera)
Redirect examination by Mr. Bulsa

1 I don't -- I didn't recognize the signature.

2 Q Okay. But you didn't actually do that yourself.

3 A No, sir. I did not.

4 Q But that doesn't dispute the fact that you still had
5 it in your hand.

6 A That's right. That's correct.

7 MR. BAITY: Nothing further, Your Honor.

8 THE COURT: Step down.

9 MR. BULSA: Nothing further.

10 THE COURT: All right. Anything else?

11 MR. BAITY: Nothing on that motion, Your Honor.

12 THE COURT: All right. I find based upon the
13 testimony presented the state has established by the
14 greater weight of the evidence that the statement given by
15 the defendant was freely and voluntarily made; and
16 therefore the motion to exclude it is denied.

17 What else?

18 MR. BAITY: Your Honor, my other motions involved --
19 well, I'd like to know if there's going to be any Lyle
20 evidence presented at my motion, just for the state to
21 reveal that evidence if they intend to present any Lyle
22 evidence and, if so, what it is.

23 MR. BULSA: Your Honor, the state intends to present
24 the search-warrant case alone at this time, subject to any
25 doors being opened by the defense based upon

1 cross-examination and representations to the jury.

2 MR. BAITY: I didn't --

3 MR. BULSA: The arrest warrant itself brings into
4 question whether the Art Jones incident is going to come
5 into play.

6 If insinuations are made to the jury that this was an
7 improper arrest, then we feel we should be allowed to go
8 into the circumstances of that arrest.

9 Other than the door being opened, we don't intend to
10 go into anything.

11 MR. BAITY: I didn't hear him. I don't hear so well.
12 You said --

13 MR. BULSA: If you open the door, I'm going in.

14 MR. BAITY: I got that part. Got that part. You
15 said --

16 MR. BULSA: If you try to insinuate that this was an
17 improper arrest, we have a -- we have a valid arrest
18 warrant, but that might bring into play --

19 MR. BAITY: I understand that. I'm trying to decipher
20 your very first sentence. I didn't hear what you said.
21 You said --

22 MR. BULSA: I said I intend to try the case based on
23 the facts of the search warrant alone, dependent upon how
24 you present your case.

25 MR. BAITY: So you intend to bring in the -- just the

1 search warrant, or are you going to try to make out an
2 exhibit?

3 MR. BULSA: No, sir.

4 MR. BAITY: Okay. And are you going to put the
5 affidavit or explain the affidavit --

6 MR. BULSA: No, sir. I understand I cannot go into
7 the underlying affidavit.

8 MR. BAITY: I agree. I couldn't understand what you
9 were saying. You were just simply going to say that we
10 served the search warrant.

11 MR. BULSA: Yes, sir.

12 MR. BAITY: Okay.

13 MR. BULSA: And at the time of the serving of the
14 search warrant we went and got Mr. Thompson and brought him
15 back to River Street.

16 MR. BAITY: I understand. I understand completely.
17 So all you're going to do is tell the jury that you served
18 a search warrant and found what you found and so forth.

19 MR. BULSA: Yes, sir.

20 MR. BAITY: And no other -- and that's not really Lyle
21 evidence. So there is -- so you're not going to put any
22 Lyle evidence in --

23 MR. BULSA: No, sir.

24 MR. BAITY: -- unless of course I open the door.

25 MR. BULSA: Yes, sir.

1 MR. BAITY: Okay. Thank you, Your Honor. I think
2 that satisfies --

3 THE COURT: Okay.

4 MR. BAITY: -- the motion.

5 THE COURT: All right. Are we ready for the jury?

6 MR. BAITY: Well, I do have that outstanding -- not to
7 try the Court's patience -- but the outstanding motion in
8 limine.

9 I think the Lyle evidence pretty much clears it up,
10 but I would want there to be some restrictions as to
11 statements made as to the reasons behind their suspicion
12 and so forth.

13 THE COURT: Well, Mr. Bulsa has already stated he
14 doesn't intend to go into the Arthur Jones event --

15 MR. BULSA: Yes, sir.

16 THE COURT: -- unless it's -- unless some door is
17 opened through your cross-examination, or examination of
18 your own witness for that matter, that might cause it to
19 become relevant.

20 MR. BAITY: Yes, sir.

21 THE COURT: He's limiting his examination and his
22 presentation to the event that occurred on May the --

23 MR. BULSA: 13th.

24 THE COURT: -- 13th at 120 River Road and items seized
25 therefrom pursuant to a search warrant and any statements

Ernest Grant
Direct examination by Mr. Bulsa

1 MR. BULSA: The drugs that were secured from the
2 house.

3 MR. BAITY: Right being exactly.

4 (Report marked State's Exhibit No. 8 for
5 Identification.)

6 THE COURT: All right. Are we ready for the jury now?

7 MR. BULSA: Yes, sir.

8 THE COURT: Okay. Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the opening
13 statements had been provided but we had not yet begun with
14 the reception of evidence. So we are going to begin with
15 that presentation of evidence this morning.

16 As you know, the state has the burden of proof. So
17 they'll go forward first in that presentation.

18 Mr. Bulsa.

19 MR. BULSA: Thank you, Your Honor. The state calls
20 Ernest Grant.

21 ERNEST GRANT, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Good morning, Mr. Grant.

25 A Good morning.

Ernest Grant
Direct examination by Mr. Bulsa

1 Q Where do you live, sir?

2 A 512 Elpaso Street.

3 Q What do you do for a living?

4 A I run a -- manage a bar.

5 Q And which bar is that?

6 A Kings Bar and Grill.

7 Q Is that here in Spartanburg?

8 A Yes, sir.

9 THE COURT: Can you sit still, please, and get a
10 little bit closer to that microphone --

11 THE WITNESS: This one?

12 THE COURT: -- so we can hear what you have to say?
13 Yes, sir.

14 THE WITNESS: Yeah.

15 BY MR. BULSA

16 Q Do you own some property on River Street?

17 A Yes, sir.

18 Q What address?

19 A 120 River Street.

20 Q What's located at that address?

21 A Do what?

22 Q What's located at that address?

23 A A house.

24 Q A house. Okay. Is that a house that you lived in at
25 one time?

Ernest Grant
Direct examination by Mr. Bulsa

- 1 A No, sir. I bought it as investment property.
- 2 Q And how long have you owned it?
- 3 A Since '03.
- 4 Q And since then have you sold it to anyone?
- 5 A I did a lease-purchase with Loretta Thompson.
- 6 Q With who?
- 7 A Loretta.
- 8 Q Last time?
- 9 A Thompson.
- 10 Q Loretta Thompson. And when did you do a
- 11 lease-purchase?
- 12 A In '03. She was looking at the house the same time I
- 13 was, and she was looking to live in it, and I was looking
- 14 to invest in it. I bought the house. She come over and
- 15 didn't know I'd bought the house and still wanted to buy
- 16 it. So we worked out a deal, and I sold her the house.
- 17 Q So are you financing it for her?
- 18 A Yes, sir.
- 19 Q All right. And did you meet her husband as well?
- 20 A Charles, yeah. He has passed.
- 21 Q Did the both of them purchase it together?
- 22 A I don't know how that worked out. They were together.
- 23 I put -- everything's in Loretta's -- I mean, I sold it to
- 24 Loretta. That's all I know.
- 25 Q Do you know any of their sons?

Ernest Grant
Direct examination by Mr. Bulsa

1 A I've met them. I met -- what's his name? I met him.
2 I wrecked my wife's car. That was about last year of
3 October probably. And Loretta told -- told me his number,
4 and I called him and had him fix my car at his shop.

5 Q So you're pointing at the gentleman in the white shirt
6 at the defense table.

7 A Correct.

8 Q Okay. Now, and you -- did you meet him while
9 Mrs. Thompson was purchasing the house?

10 A Not until after she purchased it. He helped her move
11 in, and I was there to unlock the doors and stuff and give
12 them the keys.

13 Q Now, if you go on the county tax site it's -- the
14 property still shows as being in your name.

15 A Correct.

16 Q Why is that?

17 A Why?

18 Q Yes.

19 A Because I still have a loan on it. I still have a
20 loan in -- on the house.

21 Q So you haven't transferred the deed to Mrs. Thompson
22 yet?

23 A No. We got a -- like a copy, deed copy, that we made.

24 Q Okay.

25 A I think he got a copy of it.

Ernest Grant
Direct examination by Mr. Bulsa

1 Q All right. Let me show you what's been marked State's
2 Exhibit No. 4 for Identification. Do you recognize the
3 house that is shown in that photograph?

4 A Yeah.

5 Q Is that the house on River Street?

6 A Yes, sir.

7 Q Okay. Is that an aerial picture of it?

8 A Looks like it.

9 Q okay. And it shows the house as well as another
10 building. Is that building a garage?

11 A Yes, sir.

12 Q Okay.

13 MR. BULSA: Your Honor, the state would offer State's
14 4 into evidence.

15 MR. BAITY: Your Honor, I'm going to object to any
16 exhibits or evidence that is offered by the state
17 concerning this address, 120 River Street -- Drive in
18 Spartanburg on the basis that the search that was conducted
19 there was violative of Article I, Section 10, South
20 Carolina Constitution, Fourth Amendment of the United
21 States Constitution, Statute 17-13-140 of the South
22 Carolina Code and the case law that is interpreted in that
23 body of law. I would ask that -- I would object to that,
24 the introduction of that evidence.

25 THE COURT: All right. The objection is overruled.

Ernest Grant
Direct examination by Mr. Bulsa

1 (Photograph marked State's Exhibit No. 4.)

2 MR. BAITY: And, Your Honor, if I may on the record, I
3 ask if I can make continuing objection without going back
4 into all of the grounds. This will happen from time to
5 time in the trial.

6 THE COURT: You may.

7 MR. BAITY: Thank you, Your Honor.

8 BY MR. BULSA

9 Q Mr. Grant, the property on River Street, is that in
10 Spartanburg County?

11 A Yeah.

12 Q Where is River Street in Spartanburg County?

13 A It's off Isom Street in -- I guess it's Duncan, or not
14 Duncan -- Drayton.

15 Q Drayton.

16 A Uh-huh.

17 Q okay. It's not far from the courthouse, is it?

18 A No.

19 THE COURT: Please don't forget to use that
20 microphone.

21 what's happening is you're leaning back away from it.
22 You don't have to get right up on it, but you just can't
23 lean back from it.

24 BY MR. BULSA

25 Q How big of a piece of property is this?

Ernest Grant
Direct examination by Mr. Bulsa

- 1 A It's a 3-bedroom, 2-bath -- two floors. It's got a
2 700-square-foot garage. The lot size I'd have to look up.
3 I don't remember.
- 4 Q And is it a 2-car garage?
- 5 A It's a -- yeah. It's a double garage.
- 6 Q And the garage is detached from the house?
- 7 A Correct.
- 8 Q Okay. Is there a breezeway or covering that connects
9 the garage and the house?
- 10 A No. There ain't no -- there's a walkway. There ain't
11 no roof.
- 12 Q No covering over it?
- 13 A No, no.
- 14 Q All right. And you saw this picture, State's
15 Exhibit 4. Do you see the red?
- 16 A Yeah.
- 17 Q It looks like a row of something near the roadway.
18 Can you tell what that is?
- 19 A Looks like an outline of something.
- 20 THE COURT: Excuse me?
- 21 A Red marker.
- 22 Q Okay. You don't know?
- 23 A Uh-uh.
- 24 Q Have you been by the house recently?
- 25 A I did probably -- it was last year.

Ernest Grant
Direct examination by Mr. Bulsa

1 Q Okay. Has the property been changed since you
2 purchased it or since you sold it to Mrs. Thompson?

3 A Yeah. There is a fence up there.

4 Q Fences around it. Okay.

5 A That's about the only thing.

6 Q Could that red line be the fence? But it did not have
7 the fence around it when you sold the property.

8 A No.

9 Q Okay. And is River Street a dead-end street?

10 A Uh-huh.

11 Q You've got to answer verbally.

12 A Yes, sir.

13 Q And about how long is the street itself?

14 A It's not even a quarter of mile, I don't think.

15 Q Okay. Is it a normal width of a street, or is it
16 narrower?

17 A It's a narrower road.

18 Q It's even hard to turn around on it, isn't it?

19 A Correct.

20 Q So this is at the location of a dead-end street.
21 Okay.

22 THE COURT: Let's let the jurors move down one seat.
23 Can you move that rope, please, sir?

24 Let everybody see a little bit better. It won't be
25 one hundred percent improvement, but it's better than what

Ernest Grant
Cross-examination by Mr. Baity

1 it was.

2 MR. BULSA: I should have tested the battery.

3 (Pause.)

4 Q Okay. Do you see the red in front? Does that appear
5 to be the fence?

6 A Okay.

7 Q You said you had Mr. Thompson work on your wife's car.
8 Where did you take it?

9 A On Old Furnace Road.

10 Q So you didn't take it to the house to be worked on.

11 A No.

12 THE COURT: I'm sorry. I couldn't hear that.

13 A No, sir.

14 Q Thank you. Answer any questions Mr. Baity may have.

15 MR. BAITY: Thank you. May it please the Court, Your
16 Honor.

17 May I approach the witness, Your Honor?

18 THE COURT: You may.

19 CROSS-EXAMINATION

20 BY MR. BAITY

21 Q Mr. Grant, I'm going to show you a document. Do you
22 recognize that document?

23 A Yes, sir. I've got a copy of it with me.

24 Q Is that the document that you described in your --
25 earlier in your testimony, the agreement between you and

Ernest Grant
Cross-examination by Mr. Baity

1 Mrs. Thompson for her to purchase the property from you as,
2 they say, on contract?

3 A Yes, sir.

4 Q All right, sir. So the house is registered in your
5 name, but she is purchasing it from you. When she pays
6 you, you will transfer the deed. Is that the way it works?

7 A Correct.

8 MR. BAITY: Your Honor, I would move this be admitted
9 into evidence.

10 MR. BULSA: No objection.

11 THE COURT: It's admitted.

12 (Copy of deed marked Defendant's Exhibit No. 4.)

13 BY MR. BAITY

14 Q Now, you're familiar with this document, sir. Whose
15 names are mentioned on that contract?

16 A Loretta Thompson and mine.

17 Q All right. Is the defendant, Alfonso Thompson,
18 mentioned or described --

19 A No, sir.

20 Q -- or anything at all about him on that contract?

21 A I didn't even know him.

22 Q All right. And at the time you entered into that
23 contract you had not met him yet?

24 A Uh-uh.

25 Q All right. To your knowledge does Mrs. Thompson,

Ernest Grant
Redirect examination by Mr. Bulsa

1 Mrs. Loretta Thompson, still live there?

2 A Yes, sir.

3 Q And did she live there while her husband, Charles
4 Edward Thompson, was alive?

5 A Yes, sir.

6 MR. BAITY: That's all I have, Your Honor.

7 Q Thank you.

8 REDIRECT EXAMINATION

9 BY MR. BULSA

10 Q Mr. Grant, do you know when the Thompsons moved into
11 this residence?

12 A December of '03 if I'm not mistaken.

13 Q So shortly after this contract was signed.

14 A Yeah.

15 Q Okay. All right. Thank you sir. That's all I have.

16 THE COURT: You can step down.

17 MR. BULSA: Your Honor, I ask Mr. Grant be excused.

18 THE COURT: He may be.

19 MR. BAITY: No objection.

20 (Whereupon, the witness was excused.)

21 MR. BULSA: The state calls Lieutenant Mark Gaddy.

22 MARK GADDY, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BULSA

25 Q Lieutenant Gaddy, introduce yourself to the jury,

Mark Gaddy
Direct examination by Mr. Balsa

1 please.

2 A My name is Mark Gaddy. I'm a lieutenant at the
3 Spartanburg County Sheriff's Office. I'm the training
4 lieutenant and also the assistant SWAT team commander.

5 Q How long have you been in law enforcement?

6 A Approximately 18 years.

7 Q Has all of that been with the sheriff's office?

8 A Yes, sir.

9 Q What is the SWAT team?

10 A It is a team that when we have warrants that meet a
11 certain criteria are needed, we serve the warrants, most of
12 the time in aspects with the narcotics unit. And we --
13 when we say serve the warrant, we go in. We secure the
14 residence and then turn it over to the narcotics
15 investigators for administrative service and processing of
16 the warrant.

17 Q Lieutenant Gaddy, were you aware of the narcotics
18 officers having a search warrant for 120 River Street?

19 A Yes, sir.

20 MR. BAITY: Your Honor, I object, part of my
21 continuing objection to any evidence or testimony given
22 with respect to the search warrant that was taken, executed
23 on this property.

24 THE COURT: Overruled.

25 MR. BAITY: Thank you, Your Honor.

Mark Gaddy
Direct examination by Mr. Bulsa

1 BY MR. BULSA

2 Q What was your answer?

3 A Yes, sir.

4 Q Okay. And were you asked to assist in the execution
5 of that search warrant?

6 A Yes, sir.

7 Q What role is the SWAT team's to be?

8 A Again, whenever we do this, we go in. We secure the
9 residence so that it's safe for them to do their
10 administrative processing and paperwork and closing out the
11 warrant.

12 Q So y'all would have been the first ones through the
13 door.

14 A Yes, sir.

15 Q And did you do any surveillance of River Street prior
16 to going into 120 River Street?

17 A Not -- not personally going up and looking, because we
18 were asked to specifically by the narcotics investigators
19 because it was a dead-end street.

20 All of this -- this picture right here was obtained
21 off of a Google website, the Google map's website.

22 Q So you basically did some surveillance on the
23 computer --

24 A Yes.

25 Q -- to get a view of the property, right?

Mark Gaddy
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q And then that's State's Exhibit 4.

3 Let me show you State's Exhibit 5 for
4 Identification. Is that another view?

5 A Yes, sir.

6 Q Showing a different angle?

7 A Yes, sir.

8 MR. BAITY: Same objection, Your Honor, part of my
9 continuing objection to the original -- the first
10 photograph he put in.

11 THE COURT: It's overruled.

12 MR. BULSA: The state would offer State's Exhibit 5
13 into evidence.

14 THE COURT: It's admitted.

15 (Photograph marked State's Exhibit No. 5.)

16 Q All right. What is the -- it's kind of hard to see
17 the color. But what is that line, objects, along the
18 roadway? What does that depict?

19 A It looked to us on the overhead as a fence, and it was
20 also confirmed as a fence by the narcotics investigators.

21 Q Okay. And here is State's Exhibit 5 showing a
22 different vantage point. Which view is this showing?

23 A That would be a view coming off of Drayton Avenue onto
24 River Street.

25 Q Okay. Shows the dead-end street. There's actually a

Mark Gaddy
Direct examination by Mr. Bulsa

1 house further down past it on the right, is that correct?

2 A Yes, sir.

3 Q And 120 River Street would be this last house on the
4 left?

5 A Yes, sir.

6 Q okay. And we can see the fence. Did it appear to go
7 around the entire property?

8 A Yes, sir.

9 Q okay. Describe for the jury what your team undertook
10 to go on this property.

11 A After we did the -- after we did the briefing we
12 loaded onto the armored vehicle, and we came off Drayton
13 Avenue onto River Street. And because we knew the fence
14 was there if -- you know, if the fence was open we'd drive
15 through the gate. And if the fence was closed we would --
16 we drove through the gate also to get to the house to do
17 the actual service of the warrant. Once we got through the
18 gate we came up --

19 Q Let me ask you. Was the gate secured?

20 A It was. It was closed. Now, whether or not it was
21 locked -- because it was a no-knock search warrant we --
22 you know, the -- we didn't want anybody to have any time to
23 get rid of any evidence. So we went through the gate.

24 Q So you didn't even check to see if it had a padlock or
25 anything on it.

Mark Gaddy
Direct examination by Mr. Bulsa

1 A Negative.

2 Q Okay. So you went through the gate. And then what
3 happened?

4 A After we got through into the little courtyard there
5 part of the team went to the main residence through the
6 front door, which was the primary entry point. And a
7 couple of operators actually went to the left side of the
8 house to make sure that it was secured, the perimeter of
9 the house was secured. And a couple of operators went to
10 the garage to make sure that the garage was secured.

11 After the people that were doing the entry went into
12 the house one of the operators from the left side secured
13 the ram that was used to make entry into the house.

14 We had to hit the door. We opened the storm door, and
15 we had to hit the door twice with a ram to make entry.

16 After that was done one of the operators took the ram
17 and went to the garage so that the clearing of the red --
18 or the residence and the garage was happening pretty much
19 at the same time with just a slight delay.

20 Q Were you announcing your presence as you were doing
21 this?

22 A We were. As I said, it was a no-knock search warrant,
23 so it was as we went.

24 Q How were you announcing?

25 A Sheriff's office, search warrant.

Mark Gaddy
Direct examination by Mr. Bulsa

1 Q Okay. And were you able to breach both structures?

2 A Yes.

3 Q And once you breached those to go in, what did you
4 find?

5 A In the garage there was just some vehicles, car parts,
6 stuff like that. In the residence there was one male on
7 the second floor.

8 Q Did you know who he was?

9 A No, sir.

10 Q Was it the defendant?

11 A No, sir.

12 Q How old was he?

13 A He was -- I don't know -- probably 70. He was
14 elderly. He was an elderly --

15 Q Elderly man.

16 A Yes, sir, older gentleman.

17 Q Was he the only person on the property?

18 A Yes, sir.

19 Q And what was -- was he taken out of the house?

20 A He was. After the house was cleared and secured -- at
21 first when he was verbally encountered he was told to lay
22 down. He did that. We finished with our clearing.

23 I had gone into the kitchen and met some operators
24 coming back that had already cleared the back side of the
25 house.

Mark Gaddy
Direct examination by Mr. Bulsa

1 After that I went upstairs and saw what they were
2 dealing with up there, took that man, put him in handcuffs,
3 helped him up and took him down to the living room where
4 the sofa had already been cleared and placed him on the
5 sofa.

6 Q How long was your team inside the house?

7 A Probably 15 minutes. I mean, we weren't inside long
8 because typical protocol is we -- we go in and secure it,
9 make sure it's clear in a safe and operating environment
10 for the narcotics investigators. And then we turn it over
11 to them.

12 Q Where were the narcotics officers?

13 A They were -- they came down in behind us. And what
14 they typically do on a plan is they'll come in and secure
15 some of the perimeter for us because of the numbers of
16 people that we need to do these operations. So they were
17 out -- they typically stay outside until we call the
18 residence secured. And then they come in and they start
19 their administrative processing of the warrant.

20 Q So y'all back out and turn it over to those officers?

21 A Yes, sir.

22 Q Okay. So did you encounter any opposition or --

23 A No, sir. The only -- like I say, the only person we
24 encountered was the gentleman upstairs.

25 Q Thank you, Lieutenant. Answer any questions Mr. Baity

Mark Gaddy
Cross-examination by Mr. Baity

1 may have.

2 A Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. BAITY

5 Q Lieutenant Gaddy, you state that you drove through the
6 gate. And you don't know whether it was locked or not?

7 A No, sir.

8 Q All right, sir. And then you went into the main
9 residence and secured entry into the garage.

10 A Yes, sir.

11 Q Well, I don't mean you personally, but you and the
12 persons with you. You went into two different entrances in
13 the house? Is that what you said?

14 A Negative. We -- the only entrance into the house was
15 the front door. And in between the house and the garage --
16 actually around on the side that's in between the house and
17 the garage there is a storm door that was an entry door
18 into the garage. That's the door they used into the
19 garage.

20 The two buildings were entered one right after the
21 other, but, no, just one way into the house.

22 Q All right. Did you encounter any resistance
23 whatsoever from anyone in the house?

24 A No, sir.

25 Q Did anyone brandish or show or reach for or run for a

Mark Gaddy
Cross-examination by Mr. Baity

1 weapon of any type or description whatsoever?

2 A Not that I'm aware of.

3 Q All right. Now, you say you encountered a man
4 upstairs, I believe.

5 A I didn't personally, but the team did, yes, sir.

6 Q All right. The team did. And that to your knowledge
7 was the only person that was in the house at that time.

8 A Yes, sir.

9 Q I ask you. Was this man seated to my left in that
10 house at that time?

11 A No, sir.

12 Q All right. And I believe you said the man that you
13 encountered was an elderly man.

14 A Yes, sir.

15 Q All right. And this man was taken into custody, that
16 is he was cuffed and taken downstairs and secured?

17 A Yes, sir.

18 Q Okay. When I say cuffed, he was placed into handcuffs
19 and taken to his living room and seated there with an
20 officer keeping an eye on him?

21 A Yes, sir.

22 Q All right, sir. Was he later taken out of the house
23 to your knowledge?

24 A Not to my knowledge, because after the fact we don't
25 have anything --

Steve Cooper
Direct examination by Mr. Hunter

1 MR. BAITY: No further questions, Your Honor.

2 MR. BULSA: Nothing further, Your Honor.

3 THE COURT: You may step down.

4 MR. BULSA: We ask he be excused.

5 MR. BAITY: No objection.

6 THE COURT: He may be.

7 (Whereupon, the witness was excused.)

8 MR. HUNTER: Your Honor, at this time the state would
9 call Lieutenant Steve Cooper.

10 STEVE COOPER, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. HUNTER

13 Q Please introduce yourself to the jury.

14 A My name is Steve Cooper. I am the lieutenant over the
15 narcotics and vice division of the Spartanburg County
16 Sheriff's Office.

17 Q Can you give an overview of your police-officer
18 experience?

19 A I started at the sheriff's office back in 1989. I've
20 worked various divisions throughout the sheriff's office.
21 I have approximately 11 years experience in the narcotics
22 and vise division with the last four and a half years I
23 spent in some supervisory capacity over that unit.

24 Q Did you have the chance to be at the River Street
25 search warrant?

Steve Cooper
Direct examination by Mr. Hunter

1 MR. BAITY: Your Honor, again --

2 A I did.

3 MR. BAITY: Excuse me.

4 I would renew my objection earlier made and make this
5 as a part of my continuing objection to any testimony or
6 evidence regarding the search warrant that was executed at
7 120 River Drive on the same grounds. Thank you.

8 THE COURT: Overrule the objection.

9 BY MR. HUNTER

10 Q What was your job during that search warrant?

11 A That day we had split -- split up into teams. And my
12 primary function that day was to oversee the search team
13 that was actually going to search the residence once the
14 SWAT team went in and secured it. I am who the SWAT team
15 turned that scene over to that day.

16 (Bushmaster .223 caliber rifle marked State's Exhibit
17 No. 9 for Identification; S.K.S. assault rifle marked
18 State's Exhibit No. 10 for Identification; Remington 870
19 pump shotgun marked State's Exhibit No. 11 for
20 Identification; Intratec 9mm pistol marked State's Exhibit
21 No. 13 for Identification.)

22 Q Let me show you what's been premarked State's
23 Exhibit 9. Do you recognize what's in that box, Lieutenant
24 Cooper?

25 A Yes. This is a Bushmaster .223 caliber rifle that I

Steve Cooper
Direct examination by Mr. Hunter

1 located in the master bedroom, which was the first bedroom
2 on the left at the top of the stairs.

3 Q Is that in the same or substantially same condition as
4 when you found it?

5 A Yes, it is.

6 MR. HUNTER: Your Honor, at this time the state would
7 offer State's Exhibit 9 into evidence.

8 MR. BAITY: Your Honor, I would renew my objection to
9 any items of evidence offered by the state that came as a
10 result of the search warrant that was executed on 120 River
11 Street, again, as violative of Article I, Section 10, of
12 the South Carolina Constitution, and the Fourth Amendment
13 of the U.S. Constitution, 17-13-140 of the South Carolina
14 Code and the accompanying federal and state case law.

15 THE COURT: Overruled.

16 (Bushmaster .223 caliber rifle marked State's Exhibit
17 No. 9.)

18 BY MR. HUNTER

19 Q Again, Lieutenant Cooper, where did you locate that
20 weapon?

21 A I'm sorry?

22 Q Again, where did you locate that weapon?

23 A That was in the master bedroom, which is the first
24 bedroom on the left at the top of the stairs.

25 Q Is there anything else in that box, Lieutenant Cooper?

Steve Cooper
Direct examination by Mr. Hunter

1 A Yes. There's the magazine that holds the ammunition
2 that goes into the bottom of the rifle. And there's
3 numerous rounds that were in the magazine.

4 (Rounds marked State's Exhibit No. 14 for
5 Identification; magazine marked State's Exhibit No. 15 for
6 Identification.)

7 Q And are these magazines and these rounds in the same,
8 substantially same, condition as when you found them?

9 A The only difference is in on the magazine, I mean, on
10 the rounds the D.E.A. asked us to perform a functionality
11 test on this weapon to, in fact, see if the weapon would
12 fire, and which Lieutenant Gaddy actually performed that,
13 that test. And I believe the test-fired bullet is in this
14 bag.

15 Q But other than that is it in the same or substantially
16 same condition?

17 A Yes, other than the one tested bullet.

18 MR. HUNTER: Your Honor, at this time the state would
19 move to offer State's Exhibits 14 and 15 into evidence.

20 MR. BAITY: Same objection, Your Honor, as part of my
21 continuing objection that this evidence was obtained
22 without probable cause.

23 THE COURT: Overruled.

24 MR. BAITY: Thank you.

25 (Rounds marked State's Exhibit No. 14; magazine marked

Steve Cooper
Direct examination by Mr. Hunter

1 State's Exhibit No. 15.)

2 Q Were you able to find an S.K.S. in that same location?

3 A That is correct.

4 Q I'm going to show you what's been marked State's
5 Exhibit 12. Do you want me to open the box? Could you
6 please describe that weapon?

7 A Yeah. This is an S.K.S. style assault rifle. And I
8 believe it's a 7.69 caliber. And this is one of the same
9 weapons that I found in that closet as well.

10 Q Okay. In what location?

11 A Master bedroom on the left at the top of the stairs in
12 the closet.

13 Q Okay. And is that in the same or substantially same
14 condition as when you found it?

15 A Yes, it is.

16 Q What's the exhibit number?

17 MR. HUNTER: Your Honor, at this time the state would
18 offer State's Exhibit 12 into evidence.

19 MR. BAITY: Part of my continuing objection, Your
20 Honor, object to any evidence coming in as a result of the
21 search of 120 River Street as having no probable cause.
22 Thank you.

23 THE COURT: Overruled. It's admitted.

24 (S.K.S. assault rifle marked State's Exhibit No. 12.)

25 Q I show you what's been premarked State's Exhibit 13,

Steve Cooper
Direct examination by Mr. Hunter

1 specifically the weapon in here. Do you recognize that
2 item?

3 A Yes. This is an Intratec 9mm pistol type that I
4 recovered from the first bedroom on the right in the -- in
5 the closet at the top of the stairs.

6 Q So that's in a different bedroom.

7 A That is correct.

8 Q Let me show you what's been premarked as State's
9 Exhibit 16, 17, 18 and 19. Could you please describe what
10 these are?

11 A Exhibit 18 would be the magazine that actually fits
12 into the butt of the gun.

13 Q How many -- how many rounds fit into that magazine?

14 A This would probably be either a 20-or-30-round
15 magazine.

16 Q Okay.

17 A And these would be the 9mm bullets that actually came
18 from that magazine once we found it.

19 This is a -- this here is a magazine for another type
20 of weapon that we didn't find there at the scene.

21 THE COURT: Can you refer to that by number, please?

22 THE WITNESS: I'm sorry. Exhibit 19.

23 BY MR. HUNTER

24 A The bullets were Exhibit 17. The extra magazine is
25 Exhibit 19, and these are either .40 or .45 caliber rounds

Steve Cooper
Direct examination by Mr. Hunter

1 that came out of that magazine. I believe they're .40
2 caliber rounds, and that is Exhibit 16.

3 Q Where were those items located?

4 A With this pistol, with this machine pistol.

5 Q Are they in the same or substantially same condition
6 as when you found them?

7 A Yes, they were.

8 MR. HUNTER: Your Honor, at this time the state would
9 offer State's Exhibits 16, 17, 18 and 19 into evidence.

10 MR. BAITY: I again object. I renew my continuing
11 objection to any evidence seized from River Street as a
12 result of the search warrant which was without probable
13 cause.

14 THE COURT: Overruled. They're admitted.

15 (Bullets marked State's Exhibit No. 16; bullets marked
16 State's Exhibit No. 17; magazine marked State's Exhibit No.
17 18; magazine marked State's Exhibit No. 19.)

18 Q To your knowledge do you know who the last known
19 purchaser of the TEC-9 was?

20 A I do, and that was determined through an A.T.F. trace
21 of that weapon. It was the defendant, Alfonso Thompson.
22 Looks like that purchase --

23 Q Was that gun purchased in the year 2000?

24 A Yeah, on 11/17 of 2000 at the Easy Money Pawn Shop on
25 Reidville Road here in Spartanburg County.

Steve Cooper
Direct examination by Mr. Hunter

1 Q One final weapon for you.

2 MR. HUNTER: Let the record reflect I'm showing the
3 witness State's Exhibit 11, the weapon.

4 Q Do you recognize that weapon?

5 A Yes. This is the 870 -- Remington 870 pump shotgun
6 that was located in the upstairs master bedroom.

7 Q So most of the long guns were found in that upstairs
8 bedroom?

9 A On the left, that's correct, the master bedroom.

10 Q And is that in the same or substantially the same
11 condition as when you found it?

12 A Yes, it is.

13 MR. HUNTER: Your Honor, at this time the state would
14 offer State's Exhibit 11 into evidence.

15 MR. BAITY: Object, Your Honor, as part of my
16 continuing objection to any evidence seized as a result of
17 the search of 120 River Street as being done without
18 probable cause.

19 THE COURT: It's admitted.

20 MR. BAITY: Did you overrule my objection, Your Honor?

21 THE COURT: I did overrule your objection.

22 (Remington 870 pump shotgun marked State's Exhibit No.
23 11; shotgun shell holder marked State's Exhibit No. 20 for
24 identification; shotgun shells marked State's Exhibit No.
25 21 for identification.)

Steve Cooper
Direct examination by Mr. Hunter

1 Q Let me show you what's been premarked as State's
2 Exhibits 20 and 21. Make sure you refer to them as
3 numbers. Can you please tell us what those are?

4 A Exhibit 21 are shotgun shells that were with the
5 shotgun loaded in the gun, as well as Exhibit 20, which is
6 a shotgun shell holder that was with the shotgun as well.

7 Q And are those in the same or substantially same
8 condition as when you found them?

9 A Yes, they are.

10 MR. HUNTER: Your Honor, at this time the state would
11 offer State's Exhibits 20 and 21 into evidence.

12 MR. BAITY: Part of my continuing objection, Your
13 Honor, to any evidence being admitted as a result of the
14 search of 120 River Street on the grounds I previously
15 stated, being without probable cause.

16 THE COURT: Overruled. They're admitted.

17 MR. BAITY: Thank you, Your Honor.

18 (Shotgun shell holder marked State's Exhibit No. 20;
19 shotgun shells marked State's Exhibit No. 21.)

20 Q Now, most of your search is focused upstairs. Did you
21 search downstairs at all?

22 A I did. I helped search the entire house.

23 (Measuring cup marked State's Exhibit No. 22 for
24 Identification; measuring cup marked State's Exhibit No. 23
25 for Identification.)

Steve Cooper.
Direct examination by Mr. Hunter

1 Q Let me show you what's been marked State's
2 Exhibit 21 -- 22 and 23. Excuse me. Do you recognize
3 those items?

4 A I do. These are the two glass Pyrex dishes that I
5 located in the dishwasher in the -- I mean -- yeah, the
6 dishwasher in the kitchen.

7 Q Are they in the same or substantially same condition
8 as when you found them?

9 A They are.

10 MR. HUNTER: Your Honor, at this time the state would
11 seek to offer State's Exhibits 23 and 24 into evidence.

12 MR. BAITY: Part of my continuing objection, Your
13 Honor, I object to the entry or the admission of any
14 evidence that was obtained as a result of the search of 120
15 River Street in Spartanburg on the same grounds as being
16 they were obtained without probable cause.

17 THE COURT: They're admitted over that objection.

18 MR. BAITY: I'm sorry, Your Honor?

19 THE COURT: I said they are admitted over that
20 objection.

21 MR. BAITY: Thank you, Your Honor.

22 (Measuring cup marked State's Exhibit No. 22;
23 measuring cup marked State's Exhibit No. 23.)

24 Q In a narcotics search warrant, why would you take
25 Pyrex glasses?

Steve Cooper
Direct examination by Mr. Hunter

1 A Pyrex dishes are commonly used in the manufacturing of
2 crack cocaine, cocaine base. They're used to mix the
3 cocaine and a cutting agent, to whip it up, so to speak.
4 So that's why we look for things. Especially the smaller
5 one, it looks well used as if someone had been using that
6 to cook up crack.

7 Q Did you find anything else in the residence?

8 A I did. I found a vacuum sealer under the kitchen
9 cabinet.

10 (Vacuum sealer marked State's Exhibit No. 24 for
11 Identification.)

12 Q I am going to show you what's been marked State's
13 Exhibit 24. Do you recognize that item?

14 A Actually this is not the one that I found.

15 Q That's not. Hold on one second.

16 (Vacuum sealer marked State's Exhibit No. 25 for
17 Identification.)

18 Q That's my mistake. State's Exhibit 25, do you
19 recognize that?

20 A Yeah. Actually, this is the vacuum sealer with the
21 green plant like residue on the top of it with the vacuum
22 sealed bags on the back with a strong odor of marijuana on
23 it. And that's Exhibit 25.

24 Q Is it in the same or substantially same condition as
25 when you found it?

Steve Cooper
Direct examination by Mr. Hunter

1 A Yes, it is.

2 MR. HUNTER: Your Honor, at this time the state would
3 offer State's Exhibit 25 into evidence.

4 MR. BAITY: Part of my continuing objection, Your
5 Honor, I object to the admission of any evidence brought
6 about by the result of a search of 120 River Street in
7 Spartanburg as being done without probable cause.

8 THE COURT: Overruled. It's admitted.

9 (Vacuum sealer marked State's Exhibit No. 25.)

10 Q Now, in a narcotics search warrant why would you take
11 a vacuum sealer?

12 A Commonly vacuum sealed bags and a vacuum sealer are
13 used to repackage drugs for sale, for resale. Most people
14 that have vacuum sealers usually get in large quantities of
15 marijuana. They like to break it up into smaller packages,
16 put it in the vacuum-seal bag, reseal it with the sealer
17 and then put it out on the streets for distribution. So
18 these -- this is a tool, a common tool, used in the
19 repackaging of drugs for distribution.

20 Q Did you find anything else in this house?

21 A I did. In a kitchen cabinet I found a bowl containing
22 some burnt marijuana cigarettes, commonly referred to as
23 roaches, what's basically partially smoked joints.

24 Q I show you what's been -- get it marked first.

25 (Partially smoked marijuana cigarette marked State's

Steve Cooper
Direct examination by Mr. Hunter

1 Exhibit No. 26 for Identification; partially smoked
2 marijuana cigarette marked State's Exhibit No. 27 for
3 Identification.)

4 Q Let me show you what's been marked State's Exhibits 26
5 and 27. Do you recognize those items?

6 A Yes. Those are the partially smoked marijuana
7 cigarettes that I found in the bowl in the kitchen cabinet.

8 Q And are they in the same or substantially same
9 condition as when you found them?

10 A They are.

11 MR. HUNTER: Your Honor, at this time the state would
12 offer State's Exhibits 26 and 27 into evidence.

13 MR. BAITY: Once again, I would renew my objection or
14 my continuing objection to any evidence taken as a result
15 of the search warrant being without probable cause, Your
16 Honor.

17 THE COURT: Overruled. They're admitted.

18 (Partially smoked marijuana cigarette marked State's
19 Exhibit No. 26; partially smoked marijuana cigarette marked
20 State's Exhibit No. 27.)

21 Q Lieutenant Cooper, did you find anything else during
22 your search of the residence?

23 A I did not.

24 Q Lieutenant Cooper, in your time as a narcotics
25 investigator have you ever had the chance to make any

Steve Cooper
Direct examination by Mr. Hunter

1 undercover buys?

2 A Absolutely.

3 Q Approximately how many?

4 A Less than ten.

5 Q Now, how many have you -- now, is that with you
6 actually making the buy?

7 A Me acting in an undercover capacity, that is correct.

8 Q And how many times have you acted as the actual
9 officer directing the informants to make a purchase?

10 A Hundreds.

11 Q Have you ever had the opportunity to go on a search
12 warrant like this case?

13 A I have.

14 Q Approximately how many times in your law enforcement
15 career?

16 A Too high to count. I couldn't tell you.

17 Q Okay. In your law enforcement career has your office
18 ever compiled data on the amount -- or excuse me -- on the
19 street value of drugs commonly sold in Spartanburg County?

20 A We know the street value of most drugs on the street,
21 that's correct.

22 Q Okay. And, in fact, does the D.E.A. actually take
23 information from y'all to help comprise their data on what
24 the street value of drugs is?

25 A We -- we submit an annual report. I'm not sure what

Steve Cooper
Direct examination by Mr. Hunter

1 the D.E.A. -- what they collect.

2 Q Are you familiar with the value, street value, of both
3 cocaine and marijuana?

4 A I am.

5 Q And, again, how long have you been in law enforcement?

6 A Almost 23 years.

7 Q And how many of that is spent with narcotics?

8 A Over ten.

9 Q And currently you are the lieutenant in narcotics?

10 A That is correct.

11 Q Which means what within the system of Spartanburg
12 County?

13 A Basically, I supervise 11 narcotics agents that are
14 directly under my supervision and control.

15 Q And would you have known the street value of both
16 cocaine and marijuana in 2010 at the time the search
17 warrant was executed?

18 A I would.

19 MR. HUNTER: Your Honor, at this time the state would
20 offer Lieutenant Cooper as an expert in the street value of
21 narcotics.

22 MR. BAITY: If I could have a few more questions
23 perhaps outside of the jury, Your Honor.

24 THE COURT: Well, let me see y'all just a minute.

25 (Bench conference held off the record in the presence

Steve Cooper
Direct examination by Mr. Hunter

1 of the jury but out of the hearing of the jury.)

2 THE COURT: All right. Overrule the objection.

3 You may ask the question.

4 BY MR. HUNTER

5 Q As we heard Mr. Bulsa in opening, this case is about
6 500 grams of cocaine.

7 Could you please give what you know the retail
8 value of 500 grams of cocaine, as well as the
9 wholesale value -- if you sold 500 grams on the
10 street what would you get as opposed to if you sold
11 the whole actual amount on the street?

12 A If I --

13 MR. BAITY: Excuse me.

14 I'm going to object. There's no weight or drugs of
15 any type have been admitted. So this is purely a
16 hypothetical question that you're putting to him, is
17 that --

18 MR. HUNTER: Correct.

19 MR. BAITY: All right.

20 BY MR. HUNTER

21 A Hypothetically, the amount of drugs that's in question
22 is over 500 grams, which is approximately 18 ounces.
23 wholesale value on that 18 ounces, roughly a thousand
24 dollars an ounce, \$18,000.

25 If you broke that down per gram you're looking at

Steve Cooper
Direct examination by Mr. Hunter

1 about \$500 -- I'm sorry -- 500 grams, which would retail
2 for about a hundred dollars a gram. So you're in the
3 estimate \$50,000 approximately.

4 Q So value of 500 grams of cocaine, depending on either
5 you sold it broken up or at one time, could be anywhere
6 from 18,000 to \$50,000.

7 A Or more if you decided to cook it into crack and sell
8 it by the rock.

9 Q Okay. Now, in regards to marijuana, what is the
10 normal purchase of marijuana on the street?

11 A You know, depending on the grade and the quality of
12 the marijuana, you know, typically a quarter bag runs about
13 \$40. When I say a quarter bag, I mean a quarter of an
14 ounce.

15 There's of course four quarters in an ounce. About
16 \$40 a quarter, \$160 an ounce.

17 Q Okay. So if you're looking at six ounces you're
18 looking at \$960?

19 A Retail.

20 Q Okay. Now, as far as wholesale, how much would six
21 ounces go for?

22 A And, again, it all depends on the quality. Roughly a
23 quarter pound, somewhere between two fifty and three
24 hundred dollars.

25 Q Okay. So you're looking at anywhere from two hundred

Steve Cooper
Cross-examination by Mr. Baity

1 fifty to nine hundred sixty dollars as far as six ounces of
2 marijuana.

3 A Depending on how you sold it, that's correct.

4 Q Please answer any questions Mr. Baity might have for
5 you.

6 MR. BAITY: Your Honor, I just wanted to note for the
7 record that I'm not sure if the court reporter picked up
8 our side bar, but he was offered as an expert and the
9 Court -- I objected, and the Court did qualify him as an
10 expert, and you did overrule my objection.

11 CROSS-EXAMINATION

12 BY MR. BAITY

13 Q Lieutenant Cooper, concerning these rifles and
14 shotguns, the Bushmaster --

15 A Yes, sir.

16 Q -- were you able to determine who that was registered
17 to or who was the last purchaser of that?

18 A No, sir, I have not.

19 Q Have you -- did you discover any connection between
20 that weapon and the defendant?

21 A No, I did not.

22 Q All right, sir. You found it in the master bedroom?

23 A That is correct.

24 Q Was the master bedroom where -- was it upstairs or
25 downstairs?

Steve Cooper
Cross-examination by Mr. Baity

1 A The master bedroom was upstairs at the top of the
2 stairs on the left-hand side.

3 Q And the gentleman you encountered, the only man in the
4 house, was he anywhere near that bedroom?

5 A I didn't encounter that gentleman. I couldn't tell
6 you.

7 Once the SWAT team executed the search warrant on the
8 residence they actually secured him and, you know, brought
9 him out front. I don't know where he was located at.

10 Q All right, sir. But you have no documentation or any
11 evidence that the Bushmaster was owned or possessed by my
12 client.

13 A No, sir.

14 Q All right, sir. And the F.K.F. [sic], the 7.69
15 caliber, were you able to determine who was the last
16 purchaser of that?

17 A On the S.K.S., 7.62 by 39, no, we were not able to
18 determine that as well.

19 Q Any evidence or indication, documentation of any type,
20 that connected it in any way to this man seated to my left,
21 the defendant?

22 A No, sir.

23 Q All right. And you found that in the master bedroom
24 as well.

25 A Yes, sir. That's correct.

Steve Cooper
Cross-examination by Mr. Baity

1 Q And with respect to the Remington shotgun, you found
2 that in the master bedroom as well?

3 A Yes, sir. That's correct.

4 Q And did you find any documentation of who it belonged
5 to or who its last purchaser was?

6 A No, sir.

7 Q And did you have any evidence of any type --
8 documentation -- that in any way connected that weapon to
9 the defendant seated to my left?

10 A No, sir.

11 MR. BAITY: I have no further questions, Your Honor.

12 Thank you.

13 (Pause.)

14 MR. BAITY: May I ask one more?

15 THE COURT: You may.

16 MR. BAITY: Thank you, Your Honor. I appreciate that.

17 BY MR. BAITY

18 Q Was the defendant present when you discovered the
19 pistol?

20 A I think he was at the location, but he was not in the
21 residence.

22 Q Did you ever see that pistol in his personal
23 possession, in his hands?

24 A No, sir.

25 Q As a matter of fact, you took it out of a bedroom, and

Steve Cooper
Redirect examination by Mr. Hunter

1 that bedroom was empty at the time you retrieved it?

2 A There was no one -- if you mean by empty, there was no
3 one in that bedroom, no.

4 Q Other than the officers who were searching that.

5 A That's correct.

6 Q And you did not see that in the hands of the defendant
7 at any time that you were there.

8 A No, sir.

9 Q Thank you.

10 MR. BAITY: I have no further questions, Your Honor.

11 MR. HUNTER: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. HUNTER

14 Q Lieutenant Cooper, are you aware about the law
15 regarding purchases of guns?

16 A Somewhat.

17 Q Have you actually purchased guns yourself?

18 A I have.

19 Q If I purchased a gun from a federal firearms licensed
20 dealer and I sold it to you would we have to have any
21 record?

22 A Not necessarily, no.

23 Q If you purchased a gun off the street from someone
24 would there be any record --

25 A No, there would not.

Steve Cooper
Redirect examination by Mr. Hunter

- 1 Q -- that that person actually owned that gun?
- 2 A No, there would not.
- 3 Q Have you been able to look up the records of some of
- 4 these guns?
- 5 A Some of the particular guns in question?
- 6 Q The guns here.
- 7 A Some of the guns have been -- have been -- an A.T.F.
- 8 trace has been ran on them, that's correct.
- 9 Q Were there any purchasers on some of those guns?
- 10 A There was.
- 11 Q Okay. And that purchaser wasn't Mr. Thompson.
- 12 A I don't --
- 13 Q The TEC-9 was Mr. Thompson, but the other guns'
- 14 purchaser was not Mr. Thompson.
- 15 A That is correct.
- 16 Q Was it Loretta Thompson?
- 17 A Negative. No, it was not.
- 18 Q Was it Charles Thompson?
- 19 A No, it was not.
- 20 Q So these -- the guns were found in River Street.
- 21 A That's correct.
- 22 Q And whose residence was River Street?
- 23 A Mr. Thompson's, Alfonso Thompson, and according --
- 24 Q But Charles and Loretta Thompson as well.
- 25 A Correct.

Steve Cooper
Recross-examination by Mr. Baity

1 Q But none of the guns were registered to them either,
2 were they?

3 A That's correct.

4 MR. HUNTER: Thank you, Your Honor.

5 RECROSS-EXAMINATION

6 BY MR. BAITY

7 Q You stated this residence was Mr. Alfonso Thompson's
8 residence. But the house was actually owned by Mr. Grant,
9 was it not?

10 A That's correct.

11 Q And it was indentured to Loretta Thompson, was it not?

12 A That is correct.

13 Q And she lived there with her husband, Charles Edward
14 Thompson.

15 A That is correct.

16 Q Now deceased.

17 A That's correct.

18 Q Okay. And I believe Mr. Alfonso Thompson lived at 110
19 Larchwood Road in Spartanburg, is that not correct, sir?

20 A That is correct.

21 Q All right, sir. And he was not at this residence when
22 you went into 120 River Street as well.

23 A That's correct.

24 Q Okay. So what evidence do you have that he resided
25 there, that was his house?

Steve Cooper
Redirect examination by Mr. Hunter

1 A We had information prior to starting this
2 investigation that Mr. Thompson had -- Mr. Alfonso Thompson
3 had control of this residence.

4 And it is a very common practice in the drug
5 trafficking world for traffickers not to put their houses
6 in their names or distance themselves. Even though they
7 have control of it, it's a common practice to try to
8 distance themselves from -- from those residences because
9 they're known to store and stash guns and drugs at those
10 locations.

11 Q I understand that but -- but you saw him living
12 somewhere else, did you not?

13 A That is correct.

14 Q Okay. And you knew that his parents lived at this
15 house, 120 River Street, did you not?

16 A No, sir. Actually, I was under the assumption that
17 his parents lived at a Cowpens address.

18 Q That's your assumption.

19 A Well, that is information that we had.

20 Q All right.

21 MR. BAITY: Thank you, Your Honor. No further
22 questions.

23 MR. HUNTER: Just one question, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. HUNTER

Joe Pharis
Direct examination by Mr. Hunter

1 Q I believe you just talked about stashing drugs at a
2 house that's not theirs. Could you please just briefly
3 describe what a stash house is?

4 A Most drug traffickers -- of course they like to
5 distance themselves from their guns and their money and the
6 drugs to avoid detection by police.

7 So a stash house is nothing more than a location that
8 they have that they feel secure that not many people know
9 about.

10 Chances are it's going to be in a girlfriend or a
11 family member's name, somebody that they trust. And
12 they'll stash those items to avoid that detection by
13 police.

14 MR. BAITY: Your Honor, I'm going to object to this
15 testimony on the basis that it's suppositional.

16 THE COURT: Sustained.

17 MR. HUNTER: Nothing further, Your Honor.

18 MR. BAITY: Nothing further, Your Honor.

19 THE COURT: You may step down.

20 MR. HUNTER: Your Honor, the state would call Sergeant
21 Joe Pharis.

22 JOE PHARIS, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. HUNTER

25 Q Sergeant Pharis, could you please describe your law

Joe Pharis
Direct examination by Mr. Hunter

1 enforcement experience to the jury?

2 A Yes. I started in 1994. I worked at the Greenville
3 County Detention Center. I worked there approximately two
4 and a half years.

5 I got hired on with the Spartanburg Public Safety
6 Department in 2006. I was there roughly five and a half
7 years. Three of them years were in narcotics.

8 I got hired by the sheriff's office as basically a
9 road deputy. I worked the road for approximately six
10 months, was transferred into narcotics and have been in
11 narcotics ever since, some form or fashion.

12 Q How long have you actually been in narcotics?

13 A Total time with this, counting the city time, roughly
14 ten years.

15 Q And what's your rank within the narcotics office?

16 A A sergeant.

17 Q So who's above you and who's below you?

18 A Below me are the investigators and above me is
19 Lieutenant Cooper.

20 Q Were you involved in the investigation of Alfonso
21 Thompson?

22 A Yes, I was.

23 Q And specifically on the date the search warrant was
24 executed at River Street did you have a certain task
25 assigned to you?

Joe Pharis
Direct examination by Mr. Hunter

1 A Yeah, my --

2 MR. BAITY: Objection, Your Honor. Again, as part of
3 my continuing objection I object to any testimony or
4 evidence with respect to the search of 120 River Street as
5 being without probable cause on the grounds that I stated
6 earlier.

7 THE COURT: Overruled.

8 MR. BAITY: Thank you, Your Honor.

9 BY MR. HUNTER

10 A Yes. My -- my duty that day was to keep Mr. Alfonso
11 Thompson's shop on Old Furnace Road under surveillance.

12 Q What was the name of that shop?

13 A Ridiculous Rides, I believe.

14 Q Okay. And when they opened up the search warrant did
15 you bring Mr. Thompson back from Ridiculous Rides to 120
16 River Street?

17 A I did.

18 Q Was anybody else present with you?

19 A Yes, there was.

20 Q And who else was present with you?

21 A Special Agent Jerry Davis with the D.E.A.

22 Q Would you please point out Mr. Davis?

23 A Yes. The first row right behind Investigator --

24 Q The man standing up?

25 A Yes.

Joe Pharis
Direct examination by Mr. Hunter

1 Q Now, when you actually got to 120 River Street did you
2 stay with Mr. Thompson?

3 A No, I did not.

4 Q Did you participate in the search?

5 A Yes, I did.

6 Q Where was your main search area?

7 A My main -- excuse me. My main search area was in the
8 garage.

9 Q I'm going to show you what's been premarked -- or
10 excuse me.

11 (Inositol powder marked State's Exhibit No. 28 for
12 Identification.)

13 Q Show you what's been premarked State's Exhibit 28. Do
14 you recognize that item?

15 A Yes, I do.

16 Q And how do you recognize that item?

17 A This is a bottle of inositol powder, which is a
18 dietary supplement that I found in the garage area.

19 Q Is it in the same or substantially same condition as
20 when you found it?

21 A Yes, sir.

22 MR. HUNTER: Your Honor, at this time the state would
23 offer State's Exhibit 28 into evidence.

24 MR. BAITY: Renew my continuing objection, Your Honor,
25 to any evidence taken and submitted for admission today as

Joe Pharis
Direct examination by Mr. Hunter

1 a result of the search warrant on 120 River Street on the
2 same ground as being without probable cause.

3 THE COURT: Overruled. It's admitted.

4 (Inositol powder marked State's Exhibit No. 28.)

5 Q Sergeant Pharis, where was this located?

6 A In the garage amongst vehicle parts, stacks of tires.
7 And I think it was on like a small bench.

8 Q Now, with a narcotic search warrant why would you
9 seize a seemingly innocent bottle of dietary supplement?

10 A That is a common what we call a cutting agent of
11 cocaine, which means that they will mix.

12 MR. BAITY: Objection to the suppositional testimony,
13 Your Honor. He's not laid any foundation as being an
14 expert or anything else.

15 THE COURT: Sustained.

16 BY MR. HUNTER

17 Q Sergeant Pharis, in your training and experience have
18 you ever encountered search warrants or other situations
19 where inositol powder is used?

20 A Yes.

21 Q And please give your experience before this as to your
22 experience with inositol powder.

23 A Before this, you know, it's a common thing that we
24 find inositol powder as a cutting agent to expand the
25 volume of cocaine one might have.

Joe Pharis
Direct examination by Mr. Hunter

1 For example, you could take an ounce of powder
2 cocaine, mix it with an ounce of inositol powder --

3 MR. BAITY: Again, Your Honor, I would object to the
4 supposition.

5 THE COURT: I think you were --

6 MR. HUNTER: I'm laying a foundation.

7 THE COURT: -- going to lay a foundation, but he's not
8 laying a foundation. He just started back where we were
9 before.

10 MR. HUNTER: Yes, sir.

11 BY MR. HUNTER

12 Q In your common experience have you ever found inositol
13 powder?

14 A Yes.

15 Q And when you found inositol powder have you ever
16 spoken to the drug dealers that you've arrested or been
17 convicted in regards to that inositol powder?

18 MR. BAITY: That question calls for a hearsay answer.

19 THE COURT: Let me see y'all just a minute.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 THE COURT: You may attempt to lay a foundation if you
23 would like.

24 BY MR. HUNTER

25 Q Have you ever been to any D.E.A. training class with

Joe Pharis
Direct examination by Mr. Hunter

1 the sheriff's office or anyone else?

2 A Yes. I've been -- would you like for me to elaborate?
3 I've been to the D.E.A. 2-week narcotics investigator
4 class. I've been to two separate D.E.A. narcotic
5 supervisor classes.

6 Q In your experience with those classes, what do they
7 teach you at those classes?

8 A The narcotics investigator class is a basic narcotics
9 class, how to start a narcotic investigation basically from
10 the ground up.

11 The supervisor class is basically a supervisor class
12 which teaches you how to supervise narcotics
13 investigations, both criminal and financial.

14 Q Did you locate anything else at the residence,
15 Mr. Pharis?

16 A Yes. I located a bag of white powder located in the
17 back of the garage under a door panel to a car.

18 (Cocaine marked State's Exhibit No. 29 for
19 Identification.)

20 Q I show you what's been premarked State's Exhibit 29.
21 Do you recognize that item?

22 A Yes. This appears to be the white powder substance I
23 located under the car-door panel in the back of the garage.

24 Q And who did you relinquish custody of that item to?

25 A Investigator Matt Hutchins.

Joe Pharis
Direct examination by Mr. Hunter

1 Q And just one more question. Where exactly did you
2 find those bags of white powder?

3 A In the rear of the garage. It was stacked with, you
4 know, a bunch of car parts, stacks of car tires. And there
5 was actually a door panel in the back of the garage that
6 was off a door, just an inside door panel -- and lifted
7 that panel up, and it was laying underneath the panel.

8 Q Do you mind showing the jury?

9 A As you enter the garage on this side over here,
10 approximately in this area on the back wall is where I
11 located the door panel. And underneath the door panel was
12 the powder cocaine.

13 Q Now, when you say door panel, what do you mean by
14 that?

15 A Just like the -- the inside part of your door, the
16 door panel that pops onto the metal door frame which would
17 close -- it was just a door panel.

18 Q Did it match any cars at the scene?

19 A None that I noticed.

20 Q Okay. Could you please describe the state of the
21 garage?

22 A Very cluttered with different car parts. There was
23 actually a vehicle in there, stacks of tires, very
24 cluttered.

25 MR. BAITY: Your Honor, just I want to object to any

Joe Pharis
Cross-examination by Mr. Baity

1 testimony about the search that was conducted on this
2 residence as part of my continuing objection. I want to
3 make sure that's in the record.

4 THE COURT: I'm sure it is.
5 overrule the objection.

6 BY MR. HUNTER

7 Q Was it messy, clean? How would you describe it?

8 A Messy, cluttered.

9 Q Okay. With what items?

10 A Car parts. There was actually a car sitting I think
11 on this side here. This back part was just stacked with
12 car parts, like I said, a stack of tires and rims, just all
13 through this area very cluttered.

14 Q Did it appear to be kind of a body shop?

15 A A work shop, yes.

16 Q And it was your testimony that you picked up Alfonso
17 Thompson at his workplace?

18 A Yes, sir.

19 Q And what type of workplace was that?

20 A That was a body shop.

21 MR. HUNTER: No further questions, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BAITY

24 Q Mr. Pharis, you took the defendant into custody on May
25 13th of 2010, is that correct?

Joe Pharis
Cross-examination by Mr. Baity

1 A Yes, sir.

2 Q And he was not at this River Street address.

3 A Not at the time.

4 Q Not at this house depicted on the overhead projector
5 here.

6 A No, sir.

7 Q He was at his place of employment several miles from
8 there, correct?

9 A Yes, sir.

10 Q Do you know how many miles he was from there?

11 A I don't know exactly mileage.

12 Q Do you think it was more than ten miles?

13 A Probably.

14 Q Okay. And so you were the first, one of the first,
15 people to come into contact with the defendant?

16 A Yes, sir, that day.

17 Q That day. And did you ever -- did you see him handle
18 or possess or hold any of the weapons that have been
19 described here today?

20 A No, sir, I did not.

21 Q Did you see him handle or hold or possess any of that
22 white powder you described?

23 A No, sir, I did not.

24 Q Did you see him handle or hold or possess those burnt
25 marijuana cigarettes on that day?

Joe Pharis
Redirect examination by Mr. Hunter

1 A No, sir, I did not.

2 MR. BAITY: No further questions, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. HUNTER

5 Q Briefly. You talked about you picking him up at
6 Ridiculous Rides. Did you talk to him at all -- to
7 Mr. Thompson?

8 A Not on the way back to his residence, no. Told him
9 why we picked him up, that we had a search warrant at the
10 River Street address, and brought him there.

11 Q Did you advise him of his rights under Miranda?

12 A Yes, I did.

13 MR. BAITY: Nothing further.

14 THE COURT: You may step down.

15 MR. BAITY: Do you want us to continue? Matt
16 Hutchins.

17 MATT HUTCHINS, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BULSA

20 Q Officer Hutchins, please introduce yourself to the
21 jury.

22 A I'm Investigator Matt Hutchins. I'm a senior
23 investigator assigned to the Spartanburg County Narcotics
24 and Vice Unit.

25 Q And how long have you been a police officer?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A I started in 1998 with the Spartanburg County
2 Magistrate's Court as a constable.

3 In 2000 I went to work for the Spartanburg Water
4 System as a lake warden assigned to law enforcement on the
5 lakes.

6 In 2002 I began work with the Spartanburg County
7 Sheriff's Office, and in 2004 I was promoted to narcotics.

8 Q Have you been in narcotics ever since 2004?

9 A Been in narcotics ever since.

10 Q Okay. Did you participate in the execution of the
11 search warrant at 120 River Street in Spartanburg?

12 MR. BAITY: Your Honor, excuse me. Once again, I
13 would object as part of my continuing objection as to any
14 testimony or evidence as a result of the search warrant
15 that was executed on 120 River Street as being without
16 probable cause on the grounds that I've previously stated.

17 THE COURT: Overruled.

18 MR. BAITY: Thank you, Your Honor.

19 BY MR. BULSA

20 A I did.

21 Q And what was your role to be in this execution?

22 A My role was to execute the search-warrant return.

23 Q Okay. And describe for the jury what that means.

24 A Basically, what the search -- the search warrant, once
25 it's signed, there's an officer that does the

Matt Hutchins
Direct examination by Mr. Bulsa

1 search-warrant return that documents the evidence as found
2 and recovered from the scene, and placed those items into
3 evidence.

4 Q Okay. So just so the jury understands, you actually
5 write down what is recovered.

6 A Yes, sir.

7 Q And where it's recovered.

8 A Yes, sir.

9 Q And by whom?

10 A Yes, sir.

11 Q Okay. So you actually become in possession of all of
12 this?

13 A Yes, sir.

14 Q Okay. So is this just a method to ensure that
15 everything is collected into one place?

16 A Everything is collected into one place by one person
17 and submitted into evidence.

18 Q Okay. So you would collect all these items such as
19 these guns and other items we've seen, and you would then
20 turn them into the sheriff's office evidence?

21 A Yes, sir.

22 Q Okay. So you actually are seeing where each object is
23 found.

24 A Yes, sir.

25 Q So just so the jury has a good picture, everybody is

Matt Hutchins
Direct examination by Mr. Bulsa

1 out in the house searching around, they find something.

2 what do they do, call you?

3 MR. BAITY: Your Honor, I object to the leading nature
4 of the question. I think he ought to testify instead of
5 Mr. Bulsa.

6 THE COURT: Don't lead him.

7 BY MR. BULSA

8 Q All right. So everybody is in the house. And what's
9 happening?

10 A Basically, what happens, I document the time we arrive
11 on the scene.

12 In this particular search warrant the SWAT team
13 executed the search warrant, secured the residence, secured
14 the garage.

15 The residence -- they were in there securing things.
16 Myself and Investigator Pharis went into the garage
17 initially.

18 But as the return person, once things are located they
19 will notify me that it's been located. I will go and
20 physically recover it from that location and document it
21 down.

22 Q Okay. So do they pick up the item and walk it to
23 where you are?

24 A No. I'll go retrieve it from the location where they
25 found it.

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q Okay. So when Lieutenant Cooper said he'd found all
2 of these weapons in the closet, you would have actually
3 went and took them from the closet.

4 A From the closet, yes, sir.

5 Q Okay. And all of those are noted on the return.

6 A Yes, sir.

7 Q All right. But do you yourself get involved in the
8 actual search?

9 A At times. In this instant, like I said, they were in
10 the house. The SWAT team had been in there, had cleared
11 it.

12 The garage they had cleared quicker. Myself and some
13 other investigators had went into the garage. I noticed a
14 Super Sport Monte Carlo parked in the garage. Investigator
15 Pharis was searching the back area, and I believe some
16 other investigators were in there.

17 I opened the door of the Monte Carlo, and I could
18 smell the odor of marijuana. At that point I looked in the
19 seat. The keys to the Monte Carlo was in the seat of the
20 car. I checked around in the Monte Carlo and didn't find
21 any -- the marijuana in it.

22 I went to the trunk, put the key in the trunk. The
23 trunk opened. I observed a bag of white powder substance.
24 I also observed a bag of green plant-like material and a
25 set of scales on the right side of the trunk.

Matt Hutchins
Direct examination by Mr. Bulsa

1 On the left side of the trunk there was a speaker. I
2 moved the speaker. Under that speaker was another set of
3 scales and some more marijuana, more green plant-like
4 material.

5 Q So you found two bags, and you call it green plant
6 material. What do you suspect it to be?

7 A The marijuana that I smelled.

8 Q Okay. And so you secured those two bags.

9 A Yes.

10 Q And then you said you found a separate bag of white
11 powder substance?

12 A Yes.

13 Q Did you suspect that to be a substance?

14 A Suspected that to be cocaine.

15 Q They were inside the trunk of the Monte Carlo --

16 A Yes, sir.

17 Q -- that was inside the garage at this residence.

18 A Yes. And also in that trunk was a set of scales on
19 the right side of the trunk and a set of scales under the
20 speaker on the left side of the trunk.

21 Q So there was a set of scales nearby both sets of
22 suspected drugs.

23 A Yes, sir.

24 Q Did any of the scales have any markings on them?

25 A It did. The set of scales on the left side of the

Matt Hutchins
Direct examination by Mr. Bulsa

1 trunk under the speaker had the initials A.T. on them.

2 Q Okay. And the defendant's name is what?

3 A Alfonso Thompson.

4 (Welding mesh marked State's Exhibit No. 30 for
5 Identification; marijuana marked State's Exhibit No. 31 for
6 Identification; marijuana marked State's Exhibit No. 32 for
7 Identification; cocaine marked State's Exhibit No. 33 for
8 Identification.)

9 Q All right. I have a series of packages here. I'll
10 start with the biggest one, State's Exhibit 33 for
11 Identification. Do you recognize that?

12 A That's the bag of the suspected cocaine that was in
13 the trunk.

14 Q Okay. Now, this isn't how it was found, was it?

15 A No, it's not.

16 Q How would it have been packaged in the trunk?

17 A Basically, being this is the block bag that's inside
18 this portion, what I do is when I recover it, the way it's
19 entered into evidence is put into what we call a BEST bag.

20 You fill out the chain, which I would take the initial
21 custody of it. I'd seal it in this bag that is tamper
22 evident. If somebody tries to open it, it would tear. And
23 then ever who retrieves it from evidence would know it had
24 been tampered with. And then I would seal it in the BEST
25 bag and submit it into evidence.

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q So you're trying to preserve the integrity of the
2 substance.

3 A That's correct.

4 Q And in this case who would have eventually taken
5 possession of the substance to get it tested?

6 A Originally, the evidence in this case was submitted
7 into our evidence. D.E.A. was involved in this case.
8 D.E.A. lab chemists -- it would have been sent to them.

9 Q Okay. All right. So somebody from the D.E.A. would
10 have taken custody of the substance?

11 A I'm not sure who in this case took custody of it, but,
12 yes, it would be sent to a D.E.A. representative or agent.

13 Q Okay. All right. So just...

14 MR. BULSA: Your Honor, the state would offer 33 into
15 evidence.

16 MR. BAITY: Your Honor, I object, part of my
17 continuing objection to any items obtained as a result of
18 the search warrant of this address as being violative of
19 Article I, Section 10, of the South Carolina Constitution,
20 the Fourth Amendment of the United States Constitution, and
21 South Carolina Code 17-13-140 and the case law that is
22 interpreted by the law as being without probable cause.
23 Thank you.

24 THE COURT: Overruled.

25 BY MR. BULSA

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q So the jury has an accurate picture, there's a bluish
2 colored bag inside of these sealed bags?

3 A That's correct, a bluish zip-lock bag.

4 Q And that's what the white powder was in inside the
5 trunk?

6 A That's correct.

7 Q And there are markings on the blue bag.

8 A Yes.

9 Q Were those put there during the testing process?

10 A The -- the one-eight-three number -- I believe it's
11 the ten -- is where I marked, which coincides with the
12 return.

13 Q Okay. So you're trying to reference where it was
14 found.

15 A Yes.

16 Q Okay. All right. Did you do a field-weight test of
17 this?

18 A A field-weight test?

19 Q Yes, sir.

20 A Yes. I believe one was performed. The total in
21 front -- that I have in front of me is 522, which I believe
22 would be that plus the other bag.

23 Q Okay. So that's State's 33 and State's 29.

24 A Yes.

25 Q Okay. And did you take possession of State's 29 at

Matt Hutchins
Direct examination by Mr. Bulsa

1 the scene?

2 A Yes, I did.

3 Q And to your knowledge where was that found?

4 A That's what was recovered by Sergeant Joe Pharis under
5 the door panel in the garage.

6 Q So he would have found it and called you over and you
7 would have taken it into custody.

8 A That's correct.

9 Q Okay. And the total weight of these is over
10 500 grams.

11 A Yes, sir.

12 Q All right.

13 A And the over 500 -- the 522 grams would be packaging
14 weight and everything.

15 Q Okay. I will do State's 31 and 32 together. See if
16 you recognize those packages.

17 A I do.

18 Q Okay.

19 A This --

20 Q And what do they represent?

21 A This would be the bags of the suspected marijuana that
22 was located in the trunk of the car.

23 Q And are they packaged in the same packaging?

24 A Yes, they are.

25 Q Have red tape on them.

Matt Hutchins
Direct examination by Mr. Bulsa

1 A Yes. What we do with marijuana is I put the evidence
2 tape on the bag. It's tamper evident as you can see. It's
3 obvious it had been opened by the chemist that did the
4 testing. That would be the chemist's initials where the
5 chemist had opened them. And this is the same. It's got
6 my -- where I signed it and the date it was sealed.

7 Q Okay.

8 MR. BULSA: Your Honor, the state would offer State's
9 31 and 32 into evidence.

10 MR. BAITY: Again, Your Honor, I would object, part my
11 continuing objection to any items of evidence that are
12 offered today by the state came as a result of the search
13 warrant of this address on River Street as being obtained
14 without probable cause.

15 THE COURT: Overruled.

16 (Marijuana marked State's Exhibit No. 31; marijuana
17 marked State's Exhibit No. 32.)

18 Q Let me go back, Officer, to State's Exhibit 29.

19 Since you're the one that actually took it into
20 custody, was it -- how was it packaged?

21 A It was packaged in this yellowish color zip-lock bag
22 that's also sealed in here.

23 Q Okay. And did you secure it in the same fashion as
24 you did the other item?

25 A I did.

Matt Hutchins
Direct examination by Mr. Bulsa

1 MR. BULSA: Your Honor, the state would offer 29 into
2 evidence. I don't believe it was referenced.

3 MR. BAITY: Part of my continuing objection, Your
4 Honor, I object to the admission into evidence of anything
5 obtained at the search of 122 or 120 River Street in
6 Spartanburg as being obtained without probable cause.

7 THE COURT: It's admitted over objection.

8 (Cocaine marked State's Exhibit No. 29.)

9 Q Now, also in the trunk of this vehicle near these
10 drugs there were what you described as two sets of scales.

11 A Yes, sir.

12 (Scales marked State's Exhibit No. 34 for
13 Identification.)

14 Q We have one in a plastic bag, but one is not. Do you
15 recognize State's 30 and 34?

16 A It appears to be the two sets of scales from the
17 trunk.

18 Q Okay. And did you secure those and put them into
19 evidence?

20 A Yes.

21 Q Are they in substantially the same condition?

22 A Yes.

23 MR. BULSA: Your Honor, the state would offer State's
24 30 and 34 into evidence.

25 MR. BAITY: Your Honor, as part of my continuing

Matt Hutchins
Direct examination by Mr. Bulsa

1 objection I would object to the admission of any evidence
2 obtained from the search warrant as being obtained without
3 probable cause.

4 THE COURT: They're admitted over objection.

5 (Welding mask marked State's Exhibit No. 30; scales
6 marked State's Exhibit No. 34.)

7 Q Now, we have State's 30 in the plastic bag. Why is --
8 was there -- did there appear to be a substance on that
9 scale?

10 A Yes, appeared to be a white residue on the scale.

11 Q Okay. So it's not to get that on you, you put it in a
12 bag?

13 A Yes.

14 Q And is it State's 30 that has the initials A.T.?

15 A It does on both. It's on the right and left side of
16 it.

17 Q Was that No. 10 on there, or did you write the No. 10?

18 A The No. 10 was written on there referencing --
19 coinciding with the search-warrant return.

20 Q Okay. So that denotes it was found with the cocaine
21 and the marijuana.

22 A That's correct.

23 Q Now, we talked about the process of the search warrant
24 and you going to locations. In lieu of bringing everybody
25 in here that found a certain item we're going to go into

Matt Hutchins
Direct examination by Mr. Bulsa

1 some items you would have actually recovered.

2 Were you called to a location and recovered
3 another package of what was suspected to be
4 marijuana?

5 A I was.

6 Q And would that have been in one of the bedrooms?

7 A It was.

8 Q Which bedroom was that?

9 A That would be the first bedroom on the right after
10 coming up the stairs.

11 (Marijuana marked State's Exhibit No. 35 for
12 Identification.)

13 Q Let me show you what's been marked State's 35. Do you
14 recognize that package?

15 A I do. It's the bag of suspected marijuana that was
16 located.

17 Q In which bedroom?

18 A In the first right bedroom.

19 Q Is that in the bedroom that contained the TEC-9
20 pistol?

21 A Yes, that's correct.

22 Q The pistol that was later found to be registered to
23 Mr. Thompson.

24 A That's correct.

25 MR. BULSA: Your Honor, the state would offer this

Matt Hutchins
Direct examination by Mr. Bulsa

1 into evidence -- State's 35.

2 MR. BAITY: Again, Your Honor, as part of my
3 continuing objection, I object to any of the fruits of this
4 search of this River Drive residence on the grounds of no
5 probable cause for the search.

6 THE COURT: It's admitted over objection.

7 (Marijuana marked State's Exhibit No. 35.)

8 Q And were there any others? Let me get this marked
9 first.

10 (Marijuana marked State's Exhibit No. 36 for
11 Identification.)

12 Q Show you State's 36. Do you recognize this packaging?

13 A Yes. This is going to be the bag of the suspected
14 marijuana that was located by Lieutenant Cooper in the
15 kitchen cabinet.

16 Q Would that have been in the bowl where the groceries
17 were?

18 A With the groceries, that's correct.

19 Q Okay.

20 MR. BULSA: Your Honor, the state would offer 36 into
21 evidence.

22 MR. BAITY: Object, Your Honor, part of my continuing
23 objection to any items seized in this search at this
24 address as having no probable-cause basis.

25 THE COURT: It's admitted over objection.

Matt Hutchins
Direct examination by Mr. Bulsa

1 (Marijuana marked State's Exhibit No. 36.)

2 Q Let me show you what's been premarked as State's
3 Exhibit 34. Do you recognize that?

4 A I do. That is a Food Saver brand vacuum sealer. When
5 I walked into the residence, the actual living quarters of
6 the house -- when I do a return I get in there -- usually a
7 dining room table, kitchen table or something like that to
8 do the return.

9 AS I walked in there, on top of the kitchen cabinets I
10 observed this vacuum sealer, some sealer bags and what I
11 recognized to be a pistol case on top of the kitchen
12 cabinet.

13 Q Okay. And that's in substantially the same condition?

14 A It is.

15 MR. BULSA: Your Honor, the state would offer 24 into
16 evidence.

17 MR. BAITY: Object, my continuing objection as being
18 part of the search of this residence as being without
19 probable cause, Your Honor.

20 THE COURT: It's admitted over objection.

21 (Vacuum sealer marked State's Exhibit No. 24.)

22 MR. BAITY: No. 24?

23 MR. BULSA: Twenty-four, yes, sir. It was marked in
24 error earlier.

25 BY MR. BULSA

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q We have 24 and 25, two sealers.

2 A Yes, sir.

3 Q Where was 25 from, the other one?

4 A The other one was the one found by Lieutenant Cooper,
5 which was under the kitchen cabinet.

6 Q So we had two sealers in the kitchen. Did it appear
7 that they were sealing anything in the kitchen?

8 A The sealers themselves I noticed had an odor of
9 marijuana. The smaller sealer actually had what appeared
10 to be particles of marijuana, and the vacuum sealed bags is
11 commonly packaging of repackaged marijuana.

12 Q Okay.

13 (Box with wrappings marked State's Exhibit No. 37 for
14 Identification.)

15 Q I'm going to show you what's been marked State's 37.
16 Do you recognize that box?

17 A I do. This is the box of -- the box of wrappings that
18 was located by Sergeant Pharis in the garage. Contained in
19 the box are wrappings, cellophane tape wrapped in another
20 black substance, foil. And it smelled strongly of the odor
21 of marijuana. Also, had marijuana residue in them.

22 Q So why did you recover trash?

23 A Well, that's common packing for bulk marijuana.

24 MR. BAITY: Your Honor, I'm going to object again to
25 the suppositional nature of his testimony. No foundation

Matt Hutchins
Direct examination by Mr. Bulsa

1 has been laid.

2 THE COURT: Lay a foundation.

3 BY MR. BULSA

4 Q what kind of training have you had in narcotics
5 investigations?

6 A I've been to basic narcotics school, which is a 2-week
7 course in Meridian, Mississippi, at the Regional Counter
8 Drug Training Academy.

9 I've been two a 2-week D.E.A. narcotics investigator
10 school, multiple methamphetamine classes. I am clandestine
11 laboratory certified by the D.E.A. for clandestine labs. I
12 have worked many drug investigations with the F.B.I., the
13 D.E.A., ICE, which is U.S. Customs, and other federal
14 agencies.

15 Q Does your training involve teaching about the
16 packaging of controlled substances?

17 A It does. Training and also actual work experience.

18 Q You've been a narcotics officer how long?

19 A Since 2004, so over eight years.

20 Q Seven years, going on eight years?

21 A Eight years.

22 Q And in those seven to eight years how many narcotics
23 cases would you say you have been involved with?

24 A Hundreds.

25 Q And did those involve packaging of large quantities of

Matt Hutchins
Direct examination by Mr. Bulsa

1 cocaine and/or marijuana?

2 A Yes. And, specifically, I've been directly involved
3 in several large scale -- when I say large scale, I mean a
4 thousand to two thousand pounds of marijuana cases. And
5 this is --

6 Q Let me ask a couple of more questions.

7 So you're familiar with how marijuana is
8 packaged.

9 A Yes, sir, I am.

10 Q And is it packaged in different sizes?

11 A The larger you go on the street level -- marijuana is
12 packaged in zip-lock baggies, vacuum-sealed baggies, things
13 like that.

14 When you get into the bigger bulk marijuana --

15 MR. BAITY: Your Honor, once again, he hasn't been
16 offered as an expert. He's going into testimony without
17 the proper foundation.

18 MR. BULSA: This is the foundation.

19 THE COURT: Let me see y'all just a minute.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 THE COURT: Overruled.

23 BY MR. BULSA

24 Q Once again, Officer, in your experience are you
25 familiar with how marijuana is packaged?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A Yes, sir, I am.

2 Q And how is it in your experience prepackaged?

3 A In past cases I've worked when you're with smaller
4 amounts of marijuana, street amounts, it's packaged in
5 zip-lock baggies, vacuum sealed baggies, different things
6 like that.

7 In the larger cases I've worked dealing with what I
8 call bulk marijuana, which is 15, 20-pound, 25-pound bails,
9 blocks, it's wrapped in usually a plastic wrap, then
10 another layer of some kind of masking agent, and then
11 cellophane tape, duct tape, packaging tapes, things of
12 nature.

13 Q You used the term masking agent.

14 A Uh-huh.

15 Q What do you mean?

16 A Masking agent is -- I've seen cayenne pepper,
17 dishwasher detergent, liquid dish detergent, things of that
18 nature, to try to mask the odor of the marijuana.

19 Q So that would have been -- they tried to sandwich that
20 within the packaging itself?

21 A Yes, sir. Well, you put one layer. What I've seen is
22 one layer usually of plastic wrap around the marijuana.
23 Then you would have your masking agent so that it doesn't
24 taint the marijuana itself, and then other packaging
25 material.

Matt Hutchins
Direct examination by Mr. Bulsa

1 MR. BULSA: Your Honor, based on Officer Hutchins'
2 experience and training in narcotics investigation, the
3 state offers him as an expert in narcotics packaging and
4 also all aspects of narcotics investigations. We would
5 offer him as an expert to testify to his opinion on various
6 aspects of narcotics investigations.

7 MR. BAITY: We will not stipulate to his being an
8 expert, Your Honor. We would object.

9 THE COURT: All right. Overrule the objection. He is
10 so qualified.

11 BY MR. BULSA

12 Q Now, based on your experience and training when you
13 were shown this box of packagings, what did you believe it
14 to be?

15 A Consistent with the packaging of larger amounts of
16 marijuana.

17 Q Okay. Would you mind pulling out a piece of that to
18 demonstrate for the jury?

19 A Can I stand up?

20 Q Yes, sir. You can stand up and step down if you need
21 to.

22 (Whereupon, the witness stood.)

23 A This is, as I was talking about, the plastic wrap that
24 is typically around the marijuana. Actually, if you can
25 see, there's actually green leafy material residue and the

Matt Hutchins
Direct examination by Mr. Bulsa

1 odor of marijuana, which was believed to be marijuana.

2 It's in a square --

3 THE COURT: Be careful with the microphone.

4 A It's in a square block shape imprinted in here.

5 This is what I described as tape, packaging tape,
6 tinfoil, which would be -- it is consistent with the outer
7 wrapping of it. And then here is the zip-lock bag which is
8 consistent with packaging once it's broken down to street
9 sale.

10 Q Put it all back in.

11 Now, based on your experience and training as a
12 narcotics officer let me show you this State's
13 Exhibit No. -- appears to be -- 28. Did you -- was
14 that recovered by you or pointed out by someone?

15 A It was.

16 Q What's the purpose of collecting that sort of bottle?

17 A Inositol powder is a common cutting agent used in the
18 cocaine trade. What I mean by cutting agent is you get a
19 large amount of cocaine which is in a pure form. You can
20 cut that down to increase the volume using inositol powder.
21 I have also seen creatine powder, something of that nature,
22 to increase the volume, which in turn increased your
23 profits from drug sales.

24 Q Okay. Is that -- is that empty or has it got
25 something in it?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A It's got something in it.

2 Q Okay. In your training and experience do you know why
3 that type of power would actually be used?

4 A The inositol and creatine -- it's not a harmful
5 cutting agent to someone, and it's typically to the same
6 consistency as what cocaine is.

7 Q Does it actually look similar to cocaine?

8 A Looks very similar.

9 Q What powdery type substance?

10 A Yes, sir.

11 Q Okay. Now, we talked about several guns, most of
12 which were found by Lieutenant Cooper.

13 Do your notes and the return show the recovery
14 of I believe it was a fourth long gun? Just so you
15 can tell.

16 MR. HUNTER: This is it.

17 Q State's 12 was the S.K.S.; State's 11 was the
18 Bushmaster AR15; State's 13 would have been the TEC-9;
19 State's 14 would have been the 12-gauge shotgun; and I
20 believe there was one other S.K.S. found.

21 A There was another S.K.S. style rifle located in the
22 master bedroom behind the chest of drawers.

23 Q All right. That's been premarked State's Exhibit
24 No. 10. And were you -- was this pointed out to you and
25 recovered by you?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A It was.

2 Q Let's open it up and see if it's in the same
3 condition.

4 A It is.

5 Q Pull it out so the jury can see. This one doesn't
6 have any clip or anything with it.

7 A No, sir.

8 Q It was found in the same bedroom as the others?

9 A Yes, sir. In the master bedroom there was the other
10 long guns.

11 MR. BULSA: We would offer State's 10 into evidence.

12 MR. BAITY: Part of my continuing objection, Your
13 Honor, any of the fruits of this search of this River
14 Street address on the basis there's no probable cause being
15 in existence at the time of the search.

16 THE COURT: Overrule the objection. It's admitted.

17 (S.K.S. assault rifle marked State's Exhibit No. 10.)

18 Q It's been referenced as the master bedroom. What
19 denoted it to the investigators as the master bedroom?

20 A It was the larger bedroom. It had a bed, appeared to
21 be lived in. It had a surveillance video set up monitoring
22 there, had a surveillance camera on it, which leads you to
23 believe that's the room people would sleep in.

24 Q You mentioned a security system. What do you mean by
25 that?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A It was a monitor, had a -- lack of better word -- a
2 computer tower base which appeared to be recording, video
3 would be recorded to. And you could actually see the front
4 road, River Street, and the front drive.

5 Q Okay. Did you actually go in and view the monitor
6 yourself?

7 A I saw the monitor myself.

8 Q So it was working?

9 A Yes.

10 Q It was in operation when this search warrant was
11 executed.

12 A Yes, sir.

13 Q What did it show? What to you did it show?

14 A It showed the front driveway and fence, the actual
15 drive off of River Street.

16 Q Okay. Do you know where the actual camera was
17 positioned?

18 A I do not recall.

19 Q Okay. But the area you could see, could you see the
20 fence?

21 A You could see the fence and -- and from the view on
22 the monitor it appeared the camera would be on the front
23 side of the actual residence.

24 Q It would have probably been on --

25 A In that area, yes, sir.

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q Okay. Pointing out towards the driveway?

2 A Yes, sir.

3 Q Okay. And that was in the same bedroom as all of
4 these long weapons.

5 A Yes, sir.

6 Q And was that taken into custody?

7 A It was.

8 Q Okay. Is it -- was it basically a computer system?

9 A It was.

10 Q Okay. Just so we don't -- we've got so much other
11 stuff -- just so the jury has a good picture of what it
12 was -- it makes a lot of noise -- that's a computer system
13 with a monitor, and you would have viewed the monitor.

14 A Yes, sir.

15 Q Okay.

16 A And if I recall correct, it had a keyboard. I mean,
17 it looks like a computer itself.

18 Q But there were no recordings actually labeled. You
19 weren't able to pull off any recordings, were you?

20 A No. I didn't view any recordings.

21 Q Okay. But from your viewing of it it was actually in
22 operation. So somebody in the house could have seen the
23 armored car come through the gate.

24 A Yes, absolutely.

25 Q Now, were you also brought to a location in the house

Matt Hutchins
Direct examination by Mr. Bulsa

1 where a money counter was recovered?

2 A I was.

3 Q And where was that found?

4 A It is marked No. 12 on the return, the money counter
5 located in the living room by Investigator McJunkin.

6 Q was it in a box?

7 A Yes.

8 Q Okay.

9 (Money counter marked State's Exhibit No. 38 for
10 Identification.)

11 MR. BULSA: Your Honor, we have marked this box
12 State's 38.

13 BY MR. BULSA

14 Q would you look inside and see it if contains the money
15 counter as you've described it? You don't need to take it
16 out. Just tell us if it matches the picture on the box.

17 A It does.

18 Q And is that what was seized from the living room?

19 A It is.

20 Q It's in substantially the same condition?

21 A Yes, sir, it is.

22 MR. BULSA: Your Honor, the state would offer 38 into
23 evidence.

24 MR. BAITY: Same objection, Your Honor, part of my
25 continuing objection to anything from the search of this

Matt Hutchins
Direct examination by Mr. Bulsa

1 residence being without probable cause.

2 THE COURT: It's admitted over objection.

3 (Money counter marked State's Exhibit No. 38.)

4 Q Okay. officer, in your expert opinion why would you
5 seize some money counter?

6 A Money counter is -- with the sale of large quantities
7 of narcotics comes a large quantity of U.S. currency of
8 money. It's very common in the larger drug traffickers
9 that we've investigated on search warrants. You find money
10 counters. It eases the counting of their proceeds.

11 Q Would you expect to find money at the location?

12 A It's not common for higher-end dealers to keep money
13 and drugs in the same location. It does happen on
14 occasion, but it's not common.

15 That way if police detect one stash location, which
16 was described earlier, as a drug-stash area their funds
17 from the proceeds of illegal narcotics are not detected
18 also.

19 Q In your expert opinion what was the nature of this
20 house?

21 A This house was typical of a drug stash house.

22 Q When you say a stash, was this house -- did this house
23 also appear to be a place where they would cut up or divide
24 larger quantities down?

25 A It did. And what brought me to that conclusion,

Matt Hutchins
Direct examination by Mr. Bulsa

1 brings me to that conclusion, would be with the packaging
2 that was in that box of the larger amounts of drugs, the
3 cutting agents. Then you had the vacuum-sealed sealers
4 with residue on them, and then smaller scales. It's all --
5 brings to the conclusion that it was a packaging and
6 distribution.

7 Q Okay.

8 (Plastic wrap marked State's Exhibit No. 39 for
9 Identification.)

10 Q Let me show you State's 39. What in the world is
11 this?

12 A This is plastic wrap. It's a larger version of like
13 Saran wrap. It's -- U-Haul brand, 20-inch, a thousand foot
14 movers' wrap.

15 This is typically as I described the packaging of
16 marijuana -- this is typically what they wrap around the
17 marijuana initially to seal it from any masking agents.
18 This would be the item recovered, the roll of plastic wrap
19 located in the garage by Investigator Cantrell.

20 Q Okay. So most of the drugs and packaging was found in
21 the garage.

22 A Yes, sir. That's correct.

23 Q And the weapons in the house.

24 A Yes, sir.

25 Q Now, did you make any attempts to try to identify who

Matt Hutchins
Direct examination by Mr. Bulsa

1 would have had some connection to that house?

2 A I did not. Investigator Chris Raymond may have. I'm
3 not sure.

4 Q We'll talk to him a little bit later. But did you
5 recover any paperwork that would denote whether
6 Mr. Thompson had a connection to this house?

7 A Yes. There was paperwork recovered in the name --
8 with the name of A. Thompson, and then another piece of
9 paperwork in the name of Shandrel Young located upstairs,
10 first bedroom on the right.

11 Q So in the first bedroom. Help the jury understand
12 this view.

13 You walk up the stairs. You've got a bedroom
14 on the right and a bedroom on the left?

15 A Yes. Walk as soon as you -- have you got that
16 pointer? The stairway is approximately right here in the
17 center of the house. When you come up the stairs from the
18 right side that window right there would be the master
19 bedroom in this end of the house. The other rooms would be
20 on that end of the house.

21 The way I reference when you come up the stairs, the
22 first bedroom on the left is a master bedroom. First
23 bedroom on the right was where those items were located.

24 Q So the first bedroom on the right would have the
25 pistol?

Matt Hutchins
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q And as well as at least one piece of mail that had the
3 name A. Thompson?

4 A Yes, sir. That's correct.

5 Q Okay.

6 A And also had one of the bags of marijuana.

7 (Piece of mail marked State's Exhibit No. 40 for
8 Identification.)

9 Q I show you State's Exhibit No. -- it's been marked
10 for -- 40. Does that appear to be the piece of mail that
11 was located?

12 A Yes, sir, it is.

13 Q Okay. And that's in the same condition?

14 A Yes, sir, it is.

15 MR. BULSA: State would offer State's 40 into
16 evidence.

17 MR. BAITY: Note my continuing objection, Your Honor,
18 to any items seized in this search at this address obtained
19 without probable --

20 THE COURT: It's admitted over objection.

21 (Piece of mail marked State's Exhibit No. 40.)

22 BY MR. BULSA

23 Q Now, Officer, you were in the courtroom when Mr. Baity
24 asked another officer about the address of Mr. Thompson
25 being on Larchwood.

Matt Hutchins
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Larchwood Road or Larchwood Lane. Is that what was
3 referenced to be his actual residence?

4 A That's what -- the reference to being his actual
5 residence, yes, sir.

6 Q This is not Larchwood Lane. What address is there on
7 that?

8 A 106 Rocking Chair Lane in Spartanburg, South Carolina
9 29307.

10 Q Does that seem unusual to you that he would have three
11 different locations?

12 A Yes, sir, it does.

13 Q How does that fit into the drug trade based on your
14 opinion?

15 A Well, someone that is using a stash house wants to
16 distance themselves from that location. Very seldom will
17 you find anything with that address on it. Nothing at that
18 residence will be in their name. It's typically a
19 girlfriend, a relative, something like that.

20 Q Okay. All right. Let's go back to the garage as we
21 wrap this up. You were the one that searched the car.

22 A Yes, sir.

23 Q Do you remember how it was positioned in the garage?

24 A The car was on -- looking from this picture on the
25 left side of the garage backed in.

Matt Hutchins
Direct examination by Mr. Bulsa

1 Q Backed in, not pulled in?

2 A Yes, yes, sir.

3 Q Did it appear to be operational?

4 A The keys was in it. It appeared to be operational.

5 Q And how was the rest of the garage?

6 A The rest of the garage was cluttered. There was a
7 3-wheeled motorcycle sitting. From this view it would be
8 to the right of the Monte Carlo. It was also backed in.

9 Then the rest of the garage had door panels, tires,
10 vehicle parts, things of that nature cluttered in it.

11 Q And the door panel that Officer Pharis talked about,
12 was this an actual door with the panel attached to it?

13 A No. In your car doors your door panel is where the
14 lock-unlock button, the window button, things of that
15 nature is. That panel actually pulls off of the door, and
16 that's what the door panel is.

17 Q Did it appear that the drugs were being hidden?

18 A Yes, sir.

19 Q Okay. Did you have any dealings with the defendant
20 yourself at the residence?

21 A No, sir, I didn't.

22 Q Do you know where he was located?

23 A He was located at Ridiculous Rides on Old Furnace
24 Road.

25 Q I'm talking about when he was brought back to the

Matt Hutchins
Cross-examination by Mr. Baity

1 home, where was he at?

2 A When I saw him he was sitting at that fence area
3 with -- at Investigator Raymond's vehicle, and he was also
4 speaking with Agent Jerry Davis.

5 Q Okay. Thank you. Answer any questions Mr. Baity may
6 have.

7 CROSS-EXAMINATION

8 BY MR. BAITY

9 Q Sir, were you able to determine who the Monte Carlo,
10 the vehicle, was registered to?

11 A I myself didn't. I do not believe it was registered
12 to Mr. Thompson.

13 Q You believe it was not registered to him?

14 A Yes. I believe it was not.

15 Q And do you know who took possession of the white
16 powder? You were saying it went to a chemist or a lab
17 technician. who took possession of that? Did you take
18 possession of that?

19 A I do not have the chain in front of me. I did not --
20 once I submitted it into evidence I no longer had -- have
21 had possession until today.

22 Q So your testimony is that you took possession of it
23 there.

24 A I took possession at the residence, and then I entered
25 it into our evidence. And until today I have not had it

Matt Hutchins
Cross-examination by Mr. Baity

1 back in my custody.

2 Q All right, sir.

3 MR. BAITY: May I approach the witness, Your Honor?

4 Q Now, I'm going to ask you to take a look at State's
5 Exhibit 30, which I believe you identified as a scale, is
6 that correct?

7 A Yes. It appeared to be a scale.

8 Q Is it operational?

9 A No, sir.

10 Q Did you weigh anything on there at all?

11 A No, sir.

12 Q Have you ever seen a scale like this before?

13 A I've seen scales in many different forms. I've seen
14 them disguised as ipods. I've just seen them -- whichever
15 it has, an on button, then a range button and a mode
16 button, which is consistent to other scales I have seen.

17 Q There's nothing on here that indicates in what you can
18 see any kind of weight or grammage or anything like that,
19 isn't that correct?

20 A That is correct.

21 Q As a matter of fact, what it talks about is shade and
22 sensitivity, doesn't it?

23 A Says delay three in one shade and sensitivity, that's
24 correct.

25 Q All right. Those are not terms that are used in

Matt Hutchins
Cross-examination by Mr. Baity

1 weighing objects, are they?

2 A Not typically, but, like I said, I've seen many things
3 disguised as scales and has things not related to weighing
4 on them.

5 Q I understand that. But, I mean, have you ever seen a
6 scale that had shade and sensitivity on it?

7 A I have not.

8 Q Okay. And you say you didn't attempt to make this
9 work and weigh anything.

10 A I don't believe it would turn on.

11 Q All right. If I told you that this was something that
12 went into a welding mask, would that make sense to you in
13 examining the object?

14 A It appeared to be a scale to me. And with the residue
15 on it, is what it appears to me.

16 Q It appears, but you don't know for a fact that it can
17 weigh anything.

18 A I don't know for a fact, no, sir.

19 Q And shade and sensitivity would be consistent with a
20 welding mask, wouldn't it?

21 A I've done limited welding in my life. I -- I do not
22 know. Sounds like terms that would be related to welding.

23 Q You do know what I'm talking about -- a shade.

24 A I do.

25 Q A welding mask.

Matt Hutchins
Cross-examination by Mr. Baity

- 1 A I do.
- 2 Q And you put a panel over it so it protects your eyes.
- 3 A The mask I've seen has a panel made into it.
- 4 Q And the sensitivity and the shade would be an
- 5 important factor, would it not?
- 6 A In welding, I'm sure it would be.
- 7 Q And you've not been able to make this thing weigh or
- 8 work at all.
- 9 A No, I have not.
- 10 Q Okay. And this is the one that has A.T. on it.
- 11 A That is the one that's got A.T. on it.
- 12 Q And this other one has no initials or identifying
- 13 marks on it whatsoever.
- 14 A No, sir. It does not.
- 15 Q Officer, did you obtain on all of these items that
- 16 you've talked about -- did you find or obtain any
- 17 fingerprints on any of them?
- 18 A When I submitted the cocaine and the items I notated
- 19 on the BEST bag and things to be fingerprinted. Not being
- 20 a case agent, I'm not aware if they found fingerprints or
- 21 not.
- 22 Q So you've not seen any reports they found any
- 23 fingerprints.
- 24 A I personally have not.
- 25 Q Okay. And was the defendant present when this search

Matt Hutchins
Cross-examination by Mr. Baity

1 warrant was first executed?

2 A When you say first executed, you mean when the SWAT
3 team initially made entry?

4 Q Yes, sir.

5 A No. He was not.

6 Q As a matter of fact, he was at work when that
7 happened.

8 A Yes, sir. He was at Ridiculous Rides.

9 Q And did you see any of these items on his person or in
10 his physical possession, holding them, having them in his
11 pockets or anything such as that?

12 A No, sir, I did not.

13 Q And I'm talking about any of these items that you've
14 talked about today.

15 A I did not recover any items from Mr. Thompson's
16 person.

17 Q Okay. Now, this inositol that you're talking about,
18 that's a legal substance, is it not?

19 A Yeah, inositol is.

20 Q Not illegal but a legal substance.

21 A Yes. Inositol is a legal substance. It is actually
22 G.N.C. brand, which I would assume was purchased G.N.C.

23 Q You can go to a drug store or to a health food store
24 and obtain it without a prescription or anything such as
25 that, right?

Matt Hutchins
Cross-examination by Mr. Baity

- 1 A Yes, sir, you can.
- 2 Q And of course if you pour it in with any substance it
3 would increase the weight of that substance, would it not?
- 4 A Yes, sir. It will.
- 5 Q And I believe you mentioned a second gun we hadn't
6 talked about before, a second rifle, an S.K.S., I believe.
- 7 A Yes, sir, S.K.S. style.
- 8 Q And that was found in the master bedroom.
- 9 A Behind the chest of drawers.
- 10 Q All right. And did you discover any registration or
11 any trace to any particular person?
- 12 A No, sir, I did not.
- 13 Q And no connection at all to Mr. Thompson, the
14 defendant.
- 15 A Not to my knowledge.
- 16 Q All right, sir. And this security system that you
17 mentioned, I believe it was toward -- it would have
18 detected someone coming over the fence or, as you said,
19 through the fence?
- 20 A Through -- on the front part of the gate area of the
21 fence, yes, sir.
- 22 Q Detect someone trying to break into his house.
- 23 A It would -- you would be able to see what was coming
24 through the gate or the fence.
- 25 Q Okay. And was there any money found at this location,

Matt Hutchins
Cross-examination by Mr. Baity

1 sir?

2 A Yes, sir, there was a sum of money found there.

3 Q How much was found?

4 A I believe it was \$3,410.

5 Q And where was that found?

6 A That was found in a polo shoe that was located under
7 the end table in the living room.

8 Q Living room. Not in any of the bedrooms.

9 A No, sir. In the living room.

10 MR. BAITY: Approach the witness, Your Honor.

11 Q This -- this piece of mail that says A. Thompson on
12 it --

13 A Yes, sir.

14 Q -- is there a postmark on that?

15 A Yes, sir, there is.

16 Q And what is the postmark on that?

17 A Tallmadge, Ohio, December 27th of '02.

18 Q So that is a piece of mail that is eight years old.

19 A At the time, yes, sir.

20 Q And does this appear to be a -- like an advertisement
21 or something?

22 A It appears to be correspondence where Mr. Thompson had
23 purchased something. It says, "Thank you for your recent
24 order." or it starts off, "Dear customer, thank you for
25 your recent order." That it's advising him that it's

Matt Hutchins
Cross-examination by Mr. Baity

1 basically back ordered.

2 Q Okay. So can you tell what was -- what was purchased?

3 A It's a headlight shield, large R-O-U. So I'm assuming
4 large round.

5 Q That would be a vehicle part.

6 A And it says 1/9 of 2003.

7 Q So in '03 a vehicle part.

8 A Yes, sir.

9 Q You say that the Monte Carlo, you believe it was
10 operational?

11 A Yes, sir. I believe so.

12 Q Did you start it up?

13 A I did not.

14 Q Then why do you think it was operational?

15 A The keys was in the seat. There wasn't parts laying
16 off of it. It appeared to be operational. I didn't --
17 wasn't covered with dirt or dust.

18 MR. BAITY: Nothing further, Your Honor. Thank you.

19 MR. BULSA: Nothing further.

20 THE COURT: You may step down.

21 Let me see y'all just a minute.

22 (Bench conference held off the record in the presence
23 of the jury but out of the hearing of the jury.)

24 THE COURT: We are going to take a short break before
25 we go further.

Ashley Harris
Direct examination by Mr. Hunter

1 test. Duquenois-Levine is a highly specific test for the
2 presence of tetrahydrocannabinol, which is the active
3 ingredient in marijuana.

4 If it fails that test, you're done. It has to pass
5 both of those tests. And if it passes both of those tests,
6 then it is determined at that point to be marijuana.

7 Q Did you perform those, that test, on those three
8 items?

9 A Yes, sir.

10 Q And in your expert opinion what are those state's
11 exhibit -- would you please pronounce the state's exhibit?

12 A Yes, sir. State's Exhibit 31 -- if I could have the
13 report, I could get the exact weights. I remember reading
14 over it and saw that it was marijuana, but just to be able
15 to talk about it a little more knowledgeable. Thank you.

16 State's Exhibit No. 31 is my item No. 3, was a
17 zip-lock of green plant material in a blue -- inside a blue
18 zip-lock labeled No. 10, just for making sure I have which
19 one it is. It tested positive for marijuana with a total
20 weight of 23.69 grams.

21 what's been marked as State's Exhibit No. 32, this is
22 my item No. 2. And it's green plant material in a large
23 zip-lock. It's found to be marijuana, total weight of
24 112.73 grams.

25 And item that has been marked State's Exhibit No. 35,

Ashley Harris
Direct examination by Mr. Hunter

1 my item No. 4 on my report, green plant material, marijuana
2 with a total weight of 38.73 grams.

3 Q So I know it may be a little difficult for you to pin,
4 but what's the total weight of those items? If I were to
5 say the total weight is around 175 grams, would you agree
6 with me?

7 A Yes, sir. It'd be in that -- that general area, yes,
8 sir.

9 Q And how many ounces is 175 grams approximately?

10 A It's be about approximately six. Each ounce is
11 28.35 grams. It'd be right at six.

12 Q Let me show you what's been put in evidence as State's
13 Exhibit 37.

14 A Okay.

15 Q Do you recognize that item?

16 A Yes, sir, I do.

17 Q How do you recognize that item?

18 A As with all items that are touched by anyone in the
19 lab, myself in particular -- when I analyze a piece of
20 evidence I place on it my initials, the date that I analyze
21 it and the lab number. The lab number is simply a way for
22 us to track it in addition to the case number that the
23 officers use to track their pieces of evidence.

24 Q Were you able to perform a test on the actual items
25 within that box?

Ashley Harris
Direct examination by Mr. Hunter

1 A Yes, sir. I actually just received this and looked on
2 this on the 20th, and it was found to be wrappings from --
3 containing drug residues.

4 Q And what drug residue were you able to determine was
5 inside of those wrappings?

6 A I found marijuana in the wrappings.

7 Q Looking back just at your first report real quickly,
8 there seems to be items one and five where you actually
9 didn't perform an analysis. Why would you not perform an
10 analysis on those items?

11 A Anything that doesn't actually contain a large enough
12 quantity of controlled substance -- it could be the fact
13 that they seized it because it was paraphernalia in nature.
14 It could be they seized it because it was a set of scales
15 or mixing bowls, something that was utilized to sale,
16 distribute, cut, whatever. They'll send those.

17 In a case like that we don't actually analyze them.
18 We just list them as items so that we have an inventory of
19 them, but not necessarily. There's nothing there to test.

20 Q Thank you. Please answer any questions Mr. Baity may
21 have for you.

22 MR. BAITY: I have no questions, Your Honor.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you, sir.

25 MR. HUNTER: May Lieutenant Harris be excused, Your

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 Honor?

2 THE COURT: He may be.

3 THE WITNESS: Thank you, sir.

4 (Whereupon, the witness was excused.)

5 MR. BULSA: The state calls Jerry Davis.

6
7 RUSSELL JERRY DAVIS, having
8 been first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. BULSA

10 Q Please introduce yourself to the jury.

11 A My name is Russell Davis. I'm a special agent with
12 the Drug Enforcement Administration, commonly referred to
13 as the D.E.A. I've been in that position for 15 years.

14 Prior to that I was a South Carolina state trooper.
15 My first duty assignment was Miami, Florida, with the
16 D.E.A. And the largest seizure of my career is 1,700
17 kilograms of cocaine.

18 Q Are you also in the United States military?

19 A I am.

20 Q What capacity?

21 A I'm in the South Carolina Army National Guard and
22 currently deployed with the South Carolina National Guard
23 up in Washington, D.C.

24 Q So you had to come back down here for this trial.

25 A That's correct.

Q Were you associated with the sheriff's office in

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 Honor?

2 THE COURT: He may be.

3 THE WITNESS: Thank you, sir.

4 (Whereupon, the witness was excused.)

5 MR. BULSA: The state calls Jerry Davis.

6 RUSSELL JERRY DAVIS, having
7 been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BULSA

9 Q Please introduce yourself to the jury.

10 A My name is Russell Davis. I'm a special agent with
11 the Drug Enforcement Administration, commonly referred to
12 as the D.E.A. I've been in that position for 15 years.

13 Prior to that I was a South Carolina state trooper.
14 My first duty assignment was Miami, Florida, with the
15 D.E.A. And the largest seizure of my career is 1,700
16 kilograms of cocaine.

17 Q Are you also in the United States military?

18 A I am.

19 Q What capacity?

20 A I'm in the South Carolina Army National Guard and
21 currently deployed with the South Carolina National Guard
22 up in Washington, D.C.

23 Q So you had to come back down here for this trial.

24 A That's correct.

25 Q Were you associated with the sheriff's office in

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 investigating Alfonso Thompson?

2 A Yes, sir.

3 MR. BAITY: Your Honor, part of my continuing
4 objection, Your Honor, I object to any testimony concerning
5 any items that were seized pursuant to the search warrant
6 at 120 River Drive as such were obtained without probable
7 cause.

8 THE COURT: Note your exception. Overruled.

9 BY MR. BULSA

10 Q Now, is your title agent?

11 A Special agent, that's correct.

12 Q Special Agent Davis, prior to the execution of the
13 search warrant at 120 River Street did you have an occasion
14 to go visit that address?

15 A I beg your pardon?

16 Q Did you have an occasion --

17 A Yes, I did.

18 Q -- to go visit that address? And how close did you
19 get to it?

20 A I got close to the outside to take photos of the
21 outside of the residence.

22 Q What was the purpose of taking pictures?

23 A We were -- the assistance of obtaining, eventually
24 obtaining, a search warrant for the residence.

25 Q Okay. I'm going to show you what's been marked

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 State's 6 and 7. Do you recognize those photographs?

2 A Yes, I do.

3 Q And are those photographs you actually took?

4 A Yes, they are.

5 Q And do they show the property of 120 River Street from
6 the street view?

7 A It certainly does.

8 MR. BULSA: Your Honor, the state would offer these
9 into evidence.

10 MR. BAITY: Same objection, continuing objection, Your
11 Honor.

12 THE COURT: All right. They're admitted over
13 objection.

14 What are the numbers?

15 MR. BULSA: Six and seven. They were previously
16 marked but not offered.

17 (Photograph marked State's Exhibit No. 6; photograph
18 marked State's Exhibit No. 7.)

19 BY MR. BULSA

20 Q Now, the view of these, you don't really see much.
21 Were you in your vehicle when you took these?

22 A Yes, I was.

23 Q What kind of car would you have been in?

24 A At that time it should have been my Dodge Dakota, or I
25 could have been in the car with one of the other agents. I

Russell Jerry Davis
Direct examination by Mr. Balsa

1 can't recall.

2 Q Okay. State's Exhibit No. 6. I see a fence, but how
3 tall was that fence?

4 A It was about 6 feet tall, I would estimate. I'm not
5 really positive, but, yes, it was a pretty tall fence.

6 Q Okay. And can you see through it?

7 A No, sir.

8 Q State's Exhibit No. 7. What does that show us?

9 A That's also showing the fence, but it's also showing
10 the private-property sign. And we were trying to make a
11 determination of whether or not there was a security camera
12 located at the right top right there, the little black
13 spot. We were trying to make a determination of whether or
14 not there was a security camera up there.

15 Q Did you determine if there was one?

16 A Yes, sir.

17 Q There was a security camera?

18 A We believed there was, yes, sir, pointing toward the
19 fence right there.

20 Q Okay. You were trying to verify the address before
21 the search warrant was obtained?

22 A That is correct, and also the description of the
23 residence.

24 Q Okay. Now, the actual -- show you State's Exhibit 6.
25 Let you take a closer look at it. Can you see anything on

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 the house or near the window?

2 A Yes.

3 Q What do you see?

4 A It appears to be a camera, again, aiming at the fence.

5 Q Okay. If you would, point out what you're seeing to
6 the jury.

7 A Right there.

8 Q Okay.

9 A Appears to be a camera mounted on that corner right
10 there and aimed down looking at the fence there.

11 Q Did you -- were you present during the execution of
12 the search warrant?

13 A Was I present during the initial, no.

14 Q You weren't there initially.

15 A No, sir.

16 Q Did you at some time arrive at the house?

17 A Yes, sir.

18 Q Where were you initially?

19 A Initially, I was with Sergeant Joe Pharis transporting
20 Alfonso Thompson to the residence.

21 Q Okay. Were y'all in a police vehicle?

22 A We were in Sergeant Joe Pharis' vehicle, yes, sir.

23 Q Was there any conversation during the ride?

24 A Yes, sir. Sergeant Joe Pharis read the Miranda
25 warnings to Alfonso Thompson on our way over to the

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 residence.

2 Q Okay. And when you arrived at the residence, where
3 did you take Mr. Thompson?

4 A We end up meeting with Investigator Chris Raymond with
5 his vehicle, and his vehicle was pulled kind of up from the
6 house there. And he has a -- he had a white pickup truck,
7 and we sat there on the pickup truck, on the back side of
8 it.

9 Q Show you State's 5.

10 A I recollect is -- that that fence had been opened and
11 we were sitting around here, this area here.

12 Q So you were actually outside the gate.

13 A Yes, sir.

14 Q Do you know if you could see inside the garage from
15 that location?

16 A I -- I didn't really have occasion to really look in
17 there because I was concentrating, but, I mean, I -- I
18 didn't. I couldn't because we were sitting there
19 concentrating on talking to Mr. Thompson.

20 Q Okay. So you and Mr. Raymond talked to Mr. Thompson.

21 A That's correct.

22 Q And you said Mr. Pharis had read the defendant his
23 Miranda rights. What are those?

24 A The constitutional rights where you have the right to
25 remain silent. Anything you say can and will be used

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 against you in a court of law. You have the right to stop
2 questioning at any time and obtain an attorney. If you
3 cannot afford an attorney one will be appointed to you.
4 And you have the right to stop questioning at any time.

5 Q What was the purpose of doing that on the ride over?

6 A Because Mr. Thompson had been placed under arrest.

7 Q Okay. You wanted him to be aware of what was going
8 on.

9 A That's correct.

10 Q And when you hooked him up with Mr. Raymond did you go
11 over there -- were those rights gone over with him again?

12 A Yes, sir. Mr. Raymond actually went over them again
13 and actually got -- he actually signed a form acknowledging
14 that he understood his Miranda warnings.

15 Q And did the defendant speak to you and Mr. Raymond?

16 A Yes, he did.

17 Q Okay. And did he make any comments regarding the
18 drugs found in the -- in or on the property?

19 A Yes, he did. He said --

20 MR. BAITY: Excuse me, Your Honor. I would make an
21 objection as to any testimony or exhibits concerning a
22 statement made by my client as such was the subject of my
23 motion yesterday, and I believe that it was not a
24 freely-and-voluntarily-given statement and was accompanied
25 by threats and promises and should not be admissible.

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 THE COURT: Overrule the objection.

2 BY MR. BULSA

3 Q Okay. What did he make, what comments did he make,
4 regarding the drugs on the premises?

5 A Well, the cocaine and marijuana that was found in the
6 garage was mine and this is my confession.

7 Q Were there any promises made to him?

8 A No, sir.

9 Q Any threats or coercion?

10 A No, sir.

11 Q Did he have contact with anybody inside the house?

12 A Not that I recall, no, sir.

13 Q Did anybody walk him into the house or the garage
14 during this timeframe?

15 A Not that I recall, no, sir.

16 Q So he would have been brought to the scene and left
17 outside the premises with Officer Raymond?

18 A And myself, yes, sir. But he would have been -- an
19 officer would have been with him at all times while he was
20 there.

21 Q Okay. Now, you at some point actually went in to
22 assist with the search.

23 A That's correct.

24 Q What part did you go in to search?

25 A Well, we -- recollection, I went upstairs, saw the

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 master bedroom, saw the bedroom where they found the TEC-9.
2 And I actually was the one that actually found the mail
3 that was in Mr. Alfonso Thompson's name in the second
4 bedroom to the right.

5 Q Did you observe a security system?

6 A I never saw the security system inside the house. By
7 the time I got up there, I don't recall ever seeing it.

8 Q Did you have any contact with Mr. Thompson's father?

9 A No, sir. I mean, I saw him -- I saw him sitting on a
10 chair outside, and along with his mother, but I don't
11 recall ever having conversation with them.

12 Q Now, you've been in court and you've heard all of this
13 stuff that's been seized and secured by the sheriff's
14 office. Did you take, ever take, custody of any portion of
15 it?

16 A Yes, I did. I took custody of the cocaine that was
17 seized on the search.

18 Q Why did you take custody of it?

19 A Because at this time it was -- appeared that it was
20 going to be a federal investigation. In other words,
21 D.E.A. was going to prosecute this -- the search warrant.
22 So in doing so D.E.A. -- we are required to send our drugs
23 to the Southeast laboratory down in Miami, Florida, for all
24 of our drug testing for it to be admissible in federal
25 court.

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 Q And what process did you undertake to send those
2 drugs?

3 A I met with Mr. Ashley -- and my partner had a witness.
4 We actually signed what we call a form 12, which is a
5 receipt for the drugs from Mr. Ashley to myself. And, in
6 turn, we then take the drugs back to our office, and we
7 process it to be sent down to the Southeastern laboratory
8 for testing.

9 Q Did you receive a report of that testing?

10 A Yes, sir, we sure did.

11 Q Let me show you what's been marked as State's Exhibit
12 No. 8 and entered without objection. What is that a report
13 of?

14 A This is a laboratory -- D.E.A. laboratory report which
15 is what we're used to seeing on the federal level for any
16 of our drugs that are tested.

17 This is not the form that we get back that will
18 acknowledge. What it does, it gives the gross weight, the
19 net weight, the purity of the drugs, the amount of actual
20 drugs and what the reserve weight is.

21 Q Now, you listed five separate columns. If you would,
22 let's go first with the first column, the gross weight.
23 What is that?

24 A The gross weight is actually the weight of the drugs
25 along with any packaging material with the drugs.

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 In other words, we have D.E.A. Whereas, the state
2 uses the BEST bags, D.E.A. uses the drug enforcement
3 administration bags. And we put all of our evidence in it,
4 and that's what's submitted.

5 So the gross weight is actually our D.E.A. bag, the
6 cocaine itself and any packaging that would have been on
7 that cocaine, the entire weight of everything that's
8 submitted to them.

9 Q Not quite all of this package, but some of this
10 packaging.

11 A Yes, sir.

12 Q And that report denotes two packages received?

13 A Yes, sir.

14 Q Item numbers?

15 A Ten and 11.

16 Q And I think they phrase them exhibit numbers.

17 A Exactly.

18 Q And are those the numbers referenced on these
19 packages?

20 A That is correct. That's Exhibit 10 and that's
21 Exhibit 11.

22 Q All right. For the record state's 33 would be
23 Exhibit 10 and State's 29 would be Exhibit 11, is that
24 right?

25 A That's correct.

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 Q okay. Now, what is the next column?

2 A Is the net weight.

3 Q What is that?

4 A The net weight would be the actual weight of the
5 cocaine pulled out of the packaging that we submitted along
6 with it. And that would be your net weight right there,
7 the cocaine that they're going to actually test.

8 Q okay. And then what are those weights?

9 A Two hundred -- on State's Exhibits -- well, State's
10 Exhibit 33 is 251.6 grams and on State's Exhibit 29 it is
11 310 grams -- or 253 grams. I'm sorry. Net weight.

12 Q And we heard from previous testimony that State's 33
13 was found in the trunk of the Monte Carlo. State's 29 was
14 found behind the door panel in the garage.

15 A That's correct, yes, sir.

16 Q And each of those were over 250 grams apiece.

17 A That's correct.

18 Q Which is a quarter kilo each.

19 A That's correct.

20 Q All right. Now, there is another -- the next column,
21 what does that stand for?

22 A That stands for the purity level. What that means is
23 how much -- out of those gross grams that we seized how
24 much of -- what percentage of that is actually pure
25 cocaine. And on Exhibit -- State's Exhibit 33, it was

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 72 percent; and on State's Exhibit 29, it was 60.2 percent,
2 which means 60.2 percent was pure cocaine on Exhibit 29,
3 and 72 percent was pure cocaine on Exhibit 33.

4 Q So that means the substance was cut with something
5 else?

6 A That's correct.

7 Q So it's a mixture of cocaine and something else.

8 A That's correct.

9 Q Okay. And then the next column is the -- is what?

10 A Is the actual -- amount of actual drugs in gram -- in
11 gross gram weights, which for Exhibit 33 it's -- reflects
12 181.1 grams and on Exhibit 29 it reflects 152.3 grams.
13 That means that's a pure cocaine total weight of the gram
14 weight of the cocaine, actual cocaine.

15 Q And then the next weight is?

16 A The reserve weight. And what that is, that is the
17 weight after they get through doing all of their testing
18 and all, what weight do they have left for -- to come to
19 court essentially. And what this shows, the reserve weight
20 for Exhibit 33 is 249.6 grams and the reserve weight for
21 Exhibit 29 is 250.4 grams.

22 Q So approximately two grams is consumed during the
23 testing?

24 A That's correct.

25 Q Now, for purposes of state prosecution for cocaine

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 cases we're concerned with the net-weight column, is that
2 correct?

3 A That's correct.

4 Q So the item --

5 MR. BAITY: Your Honor, I'm going to object to asking
6 this witness to make a legal conclusion.

7 THE COURT: Sustained.

8 MR. BULSA: I don't believe that's a legal conclusion.

9 THE COURT: Sustained.

10 BY MR. BULSA

11 Q For the purposes of evidentiary weight of the
12 substance, which column is important?

13 A The net weight. And the reason for that, because it
14 takes in -- you can't go buy pure cocaine. The reason why
15 you can't do pure cocaine, because your body, the human
16 body, can't absorb it. It will kill you. So you've got to
17 have what we call a cutting agent. You've got to actually
18 be able to dilute that pure cocaine so your body will be
19 able to absorb it without taking you into cardiac arrest.

20 So the dealers -- what they have to do is they have to
21 take that pure cocaine. They've got to cut it with a
22 cutting agent.

23 So when we in law enforcement actually seize drugs we
24 concentrate on the net weight because it's a mixture of
25 cocaine and a cutting agent, which is what makes for the

Russell Jerry Davis
Direct examination by Mr. Bulsa

1 cocaine that's going to be sold on the street.

2 Q What's the significance of the purity of it, the
3 substance?

4 A Well, again, that means the purity -- the main reason
5 why D.E.A. does purity, because we -- our main
6 concentration is on major international drug traffickers.

7 And with that said, what we try to concentrate on, the
8 more purity the drugs are, the closer you are to a very
9 high organized organization, because the longer it goes
10 from the, say, from Mexico, for example -- the drugs come
11 in from Mexico, it's almost a hundred percent pure cocaine.

12 It goes to the first middle man, and he takes his
13 part. He dilutes it. It goes to the next guy. He dilutes
14 it, and so on and so forth. So the purer the cocaine, the
15 closer it is that you've got high grade cocaine.

16 Q So that's sort of an investigative tool.

17 A That's correct.

18 Q Okay.

19 MR. BULSA: I believe this has already been
20 introduced, but State's No. 8 we offer by stipulation.

21 MR. BAITY: Your Honor, our continuing objection. We
22 object to the entry of the -- entry of that report into
23 evidence insofar as it appears to have been a result of
24 tests performed on items that were seized from the address
25 on River Drive pursuant to a search warrant which we have

Russell Jerry Davis
Cross-examination by Mr. Baity

1 objected to on the basis of it lacked probable cause on the
2 grounds that I previously stated.

3 THE COURT: Overrule the objection. It's admitted.
4 (Report marked State's Exhibit No. 8.)

5 Q Thank you. Special Agent, answer any questions
6 Mr. Baity may have.

7 CROSS-EXAMINATION

8 BY MR. BAITY

9 Q Mr. Davis, you were basically reading from that
10 report. You didn't perform any of those tests yourself,
11 did you?

12 A That's correct.

13 Q And were you present? Were you in Florida when it was
14 tested and so forth?

15 A No, sir.

16 Q Now, I believe you say that you weren't there when the
17 search warrant was initially commenced at River Street.

18 A That's correct.

19 Q You were arresting or helping or accompanying
20 Mr. Pharis when he was taking Mr. Thompson into custody.

21 A That's correct.

22 Q All right. But you arrived there shortly after or
23 while the search warrant was in progress?

24 A That's correct.

25 Q All right. And did you encounter anyone there that

Russell Jerry Davis
Cross-examination by Mr. Baity

1 resided at the house?

2 A Again, I recall seeing who was later identified as his
3 father and I think -- my recollection is his mother ended
4 up showing up and she ended up sitting outside, beside the
5 father outside. But, no, I didn't encounter anybody. I do
6 recall seeing both of them sitting outside.

7 Q So there was an elderly black man --

8 A Yes, sir.

9 Q -- and a black woman, and they were seated outside the
10 home --

11 A Correct.

12 Q -- in chairs, I suppose.

13 A Correct.

14 Q They had been taken out there.

15 A Correct.

16 Q And they were seated out there. And then Mr. Thompson
17 was out there. When you arrived y'all placed him outside
18 as well.

19 A Correct.

20 Q Okay. So you could see them. I would assume that
21 Mr. Thompson could see his parents out there.

22 A Well, I could see them when I went in to do a search
23 of the house. I couldn't see them. My recollection was I
24 couldn't see them when we were outside interviewing
25 Mr. Thompson. But I could see them when I went inside to

Russell Jerry Davis
Redirect examination by Mr. Bulsa

1 assist in the search of the house.

2 Q They were sitting right out there in the yard --

3 A Correct.

4 Q -- were they not?

5 A Correct.

6 Q Okay. Nothing further of the witness, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. BULSA

9 Q Just briefly, Agent Davis. Was the fence blocking
10 your view?

11 A Yes, sir.

12 Q So you couldn't see the parents from where you were
13 located inside the fence.

14 A No, sir.

15 Q Thank you.

16 MR. BULSA: That's all I have.

17 THE COURT: Okay. You may step down.

18 We're going to recess for lunch.

19 Please keep in mind the caution I've previously given
20 you. No discussions about the case, no research, no
21 investigation.

22 Do have a good lunch. Please report back to your jury
23 room at 2:45, at 2:45 this afternoon.

24 (The following takes place outside the presence of the
25 jury.)

Chris Raymond
Direct examination by Mr. Bulsa

1 THE COURT: Court is in recess until 2:45.

2 (Whereupon, a recess was taken.).

3 THE COURT: All right. Are we ready for the jury?

4 MR. BULSA: Yes, sir, Your Honor.

5 MR. BAITY: Yes, sir.

6 THE COURT: Bring them in, please.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: All right. The jury is present.

10 You may proceed, Mr. Bulsa.

11 MR. BULSA: The state calls Chris Raymond.

12 CHRIS RAYMOND, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. BULSA

15 Q Please introduce yourself to the jury.

16 A My name is Chris Raymond. I'm an investigator with
17 the Spartanburg County Sheriff's Office.

18 Q How long have you been in law enforcement?

19 A Since 1999.

20 Q And in what department are you working with in the
21 sheriff's office?

22 A I have worked in the uniform patrol division, in
23 narcotics, and now I'm presently assigned to the property
24 crimes division.

25 Q How long were you in narcotics?

Chris Raymond
Direct examination by Mr. Bulsa

1 A I had two stints in narcotics. The first was about
2 four and a half years and the second was about two and a
3 half years. So about seven years approximately total.

4 Q And you're now a property investigator?

5 A Yes, sir.

6 Q Did you start doing that after you left narcotics?

7 A Yes.

8 Q Why did you leave narcotics?

9 A Family issues.

10 Q Have a baby?

11 A Yes.

12 Q All right. Now, back when you were in narcotics, back
13 in May of 2010, were you in charge of the investigation
14 into 120 River Street?

15 A Yes, sir.

16 MR. BAITY: Your Honor, pardon my continuing
17 objection.

18 I object to any testimony or evidence from this
19 witness or any exhibits that he would be asked to
20 authenticate based on the grounds that I've already stated,
21 that the search of the address just mentioned by Mr. Bulsa
22 was violative of Article I, Section 10, of the South
23 Carolina State Constitution, Fourth Amendment of the United
24 States Constitution, 17-13-140 of the South Carolina Code
25 and the case law, and therefore I would object.

Chris Raymond
Direct examination by Mr. Bulsa

1 THE COURT: All right. Overrule the objection.

2 BY MR. BULSA

3 Q Officer Raymond, was it you that sought a search
4 warrant for this residence?

5 A Yes, sir.

6 Q And you received that search warrant and set in motion
7 the execution of that warrant?

8 A That's correct.

9 Q And you assisted -- you enlisted the SWAT team to
10 assist in that execution of the search warrant?

11 A Myself and Lieutenant Cooper organized the SWAT team
12 to make the entry.

13 Q Okay. And then were you part of the team that was
14 coming in after that?

15 A Yes, sir.

16 Q Okay. We've learned that the defendant was brought to
17 the location. Did you meet up with him after he was
18 brought to the location?

19 A Yes.

20 Q And where was that?

21 A That was on River Street pretty much right in front of
22 the residence that was searched, 120 River Street.

23 Q Do you recall if you would have been in a position to
24 see past the fence into the house or garage area?

25 A When I pulled my truck up I made sure I went as far

Chris Raymond
Direct examination by Mr. Bulsa

1 down as possible to not block anybody else from coming in
2 because it was such a narrow street. So the way I pulled
3 up to the end there, the fence would have really impeded
4 you seeing anything at the residence.

5 Q How tall do you recall that fence being?

6 A It was between, just guessing, 6 to 8 feet.

7 Q Okay. And it was a privacy fence all the way around?

8 A It was a red wooden privacy fence, yes, sir.

9 Q Okay. And did you remain at your truck or did you
10 actually participate in the search?

11 A I had very limited participation in the search. I
12 remember going in the house prior to the defendant getting
13 there and then very briefly going into the garage area
14 while he was there.

15 Q Okay. So when he was brought to the scene did you go
16 out to meet with him?

17 A Yes.

18 Q Okay. And did Special Agent Davis go with you?

19 A Yes.

20 Q What was your purpose in going to where he was
21 located?

22 A We were going to interview the defendant.

23 Q Were you aware that he had been read his Miranda
24 warnings?

25 A I was told, but I also did it myself just to make sure

Chris Raymond
Direct examination by Mr. Bulsa

1 verbally that it was done. So I gave him a verbal Miranda
2 after that.

3 Q Okay. So we heard that Officer Pharis did it. And
4 then you did it again verbally?

5 A Yes.

6 Q Did you take any measurements to document those in
7 writing?

8 A Yeah. I did a written preinterrogation waiver after
9 the verbal.

10 Q All right. And let me show you what -- show you
11 what's been marked State's Exhibit No. 1. Would that be
12 the preinterrogation waiver form?

13 A Yes, sir.

14 Q Does it contain what's commonly known as the Miranda
15 warnings?

16 A That's correct.

17 Q And is that the document you used to go over the
18 defendant's rights with him?

19 A It is.

20 Q Did he appear to understand those rights?

21 A He did.

22 Q What educational level did he give you?

23 A He said he has completed 11 years in school.

24 Q And upon going through those rights did he acknowledge
25 those rights by signing?

Chris Raymond
Direct examination by Mr. Bulsa

1 A His signature is on here in two different places.

2 Q Okay.

3 MR. BULSA: Your Honor, I would offer State's 1.

4 Q On that is there another page attached to that?

5 A There is.

6 Q And what is the second page?

7 A This is a voluntary statement that the defendant wrote
8 out pretty much himself and signed, and I witnessed it down
9 at the bottom.

10 Q Okay. And that came after the Miranda warnings?

11 A Yes, both the verbal and the written Miranda warnings.

12 Q Okay.

13 MR. BULSA: Your Honor, the state would offer State's
14 1 as the preinterrogation waiver form and the statement
15 into evidence.

16 MR. BAITY: I renew my continuing objection to this
17 and any other piece of evidence relating to the search of
18 River Drive, and also on the additional grounds that the
19 confession was not freely and voluntarily made by my
20 client, as has been argued earlier, and my grounds stated
21 here before. Thank you.

22 THE COURT: Overrule the objection.

23 (Preinterrogation waiver form and statement marked
24 State's Exhibit No. 1.)

25 Q Now, Officer, this lists the preinterrogation waiver

Chris Raymond
Direct examination by Mr. Bulsa

1 form being at 8:00 o'clock p.m.

2 A I don't see a time on here. Okay. Yes. I'm sorry.
3 8:00 o'clock. That's correct.

4 Q Okay. And the actual written statement was at what
5 time?

6 A The written statement was at 8:05 p.m.

7 Q Did you take any other measures to document or record
8 your conversation with Mr. Thompson regarding 120 River
9 Street?

10 A I also did a verbal, I guess, debrief where he also
11 gave a confession after the Miranda.

12 Q Okay. And how did you record that?

13 A I had a digital recorder that's assigned to us, and I
14 recorded on that and transferred it to disc.

15 Q Okay. This is a cleaned-up copy, but are you aware
16 that State's Exhibit No. 2 contains that verbal confession?

17 A Yes, sir.

18 Q It's actually a conversation between you and
19 Mr. Thompson, is it not?

20 A Yes, sir.

21 MR. BULSA: The state would offer State's 2 into
22 evidence.

23 MR. BAITY: Again, part of my continuing objection
24 same as last time, Your Honor, on the grounds that the
25 search was improper and without probable cause, and because

Chris Raymond
Direct examination by Mr. Bulsa

1 the statement made was made not voluntarily and freely by
2 my client but subject to coercion and threats.

3 THE COURT: Overruled. It's admitted.

4 (Video marked State's Exhibit No. 2.)

5 Q Now, you've listened to this. And is there a time on
6 this recording?

7 A I believe there is at the beginning.

8 Q Do you remember what it was?

9 A I think it was 8:01 if I'm not mistaken. I'm sorry.

10 Q Okay. So you recall the written Miranda form was
11 signed at 8:00.

12 A Right.

13 Q Then this would have been done, State's 2 would have
14 been done --

15 A After that fact.

16 Q -- just after that. And then after that you had him
17 write it.

18 A Yes, sir.

19 Q Okay. And is it written in his own hand?

20 A Yes, it is.

21 Q How did that come about?

22 A I asked him if he would rather have me write it as he
23 dictated it to me or if he wanted to write it in his own
24 handwriting. And he chose to go ahead and write it in his
25 own handwriting.

Chris Raymond
Direct examination by Mr. Bulsa

1 Q Was he threatened in any way?

2 A No, sir.

3 Q Where was he sitting when this was done?

4 A I had a truck at the time with the tailgate down, and
5 we were there for a while. And he kind of laid on the bed
6 of the truck and was kind of relaxed because we were there
7 for such a -- two, two and a half hours or three hours or
8 whatever it was.

9 Q Was he ever brought into the house or into the garage?

10 A No.

11 Q Whose custody was he principally in at the house?

12 A Mine, and Special Agent Davis also.

13 Q Was he coerced in any way?

14 A No.

15 Q Did you make him any promises?

16 A I did not.

17 Q Did you have any contact with his mother or father?

18 A I seem to remember helping his father get a chair at
19 some point prior to Mr. Thompson getting there -- the
20 defendant Mr. Thompson getting there. I think I remember
21 helping get a chair for him, but that was the extent of it.

22 Q Was there any contact with the defendant and his
23 parents?

24 A No.

25 MR. BULSA: Your Honor, the state would offer or

Chris Raymond
Direct examination by Mr. Bulsa

1 offers to publish State's Exhibit 2 at this time.

2 MR. BAITY: Subject to my earlier objection, Your
3 Honor, I would object on the same grounds.

4 THE COURT: Overruled.

5 (Whereupon, the tape was played for the jury.)

6 Q Could you hear that?

7 A Yes, sir.

8 Q It is pretty clear what was being discussed?

9 A Yes.

10 Q Now, that took place just shortly before the written
11 statement. Why did you do both?

12 A Just being thorough, just a good practice just like
13 reading the Miranda multiple times. It is just being
14 thorough.

15 Q And this statement is the actual written statement you
16 said was in his own hand?

17 A Yes.

18 Q Would you publish that to the jury? Just read it.

19 A Oh, I'm sorry.

20 MR. BAITY: Subject to my same objection, Your Honor,
21 continuing objection.

22 THE COURT: Okay. Go ahead.

23 BY MR. BULSA

24 A "The cocaine and marijuana that was found in the
25 garage" -- and then he drew a line through "was found in

Chris Raymond
Direct examination by Mr. Bulsa

1 the" and then he initialed. I don't know if he didn't like
2 what he had written, but he went on. "The cocaine and
3 marijuana that was found in the garage was mine, and this
4 is my confession." And then he signed it.

5 Q And you witnessed it?

6 A Yes.

7 Q Okay. Was he charged with the drugs found at the
8 residence?

9 A Yes.

10 Q Okay. Was there any discussion about his parents at
11 all?

12 A The one thing I remember is -- nothing with me. He
13 may have -- he may have said when he was leaving thanks for
14 being nice to my parents, that kind of thing, but nothing
15 beyond that.

16 Q Were his parents ever brought up in the conversation
17 during the finding of the drugs?

18 A No.

19 Q Okay. Were his parents arrested?

20 A No.

21 MR. BAITY: I'm sorry. I didn't hear your question.

22 MR. BULSA: I asked him if his parents were arrested.

23 Q And your answer was?

24 A No. They weren't.

25 Q Thank you. That's all I have. Answer any questions

Chris Raymond
Cross-examination by Mr. Raymond

1 Mr. Baity may have.

2 CROSS-EXAMINATION

3 BY MR. BAITY

4 Q Mr. Raymond, I believe your testimony is that the
5 verbal statement was recorded first and then the written
6 came after that, correct?

7 A Yes.

8 Q Okay. And I believe you said that Mr. Thompson was
9 never taken into the house.

10 A He was not.

11 Q And when I say Mr. Thompson, I mean the defendant --

12 A Yes, sir.

13 Q -- Mr. Thompson.

14 A Yeah.

15 Q And the defendant was never taken into the garage to
16 your recollection.

17 A Correct.

18 Q All right. And that he spent most of his time or
19 maybe all of his time before he was taken away in the back
20 of your truck?

21 A On the bed of it, yes, sir.

22 Q In the bed of your truck is what I'm talking about.

23 A Yes, yes.

24 Q In the back of your pickup truck.

25 A Correct.

Chris Raymond
Cross-examination by Mr. Raymond

1 Q okay. And so is that where -- the truck -- is that
2 where he gave these statements and wrote this statement --

3 A Yes, it was.

4 Q -- you just published to the jury?

5 A Yes, sir.

6 Q So at that time he had not been taken into the house
7 to see any of the items or the contraband or anything that
8 was found in there.

9 A No.

10 Q And he had not been taken into the garage and hadn't
11 seen any of the drugs or any of the contraband that was
12 found in there either.

13 A No.

14 Q So he just said it's all mine, I've confessed to all
15 of it. Isn't that essentially what he said?

16 A He confessed, yes.

17 Q Without even seeing it.

18 A Correct. He didn't see it.

19 Q Now, I want to make sure. Did you see his parents
20 there at the property?

21 A Yes, I did.

22 Q okay. And I believe -- did you -- were you able to
23 observe his father? Did you see him at all?

24 A Yeah. I helped get a chair for him, so, yeah, I saw
25 him.

Chris Raymond
Cross-examination by Mr. Raymond

- 1 Q And -- and where was that chair placed?
- 2 A It was outside kind of near the side entrance where
- 3 the entry was made, I believe.
- 4 Q Is that nearer the garage or nearer the house?
- 5 A The garage and house were so close it's --
- 6 Q In between?
- 7 A It was closer to the house.
- 8 Q Okay. All right. And he was seated in a chair there?
- 9 A Yes.
- 10 Q Okay. And then did his wife, Mr. Thompson's wife,
- 11 Loretta Thompson, did she come up?
- 12 A Yes. After the search warrant was opened up she
- 13 arrived.
- 14 Q Okay. Was she allowed to leave or was she required to
- 15 stay there?
- 16 A She didn't leave. I don't know that she was detained.
- 17 But I don't know if she chose to stay or -- I don't recall
- 18 her being detained because I didn't really deal with her.
- 19 Q Did y'all give her a chair or did she go in the house
- 20 or --
- 21 A I think she sat next to her husband outside.
- 22 Q So the two of them were sitting there between the
- 23 garage and the -- and the house.
- 24 A Yes, sir.
- 25 Q Okay. Isn't it true, Mr. Raymond, that you told

Chris Raymond
Cross-examination by Mr. Raymond

1 Mr. Thompson that you had found some drugs there -- or not
2 you -- but drugs had been found at the house? I'm talking
3 about the defendant, Mr. Thompson.

4 A I don't recall telling him, but he did know that there
5 were drugs found.

6 Q Well, did you tell him that you -- that you had found
7 some drugs in the garage?

8 A Did I tell him that?

9 Q Did you say that we had found some drugs here? I
10 mean, what else were you talking about on that tape
11 recorder?

12 A He became aware that there were drugs found.. Whether
13 it was me or Special Agent Davis who told him, I'm not
14 sure. But he did know, yes.

15 Q Someone said we found some drugs --

16 A Yes.

17 Q -- in the garage and so forth.

18 A Correct.

19 Q Okay. And isn't it true that after he learned that
20 you said that you were going to charge his father and his
21 mother with those?

22 A No, sir.

23 Q With possession of those drugs and that contraband?

24 A No, sir. I make it a policy not to threaten people.

25 Q I'm not saying necessarily it was a threat. Did you

Chris Raymond
Redirect examination by Mr. Bulsa

1 tell him that you were going to prosecute them unless he
2 confessed to it?

3 A No, sir.

4 Q You're absolutely certain that you did not say this is
5 your father's house, your mother's house, they're right
6 there, they're going to jail if you don't take -- take
7 responsibility for this.

8 A That was absolutely never said.

9 Q But you did not take either one of them to jail.

10 A No, sir.

11 Q And he thanked you for that.

12 A He thanked me I think for being nice to them, is the
13 way he put it.

14 Q Okay. Thank you.

15 MR. BAITY: No further questions, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. BULSA

18 Q Do you remember what the condition of his father was?

19 A I remember him being an older gentleman, but I don't
20 recall the health condition of him. I don't know that I
21 paid a lot of attention to it other than he was an older
22 gentleman.

23 Q What about his mother?

24 A Again, she was an older lady, but I don't know her
25 health condition at all. I didn't really pay attention to

Chris Raymond
Redirect examination by Mr. Bulsa

1 it, I guess.

2 Q All right. Thank you.

3 MR. BAITY: Nothing else.

4 THE COURT: Step down.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 MR. BULSA: Your Honor, the state would rest at this
8 time.

9 THE COURT: All right. Ladies and gentlemen, that is
10 all the testimony or other evidence to be offered by the
11 state, at least in their case in chief.

12 Before we go any further I've got some legal matters
13 I'll need to address with the lawyers. And after that
14 we'll bring you back to continue with the trial.

15 So please retire to your jury room, but do not yet
16 discuss the case in any fashion.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: All right. Any motions or other matters
20 to address before we continue?

21 MR. BAITY: Yes, Your Honor.

22 At this time the defendant would make a motion to the
23 Court to direct a verdict in his favor on the following
24 grounds: Your Honor, we believe that the state has failed
25 to produce sufficient evidence that the defendant had

Motion

1 possession of the contraband seized at 120 River Street in
2 Spartanburg, of which we think of course as it was stated
3 in our earlier objections and motions, we believe the
4 search was illegal and improper and without probable cause.

5 But even given the Court's ruling on our motion and
6 our objections, Your Honor, we believe that the state has
7 conceded through numerous witnesses that actual possession
8 of all of these items which are the basis of these
9 charges -- that's the contraband, the cocaine, the
10 marijuana, the guns, the paraphernalia that's on the
11 exhibit table up there and so forth -- state's own
12 witnesses have established that actual possession of those
13 items did not exist.

14 Witness after witness said that they did not ever see
15 any of those items in the hands of or on the person of the
16 defendant, which would mean, I would think, Your Honor,
17 that the state would have to prove constructive possession
18 of these items.

19 In order to show constructive possession of these
20 items the state would have to show that my client had
21 dominion and control over them, and that would include
22 dominion and control over the property that had been
23 searched. I believe the state has failed to meet its
24 burden in that regard.

25 I would make that motion with respect to both the

Motion

1 contraband and the drugs and the paraphernalia, and
2 similarly with respect to the guns.

3 The state has given us testimony indicating that no --
4 no weapon was in the actual possession of the defendant at
5 the time of his arrest, nor was it in his possession at any
6 time before the police -- actual possession before the
7 police took him into custody and took him to jail.

8 And, again, they would have had to have proven
9 constructive possession of those weapons, and they would
10 have to prove also of course that he was engaged in a
11 violent crime. We believe that the state has failed to
12 meet their burden in that respect.

13 Constructive possession of course requires the showing
14 of the power, ability and intent to control or dispose of
15 the items he allegedly possessed. There has been utterly
16 no showing of intent. There's been no showing that he
17 exercised any power or control, that he made any sales or
18 made any manipulation of these items whatsoever.

19 There's no fingerprint information tying them to him,
20 and the evidence that the state has presented with respect
21 to the property in question where all of these items were
22 found, their own witness states that the property was an
23 indentured property of the defendant's mother, that the --
24 the contract and the recorded documentation was in the name
25 of the defendant's mother.

Motion

1 There was no connection whatsoever to the defendant.
2 The property owner stated that Mr. and Mrs. Thompson, that
3 is the defendant's parents, lived there, and lived there
4 for years, and that he had met the defendant only a few
5 times and that he didn't know him. He had seen him a few
6 times, but certainly did not give any indication that he
7 was living there.

8 The only evidence we have that Mr. Thompson was living
9 there was just supposition, and supposition testimony by
10 the defendant -- by the state's witnesses saying that they
11 believed that to be his residence. But they produced no
12 witnesses whatsoever that indicated that Mr. Thompson was
13 there on a regular basis, that he stayed there and that he
14 exercised dominion and control over the property.

15 Access to a home cannot alone provide the requisite
16 showing of constructive possession.

17 We think that the state has failed in its burden to
18 meet the elements of the crimes that are set forth in the
19 indictment, and we would ask that you direct a verdict in
20 that regard. Thank you.

21 THE COURT: Mr. Bulsa.

22 MR. BULSA: Your Honor, the defendant's own statement
23 links him to the property in question. This is a
24 constructive possession case, and the link is provided
25 through the interviews, written and verbal, with the

Motion

1 defendant himself.

2 It's clear this is his family's home. He's visited
3 there. Property of his was found there. He had access to
4 it. And we feel it's certainly a jury question, heard
5 enough to send it to the jury based on his own statement.

6 THE COURT: Well, now, his statement didn't mention
7 anything about any weapons, did it?

8 MR. BULSA: No, sir. But the weapon, the firearm, was
9 registered to him -- the pistol.

10 MR. BAITY: Your Honor, if it please the Court, may I
11 also supplement my motion? I apologize.

12 I also would state that the state has failed to prove
13 that the statement given by Mr. Thompson was freely and
14 voluntarily given as well.

15 But with respect to the weapon, again, mere
16 registration of the -- of the weapon -- mere purchase of
17 the weapon where it's clearly shown by the evidence that he
18 had parted with the weapon does not provide the
19 constructive possession, that is requisite, when it's
20 obvious from the state's own witnesses that it was not in
21 the actual possession of the defendant.

22 THE COURT: What do you mean, him parting with the
23 weapon?

24 MR. BAITY: Well, it was not found on his person.

25 THE COURT: Oh.

Motion

1 MR. BAITY: It was not found at his residence on
2 Larchwood. It was found on the River Street address.

3 THE COURT: Okay. I see.

4 MR. BAITY: Yes, sir.

5 THE COURT: Okay. Well, there appears to be some
6 evidence to -- tending to establish each of the essential
7 elements as to each of the crimes. So your motion for a
8 directed verdict is denied.

9 Any other matters we need to address before the jury
10 is brought back?

11 MR. BAITY: No, sir.

12 THE COURT: Have you talked to your client about his
13 right to testify?

14 MR. BAITY: Yes, I have, Your Honor.

15 THE COURT: Has he indicated a preference?

16 MR. BAITY: He indicates that he wishes to take the
17 stand.

18 THE COURT: All right. Mr. Thompson, you've heard
19 your lawyer tell me that you wish to take the witness
20 stand.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand any time you're charged
23 with a crime as you are that you have an absolute right to
24 remain silent? That just means that nobody can make you
25 take the witness stand and testify during the trial of your

1 case because it's your choice. You have the right to make
2 the determination as to whether or not you'll testify. So
3 you can testify if you wish to or you cannot testify if you
4 prefer not to.

5 If you elect to testify you will have to answer not
6 only your lawyer's questions, but you'll have to answer the
7 prosecutor's questions to the extent that they're relevant
8 even if the responses to those questions might tend to
9 prove you guilty of some crime they claim you committed.

10 If you elect not to take the witness stand and testify
11 I'll instruct the jury that they can't hold that against
12 you, they can't consider it in any way in their
13 deliberations or in their determination as to whether or
14 not your guilt has been proven beyond a reasonable doubt.

15 Have you had plenty of time to talk to your lawyer
16 about your right to testify, as well as not testify?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And have you and he discussed the
19 advantages, as well as the disadvantages, of testifying as
20 well as not testifying?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you appreciate what those
23 advantages and disadvantages are?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And have you had plenty of time to reflect

1 upon your decision about whether or not you will testify?
2 THE DEFENDANT: Yes, sir.
3 THE COURT: And have you reached a decision?
4 THE DEFENDANT: Yes, sir.
5 THE COURT: And what is that decision?
6 THE DEFENDANT: I'm going to testify.
7 THE COURT: You will testify?
8 THE DEFENDANT: Yes, sir.
9 THE COURT: And is that a decision that you reached of
10 your own free will and accord?
11 THE DEFENDANT: Yes, sir.
12 THE COURT: Has anybody forced you into it?
13 THE DEFENDANT: No, sir.
14 THE COURT: Anybody coerced you into it?
15 THE DEFENDANT: No, sir.
16 THE COURT: Has anybody even suggested that that's the
17 decision that you ought to make?
18 THE DEFENDANT: No, sir.
19 THE COURT: You made that decision on your own?
20 THE DEFENDANT: Yes, sir.
21 THE COURT: And you're satisfied with it?
22 THE DEFENDANT: Yes, sir.
23 THE COURT: Okay. Are there any prior convictions
24 that the state intends to attempt to use for the purpose of
25 impeachment?

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 MR. BULSA: There is nothing that's appropriate, Your
2 Honor.

3 THE COURT: Okay. Let's take about ten minutes before
4 we continue.

5 (Whereupon, a recess was taken.)

6 THE COURT: All right. Bring the jury in, please,
7 sir.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: All right. As you know, the state has
11 concluded in their presentation. So we'll now proceed with
12 any to be offered by the defendant.

13 Mr. Baity.

14 MR. BAITY: Thank you, Your Honor. We would call the
15 defendant, Alfonso Thompson, to the stand.

16 ALFONSO CHAVES THOMPSON,
17 having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BAITY

19 Q Mr. Thompson, please be sure to speak into the
20 microphone so everybody can hear you. Okay?

21 A Okay.

22 Q Please give us your full name.

23 A Alfonso Chaves Thompson.

24 Q All right. And how old are you?

25 A I'm 32.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

- 1 Q And how far did you go in school?
2 A To the 11th grade.
3 Q All right. And where do you live?
4 A I stay in 39 Bridge Pain Drive, Fountain Inn, South
5 Carolina.
6 Q Okay. And how long have you lived at that address?
7 A I think about a year.
8 Q Okay. And where did you live before that?
9 A 110 Larchwood.
10 Q Larchwood?
11 A Yes.
12 Q And where is that?
13 A That's in Simpsonville.
14 Q That's over in Greenville County?
15 A Yes.
16 Q Okay. And in May of 2010 when you were arrested,
17 where were you living at that time?
18 A 110 Larchwood.
19 Q That's the address you just gave us?
20 A Yes.
21 Q How long had you been living at Larchwood at that
22 time?
23 A I think maybe about a year and a half.
24 Q And you lived at Larchwood for a total of how long?
25 A I think about two years.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 Q About two years.

2 A Yes, sir.

3 Q Did you own that house?

4 A No.

5 Q Mr. Thompson, did you ever...

6 MR. BAITY: May I approach the witness, Your Honor?

7 Q Did you ever live at an address known as 106 Rocking
8 Chair Lane?

9 A Yes.

10 Q And did you receive some mail there?

11 A Yes, sir.

12 Q Okay. How long did you live at Rocking Chair Lane?

13 A For about a year.

14 Q Okay. And do you recognize that, that State's Exhibit
15 No. 40?

16 A Yes, sir.

17 Q What is that?

18 A That's like a catalog -- a catalog thing when you get
19 like a catalog that has the paper on the inside of it, like
20 auto parts catalog sheet.

21 Q An auto parts catalog?

22 A Yes.

23 Q Did they have anything to do with something you had
24 ordered?

25 A Yes.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

- 1 Q What had you ordered?
- 2 A I think it was a headlight.
- 3 Q A headlight?
- 4 A Yes.
- 5 Q And do you recall when you received that?
- 6 A No, sir.
- 7 Q Now, there's a postmark on it that's 2002. Does that
- 8 sound about right?
- 9 A Yes, that's about right.
- 10 Q Okay. What do you do for a living, Mr. Thompson?
- 11 A I run a body shop.
- 12 Q You run a body shop?
- 13 A Yeah, me and my partner.
- 14 Q What do you mean by you run a body shop?
- 15 A Me and my partner own a body shop.
- 16 Q Okay. And where is that located?
- 17 A It's in Boiling Springs, South Carolina.
- 18 Q And what is it called?
- 19 A It's called Ridiculous Rides.
- 20 Q Okay. And exactly what kind of work do you do at that
- 21 shop?
- 22 A We do frame-off restorations and insurance jobs.
- 23 Q You do frame what?
- 24 A Frame-off restorations, old cars.
- 25 Q So sheet metal work.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 A Yes.

2 Q And framework and all of that sort of thing.

3 A Yes, sir.

4 Q How long have you been working on cars?

5 A Ever since I can remember, maybe since I was about 17
6 or 18.

7 Q Did you ever do any welding, Mr. Thompson?

8 A Yes, yes..

9 Q Do you recognize this?

10 A Yes.

11 Q Let me identify it. It's State's Exhibit 30.

12 A Yes, sir.

13 Q What is that?

14 A That's a welding lens, the helmet. It's the insert
15 that goes in the frame.

16 Q It's a lens?

17 A Yes, a lens.

18 Q That goes over the welding mask?

19 A Yes. Like it's the welding mask, and then this part
20 sets in the front because you can pull it out to replace
21 the batteries and stuff on it.

22 Q I see. Is -- is this a scale of any kind?

23 A No, sir.

24 Q Can you weigh anything on this?

25 A No, sir.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

- 1 Q And this, you say, fits on a welding helmet.
- 2 A Yes, sir.
- 3 Q All right. Is this yours?
- 4 A Yes, sir.
- 5 Q Mr. Thompson, how long have you been in the --
- 6 involved in that shop you just described?
- 7 A A little bit over three years now.
- 8 Q Okay. What's the name of your partner?
- 9 A Daniel Murphy.
- 10 Q Okay. And where did you work before you went --
- 11 A I was going to school.
- 12 Q You were going to school?
- 13 A Yes.
- 14 Q Okay, sir. Do you have now or have you ever held any
- 15 kind of an interest, a legal interest, in 120 River Street
- 16 in Spartanburg?
- 17 A No, sir.
- 18 Q Do you recognize that address?
- 19 A Yes, sir.
- 20 Q Whose address is that?
- 21 A That's my parents' house.
- 22 Q Okay. Were you living there in 2010?
- 23 A No, sir.
- 24 Q Did you visit there in that time?
- 25 A Yes, sir.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 Q Do you know the name of the man that owns that
2 property?

3 A Yes, sir.

4 Q And what's his name?

5 A Ernest Grant.

6 Q Okay. And is your mother and father buying that from
7 him on a contract?

8 A Yes, sir.

9 Q Are you on any of that documentation at all?

10 A No, sir.

11 Q Have you provided any of the money for that --

12 A No, sir.

13 Q -- place?

14 A No, sir.

15 Q How long have your parents -- or have your parents
16 lived there?

17 A I think about six or seven years.

18 Q Okay. Do you get along well with your parents?

19 A Yeah. It's, you know, so-so.

20 Q How about your dad?

21 A He's okay.

22 Q Was he with us today?

23 A No, sir.

24 Q Did he pass away?

25 A Yes, sir.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 Q When?

2 A 2010.

3 Q Do you remember what month?

4 A November 4th.

5 Q November of 2010?

6 A November 4th.

7 Q That would be just a few months after -- after this --
8 this incident.

9 A Yes, sir.

10 Q Wouldn't it be? Do you know why? Do you know why
11 your father died?

12 A Cirrhosis of the liver.

13 Q How long had he been in that condition?

14 A Maybe like four -- four years or so.

15 Q Okay. And is that something that he deteriorated
16 slowly, or what happened?

17 A Yeah. He deteriorated slowly.

18 Q Okay. And on May 13th of 2010, what kind of condition
19 was he in?

20 A He was -- he was okay, but he was -- his problems had
21 started kind of taking its toll on him.

22 Q Okay. Well, you say you got along with your dad
23 so-so. What do you mean by that?

24 A He was -- he was -- he was a hard man.

25 Q What do you mean by that?

Alfonso Chaves Thompson
Direct examination by Mr. Baity

- 1 A He was like, you know, you had to do what he said.
2 And sometimes he was all right, and sometimes he wasn't.
3 You know, he was just like to himself.
4 Q To himself?
5 A Uh-huh.
6 Q Was he a secretive man?
7 A Yes.
8 Q Who built that fence around his house?
9 A He did.
10 Q Did you help him?
11 A Yes.
12 Q Did your brother help him?
13 A Yes.
14 Q Did you have any idea why he wanted that fence built?
15 A In a way I did.
16 Q What would that be?
17 A He had -- they owned another house in Cowpens, and
18 somebody broke in their house in Cowpens, and he just like
19 he's real private like that.
20 Q Okay. So after the break-in he -- he owns property in
21 Cowpens?
22 A Yes, sir.
23 Q Or he used to?
24 A No. He still owns it. Well, my mother owns it now.
25 Q All right. And they had a break-in down there?

Alfonso Chaves Thompson
Direct examination by Mr. Baity

- 1 A Yes, sir.
- 2 Q Okay. So after that break-in, is that when that fence
3 was built?
- 4 A A little bit after that, yes.
- 5 Q All right. Is that when he put in the security
6 cameras?
- 7 A He put the security cameras in I think maybe a year
8 after that.
- 9 Q Did that security ever do him any good? Did he ever
10 catch anybody?
- 11 A Yes.
- 12 Q He did?
- 13 A Yes, sir.
- 14 Q How do you know that?
- 15 A One day he had called me.
- 16 Q Don't tell us what he said. That's hearsay.
- 17 A Okay. Yeah. Well, one day I went down to the house,
18 and he showed me on the computer screen where somebody had
19 jumped the fence in the back yard.
- 20 Q Okay. Did your father own guns?
- 21 A Yes.
- 22 Q How many?
- 23 A I don't know.
- 24 Q But you know he had some.
- 25 A Yes, sir.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 Q Did he keep them at the house there?

2 A Yes, sir.

3 Q Alfonso, do you recall the day that you were arrested?

4 A Yes, sir.

5 Q Where were you when you were taken into custody?

6 A I was at work.

7 Q You were at the body shop?

8 A Yes, sir.

9 Q Okay. And did you have a weapon on you at that time?

10 A No, sir.

11 Q Did you struggle or give them any kind of problem at
12 all?

13 A No, sir.

14 Q And what happened after you were taken into custody?

15 A They arrested me and put me in the truck. And as we
16 was coming down Old Furnace Road -- I don't know the
17 officer's name -- officer -- I don't know his name.

18 He started reading me my Miranda rights, and then he
19 stopped. And then he stopped me, and he was just like,
20 said don't say anything. He said we're going to take you
21 down to your parents' house and we're going to talk to you.

22 And then when I pulled up at my parents' house
23 Investigator Raymond came up to the car, and him and
24 Russell Davis was talking to me. And they had pulled me
25 out of the truck, and then they walked me around. And the

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 gates on the house -- on the fence was open. And they
2 walked me around and they sat me on the tailgate of his
3 truck.

4 Q On the tailgate of Mr. Raymond's truck?

5 A Yes.

6 Q Okay. And how long were you sitting there?

7 A Maybe about four hours.

8 Q Okay. Did you lay down?

9 A No.

10 Q Now, did you ever go into the house?

11 A No.

12 Q And did you see anyone else at the house other than
13 the officers that were doing the search warrant?

14 A My father was there.

15 Q Your father?

16 A Yes, sir.

17 Q Did you actually see him?

18 A Yes.

19 Q And what was he doing when you saw him?

20 A He was sitting in the chair right by the garage. Just
21 like the garage door was here, and it was like the little
22 corner of the garage. He was sitting like in front of that
23 little part of the garage.

24 Q Okay. How did he look? What was his condition?

25 A He was just sitting there, you know, just, just

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 sitting there.

2 Q Were you in any way concerned about him?

3 A Yes.

4 Q Did you see anyone else in your family there other
5 than the police officers? Was anybody else that came onto
6 the property?

7 A Well, a little bit after I was on the back of the
8 truck my mama pulled up.

9 Q Your mother?

10 A Yes.

11 Q okay. And what happened?

12 A When she pulled up the officer told me that they was
13 going to take her to jail too.

14 Q okay. So she was -- she -- did they take her
15 somewhere on the property?

16 A No. She walked in, and, you know, they tried to talk
17 to her, but she kept on walking. And then she went up
18 there and sat beside my daddy.

19 Q So she was sitting by your daddy. Your mom and your
20 daddy were there together.

21 A Yes, sir.

22 Q And I believe you said that was right by the garage.

23 A Yes, sir.

24 Q okay. Did the officers give you an opportunity to
25 talk to them or anything?

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 A He wouldn't let me talk to them.

2 Q Okay. Now, did any of the officers ever come to you
3 at any point and say we found something, we found some
4 contraband in your -- in this garage or in your parents'
5 house or anything like that?

6 A When I was on the back of the truck.

7 Q Who was it that came and told you that?

8 A Russell Davis and Chris Raymond.

9 Q Okay. And what did they say about it?

10 A They said we found -- they said we found something.

11 Q Okay.

12 A But they never said what it was.

13 Q And did they ever -- well, did they ever tell you that
14 it was drugs?

15 A Yeah. They said they found some drugs.

16 Q Okay. And what did you say about that?

17 A I said I don't know anything about any drugs.

18 Q So when you said you didn't know anything about it,
19 what did they say?

20 A They told me -- they say, well, you know something
21 about it. I say I don't know anything about any drugs and
22 stuff like he's talking about, he said, yeah, we found some
23 drugs back there. I said -- I said I don't know where they
24 come from. I said they wasn't mine.

25 And he kept on talking. He said well. He said, well,

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 we're going to take your parents to jail for it.

2 And I looked at Chris Raymond, Officer Raymond, and I
3 was like, I said, man, I said look at my daddy. I said my
4 daddy can't make it in jail.

5 And he was like, you know, we're going -- we're going
6 to take him to jail too. I was like, man, I said -- I said
7 if I confess to it will you still take him to jail. He was
8 like -- he said, no. He said I won't take him to jail if
9 you confess to it.

10 Q So what were you thinking at that time? What were you
11 trying to do?

12 A I just didn't want my father going to jail.

13 Q Okay. So did you -- did you make a statement into the
14 tape recording that we heard?

15 A Yes.

16 Q The tape recorder held by whom?

17 A Chris -- Chris -- Officer Raymond.

18 Q Okay. Now, is that a continuous recording, or was the
19 recording ever stopped while you were talking?

20 A He stopped it when I was talking.

21 Q Well, tell us what happened. Was that your voice
22 right at the beginning of the tape?

23 A Yes.

24 Q What were you saying at that time?

25 A When I -- when I began to make confession I said in

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 order for my parents not to go to jail -- and he took the
2 tape recorder and he jerked, and he jerked it down. And he
3 said, no, no, you can't say it like that, you can't say it
4 like I'm promising you something. And I said you will -- I
5 said you are promising me something. I said you're
6 promising me if I confess to these drugs, then my parents
7 won't go to jail.

8 Q Okay. And so what happened after that?

9 A After that I had -- and he put it back up. He said --
10 he said -- he said you can't say it like that.

11 Q So did he rewind part of it?

12 A He -- he erase -- he rewinded it. And then he put it
13 back up to my -- to my mouth again. Then I said what I
14 said.

15 Q Okay. Did he stop it again while you were talking?

16 A No.

17 Q All right. What about the statement? Did you -- did
18 you write a statement?

19 A Yeah. He told me. He said -- he said I need you to
20 write it too.

21 Q Was that before or after the recording?

22 A That was after the recording.

23 Q Did you attempt to write it the way you wanted it
24 written?

25 A Yes, sir.

Alfonso Chaves Thompson
Direct examination by Mr. Baity

1 Q And what was his response to that?

2 A He told me, he say -- he say you can't write it like
3 that either.

4 Q At that point did you have any idea specifically what
5 had been found or what the police had claimed that they had
6 found --

7 A No, sir.

8 Q -- at River Drive?

9 A No, sir.

10 Q You knew it was drugs, but that's all you knew,

11 A They told me it was drugs.

12 Q Okay. Did they tell you it was cocaine and marijuana?

13 A They just said -- they said it was cocaine. They said
14 it was cocaine found and some marijuana found.

15 Q Okay. Did you see exactly where it came from?

16 A No, sir.

17 Q And did you know the quantity? Did you know how much
18 was actually found?

19 A No, sir.

20 Q Well, why did you say it was yours?

21 A Because they were going to take my parents to jail.

22 Q At the time you claimed it was yours did you have any
23 idea how much it was --

24 A No, sir.

25 Q -- that you were claiming?

Alfonso Chaves Thompson
Cross-examination by Mr. Balsa

- 1 A No, sir.
- 2 Q Mr. Thompson, was any of that contraband yours?
- 3 A No, sir.
- 4 Q Was any of that cocaine yours?
- 5 A No, sir.
- 6 Q Any of that marijuana?
- 7 A No, sir.
- 8 Q Any of these things we see on the exhibit table over
- 9 here -- the Pyrex jar and the -- and the vacuum sealers?
- 10 Is any of that stuff yours?
- 11 A No, sir.
- 12 MR. BAITY: That's all I have, Your Honor.
- 13 CROSS-EXAMINATION
- 14 BY MR. BULSA
- 15 Q whose is it?
- 16 A I don't know.
- 17 Q You don't know?
- 18 A No, sir.
- 19 Q Is it your mama's?
- 20 A I don't know.
- 21 Q Your daddy's?
- 22 A I don't know.
- 23 Q Did the police plant it there?
- 24 A I don't know.
- 25 Q You had a key to that house, didn't you?

Alfonso Chaves Thompson
Cross-examination by Mr. Balsa

- 1 A Yes, sir.
- 2 Q A key to the gate, didn't you?
- 3 A Yes, sir.
- 4 Q You went there and spent nights there, didn't you?
- 5 A Just sometime I did, yes, sir.
- 6 Q Okay. Did you see any of that stuff there?
- 7 A No, sir.
- 8 Q Money counter?
- 9 A No, sir.
- 10 Q It was in the living room.
- 11 A I went upstairs in the other room.
- 12 Q You never spent any time down in the living room?
- 13 A Yes, sir.
- 14 Q That's where that was found, in the living room.
- 15 You're trying to tell us you didn't know it was there?
- 16 A No, sir. I didn't see it.
- 17 Q You worked in Boiling Springs?
- 18 A Yes, sir.
- 19 Q You lived in Fountain Inn?
- 20 A Yes, sir.
- 21 Q You said you had a house in Simpsonville?
- 22 A Yes, sir.
- 23 Q And your parents had a house in Cowpens?
- 24 A Yes.
- 25 Q And your parents also had a house on River Street?

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

1 A Yes, sir.

2 Q Five different places?

3 A I own -- I stay at one. They got two.

4 Q How often did you stay with your parents?

5 A Every now and then.

6 Q So you could come and go if you wanted to, couldn't
7 you?

8 A Yes, sir.

9 Q They didn't have to be there.

10 A No, sir.

11 Q Whose car was in the garage?

12 A My friend's.

13 Q Who is your friend?

14 A Deon Jackson.

15 Q This stuff his?

16 A I don't know.

17 Q You don't know?

18 A No, sir.

19 Q Where does Deon live?

20 A I don't know, sir. I don't know the name of the
21 apartments?

22 Q Where did he live back then?

23 A I don't know. I don't know the name of the
24 apartments.

25 Q Was he living in the same place?

Alfonso Chaves Thompson
Cross-examination by Mr. Balsa

- 1 A What do you mean, the same place?
- 2 Q In 2010 as he's living now.
- 3 A I don't know, sir.
- 4 Q Okay. What was his car doing at your daddy's house?
- 5 A I was working on it.
- 6 Q You were working on it.
- 7 A Yeah.
- 8 Q You've got a shop in Boiling Springs.
- 9 A Yes, sir.
- 10 Q And you choose to work at your daddy's garage?
- 11 A Yes, sir, sometimes.
- 12 Q Instead of your garage?
- 13 A Yes, sir.
- 14 Q Instead of your garage at your house?
- 15 A I don't have a garage at my house.
- 16 Q Did you have one in Simpsonville?
- 17 A No, sir.
- 18 Q How about your buddy's, Mr. -- what's his name --
- 19 Jackson's house.
- 20 A He stay in apartments.
- 21 Q And he just happened to choose your daddy's
- 22 apartment -- I mean, your daddy's place -- actually it's
- 23 your mama's place -- to leave the car.
- 24 A Yes, sir.
- 25 Q And you said you were working on it?

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

- 1 A Well, I got started working on it, but I never did get
2 around to it.
- 3 Q what kind of work were you doing on it, sir?
- 4 A The eletric fans.
- 5 Q What?
- 6 A The electric fans, cooling fans.
- 7 Q Where are the eletric fans located in that car?
- 8 A Up under the hood.
- 9 Q Up under the hood. That's the front part.
- 10 A Yes, sir.
- 11 Q Got anything to do with the trunk?
- 12 A No, sir.
- 13 Q No. Do you have the keys to that car?
- 14 A The keys were in the car.
- 15 Q The keys were in the car. The one thing over here I
16 think you admitted to Mr. Baity that was yours was this.
17 You called it some sort of welding mask.
- 18 A Yes, sir.
- 19 Q Got your initials. I guess you got to claim it.
- 20 A Yes, sir.
- 21 Q It was found in the trunk of that car.
- 22 A Yes, sir.
- 23 Q But you say you were working on the fan under the
24 hood.
- 25 A Yes, sir.

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

- 1 Q And it was found in the trunk.
2 A Yes, sir.
3 Q Near the cocaine, right?
4 A Yes, sir.
5 Q And the marijuana.
6 A Yes, sir.
7 Q Near the scale.
8 A Yes, sir.
9 Q Did you put all of that in the trunk?
10 A No, sir.
11 Q Did you put any of it in the trunk?
12 A I put that in the trunk.
13 Q Oh, just that, just the thing that's got your
14 initials.
15 A Yes, sir.
16 Q Doing any body work on that car?
17 A Yes, sir.
18 Q What?
19 A Yes, sir, we did.
20 Q You did body work too?
21 A We painted the car.
22 Q Did you paint it in your daddy's garage?
23 A Painted it at my shop.
24 Q Okay. So you take it from your shop to your daddy's
25 house.

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

- 1 A He brought it down there.
- 2 Q Well, did you pull this out of the door panel?
- 3 A Door panel on the car?
- 4 Q Yes, sir.
- 5 A No, sir.
- 6 Q It was found in the door panel in the garage.
- 7 A That's not mine.
- 8 Q It's your daddy's?
- 9 A I don't know.
- 10 Q It's your mama's?
- 11 A I don't know.
- 12 Q What did you tell Mr. Baity that you were trying to
- 13 say on that tape?
- 14 A In order for my parents not to go to jail, I
- 15 confessed.
- 16 Q "In order for my parents not to go to jail, I
- 17 confessed." You got those words out of your mouth while
- 18 this officer had that tape running?
- 19 A Yes, sir.
- 20 Q And you said he told you not to say that?
- 21 A He told me not to say it that way.
- 22 Q And you said he rewound that tape?
- 23 A Yes, sir.
- 24 Q And then started it back?
- 25 A Yes, sir.

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

1 Q And you're trying to tell this jury that you heard
2 part of those words on that tape?

3 A He erased it. He erased it, sir.

4 Q Mr. Baity was asking you about that tape and how it
5 sounded like it started and stopped. Didn't you say that's
6 what happened? He started it and then stopped it?

7 A Yeah. He started it and then he stopped it.

8 Q Didn't you hear some words at the beginning of that?

9 A You can't hear the words at the beginning. It's
10 ru-ru-ru.

11 Q Sure doesn't sound like confessed, because that's the
12 last words you said you -- would have been on there, right?
13 If this jury takes that tape back and listens to that are
14 they going to hear the word confess?

15 A What do you mean by the word confess?

16 Q You said that was the last words would -- that should
17 have been on this tape --

18 A He erased it.

19 Q -- before he stopped it.

20 A I said in order for my parents not to go to jail I
21 confess to the drugs found. And he erased it and said no,
22 you can't say it like that. He said you cannot say it like
23 that.

24 Q Your daddy was just sitting on the chair, right?

25 A Yes, sir.

Alfonso Chaves Thompson
Cross-examination by Mr. Balsa

1 Q He wasn't being manhandled, was he?

2 A No, sir.

3 Q You said your mama just walked up and they let her go
4 in and take a seat next your to your daddy, right?

5 A Yes, sir.

6 Q They weren't manhandling her, were they?

7 A No, sir.

8 Q In fact, they weren't even manhandling you.

9 A Yes, sir.

10 Q They were?

11 A Yes, sir.

12 Q How did they manhandle you?

13 A They kept telling me if I didn't confess I was going
14 to jail.

15 Q Did you hear them say that to your mama or daddy?

16 A He went to go put the handcuffs on my daddy when I
17 told him I didn't know what -- about the drugs.

18 Q So the pistol was clearly yours, right?

19 A Yes, sir.

20 Q Was it in your bedroom at the house?

21 A It was in the middle bedroom.

22 Q What's it doing in the middle bedroom? whose bedroom
23 is that?

24 A That's just an empty bedroom.

25 Q Do you have a bedroom in that house?

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

1 A No, sir.

2 Q Which bedroom would you use?

3 A I'd use the back bedroom when I come and spend the
4 night.

5 Q You used the back bedroom, but you leave your pistol
6 in the other bedroom? Huh?

7 A I gave it to my father.

8 Q Oh, gave it to your father like he didn't have enough
9 guns? Did you give him all of those too?

10 A I didn't know he had all of those.

11 Q Did you help him set up the security system?

12 A Did I help him set it up?

13 Q Yes, sir.

14 A Yes, sir.

15 Q Just like you helped him build that fence?

16 A Yes, sir.

17 Q Was he protecting your drugs for you?

18 A No, sir. It wasn't my drugs.

19 Q Well, whose are they?

20 A I don't know.

21 Q You don't know?

22 A No, sir.

23 Q Okay. You say you don't know where any of this stuff
24 came from.

25 A No, sir.

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

- 1 Q Are you saying it's Deon Jackson's?
2 A I don't know.
3 Q Are you saying it's your mama's?
4 A I don't know.
5 Q You don't know if it's your mama's?
6 A No, sir.
7 Q Could it be hers?
8 A I don't know.
9 Q Could it have been your daddy's?
10 A I don't know, sir.
11 Q That's an easy answer, isn't it?
12 A No, sir, it isn't.
13 Q Isn't it true that you were dealing in cocaine and
14 marijuana?
15 A No, sir.
16 Q And you were using this place as a stash house --
17 A No, sir.
18 Q -- right --
19 A No, sir.
20 Q -- so they couldn't catch you with it in
21 Simpsonville --
22 A No, sir.
23 Q -- or catch you with it at your shop.
24 A No, sir.
25 Q You were using your daddy's place because he had a

Alfonso Chaves Thompson
Cross-examination by Mr. Bulsa

1 nice fence on a secluded street with a security system,
2 isn't that right?

3 A No, sir.

4 Q You were using your mama and daddy, and you finally
5 got caught.

6 A No, sir.

7 Q So you told the police the right thing, that it was
8 yours.

9 A No, sir.

10 Q You used your mama and daddy enough.

11 A No, sir.

12 Q Police didn't threaten you.

13 A Yes, they did.

14 Q You knew you were caught, and you didn't want anything
15 to happen.

16 A No, sir.

17 Q Finally came around to you. And now you just want to
18 say I don't know. That's how you choose to approach it
19 now.

20 A No, sir.

21 MR. BULSA: Nothing further, Your Honor.

22 MR. BAITY: Nothing on redirect, Your Honor.

23 THE COURT: You may step down.

24 MR. BAITY: That's the defendant's case, Your Honor.

25 THE COURT: Any reply?

1 MR. BULSA: No, sir.

2 THE COURT: All right. Ladies and gentlemen, that is
3 all the testimony and evidence that's going to be offered
4 in the trial of the case. Therefore what remains to be
5 done are the lawyers' final summations, after which I'm
6 going to instruct you on the law, and then you'll begin
7 with your deliberations. And that's going to take some
8 time.

9 So we've got some legal matters I need to address
10 first anyway. So we're going to recess for the afternoon,
11 but we'll resume in the morning with the final summations,
12 my instruction to you on the law and then your
13 deliberations.

14 So, again, during the overnight recess don't talk
15 about the case; don't conduct any research; don't do any
16 investigation; don't allow yourselves to be exposed to any
17 type of media coverage or any conversations or other
18 contact about the case.

19 Do have a good evening, and please report to your jury
20 room at 9:30 in the morning, at 9:30 in the morning. Have
21 a good afternoon.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: All right. Mr. Baity, do you want to
25 renew your motion?

Motion

1 MR. BAITY: Your Honor, I wish to renew my motion for
2 a directed verdict on the same grounds, again,
3 specifically, I believe I need to say I don't believe that
4 the state with all of the evidence in now has met its
5 burden to satisfy the elements of the three crimes that my
6 client is charged with.

7 Again, this is -- I believe it's been conceded this is
8 a constructive possession case, and it is not an actual
9 possession case. So the state has failed to prove that my
10 client had any interest in or any constructive possession
11 of the premises of 120 River Street where all of these
12 items were found, which was the subject of my motion to
13 suppress because of that.

14 Also, with respect to the contraband that was found
15 there, it has to be found and has to be shown beyond a
16 reasonable doubt that he was in constructive possession of
17 those items. And there is no evidence that he was in
18 actual or constructive possession.

19 There's no fingerprints, there's no sales, there's no
20 witnesses that have seen him with that. There's mere
21 supposition on the part of the police department that
22 someone possessed those drugs, but it does not go beyond
23 the level of supposition.

24 Similarly with the weapon, the only link with any of
25 the weapons is the purchase of a 9mm pistol which my client

Motion

1 has freely admitted that he did not have possession of,
2 constructive or actual, at the time of his arrest and which
3 was found in his father's house which had been given to him
4 by my client.

5 Again, I don't believe the state has met its burden of
6 linking him with any of the weapons and for that matter
7 showing that he is guilty in any way of a violent crime.

8 His confession -- I believe there is evidence. I
9 believe there's evidence in the exhibit itself,
10 particularly -- well, actually in both exhibits, the verbal
11 and the written so-called confession to show -- have
12 evidence of the tape being stopped and things being erased
13 and things being stricken through. And that would be
14 evidence of my -- testimony of my client that he has -- his
15 will was overborne, his concern for his parents.

16 His father who actually died a few months later led
17 him to make those statements falsely confessing to these
18 items. And I don't think that the state has proved its
19 burden that it was freely and voluntarily made.

20 As a matter of fact, I think the evidence is in the
21 other direction. So I do renew my motion and would ask the
22 Court to direct a verdict.

23 THE COURT: Mr. Bulsa.

24 MR. BULSA: Your Honor, it is much more clear now that
25 the defendant testified. By his own testimony he had a key

1 and access to that house at any time. He clearly had
2 access. He knew his gun was there. He was -- he claims he
3 was working on the car where the drugs were found. He's
4 the one who had possession of the car, even though it was
5 in his daddy's garage. This is clearly a case to go to the
6 jury.

7 THE COURT: All right. Motion for a directed verdict
8 is denied.

9 what about instruction requests? Does the state have
10 any?

11 MR. BULSA: Yes, sir, we do.

12 Your Honor, of course as the defense has opined
13 several times about constructive possession, we would ask
14 the Court to instruct the jury on what constructive
15 possession is, as well as joint possession.

16 Based on the drug report and the possible inferences
17 and argument that can be made from it and the fear of any
18 confusion by the jury, we would like some lesser included
19 offenses regarding the weight of the drugs for the
20 trafficking.

21 There were packages found in two different locations,
22 one being inside the trunk and one being inside the door
23 panel in the garage.

24 If for some reason the jury feels that the cocaine in
25 the trunk could have been someone else's since the car was

1 in somebody else's name, we would argue that they could
2 still find him guilty of the drugs that were in the garage.
3 And because the two packages are around 250 grams, we feel
4 the lesser offense of trafficking over 200 grams should be
5 appropriate.

6 Then even though it was a stipulation, because this
7 report has a column listing the amount of the actual drug
8 as 181 grams and 152 grams, that would even drop it below
9 the 200-gram threshold. so we would ask for the lesser
10 included of trafficking between 100 and 200 grams as well.

11 I hate to do that, but I can see there might be some
12 confusion and argument. Because the report is written,
13 stated the way it is, we think those would be appropriate.

14 Yes, sir. There's one other matter. Along the lines
15 of that report in purity we would ask that -- I think it's
16 44-53-392 discusses the weight of the drugs, can be a
17 mixture of the drug itself plus any mixing agents.

18 The language of the statute is pretty clear to help
19 the jury understand how they should view the weight. And
20 we did have an testimony, two experts -- two experts
21 qualified. we would ask for a charge on expert testimony.

22 THE COURT: All right. Mr. Baity.

23 MR. BAITY: Thank you, Your Honor.

24 I would also ask for the lesser included offense, join
25 in the request for that.

1 Your Honor, this is, as counsel said, a constructive
2 possession case. And I would ask that the Court give an
3 instruction with respect to possession to show that it must
4 be proven beyond a reasonable doubt that the defendant had
5 the power, ability and the intent to control the
6 disposition and use of the item that he is being accused of
7 having constructive possession of.

8 Your Honor, I would also ask -- and first of all, I
9 apologize for not having written instructions. I believe I
10 explained to the Court this morning the problems I had with
11 my computer last night.

12 But I do have a request-to-charge textbook. I'll be
13 happy to hand up because that's the one I was going to base
14 it on. But I would ask that the Court consider the State
15 vs. Lee and the State vs. Ellis instruction where proof of
16 possession of an item requires more than proof of mere
17 presence where the item is possessed or kept, and more than
18 mere knowledge that the item was in a particular area.

19 The state must also show that the defendant had
20 dominion and control over the item allegedly possessed or
21 had the right to exercise dominion and control over it and
22 show that the defendant had the intent to control the
23 disposition and use of same.

24 Your Honor, I would hand up a case which your clerk
25 was very kind to print for me since I couldn't print it for

1 myself last night, and that is the State vs. Tedly Heath
2 case. It's actually a case that I was second chair on.

3 The Court of Appeals in that case said that --
4 essentially, it said that the appellant lived in the home
5 where the crack was found, however, the home was owned by
6 appellant's mother. As a result it is arguable that the
7 appellant merely had the right to access the area where the
8 crack was found and not actual dominion and control of the
9 property. In other words, the jury needs to know that just
10 mere access is not alone dominion and control.

11 He's charged with possession with intent to
12 distribute, and I would ask that the Court instruct the
13 jury that the intent of the defendant must be proven beyond
14 a reasonable doubt, not that there were drugs that he may
15 or may not have had access to, but that he intended to
16 distribute them.

17 And also, Your Honor, I would ask that the Court
18 consider the instruction that was given in State vs. Taylor
19 as to trafficking.

20 In order for -- in order to convict a defendant of
21 trafficking in cocaine in this case the state must prove
22 that the defendant was in actual or constructive possession
23 of whatever weight of the substance at a given point in
24 time and that he knew he was in actual or constructive
25 possession of that substance.

1 And finally, Your Honor, as an alternative the State
2 vs. Taylor gave this instruction as well. In order to
3 convict a defendant of trafficking in cocaine the state
4 must prove that the defendant was in actual or constructive
5 possession of a particular weight of that substance and
6 that he knew that he was in actual or constructive
7 possession. In other words, he had knowledge of the amount
8 or the weight that he had in possession.

9 Obviously, I would like an instruction, Your Honor,
10 with respect to confessions and for them to be given
11 validity that they must be made freely and voluntarily
12 without duress, coercion or threats and no promises made.
13 And I am certain that's -- that would be very clear in your
14 instruction. I believe that's all I have, Your Honor.

15 MR. BULSA: Your Honor, I had one other possession
16 with intent to distribute inference. That's found in
17 44-53-374 related to the marijuana, 28 grams or one ounce
18 of marijuana.

19 THE COURT: All right. Anything else?
20 Court is in recess until 9:30 in the morning.

21 END OF PROCEEDINGS JANUARY 24, 2012
22
23
24
25

Closing arguments

1 (Proceedings January 25, 2012)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Are we ready for the jury?

5 MR. BAITY: Yes, sir.

6 THE COURT: All right. Bring them in.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Good morning, ladies and gentlemen.

10 As you know, when we recessed yesterday all of the
11 testimony and evidence had been received. So what remains
12 to be done are the lawyers' final summations, after which
13 I'll instruct you on the law, and then you can begin with
14 your deliberations.

15 So please give the lawyers your attention now as they
16 give you their final summations.

17 Mr. Baity.

18 MR. BAITY: Thank you, Judge Cole. May it please the
19 Court.

20 THE COURT: Yes, sir.

21 MR. BAITY: Good morning, ladies and gentlemen.

22 I'm sure you're glad this will probably be the last
23 day of this trial. I know I am. And, again, I want to
24 thank you sincerely for being here today. I said that at
25 the beginning, and I meant it. I know no one would be here

Closing arguments

1 on their own volition. And there's a lot of people that
2 just shirk this duty, just wiggle out of it and make
3 excuses and so forth. And you didn't do that. You stepped
4 up, and you're doing your duty.

5 And not only that. I want to point out that of course
6 we watch you, and I know you're watching us. And you're
7 paying attention. I've been in cases where people have
8 fallen completely asleep and the judge got the bailiff to
9 go wake them up. I didn't see any of that. I didn't see
10 anybody nodding off or even getting tired. I was getting
11 tired.

12 Y'all stayed awake; y'all paid attention. You looked;
13 you watched; you listened. And that's not just service.
14 That's extraordinary service. And I really do appreciate
15 it.

16 I appreciate it because you are the heart and soul of
17 our judicial system, everything from the judge to the
18 Supreme Court, all the way down to the lowliest constable.
19 The heart and soul of the whole thing is when everyday
20 citizens sit in that box and they decide. You have the
21 power -- you have the power.

22 You are the officials of Spartanburg county. You have
23 taken an oath. You're the heart and soul of our system.
24 And I thank you for your service, because somebody has to
25 do it.

Closing arguments

1 You took an oath on Monday. The judge administered it
2 to you. Something to the effect that you will well and
3 truly try this case in accordance with the law or something
4 like that. You were serious about that oath, and you
5 certainly look like you are.

6 Then you will -- you will carry out your duties in
7 accordance with the law. And the judge will tell you what
8 law is. When the lawyers get finished talking the judge
9 will tell you what the law is. He's already told you what
10 some of it is, and I think he will repeat some of it.

11 Two things that, again, he'll probably start with or
12 started with last time. I'm not sure when he'll say it.
13 But I'll start with it -- the burden of proof and beyond a
14 reasonable doubt. If you are serious about your oath,
15 folks -- and I think you are -- please don't let those just
16 be empty terms, empty words, something that rolls off the
17 tongue.

18 Those are real concepts and they're really the most
19 important concepts in this room, because every American
20 citizen is entitled to the presumption of innocence. That
21 is the bedrock of our liberty.

22 This defendant and any other defendant and everyone in
23 society is entitled to that presumption of innocence. And
24 that innocence stays with him throughout the trial, and it
25 stops only if the state has met their burden of proof.

closing arguments

1 And what is that? How do they meet that? That is by
2 proving their case beyond a reasonable doubt. Now, what's
3 a reasonable doubt? A reasonable doubt is what it says.
4 It's a reasonable doubt.

5 I think the judge will give you a little bit of
6 guidance on that as well. I've heard it said many times
7 that a reasonable doubt is something that will cause a
8 reasonable person to hesitate, to hesitate to act.

9 Unless all of your reasonable doubts in this case are
10 dispelled, you have no hesitation to act, then the law, the
11 law that you swore to uphold, requires you to find for the
12 defendant.

13 That's what the presumption of innocence is and that's
14 what the burden of proof is and that's what beyond a
15 reasonable doubt means.

16 You've heard all of the evidence; you've seen the
17 exhibits; you've heard the testimony. If you hesitate on
18 any of the issues, any of the elements of these charges,
19 then the law requires you to find for the defendant.

20 That's why we are a free society. You can't be put in
21 jail on suspicion. You can't be punished because you look
22 like you might be close to something. They have to be
23 proven beyond a reasonable doubt. Is there a reasonable
24 doubt here? I would say there is.

25 The defendant's charged with trafficking in cocaine, a

Closing arguments

1 possession case. Possession with intent to distribute is
2 in the title. It's a possession case. Possession of a
3 weapon during the commission of a violent crime. A
4 possession case. The key word, the key concept here, is
5 possession.

6 I think I can say without any fear of contradiction
7 that this is not -- that there's no doubt, reasonable or
8 otherwise -- that my client did not actually possess
9 anything.

10 He wasn't at his parents' house when the contraband
11 was found. He was not there. He is at work. He had
12 nothing on him when he was arrested.

13 Not one person came in here and testified -- not one
14 person -- a police officer, an undercover agent, somebody
15 that they were using to turn on him or try to set him up --
16 not one person came in here and said they'd ever seen this
17 man hold in his hand or have in his pockets or have in
18 front of him, handle, hold, sale, buy, package or in any
19 way manipulate or handle the contraband that's over there
20 on that cart over there. Not one person said they ever saw
21 that.

22 The police when they arrested this man truthfully said
23 from the stand they never saw him hold it or handle it.
24 I'd say it's not surprising if that's true, but there's not
25 one fingerprint on any of this stuff.

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1 Now, you don't get fingerprints on everything you
2 touch. Of course you don't. But on these weapons and then
3 these appliances and the scales and all of this kind of
4 stuff, surely there'd be something there. And they did
5 test for it. They didn't find anything to match the
6 defendant's. None. Zero.

7 Not one witness, not one fingerprint, not one
8 undercover sale. Nothing on or in his clothes or in his
9 car. There's something in Deon Jackson's car. Nothing in
10 his house on Larchwood where he lives, that rented house on
11 Larchwood in Simpsonville. Nothing. Does that make you
12 hesitate?

13 The state's theory, ladies and gentlemen, is
14 predicated not on actual possession, because it's up to
15 you. But I don't think actual possession of anything has
16 been proven in this courtroom. But it's based on a legal
17 concept known as constructive possession.

18 You kind of have to imagine that he has possessed
19 something. It's -- it's a theory. It's an inference.
20 It's an implication.

21 It's not direct evidence; it's not circumstantial
22 evidence. So it's not as strong as actual possession. Not
23 nearly as strong.

24 So the state's theory of construction -- constructive
25 possession if you're going to accept that, then you have to

Closing arguments

1 believe this. You have to believe that my client,
2 Mr. Alfonso Thompson, lived at 120 River Street. The
3 police referred to it as his residence. He lived there.
4 This stuff was found there. Therefore it's his. That's
5 could be, not necessarily, but it could be a part of
6 constructive possession.

7 But, folks, we know that's not true. We know he
8 didn't live there. His parents lived there. How do we
9 know that? I'm not asking you to take my word for it. The
10 man that owned the house sat in that chair and said I sold
11 it to Charles Edward Thompson, his father, and his mother,
12 and they have lived there for years and I barely know
13 Alfonso.

14 He helped them move in. I met him. He worked on my
15 car one time. But he didn't live there. Who lived there?
16 Mom and dad.

17 Now, did my client visit? Sure, he did. I hope you
18 go visit your parents. So did his brother, Shandra. So
19 did several other people, I'm sure. But he doesn't live
20 there. It's not his residence. And the police were going
21 to call it his residence, but it's not his residence.

22 Did he have a key? Yeah. I've got a key to my
23 parents' house. I don't reside there.

24 Not one witness was produced that said -- not a
25 neighbor, not a postal delivery person, not a U.P.S. man or

Closing arguments

1 somebody who works for the utility companies or anybody --
2 garbage collector or police officer conducting
3 surveillance -- not one person sat on that stand and said,
4 yeah, we saw him there, that's where he lives, he comes
5 home here at night. Not one person said that.

6 They haven't even told you how often he does visit
7 there because they don't know. He doesn't live there.

8 In order to buy the state's theory of constructive
9 possession of this contraband you also have to believe that
10 this man buys and sells large quantities of drugs. You
11 heard the police estimate of what it was all worth,
12 thousands of dollars.

13 Folks, this person works in a body shop, a hot and
14 dusty, hard-work job. He gets his hands dirty and comes
15 home covered with paint, rust, dust.

16 Why would he be doing that if he's got thousands,
17 hundreds of thousands of dollars he's making in the drug
18 business? Why would he do that? It doesn't make any
19 sense.

20 I mean, I can see pretending to be one thing, but this
21 man has a partner and runs a shop. It's open. It's a
22 going concern. It's a business. They do body work; they
23 do welding; they do car reconstruction. Lots of bending
24 and pulling and banging, welding. That's what this man
25 does.

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1 Where is the blame? Where is the gold chains and the
2 gold teeth and the rings and the flashy clothes and flashy
3 cars and the wild lifestyle that the big drug dealers play?
4 Where is that? I didn't see any evidence of it. Not one
5 witness came in here and gave us any of that. Where is it?

6 You also have to believe this so-called confession.
7 Now, some confessions are made when a person feels guilt
8 and remorse and wants to make a clean break of things and
9 wants to admit their guilt and tell the truth. Might have
10 tears in their eyes. They might be saying it in some
11 emotional state, but they lay it all out there.

12 Then there's confessions -- and we've all done them --
13 where you take responsibility for something for some other
14 reason and it's yours or it's the truth. You do it because
15 you're afraid of something. You do it because you've been
16 threatened. You do it to protect somebody.

17 Ladies and gentlemen, I would submit that the second
18 kind of confession is not one that you give any credence
19 to, because it's not true.

20 And you're going to hear Judge Cole tell you about the
21 law regarding confessions. And I think he's going to say
22 that you should consider as truthful confessions that are
23 freely and voluntarily gave -- freely and voluntarily given
24 without coercion or duress.

25 Well, first of all, was there any duress? When you're

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1 under arrest and sitting in the back of a truck for four
2 hours, you see your weeping, very sick father out there
3 sitting in a chair. Police swarming all over the place.
4 Alfonso knew his father was dying.

5 We're going to take your daddy to jail. Mama too.
6 They're going. They're going down, Alfonso. They're going
7 down unless of course you want to take responsibility for
8 this. That's what he told you that he was told.

9 Now, they didn't beat him up. They didn't hit him
10 with the rubber hoses, none of this third degree lighten
11 guys and all of that kind of stuff. We're not talking
12 about that.

13 Your daddy's going to jail. And he knew what that
14 would do to daddy. Turned out daddy had about six months
15 to live. Hodgkin's disease. And it was starting to really
16 kick in.

17 His father was a -- you heard him say -- a kind of
18 hard man, hardheaded man, very private and very secretive,
19 owned that house or was buying it and owned some more
20 property in Cowpens. Very paranoid. Builds fences,
21 security systems. Didn't like everybody up in his
22 business.

23 He was sick and he was dying. And they said we're
24 taking him to jail and we're going to put him in the middle
25 of the jail with all the yelling and screaming. I'm sure

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1 none of you have been to jail, but I have been to one to
2 visit someone there. And it's a horrible place.

3 Alfonso knew his daddy wouldn't survive that. So
4 right there in the heat of that moment, okay, okay, okay.
5 I'll do it. I'll take responsibility for it.

6 Folks, when he took responsibility, when he made that
7 confession, by the state's own testimony -- Officer
8 Raymond -- he had not been in the garage; he had not been
9 in the house. He hadn't seen any of the contraband.

10 He didn't know what he was confessing to. He had no
11 idea. It's all mine. Everything's here. Now, I know
12 that's his story. And Officer Raymond has another one. Is
13 there any evidence to support one or the other?

14 Well, I submit to you, ladies and gentlemen, there's
15 some very subtle evidence here. I want you to continue
16 your concentration that you have demonstrated this week, to
17 examine that. The evidence is the tape.

18 If somebody says, Mr. Baity, will you confess to
19 running over that cat last night, yes, sir. My name's Phil
20 Baity and I was driving too fast on Mobile Drive leaving my
21 motel and I wasn't paying attention. I was messing with my
22 cellphone, and the cat ran out in front of me and I ran
23 right over that cat and I'm sorry. I was going too fast.
24 It's my fault, and I'll be glad to pay for any damages.
25 I'm real sorry. Thank you.

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1 That's a confession. It's also a true story. It
2 happened last night.

3 But the confession you hear this man say is not that
4 at all.

5 Please listen carefully to that tape -- please listen
6 carefully to that tape. What do you hear? The first two
7 seconds of that tape you hear Alfonso's voice. I can't
8 make out what he's saying, but he's saying something.

9 It's only two seconds worth, and if you turn it up and
10 listen real carefully you hear, click, zoop. You know what
11 that is. That's stop, erase, start over.

12 And then who's talking? Is it Alfonso? No. It's
13 Mr. Raymond who's getting this confession. Why is that?
14 Because Alfonso said I was trying to explain I'm taking
15 responsibility for this because I don't want my parents to
16 go to jail. No. You can't say it that way. Zip, erase.
17 This is Officer Raymond, blah, blah, blah, blah.

18 Listen for that. I think that supports my client's
19 theory, statement of what happened in his statement. You
20 hear perfunctory questions, yes, yes, I've been, yeah,
21 right, right. I did it and that's mine. Because he'd been
22 told you got to take responsibility, you can't talk about
23 your parents, can't talk about anybody else, yes, yes,
24 yeah. When did you put it in there? Last week, I think.
25 Do you know how much you put in there? No.

Closing arguments

1 And he says what about these additional drugs that we
2 found here. That's the question. No answer. Another
3 click.

4 Then Officer Raymond's talking again. They were other
5 drugs found, and blah, blah, blah. You take responsibility
6 for those? Yeah, yeah. And actually there's another
7 click. There's three of them. Listen carefully. If you
8 listen carefully you'll hear them, particularly the first
9 one.

10 And I didn't ask him the question. Mr. Bulsa did.
11 When did you start the confession on tape. Did you do that
12 first? Yeah. He said did it at 8:00 o'clock.

13 The tape lasts one minute and 43 seconds, folks. And
14 when did you ask him to write the confession? At five
15 minutes after 8:00. A 1-minute-and-43 confession, taped
16 three times, the time it should have taken to get to the
17 right part. That's because you're stopping. You say, no,
18 you can't say it that way. You're erasing. You're putting
19 it back. And you're substituting your statement for what
20 you want him to say.

21 Now, if that'd been a perfect confession like the one
22 I should have given last night, wouldn't need to stop and
23 erase and edit and all of that kind of stuff. Just tell
24 us. That's not what we got, folks. And then he has him
25 write it. And even that has scratch-outs. Does any of

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1 that make you hesitate?

2 What about the weapons? Three boxes of rifles.

3 There's not one scintilla of evidence, not one micro
4 stop-it piece of evidence, that in any way links these
5 rifles to the defendant. Nothing.

6 They were found in his dad's house. There's no
7 paperwork that links them to Alfonso. Nothing. So why do
8 we see them? What have they got to do with this case?

9 Nobody said they ever saw Alfonso hold them or do
10 anything with them or threaten anybody with them or even
11 mention them.

12 You know a B.B. gun in a courtroom looks like a
13 howitzer. That's what we saw. Part of the shock and all.
14 That's just courtroom dramatics, folks. Please don't be
15 taken by that.

16 These guns don't have -- these rifles don't have
17 anything to do with this case. There's not a fingerprint
18 on them. There's not one scintilla of evidence other than
19 we found them in his dad's house in his dad's bedroom.

20 And, yeah, there was a 9mm, TEC-9. Alfonso freely
21 admitted that that was his. Bought it years ago, young
22 man, and gave it to his dad. It was up in a closet. Okay.
23 That's legit -- that's legit.

24 That doesn't mean that he possessed it constructively.
25 Certainly not actually. Gave it to his daddy. His dad was

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1 -- he liked guns.

2 There's a lot of evidence in this case, ladies and
3 gentlemen, a lot of exhibits. Some of them are shocking.
4 But there's a problem that the state has in this case, and
5 that is there in is no proof beyond a reasonable doubt that
6 any of these exhibits are linked to this man over here.
7 And I can only imagine that that's frustrating to the
8 state. It's frustrating to the prosecution in this state.

9 I think you saw a little bit of that come out last
10 night when the defendant was on the stand and getting
11 questioned, getting voice raised, yelling at him, being
12 very disrespectful, almost insulting talking about his
13 mama.

14 MR. BULSA: Objection, Your Honor. Improper.

15 THE COURT: Sustained.

16 MR. BAITY: I think he was trying to make him mad. I
17 think that's what he was doing. More courtroom drama.
18 Please don't be taken in by that.

19 When that happened the defendant sat there and calmly
20 said I don't know the answer to your question, sir. I
21 don't know the answer. I can't answer your question.

22 Ladies and gentlemen, if we don't know the answer to
23 those questions beyond a reasonable doubt as to every one
24 of these charges, then your oath requires that you find the
25 defendant not guilty.

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1 If you hesitate to act, if you have a reasonable
2 doubt, you should find the defendant not guilty. And I'm
3 going to ask you to do that. Do your duty. I'm sure you
4 will. Thank you for your attention.

5 MR. BULSA: Ladies and gentlemen, Mr. Baity talks
6 about courtroom drama. I submit you just saw a fine
7 performance.

8 This case, ladies and gentlemen, is about your common
9 sense, and it's about credibility, the credibility of this
10 officer. Just remember. Just been attacked, and very
11 seriously.

12 This evidence is presented to you, ladies and
13 gentlemen, to let you see the enormity of this drug culture
14 the defendant and apparently his family were immersed in.

15 The police were at 120 River Street on May 13th of
16 2010 pursuant to a lawful search warrant to search for
17 drugs and for property relating to drugs.

18 I think it came across through the testimony that the
19 parents had a house in Cowpens and they also had a house on
20 River Street.

21 The house on River Street was down a 1-way street --
22 excuse me -- a 1-lane street, not even a cul-de-sac, just
23 goes to a dead end. It's hard to even turn around on this
24 street.

25 They built a six-to-eight-foot-high fence, privacy

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1 fence. what does that privacy fence encompass? Most
2 privacy fences encompass the back yard. This privacy fence
3 encompassed the entire house.

4 Then they not only had the privacy fence. They stick
5 a camera in the window to run surveillance on who else
6 might be coming around. what were they looking for?

7 Their driveway is gated off, locked. Was his
8 family -- was this a family business? I submit to you
9 that's not a question you really need to answer. It
10 appears that way. The defendant wouldn't tell us. His
11 favorite answer was I don't know.

12 The police had reason to believe the defendant resided
13 at that residence. They had reason to believe that he was
14 connected to that residence. They went and picked him up
15 and brought him to the residence while the residence was
16 being searched.

17 The police treated the parents with dignity. There
18 was no coercion, no force, no threats. They had them
19 sitting outside their home while their home was searched.

20 There is no evidence that there was any threats or
21 coercion against the parents. No one testified to that.
22 There was no anger directed at the parents by the police.
23 There was no threat.

24 I submit to you, ladies and gentlemen, this man
25 misused his parents. He misused their trust. He put them

closing arguments

1 in that position. And when he realized he was caught he
2 finally took responsibility.

3 He had access to that home. He had a key to that
4 home. He could come and go at will. He spent the night
5 there.

6 Yes. This is constructive possession, but it's
7 constructive possession based on a confession.

8 I went and bought a go-cart for my kids this
9 Christmas. I didn't want them to see it, so I took it to
10 my dad's house and left it there overnight. I was in
11 constructive possession of that go-cart even though it was
12 at my father's house.

13 My wife still has a key to her parents' house. She
14 still has items at that house that she owned in her
15 childhood. She is in constructive possession of those
16 items at her parents' house.

17 Ladies and gentlemen, you're in constructive
18 possession of things in your car, things in your house,
19 things that you still own at your parents' home. You are
20 in constructive possession of those things.

21 The defense attorney brought the military into this
22 case when he discussed it or talked about his son, about
23 his son's service. When his son goes overseas his son will
24 still be in constructive possession of the things in his
25 house. That's how constructive possession works.

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1 This defendant put those drugs, put that gun in his
2 parents' house. He was in constructive possession of those
3 items. That's how it works. He finally got caught, and
4 he's guilty. He is guilty.

5 Use your common sense, ladies and gentlemen. This was
6 a drug house, a big drug operation, half a kilo of cocaine
7 upwards towards \$50,000 on the street.

8 He's proud of his son serving in the military. I
9 served in the military. My brother served in the military.
10 My brother was overseas in Iraq. It's a valuable service.

11 I submit to you these officers are involved in a war.
12 You've heard of the war on drugs. I submit to you you just
13 witnessed the battle, one of the battles.

14 We've got people like Mr. Thompson dealing dope in
15 Spartanburg County. Does he live in Spartanburg County?
16 No. He distanced himself. He lives in Simpsonville, now
17 in Fountain Inn. Has a business in Boiling Springs.

18 He knows what he's doing. He insulates himself. He
19 takes responsibility, and then he wants to come into court,
20 oh, I was coerced, I was threatened, that wasn't mine.

21 Whose in the world was it? I don't know -- I don't
22 know. He had possession of that car. He was working on
23 it. He was working on the fans. What in the world has he
24 got something doing in the trunk near the dope? Because
25 it's his.

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1 The one thing that's -- it's not clear the parents
2 knew about the cocaine because he did a good job of hiding
3 it in the trunk of the car and behind the door panel in the
4 garage.

5 The marijuana was scattered at various locations, some
6 of it in the kitchen, some joints in the master bedroom.
7 They had to have some knowledge.

8 His daddy had an arsenal of rifles in his bedroom.
9 They had the security system in the bedroom. Were they
10 helping their son? Use your common sense, ladies and
11 gentlemen. I submit that they were.

12 The defendant was dealing dope. He had the tools. We
13 see the wrappings. He had the firearm. Common sense,
14 ladies and gentlemen.

15 Listen to the tape. Listen to it. Read the
16 confession. It's in his own hand. The police took extra
17 precautions, read him his rights three times, wanted to
18 make sure he understood and he wasn't being coerced and he
19 was doing this of his free will.

20 This was a voluntary statement. He could have just
21 told them I don't know. He could have used his favorite
22 phrase with the police. I don't know.

23 The judge is going to charge you on the law, ladies
24 and gentlemen. He's going to charge you on your duties as
25 jurors. He's going to charge you on the legal definitions

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1 of certain words that have been discussed -- constructive
2 possession, joint possession, beyond a reasonable doubt,
3 the burden of proof. He'll instruct you on the actual law
4 as it pertains to cocaine and marijuana.

5 In South Carolina if you possess over 400 grams of
6 cocaine you're guilty of trafficking. In South Carolina if
7 you possess over 200 grams of cocaine you're guilty of
8 trafficking. In South Carolina if you possess over
9 100 grams of cocaine you're guilty of trafficking.

10 You're going to have the drug report for the cocaine
11 in evidence. We submitted this piece of paper in lieu of
12 bringing a chemist up here from Florida.

13 It has several columns. It has the two separate
14 exhibits. You can see the numbers 10 and 11. Ten came out
15 of the car. Eleven was behind the panel.

16 I submit to you the column you're concerned with in
17 South Carolina is the net weight. That will be the net
18 weight of each one of these. The pure cocaine plus the
19 cutting agent is over 250 grams. The judge will instruct
20 you on that.

21 You don't have to look at the purity. Look at the
22 substance that it has, because that's what can be cut up
23 and distributed on the streets of Spartanburg County.

24 The marijuana. There's a legal inference pursuant to
25 the statute if you possess more than 28 grams of marijuana

Jury charge

1 you can infer, ladies and gentlemen, that this is more than
2 just for your own use. You are likely going to distribute.
3 You can infer that the weight itself means you're going to
4 distribute it in some fashion, give it away or sell it.

5 I submit to you you have the packaging materials which
6 suggest that that's what was happening. This garage, this
7 house, was used to repackage and then distribute drugs
8 elsewhere in Spartanburg County.

9 This defendant was ahead of that operation. He
10 confessed to it. He's guilty of it. Common sense.
11 There's no other explanation -- no other explanation.

12 Please don't be misled. Common sense, credibility,
13 confession, responsibility, guilt. Please do your job that
14 you're sworn to do and find him guilty of all charges.
15 Thank you.

16 THE COURT: Mr. Foreman and ladies and gentlemen of
17 the jury, you of course have heard and seen all of the
18 evidence in the case, as well as the final summations of
19 the lawyers. And therefore it now becomes my duty and
20 obligation to instruct you on the law that's applicable in
21 the case.

22 Then you'll be asked to go back and begin with your
23 deliberations. Through that process you'll examine the
24 evidence, decide the facts, apply the law and arrive at a
25 fair and just decision, whatever that decision may be.

Jury charge

1 It is your exclusive duty to determine what the facts
2 are. You do that through your own common-sense examination
3 and evaluation of all of the testimony and the other
4 evidence received during the trial of this case.

5 You 12 jurors alone will decide what weight, value and
6 effect to give to any particular testimony or other
7 evidence in the case. Your sole objective is to simply
8 reach the truth in the matter, and by doing that you will
9 fulfilled your obligations as jurors, and that is to simply
10 give both the state and the defendant a fair and impartial
11 trial.

12 Now, as you know, in this case the state through the
13 prosecutor has accused the defendant with having committed
14 three separate and distinct offenses, although each of
15 those offenses are alleged to have arisen out of one
16 particular event or course of events which the state
17 alleges occurred back on May the 13th of 2010.

18 The three separate charges are contained in two
19 indictments. One indictment alleges two separate offenses.

20 That indictment alleges trafficking in cocaine and
21 possession of a firearm during the commission of a violent
22 crime, the violent crime alleged to be the trafficking in
23 cocaine that is set forth in count one of the indictment.

24 Then the third charge is contained in a separate
25 indictment, and that charge is possession with intent to

Jury charge

1 distribute marijuana.

2 Now, as I told you, those indictments are not evidence
3 of anything. They don't prove anything. They don't
4 establish anything.

5 The indictments are simply the means by which any
6 person is accused of a crime where the jurisdiction lies in
7 this court. And that indictment serves to put that person
8 on notice as to what crime the state claims they have
9 committed.

10 The indictments will be in the jury room, Mr. Foreman,
11 because the indictments are going to serve as the verdict
12 forms. So you will be indicating the jury's unanimous
13 decision as to a particular charge by inserting that
14 decision on the back of the indictment in the space
15 provided for the verdict. But other than serving as the
16 verdict form the indictments serve no purpose so far as you
17 jurors are concerned.

18 Now, as to all of the allegations contained in each of
19 those indictments the defendant has entered a plea of not
20 guilty, and that plea of not guilty has placed upon the
21 state the burden of proving the allegations that they have
22 set forth in each of those indictments, the burden of
23 proving each of the essential elements that constitutes the
24 crime that is alleged by way of those indictments; and
25 therefore the burden is upon the state to establish the

Jury charge

1 defendant's guilt to the satisfaction of you 12 jurors
2 beyond a reasonable doubt before a verdict of guilty could
3 be returned as to a particular charge.

4 The burden is never upon a defendant to prove that he
5 or she is not guilty or to prove that he or she is innocent
6 because in many cases that might not even be possible.

7 The burden is always upon the state because they
8 brought the charge against the defendant to establish the
9 defendant's guilt to your satisfaction beyond a reasonable
10 doubt.

11 It is a vital, important and cardinal rule of law that
12 every defendant in a criminal trial -- and it doesn't
13 matter how serious the offense might be for which that
14 person stands charged. That person shall always be
15 presumed innocent of that charge.

16 That presumption of innocence remains with any
17 defendant, as it does with this defendant, from the time
18 that he is placed under arrest and throughout the course of
19 the criminal process and even throughout the course of the
20 actual trial in the case.

21 As I've told you, that presumption of innocence will
22 be with Mr. Thompson even as you go back to your jury room
23 to begin with your deliberations in this case. That
24 presumption of innocence will be with him in that jury
25 room, and it'll be with him forever unless you 12 jurors

Jury charge

1 unanimously determine that his guilt has been proven beyond
2 a reasonable doubt.

3 In other words, after you've carefully considered all
4 of the evidence in the case, and from that evidence you've
5 decided the facts, and upon deciding the facts you've
6 applied the law that I will have provided you, if you 12
7 jurors unanimously determine that his guilt has been proven
8 beyond a reasonable doubt, then he would no longer be
9 entitled to the presumption of innocence. But it's only
10 if, unless and until you are satisfied of his guilt as it
11 relates to a charge beyond a reasonable doubt that the
12 presumption of innocence would no longer be applicable as
13 to that particular charge.

14 Now, while the state does have the burden of proving
15 the defendant's guilt beyond a reasonable doubt, that
16 doesn't mean that the state has to prove his guilt beyond
17 all doubt or beyond any possible doubt. But it does
18 require the state to prove his guilt to your satisfaction
19 beyond a reasonable doubt.

20 The term reasonable doubt should be given its plain
21 and ordinary meaning. A reasonable doubt is the kind of
22 doubt that would cause a reasonable person to hesitate to
23 act upon the information provided.

24 A defendant in a criminal trial is entitled to any
25 reasonable doubt that arises from the evidence or lack of

Jury charge

1 evidence in a case. And if upon any factual issue
2 essential to a finding of a verdict of guilty you have some
3 reasonable doubt as to how that issue should be resolved,
4 it would be your duty to resolve that reasonable doubt in
5 favor of the defendant. And therefore if upon your
6 consideration of the whole case you have a reasonable doubt
7 as to his guilt, you must resolve that doubt in his favor
8 and return a verdict of not guilty.

9 At the same time, after you've considered all of the
10 evidence in the case, you've decided the facts and applied
11 the law, if you have no reasonable doubt as to his guilt as
12 it relates to a particular charge, then it would be your
13 corresponding duty to find him guilty of any charge that
14 has been established to your satisfaction beyond a
15 reasonable doubt.

16 Now, the same law that provides that you are the
17 judges of the facts also provides that I am the judge of
18 the law. That simply means that nobody is going to tell
19 you how to arrive at your determination of fact in this
20 case.

21 You do that, as I've already stated, through the
22 exercise of good judgment and common sense conscientiously
23 applied to the testimony and evidence received during the
24 trial.

25 You must however under your oath as a juror accept the

Jury charge

1 law as I provide it to you as being the law that you are to
2 apply in the case. In other words, you're never to concern
3 yourself with what you thought the law was before you came
4 to serve as a juror this week or what you think the law
5 ought to be. You must simply accept the law as I provide
6 it to you as being the law that you are to apply in this
7 case.

8 Then you simply take that law and you apply it to the
9 facts as you 12 jurors determine those facts to be based
10 upon your common sense examination of all of the evidence
11 received during the trial.

12 Now, because you are the sole judges of the facts in
13 this case you are therefore necessarily the sole judges of
14 the credibility or the believability of each witness that
15 has testified during the course of the trial.

16 You 12 jurors alone will decide what weight, value and
17 effect to give to any particular witness' testimony, or
18 even a portion of that testimony.

19 In your assessment and evaluation of a witness'
20 credibility there are several factors which you should take
21 into consideration, and I'm going to list those factors for
22 you.

23 You should consider the demeanor of the witness, that
24 is how the witness appeared to you as the witness testified
25 from the witness stand.

Jury charge

1 Was the witness straightforward in responding to
2 questions that were asked of that witness, or was the
3 witness hesitant or evasive in responding to questions that
4 were asked of the witness.

5 Simply put, did the witness appear to you to be
6 telling the truth and to have knowledge of the facts to
7 which that witness has testified.

8 You should also consider whether or not the testimony
9 of a witness is consistent or inconsistent with that
10 witness' own testimony or with testimony and statements
11 made by that same witness, whether it be in court or
12 outside of court.

13 You should consider whether or not the testimony of a
14 witness is consistent, or is it inconsistent with other
15 witnesses' testimony or other evidence received during the
16 trial of the case.

17 You should also consider how the witness came to know
18 the facts to which a witness has testified. In other
19 words, what was that particular witness' opportunity and
20 ability to be able to perceive the existence of those facts
21 to which that witness has testified by having previously
22 used his or her senses, and then what is that witness'
23 ability to be able to come into court and to accurately
24 recollect to you as to what they have previously perceived.

25 You should also consider any bias or prejudice or

Jury charge

1 interest that a witness might have with regard to a case.
2 In other words, do you find some reason that a particular
3 witness would come into court and would testify one way or
4 another to help or to hurt one side or the other. And you
5 may consider any interest that a witness might have in the
6 outcome of the case if you determine that that witness does
7 have such an interest and you further find that that
8 interest would bear upon that particular witness'
9 credibility.

10 You should also consider whether or not the testimony
11 of a witness is strengthened, or is it weakened by other
12 testimony or other evidence received during the course of
13 the trial.

14 Now, during the course of this trial you have heard
15 testimony that was elicited from a witness or two that were
16 qualified as experts in a particular field.

17 Ordinarily a witness is not permitted to express an
18 opinion based upon the facts of the matter. However, where
19 a person has some type of special education or training or
20 experience and they're qualified as an expert with regard
21 to that particular field, then they are permitted in court
22 to testify in an opinion form for the benefit of the jury.

23 Please understand that the fact that the Court
24 qualifies a witness as an expert in a particular field
25 should not be taken by you as any indication by me as to

Jury charge

1 how I think you ought to consider that witness' testimony.

2 You have to judge the credibility and the
3 believability of an expert witness' testimony just as you
4 do any other witness' testimony.

5 If you find that that expert's qualifications are not
6 sufficient in your mind or you find that their opinion was
7 not based upon skill, knowledge or a proper consideration
8 of the facts that relate to this particular case, then you
9 may reject that expert's opinion in its entirety, or you
10 may believe some portion of it and reject some other
11 portion of it.

12 In other words, as I say, you have to evaluate the
13 credibility of an expert witness just as you do any other
14 witness, and it is for you to determine the credibility and
15 the believability of expert witnesses just as you do lay
16 witnesses.

17 Because you are the judges of the facts, because you
18 are the judges of the credibility of witness testimony, you
19 are permitted to believe as much or as little of what a
20 witness has testified to as you deem is appropriate.

21 Therefore you may believe everything that a witness
22 testified to. You may choose to believe none it. You may
23 believe some portion of a witness' testimony and reject
24 some other portion of that same witness' testimony.

25 In a given case you can believe one witness as opposed

Jury charge

1 to several, or several as opposed to one. But whatever
2 your good judgment and common sense tells you is the most
3 believable and credible testimony is the testimony you
4 should accept. And you should reject any testimony or
5 other evidence that you find not to be credible or
6 believable.

7 Again, your sole objective is to simply reach the
8 truth in the matter, and it should not matter from what
9 source that truth may come, whether it be from a witness
10 for the state or a witness for the defendant or a
11 combination of testimony and evidence received from both
12 sides in the case.

13 Although it is ordinarily a function of the Court to
14 determine the admissibility of evidence, it is always the
15 jury's decision as to what weight, if any, to give to that
16 evidence which has been received during the course of the
17 trial.

18 There have been admitted into evidence during the
19 trial of this case certain statements which were alleged to
20 have been made by the defendant pursuant to some
21 interrogation or questioning by law enforcement officers.

22 You are instructed that in regards to any statement
23 that is alleged to have been made by the defendant that you
24 as the triers of the fact in this case must make your own
25 determination as to whether or not any statement was made

Jury charge

1 by the defendant and, if so, whether or not any such
2 statement was freely and voluntarily given by the
3 defendant.

4 You are further instructed that before you may
5 consider any statement that is alleged to have been made by
6 the defendant against him you must be satisfied beyond a
7 reasonable doubt that any statement given by the defendant
8 was freely and voluntarily made after considering the
9 totality of the circumstances surrounding the making of any
10 statement.

11 In making your determination as to the voluntariness
12 of any statement you must consider a number of factors
13 relating to the characteristics of the accused, as well as
14 the circumstances surrounding the interrogation which
15 resulted in the giving of any statement.

16 Some of the factors that you must consider are whether
17 or not the defendant was advised of and understood his
18 constitutional rights to remain silent, that anything he
19 said may be used against him in court, that he had the
20 right to have the presence of a lawyer and if he could not
21 afford a lawyer one would be appointed for him before any
22 questioning took place, and that if he wished to answer
23 questions he could stop answering those questions at any
24 time.

25 You must also consider any evidence relating to the

Jury charge

1 age, the intelligence, the education, the capacity and the
2 experience of the defendant, as well as the nature of the
3 interrogation itself including whether or not there were
4 any threats or coercion or promises made which resulted in
5 a statement.

6 If after your consideration of the totality of the
7 circumstances relating to the making of any statement you
8 are not satisfied beyond a reasonable doubt that any
9 statement made was freely and voluntarily made, then you
10 must not consider that statement in any way as evidence
11 against the defendant.

12 Should you find beyond a reasonable doubt that any
13 statement made by the defendant was given freely and
14 voluntarily, then you may consider that statement as you
15 deem appropriate. You may accept it or you may reject it
16 in its entirety or in part in the exercise of your own good
17 judgment, discretion and common sense.

18 Now, while there are various forms of evidence such as
19 testimony, photographs, documents, charts and other types
20 of physical exhibits, there are really only two types of
21 evidence. Either or both of those types of evidence may be
22 used to prove any fact in issue. But the two types of
23 evidence are direct evidence and circumstantial evidence.

24 Now, direct evidence is the testimony of a person who
25 testifies from actual knowledge of the fact. It is

Jury charge

1 testimony by a person who has perceived the existence of
2 some fact by means of his or her senses and then they come
3 into court and they testify as to what they have previously
4 perceived.

5 Circumstantial evidence, on the other hand, is the
6 proof of some other fact or a set of facts which taken
7 either singly or correctively may prove the existence of a
8 fact in question as a necessary consequence, that is
9 through and inference.

10 An inference is simply a deduction of fact that may
11 logically and reasonably be drawn from the proof of some
12 other fact or set of facts.

13 It is not a fact proven by the direct testimony of a
14 witness based upon their own personal perception, but it is
15 a conclusion which might reasonably be drawn from the proof
16 of other facts.

17 In other words, you may infer that a particular event
18 occurred or that a particular fact exists based upon the
19 proof of sufficient factual circumstances which would
20 reasonably warrant your arriving at a particular
21 conclusion.

22 Please understand however that the law makes
23 absolutely no distinction between the weight or the value
24 to be given to direct evidence as opposed to circumstantial
25 evidence, nor is a greater degree of certainty required of

Jury charge

1 circumstantial evidence as opposed to direct evidence.

2 Whatever the type of evidence used to prove any fact
3 in issue, you should consider all of the evidence presented
4 during the trial of the case. After carefully considering
5 all of that evidence and weighing it in your minds if you
6 are not convinced of the guilt of the defendant beyond a
7 reasonable doubt as it relates to a particular charge, then
8 you must resolve that doubt in his favor and return a
9 verdict of not guilty as it relates to that charge.

10 Now, as you know, there are three separate and
11 distinct charges. You will be considering each of those
12 separate and distinct charges individually. You will be
13 rendering separate and distinct verdicts as it relates to
14 the separate charges.

15 Your verdicts may be the same; they may be different.
16 That will depend upon your determination of fact and then
17 your application of the law as it relates to a particular
18 charge.

19 But, as you know, the three charges are trafficking in
20 cocaine, possession of a firearm during the commission of a
21 violent crime and possession with intent to distribute
22 marijuana.

23 Section 44-53-370(e) of the Code of Laws of South
24 Carolina provides that any person who knowingly sells,
25 manufactures, cultivates, deliveries, purchases or brings

Jury charge

1 into the state, or who provides financial assistance to or
2 otherwise aids, abets, attempts or conspires to sell,
3 manufacture, cultivate, deliver or purchase or bring into
4 this state, or any person who is knowingly in actual or
5 constructive possession or who knowingly attempts to become
6 in actual or constructive possession of ten grams or more
7 of cocaine or any mixtures containing cocaine is guilty of
8 the crime of trafficking in cocaine.

9 Now, in this particular case the state is alleging
10 that the defendant did traffic by way of possession in
11 400 grams or more of cocaine.

12 The defendant in count two of the trafficking
13 indictment is charged with a violation of section 16-23-490
14 of the Code of Laws.

15 That particular code section provides that it is
16 unlawful for any person to possess a firearm during the
17 commission of a violent crime, and that person is convicted
18 of committing or attempting to commit that violent crime.

19 Crimes declared to be violent crimes are listed in
20 section 16-1-60 of the Code of Laws, and that section
21 provides that trafficking in cocaine is classified as a
22 violent crime under the law of this state.

23 The defendant is also charged in a separate indictment
24 with possession with intent to distribute marijuana. That
25 section is 44-53-370(a), and it provides that it shall be

Jury charge

1 unlawful for any person to manufacture, distribute,
2 dispense, deliver, purchase, aid, abet, attempt or conspire
3 to manufacture, distribute, dispense, deliver or purchase,
4 or to possess with the intent to distribute, dispense or
5 deliver a controlled substance.

6 The defendant is charged in the indictment with having
7 committed the crime of possession with intent to
8 distribute, dispense or deliver marijuana.

9 Marijuana is classified as a Schedule I controlled
10 substance in section 44-53-190 of the Code of Laws of South
11 Carolina.

12 Now, each of these three separate and distinct
13 criminal offenses requires proof of possession of a
14 substance or an item. There are other elements that relate
15 to those offenses. But each of the offenses does require
16 that the defendant be -- that it be proven that the
17 defendant did possess a particular substance or item.

18 Trafficking in cocaine requires proof of the
19 defendant's possession of cocaine.

20 Possession of a firearm during the commission of a
21 violent crime requires proof of the defendant's possession
22 of a firearm. Possession with intent to distribute
23 marijuana requires proof of the defendant's possession of
24 marijuana.

25 Because each of these crimes requires proof of

Jury charge

1 possession, I will instruct you on the law as it relates to
2 possession of a substance or item only once, but this
3 instruction will apply to each of the three separate
4 criminal offenses that are alleged against the defendant by
5 way of the separate indictments and/or counts to those
6 indictments.

7 Before a person may be found guilty of a crime
8 involving the unlawful possession of a substance or an
9 object it must be proven beyond a reasonable doubt that the
10 person did knowingly and intentionally have in his actual
11 or constructive possession the substance or the item which
12 is alleged to have been unlawfully possessed.

13 Knowingly within the meaning of the statute is defined
14 as having knowledge of that fact. It is an act done
15 wilfully, purposefully and consciously.

16 Intentionally is defined as purposefully, that is by
17 aim or design and not by accident, mistake or inadvertence.

18 Actual possession of a substance or an object occurs
19 when the item is shown to have been in the actual physical
20 custody or control of the person charged with possession so
21 long as it's also shown that he had knowledge of its
22 presence.

23 Constructive possession, on the other hand, is
24 possession of a substance or an object which occurred when
25 a person, although not in actual physical custody of the

Jury charge

1 item, exercises dominion and control over the item or has
2 the right to exercise dominion and control over the item.

3 A person has possession of a substance or an object
4 within the meaning of the law when he has both the power
5 and the intent to control the disposition or use of the
6 substance or item.

7 The act of possession, as well as the fact of
8 knowledge or intent, may be proven by direct evidence or
9 circumstantial evidence or by a combination of both direct
10 evidence and circumstantial evidence.

11 Possession of a substance or an item may be jointly
12 shared by two or more persons so long as it is proven that
13 each actually or constructively possessed the substance or
14 the object.

15 You are permitted to infer the act of possession of a
16 substance or an object, as well as the existence of
17 knowledge or intent, from evidence of acts, declarations or
18 conduct of the person charged with possession, as well as
19 any other circumstances established by the evidence in the
20 case from which any such reasonable inference may be made
21 in light of all of the evidence in the case and in the
22 exercise of your own good judgment and common sense.

23 You are instructed however that proof of mere presence
24 of the defendant at or near a location where a substance or
25 an object is found is not sufficient by itself to prove the

Jury charge

1 defendant guilty of the crime of the unlawful possession of
2 it.

3 A defendant's mere presence where an item is located
4 even with knowledge of its presence is not sufficient
5 standing alone to prove the crime of unlawful possession,
6 and neither does the mere association with a person who
7 commits a crime make a defendant guilty of any crime that
8 is committed by another.

9 If after your review of the evidence in this case you
10 determine that the state has only proven that the defendant
11 was merely present at or near a place where an item was
12 located but has failed to prove that the defendant actually
13 or constructively possessed the item beyond a reasonable
14 doubt, then you must find the defendant not guilty of that
15 offense requiring proof of possession of that substance or
16 object.

17 On the other hand, if after your review of all of the
18 evidence in the case you determine that the state has
19 proven beyond a reasonable doubt that the defendant did
20 actually or constructively possess the substance or the
21 item, then you must determine whether he has been proven
22 guilty of the crime alleged beyond a reasonable doubt by
23 your determination of whether or not the other essential
24 elements of that crime have been proven beyond a reasonable
25 doubt.

Jury charge

1 Now, as I told you, before the defendant may be found
2 guilty of the crime of trafficking in cocaine as is alleged
3 in the indictment it must be proven that the defendant did
4 knowingly and intentionally have in his actual or
5 constructive possession ten grams or more of cocaine.

6 Cocaine is classified in section 44-53-210 of the Code
7 of Laws as a Schedule II controlled narcotic substance.
8 And the weight of any controlled substance under the law,
9 including cocaine, is to be determined by the weight of the
10 substance in its pure form or any compound or any mixture
11 containing that substance.

12 Count two of the trafficking indictment also sets
13 forth a criminal offense, and that is possession of a
14 firearm during the commission of a violent crime.

15 Section 16-23-490, as I told you, provides it shall be
16 unlawful to possess a firearm during the commission of a
17 violent crime and where that person is found to be guilty
18 or has been convicted of that violent crime.

19 Section 16-1-60 of the Code of Laws provides that the
20 crime of trafficking in cocaine is a violent crime under
21 the law.

22 So in order for the defendant to be found guilty of a
23 violation of this particular section of law it would be
24 necessary that the evidence in this case has established to
25 your satisfaction beyond a reasonable doubt that the

Jury charge

1 defendant did commit the crime of trafficking in cocaine
2 and that during the commission of that crime he did possess
3 either actually or constructively a firearm.

4 The remaining indictment charges the defendant with
5 possession with intent to distribute marijuana. And as
6 I've told you, section 44-53-370(a) provides that it shall
7 be unlawful for any person to possess with intent to
8 distribute or dispense or deliver a controlled substance.

9 Marijuana is classified as a Schedule I controlled
10 substance under the law.

11 The offense of possession with intent to distribute a
12 controlled substance -- in this case marijuana --
13 necessarily includes the lesser offense of possession of a
14 controlled substance as I have already described that
15 element of the offense for you. But it also has to be
16 accompanied by the intent to distribute the marijuana.

17 So in order for you to return a verdict of guilty as
18 to possession with intent to distribute marijuana not only
19 must the state prove beyond a reasonable doubt that the
20 defendant possessed the marijuana, but they must also prove
21 that at the time he possessed it he had a specific intent
22 to distribute or to deliver the marijuana.

23 To distribute or to deliver means to actually or
24 constructively transfer or to attempt to transfer a
25 controlled substance from one person to another whether or

Jury charge

1 not in exchange for money or any other consideration or
2 thing of value.

3 Now, the term intent refers to a state of mind which
4 operates jointly with an act in the commission of a crime.
5 Intent is the state of a person's mind which directs his
6 actions towards a specific object or goal. In this case it
7 would be an intent to distribute, dispense or deliver the
8 marijuana.

9 In determining whether or not the defendant did intend
10 to distribute a controlled substance you should consider
11 all of the evidence in the case including the circumstances
12 surrounding the defendant's possession, the amount of the
13 substance possessed, the manner in which it was possessed,
14 as well as any other facts or circumstances established by
15 the evidence in the case which you find probative on the
16 issue of the element of intent.

17 Intent may be proven by direct evidence or by
18 circumstantial evidence from which any such intent may be
19 reasonably inferred.

20 Section 44-53-370(d)(3) of the Code of Laws also
21 provides that a jury is permitted to infer an intent to
22 distribute upon proof of a defendant's possession of more
23 than 28 grams or one ounce of marijuana.

24 But as I have said, an inference is simply a deduction
25 of fact which may logically and reasonably be drawn from

Jury charge

1 the proof of some other fact or set of facts.

2 However, even if the facts proven are sufficient to
3 give rise to a permissible inference as I have described,
4 such inferences are merely evidentiary facts to be taken
5 into consideration by you jurors along with all of the
6 other evidence in the case. You may give them such weight,
7 if any, that you determine they should receive, if any.

8 In other words, you may infer the existence a
9 particular fact from the proof of some other fact as I have
10 described it, but you are not required to do so.

11 Your duty is to determine whether or not the state has
12 proven the defendant's guilt beyond a reasonable doubt
13 based upon your careful examination and consideration of
14 all of the evidence received during the trial and any
15 reasonable inferences that might be derived from that
16 evidence in the exercise of your own good judgment and
17 common sense.

18 Mr. Foreman and ladies and gentlemen of the jury, I am
19 not concerned with what your decisions are, but you are
20 instructed that the decisions must be unanimous. All 12 of
21 you must be agreement before any verdict can be returned as
22 to any particular charge.

23 So, Mr. Foreman, as I've indicated to you, you're
24 going to have these indictments in the jury room. On the
25 back of the indictments you'll see in the lower left-hand

Jury charge

1 corner the word verdict. It's going to be beneath the word
2 that you'll indicate the jury's decision as it relates to
3 the charge set forth in the indictment.

4 One of the indictments has two charges in it.
5 Indictment 5342 in count one of the indictment charges the
6 crime of trafficking in cocaine. Count two of the
7 indictment charges possession of a firearm during the
8 commission of a violent crime. So you will have to
9 indicate two separate verdicts on the back of the
10 indictment as it relates to those two separate charges.

11 Indictment 5341 charges possession with intent to
12 distribute marijuana, and there'll be one verdict that you
13 will indicate on the back of that indictment. You will
14 sign your name as the foreperson. You're the only juror
15 that needs to sign the verdict forms. And you'll also
16 place the appropriate date as to that form.

17 With respect to each of the separate charges, you have
18 two possible verdict forms. Those possible verdict forms
19 are guilty and not guilty. So whatever that decision is,
20 indicate it in the space as indicated, sign your name as
21 the foreperson and place the appropriate date.

22 Now, also in the jury room with you is going to be a
23 printed verdict form, and that's because I'm going to need
24 you to make certain findings of fact. And whatever those
25 findings of fact are, indicate that decision on the verdict

Jury charge

1 form.

2 so in addition to the indictments on which you will
3 indicate the jury's decision, I'm also going to ask you to
4 complete a verdict form that I'll send back with you.

5 It's got some questions on it. And the first is
6 simply do you, the jury, in the above entitled case find
7 the defendant, Alfonso Chaves Thompson, guilty or not
8 guilty of trafficking in cocaine.

9 so whatever that decision is, you'll write it in the
10 blank provided. You'll write guilty or not guilty.

11 If you respond guilty as to that indictment, then I
12 need for you to indicate in another space the amount of
13 cocaine that you find the defendant to have possessed. So
14 you'll indicate that amount in the space provided.

15 Then go to question two, and that is do you find the
16 defendant in the above entitled case guilty or not guilty
17 of possession of a firearm during the commission of a
18 violent crime. You'll indicate that decision.

19 Now, with respect to count two of that indictment,
20 possession of a firearm during the commission of a violent
21 crime, as I say, you have two potential verdict forms, and
22 those are guilty and not guilty.

23 But as I've also told you, in order for a defendant to
24 be found guilty of possession of a firearm during the
25 commission of a violent crime they have to be -- also be

Jury charge

1 found guilty of a violent crime.

2 So in this case if you find the defendant guilty as to
3 trafficking in cocaine, then if the state has proven the
4 essential elements of possession of a firearm during the
5 commission of that violent crime, you could find the
6 defendant guilty of possession of a firearm during the
7 commission of a violent crime.

8 If you were to find the defendant not guilty of
9 trafficking in cocaine, then he could not be found guilty
10 of possession of a firearm during the commission of a
11 violent crime, because even if he were in possession of a
12 firearm it has to be during the commission of a violent
13 crime.

14 So if you found him guilty -- not guilty of
15 trafficking, it would necessarily require that he be found
16 not guilty of possession of a firearm during the commission
17 of a violent crime.

18 Then of course the third question is simply do you
19 find the defendant guilty or not guilty of possession with
20 intent to distribute marijuana. So I would also ask that
21 you complete that verdict form. And there's a space for
22 you to sign that form.

23 Now, during your deliberations -- as I say, I'm not
24 concerned with what your decisions are, but they have to be
25 unanimous.

Jury charge

1 Now, during your deliberations there may come a time
2 where you have a question about the facts or the evidence
3 or the testimony of a witness.

4 I am never permitted to answer questions as they
5 relate to questions of fact or questions of the evidence --
6 questions about the evidence or the testimony. And no
7 additional evidence can be received even if it exists.

8 So if there's something that you think, well, I wonder
9 if they have so and so, I think that might help us decide
10 this case, even if it exists you can't have it. So don't
11 ask me about anything that has not been introduced or sent
12 back to the jury room for your benefit because no
13 additional evidence can be received even if it exists now
14 that you're going back to begin deliberations.

15 If you have a question about testimony that was
16 provided during the trial and you think that that question
17 can be answered by having that testimony replayed in whole
18 or in part, we can bring you back into the courtroom to
19 have that testimony replayed.

20 I don't have transcripts of the witnesses' testimony,
21 but if you want to hear testimony or rehear it you let me
22 know, and we'll bring you back into the courtroom to have
23 that testimony replayed for your benefit.

24 If at any time you ever have a question about the law
25 that is applicable, I am permitted to answer those

Jury charge

1 questions. I can always provide you a reinstruction or an
2 explanation or a clarification of the law that you are to
3 apply. So while I cannot answer questions of fact, I am
4 permitted to answer questions that relate to the law.

5 I don't know if we have any smokers on the jury, but
6 if we do you can smoke, but you cannot smoke in the jury
7 room. So if anybody wants to smoke, let the bailiff know.
8 He'll take you outside to accomplish that purpose.

9 But you are instructed that deliberations have to
10 stop, and they may only resume when all 12 jurors are
11 present in the jury room so that all may participate.

12 So far as lunch goes, I don't know how long your
13 deliberations will take, and you don't either because you
14 haven't started yet. That will obviously depend upon your
15 consideration of the evidence and your discussions about
16 that evidence and then your determination as to the facts
17 and application of the law.

18 But that process may take us into lunch, and if it
19 does we will order lunch for your benefit. It's not
20 lunchtime yet, but I'll tell you that it ordinarily takes
21 about an hour, maybe an hour and ten minutes, to have lunch
22 ordered, prepared and brought to the jury room for your
23 benefit.

24 So when you go back to begin deliberations just keep
25 that timetable in mind so when you get to a point if you

Jury charge

1 think it's appropriate to order lunch, you let the bailiff
2 know, and the clerk of court will come in to take your
3 lunch order.

4 Mr. Foreman, if at any time you have a matter -- you
5 or a fellow juror has a matter -- that needs to be brought
6 to my attention, if you'll write it on a piece of paper;
7 provide it to the bailiff, he'll provide it to me, and I'll
8 respond to that inquiry or try to assist you with resolving
9 any issue that I can help you with.

10 After you have reached a decision and you have
11 indicated those decisions on the verdict form as I have
12 requested, you keep the verdict form.

13 Let the bailiff know you've reached a decision, but
14 don't give him the verdict forms. You'll bring those into
15 the courtroom, and you'll give those to me upon my request
16 after you have been seated.

17 Okay. I think that covers everything.

18 So with the exception of Ms. King, I'm going to ask
19 the 12 primary jurors if you'll please go with the bailiff
20 to your jury room.

21 But don't begin your deliberations yet. I've got some
22 matters I'll need to address with the lawyers. If I don't
23 need to bring you back for any reason I'll send word by way
24 of the bailiff that you can begin deliberations. In that
25 event he'll bring to the jury room all the exhibits which

Jury charge

1 have been introduced.

2 And to you, Mr. Foreman, he'll also bring the verdict
3 forms.

4 Now, there is a D.V.D. that has been introduced into
5 evidence, and it'll come back with a computer. And if for
6 some reason you can't figure out the computer, let me know.
7 We'll find a five-year-old to come back there. I don't
8 know anything about them either, quite frankly, but I'll
9 let some child do it. But let us know if you have that
10 problem.

11 So please retire to your jury room, but don't begin
12 deliberations until I send you word to do so.

13 (Whereupon, the jury retired to deliberate at
14 11:00 a.m.)

15 (Whereupon, the alternate juror was excused.)

16 THE COURT: Are there any exceptions taken to the
17 instruction or requests for additions to the instruction by
18 the state?

19 MR. BULSA: No, no, Your Honor.

20 THE COURT: The defendant?

21 MR. BAITY: None, Your Honor.

22 THE COURT: Let me ask y'all to verify all of the
23 exhibits before they go back, please.

24 (Pause.)

25 THE COURT: Both sides have had an opportunity to see

Jury charge

1 the verdict forms that's to be sent back with the
2 indictments.

3 Any objection to it?

4 MR. BAITY: None, Your Honor.

5 MR. BULSA: No, sir.

6 THE COURT: All of the exhibits have been accounted
7 for?

8 MR. BULSA: Yes, sir.

9 MR. BAITY: To my satisfaction, yes, sir.

10 THE COURT: Okay. Send them back. Tell the jury to
11 begin deliberations and notify us when they have concluded.

12 We will be at ease while the jury is deliberating.

13 (Whereupon, a recess was taken.)

14 THE COURT: All right. Bring the jury back, please.

15 (Whereupon, the jury returned to the courtroom at
16 1:18 p.m.)

17 THE COURT: Mr. Foreman, I have the question that
18 you've asked, and I think that I can give you the answer to
19 that question by reinstructing you on the law as it relates
20 to what constitutes possession of a substance or an item.

21 So I'm just going to read that portion of the
22 instruction. But because I'm only reading one portion of
23 the instruction does not mean that it's any more important
24 than any other parts of the instruction I've already
25 provided. I'm just simply providing you this portion

Jury charge

1 because I think it's the portion that will answer your
2 question.

3 So after I get through reinstructing you on that
4 portion, if you have additional questions you be sure and
5 let me know, and I'll be happy to respond to that question
6 also.

7 Before a person may be found guilty of a crime
8 involving the unlawful possession of a substance or an
9 object it must be proven beyond a reasonable doubt that the
10 person did knowingly and intentionally have in his actual
11 or constructive possession the substance or the item which
12 is alleged to have been unlawfully possessed.

13 Within the meaning of the law knowingly is defined as
14 having knowledge of the fact. It is an act which is done
15 wilfully, purposefully and consciously.

16 The word intentionally refers to purposefully, that is
17 by aim or design and not by accident, mistake or
18 inadvertence.

19 Actual possession of a substance or an object occurs
20 when the item is shown to have been in the actual physical
21 custody or control of the person charged with possession so
22 long as it is also shown that he has knowledge of its
23 presence.

24 Constructive possession of a substance or an object,
25 on the other hand, occurs when a person, although not in

Jury charge

1 actual physical custody of the item, exercises dominion and
2 control over the item or has the right to exercise dominion
3 and control over the item.

4 A person has possession of a substance or on object
5 within the meaning of the law when he has both the power
6 and the intent to control the disposition or use of the
7 item.

8 The act of possession, as well as the fact of
9 knowledge or intent, may be proven by direct evidence or
10 circumstantial evidence or by a combination of both types
11 of evidence.

12 Possession of a substance or an item may be jointly
13 shared by two or more persons so long as it is proven that
14 each actually or constructively possessed the substance or
15 object.

16 You are permitted to infer the act of possession of a
17 substance or object, as well as the existence of knowledge
18 or intent, from evidence of acts, declarations or conduct
19 of the person charged with possession, as well as any other
20 circumstances established by the evidence in the case from
21 which any such reasonable inference may be made in light of
22 all of the evidence in the case and in the exercise of your
23 own good judgment and common sense.

24 Proof of mere presence however of the defendant at or
25 near a location where a substance or an object is found is

Jury charge

1 not sufficient by itself to prove the defendant guilty of
2 the crime of unlawful possession of that substance.

3 A defendant's mere presence where an item is located
4 even with knowledge of its presence is not sufficient
5 standing alone to prove the crime of unlawful possession,
6 and neither does the mere association of the defendant with
7 a person who commits a crime make the defendant guilty of
8 any crime committed by another.

9 If after your review of the evidence presented in this
10 case you determine that the state has only proven that the
11 defendant was merely present at or near a place where an
12 item was located but has failed to prove that the defendant
13 actually or constructively possessed that item beyond a
14 reasonable doubt, then you must find the defendant not
15 guilty of that offense requiring proof of possession of
16 that particular substance or object.

17 All right. I think that should answer the question,
18 but in the event it does not, please let me know and I'll
19 try to provide a further explanation or clarification of
20 the law. Okay.

21 (Whereupon, the jury retired to deliberate at
22 1:24 p.m.)

23 THE COURT: Are there any exceptions taken to that
24 additional instruction by the state?

25 MR. BULSA: No, Your Honor.

verdict

1 THE COURT: The defendant?

2 MR. BAITY: None, Your Honor.

3 THE COURT: All right. We'll continue to be at ease
4 while the jury continues to deliberate.

5 (Question from the jury marked Court's Exhibit No. 1.)

6 (Whereupon, a recess was taken.)

7 THE COURT: I'm told the jury has reached a verdict.
8 Are we ready to receive it now?

9 MR. BAITY: Yes, Your Honor.

10 THE COURT: Okay. Bring them in.

11 (Whereupon, the jury returned to the courtroom at
12 2:54 p.m. to report its verdict.)

13 THE COURT: Mr. Foreman, have you and your fellow
14 jurors reached a unanimous decision as it relates to each
15 of the separate indictments?

16 THE FOREMAN: We have, Your Honor.

17 THE COURT: Have you indicated those decisions on the
18 verdict forms as requested?

19 THE FOREMAN: Yes, sir.

20 THE COURT: Did you sign your name to it?

21 THE FOREMAN: Yes, I did.

22 THE COURT: If you would, please hand those up by way
23 of the bailiff.

24 All right. On Indictment 2011-GS-42-5342, that's the
25 indictment for trafficking in cocaine and possession of a

Verdict

1 firearm during the commission of a violent crime, in
2 response to the question on the special interrogatory
3 verdict form, do you, the jury, find the defendant guilty
4 or not guilty of trafficking in cocaine, the jury's verdict
5 is guilty.

6 In responding guilty, the jury's been asked to also
7 indicate the amount of cocaine that he -- that they found
8 the defendant to have possessed, and the jury's response is
9 504 grams.

10 In the second question, do you, the jury, find the
11 defendant, Alfonso Chaves Thompson, guilty or not guilty of
12 possession of a firearm during the commission of a violent
13 crime, the jury's decision is guilty.

14 In response to the third question, do you, the jury,
15 find the defendant guilty or not guilty of possession with
16 intent to distribute marijuana on Indictment 2011-5341, the
17 jury's decision is guilty. And it is signed by the
18 foreperson and dated today's date.

19 Are these the decisions of the jury? And if they are
20 your decisions and they are still your decisions, I would
21 ask that you indicate so by raising your right hands.

22 (Whereupon, all jurors responded in the affirmative.)

23 THE COURT: All right. All have responded in the
24 affirmative.

25 Does the defendant wish to have the jury polled?

1 MR. BAITY: No, Your Honor.

2 THE COURT: All right. Now, Mr. Foreman, one thing
3 I'm going to ask you to do is I know on the special
4 interrogatory verdict form that was provided you that you
5 have indicated the jury found the defendant to be guilty of
6 possession of a firearm during the commission of a violent
7 crime.

8 On that particular indictment I did fail to designate
9 count one and count two. So I'll need you to indicate a
10 separate verdict as you did on the verdict form. Just
11 indicate that for count one and count two.

12 If you'll just write that, you can write it above the
13 decision. Put count one, the decision; count two, the
14 decision.

15 (Pause.)

16 THE COURT: Okay. All right. The foreperson has
17 indicated on count one, that's trafficking in cocaine,
18 guilty, and also count two, possession of a firearm during
19 the commission of a violent crime, guilty.

20 And are these the verdicts of the jury, and still your
21 decisions? If so, indicate by raising your right hands.

22 (Whereupon, all jurors responded in the affirmative.)

23 THE COURT: All have responded in the affirmative.

24 Any other matters we need to address with the jury
25 present?

Sentence

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

2 THE COURT: Okay. Ladies and gentlemen, that's going
3 to conclude your service for this afternoon.

4 We've already selected a jury in the next case that
5 we'll be starting shortly. So you're going to be excused
6 for the balance of this afternoon.

7 I would ask that you please call back after
8 6:00 o'clock this evening to receive further reporting
9 information.

10 Okay. Thank you again for your participation.

11 (Whereupon, the trial jury was excused.)

12 THE COURT: All right. Any other matters that need to
13 be addressed prior to the imposition of sentence?

14 MR. BULSA: No, sir.

15 MR. BAITY: None from the defendant, Your Honor.

16 THE COURT: All right. Mr. Baity, I will hear from
17 you.

18 MR. BAITY: Your Honor, you've already heard that he's
19 32 years of age, has an 11th grade education.

20 He owns and operates a business with a number of
21 employees. He has one child that he lives with about the
22 age of seven.

23 I realize that the Court's hands are tied in many
24 respects with respect to the sentence, Your Honor, but I
25 would ask that you consider the minimum in fashioning your

Sentence

1 (Search warrant, affidavit and return marked Court's
2 Exhibit No. 2.)

3 END OF REQUESTED TRANSCRIPT OF RECORD
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Sentence

1 sentence. Thank you.

2 THE COURT: Mr. Thompson, is there anything you would
3 like to tell me before I impose a sentence?

4 THE DEFENDANT: No, sir.

5 THE COURT: On Indictment 2011-5342, count one, an
6 indictment for trafficking in cocaine greater than 400
7 grams, wherein you have been found guilty by the jury of
8 that offense, the Sentence of the Court is you, Alfonso
9 Chaves Thompson, be confined to the South Carolina
10 Department of Corrections for a period of 25 years and pay
11 a fine of \$200,000.

12 On count two of that indictment, possession of a
13 firearm during the commission of a violent crime, wherein
14 you have been found guilty by the jury, the Sentence of the
15 Court is you be confined to the South Carolina Department
16 of Corrections for a period of five years.

17 Indictment 2011-5341, an indictment for possession
18 with intent to distribute marijuana, wherein you have been
19 found guilty by the jury, the Sentence of the Court is you,
20 Alfonso Chaves Thompson, be confined to the South Carolina
21 Department of Corrections for a period of five years.

22 Now, Mr. Thompson, you have a right to appeal the
23 verdicts of the jury and the Sentence of the Court. You
24 must file any notice of your intention to appeal within ten
25 days of today's date.

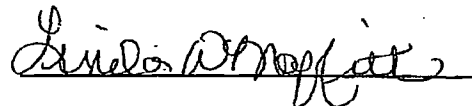
Certificate

CERTIFICATE

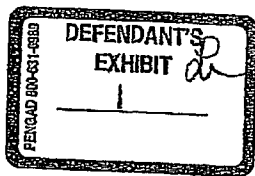
I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 23rd, 24th and 25th days of January 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

January 21, 2012



Linda D. Moffitt
Circuit Court Reporter



REPORT OF INVESTIGATION

Page 1 of 4

Program Code	2. Cross File	Related Files	8. Date Prepared
5. By: SA Russell Davis At Greenville RO Greenville, SC	☐ ☐ ☐ ☐	 	03/25/09
7. ☐ Closed ☐ Requested Action Completed ☐ Action Requested By:	9. Other Officers: TFO James Ruane, ICE SA Paul Criswell and ICE SA Roubal		
10. Report Re: Interview of Jose Luis DIAZ-ARROYO at the Spartanburg County Detention Center on March 25, 2009.			

SYNOPSIS

On 03/25/2009, Jose Luis DIAZ-ARROYO was interviewed at the Spartanburg County Detention Center in reference to information he had pertaining to Alejandro SOSA-GALVAN et al.

DETAILS

1. Reference is made to DEA related investigation 0043/WCC3L. DEA 6, dated 02/12/09, by TFO James Ruane, RE: Execution of State Search Warrant at 827 Shadow Creek Drive, Inman, SC on 02-11-2009 and seizure of Exhibits 5, 6, 7, 8. On 02/11/2009, Deputies of the Spartanburg County Sheriff's Office (SCSO) and the Cherokee County Sheriff's Office (CCSO) arrested Jose Luis DIAZ-ARROYO after he delivered one kilogram of cocaine to a cooperating defendant.

2. On March 25, 2009, DIAZ-ARROYO was interviewed at the Spartanburg County Detention Center by SA Russell Davis, and TFO James Ruane. Immigration and Customs Enforcement (ICE) SA Paul Criswell and SA Roubal were also present during the interview. SA Roubal, who speaks Spanish, translated the conversation between DIAZ-ARROYO and SA Davis. Since this was an interview pertaining to information about Alejandro SOSA-GALVAN et al, DIAZ-ARROYO was not read his Miranda warnings.

3. DIAZ-ARROYO stated that SOSA-GALVAN is married to his (DIAZ-ARROYO) sister, MARIBOL, and that he (DIAZ-ARROYO) had been in the United States

11. Distribution:	12. Signature (Agent)	13. Date
 	SA Russell Davis 14. Approved (Name and Title) Christopher D. Nielsen Resident Agent in Charge	3/26/09 3-26-09

DEA Form -6
(Jul 1996)

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REPORT OF INVESTIGATION

(Continuation)

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6. Date Prepared
03/25/09

for only two months prior to his arrest on 02/11/2009. DIAZ-ARROYO also stated that SOSA-GALVAN has been married to MARIBOL for ten (10) years.

4. DIAZ-ARROYO stated that on or about January 20, 2009, he traveled with SOSA-GALVAN and Sergio MAGALLAN to Atlanta, Georgia in a green colored Chevrolet pickup truck. DIAZ-ARROYO stated that he was traveling to Atlanta to see his girlfriend, and that SOSA-GALVAN, who was driving, dropped him off at a Denny's, so he could meet her. DIAZ-ARROYO also stated that he knew that SOSA-GALVAN, and MAGALLAN were traveling to meet an unidentified subject at the Holiday Inn Express to obtain kilogram quantities of cocaine.

5. DIAZ-ARROYO stated that he stayed with his girlfriend for three hours, and then SOSA-GALVAN and MAGALLAN came back to the Denny's, and picked him up. DIAZ-ARROYO stated that MAGALLAN had rented a brown colored Dodge Ram pickup truck, and that MAGALLAN followed him and SOSA-GALVAN back to South Carolina. DIAZ-ARROYO stated while they were traveling, SOSA-GALVAN was communicating with MAGALLAN via the push to talk (PTT) from their Nextel telephones, and that he heard them say that the Dodge Ram had five kilograms of cocaine in it. DIAZ-ARROYO also stated that he heard SOSA-GALVAN tell MAGALLAN that "if they check it, everything will be fine." DIAZ-ARROYO stated that he did not know what that meant.

6. DIAZ-ARROYO also stated that CARLOS LNU, is SOSA-GALVAN's brother, and is the one that coordinates the cocaine shipments for SOSA-GALVAN. DIAZ-ARROYO explained that he recalled one time, when he was with SOSA-GALVAN, when CARLOS called and did a three-way PTT conversation with SOSA-GALVAN and an unidentified subject in Mexico. DIAZ-ARROYO stated that they were discussing the delivery of twenty (20) kilograms of cocaine. DIAZ-ARROYO also stated that CARLOS is currently in Chicago.

7. DIAZ-ARROYO also stated that SOSA-GALVAN also supplied a black male in Spartanburg, South Carolina that owned a car shop with cocaine. SA Davis showed DIAZ-ARROYO a picture with no identifying marks, and DIAZ-ARROYO stated that it was the black male that owns the car shop, and that he knew him as "POOHBAH." (Agent's Note: The photograph was of Alfonso Chaves THOMPSON, whose alias is POO BEAR, and for the purpose of this report,

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REPORT OF INVESTIGATION

(Continuation)

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6. Date Prepared
03/25/09

where DIAZ-ARROYO referred to "POOHBAH" or him/her, it will be noted as THOMPSON).

8. DIAZ-ARROYO stated that on February 5, 2009, they were celebrating his sister's birthday, when he heard SOSA-GALVAN talk to THOMPSON about the fact that SOSA-GALVAN had supplied THOMPSON with ten (10) kilograms of cocaine.

9. DIAZ-ARROYO also stated that four days prior to his arrest, 2/11/2009, he met SOSA-GALVAN at a house located near the West Gate Mall in Spartanburg, South Carolina, and obtained a kilogram of cocaine from SOSA-GALVAN. DIAZ-ARROYO did not say what he did with the kilogram of cocaine, but explained that MAGALLAN and Mario CARDENAS resided at the residence. DIAZ-ARROYO gave directions to the residence as follows: Travel by the West Gate Mall, and turn right at the first red light past the Ford dealership. Travel to the second stop sign, and the house will be a white house, constructed of siding, directly to the right as you are looking from the stop sign.

10. DIAZ-ARROYO also stated that on the day of his arrest, 2/11/2009, SOSA-GALVAN called him, and instructed him to meet him (SOSA-GALVAN) at the West Gate Mall. Upon arriving at the Mall, SOSA-GALVAN instructed DIAZ-ARROYO to deliver a kilogram of cocaine in the Toyota pickup truck, SC tag DBI140, that DIAZ-ARROYO was arrested in, to Dennis MCKEY. DIAZ-ARROYO stated that he was to be paid \$300 for making the delivery of cocaine to MCKEY.

11. A check through the SC Department of Motor Vehicles revealed that SC tag DBI140 is registered to a 2003 Toyota Tundra, in the name of Arturo Castillo SALAS, 5203 Pogue Street, Spartanburg, South Carolina.

12. SA Davis asked DIAZ-ARROYO for consent to search his telephone, which was seized on the night of his arrest, and which is being maintained as evidence by SCSO Dep. Nate Cantrell. DIAZ-ARROYO stated yes, agents could search his telephone, and also stated that he had SOSA-GALVAN listed in his contacts as "CHORE." DIAZ-ARROYO also stated that his telephone number was 704-672-4252.

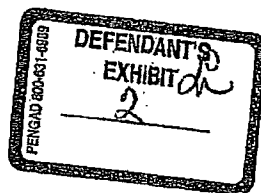
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Page 1 of 4

1. Program Code	2. Cross File	Related Files	
5. By: S/A Russell Davis At Greenville RO Greenville, SC	☐ ☐ ☐ ☐ ☐		
7. ☐ Closed ☐ Requested Action Completed ☐ Action Requested By:		8. Date Prepared 04/22/09	
9. Other Officers: TFO James Ruane and SCSO Deputy Nick Hullinger			
10. Report Re: Interview of Jose DIAZ-ARROYO on April 22, 2009 at the Spartanburg County Detention Center.			

SYNOPSIS

On April 22, 2009, Jose Luis DIAZ-ARROYO was interviewed at the Spartanburg County Detention Center. Reference to information he had pertaining to Alejandro SOSA-GALVAN.

DETAILS

1. Reference is made to DEA 6, dated 04/13/09 by S/A Russell Davis, RE: Interview of Jose DIAZ-ARROYO on April 10, 2009 and Identification of Carlos SOSA.

2. On April, 22, 2009, DIAZ-ARROYO was interviewed at the Spartanburg County Detention Center (SCDC) by S/A Russell Davis and TFO James Ruane. Spartanburg County Sheriff's Office (SCSO) Deputy Nick Hullinger, who speaks Spanish, translated the conversation between DIAZ-ARROYO and S/A Davis. Since this was an interview pertaining to information about Alejandro SOSA-GALVAN et al, DIAZ-ARROYO was not read his Miranda warnings. (Agent's Note: For the purpose of this report, DIAZ-ARROYO will be referred to as Source of Information, SOI or he/she.)

3. The SOI stated that Mario CARDENAS and Sergio MAGALLAN worked for SOSA-GALVAN as couriers of money and drugs. The SOI explained that CARDENAS was responsible for the money that SOSA-GALVAN obtained from the sale of cocaine, and stated that in approximately early January 2009, he/she and SOSA-GALVAN followed CARDENAS to a truck stop located off of I-

11. Distribution:	12. Signature (Agent)	13. Date
	S/A Russell Davis	4/22/09
	14. Approved (Name and Title)	15. Date
	Christopher D. Nielsen Resident Agent in Charge	4/24/09

DEA Form - 6
(Jul. 1996)

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REPORT OF INVESTIGATION
(Continuation)

4.
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85 at exit 80 in Spartanburg, South Carolina. The SOI stated that he/she observed CARDENAS meet a Hispanic truck driver, who was driving a blue colored, long nosed tractor that was hauling a white trailer. The SOI also stated that he/she observed CARDENAS retrieve a soft cloth bag from his vehicle, and watched as the driver opened the hood area of the tractor. (Agent's Note: The SOI described the size of the bag by holding out his/her arms. Agents estimate the size of the bag to have been two and a half (2 ½) to three (3) feet long, and about two (2) feet tall.) The SOI stated that CARDENAS placed the bag somewhere inside the engine area and the driver closed the hood.

4. The SOI stated that SOSA-GALVAN told him/her that the bag contained an undisclosed amount of money, and that the driver traveled all over, and retrieved money. The SOI also stated that CARDENAS made deliveries to the driver every eight (8) days. The SOI also stated that the driver was traveling with a white female. The SOI stated that he/she and SOSA-GALVAN left before the driver, and did not observe the direction the tractor trailer traveled in.

5. The SOI stated that SOSA-GALVAN also explained to him/her that Sergio MAGALLAN transported cocaine for him (SOSA-GALVAN). S/A Davis, as witnessed by TFO Ruane, showed the SOI a photograph with no identifying marks, and the SOI stated that it was MAGALLAN. The photograph was of Sergio MAGALLAN-TINOCO. The SOI also stated that he/she heard SOSA-GALVAN talk about how MAGALLAN delivered ten (10) kilograms of cocaine to "POOHBAH" every fifteen (15) days. (Agent's Note: Investigators have identified "POOHBAH" as Alfonso Chaves THOMPSON.)

6. The SOI also stated that he/she traveled with SOSA-GALVAN one time to meet MAGALLAN at a flower shop, which was located off of Highway 29 in Gaffney, South Carolina. The SOI stated that SOSA-GALVAN pulled up, and met with MAGALLAN, and then MAGALLAN entered a red Mustang and left. The SOI stated that he/she did not know where MAGALLAN went. The SOI also stated that the flower shop was near a Chevrolet dealership.

7. S/A Davis, as witnessed by TFO Ruane, showed the SOI a photograph with no identifying marks, and the SOI identified it as the subject that SOSA-GALVAN met with at the house that he/she showed agents on April 10, 2009.

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The photograph was of Dirk LOGAN, who according to his South Carolina driver's license requested a change of address on 05/24/2007 from 203 Saddle Drive, Gaffney, South Carolina to 101 Lakeshore Drive, Gaffney, South Carolina. The address that the SOI pointed out to agents on April 10, 2009 was 203 Saddle Drive, Gaffney, South Carolina. The SOI also stated that LOGAN drove a blue car with white stripes.

8. The SOI also stated that the day he/she traveled with SOSA-GALVAN to 203 Saddle Drive, LOGAN gave SOSA-GALVAN \$3,000. The SOI stated that he/she knew this, because after SOSA-GALVAN met with LOGAN, he (SOSA-GALVAN) entered the truck that the SOI was in, and counted the money. The SOI also stated that approximately fifteen (15) days before the SOI was arrested on February 12, 2009, SOSA-GALVAN bought a white enclosed trailer from LOGAN. The SOI also stated that SOSA-GALVAN found out that the trailer was stolen and tried to return it to LOGAN and get his money back for the trailer. The SOI stated that LOGAN refused to take the trailer back or to give SOSA-GALVAN his money back for it. (Agent's Note: On the day that SOSA-GALVAN was arrested by Deputies of the SCSO, Investigators observed a white enclosed trailer at his residence. Deputies confirmed the day of the arrest that the trailer was stolen.)

9. This concluded the interview. Investigation continues.

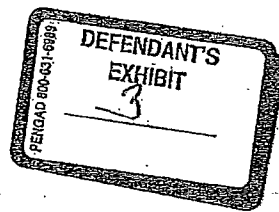
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(Jul. 1996)

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REPORT OF INVESTIGATION

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3. At approximately 6:10 p.m., Inv. Chris Raymond, as witnessed by SGT Joe Pharis, supplied the CS with \$4,000 (\$3,000 State Law Enforcement Division Official Advance Funds and \$1,000 SCSO OAF). At approximately 6:16 p.m., Inv. Raymond, as witnessed by TFO James Ruane, searched the CS and TFO Ruane, as witnessed by Inv. N. Cantrell searched the CS' vehicle. The search resulted in no contraband or excessive cash being found on the CS or in the CS' vehicle. Inv. Raymond, as witnessed by SGT Pharis, provided the CS with a transmitter and a video recording device, so the CS' meeting with YOUNG could be recorded and video taped (Exhibit N-7).

4. At approximately 6:19 p.m., Inv. P. Norris observed the CS' vehicle turn off of Riedville Road onto Wildwood Drive in Spartanburg, SC. The CS' vehicle parked in front of the first duplex, brown in color, on the left side of the road, and past 510 Wildwood Road. The house has several mail boxes in front of the duplex that range from 514 to 516. Per the CS, this residence is utilized by YOUNG.

5. At approximately 6:42 p.m., Inv. Norris observed YOUNG leave Wildwood Drive in the CS' vehicle.

6. At approximately 6:49 p.m., SGT Pharis and Inv. Raymond observed YOUNG turn down Tamara Way in Spartanburg, SC. (Agent's Note: Based upon debriefs of DEA CS', subscriber information, and drive by surveillances, agents know that Pam JONES, who is reported to be THOMPSON's girlfriend lives at 1868 Tamara Way, Spartanburg, SC. During debriefs of CS-09-132263, the CS stated that he/she conducted cocaine transactions with THOMPSON at JONES' residence on Tamara Way. Based upon the low traffic flow, and the close knit community in this area, surveillance units did not follow YOUNG, in the CS', vehicle down Tamara Way.)

7. At approximately 6:51 p.m., Inv. T. McJunkin observed YOUNG, in the CS', vehicle turn off of Tamara Way. At approximately 6:53 p.m., SGT Pharis and Inv. Raymond observed YOUNG, in the CS' vehicle, turn into the Family Dollar at 477 E. Black Stock Road in Spartanburg, SC.

8. At approximately 6:56 p.m., TFO Ruane observed YOUNG exit the Family Dollar and enter the CS' vehicle. At approximately 7:00 p.m., TFO Ruane observed YOUNG, in the CS' vehicle, exit the Family Dollar parking lot and

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pull into the Self Serve Car Wash, located directly across the street from the Family Dollar.

9. At approximately 7:02 p.m., Inv. McJunkin observed a blue Dodge pickup truck, which displayed SC license plate AED 431 at the car wash. At approximately 7:03 p.m., Inv. Raymond observed YOUNG exit the CS' vehicle and enter the blue Dodge. At approximately 7:04 p.m., Inv. Raymond observed YOUNG exit the blue Dodge and enter the CS' vehicle.

10. At approximately 7:05 p.m., Inv. Raymond observed YOUNG, in the CS' vehicle, exit the car wash.

11. At approximately 7:10 p.m., Inv. Norris observed YOUNG, in the CS' vehicle, arrive back at Wildwood Drive.

12. Based upon the transmitting device, Inv. Raymond heard the CS make the purchase of the cocaine (Exhibit 2) from YOUNG at approximately 7:13 p.m.

13. At approximately 7:16 p.m., Inv. Norris observed the CS leave Wildwood Drive, and was followed by Inv. Raymond to a predetermined location. At approximately 7:21 p.m., Inv. Raymond, as witnessed by SGT Pharis, debriefed the CS about the purchase. The CS stated that he/she heard YOUNG call "POOH BEAR" (THOMPSON), and that YOUNG took the CS' vehicle to obtain the cocaine from THOMPSON. The CS also stated that YOUNG told the CS that he (YOUNG) was going to meet THOMPSON at THOMPSON's girlfriend's (Pam JONES) house. The CS stated that he/she did not know where the residence was located, but that it is near Black Stock Road in Spartanburg, SC. (Agent's Note: The CS remained at Wildwood Drive, and would not know that YOUNG traveled to JONES' residence at 1868 Tamara Way. Also, Tamara Way is located right off of Black Stock Road in Spartanburg, SC.)

14. The CS relinquished, as witnessed by TFO Ruane, a white Family Dollar bag, which contained a clear zip locked bag that contained a clear baggie, which contained a rock/powdery substance (Exhibit 2) to Inv. Raymond.

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(Jul. 1996)

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15. This concluded the surveillance and the purchase of Exhibit 2. Investigation continues.

16. On 7-31-2009, SA Davis, as witnessed by SA Mark Poag, obtained custody of Exhibit 2 from Inv. Raymond. SA Davis, was witnessed by TFO Josh Hood, processed the exhibit into DEA evidence. SA Davis retained the SCSO standardized evidence collection envelope with the chain of custody from the SCSO, and also a DEA 12 to Inv. Raymond from SA Davis, and processed it into DEA evidence as Exhibit N-8.

16. Other Officers: TFO James Ruane, Inv. C. Raymond, SGT. J. Pharis, Inv. N Cantrell, Inv. T. McJunkin, Inv. M. Hutchins, Inv. P. Norris, and MSG M. Deering.

CUSTODY OF EVIDENCE

1. On 7-30-2009 a SCSO CS purchased Exhibit 2 from Deangelo YOUNG in Spartanburg, SC for \$4,000 OAF. Following the purchase, the CS relinquished custody of the exhibit, as witnessed by TFO James Ruane, to Inv. Chris Raymond, who secured the exhibit, as witnessed by SGT J. Pharis, in the SCSO narcotics evidence safe. On 7-31-2009, Inv. Raymond, as witnessed by SA Mark Poag, relinquished custody of Exhibit 2 to SA Russell Davis, who maintained complete care, custody and control of EX 2 until, as witnessed by TFO Josh Hood, submitted the package via Fed Ex (#868652694068) to the DEA SERL on 7-31-2009.

2. Exhibit N-6 is described as a compact disc containing audio recordings of a telephone call between a SCSO CS and Deangelo YOUNG occurring on 07-30-2009. The call was placed to telephone number 864-621-1187. Exhibit N-6 was created by SCSO Inv. Raymond on 07-31-2009, and relinquished, as witnessed by SA Mark Poag, to SA Russell Davis. On 08-03-2009, SA Davis, as witnessed by TFO Josh Hood, processed Exhibit N-6 as DEA evidence. SA Davis maintained complete care, custody, and control of Exhibit N-6 pending transfer to the GRO NDEC.

3. Exhibit N-7 is described as a DVD containing the video and audio recording of meetings between a Spartanburg County Sheriff's Office CS and Deangelo YOUNG, which took place on July 30, 2009 in Spartanburg, SC.

DEA Form
Jul. 1996)

-6a

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E & W INVESTMENTS

FILE COPY

ARTICLES OF AGREEMENT FOR DEED

THIS INDENTURE, made on November 8th, 2003, by and between Ernest K. Grant, who's address is 512 El Paso St., Spartanburg, South Carolina 29303, (hereinafter "GRANTOR"), and ~~LORENA THOMPSON~~ whose address is ~~156 VALLEY LANE~~ ^{456 PLEASANT} ~~CONCORD~~ ^{VALLEY} ~~SOUTH~~ ^{CONCORD} ~~CAROLINA~~ ^{SC} (hereinafter "GRANTEES"); ~~ALSO PO BOX 19 COLLEEN S. CAROLINA 29330~~ ^{MARLENB ADDRESS}

WITNESS II:

WHEREAS, THE GRANTOR is the fee simple title holders of the certain real property locate in County of Spartanburg, State of South Carolina, more particularly described as: 120 River St, Spartanburg, SC (hereinafter premises"), and;

WHEREAS, the GRANTEES are desirous of purchasing and the GRANTOR is desirous of selling said premises upon the terms and conditions as hereinafter set out;

NOW THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

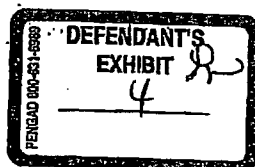
1: PURCHASE PRICE: GRANTEES hereby covenant and agree to pay to the GRANTOR, as and for the total purchase price of the said premises, the sum of Seventy-Six Thousand Dollars and Zero Cents \$(76,000.00) DOLLARS, with a down payment and credits of Five Thousand \$(5,000.00) DOLLARS; leaving a balance due and owing of Seventy-One Thousand \$(71,000.00) DOLLARS; to be paid with interest at the rate of 8%, in 180 equal monthly payments of \$678.51, commencing on the 1st day of December, 2003 and continuing in a like manner on the first day of each and every subsequent month for a period of 180 months at which time the entire principal balance becomes due and payable in full.

2. CONVEYANCE OF PROPERTY: At such time as the entire principal and interest balance is paid in full, the Agreement for Deed shall terminate, and the GRANTOR shall convey, by general warranty deed, GRANTOR'S fee simple interest in the said premises to GRANTEES. GRANTEES shall

JAN-05-2012 09:34 From: 8645955513

ID: 8645834689

Page: 002 R=94%



pay all expenses involved in the said conveyance including transfer fees, recording fees, documentary stamp fees, title insurance and all other related closing costs.

3. **EXPENSES AND MAINTENANCE:** The GRANTEES, during the term hereof, shall be responsible for all water, electricity, gas, telephone, and other utility charges, all taxes thereon, which may be assessed on the premises during the term hereof. The GRANTEES shall be responsible for any and all maintenance of the premises, fixtures, appliances, roofs and paint during the term hereof, including the maintenance of the yard, grass, plants, trees, and general upkeep on the premises; and in default thereof, the GRANTOR, without waiver of other remedies contained herein, may hire such maintenance done at the expenses of the GRANTEES, and add the cost thereof to the purchase price or monthly payments as hereinabove set out.

4. **TAXES AND INSURANCE:** GRANTEES shall pay all taxes, assessments or impositions that may legally levied or imposed upon said real property subsequent to the year 2004; and shall keep the buildings upon the said premises insured in some company satisfactory to the GRANTOR, with the GRANTOR named as additional insured, and payable for the parties respectively as their interests may appear, in a sum not less than full insurable value during the entire term of this agreement.

5. **ESCROW:** In addition to the monthly payments described above, GRANTEES shall pay to the GRANTOR monthly a sum, to be held in escrow, sufficient to pay the taxes and insurance each year.

6. **DEFAULT:** Upon the failure of the GRANTEES to make any of the payments or any part thereof, or to perform any of the covenants hereby made and entered into, this contract shall, at the option of the GRANTOR, be forfeited and terminated, and the GRANTEES shall forfeit all payments made by the GRANTEES on this contract; and such payments shall be retained by the GRANTOR in full satisfaction and liquidation of all damages sustained; but shall not constitute a penalty.

GRANTOR shall have the right to re-enter and take possession of the premises aforesaid without being liable for any action therefore. GRANTEES shall immediately and peacefully give up and relinquish possession of the premises to GRANTOR; and GRANTEES shall be liable to GRANTOR for all expenses, damages, costs, whether or not usually taxable as court costs, and attorney's fees incurred

by GRANTOR in retaking possession of the said premises or for the failure of the GRANTEES to give up or relinquish possession of the premises.

7. TIME IS OF THE ESSENCE: It is mutually agreed, by and between the parties hereto that the time of each payment shall be an essential part of this contract, and that all covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties. If payment is more than five (5) days late, a late penalty equal to ten (10%) percent of the monthly payment shall be paid by GRANTEES. If payment is more than 10 days late, GRANTEE shall be considered in default and promptly perform all acts and execute all documents necessary to release and quit-claim GRANTEES, heirs and assigns, forever, all right, title, interest, claim and demand to the GRANTOR for the aforesaid property.

8. NON-ASSIGNABILITY: This Agreement for Deed shall not be assigned by GRANTEES without written consent of the GRANTOR.

9. GRANTOR REFINANCING: Should GRANTOR decide to refinance any underlying mortgage, or execute any additional mortgage, on the said property, GRANTEES shall, at the request of the GRANTOR, promptly perform all acts and execute all documents necessary for such financing or refinancing.

10. SEVERABILITY: Every provision of this Agreement for Deed is intended to be severable. If any term or provision hereof is illegal or invalidity shall not affect the validity of the remainder of this Agreement for Deed.

11. GOVERNING LAW: This Agreement for Deed shall be governed by and construed or enforced in accordance with the laws of the State of South Carolina.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hand and seal the day and year first above written.

JAN-05-2012 09:35 From: 8645955513

ID: 8645034689

Page: 004 R=95%

Signed, sealed and delivered in the presence of:

William A. [Signature] Ernest H. [Signature]
Witness Grantor

Vickie [Signature]
Witness 1-10 Grantor

Signed, sealed and delivered in
the presence of:

Charles Thompson Donna Thompson
Witness Grantee

Witness Grantee

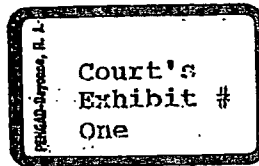
JAN-05-2012 09:35 From:8645955513

ID:8645034689

Page:005 R=95%

Jury Question:

If a person is present in a home where cocaine is present and the person is aware that cocaine is present is that person violating a law. Is the person ~~guilty~~ guilty by association.



STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC.

SEARCH WARRANT



MAY. 15. 2013 9:55AM 123

S-13-10

Date _____

Officer _____ C.D. Raymond _____

NO. 014 2. 1

ORIGINAL

SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

PRE-INTERROGATION WAIVER FORM

CASE NUMBER

2010050644

Name ALFONSO THOMPSON Address 110 LARCHWOOD DR

Age 31 Date 5-13-10 Time 8PM

Location 120 RIVER ST. DRAYTON, SC

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by C.D. RAYMOND

I have read same and I understand my rights fully.

Witness C.D. Raymond Signed Alfonso Thompson

I waive (give up) my rights as explained above and agree to talk to officer C.D. RAYMOND

in reference to DRUG CHARGES
(CASES OR CHARGES), and any statement that I may
make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 11 years in school.

Witnessed C.D. Raymond Signed Alfonso Thompson

Notorized _____

Expiration Date _____



SH111

CASE#	2010050644	VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF:	ALFONSO THOMPSON	AGE:	8-29-79	DATE: 5-13-10
ADDRESS:	110 LARCHWOOD DR			
PHONE#		DOB:	8-29-79	SSN: 249-51-2104

The cocaine and marijuana that was found in the garage was found in the A.D. WAS mine and this is my confession.

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 805 P M. on the 13TH day of May 2010.

WITNESS:

CD Reynard

Alfonso Thompson

Signature of person giving voluntary statement

SWORN to before me this _____

day of _____, 20____.

(Seal)

Notary Public of South Carolina

Detach and mail postcard *only* if you wish  your order or make an address correction.

For a quick check on your backorder(s) call our Order Hotline at (330) 630-0220 (touchtone phone required—no customer service representatives on the Hotline), or log onto www.SummitRacing.com and click the Order Status link.

Printed on - 12/25/2002 AT 05:30:03 AM.
Our regular customer service number is (330) 630-0230 or (800) 517-1035.

Customer#	6672763	Order#	6696088	NOTICE #437000
check below only those items you wish to cancel			Date	
Item#	Description			Expected to Ship

TRD-9512	HEADLIGHT SHIELDS LARGE ROU	1/09/03

If your item is unavailable by the expected date we will notify you by another postcard. At that time you may approve an additional delay.

☐ Address change? (Complete only if your address has changed.) _____

↓ Detach here before mailing

6672763



PO BOX 909
AKRON, OH 44309-0909

FIRST CLASS MAIL

A THOMPSON
106 ROCKING CHAIR LN
SPARTENSBURG SC 29307

01



-354-

Dear Customer,

Thank you for your recent order. At this time, we are waiting for a portion of your order to arrive from the manufacturer. While most backorders take approximately two to four weeks, they often arrive earlier and are shipped immediately.

Your credit card will be charged as your items are shipped.

We apologize for the delay in shipping your order. If you wish to cancel the backordered item(s), fill out the attached prepaid postcard and mail it to us. If you wish to check on your backorder, find your customer# on the other side of this card and call our Order Status Hotline at (330) 630-0220 (touchtone phone required—no customer service representatives on the Hotline), or log onto www.SummitRacing.com and click the Order Status link.



Thanks Again,
Summit Racing Equipment

PO BOX 909
AKRON, OH 44309-0909

Oci01-011



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 3757 AKRON OH

POSTAGE WILL BE PAID BY ADDRESSEE

SUMMIT RACING EQUIPMENT
PO BOX 909
AKRON OH 44398-6061



-355-

WITNESSES

SPTBG CO SHERIFF'S OFFICE

[Signature]
Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

[Signature]
Foreperson of Grand Jury
Date: 12 15 2011

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: 1/25/2012

DOCKET NO.

11-GS-42-5341

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 19 2011

TERM

THE STATE
VS.

ALFONSO CHAVES THOMPSON

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
MARIJUANA

SC Code: 44-53-370

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 SEP 16 PM 4:29

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

SEP 13 2011

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Alfonso Chaves Thompson did in Spartanburg County on or about May 13, 2010, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a schedule I controlled substance or controlled substance analogue, in violation of § 44-53-370, *THE 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.


DEPUTY SOLICITOR

Nov. 25 2013 01:38PM P1

FAX NO. : 8645962259

FROM :

WITNESSES

1. SENTENCE MADE
2. REPORT ENDED
3. JURY FILED
SPARTANBURG SHERIFF'S OFFICE
4. INDEXED
5. CHECKED WARRANTS
6. CHECKED SIGNATURE
Spartanburg County Sheriff's Office
7. ASSESSMENT AND FINE CARD MADE
8. TRAFFIC VIOLATION COPY
ARREST WARRANT NUMBER

Computer

Computer

M124455 and Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 12/15/2011

VERDICT

Guilty Count 1
Guilty Count 2

Foreperson of Petit Jury
Date: 1/25/2012

DOCKET NO.

11-GS-42-15342(A)

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 19 2011

TERM

THE STATE
VS.

ALFONSO CHAVES THOMPSON

Indictment for

TRAFFICKING IN COCAINE;
POSSESSION OF FIREARM DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: 44-53-370; 16-23-490

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 SEP 16 PM 4:29

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

SEP 15 2011

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

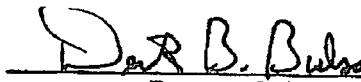
COUNT ONE- TRAFFICKING IN COCAINE

That Alfonso Chaves Thompson did in Spartanburg County on or about May 13, 2010, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (400) four hundred grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO - POSSESSION OF FIREARM OR KNIFE DURING
COMMISSION OF OR ATTEMPT TO COMMIT A VIOLENT CRIME**

That Alfonso Chaves Thompson did in Spartanburg County on or about May 13, 2010, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to-wit: *TRAFFICKING IN COCAINE*, in violation of Code §16-23-490, *THE 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.


Deputy Solicitor

FROM :

FAX NO. : 8645962259

Nov. 25 2013 01:38PM P3

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Alfonso Chaves Thompson

AKA:

Race: BLACK Sex: M Age: 32

DOB:

Address:

City, State, Zip: Spartanburg SC 29344

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490

of the S.C. Code of Laws, hearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-3-2942(j) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$ 100.00

\$ 100

\$ 12

\$ 25

\$ 500

\$ 25

\$ 150

\$ 50

\$ 40/en

\$ 5

\$ 3.90

\$ 133.90

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4205342A

A/W#: 2011GS4205342A

Date of Offense: 5/13/2010

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, hearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-3-2942(j) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$ 100.00

\$ 100

\$ 12

\$ 25

\$ 500

\$ 25

\$ 150

\$ 50

\$ 40/en

\$ 5

\$ 3.90

\$ 133.90

days/hours Public Service Employment

Obtain OED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

FROM :

FAX NO. : 8645962259

Nov. 22 2013 11:31AM P3

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

INDICTMENT/CASE#: 2011GS4205341

Alfonso Chaves Thompson

A/W#: 2011GS4205341

AKA:

Date of Offense: 5/13/2010

Race: BLACK Sex: M Age: 32

S.C. Code § 44-53-0370(b)

DOB:

CDR Code #: 0186

Address: 39 Brisbane

City, State, Zip: Fountain Inn SC 29644

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Possession with Intent to Distribute Marijuana

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0186

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

D. B. Bulsa
BULSA, DERRICK15264
SC Bar#Alfonso Chaves Thompson
Defendant[Signature]
Attorney for Defendant00481
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*, the sentence is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-23-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waiver Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

*Fines:

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

1% to County (if paid in installments)

TOTAL:

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

110 Larchwood Dr.

ADDRESS

Simpsonville, SC 29681

CITY/STATE/ZIP

SOCIAL SECURITY NUMBER

DRIVER'S LICENSE OR ID NUMBER

SIGNATURE OF DEFENDANT

DATE

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of:

NAME OF PERSON OR ORGANIZATION

ADDRESS

CITY/STATE

ZIP

TELEPHONE

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from _____ o' clock, _____ to _____ o' clock,

on _____ on condition that he return to the custody of _____

at _____ NAME OF PERSON OR ORGANIZATION

LOCATION

as designated.

d. ☐ Other conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 13 day of 1, 2011, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 20,000, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Ralph Murphy

NAME OF SURETY BONDSMAN

108 Woodruff Ct

ADDRESS OF SURETY BONDSMAN

Moore, SC 29369

CITY/STATE/ZIP

595-0842

TELEPHONE

Ralph Murphy

SIGNATURE OF SURETY BONDSMAN

SIGNATURE OF JUDGE

DATE

NAME OF INSURANCE COMPANY

ADDRESS OF INSURANCE COMPANY

CITY/STATE/ZIP

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
STATE OF SOUTH CAROLINA,)
V.)
ALFONSO CHAVES THOMPSON)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

REQUEST FOR DISCOVERY
(Reciprocal Rule 5)

Indictment #: 11.5341-2 X X
Warrant: M124455-7 X

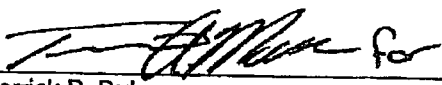
TO THE DEFENDANT AND HIS ATTORNEY, PHILLIP BAITY: ✓

PURSUANT to the South Carolina Rules of Criminal Procedure, the State in the above-captioned matter, requests the disclosure of all evidence by the Defendant to the State that is required by Rule Five (5) of the Rules of Criminal Procedure, including but not limited to the following items:

- (1) That the Defendant notify the State of and permit the State to inspect and copy books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the Possession, custody or control of the Defendant, the Defendant's witnesses, or his attorney and which the Defendant intends to use as evidence;
- (2) That the Defendant notify the State of and permit the State to inspect and copy and results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, which are within the possession, custody or control of the Defendant, Defendant's witnesses, or his attorney, which the Defendant intends to use as evidence or when the results or reports relate to his testimony.
- (3) The prosecution requests that the Defendant serve upon the prosecution a written notice if he intends to offer an alibi defense, stating the specific place or places at which the Defendant claims to have been on the dates of May 13, 2010 and dates on the indictments/warrants listed above and the names, addresses and birthdays of the witnesses upon whom he intends to rely to establish such an alibi.
- (4) That any and all evidence is available for viewing at the arresting agency or the South Carolina Law Enforcement Division.

The State further requests that the Defendant notify the State of the Defendant's intention to rely upon the defense of insanity or to enter a plea of guilty but mentally ill at the time of the crime.

These requests are continuing requests for disclosure and any relevant matters arising subsequent to the date hereof should be regarded as included in this request


Derrick B. Bulsa
Deputy Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
September 12, 2011

M. HOPE BLACKLEY

CLERK OF COURT
SEVENTH JUDICIAL CIRCUIT
SPARTANBURG, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

The State of South Carolina,)

ALFONSO THOMPSON
Defendant.)

AFFIDAVIT OF DISCOVERY

Indictment No(s):

Warrant No(s): *m124455-7*

PERSONALLY APPEARED BEFORE ME, the undersigned deponent who being duly sworn, says that he/she copied the following materials and provided same to the Defendant's attorney of record by:

☒ HARD COPY; ☐ ELECTRONICALLY (e-mail); ☐ MEDIA (CD, DVD)

DOCUMENT	Page No.	DOCUMENT	Page No.
☒ Solicitor's Reciprocal Rule 5	<i>1</i>	☐ Undercover Buy Report	
☐ Warrant(s) or Ticket(s)		☒ Driving Records <i>SW 51-55</i>	<i>41-49</i>
☒ Incident Report(s) <i>10050644</i>	<i>2-4</i>	☒ Evidence Sheet(s)	<i>11-12</i>
☐ Investigation Report(s)		☐ Photograph(s)	
☒ Supplemental Report(s)	<i>13</i>	☒ Line-up(s) <i>IR 2010050653</i>	<i>50-</i>
☒ Drug Report(s)	<i>56-61</i>	☒ Tow Sheet	<i>16-17</i>
☒ Defendant's NCIC (Rap)	<i>62-69</i>	☐ SLED Request Form(s)	
☐ Bondsheets		☐ Video/DVD	
☒ Waiver of Rights Form(s)	<i>14</i>	☒ Seizure Paperwork <i>/ALFE</i>	<i>25-34</i>
☒ Voluntary Statement(s):	<i>15</i>	☒ Booking Sheet	<i>24</i>
☐ Written Statement(s)		☐ County Request Form	
☐ Consent to Search Form(s)		☒ <i>MC GADDY</i>	<i>18-23</i>
☒ Search Warrant and Return	<i>5-16</i>	☒ <i>SEIZURE WARRANT</i>	<i>35-36</i>
☒ Other Deputy Report <i>10051002</i>	<i>37-40</i>		

TOTAL COPIED/NUMBERED: *69*

DATED: *3-23-11*

I, _____, attorney for the Defendant(s) or his/her designee, have reviewed the above-referenced Affidavit and/or documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed/Accepted this *24th* day of *March*, 20*11*.

[Signature]
Attorney or Designee

SWORN to before me this *24* day
of *Mar*, 20*11*.

[Signature]
Notary Public for South Carolina
My commission expires: *4-23-19*

[Signature]
SOLICITOR'S OFFICE

FILED
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
MARCH 23 2011

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

The State of South Carolina,)
v.)
ALFONSO THOMPSON)
Defendant.)

AFFIDAVIT OF DISCOVERY

Indictment No(s):

Warrant No(s): M124455-7

PERSONALLY APPEARED BEFORE ME, the undersigned deponent who being duly sworn, says that he/she copied the following materials and provided same to the Defendant's attorney of record by:

☒ HARD COPY; ☐ ELECTRONICALLY (e-mail); ☒ MEDIA (CD, DVD)

DOCUMENT	Page No.	DOCUMENT	Page No.
☐ Solicitor's Reciprocal Rule 5		☐ Undercover Buy Report	
☐ Warrant(s) or Ticket(s)		☐ Driving Records	
☒ Incident Report(s) <u>10056636</u>	<u>1-9</u>	☐ Evidence Sheet(s)	
☐ Investigation Report(s)		☐ Photograph(s)	
☐ Supplemental Report(s)		☐ Line-up(s)	
☐ Drug Report(s)		☐ Tow Sheet	
☐ Defendant's NCIC (Rap)		☐ SLED Request Form(s)	
☐ Bondsheets		☒ Video/DVD	<u>#1</u>
☐ Waiver of Rights Form(s)		☐ Seizure Paperwork	
☐ Voluntary Statement(s):		☐ Booking Sheet	
☐ Written Statement(s)		☐ County Request Form	
☐ Consent to Search Form(s)			
☐ Search Warrant and Return			
☐ Other			

TOTAL COPIED/NUMBERED: 9

DATED: 3-24-11

I, _____, attorney for the Defendant(s) or his/her designee, have reviewed the above-referenced Affidavit and/or documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed/Accepted this 24th day of March, 2011.

[Signature]
Attorney or Designee

[Signature]
SOLICITOR'S OFFICE

SWORN to before me this 24 day
of March, 2011.

[Signature]
Notary Public for South Carolina
My commission expires: 4-23-19

FILED
CLERK OF COURT
SPRING
MARCH 24 PM 2:10
HARRIS COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
STATE OF SOUTH CAROLINA,)
V.)
ALFONSO CHAVES THOMPSON)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

REQUEST FOR DISCOVERY
(Reciprocal Rule 5)

Indictment #: _____
Warrant: M124455-8

FILED
CLERK OF COURT
FEB 18 11 11:38
M. HOPE BLACKLEY

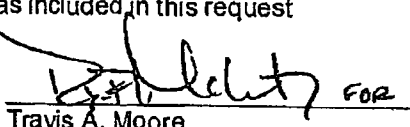
TO THE DEFENDANT AND HIS ATTORNEY, PHILLIP BAITY:

PURSUANT to the South Carolina Rules of Criminal Procedure, the State in the above-captioned matter, requests the disclosure of all evidence by the Defendant to the State that is required by Rule Five (5) of the Rules of Criminal Procedure, including but not limited to the following items:

- (1) That the Defendant notify the State of and permit the State to inspect and copy books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the Possession, custody or control of the Defendant, the Defendant's witnesses, or his attorney and which the Defendant intends to use as evidence;
- (2) That the Defendant notify the State of and permit the State to inspect and copy and results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, which are within the possession, custody or control of the Defendant, Defendant's witnesses, or his attorney, which the Defendant intends to use as evidence or when the results or reports relate to his testimony.
- (3) The prosecution requests that the Defendant serve upon the prosecution a written notice if he intends to offer an alibi defense, stating the specific place or places at which the Defendant claims to have been on the dates of May 12, 2010 and May 13, 2010 and dates on the indictments/warrants listed above and the names, addresses and birthdays of the witnesses upon whom he intends to rely to establish such an alibi.
- (4) That any and all evidence is available for viewing at the arresting agency or the South Carolina Law Enforcement Division.

The State further requests that the Defendant notify the State of the Defendant's intention to rely upon the defense of insanity or to enter a plea of guilty but mentally ill at the time of the crime.

These requests are continuing requests for disclosure and any relevant matters arising subsequent to the date hereof should be regarded as included in this request


Travis A. Moore
Assistant Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
February 18, 2011

Alfonso Chaves Thompson

M-124455 458

Name of Defendant

Warrant/Ticket No.

Charges: Drugs / Trafficking in cocaine, 400 g or more, *Weapon Poss X2*

County of Spartanburg

Trial Court:

Magistrate

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

DIRECTIONS: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

☐ BAIL PROCEEDING / ☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding

- ☐ a. Bond Form I (personal recognizance)
☒ b. Bond Form II (surety, cash, percentage)
☐ c. None (Non-Bailable Offense)

2. For cases in which bond was set, defendant was informed:

- ☐ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
☐ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
☐ c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

- ☐ a. Orally
☐ b. In writing

(NOTE: Defendant must be informed of right both orally and in writing.)

4. Defendant was informed of the right to trial by jury.

5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

- ☐ a. Charges against defendant and nature of the charges.
☐ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
☐ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before

PUBLIC DEFENDER'S OFFICE

located at

306 N. CHURCH ST

SPARTANBURG, SC 29305

for indigent defendant. Defendant is responsible for a statutory fee of \$

MAGISTRATE'S OFFICE

- ☐ 6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
☐ 7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.

First Appearance or Bond Hearing Date: 11/13/11

JUDGE'S SIGNATURE *Smith*

SCCA/507(Rev. 7/2009)

AGENCY I.D.
SC0420000

INCIDENT REPORT

CASE NUMBER

2010050644

NCIC

INQ. ENTD.

INCIDENT TYPE				COMPLETED		FORCED ENTRY		PREMISE TYPE		UNITS ENTERED		TYPE VICTIM	
Trafficking Cocaine over 400 Grams				☐ YES ☐ NO		☐ YES ☐ NO		Residence				☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Religious Orgn ☒ Sec/Public ☐ Other ☐ Unknown ☐ Police Off.	
2 PWID Marijuana				☐ YES ☐ NO		☐ YES ☐ NO							
3. Possession of firearm during a violent crime				☐ YES ☐ NO		☐ YES ☐ NO							
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE				WEAPON TYPE					
120 River St. Spartanburg, SC				29303				Guns					
INCIDENT DATE		24 HR. CLOCK		TO		DATE		24 HR. CLOCK		DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.	
05/13/10		18:00				05/13/10		18:00		05/13/10 18:00		33	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT				*RESIDENT		RACE SEX		AGE ETH	
SCSO Narcotics Unit				#1 #2 #3				☐ J ☐ O ☐ S ☐ U				DAYTIME PHONE ☐ H ☐ B EVENING PHONE ☐ H ☐ B	
ADDRESS				CITY				STATE		ZIP CODE		LOCATION NO.	
8045 Howard St.				Spartanburg				SC		29301			
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT				*RESIDENT		RACE SEX		AGE ETH	
Society-Public				#1 #2 #3				☐ J ☐ O ☐ S ☐ U				DAYTIME PHONE ☐ H ☐ B EVENING PHONE ☐ H ☐ B	
HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS				CITY				STATE		ZIP CODE		LOCATION NO.	
VISIBLE INJURY (VICT. I) ☐ YES ☐ NO EXPLAIN.				COMPLAINT OF ANY NON-VISIBLE INJURIES; ☐ YES ☐ NO									
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK.				DRUGS: ☐ YES ☐ NO ☐ UNK.				TYPE:					
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPECIAL ASSG. ☐ OTHER ☐ ALONE ☐ ASSISTED				J - This Jurisdiction S - State O - Out of State U - Unknown									
☐ SUSPECT				NAME (LAST, FIRST, MIDDLE)				RACE SEX		AGE ETH		DATE OF BIRTH	
☐ RUNAWAY				Thompson, Alfonso, Chaves				B M		30 N		08/29/79	
☐ WANTED				FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								HEIGHT 510 WEIGHT 300 HAIR BLK EYES BRO	
☐ WARRANT				ADDRESS				CITY		STATE		ZIP CODE	
☐ ARREST				110 Larchwood Dr.				Simpsonville		SC		29681	
☐ SUMMONS				SUSPECT (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK.				ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
				DRUGS: ☐ YES ☐ NO ☐ UNK. TYPE				TOTAL # ARRESTED 2		05/13/10 18:00		05/13/10 18:00	
On the above date and time members of the Spartanburg County Sheriff's Office narcotics unit executed a search warrant at the above location. Forced entry was made. The following was found and recovered: vacuum sealer, box of sealer bags, case for pistol c/ two clips and holster by Hutchins on top of kitchen cabinet; polo shoe c/ virgin mobile phone and U.S. currency under end table in living room by McJunkin; bag of GPM located in 1st bedroom on right upstairs under mattress by Stuart; SKS style rifle ser # 3B2401 7.62 x 39 located in closet in master bedroom closet by Cooper; Remington 12 ga. shotgun ser # not on gun in master bedroom closet by Cooper; vacuum sealer located under kitchen cabinet by Cooper; bag of GPM and bowl c/ burnt marijuana cigarettes in kitchen cabinet by Cooper; burnt marijuana cigarettes located on dresser in master bedroom by Pharis; bag of white powder, 2 bags c/ gpm, scale located in trunk of Monte Carlo parked in the garage by Hutchins; bottle of Inositol powder located in garage by Pharis; money counter located in living room by McJunkin; bag of white powder located at back of garage behind door panel by Pharis; box of wrappings located in garage by Pharis; pyrex measuring cups located in dishwasher by Cooper; roll of plastic wrap in													
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY									
TYPE (GROUP)		Cocaine		Marijuana		Guns		U.S. Currency				TOTAL VALUE	
STOLEN													
DAMAGED													
BURNED													
RECOVERED													
TED		522 grams		204 grams		5		3410					
SUBJECT IDENTIFIED		☐ YES ☐ NO		SUBJECT LOCATED		☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
								☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES PROSECUTION 5. ☐ JUVENILE - NO CUSTODY													
REPORTING OFFICER(S)				DATE				BADGE #				APPROVING OFFICER	
C.D. Raymond				05/13/10				099					
												DATE	
												BADGE #	
												FOLLOW-UP INVESTIGATION ☐ YES ☐ NO	
												OFFICER	

Y.I.D.
0000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2010050644

NCIC

INQ. ENTD.

☒ ORIGINAL
REPORT
MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
ADDITIONAL
RECOVERED PROPERTY

PAGE 2 OF 2 PAGES

☐ COMPLAINANT ☐ VICTIM # ☒ SUBJECT # 2 ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			*RESIDENT	RACE	SEX	AGE	D.O.B	ETH
	Young, Shondre, Tyrone				#1	#2	#3	☒ J ☐ O ☐ S ☐ U	B	N	32	11/04/77	N
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	605	200	BLK	BRO									
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
500 Barn Swallow Dr.				Simpsonville	SC	29681	OC						
☐ VICTIM NO. ☐ VISIBLE INJURY ☐ YES ☐ NO ☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO EXPLAIN:				☐ VICTIM USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐ DRUGS ☐ YES ☐ NO TYPE:				☐ TWO-MAN VEH. ☐ DETECTIVE/SPECIAL ASSG. ☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED ☐ ALONE					
☒ SUBJECT NO. 2 USING ALCOHOL ☐ YES ☐ NO USING DRUGS ☐ YES ☐ NO TYPE:				☐ UNK									

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			*RESIDENT	RACE	SEX	AGE	D.O.B	ETH
					#1	#2	#3	☐ J ☐ O ☐ S ☐ U					
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE		
☐ VICTIM NO. ☐ VISIBLE INJURY ☐ YES ☐ NO ☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO EXPLAIN:				☐ VICTIM USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐ DRUGS ☐ YES ☐ NO TYPE:				☐ TWO-MAN VEH. ☐ DETECTIVE/SPECIAL ASSG. ☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED ☐ ALONE					
☐ SUBJECT NO. ☐ USING ALCOHOL ☐ YES ☐ NO USING DRUGS ☐ YES ☐ NO TYPE:				☐ UNK									

garage by cantrell; computer security system in master bedroom by Hutchins; SKS ser # 1413434 in master bedroom behind chest of drawers by Deering; Intratec 9mm ser # A051948 in top of closet in upstairs 1st bedroom on right by Cooper; paperwork in the name of Alfonso Thompson and Shondre Young in upstairs 1st bedroom on right by Davis. All items recovered by Hutchins, search closed at 21:30. Alfonso Thompson was mirandized by raymond and signed written pre interrogation waiver after which he claimed the marijuana and cocaine in the garage was his. Shondre Young was seen leaving the residence prior to the search warrant and has also been seen previously at this residence. Documentation for both Thompson and Young was found at the residence. Also found in the residence was a Bushmaster AR-15 .223 caliber ser # L169308 which was found to be stolen. This was found in the master bedroom closet by Cooper. Warrants were signed on both Thompson and Young for trafficking cocaine, PWID marijuana, possession of a firearm during a violent crime and possession of a stolen gun

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

STATUS TYPE ☐ STOLEN ☐ VEHICLE ☐ RECOVERED ☐ GUN ☐ FOUND ☐ BOAT ☐ TOWED ☐ LICENSE PLATE ☐ SUSPECT ☐ SECURITIES/BOND, STOCKS ☐ VICTIM ☐ ARTICLE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	SERIAL AND/OR OWNER APPLIED NO.		STATE	
	YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
	MODEL		STYLE	COLOR
	N/C NO.		DENOMINATION	ISSUER
	MISCELLANEOUS		SECURITIES DATE	

TYPE (GROUP)											TOTAL VALUE
STOLEN											
DAMAGED											
BURNED											
RECOVERED											
SEIZED											

SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☒ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
ON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES PROSECUTION 5. ☐ JUVENILE - NO CUSTODY				
REPORTING OFFICER(S)	DATE	BADGE #	APPROVING OFFICER	DATE
C.D. Raymond	05/13/10	099		
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO			OFFICER	

AGENCY I.D.
SC6420000

SUPPLEMENTARY REPORT

CASE NUMBER

2010050644

NCIC

INQ. ENTD.

☐ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 OF 1 PAGES

Seized from the residence was \$3,410 in U.S. currency and the following vehicles: 1985 monte carlo, SC tag CH1552, and a 2008 Can-A Spyder Motorcycle, SC tag 692722B. The vehicles were towed by county rollback to the county shop.

ADMINISTRATIVE	SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
					☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
	ON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES PROSECUTION 5. ☐ JUVENILE - NO CUSTODY							
	REPORTING OFFICER(S)		DATE	BADGE #	APPROVING OFFICER		DATE	BADGE #
	C.D. Raymond		05/13/10	099				
					FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER	

APPLICATION TO ACT AS ACCOMMODATION

(PLEASE PRINT)

NAME: Ralph murphy

MAILING ADDRESS: 108 Woodruff Cr. Moore SC 29369

TELEPHONE: 595-0842 DRIVERS'S LICENSE/ID NO: 004657017

ADDRESS OF PROPERTY TO BE USED FOR BOND
565 Saxon Ave. Sptbg S.C 29301

ALL OWNERS OF THIS PROPERTY Ralph L. murphy
PERSON YOU WISH TO BOND Alfonso Thompson

I MAKE THE FOLLOWING CERTIFICATIONS TO THE COURT.

1. I am at least eighteen (18) years of age.
2. I am a South Carolina resident.
3. I have not received, and will not receive, any money or any other thing of value to act as a bondsman.
4. I am not a law enforcement officer, judicial officer, attorney, probation or parole officer, detention officer, employee of any court of this state.
5. I own the above-listed real estate, subject to the following debts, liabilities, and exemptions.

a. Outstanding balance on mortgage: \$ 0

b. Recorded judgments or liens where I or other owners have been sued: \$ 0

c. Bonds previously signed within the Last three years:

PERSON BONDED

\$ _____
\$ _____
\$ _____

d. Do you or a dependant use this real estate as a residence?

yes _____
X no _____

I understand that if the defendant for whom I sign a bond does not appear in court when required or otherwise violates any condition of his bond, my property can be sold by the State to satisfy the amount of the bond. I also understand that I can be charged with a criminal offense if any of the above representations are false.

1/13/11
DATE

Ralph L. murphy
SIGNATURE

COURT USE ONLY

ASSESSED VALUE OF PROPERTY \$ 25,875

- TOTAL DEBTS, LIABILITIES & EXEMPTIONS \$ _____

NET EQUITY \$ 25,875

MAXIMUM ALLOWABLE BOND \$ 20,000
5,875

APPLICATION TO ACT AS ACCOMMODATION
(PLEASE PRINT)

NAME: Ralph murphy
MAILING ADDRESS: 108 Woodruff Cr. Moore SC 29369
TELEPHONE: 595-0842 DRIVERS'S LICENSE/ID NO: 004657017

ADDRESS OF PROPERTY TO BE USED FOR BOND
565 Saxon Ave. Sptbg S.C 29301

ALL OWNERS OF THIS PROPERTY Ralph L. murphy
PERSON YOU WISH TO BOND Alfonso Thompson

I MAKE THE FOLLOWING CERTIFICATIONS TO THE COURT.

at least eighteen (18) years of age.
a South Carolina resident.
I have not received, and will not receive, any money or any other thing of value to act as a bondsman.
I am not a law enforcement officer, judicial officer, attorney, probation or parole officer, detention officer, employee of any court of this state.
I have no interest in the above-listed real estate, subject to the following debts, liabilities, and exemptions.

Outstanding balance on mortgage: \$ 0
Recorded judgments or liens where I or other owners have been sued: \$ 0
Bonds previously signed within the last three years:
PERSON BONDED
\$ _____
\$ _____
\$ _____

d. Do you or a dependant use this real estate as a residence?

yes _____
X no _____

I understand that if the defendant for whom I sign a bond does not appear in court when required or otherwise violates any condition of his bond, my property can be sold by the State to satisfy the amount of the bond. I also understand that I can be charged with a criminal offense if any of the above representations are false.

1/13/11
DATE

Ralph L. murphy
SIGNATURE

COURT USE ONLY
ASSESSED VALUE OF PROPERTY
- TOTAL DEBTS, LIABILITIES & EXEMPTIONS
NET EQUITY

\$ 25,875
\$ _____
\$ 25,875
20,000
= 5,875

Form DL-76-B

SOUTH CAROLINA TRAFFIC CITATION AND DRIVER LICENSE TRANSMITTAL FORM

NAME OF JURISDICTION THAT ISSUED CITATIONS: Spartanburg County Sheriff's Office

<u>CITATION NUMBER</u>	<u>VIOLATOR'S COMPLETE NAME</u>	<u>DL #</u>	<u>DL ATTACHED Y OR N</u>	<u>DATE DL SURREN- DERED</u>
<u>m124455</u>	<u>Alfonso Chaves Thompson</u>	<u>0071639386</u>	<u>N</u>	<u>N</u>
	<u>2011-5342</u>			

NUMBER OF CITATIONS ATTACHED: 0

FROM: MAGISTRATE: _____

NUMBER OF LICENSE ATTACHED: 0

MUNICIPAL: _____

CIRCUIT: ✓

ADDRESS OF COURT: 180 MAGNOLIA STREET SPARTANBURG SC 29306

TRANSMITTAL FORM SUMMITTED BY: M. HOPE BLACKLEY J.A. Brady

TELEPHONE #: (864) 596-2591 DATE: 1/27/12

MAIL COMPLETED FORM & ATTACHMENTS TO:

S.C. DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 1498

BLYTHEWOOD, SC 29016

Computer

1/14/2011

Criminal Charging Document No.

FILED
CLERK OF COURT
2011 JAN 14 AM 10:50
M HOPE BLACKEY

BAIL PROCEEDING
FORM II

IN THE General Sessions

STATE OF SOUTH CAROLINA
COUNTY OF Spartanburg

STATE OF SOUTH CAROLINA

v.

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Thompson, Alfonso Chaves

NAME OF DEFENDANT

Offense Charged: Drugs / Trafficking in cocaine, 400 g or more (M124455) Drugs / Trafficking in cocaine, 200 g or more, but less than 400 g (M124458) Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death (M124456) Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful, stolen pistol (M124457)

At a bail proceeding conducted by undersigned Judge, for the defendant named above, it was determined by the court (check one or both):

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

Nature of Circumstances of Offense; Must Notify Court Immediately of Change of Address

[Considerations: Nature and Circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of \$ _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of \$ _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits \$ _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the state.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☐ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$ _____.

3. That the defendant shall appear at (check one):

☒ the term of COURT OF GENERAL SESSIONS beginning on March 24, 2011 at 9:00 o'clock, A.M., at General Sessions - 180 Magnolia Street/P O Box 3483/Spartanburg, SC 29304 / (864) 596-2591 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

☐ the session of ☐ MAGISTRATE COURT ☐ MUNICIPAL COURT beginning on _____ at _____ o'clock, M., at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Bond Amount(s): \$20,000.00 (CS) or \$20,000.00 (SB)

INITIALS OF DEFENDANT

X P.T.

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions hereinafter in the Order.

SIGNATURE OF JUDGE

[Signature]

1-13-11
DATE

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

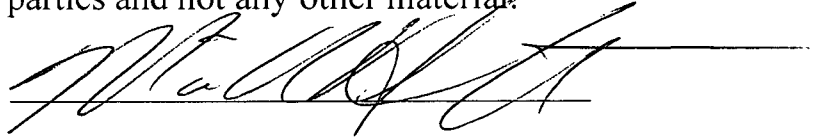
Original recorded
Confession to
be delivered
to Court of
Appeals.



CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 25, 2014

A handwritten signature in black ink, appearing to read "Michael P. Scott", written over a horizontal line.

Michael P. Scott
NEXSEN PRUET, LLC
Post Office Box 486
Charleston, South Carolina 29402
(843) 720-1771
Attorneys for Appellant