

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM HORRY COUNTY  
Master in Equity

The Honorable Cynthia Graham Howe

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Case No. 2017-002365

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Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of  
the 15<sup>th</sup> Circuit Drug Enforcement Unit,

Respondent,

v.

Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various  
Jewelry, Defendant Property, and Marvin Joshua White,

Appellant.

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RECORD ON APPEAL

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**Volume II**

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1 did do discovery. We answered his discovery. We  
2 sent discovery to him, requests, and then he failed  
3 to answer. That's his responsibility. Now, if I  
4 had not filed my answer to his discovery, I'd say,  
5 okay, well, that's it, but that's not what  
6 happened. We answered his discovery. That's my  
7 obligation under the law, the rule. And I didn't  
8 have to respond. I did because, again, he's going  
9 to end up either going and filing a motion to  
10 compel, or I'm going to be in violation of the  
11 rule. I asked him to actually give me the  
12 discovery. So if I'm giving him discovery, why in  
13 the Lord's name would I not send him discovery?

14 THE COURT: A lot of attorneys don't.

15 MR. WILSON: I do every single time,  
16 and you can ask him. He's right there. Every  
17 single time I send discovery, Judge. Every single  
18 time, especially in these seizure cases because,  
19 again, you never know what you're going to get.  
20 And that's my issue, Judge. Again, you know, we  
21 never received any.

22 My last comment will be this. We never  
23 received anything, no witness list. I think it's  
24 highly prejudicial to allow the State to go forward  
25 with the seizure action when obviously the reason

1 that we never got any documents is because we never  
2 received anything. Not one shred of -- and not one  
3 thing until literally days before trial. And I  
4 think that in itself is indicative of simply either  
5 not willing to turn it over or simply thinking that  
6 obviously that they can respond and give me e-mails  
7 with documents in it but show me that obviously  
8 they had some obligation to turn it over.

9 THE COURT: Well, let me ask you this.  
10 And this is -- maybe this is something I shouldn't  
11 even ask, but I did notice it yesterday.

12 MR. WILSON: Yes, Your Honor.

13 THE COURT: The motion to continue that  
14 was sent yesterday.

15 MR. WILSON: Yes, Your Honor.

16 THE COURT: Did you serve that on the  
17 plaintiff?

18 MR. WILSON: I don't know if we did or  
19 not. I think we did e-mail this morning is when we  
20 served it, Judge.

21 THE COURT: Okay. Because there was no  
22 certificate of service that was sent to me.

23 MR. WILSON: Your Honor, I think what  
24 we were trying to -- we were trying to go ahead and  
25 get this case continued, obviously, so that Brooker



1 could take over for this defendant because he was  
2 so gung ho about Brooker taking over. I was trying  
3 to accommodate him. And for the record, Judge, I  
4 told Brooker a month and a half ago that he could  
5 have this case. I don't want any money from this  
6 defendant.

7 THE COURT: I understand. I believe  
8 you, Mr. Wilson.

9 MR. WILSON: Yes, ma'am.

10 THE COURT: I totally believe you, Mr.  
11 Wilson.

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: Well, I'm going to go ahead  
14 and allow the case to go forward. You know, I  
15 don't know what to do in a case like this when  
16 Mr. Battle has, as an officer of the court, said he  
17 never received the discovery request. Mr. Wilson's  
18 office says that -- and I've got a certificate of  
19 mailing that says that it sent the document  
20 request. Then no motion to compel was ever made  
21 where this could have been straightened out. I  
22 don't know what else to do but allow the case to go  
23 forward. And we've spent -- I don't know --  
24 30 minutes on it already.

25 Do we have another issue, Mr. Wilson?



1 MR. WILSON: Judge, but it's going to  
2 be an issue throughout trial because obviously I'm  
3 going to object every time he puts anything up.

4 THE COURT: I'm going to let you make  
5 one objection, and then we'll have it continuing  
6 throughout --

7 MR. WILSON: Thank you, Your Honor.

8 THE COURT: -- so that you don't have  
9 to jump up every single time.

10 MR. WILSON: Thank you, Judge.

11 THE COURT: Okay. Mr. Battle?

12 MR. BATTLE: Thank you, Your Honor.

13 THE COURT: You already look tired.

14 MR. BATTLE: I call to the stand Agent  
15 Derek Suggs.

16 THE COURT: Agent Suggs, if you will  
17 come around all the way to your right and up to the  
18 front. And if you will place your left hand on the  
19 red Bible once you get around and raise your right  
20 hand to be sworn or affirmed by the court reporter,  
21 sir.

22 (The witness was duly sworn.)

23 THE COURT: Agent Suggs, if you will  
24 state your full name for the record, please.

25 THE WITNESS: It's Randall Derek Suggs.



1 THE COURT: Randall Derek Suggs. Are  
2 there two 'Ls or one?

3 THE WITNESS: Two.

4 THE COURT: Two?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you, sir. And is  
7 Derek with a K?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Okay.

10 RANDALL DEREK SUGGS,  
11 being first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BATTLE:

14 Q. Agent Suggs, where are you employed?

15 A. I'm employed with the Horry County  
16 Sheriff's office.

17 Q. And what is your rank with the  
18 Sheriff's office?

19 A. I'm a deputy or agent.

20 Q. And have you been assigned to a  
21 specific unit?

22 A. Yes, sir. I'm currently assigned to  
23 the 15th Circuit Solicitors Drug Enforcement Unit.

24 Q. What do you do as an officer assigned  
25 to that unit? What are your day-to-day

1 responsibilities?

2 A. We proactively enforce the drug laws,  
3 most local and state, in regards to drug  
4 trafficking, smuggling and/or distribution within  
5 our jurisdiction.

6 Q. And how long have you worked in  
7 narcotics?

8 A. Approximately four years.

9 Q. Prior to working in narcotics, did you  
10 receive any training as far as identifying drugs or  
11 the drug trade?

12 A. Yes, sir. With my tenure back with the  
13 Horry County Police Department, I've attended  
14 several narcotics-related classes to include drug  
15 interdiction, criminal interdiction, multiple  
16 classes in regards to that.

17 Q. Okay. And would that include  
18 identifying cocaine?

19 A. Yes.

20 Q. And heroin?

21 A. Yes.

22 Q. And in your law enforcement activities,  
23 how many controlled buy investigations have you  
24 conducted?

25 A. It's in excess of 85. We don't -- it's



1 kind of hard to keep track the way it's switched  
2 over, but it's in excess of 85 drug cases in the  
3 past four years.

4 Q. Sure. And how many drug related search  
5 warrants have you executed?

6 A. At least 60 on residences. That's not  
7 including phone search warrants or safe deposit  
8 search warrants or anything. That's just  
9 residential search warrants executed.

10 Q. Do you feel that you are familiar with  
11 identifying property used in the drug trade and  
12 identifying drugs and that type of thing?

13 A. I do.

14 MR. BATTLE: Your Honor, at this time  
15 I'd like to submit Agent Suggs as an expert in  
16 characteristics common to the drug trade and  
17 property used to conduct that activity.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Judge, this was an issue  
20 brought up at the last trial. And, again, the  
21 judge denied that motion. I would ask the Court to  
22 not qualify this person as an expert. One of the  
23 things that is mandated is that they turn over an  
24 expert's report if he's going to be an expert  
25 witness. And again, I don't think they've laid a

1 foundation for him to be an expert. But not only  
2 that, I don't think that any officer can come in  
3 and say that they are an expert in how to identify  
4 characteristics related to the drug business.

5 THE COURT: Did you say something about  
6 a report?

7 MR. WILSON: Yes, Your Honor.

8 THE COURT: What did you say about the  
9 report?

10 MR. WILSON: There was no expert's  
11 report given in this particular case. There was no  
12 report provided by the State. If he's going to be  
13 an expert, he was supposed to provide a report to  
14 us. We never received any report whatsoever that  
15 they were going to give any expert testimony or a  
16 report which could be obviously then determined --

17 THE COURT: Analyzed?

18 MR. WILSON: That's right.

19 THE COURT: If he had given a report,  
20 would you consider him an expert?

21 MR. WILSON: No, Your Honor.

22 THE COURT: You just wanted a report if  
23 he had --

24 MR. WILSON: So we could prepare, one,  
25 to actually make our motion against it, obviously

1 in limine if we have to. But also, again, I don't  
2 consider him to be an expert. There's no experts  
3 in this field. It's not a recognized field of  
4 science.

5 THE COURT: Expertise?

6 MR. WILSON: Yes. Well, this is not a  
7 science anywhere.

8 THE COURT: Well, somewhat area of  
9 expertise do you believe Deputy Agent Suggs has.

10 MR. BATTLE: So the testimony, for  
11 example, would be we found digital scales in  
12 somebody's car, a scale used to weigh something.  
13 Agent Suggs, are digital scales common in the use  
14 of selling illegal drugs? Yes. That type of  
15 thing. It's not -- it's a narrow area of expertise  
16 and I think one in which Agent Suggs has dealt with  
17 over and over.

18 THE COURT: Are you going to have him  
19 testify as to what one drug looks like versus what  
20 another drug looks like?

21 MR. BATTLE: He conducted field tests  
22 on all the drugs related to this case, so I don't  
23 know that he'll be identifying just by sight, but  
24 yes as to the field test.

25 THE COURT: Okay.



1 MR. WILSON: Judge?

2 THE COURT: Yes, sir. What about his  
3 being an expert as to that?

4 MR. WILSON: Judge, he is not a  
5 pharmacologist or -- my issue is this. This is not  
6 a science area. It's not an area where experts --  
7 he can give his testimony about what he found and  
8 what he saw, but there's no expert, there's no  
9 social science field, about characteristics of  
10 things that are found or --

11 THE COURT: Well, it doesn't have to be  
12 a science area to be an expert in. I mean, it's  
13 not the kind of thing that I could be. It's any  
14 area where a normal person would not be able to  
15 testify to that can give -- to give help to the  
16 Court. I mean, certainly I couldn't tell what  
17 someone dealing in drugs might have in his or her  
18 car, and I certainly can't do any kind of field  
19 test to know what one drug might be versus what  
20 another drug might be. And if this gentleman can  
21 testify to that and give aid to the Court, he may  
22 be considered an expert. Do you think -- if this  
23 gentleman can do that, then he may very well be an  
24 expert in that particular area.

25 MR. WILSON: Judge, I would say that



1 that's not the case. Again --

2 THE COURT: I mean, I don't know if he  
3 is or isn't. But if he is, then I would qualify  
4 him as an expert in whatever that field is.

5 MR. WILSON: Officers get up all the  
6 time in civil cases and in criminal court and talk  
7 about what they found and where they found it.

8 THE COURT: Yes, sir.

9 MR. WILSON: And they can also say,  
10 look, in my experience, this is what we normally  
11 find in these situations. There is no field that  
12 can be either analyzed or somehow tested to see.  
13 Again, being an expert, there's a way to see if  
14 that person is an expert or not. Okay? Because  
15 you can go in and see what are their qualifications  
16 and also is the science testable. That's what the  
17 court has said over and over again. There's no way  
18 to me -- obviously he's an agent. He can testify  
19 to what he saw and what he found. But, again, to  
20 give that weight to testimony which is what the  
21 State is trying to do, to put it in as an expert,  
22 there is no field of study called characteristics  
23 of drug dealers. I've never heard of it before.  
24 The first time I heard of it was in a trial with  
25 Judge Culbertson. And, again, you know, that



70  
1 precedent is set. The judge denied that motion to  
2 allow him to enter him as an expert witness. I  
3 would ask the Court be consistent with that  
4 because, again, this is not an area of expertise  
5 that can be tested at all. Period.

6 THE COURT: Well, let's see what other  
7 area he may be qualified in.

8 MR. WILSON: Thank you, Your Honor.

9 THE COURT: Is there another area?

10 MR. BATTLE: That's it, Your Honor.

11 And the hang-up with Judge Culbertson was I asked  
12 for an expert in the area of illegal drugs. I  
13 didn't specify it to property used to sell illegal  
14 drugs. And I think that Culbertson took issue with  
15 that broad qualification.

16 THE COURT: Of illegal drugs?

17 MR. BATTLE: Right. Just an expert in  
18 illegal drugs. And so I tried to kind of narrow it  
19 in this case. And it's not -- it's a small feature  
20 of his testimony. It's not the main reason that  
21 Agent Suggs is here.

22 THE COURT: I understand, because he's  
23 a fact witness as well.

24 MR. BATTLE: Right. Correct, Your  
25 Honor.



1 THE COURT: I'm not sure what area that  
2 really is.

3 MR. BATTLE: It would just be in his  
4 law enforcement -- his observations in law  
5 enforcement on the property that drug dealers use  
6 to conduct that trade.

7 THE COURT: That might be stretching it  
8 kind of, Mr. Battle.

9 MR. BATTLE: So like plastic bags or  
10 plastic baggies. Anyway...

11 THE COURT: I'm going to deny that.

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: I'm going to sustain  
14 Mr. Wilson's objection.

15 MR. WILSON: Thank you, Your Honor.

16 UNIDENTIFIED FEMALE: Good.

17 MR. WILSON: Shhh.

18 THE COURT: I'm sure he's a very good  
19 agent, and I'm sure he's an expert in his own way.  
20 I'm just not sure the area that we can get our arms  
21 around. I'll take his testimony, but I don't know  
22 that he can give an opinion. He can talk about  
23 what all he saw, and I can draw my own conclusions.

24 MR. BATTLE: Okay. Thank you, Your  
25 Honor.



1 BY MR. BATTLE:

2 Q. Agent Suggs, when did you first receive  
3 information that Mr. White was selling drugs?

4 A. In or around July of 2013, I received  
5 information from a confidential source that advised  
6 that Mr. White was distributing cocaine base in or  
7 around the Conway section of Horry County. After  
8 meeting with the source and receiving information,  
9 before we could act on it, Mr. White was arrested  
10 by Conway City Police Department. I believe it was  
11 possession with intent to distribute cocaine base.  
12 He was --

13 THE COURT: Let me ask you -- now, I  
14 hate to stop you, but I don't know what cocaine  
15 base is.

16 THE WITNESS: Cocaine base is --

17 THE COURT: Would you explain that to  
18 me?

19 THE WITNESS: Yes, ma'am. Cocaine base  
20 is a term that is more of an identifying term for  
21 crack cocaine. It's just a drug that -- they take  
22 cocaine and they'll cultivate it and cook it into  
23 crack, and it will make a more pure form that  
24 they'll smoke. So cocaine base is just another  
25 word for crack essentially.



1 THE COURT: Does it have anything to do  
2 with just plain cocaine?

3 THE WITNESS: Cocaine is used to make  
4 crack. It's mixed with baking soda and it's cooked  
5 and made into crack to make a stronger form.

6 THE COURT: Why would anyone mess up  
7 cocaine to make cocaine crack -- I mean crack?

8 THE WITNESS: Just more money. It's  
9 more addictive. Crack cocaine is more addictive  
10 than regular powder cocaine in its properties, so  
11 there's more -- you can sell it for more, and you  
12 have repeat customers because the addiction level  
13 is so high with it.

14 THE COURT: Okay. Thank you.

15 BY MR. BATTLE:

16 Q. So you got information that Mr. White  
17 was selling drugs in the Conway area. And tell us  
18 what happened with that.

19 A. After meeting with the source, we were  
20 preparing to initiate an investigation into  
21 Mr. White. However, before we could really get  
22 that jump-started, Mr. White was arrested by Conway  
23 Police Department for possession with intent to  
24 distribute cocaine. And, again, I believe it was  
25 crack cocaine then. So he was arrested in regards



1 to that charge.

2 I received information in or around  
3 August 13th or August of 2013 that Mr. White,  
4 during the course of his drug duties as far as  
5 distributing, buying and selling dope, things of  
6 that nature, that he had secured a storage unit at  
7 -- I'm probably going to pronounce that wrong --  
8 Absco Storage Units there on Highway 9. That's  
9 going to be, I believe, the Longs section of Horry  
10 County at the intersection of 9 and 57. He said  
11 that he had a storage unit there in regards that he  
12 would take firearms as well as other items, some  
13 stolen, in exchange for illicit drugs.

14 We executed a search warrant there.  
15 After deploying a drug detection K-9, there was an  
16 investigation there in which we recovered 22  
17 firearms, five of which were stolen.

18 Later on, trying to pursue -- because I  
19 was notified by the source that Mr. White's  
20 activities had continued even though he was  
21 incarcerated, that he had took in Mr. Brantley --  
22 Shelton Manquell Brantley I believe was his full  
23 name -- had stepped up and was running Mr. White's  
24 business while he was incarcerated.

25 We were able to do a controlled drug



1 purchase on Mr. Brantley in which we got him audio  
2 and video recorded and secured a warrant for him.  
3 We located him in the Conway section of Horry  
4 County and took him into custody of which he was  
5 operating a vehicle that was utilized by Mr. White  
6 during his drug transactions as well as had  
7 Mr. White's phone on his person.

8 Those phones, we secured a search  
9 warrant for all the phones that he had in his  
10 possession, one of which being Mr. White's which  
11 had some videos of Mr. White in an area --  
12 actually, it was in the bank where the safe deposit  
13 box is -- recording large sums of currency.

14 Q. Let me show you some documents, Agent  
15 Suggs, and ask you if you recognize those.

16 THE COURT: Agent Suggs, while you're  
17 doing that...

18 THE WITNESS: Yes, ma'am.

19 THE COURT: There should be some fresh  
20 water there for you if you need it, and some cups.

21 THE WITNESS: Thank you.

22 These appear to be the search warrants  
23 that I secured in regards to the phones that  
24 Mr. Brantley had in his possession at the time of  
25 his arrest.

1 BY MR. BATTLE:

2 Q. Okay. And are those search warrants a  
3 true and accurate copy of the original search  
4 warrants?

5 A. Yes, sir, to the best of my knowledge.

6 Q. Have they been altered in any way?

7 A. Not that I can tell.

8 MR. BATTLE: Your Honor, at this time I  
9 would like to put the search warrants into evidence  
10 of the cell phones.

11 MR. WILSON: Judge, over previous  
12 objections, Your Honor.

13 THE COURT: Do you want to go ahead and  
14 state your full objection on the record now? And  
15 then you won't have to make it anymore.

16 MR. WILSON: Your Honor, we're going to  
17 -- just a clean slate objection to any documents,  
18 including this witness testifying, Your Honor, any  
19 evidence being put up by the State.

20 THE COURT: Okay. And that's because  
21 of the previous request for production and the  
22 interrogatories that were sent and not answered?

23 MR. WILSON: That's correct, Your  
24 Honor.

25 THE COURT: Thank you very much.



1 MR. WILSON: Thank you, Judge.

2 THE COURT: And Mr. Wilson, you will  
3 not have to object anymore. That will be a  
4 continuing objection throughout the matter.

5 MR. WILSON: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 That's Plaintiff's 1 or A?

8 THE REPORTER: One.

9 THE COURT: One? Thank you.

10 (PLF. EXH. 1, Search Warrants RE  
11 Phones, was marked and admitted into evidence.)

12 THE COURT: Mr. Wilson, do you need to  
13 see it? You've seen this?

14 MR. WILSON: Yes, Your Honor. He gave  
15 me a copy of it just now.

16 THE COURT: Yes, sir.

17 BY MR. BATTLE:

18 Q. Agent Suggs, let me ask you -- so you  
19 reviewed the data that you pulled off of  
20 Mr. White's phone?

21 A. Yes, sir.

22 Q. Do you recognize those photographs I  
23 just handed you?

24 A. Yes, sir. That was some of the  
25 photographs that was located on the device that was



1 identified by Mr. Brantley as Joseph White's.  
2 These are photographs that he had taken of himself  
3 on his phone as well as holding quantities, large  
4 quantities, of US currency, in small denominations  
5 consistent with street-level drug distribution.  
6 Some here in hundreds.

7 Q. And do those photos -- are they a true  
8 and accurate copy of the photos you downloaded from  
9 his phone?

10 A. Yes, sir.

11 Q. Have they been altered in any way?

12 A. No, sir.

13 MR. BATTLE: Your Honor, at this time,  
14 I would like to put in the photos from Mr. White's  
15 phone.

16 MR. WILSON: Your Honor, this is a  
17 different objection, Judge. I don't see the  
18 relevance. Gibson and Gordon, which are cases that  
19 we've talked about a number of times in these  
20 cases, talk about courts making inferences from  
21 things that are unrelated to the actual thing being  
22 seized. These pictures show him with money. They  
23 show him with clothes on. They show him posing.  
24 But I don't understand the relevance at all to this  
25 case.



1 THE COURT: Mr. Battle?

2 MR. BATTLE: Your Honor, the pictures  
3 of Mr. White are to show that it was Mr. White's  
4 phone even though a friend of Mr. White had the  
5 phone when the police officer seized it. The  
6 pictures of the money is connecting the money to  
7 Mr. White. And then later in this testimony, we're  
8 going to present evidence of the drug dealing. So  
9 if my goal is to seize the money, I have to have  
10 the drug dealing and the money and put them  
11 together.

12 MR. WILSON: Objection.

13 THE COURT: Objection? Yes, sir?

14 MR. WILSON: I'm sorry. I'm confused  
15 because, again, I'm just making sure that this is  
16 what they're saying -- I think that what he's  
17 suggesting is they're going to show that the money  
18 in this photo is the money that they found in the  
19 safe deposit box?

20 THE COURT: I don't know that they're  
21 going to show that that particular money, but  
22 they're going to show that some sum of money is  
23 connected to a drug deal.

24 MR. WILSON: In these photos, Judge, it  
25 only shows him with clothes on and taking a



1 picture. I'm not sure how we jump from that to  
2 this is his cell phone. I'm not sure how the  
3 relevance -- I don't see the relevance in that.

4 THE COURT: Well, I'm glad they're not  
5 showing him nude, but I don't know why -- why are  
6 you talking about the clothes on, Mr. Wilson?

7 MR. WILSON: Well, I'm saying that he's  
8 taking selfies of himself, so I'm not sure how  
9 that's relevant to seizing the drugs and the money  
10 that they were seizing.

11 THE COURT: As opposed to a Mr. Weiner?

12 MR. WILSON: Oh, no, no, as opposed to  
13 anything. I'm sorry. I'm just saying anything.  
14 Any pictures of him doing anything. I mean, just  
15 as it is useless to enter pictures of him standing  
16 like this. I don't understand why they're -- what  
17 the connection is of putting all the photographs in  
18 of him. All they've got to do is if they want to  
19 prove that it's his cell phone is bring out the  
20 cell phone records. And obviously if they have  
21 them, they can prove it that way. But I'm not sure  
22 why pictures of him, multiple pictures of him, I  
23 might add, which are excessive, are being put into  
24 the record. I don't understand that. I don't see  
25 the relevance.

1 THE COURT: Are there just three? How  
2 many photos are there? Three?

3 MR. WILSON: There are one, two, three,  
4 four, five. And I would submit to the Court I  
5 think that what they're trying to show is that he's  
6 got on hats and, I guess, thug clothes, but that is  
7 not relative to what's going on here.

8 THE COURT: I can't see that very well,  
9 but that doesn't look like thug clothes there.  
10 It's a guy with --

11 MR. WILSON: Well, he's got tattoos on  
12 his arms, Judge, is what I'm saying, you know. And  
13 he's got -- in this one, he's posing again. I  
14 don't know the relevance of that. And then he's  
15 posing again in this in front of, I guess, a Buick.

16 THE COURT: Mr. Wilson, too many  
17 athletes today have tattoos. I wouldn't consider  
18 that thug.

19 MR. WILSON: Judge, but they're also  
20 offering the money, pictures of the money, and they  
21 haven't even confirmed that the money in the  
22 picture was real. That's also a concern of mine.

23 THE COURT: Yes, sir.

24 MR. WILSON: They're offering this to  
25 show that there's a connection between my client



1 having money and then the money in this picture.  
2 They're not even -- they can't even confirm that  
3 the money in this picture is real.

4 THE COURT: Yes, sir. That will be  
5 good on cross-examination. I'm going to allow it.

6 MR. WILSON: Thank you, Your Honor.

7 THE COURT: Your objection is noted.

8 MR. WILSON: Thank you, Judge.

9 BY MR. BATTLE:

10 Q. Okay. Agent Suggs, did you pull any  
11 video off of Mr. White's phone?

12 A. Yes, sir. Whenever we have -- we have  
13 a device that we utilize to extract the contents of  
14 cell phones for evidentiary purposes after search  
15 warrants are obtained. So once we got the pictures  
16 and information off the phone, we pulled off a  
17 couple of videos of what is believed to be  
18 Mr. White counting money in the room wherever they  
19 take your safe deposit box at the bank -- wherever  
20 they pull it out for you to go into it and stuff --  
21 where he's recording video of large sums of  
22 currency laid out on the table and making comments  
23 suggesting that.

24 Q. Agent Suggs, I can play you some of the  
25 videos for you to authenticate.



1 THE REPORTER: Do I need to mark the  
2 photographs?

3 THE COURT: Agent Suggs, could you hand  
4 the court reporter those photographs?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you.

7 (PLF. EXH. 2, Photographs, was marked  
8 and admitted into evidence.)

9 THE WITNESS: James, I didn't get to  
10 point out that --

11 MR. BATTLE: You can't talk to me while  
12 you're testifying.

13 THE WITNESS: Oh, okay. I'm sorry.

14 MR. WILSON: He's about to enter into  
15 evidence a video which obviously we have to object  
16 to on two bases, the previous objection that I made  
17 to the Court regarding this not being produced --

18 THE COURT: Yes, sir.

19 MR. WILSON: -- in a timely fashion.  
20 But my second objection is that no one has  
21 confirmed or -- I presume no one -- I haven't seen  
22 any record of this -- has confirmed that it's my  
23 client in this particular video or the insinuation  
24 is that they're making, if I heard the agent  
25 correctly, they're trying to insinuate that he's



1 making statements in this particular video. I have  
2 not heard the video. I don't know what he says.  
3 But, again, I would have serious concerns about  
4 this evidence coming in to infer that he is a  
5 big-time drug dealer or that this money was somehow  
6 related or traceable to a drug transaction with  
7 these CIs. I just don't understand how they get  
8 from him being at the bank and then this being  
9 relevant to the money. The question is whether or  
10 not it's traceable.

11 THE COURT: Mr. Wilson, come around. I  
12 guess you can see some of the still photos. I'm  
13 not sure what it's -- I don't see your client in  
14 any of the --

15 MR. WILSON: I think he's going to play  
16 a video, Judge.

17 MR. BATTLE: Your Honor, I've got six  
18 videos, and these were all pulled off of  
19 Mr. White's cell phone.

20 BY MR. BATTLE:

21 Q. Is that right?

22 A. Yes, sir. The pictures, the videos as  
23 well as the text communications and stuff, that's  
24 all dumped through a Cellebrite system, so, you  
25 know, the integrity of the information removed from



1 the phone can be verified as well as statements  
2 from Mr. Brantley that the phone was his.

3 THE COURT: So these videos are all  
4 taken off of Mr. White's phone?

5 THE WITNESS: Off Mr. White's phone  
6 that Mr. Brantley was in possession of whenever he  
7 was incarcerated.

8 THE COURT: And you verified that these  
9 were taken off of Mr. White's phone?

10 THE WITNESS: Yes, ma'am. The phone --  
11 at the time that we arrested Mr. Brantley on -- I  
12 met with him on August 29, 2013 at J. Reuben Long,  
13 which he was given Miranda. Mr. Brantley, after  
14 that, volunteered information that while Mr. White  
15 was incarcerated that he was placed into the  
16 position by Mr. White to run his business while he  
17 was in jail. At that time, he made statements that  
18 the phone he was holding as well as the white Buick  
19 that he was operating, one of which --

20 MR. WILSON: Objection, Your Honor.  
21 This is all third-party hearsay, Judge. And,  
22 again, to get this in, they would need Mr. Brantley  
23 to come in. They're trying to lay the foundation  
24 to put this in by using this witness' testimony.  
25 He had no firsthand knowledge of this information.



1 They got it through a third party that -- they're  
2 saying the phone belonged to him. They haven't  
3 even laid the foundation that it's his phone.  
4 They're now trying to move from this agent to the  
5 third party, Brantley, and then say, okay, well,  
6 yeah, this is him. They're trying to identify him  
7 in court with the cell phone and then use the  
8 testimony against him without that third party  
9 being here, Judge. I'd ask the Court to absolutely  
10 exclude that evidence based on that issue. It's  
11 rank hearsay, Judge.

12 THE COURT: I think we're well past  
13 that based on the photographs that were taken off  
14 the phone. I think we've already -- aren't these  
15 the photographs that were taken off the phone that  
16 are already in evidence?

17 MR. BATTLE: Yes, Your Honor, and  
18 they're selfies of Mr. White which shows that is  
19 Mr. White's phone, that he's pulling these videos  
20 off of Mr. White's phone.

21 THE COURT: I'm going to overrule that.  
22 I think we're well past that objection, Mr. Wilson.

23 MR. BATTLE: Okay. Your Honor, I want  
24 to put in all six of these videos into evidence. I  
25 can have Agent Suggs authenticate that each of

1 these videos came off the phone, or I could play  
2 snippets of each video. There's only one that I  
3 want to publish for the hearing today though.

4 THE COURT: Okay.

5 MR. BATTLE: How do you want me to do  
6 it?

7 THE COURT: Let's play the one that  
8 you're interested in playing today, and then we'll  
9 get to the others. Oh, no, now no signal.

10 BY MR. BATTLE:

11 Q. Agent Suggs, tell me if you recognize  
12 this video.

13 THE COURT: Mr. Wilson, do you need to  
14 come around?

15 THE WITNESS: That's the room at the  
16 bank where they take the safe deposit boxes.

17 BY MR. BATTLE:

18 Q. So you've been in the safe deposit room  
19 at the bank?

20 A. I have.

21 Q. And do you recognize from this video  
22 that that's in that safe deposit room?

23 A. Yes, sir.

24 Q. And you recognize this video is a video  
25 that you pulled off of Mr. White's phone?



1 A. It is.

2 Q. Does this video appear to have been  
3 altered in any way?

4 A. Not that I can tell.

5 Q. Okay. Is it a true and accurate  
6 representation of that video?

7 A. As best I can tell.

8 Q. Okay.

9 MR. WILSON: Your Honor?

10 THE COURT: Yes, sir.

11 MR. WILSON: I have to object, Judge.

12 He can't authenticate it because he wasn't the  
13 party who had originally the cell phone. He can't.  
14 He's not Brantley. He's not the person. He's not  
15 the guy who should be able to testify that, yes, I  
16 got this cell phone. I saw this actually on here.  
17 They're missing a step in the foundation, Judge,  
18 and I would ask the Court to exclude this evidence.  
19 I would ask the Court to exclude this evidence  
20 because, again, he can't testify about what another  
21 party gave him and then they took the evidence off  
22 that phone. He didn't get it from Mr. White; he  
23 got it from Mr. Brantley. That's their CI who they  
24 should have produced today. It's rank hearsay,  
25 Judge, to let it in and to use it against this

1 defendant when, again, there's no confirmation of  
2 whose cell phone it is. They haven't laid that  
3 foundation.

4 THE COURT: I'm going to overrule it.  
5 Go ahead.

6 MR. BATTLE: Thank you, Judge.

7 MR. WILSON: Thank you, Judge.

8 MR. BATTLE: Go ahead.

9 (The video was played.)

10 MR. BATTLE: Judge, I have five other  
11 videos that are similar to that. I can play parts  
12 of those videos, or if Mr. Wilson will stipulate  
13 that they all came off of the same phone.

14 THE COURT: Were they all taken at the  
15 bank?

16 MR. BATTLE: I have four at the bank,  
17 one in a car and one in a bedroom.

18 MR. WILSON: I will not stipulate. And  
19 on top of that, too, Judge, you don't even see the  
20 person. Even in drug cases --

21 THE COURT: Yeah, they did show -- I  
22 think you were sitting over there. They did -- Mr.  
23 White did show his face for a brief second.

24 MR. WILSON: Judge, again, they're  
25 still missing a step. They're laying a foundation

1 for the Court to infer from this -- and, again,  
2 this is addressed in Gibson and Gordon.  
3 Information is coming in regarding this defendant  
4 that is completely, as I see, unrelated. He's  
5 counting some money. That's what he's doing.

6 THE COURT: That's exactly right.  
7 That's all I know at this point. He's counting  
8 some money apparently at a bank. Agent Suggs is  
9 saying in the bank's room there where all the safe  
10 deposit boxes are. I forget what room they call it  
11 where the banker allows you to be in there alone to  
12 look at your safe deposit box contents.

13 MR. WILSON: And yet this gentleman  
14 doesn't work for the bank.

15 THE COURT: No, sir, he does not.

16 MR. WILSON: He's not from the bank.

17 THE COURT: No, sir, he's not.

18 MR. WILSON: He's not an expert, I  
19 think, in characteristics of a bank. I mean, he's  
20 not an expert in anything having to do with what's  
21 going on there. He's then putting this client in a  
22 room from a cell phone he got from a third party,  
23 Brantley. And then it's introduced at trial for  
24 the truth of the matter asserted.

25 THE COURT: Well, Mr. White is on the



1 video just for, like, a brief one to three seconds.

2 MR. WILSON: After he gets it in,  
3 though, Judge. If it doesn't come in, then  
4 obviously it's not to be taken into consideration,  
5 but he's already got it in. He's already showed  
6 the Court. So you can see his face, yes. But,  
7 again, the question is how they laid the foundation  
8 or whether it's rank hearsay. And anytime you've  
9 got to jump from one person to the other to lay the  
10 foundation, it becomes hearsay. That's my issue  
11 with this. And I understand. I'm not trying to  
12 belabor the Court.

13 THE COURT: I understand. Thank you  
14 very much.

15 MR. WILSON: Thank you, Your Honor.

16 MR. BATTLE: Okay. Your Honor, at this  
17 time I'd like to put a copy of the six videos into  
18 evidence.

19 THE COURT: Okay. And the only one  
20 we've seen is -- is that the middle one?

21 MR. BATTLE: Yes, Your Honor. This  
22 would be -- so on the CD, it's marked as CAM00014.

23 THE COURT: All right.

24 MR. BATTLE: And I can play the five  
25 others if the Court would like to do that, or I can

1 play the beginnings of them and just let Agent  
2 Suggs authenticate it. Or I could just -- why  
3 don't I just play the first little bit of each  
4 video.

5 THE COURT: Is the first one in a  
6 different location? Is the money taken out of the  
7 bank?

8 MR. BATTLE: I don't know, Your Honor.  
9 I just know that these are videos that were taken  
10 off the cell phone and whatever happens in the  
11 video. I don't know what happens to the money.

12 THE COURT: Okay.

13 MR. BATTLE: So should I play the first  
14 little bit of each one?

15 THE COURT: That's fine. Well, what's  
16 occurring in the rest of them?

17 MR. BATTLE: Just counting money and  
18 talking.

19 THE COURT: Well, just if it is -- so  
20 the others would be introduced to show that it's  
21 Mr. White's phone?

22 MR. BATTLE: Right, right. And his  
23 contact with large sums of cash. Or I could submit  
24 an exhibit with just the video I published today.

25 THE COURT: That's fine.



1 MR. BATTLE: I can do that?

2 THE COURT: That's fine.

3 MR. BATTLE: Okay. I don't have an  
4 exhibit --

5 THE COURT: Just with that on it?

6 MR. BATTLE: This has the six on it, so  
7 I can submit that later?

8 THE COURT: Let's just mark that one,  
9 and I will just review that one.

10 MR. BATTLE: Okay. That's the CAM0014  
11 [sic].

12 THE COURT: Okay.

13 MR. BATTLE: Thank you, Your Honor.

14 THE COURT: That will be Plaintiff's  
15 Exhibit...

16 THE REPORTER: Number 3.

17 THE COURT: So admitted. That's over  
18 the objection -- all these exhibits will be over  
19 objection.

20 MR. WILSON: Yes, Your Honor. Some may  
21 vary. That's the only reason I stood up, Judge.  
22 And I apologize.

23 THE COURT: That's okay.

24 (PLF. EXH. 3, CD with Cell Phone  
25 Videos, was marked and admitted into evidence.)



1 BY MR. BATTLE:

2 Q. Agent White, starting in January 2015,  
3 tell me about your investigation of Mr. Suggs, tell  
4 me about your investigation of Mr. White.

5 A. In January of 2015, Agent Dennis with  
6 our unit again was approached by a confidential  
7 source that said Mr. White was again distributing  
8 illegal narcotics or drugs in and around --

9 MR. WILSON: Objection, Your Honor.  
10 Again, it's hearsay. He's put out hearsay for the  
11 record, Judge. He's saying what a CI who is not  
12 here is saying to them. That's inadmissible.

13 BY MR. BATTLE:

14 Q. Okay. Let's go to the controlled buys.  
15 Did you conduct any controlled buys?

16 THE COURT: That sustained.

17 MR. WILSON: Thank you, Judge.

18 MR. BATTLE: Thank you.

19 THE WITNESS: Agent Dennis conducted  
20 controlled purchases from Mr. White on January 13,  
21 2015, January 19, 2015, and February 9, 2015, all  
22 for cocaine base in and around the Conway section  
23 of Horry County.

24 BY MR. BATTLE:

25 Q. And what is a controlled buy?



1           A.    A controlled buy is essentially a  
2 purchase of some illicit or unlawful drug within  
3 the jurisdiction that the officer operates by  
4 utilizing either an undercover, a confidential  
5 source, which is operating under the direction and  
6 control of an agent with the 15th Circuit Drug  
7 Enforcement Unit in which we will search the  
8 confidential informant or source whenever they  
9 arrived to verify there is no contraband or no  
10 weapons or anything present that's not supposed to  
11 be present so, again, we can testify to the  
12 integrity of what they come back to us with. We  
13 place some type of audio and video recording device  
14 on that source. We'll send them to meet with the  
15 defendant in which agents will be around to monitor  
16 it, to observe it. Give them a quantity of  
17 official police funds. Send them to conduct the  
18 transaction and then come back to an original  
19 preset meeting location in which, again, we'll  
20 collect the substance that was purchased and again  
21 conduct another search to again testify to the  
22 integrity of the evidence and everything there and  
23 take those drugs.

24           Q.    Okay. So did you conduct three  
25 controlled buys on Mr. White?



1 A. Yes.

2 Q. Did y'all do a search warrant on his  
3 home?

4 A. Yes, sir. On February 18, 2015, a  
5 search warrant was executed at his residence in  
6 which 209 grams of cocaine, 39 grams of crack,  
7 several tablets -- I'm not sure exactly what they  
8 were right now -- as well as \$7695 and two handguns  
9 was found at his residence. Also, the drugs were  
10 field-tested and later sent to the lab in which  
11 they yielded a positive result for their respective  
12 drug.

13 Q. Okay, 209 grams of cocaine, is that a  
14 lot of cocaine?

15 A. Yes.

16 Q. Okay, 39 grams of crack, is that a lot  
17 of crack?

18 A. Yes.

19 Q. What's the threshold for trafficking  
20 weight in South Carolina to be charged with  
21 trafficking?

22 A. Ten grams.

23 Q. Ten grams? And this is way over that  
24 amount?

25 A. Yes, sir. It far exceeds it.



1 THE COURT: Tell me again how much you  
2 found.

3 THE WITNESS: It was 209 grams of  
4 powder cocaine and then 39 grams of crack cocaine,  
5 which is cocaine that had already been developed  
6 and cultivated into crack.

7 THE COURT: Okay.

8 BY MR. BATTLE:

9 Q. Tell me about the rest of your  
10 investigation of Mr. White.

11 A. Once that case was done, the agent, of  
12 course, was working on his paperwork. I was  
13 contacted by Deputy Commander Bishop which said  
14 that an anonymous source had called our unit on  
15 April 24, 2015, that said that there was a safe  
16 deposit box at Wells Fargo Bank located in the  
17 Conway section of Horry County which contained a  
18 large sum of currency that was believed to be  
19 illicit drug proceeds. The source further stated  
20 that Mr. White had no job or anything like that to  
21 substantiate such funds and that they knew it was  
22 drug money. I'm sorry. I believe my date was a  
23 little off on that. We actually -- no. It was the  
24 24th that we received the information.

25 We obtained a search warrant or secured



1 a search warrant for the safe -- for the records  
2 regarding Mr. White for Wells Fargo Bank and  
3 presented it to the Honorable Judge Mayers in which  
4 he found such cause to approve it and sign it.

5 From there, we went --

6 Q. Let me stop you, Agent Suggs. I'm  
7 sorry to interrupt.

8 A. Sure.

9 Q. Let me go back. The search of  
10 Mr. White's home -- let me ask you if you recognize  
11 that document.

12 A. This is the search warrant for the  
13 residence and property located on Turtle Street in  
14 the Conway section of Horry County. That was  
15 secured by Agent Dennis at Mr. White's home.

16 Q. Okay. And is that a true and accurate  
17 copy of that search warrant?

18 A. To the best of my knowledge.

19 Q. Has it been changed in any way or  
20 altered?

21 A. Not that I can tell.

22 Q. And is this the search -- this is the  
23 search warrant for the home where the 209 grams of  
24 cocaine and 39 grams of crack cocaine were found?

25 A. Yes, sir.



1 MR. BATTLE: Your Honor, at this time I  
2 would like to put this search warrant into evidence  
3 as Plaintiff's 4.

4 THE COURT: Would it be 4?

5 MR. WILSON: Your Honor, the objection  
6 we have with this is this agent is not testifying  
7 that he actually went and got this particular  
8 search warrant, is my understanding.

9 THE COURT: Is that Agent Bishop's  
10 search warrant?

11 THE WITNESS: That's Agent Chris Dennis  
12 that's with our unit. He's since medically  
13 retired. He's no longer active as an agent.

14 THE COURT: Is that one in your file?

15 THE WITNESS: Yes, ma'am. That's a  
16 matter of our records, and we have a copy of it at  
17 our unit. I was also his training officer whenever  
18 he got hired, and I accompanied him on a lot of the  
19 operations.

20 MR. WILSON: He's trying to lay the  
21 foundation to get it in, and he wasn't there. He  
22 can't authenticate whether or not it was altered or  
23 not, Judge. He can't even testify to that. He  
24 doesn't know. He never went to actually get the  
25 original warrant itself, but he's trying now to



1 clean it up because he can say on the record that  
2 okay, well, it's never been altered. It's an  
3 important issue. There's no way to tell whether or  
4 not it's been altered or not unless you were the  
5 original officer or detective who actually went and  
6 got the original search warrant from the judge.

7 THE COURT: You're talking about the  
8 affidavit that was submitted to the judge for the  
9 search warrant.

10 MR. WILSON: That's right, Judge. Get  
11 the grounds for the actual search warrant itself  
12 which is the issue.

13 MR. BATTLE: Your Honor, Agent Suggs is  
14 the lead investigator on this case, and he's been  
15 involved with it from day one. He may not have  
16 been the specific officer that signed the affidavit  
17 for the search warrant, but he was involved in this  
18 case from the start and was dealing with these  
19 documents on a regular basis.

20 THE COURT: I'm going to allow it  
21 because it's part of his records. It's part of his  
22 records, basically part of the business records, so  
23 I'm going to allow it in.

24 MR. WILSON: Judge, one other issue.  
25 It's not even signed.



1 THE COURT: The affidavit is not  
2 signed?

3 MR. WILSON: No.

4 THE COURT: Let me see it.

5 MR. WILSON: May I approach, Judge?

6 THE COURT: Yes, sir. So the affidavit  
7 is not signed?

8 MR. WILSON: The affiant never signed  
9 it, Your Honor.

10 THE COURT: Well, that might be a  
11 problem. Someone notarized it.

12 MR. WILSON: So the notary messed up.

13 THE COURT: It looks like -- is that  
14 Cliff Welch that signed it, that notarized it? No.

15 What do you say about that, Mr. Battle?

16 MR. BATTLE: Your Honor, it may be just  
17 the copy I got. I know that the search warrant is  
18 signed by a judge, and the return is signed by a  
19 judge and the agent. I guess --

20 THE COURT: Well, search --

21 MR. BATTLE: I'm looking for  
22 documentation of the search.

23 THE COURT: Search warrants, the  
24 affiant can stand before the judge and fill in the  
25 blanks for a search warrant, but we don't have the

1 affiant here to testify that that's in fact what he  
2 did. Of course, we're not here to say whether or  
3 not the search warrant is valid or not.

4 MR. WILSON: Yes, Your Honor.

5 THE COURT: What is the --

6 MR. WILSON: Judge, it is germane.

7 It's extremely germane because that's why they're  
8 putting it in because, again, they've got to have  
9 probable cause in the statute. And in Gibson and  
10 Gordon, which are the controlling cases on seizure  
11 cases, they got to prove first probable cause for  
12 the searches to seize all of this stuff. If they  
13 don't have probable cause, there's no burden shift  
14 to the actual defendant. That's why they're  
15 putting it in.

16 THE COURT: Well, apparently Judge --  
17 is it Judge Mayers that signed the search warrant?  
18 Who signed the search warrant?

19 BY MR. BATTLE:

20 Q. Do you recognize the signature from the  
21 judge?

22 MR. WILSON: I'm sorry. What was the  
23 question?

24 THE COURT: Was it Judge Mayers who  
25 signed the search warrant?



1 MR. WILSON: Your Honor, I'm not sure,  
2 but I thought...

3 MR. BATTLE: I asked if he recognized  
4 the judge who signed the search warrant.

5 MR. WILSON: He wasn't present when the  
6 search warrant was signed, Judge.

7 THE COURT: Is that Cliff -- was this  
8 in the city of Myrtle Beach? It wasn't, was it?

9 THE WITNESS: No, ma'am. It was Judge  
10 Arakas right here.

11 THE COURT: Judge Arakas. Okay.

12 THE WITNESS: I'm not saying I was  
13 present. I'm used to their signatures.

14 THE COURT: Where is Judge Arakas?

15 THE WITNESS: That's Judge Arakas.

16 THE COURT: And on the return, is  
17 this -- what's the officer's name?

18 THE WITNESS: Dennis.

19 THE COURT: Is this officer Dennis  
20 name on the February 19, 2015, on the last page?

21 MR. WILSON: I think that's Casey  
22 Jones, Your Honor, if I'm not mistaken.

23 THE WITNESS: I can't read it. I don't  
24 recognize that signature. I'm sorry, Your Honor.  
25 I don't recognize that signature right off.



1 THE COURT: Okay.

2 THE WITNESS: It's not very legible.

3 THE COURT: Are any of these items the  
4 items that are going to be -- that you're trying to  
5 seize today, Mr. Battle?

6 MR. BATTLE: No, your Honor.

7 THE COURT: Is this necessary for your  
8 case today?

9 MR. BATTLE: It shows -- it connects  
10 Mr. White to drug dealing, but the items aren't  
11 part of the seizure action. So I would describe it  
12 as compelling evidence that Mr. White is a drug  
13 dealer.

14 MR. WILSON: Objection, Judge, and move  
15 to strike that. Counsel can't testify for this  
16 hearing. He knows that.

17 THE COURT: He's not testifying. I  
18 just asked him if it were necessary for this  
19 particular case. I'm concerned about letting this  
20 in today without Agent Dennis being here to testify  
21 what he told Judge Arakas.

22 MR. BATTLE: Well, I guess our argument  
23 would be if Judge Arakas signed it, then he must  
24 have been convinced that there was probable cause.

25 THE COURT: Well, on its face, we take



1 it to be probable cause.

2 MR. WILSON: Judge, my concern is this.  
3 The affiant is not here. My other concern  
4 obviously was the other issue I had earlier  
5 regarding this witness testifying regarding this  
6 affidavit. But the affidavit is not even signed,  
7 we have no clue what he told Judge Arakas. He  
8 didn't sign the oath. He didn't sign the  
9 affidavit. This is regarding a search warrant  
10 which, again, led to them bringing the case and  
11 seizing the items. So it is germane. It is a  
12 germane issue of this search because, again, it  
13 prompted them to do other things that they did  
14 afterwards. And, again, this search warrant, if  
15 they got it from Judge Arakas or Judge whoever  
16 signed it, Judge Arakas.

17 THE COURT: Judge Arakas.

18 MR. WILSON: Right. Judge Arakas, then  
19 the affiant has to be here to say, look, I said  
20 this to Judge Arakas or he has to sign the  
21 affidavit prompting obviously the probable cause  
22 argument. But he's not even here to be deposed.

23 THE COURT: Or to testify.

24 MR. WILSON: Or to testify, Judge. I'm  
25 sorry. Testify. My apologies.



1 THE COURT: Okay. I'm going to sustain  
2 the objection. It does give me pause that it is  
3 not signed and that Agent Dennis is not here to  
4 fill in the blanks.

5 MR. WILSON: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. BATTLE: Okay.

8 THE COURT: Otherwise, if it had been  
9 signed, I would have let it in under the business  
10 records act.

11 MR. BATTLE: Okay.

12 THE COURT: But I didn't know it wasn't  
13 signed until Mr. Wilson brought it up.

14 MR. BATTLE: Sure.

15 BY MR. BATTLE:

16 Q. Agent Suggs, so the search of  
17 Mr. White's home was conducted. What did you do  
18 next?

19 A. As that agent, again -- as the other  
20 agent that handled the case, Agent Dennis handled  
21 that portion. We received notification again by an  
22 anonymous source that there was a safe deposit box  
23 in Mr. White's name, that he didn't have any lawful  
24 means to have such income and he believed it was  
25 drug proceeds. So that, with my prior knowledge of



1 Mr. White, and his believed illicit activities, I  
2 secured a search warrant for the records involving  
3 any accounts held at Wells Fargo to include bank  
4 accounts, safe deposit box accounts, things of that  
5 nature, from that bank in which they responded and  
6 identified a safe deposit box number 317 that was  
7 registered solely to Mr. White.

8 With that information, and what we had,  
9 we secured a search warrant for that box, safe  
10 deposit box, and again presented it, which it was  
11 approved, and we presented it to Wells Fargo. They  
12 sent it to their main headquarters because they  
13 have certain criteria that must be met before they  
14 would approve. And which they contacted me -- I  
15 think it was a day or two later -- that it met the  
16 criteria and that they gave me a date that a  
17 representative would be there to open the box.

18 Q. Agent Suggs, let me show you two  
19 documents, and ask if you recognize those documents?

20 A. One of them is the search warrant for  
21 the records regarding Mr. White's -- any accounts  
22 held by him at the bank, and the other is a search  
23 warrant for the box itself, number 317, at Wells  
24 Fargo Bank on Third Avenue in Conway.

25 Q. Okay. And are those search warrants



1 true and accurate copies?

2 A. They are.

3 Q. Have they been altered in any way?

4 A. From what I'm looking at, not to my  
5 knowledge. They appear to be the same as when I  
6 signed them. They were signed by Judge Mayers.

7 Q. Are you the executing agent on both of  
8 these search warrants?

9 A. Yes, sir. I'm the affiant as well as  
10 the agent executing.

11 MR. BATTLE: Your Honor, at this time  
12 I'd like to put the two search warrants into  
13 evidence.

14 MR. WILSON: Judge, we are obviously  
15 going to have to object on the record. Obviously,  
16 one of the things that led to it -- excuse me. I  
17 apologize. One of the things that led to this  
18 investigation was the anonymous person. And so  
19 what they did was they used the search from the  
20 house to then start an investigation on Mr. White.  
21 Well, from that point in time, they actually then  
22 go to, I guess, an anonymous source who was never  
23 revealed to anyone -- not in the records, not in  
24 the search warrant to anybody -- and then say okay,  
25 well, we're going to get a search warrant based on



1 the anonymous person's statement and verify that  
2 there's a bank. But never do they ever say that  
3 there is some tie to create probable cause in this  
4 matter. And obviously at the end of this, we're  
5 going to object to it. But my concern about it  
6 coming in at this point in time is that once the  
7 trees start falling from the fruit of the poisonous  
8 tree, again, these searches become -- unless they  
9 have some good faith belief that this money is  
10 connected to drug activity, they start to fall like  
11 dominoes. And again, I think that's happening in  
12 this case. Without the actual first search, how do  
13 you then promulgate another search of a safe  
14 deposit box which cash was found in and other  
15 things. That's my concern, Judge.

16 THE COURT: Mr. Battle?

17 MR. BATTLE: I think Mr. Wilson is  
18 misinterpreting. The search of Mr. White's home  
19 was not bad. You just weren't allowing the search  
20 warrant in because it wasn't signed by the affiant  
21 or that affiant isn't present in the court. But  
22 that testimony from Agent Suggs about what was  
23 found in that home is in evidence. And that is the  
24 basis for Mr. White's drug dealing.

25 MR. WILSON: Judge, if the affiant --



1 if the actual affiant isn't here to support the  
2 search warrant, the search warrant -- all  
3 definitions are bad either way. As long as, if he  
4 was here, he could testify to X, Y, and Z. Again,  
5 the search warrant is based on the affidavit to the  
6 actual magistrate. If he's not here, the search  
7 warrant is no good. Everything else becomes fruit  
8 of the poisonous tree. They can't bring it in and  
9 use it against him even in a criminal trial if the  
10 search warrant itself is bad. So if the search  
11 warrant is bad, it obviously follows that  
12 everything that flows from that is going to be  
13 fruit of the poisonous tree. The issue they have  
14 is they found things in the house, drugs, which  
15 they have to tie to the money. Right now, there  
16 are no drugs.

17 THE COURT: Well, you know this isn't a  
18 criminal trial.

19 MR. WILSON: It is not. It's a civil  
20 case, though, where the Court has to consider the  
21 search warrant itself. Again, the statute requires  
22 they get probable cause first. Your Honor has  
23 thrown out the actual search warrant.

24 THE COURT: No. I just said it wasn't  
25 coming in. I didn't say it's not coming in because



1 there was no probable cause.

2 MR. WILSON: Then I apologize. If the  
3 Court didn't allow it in, then everything that  
4 flowed from that search is out.

5 THE COURT: No. This isn't a criminal  
6 trial, and I didn't say -- I have not held there  
7 was no probable cause.

8 MR. WILSON: Okay. All right. Thank  
9 you, Judge.

10 THE COURT: Thank you, sir.

11 BY MR. BATTLE:

12 Q. Agent Suggs, did you have something to  
13 add on that matter?

14 A. I did, sir. If you review the search  
15 warrant that I actually typed in regards to the  
16 information regarding the safe deposit box at the  
17 bank records, it was a culmination of information  
18 that we had gleaned since we began investigating  
19 Mr. White from inception back around July of 2013.  
20 It was the information given by a confidential  
21 source. It was the controlled drug buys. It was  
22 the debrief that was given to me in regards to his  
23 illicit activity. It was a culmination of that.

24 MR. WILSON: Objection, Your Honor.  
25 Again, there bringing in third-party information



1 from anonymous sources and third-party sources  
2 which are not a party to this action. Not a party,  
3 not listed, not even called today to testify about  
4 the information they're trying to use to get this  
5 information in. This agent can't testify about  
6 what a third party said. He can't even put it in  
7 the record. All he can say is what he did because,  
8 again, what he's doing is trying to get in  
9 third-party testimony by putting in hearsay  
10 evidence.

11 THE COURT: Okay. So your objection is  
12 hearsay.

13 MR. WILSON: Yes, Your Honor.  
14 BY MR. BATTLE:

15 Q. So the basis for your search warrant ==

16 THE COURT: So sustained.

17 MR. WILSON: Thank you, Your Honor.

18 BY MR. BATTLE:

19 Q. -- was your investigation as to  
20 Mr. White's drug dealing activity?

21 A. Yes, sir, that along with three prior  
22 controlled drug buys.

23 Q. Okay. And his arrest in 2013?

24 A. Uh-huh (affirmative).

25 Q. Okay. So that's -- the search warrant,



1 the first one, gave you the number for the safe  
2 deposit box?

3 A. One of them. I don't know which one is  
4 stacked on which, but one of them was for the  
5 actual bank records regarding Mr. White, any  
6 accounts held, as well as the safe deposit box.  
7 This one here. Any information regarding him as  
8 well as a female that was known to associate with  
9 him. This search warrant is for that information  
10 to.

11 Q: Okay.

12 THE COURT: And that's exhibit what for  
13 the record, sir?

14 THE REPORTER: It has not been marked.

15 THE COURT: It's not been marked yet?

16 Okay. Thank you. I'm sorry.

17 MR. BATTLE: Has it been admitted into  
18 evidence, Your Honor?

19 THE COURT: Oh, that's the one that we  
20 did not admit?

21 MR. BATTLE: No. The one on the home  
22 was the one we did not admit. This would be for  
23 the bank and the safe deposit box.

24 THE COURT: Okay. That has not been  
25 admitted yet. You have not tried to admit it yet,



1 is that correct?

2 MR. BATTLE: I would like to admit it  
3 Your Honor.

4 THE COURT: I'm sorry. That's my  
5 fault. I thought it had been admitted.

6 MR. BATTLE: Right.

7 THE WITNESS: This is for the  
8 information regarding the accounts held by  
9 Mr. White, and this one is for the actual box  
10 itself.

11 MR. BATTLE: And, Your Honor, I believe  
12 he already authenticated the document. I'd like to  
13 move to put that into evidence.

14 MR. WILSON: Judge, over previous  
15 objections obviously from the beginning. But, Your  
16 Honor, again, they can't lay the foundation for  
17 this by citing anonymous sources and third parties.  
18 It is not proper to lay foundations like that for  
19 search warrants. He can't come in with an agent  
20 and say look, so and so told me but not say who so  
21 and so is. It is rank hearsay. It is rank because  
22 honestly they're not even telling us who it is.  
23 They're saying we heard from somebody that this is  
24 what it was, so that's the foundation we give. I  
25 would ask the Court not to allow this in because,



1 again, it doesn't sound like they have any  
2 foundation to lay for probable cause. They just  
3 want to get the document in so they can argue later  
4 on. But, again, the document has to be based on  
5 probable cause. I'm not asking the Court for a  
6 ruling, but I am asking the Court -- on probable  
7 cause -- but I am asking the Court to not allow  
8 this document in because, again, no one, no  
9 anonymous source or third party has said -- or  
10 unless they can show me in an affidavit -- and I  
11 haven't seen one attached to this document that's  
12 been produced -- saying, yes, I said this to so and  
13 so because, again, in their complaint, they say  
14 that one of the watch commanders said he had an  
15 account there. That's in their complaint which  
16 obviously I can ask about later on. But again,  
17 that's in the complaint. That's one of the facts  
18 they allege, and now it's an anonymous source.

19 THE COURT: Mr. Battle?

20 MR. BATTLE: Your Honor, I'm trying to  
21 authenticate a search warrant that my agent  
22 executed. It is based off of a lot of evidence  
23 against Mr. White. Some of it is information from  
24 confidential sources. It's not hearsay to say that  
25 was the basis for my search warrant; it's hearsay

1 to say, you know, Mr. White is a drug dealer  
2 because this person told me he's a drug dealer.  
3 I'm having, my purpose is to show how Agent Suggs  
4 got into that safe deposit box, and that search  
5 warrant gave him legal authority to do that.

6 THE COURT: Well, let me see the -- may  
7 I see the affidavit, please, the affidavit for the  
8 search warrant? Are there two here?

9 THE WITNESS: Yes, ma'am.

10 MR. BATTLE: Yes, Your Honor.

11 THE COURT: Search warrant for the safe  
12 deposit box.

13 THE WITNESS: One is for the records,  
14 and one is for the box itself.

15 THE COURT: Well, I can almost guess  
16 who the confidential source is, but -- and I've  
17 just been sitting here for a little while. I mean,  
18 we already have a tape, don't we? Maybe not.

19 Have you seen the search warrants, Mr.  
20 Wilson?

21 MR. WILSON: Yes, Your Honor, I  
22 reviewed them briefly, Judge, over here. But my  
23 main concern is that the search warrant is based on  
24 an anonymous source who is not here, and my other  
25 concern as well is in the actual complaint in the

1 allegations, they specifically say they name out  
2 the watch commander as being the person who said  
3 that which is contrary to this witness statement  
4 regarding these search warrants for the safe  
5 deposit box, which is obviously a big issue.

6 THE COURT: Well, what it says was  
7 Agent Suggs received information relayed from  
8 Deputy Commander Bishop which advised that  
9 Mr. White was in possession of a safe deposit box  
10 at Wells Fargo Bank.

11 MR. WILSON: There is no mention of an  
12 anonymous source or who that source is which is  
13 what the affidavit says. The affiant is not the  
14 actual confidential source. The affiant is an  
15 agent. How do you go from --

16 THE COURT: Well, they're not going to  
17 tell you who the confidential source is.

18 MR. WILSON: They have to in civil  
19 cases. They have to. They don't have a choice.  
20 If they're trying to lay the foundation to get the  
21 actual search warrant in, they've got to let us  
22 know what -- they've got to lay the foundation for  
23 these search warrants. They can't just -- just  
24 because a judge signed it doesn't make it  
25 necessarily true or accurate. They have to lay the



1 foundation for what they did and how they did it  
2 because, again, that goes to probable cause,  
3 whether or not there is probable cause, whether or  
4 not the actual informant themselves have any sort  
5 of veracity. Whether or not they can be deposed or  
6 testify under oath and be crossed by me which  
7 nobody wants.

8 THE COURT: Yeah, but Judge -- was that  
9 Judge Mayers?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Judge Mayers found that  
12 there was probable cause based on that affidavit.

13 MR. WILSON: Judge, there are tons of  
14 judges who find every day --

15 THE COURT: But I don't go behind Judge  
16 Mayers at this point and find probable cause or  
17 not. That's not what I do here in this case.

18 MR. WILSON: But Judge, it's an issue  
19 for later on. It is. It's an issue for the Court  
20 because the statute requires they prove probable  
21 cause before they can get these search warrants.

22 THE COURT: But I find that Judge  
23 Mayers properly found probable cause. I mean, I  
24 don't --

25 MR. WILSON: Can you not hear my



1 argument, Judge, without even --

2 THE COURT: Certainly, I'll hear your  
3 arguments.

4 MR. WILSON: I mean, without even -- I  
5 mean, my concern is that, again, this agent has  
6 told the actual detached magistrate who -- excuse  
7 me. There's some other things going on here, but  
8 I'll flesh that out later. He has now told him,  
9 look, we've got an anonymous source who says that  
10 he might have a safe deposit box. And then he  
11 says, also, we found this 209 grams of cocaine.

12 THE COURT: Well, he didn't say -- I  
13 thought he said confidential source, did he not?

14 MR. WILSON: He said anonymous.

15 THE COURT: He said anonymous? Okay.

16 MR. WILSON: He said anonymous. So it  
17 doesn't even say -- I don't even know if they're a  
18 CI. I don't know who that person is. So to test  
19 the veracity for the actual purpose of a search  
20 warrant becomes an issue for us as the Defense  
21 obviously. We can't do that because they're  
22 saying, look, he said it, so it must be true  
23 because Judge Mayers signed it. That is not how  
24 that works. I mean, again, probable cause can be  
25 tested at any point in time during obviously the



1 process, even in civil court. But my concern here  
2 is that this officer has already said on the record  
3 several times that they heard from so and so, but  
4 we don't know who so and so is. I don't know how  
5 you get from that to having a probable cause search  
6 warrant or having a search warrant that's good or  
7 valid to search the actual safe deposit box. I  
8 still don't hear a foundation where it's been laid  
9 with anyone saying that, look, I did this, I saw  
10 this, I know what this person said or get the  
11 anonymous source on the stand and allow them to  
12 testify about it and then have their veracity --  
13 because, again, he has a right to cross-examine  
14 them, even in civil cases. He has a right to do  
15 whatever he wants if they're saying that that is  
16 part of the probable cause that they got the actual  
17 warrant on. And that's not given here. That's not  
18 even produced. So it's hidden in darkness in the  
19 court where obviously we're trying to find truth or  
20 light, and that's not being given here at all  
21 period. And that's rank hearsay. But not only  
22 that, it's a miscarriage of justice to allow them  
23 to do that.

24 THE COURT: Okay. I'm going to  
25 overrule your objection.

1 MR. WILSON: Yes, Your Honor.

2 MR. BATTLE: Thank you, Your Honor.

3 (PLF. EXH. 4, Search Warrants for Bank,  
4 was marked for identification.)

5 BY MR. BATTLE:

6 Q. So you got the search warrants and the  
7 safe deposit box that was in Mr. White's name?

8 A. Yes, sir.

9 Q. What happened after that?

10 A. I was advised by a representative from  
11 the bank on a date that a representative would  
12 actually be down to execute the search warrant, in  
13 which they said it would be on April 28, 2015 at  
14 approximately 1200 hrs, to meet them there and they  
15 would have a representative there.

16 We were there on time. I brought  
17 another agent with me, Agent Chad Guess, in which  
18 myself, him, Ms. Taylor and Ms. Jenkins and another  
19 representative from the bank executed the search --

20 THE COURT: Let me just stop you there.  
21 1200 hours, for the rest of us here in the  
22 courtroom, is what time?

23 THE WITNESS: I apologize, ma'am. Just  
24 12 o'clock noon time.

25 THE COURT: No. You don't have to



1 apologize. I know that most of the people in the  
2 military and those in the police department use  
3 that military time. But it's 12 o'clock?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: All right. Thank you.

6 BY MR. BATTLE:

7 Q: Was that safe deposit box registered to  
8 anyone else?

9 A: It was just in Mr. White's name.

10 Q: I'm sorry. Agent Suggs, you were  
11 saying?

12 A: Anyway, they were there on time. They  
13 removed the box, and then the representative had to  
14 drill the lock, I guess, to open the box. That's  
15 when we located approximately 15 items in the box.  
16 Do you want me to go through the item list of what  
17 was in there?

18 Q: Well, let me hand you some photographs.  
19 That might help. Let me ask you if you recognize  
20 those photographs?

21 A: Yes, sir, that's the pictures I took  
22 whenever we were executing the search warrant.

23 Q: Okay. And what's depicted in those  
24 photos?

25 A: The first one here is of the box after



1 they opened it. It has -- I think that's a silver  
2 note \$1 bill, some rubber bands, a set of keys, a  
3 couple of jewelry cases. And then the next page is  
4 the ledger where people -- where Mr. White would  
5 sign in. I guess, they document every time  
6 somebody goes into the box. They date it and time  
7 and sign it. One of the attendants has to initial  
8 it as well. The second page is, again, another  
9 picture of the ledger. The next page is a picture  
10 of the jewelry that was in the box. Some rings.  
11 Looks like a rope necklace, a charm, earrings. And  
12 then the \$21,000 in currency.

13 Q. Explain to me -- well, let me ask you  
14 this. Are those photos a true and accurate copy of  
15 the photos you took?

16 A. Yes, sir.

17 Q. Have they been altered in any way?

18 A. Not that I can tell.

19 MR. BATTLE: Your Honor, at this point  
20 in time, I'd like to put in, I think, Plaintiff's 5  
21 into evidence.

22 MR. WILSON: Just subject to my  
23 objection.

24 THE COURT: I'm sorry. What did you  
25 say, Mr. Wilson?

1 MR. WILSON: I'm sorry, Judge. Just  
2 subject to my previous objection.

3 THE COURT: Okay. Thank you.

4 BY MR. BATTLE:

5 Q. Agent Suggs, how does the ledger work?

6 A. To my knowledge, again, that's a  
7 procedure that's set up by the Wells Fargo Bank  
8 that I'm not too familiar with. But the way it was  
9 explained to me -- again, this is just that anytime  
10 Mr. White would come to the box, they would put the  
11 date, the time, sign it.

12 MR. WILSON: Objection, Your Honor.

13 THE WITNESS: And the attendant would  
14 put their initial.

15 THE COURT: Wait just a moment.

16 THE WITNESS: I'm sorry.

17 THE COURT: I've got to --

18 MR. WILSON: It's hearsay, Judge.

19 Hearsay.

20 THE COURT: Do you know how it works?

21 THE WITNESS: Yes. I'm sorry. I

22 apologize. Yes, ma'am.

23 THE COURT: Do you know how it works,  
24 or is it --

25 THE WITNESS: Just what was told to me



1 and what I see on the ledger itself. It has a  
2 place for a date, a time, who went into the box and  
3 the attendant's name. And the way it was explained  
4 is that every time somebody goes in it, that has to  
5 be filled out.

6 THE COURT: Do you have a safe deposit  
7 box yourself?

8 THE WITNESS: I do not.

9 THE COURT: Okay. I understand.

10 Thank you, Mr. Wilson.

11 MR. WILSON: Yes, Your Honor.

12 BY MR. BATTLE:

13 Q. And who appears to be signing in to  
14 this safe deposit box?

15 A. Mr. White.

16 MR. WILSON: Objection, Judge. It is  
17 completely speculative. This agent wasn't there.

18 THE COURT: I understand. That's  
19 sustained.

20 But Mr. Battle, you can carry him  
21 through and kind of set a foundation, I think. You  
22 said: Who appears to be going in?

23 BY MR. BATTLE:

24 Q. So you took photos of the signature  
25 card for going into the safe deposit box?



1 A. Yes, sir.

2 Q. Okay. On that photograph, there's a  
3 signature for people to sign in to view the safe  
4 deposit box?

5 A. Yes, sir.

6 Q. And you put the date and then you put  
7 the time and the signature, and then the attendant  
8 for the bank puts his initial there, is that right?

9 A. Yes, sir.

10 MR. WILSON: Objection.

11 BY MR. BATTLE:

12 Q. When the signature line --

13 MR. WILSON: Objection, Judge.

14 Objection, Your Honor. They can't testify about  
15 what somebody else did or didn't do. They don't  
16 know. They haven't documented it. They don't have  
17 the person here from the bank saying I did that or  
18 that's what I did. They can't qualify the document  
19 by saying, yes, that's what they do. It's not  
20 appropriate foundation, Judge.

21 THE COURT: There are dates and  
22 signatures there, correct?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: There you go.

25 MR. BATTLE: Okay.



1 BY MR. BATTLE:

2 Q. Is someone on the signature line  
3 writing the name Marvin white?

4 A. Somebody appears to be.

5 Q. Okay.

6 MR. BATTLE: Thank you, Your Honor.

7 BY MR. BATTLE:

8 Q. Thank you, Agent Suggs. So there was  
9 jewelry found in the box, and then what else was  
10 found in the safe deposit box?

11 A. Jewelry, a quantity of US currency.  
12 There was a title for a 2006 Cadillac, a title for  
13 an '81 Ford vehicle, a set of keys for a scooter, a  
14 handwritten bill of sale for a scooter, a silver  
15 dollar certificate and a silver colored ring, a  
16 gold colored necklace charm, one gold colored rope  
17 bracelet, a gold colored ring with clear stone, a  
18 pair of silver earrings with clear stones, a gold  
19 colored man's ring with clear stones, a gold  
20 colored rope necklace, a gold colored cross and one  
21 gold ring.

22 Q. The video that you pulled from  
23 Mr. White's cell phone, he's counting money in that  
24 safe deposit box room?

25 A. Yes, sir.



1 Q. Okay.

2 MR. WILSON: Objection, Judge, on the  
3 last answer. And, again, he doesn't know what he's  
4 doing in the room. He's saying -- he's testifying  
5 about what this defendant is doing. If they ask  
6 him -- if the defendant gets on the stand, they can  
7 ask him. They don't know what he's doing in the  
8 room. They have no clue. He is depicting for the  
9 Court what my client is doing in the room. They're  
10 saying, oh, he's counting money, isn't he. That's  
11 what a third party is doing.

12 THE COURT: Well, that's --

13 MR. BATTLE: Your Honor, that's all the  
14 questions I have of this witness.

15 THE COURT: Okay. Mr. Wilson? Does  
16 anyone need a break?

17 Ms. Court Reporter, do you need a  
18 break? You always let me know if you need a break.

19 Let's take about a ten-minute break.  
20 That will give everyone enough time to run to the  
21 restroom.

22 MR. WILSON: Yes, Your Honor.

23 THE COURT: Let's be back about ten  
24 till four. Is that correct?

25 MR. BATTLE: I think so, Your Honor.



1 MR. WILSON: Yes, Your Honor.

2 THE COURT: Agent Suggs, you may take a  
3 break too.

4 THE WITNESS: Thank you, ma'am.

5 THE COURT: You're through with Mr.  
6 Battle for now, but he has the right to bring you  
7 back to the witness stand, so just don't talk to  
8 Mr. Battle or Mr. Wilson.

9 THE WITNESS: I'll just hang here.

10 THE COURT: No. You may run to the  
11 restroom as well. You need to --

12 THE WITNESS: I'm all right. Thank  
13 you.

14 THE COURT: Okay.

15 (A recess transpired.)

16 THE COURT: When you're ready, Mr.  
17 Wilson.

18 MR. WILSON: Your Honor, if it please  
19 the Court, Judge.

20 THE COURT: Certainly.

21 MR. WILSON: Thank you Your Honor.

22 CROSS-EXAMINATION

23 BY MR. WILSON:

24 Q. Good morning, Agent. How are you  
25 doing? Or good afternoon.



1 A. Good, Mr. Wilson. How about you?

2 Q. Pretty good. Good to see you. Just a  
3 few questions that I have at this time.

4 A. Yes, sir.

5 Q. Now, when you guys went into to do the  
6 actual, I guess, arrest or search warrant on the  
7 house -- when you went to do the actual, I guess,  
8 raid it or whatever, how did y'all do that? Was  
9 there a raid, or how did that work?

10 A. The case agent was in charge of that,  
11 but I believe they did -- they, of course, did a  
12 dynamic entry on the residence. They drew up an  
13 operational plan. Once it's approved, they would  
14 have a team that would be used for dynamic entry,  
15 and they'd have a team for the perimeter. And they  
16 would take him into custody there.

17 Q. All right. Now, how did y'all get the  
18 address for this particular residence?

19 A. I believe one of the -- I think it may  
20 have been the last. February 9, 2015 one of the  
21 controlled drug purchases actually occurred at the  
22 residence.

23 Q. So y'all went and got the search  
24 warrant, and y'all did the dynamic entry or they  
25 would have done the dynamic entry, is that right?



1 A. Yes, sir.

2 Q. And then during that time, who was  
3 home?

4 A. At the residence?

5 Q. Who was at the residence, yes?

6 A. I don't have that information.

7 Q. Do you know if this defendant was at  
8 that residence on this particular day?

9 A. I do not know.

10 Q. Do you know if he was arrested at that  
11 residence on that particular day?

12 A. I can't say that with certainty. I  
13 believe he was arrested close to the residence, but  
14 I don't think he was at the home at the time. I  
15 can't remember.

16 Q. You say he was arrested close to the  
17 residence?

18 A. I may be in -- I don't want to give  
19 inaccurate information. I can't recall where he  
20 was arrested. Again, Agent Dennis handled that  
21 side, and I don't want to give false information.

22 Q. Fair enough. Fair enough. What was  
23 discovered at the residence?

24 A. The 209 grams of cocaine, 39 grams of  
25 crack, pills. I believe the money -- I believe



1 some of it was actually in a black Cadillac, I  
2 think. And then there was two guns located.

3 Q. Now, there was stuff found in the car,  
4 the black Cadillac?

5 A. Yes, sir.

6 Q. Right? And there was stuff found in  
7 the house?

8 A. Yes, sir.

9 Q. Are either one of those items titled in  
10 this gentleman's name, Mr. Marvin White's name?

11 A. The house or the vehicle?

12 Q. The house or the car.

13 A. I believe the vehicle was registered in  
14 maybe a female's name. I can't say that with  
15 certainty. I don't have the title. It's been a  
16 long time.

17 Q. All right.

18 A. So I don't want to give that  
19 information. I'm not sure. I believe the  
20 residence was in somebody else's name. He just  
21 used it.

22 Q. And you weren't there that day, so you  
23 don't know if he was there that day, correct?

24 A. I do not.

25 Q. Now, the stuff that was found in the



1 house, did y'all ever test that stuff?

2 A. Yes, sir that stuff would have been  
3 field -- I'm sorry. The items would have been  
4 field-tested, and then they would be sent off to  
5 the lab. And which I believe they were actually  
6 tested at SLED's laboratory.

7 Q. Do you have the report today from SLED?

8 A. I do not have that with me, no.

9 Q. Do you have the proof that the drugs  
10 were tested?

11 A. I know they were field-tested because I  
12 was present whenever they were field-tested.  
13 However, the actual report from SLED, I don't have  
14 that.

15 Q. So you were tested -- you were there  
16 when it was tested?

17 A. Yes, sir. I had a prior engagement at  
18 the time they were executing that. So whenever the  
19 evidence was brought back to the DEU's office, I  
20 was there at that time, so I was happy to help them  
21 field-test some of them.

22 Q. Who would have brought that back, if  
23 you don't mind me asking?

24 A. It should have been the case agent.

25 Q. Okay. Who was that? Dennis?



1 A. It should have been Agent Dennis.

2 Q. So he would have brought that back to  
3 you from the location?

4 A. Yes, sir.

5 Q. Do you know if he disclosed to you --  
6 did he tell you, you know, look, we arrested Marvin  
7 White at that residence?

8 A. I don't recall. We handle so many  
9 cases a year and so much more, I can't -- that far  
10 back, I can't recall what he may have said.

11 Q. Well, let me just ask you this. I  
12 mean, you've been doing this for how long?

13 A. Four years.

14 Q. Do y'all produce any sort of report  
15 from the actual arrest itself?

16 A. We do an investigatory report similar  
17 to this that I done for the actual civil side of  
18 this which shows the date and time, you know, what  
19 occurred on the investigation, whether it be  
20 controlled drug buys, the arrest, the search  
21 warrant, things like that, listing out what  
22 happened, when, who done it and all that.

23 Q. Fair enough. So during this -- in this  
24 report that you have, investigatory report, does it  
25 say that Marvin white was at that location or



1 arrested at that location on that particular day  
2 when you found these drugs?

3 A. I don't have that report with me. I  
4 just have mine.

5 Q. Well, you're here today testifying  
6 about the drugs that were found in the house,  
7 right? And you're telling the Court or me, I  
8 guess, that you don't have the report related to  
9 what drugs were found and who was arrested?

10 A. I know he was arrested, but all I know  
11 is what was actually seized at the house and  
12 information that was passed on to me.

13 Q. All right. Earlier counsel showed you  
14 a video.

15 A. Yes, sir.

16 Q. And you went through and you identified  
17 Marvin White as being the person in each video,  
18 even though they published one -- Marvin White was  
19 in the video, and you said he was counting money?

20 A. Yes, sir.

21 Q. Let me ask you this. That money that  
22 was in that video, did y'all tie that to any drugs  
23 at all? Did you trace it to any drug transaction  
24 is what I'm asking?

25 A. Oh, you mean -- no, we did not match



1 any serial numbers with prior controlled drug  
2 purchase money.

3 Q. Did you send the drug dogs into that  
4 safe deposit box room when y'all were in there, and  
5 did it hit?

6 A. No, sir.

7 Q. Okay. So there's no doubt in your mind  
8 that this money wasn't in close proximity to any  
9 drugs?

10 A. No, sir.

11 Q. All right. Now, I want to ask you  
12 about traceability. I want to ask you whether or  
13 not in your investigation you were able to trace  
14 that money to the money that the State has entered  
15 into evidence.

16 MR. WILSON: May I approach, Your  
17 Honor?

18 THE COURT: Certainly.

19 BY MR. WILSON:

20 Q. There are three pictures here that  
21 depict cash. Do you see those pictures?

22 A. Yes, sir.

23 Q. Let me first ask you this. Do you see  
24 any individuals in that picture in those that have  
25 cash in it?

1 A. I just see Mr. White's hand.

2 Q. How do you know that's Mr. White's  
3 hand?

4 A. The unique tattoos to his left hand  
5 right here below his watch.

6 Q. So at the time when you took this  
7 picture, you knew that he had a tattoo on his hand?

8 A. No. This picture was taken off of his  
9 phone.

10 Q. Okay.

11 A. The tattoos that are on his hand and  
12 stuff subsequently are also listed at J. Reuben  
13 Long, and they document the tattoos that he has on  
14 his body and on his person every time they're  
15 booked in.

16 Q. Very good. The phone that you say you  
17 got from another person, right?

18 A. Yes, sir.

19 Q. From Brantley?

20 A. Yes, sir.

21 Q. And so in that picture, you're telling  
22 me that you can actually match that money from a  
23 drug transaction?

24 A. No, sir.

25 Q. So none of that money in there -- well



1 let me ask you this.

2 A. Yes, sir.

3 Q. Were you there? Let's say if it was  
4 Mr. White. Were you there when he was holding it  
5 in his hand?

6 A. No, sir.

7 Q. Did you see him spend that currency  
8 anywhere?

9 A. No, sir.

10 Q. So do you know if it's real?

11 A. No, sir, not by just the picture.

12 Q. Have you ever heard of prop money?

13 THE COURT: I'm sorry. What money?

14 MR. WILSON: Prop money.

15 THE COURT: Prop money?

16 MR. WILSON: Sorry, Your Honor. I

17 apologize.

18 THE COURT: That's okay.

19 MR. WILSON: I am about to trip over  
20 here on my own two feet. I apologize to the Court.

21 BY MR. WILSON:

22 Q. Prop money. Do you know what prop  
23 money is?

24 A. You're talking about flash money?

25 Q. That's right.



1 A. Like we use?

2 Q. Yes.

3 A. Yes, I know what flash money is.

4 Q. Okay. Explain to the Court what prop  
5 money is, if you don't mind.

6 A. Well, what we classify as flash money  
7 is if we have a transaction that is going to go for  
8 a large quantity of illicit substances or drugs, we  
9 don't want to walk with certain amounts of money,  
10 you know, depending on the case. So what we'll do  
11 is we'll have the bank, we'll send our commander  
12 over to the bank and withdraw X amount of dollars  
13 whether it be 10, 15 or \$20,000 or whatever it may  
14 be or we may need flash money. And then when we go  
15 to meet a target, we'll flash the money, let them  
16 look at the money, say, you see it, and then remove  
17 the money out of the equation. So whenever we do a  
18 buy/bust situation -- which means once they show  
19 product, then we take them down -- we don't have to  
20 worry about that money leaving.

21 Q. All right. Do you know -- and I know  
22 you've been involved in this for a while. But do  
23 you know about fake money?

24 A. Uh-huh (affirmative).

25 Q. People actually fronting or flossing.

1 You've heard the term before, I'm sure?

2 A. Yes, sir.

3 Q. You know about that?

4 A. Uh-huh (affirmative).

5 Q. Okay. So my question, do you know for  
6 certain if this money in this picture is real?

7 A. No, sir, I cannot say 100 percent sure.

8 Q. Now, let's get to the video. The video  
9 had a person identified by you as Marvin White,  
10 correct?

11 A. Yes, sir. It showed his face.

12 Q. At the bank counting money?

13 A. Yes, sir.

14 Q. So we've got the location, we've got  
15 the person. Do you know where he got that money  
16 from?

17 A. No, sir. Just his statements on the  
18 video.

19 Q. All right. And what were his  
20 statements on the video? What did he say? I mean,  
21 what did you hear him say? Publish it for the  
22 Court.

23 A. Without playing it all the way through,  
24 I don't want to be inaccurate.

25 Q. That's okay.



1 A. But it was something to the effect that  
2 it was one day -- one week's work or something like  
3 that. Something to that effect.

4 Q. Very good. Now, in that video when  
5 he's rolling through the money, right -- you see  
6 hands rolling through the money, correct?

7 A. Yes, sir.

8 Q. Where he's flipping it, right?

9 A. Yes, sir.

10 Q. Now, can you tell the Court with any  
11 certainty that that money is real?

12 A. No, sir, not by a video without seeing  
13 it in person.

14 Q. All right. Fair enough. Let me ask  
15 you this. At any point in time in the video does  
16 he say, I went out. I sold a key or 209 grams of  
17 cocaine and got this money?

18 A. No, sir.

19 Q. All right. Now, there were charges  
20 against Mr. White in the state of South Carolina  
21 brought by the State, correct?

22 A. Yes, sir.

23 Q. And that was in 2013 and 2015, is that  
24 right?

25 A. Yes, sir. Conway City arrested him in

1 2013, but I believe they were dismissed on the  
2 federal side maybe in regards to a plea deal or  
3 something to that effect. I'm not sure.

4 Q. But those charges were dismissed. They  
5 weren't sustained in 2013? They were nolle  
6 prossed.

7 A. Okay.

8 Q. Is that correct?

9 A. Without having the disposition, I can't  
10 say. If you say so, I believe you.

11 Q. Let me ask you this. Are you aware of  
12 indictment 2013-GS-26-03542?

13 A. Not right offhand. I'm assuming it's  
14 the indictment for Mr. White...

15 Q. All right.

16 A. ... for his 2013 arrest.

17 Q. But, again, if I told you that those  
18 charges were dismissed, I mean, that would make  
19 sense?

20 A. Yes, sir, I believe you.

21 Q. All right. Then in 2015, the State  
22 also dismissed those charges, correct?

23 A. Yes, sir.

24 Q. So he was never tried in state court  
25 for drugs that were found at that house, right,



1 drugs in the car, and he was never prosecuted for  
2 any other crime that I'm aware of by the State in  
3 the last several years?

4 A. No, sir. Usually whenever the federal  
5 government will pick up the charges, of which you  
6 are aware, that once the federal government indicts  
7 on a charge, then the State will dismiss theirs.

8 Q. Let me ask you this. You brought that  
9 up, so let's talk about it. Why did the State  
10 dismissed the charges when they could have tried  
11 him still, right? There's concurrent jurisdiction,  
12 so why did they dismiss the charges?

13 A. That's above my pay grade. That  
14 something to do with the Solicitor's office and  
15 attorneys.

16 Q. Fair enough.

17 MR. WILSON: The Court's indulgence,  
18 Your Honor.

19 THE COURT: Yes, sir.

20 BY MR. WILSON:

21 Q. This is the...

22 MR. WILSON: May I approach Your Honor.

23 THE COURT: Certainly.

24 BY MR. WILSON:

25 Q. This is the record of entries that was



1 put in by the State, and you see that the record of  
2 entries goes back to how many years?

3 A. The latest that I'm seeing on this is  
4 April of 2013.

5 Q. Okay. And y'all would have seized this  
6 money when?

7 A. The money, when we took -- I believe it  
8 was seized April 2015, the latest on the entry  
9 being January of 2015.

10 Q. So if he's going, let's say it's Mr.  
11 White going in there in -- I don't know. How many  
12 times did he go in there? How many times did he go  
13 into that safe deposit box?

14 A. Quite frequently. At least once every  
15 couple of weeks maybe. Sometimes closer; sometimes  
16 farther out.

17 Q. Very good. So he would go in there  
18 once every couple of weeks and either take money  
19 out or put money in, correct?

20 A. I'm assuming, I wouldn't be present  
21 when he went in there.

22 Q. He was doing something in there. He  
23 was looking at it or videotaping himself or  
24 whatever he was doing, right?

25 A. Yes, sir.



1 Q. So he would go in the bank allegedly  
2 and then go in there and look at the money or take  
3 the money out or put the money in or just videotape  
4 himself. Do you have any idea any of those times  
5 that he actually went to that bank that he sold  
6 drugs and then took the money from the drug sale to  
7 the bank?

8 A. I can't prove that, no, sir.

9 MR. WILSON: No further questions,  
10 Judge.

11 THE COURT: What was that last question  
12 again?

13 MR. WILSON: Whether or not he actually  
14 could prove that there was any transaction or drug  
15 sale that what he would have engaged in and then  
16 took the money to the bank.

17 THE COURT: And he said no?

18 MR. WILSON: He said no, your Honor.

19 THE COURT: Thank you.

20 MR. WILSON: Thank you, your Honor.

21 THE COURT: Anything on redirect, Mr.  
22 Battle?

23 REDIRECT EXAMINATION

24 BY MR. BATTLE:

25 Q. Agent Suggs, I think that Mr. Wilson



1 was asking you can you trace the money that was in  
2 the safe deposit box to a drug transaction?

3 A. On some instances you can. We have a  
4 policy of where whenever money is seized, depending  
5 on the quantity, we record the serial numbers  
6 before every drug transaction. And then if we  
7 seize money regarding that case, we go to the bank  
8 and they cut the bank bag open and they try and  
9 match the serial numbers that we have with any of  
10 the funds that we may have collected for evidence.  
11 In regards to this, that wasn't done, or at least I  
12 know there was no matches that we could find.

13 Q. The money or the amount of drugs that  
14 was found in Mr. White's home, the 209 grams of  
15 cocaine and the 39 grams of crack, the street  
16 value, would that be able to generate \$21,000?

17 A. It depends on how it's sold. Crack has  
18 a higher yield money-wise than what powder cocaine  
19 does. However, powder cocaine, usually depending  
20 on how bad it's been stepped on -- excuse me -- how  
21 many times it's been cut which means they take X  
22 amount of coke and add some cutting agent to it, so  
23 -- and mix it, so they increase the quantity of  
24 drugs they have; however, they lower the potency  
25 slightly. So essentially they make more money that

1 way. But if you cut it too much, it won't cook  
2 into crack. So it depends on how much it was  
3 stepped on, but on the low side, say he's selling  
4 the the powder coke for \$50 a gram, so 50 times  
5 209; .1 to .2 of crack is going for \$20 a piece,  
6 and he had 39 grams, so you get -- money-wise,  
7 without getting a calculator out and doing all the  
8 math, it gets over there pretty good.

9 Q. So the 109 grams [sic] of cocaine, that  
10 alone, \$50 a gram, that's going to be \$100,000?

11 A. \$50 times 209 grams, that's \$10,450  
12 just for the powder coke if it hasn't been cut. So  
13 that's 10,450.

14 Q. Okay.

15 A. And if you've got 39 grams of crack  
16 divided by .2 -- it's getting off. It's somewhere  
17 around \$15 to \$18,000 if you add it all up  
18 together.

19 Q. So around \$25,000 worth of drugs in  
20 that one search of the home?

21 A. Yes, sir, essentially.

22 Q. Okay. You testified earlier that Mr.  
23 White in the video said, this is just one weeks  
24 worth, when he was counting his money?

25 A. It was something to that effect. It



1 was kind of muffled, but it sounded like it was,  
2 this is one weeks' worth or one weeks' work,  
3 something to that effect.

4 Q. In your investigation of Mr. White,  
5 have you found any evidence that Mr. White has a  
6 legitimate job?

7 A. No, I have not.

8 Q. Thank you.

9 THE COURT: Thank you, Mr. Battle.  
10 Anything on recross, Mr. Wilson?

11 MR. WILSON: Yes, Your Honor, briefly.

12 RECROSS-EXAMINATION

13 BY MR. WILSON:

14 Q. Did you ever talk to Mr. White about  
15 where he worked?

16 A. No, sir, I have not.

17 Q. So you never really investigated that,  
18 did you?

19 A. Well, we -- I guess it would be  
20 hearsay. I spoke with people that were close to  
21 Mr. White, and then we checked with the Employment  
22 Commission which maintains -- in which didn't show  
23 him.

24 Q. I understand, but let me -- did you  
25 ever ask Mr. White what he did? If he cut yards or



1 if he did any other work that he would be making  
2 money on?

3 A. I did not.

4 Q. Did you ever ask Mr. White if he was  
5 getting money from his grandmother?

6 A. I did not.

7 Q. All right. Counsel also asked you one  
8 thing that I'm concerned about. Now, you said that  
9 the drugs that were found in the house would equate  
10 to \$25,000, correct?

11 A. That's just a ballpark. I can't give a  
12 definite figure because that depends on, again, how  
13 many times it's been cut. So how much the quantity  
14 has been increased, whether he's taking that amount  
15 of drugs and cooking it into crack, how much yield  
16 he's getting on top of that. You know, most \$20  
17 rocks are going to weigh .1 or .2. So it depends  
18 on how much he cooks out of it, how much he cuts it  
19 and how much he sells. That's just a ballpark  
20 figure. That could be give or take depending on  
21 the market how much you're paying for an ounce.

22 Q. Fair enough. But this is the same  
23 drugs that were found in the house, right? In the  
24 car. That's what we're talking about?

25 A. The same logic goes with the drugs that



1 were found in the house is what I'm saying now.

2 Q. All right. Well, is it safe to say  
3 that if those drugs didn't belong to and never been  
4 adjudicated -- he was never adjudicated guilty,  
5 they dismissed the charge -- those drugs didn't  
6 belong to him, so how can he cook it up and make  
7 money off of it? Is that possible?

8 A. Unless he was selling somebody else's  
9 dope on the prior three drug transactions.

10 Q. Well, we're talking about this incident  
11 though. We're talking about the drugs that were  
12 seized from the house, the drugs that were seized  
13 by DEU. Did y'all ever connect him to those  
14 particular drugs? Not drugs done by a CI buy, the  
15 drugs that were in that house.

16 A. I would have to revert back to Agent  
17 Dennis' case file. Again, me preferably I do  
18 things differently. I send the packaging off to  
19 SLED or either to Myrtle Beach to where I have my  
20 bags printed, or I do touch DNA on it. Whether he  
21 done that or not, I don't know. I haven't reviewed  
22 his case file that in-depth, so I can't give you a  
23 definitive answer one way or the other on that.

24 Q. Thank you very much.

25 MR. WILSON: Thank you, Your Honor.



1 THE COURT: Thank you.

2 MR. BATTLE: That's all I have, Your  
3 Honor.

4 THE COURT: All right.

5 Agent Suggs, you may finally step down,  
6 sir.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: Just make sure you leave  
9 all the exhibits with the yellow stickies up there.  
10 I think most of them are over here. You may have  
11 one or two over there.

12 THE WITNESS: I don't see any of them  
13 with the sticky notes, but I'll leave them up here.

14 THE COURT: Okay. Great. Thank you.  
15 Mr. Battle, do you have any other  
16 witnesses?

17 MR. BATTLE: No, Your Honor.

18 THE COURT: All right. Thank you.  
19 Mr. Wilson?

20 MR. WILSON: Your Honor, if it please  
21 the Court.

22 THE COURT: Yes, sir.

23 MR. WILSON: I don't know if the State  
24 wants to go -- they're the plaintiff -- but I can  
25 go, Judge, if you want me to sum up our arguments.



1 We have -- we are not putting up any witnesses,  
2 Judge.

3 THE COURT: Okay.

4 MR. WILSON: Judge, he actually wants  
5 to testify.

6 THE COURT: Okay.

7 (Off the record conference.)

8 THE COURT: Did he change his mind, Mr.  
9 Wilson?

10 MR. WILSON: Judge, he changed his mind  
11 again.

12 THE COURT: Okay.

13 MR. WILSON: Your Honor, I'm going to  
14 pass up these cases for Your Honor. If I may  
15 approach, Judge.

16 THE COURT: Yes, sir.

17 MR. WILSON: Your Honor, what I'm  
18 passing you are the controlling cases in seizure  
19 cases which talk about seizure, talk about taking  
20 money and cars and houses from defendants where  
21 they believe, or the State believes, there's been  
22 some connection. I'll just try to sum up the cases  
23 briefly.

24 The Court looks at this in a two-way  
25 street. Either the drugs have to be found in

1 proximity, or the drugs have to be traceable to a  
2 transactional or traceable. And the Court has  
3 rejected. If I may point to -- indulgence, Your  
4 Honor. The Court has rejected -- the Supreme Court  
5 of South Carolina has rejected the finding in US  
6 versus Thomas. In US versus Thomas, a Supreme  
7 Court case which gave, if you will, a blueprint for  
8 trying to determine how you find out whether or not  
9 someone has the right to seize property from a  
10 defendant. The case in US versus Thomas says that  
11 you apply a totality of the circumstances view, but  
12 the law in South Carolina in the statute Congress  
13 wrote, they wrote the word traceable. It has to be  
14 traceable. And they said as well in this case  
15 which is in Gordon, Judge, that, again, the Court  
16 does want to relieve the State of its  
17 responsibilities to actually -- or the burden of  
18 actually having to prove traceability in a  
19 particular case. So, again, the transaction --  
20 it's not about the totality of the circumstances,  
21 it's about whether or not you can trace it to a  
22 transaction or trace it to some drug transaction.  
23 And, again, on page -- and I want to read exactly  
24 what it says, Judge, into the record. It says:  
25 The State has the initial burden of demonstrating



1 probable cause for the belief that a substantial  
2 connection exists between the property to be  
3 forfeited and the criminal activity defined by  
4 statute. Then it goes on to say that: The State  
5 urges this Court to adopt rationale of the Fourth  
6 Circuit employed in US versus Thomas. In this  
7 case, they were trying to get them to adopt the  
8 totality of circumstances. But the court then  
9 said: We reject that. We decline to use the  
10 rationale in Thomas because we believe the standard  
11 in Thomas would lessen the burden on the State, and  
12 it is in direct contravention to the word traceable  
13 in the language of the statute. So, again, they  
14 have to prove that that money they got from the  
15 safe is either found in close proximity. And the  
16 court went so far in actually Gibson to say that  
17 the court can't infer from anything that is not  
18 related to the actual seizure of the money.

19 So, again, when you look at this case,  
20 the drugs found at the house, they can't even  
21 connect to Mr. White. But when they go get the  
22 search warrant, which is our issue for the actual  
23 safe deposit box, they use two things. They use  
24 the anonymous person, and then they say: Well,  
25 we've also got the drugs in the house, and we



1 believe that he is involved in drug activity. You  
2 know, we've got this confidential informant, so  
3 we're going to go ahead and get a probable cause  
4 search warrant from when they say in the actual --  
5 and they do say that it was related -- excuse me --  
6 that it was related to them by Commander Bishop.  
7 But they say then that this anonymous source told  
8 them that this safe deposit box is there. They  
9 then go and get the safe deposit box, take all the  
10 money out and then bring this action. There is no  
11 connection between -- there's no provable  
12 connection, anyway, between Mr. White and the  
13 actual drugs in the house where they arrested him  
14 for it which is why, again, the charges went to the  
15 feds.

16 Now, there is no connection whatsoever,  
17 and the court uses the language -- if I could read  
18 here. This is from Gibson, Judge. The Thomas  
19 rationale finding that a totality of the  
20 circumstances analysis lessens the burden on the  
21 State to prove the nexus, that there has to be some  
22 connection between that money, the defendant and  
23 the drugs. And if they can't trace it or it's not  
24 found in proximity, then they can't get it. It  
25 changes the fact pattern in this case.



1           If, let's say, they then brought into  
2 evidence that one of the serial numbers on the  
3 bills was from a buy or they found evidence that  
4 this defendant actually had drugs inside a safe  
5 deposit box, they could then seize the drugs, they  
6 could then seize the money. But they can't seize  
7 it when they can't connect it to something that's  
8 so far removed. One of the issues that the case  
9 had -- and we knew this before -- was the search  
10 warrant of the house. He was never even at the  
11 house that day. Wasn't at the house. Wasn't  
12 around. Wasn't even arrested until later. They  
13 then go and get a search warrant for his safe  
14 deposit box based on all this stuff. The warrant  
15 itself, the search warrant -- and I know the Court  
16 talked about this earlier. But the search warrant  
17 had no signature on the actual affidavit which is  
18 an issue for the affidavit. But on its face, if  
19 they go there to get drugs, they go in there to  
20 search the house for the drugs or the guns or  
21 whatever they're looking for and they don't find  
22 Mr. White in constructive possession or possession  
23 of the drugs, how in the world are they going to  
24 say that the drugs are his which was the issue in  
25 the state court. That was the issue. Federal



1 court is different. In this situation, there is no  
2 connection. And the court has been very clear  
3 about creating the connection, not allowing the  
4 State to bring in other evidence. What the court  
5 said is this: What a court may not do -- and this  
6 is Gibson, Judge. What a court may -- excuse me,  
7 I lost my place. What a court may not do and what  
8 the State urges courts to do in Gordon is draw  
9 inferences based on evidence that is unrelated to  
10 the property being seized. Again, bringing in the  
11 collateral stuff regarding pictures of him hanging  
12 out in clothes. You know, bringing in pictures of  
13 him with money that's not related to the drug  
14 transaction. Bringing in the fact that they went  
15 to a house, raided it and found this stuff, but  
16 never connected him to it. All these things are  
17 disconnected from this particular defendant. And  
18 the inferences that the State wants you to do, the  
19 same thing the court wanted to do in Gordon -- or  
20 excuse me -- Gibson was to infer from all these  
21 things. But the court says no, no, no. We're  
22 going to provide more protection than the federal  
23 government does. And that's legal. That's  
24 constitutional. And the State said no. The  
25 Congress put in traceability or proximity. Either



1 you've got to have it traceable or you've got to  
2 have it in proximity. I don't think the State can  
3 show either one. Obviously, the drugs weren't in  
4 proximity to the drugs [sic], so I think you can  
5 nix that right out of the mix. The question then  
6 is it traceable. And the officer testified on the  
7 stand he didn't find it or couldn't trace it to  
8 anything.

9 And that would be my argument, Judge.

10 THE COURT: All right. Thank you.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: Mr. Battle?

13 MR. BATTLE: Just briefly Your Honor.

14 I think that Mr. Wilson holds the State to a  
15 standard that does not match the court's opinion in  
16 Gowdy versus Gibson. They did rule that the  
17 seizure was lawful. Their argument was that if  
18 there's compelling evidence that the money was  
19 obtained through drug dealing, then the money  
20 should be seized. Traceability is in the statute,  
21 but it also says our burden is only probable cause.  
22 It's kind of a weighing for the court to decide in  
23 their discretion.

24 For us to know the serial number for  
25 every dollar that passes through Mr. White's hand



1 is not a part of the any law enforcement agency  
2 could ever meet. There would never be another  
3 seizure if we had to match up the serial numbers  
4 for dollars that we are seizing.

5 The compelling evidence in this case,  
6 Your Honor -- and I'll just kind of briefly go  
7 through it. July of 2013, Conway PD arrests Mr.  
8 White. Believes that he is selling drugs in  
9 exchange for guns. They arrest him for possession  
10 with intent to distribute cocaine. They do a  
11 search warrant at his home. They find 22 guns,  
12 five of which were stolen. They also find the cell  
13 phone which we entered into evidence.

14 DEU conducted three controlled buys  
15 with Mr. White. He is making money off of the  
16 purchase of drugs. The February 9, 2015 controlled  
17 buy was done out of the home where they found the  
18 209 grams of cocaine and the 39 grams of crack  
19 cocaine. So he's living in that home and selling  
20 drugs to law enforcement informants out of that  
21 home.

22 They go into the home. We've talked ad  
23 nauseam about the drugs they found in the home. We  
24 received information about a Wells Fargo safe  
25 deposit box. There are videos of Mr. White



1 counting money saying 'this is one weeks' worth in  
2 that safe deposit box room. He says in the video I  
3 published: This is \$20,000. We get a search  
4 warrant, go in there, and there's \$20,000 and  
5 jewelry in there.

6 And, Your Honor, that is that nexus.  
7 That is that compelling evidence.

8 There hasn't been any evidence to show  
9 that Mr. White had any legitimate source of income.  
10 There is evidence that he sold drugs but no  
11 alternative to justify or explain where that  
12 20,000 -- \$21,000 came from.

13 So that would be the State's case, Your  
14 Honor.

15 MR. WILSON: Judge?

16 THE COURT: Yes, sir.

17 MR. WILSON: The law is right here,  
18 Your Honor. It says --

19 THE COURT: And what are you reading  
20 from?

21 A. This is in Gibson, I believe. In  
22 Gordon. I apologize, Your Honor. The State has  
23 the initial burden of demonstrating probable cause  
24 for the belief that a substantial connection exists  
25 between the property to be forfeited and the



1 criminal activity. And then it talks about  
2 traceability. What the court says is that they've  
3 got to prove probable cause if they're going to get  
4 past the actual search warrant. That's the first  
5 issue.

6 And then the next issue is whether or  
7 not they can then show that traceability. They  
8 have to prove it. They can't, you know, say, well,  
9 you got arrested in 2010 and he was a drug dealer.  
10 All these things that they are putting on the  
11 record have never been adjudicated in state court.  
12 So they're offering it for the truth of the matter  
13 asserted, but, again, they have no evidence of it,  
14 that he's connected to the drugs, that he -- and  
15 they could have easily brought in the actual video  
16 if they're saying he's on video selling crack  
17 cocaine. If he's on video selling it, they could  
18 have produced that to the Court. I do drug cases  
19 all the time in criminal court. They could have  
20 done that. They didn't do that. They're saying he  
21 sold to a CI. They can't come in here and then  
22 asked the Court to then infer, which is what Gordon  
23 is trying to protect against. These types of  
24 inferences -- which obviously are going to anger  
25 the Court or inflame the Court because, again, the



1 purpose of them is to actually show that, oh, well,  
2 let's bring all this stuff in. He's got cash in  
3 his hand on Facebook. He's got a cell phone where  
4 he's taking selfies. You know, he's a drug dealer.  
5 All right? But, again, the facts, what came across  
6 the stand is what the Court can consider. The  
7 officer testified that there was no traceability  
8 from that money to this defendant through drugs.  
9 They've got to get past that first. They have to.  
10 Once they get past it, then it shifts. But, again,  
11 they haven't gotten past that yet. They're still  
12 saying, look, we went to the house. We got the  
13 drugs. Our guy was arrested some time ago. You  
14 know, and now -- also they got some guns. That is  
15 not the issue here. The State is not trying to  
16 seize guns. They're not trying to seize anything  
17 having to do with weapons. They're trying to take  
18 money out of the safe deposit box which they say is  
19 traceable. And I asked the officer on the stand,  
20 Judge, tell me what transaction you can trace this  
21 to. They can't get around the traceability. You  
22 know, and the totality of the circumstances  
23 argument, again, is debunked, was killed, by the  
24 court in Gordon and Gibson. It is the law of the  
25 land.



1 I would ask the Court -- our issue is  
2 we don't believe that they've crossed that  
3 threshold at all. And I think that from some of  
4 the evidence that they've garnered here today and  
5 submitted to the Court, they are not just reaching  
6 but going beyond the realm of obviously what they  
7 have to do to try to get to this level of probable  
8 cause which they can't reach. The search warrant,  
9 they didn't even go in for the drugs. And I would  
10 submit to the Court that those drugs are not even  
11 admissible in this matter if the search warrant is  
12 not in because, again, it becomes fruit of the  
13 poisonous tree. But, again, even if the Court  
14 takes the attitude that the drugs were found in a  
15 legal way, again, they're not connected to Mr.  
16 White.

17 Now, if they brought in the video and  
18 they say, well, hey, here he is selling crack, and  
19 then they saw him go back to the bank and deposit  
20 money on that particular day at that particular  
21 time, they had the evidence. And they could have  
22 easily said, hey, look, we've got you. On March  
23 13, 2014 is when we did the buy, and then we saw  
24 him go back to the bank or we have the entry log  
25 where he went back to the bank. But that is not



1 what happened. I asked him? Did you investigate  
2 what else he did for a living? They never asked  
3 him. They never asked him. They asked some people  
4 that he knew, and I don't know who they are. And  
5 then on top of that too, you're having a lot of  
6 conjecture about anonymous sources, confidential  
7 informants, none of whom are here to be, you know,  
8 cross-examined by the Defense.

9 I would ask the Court in light of this  
10 case and the amount of money that is being taken or  
11 seized -- this is not \$500 or \$1000. I would  
12 suggest to you this is money that he saved based on  
13 the records over a period of time. You know,  
14 whether he wants to go floss or showboat on the  
15 video camera is not the issue. That's not evidence  
16 of him being connected to a drug transaction. I  
17 would just ask the Court -- I would ask the Court  
18 to allow that money to go back to the defendant  
19 where it's purposeful as well as I think that in  
20 this case it is the right thing to do, Judge.  
21 That's what I'm asking.

22 THE COURT: Let me ask you something.  
23 Is there a difference in the law between Gordon and  
24 Gibson?

25 MR. WILSON: Yes, Your Honor. They are



1 two cases talking about two different things, two  
2 issues.

3 THE COURT: Well, is there a difference  
4 in the law?

5 MR. WILSON: Yes, Your Honor.

6 THE COURT: And what is that  
7 difference?

8 MR. WILSON: Well, one case, Gordon, I  
9 believe, talks about the actual drug being  
10 traceable. They talking about traceability. When  
11 you look at the statute, the statute says, look,  
12 there are two things that you can do to stop a --  
13 or find a person and then seize that person of  
14 drugs or money or whatever they have. One of the  
15 things that you can do is you can find it in  
16 proximity. If this defendant, let's say, was at  
17 the house that day sitting next to a fifth of a key  
18 of cocaine, then they can find him in constructive  
19 possession and say that, look, those drugs -- and  
20 then if he had \$10,000 in his pocket, they could  
21 then seize the money at a hearing and have no  
22 problem probably doing it. But that's what the  
23 distinction is between Gibbs and Gordon -- excuse  
24 me -- Gibson and Gordon.

25 The other case, Gordon, talks about



1 whether it's traceable, whether or not you can  
2 prove that it came from drug money.

3 THE COURT: I don't mean is there a  
4 difference in the cases. Did the law change?

5 MR. WILSON: No, Your Honor. No.  
6 There's no totality of circumstances. Even Gibson  
7 points out that there is no totality of  
8 circumstances in the law. It is all regarding one  
9 thing. It's whether or not you can trace it to the  
10 transaction or whether or not it's in proximity to  
11 the drugs. You can't do anything else. There is  
12 no totality of the circumstances found in these  
13 cases. They rejected US versus Thomas completely  
14 and gave more protection regarding the traceability  
15 issue, Judge.

16 If you can, give me one second, Your  
17 Honor. I want to find something. I apologize.

18 As a matter of fact, the same language  
19 is found in both cases, in Gibson and in Gordon.  
20 In Gibson, the rationale from the court when the  
21 Fourth Circuit employed US versus Thomas, and,  
22 again, the court refused to look at that and tell  
23 you they're not going to actually apply that  
24 standard again. So in both cases, again -- and I  
25 think in one case, they were dealing actually with

1 a safe. That was the issue, I believe, in Gibson.  
2 There was a safe up in the attic, and the court was  
3 talking about whether or not if it's found in  
4 proximity to drugs, you know, how close it has to  
5 be and how -- but again, you don't have that issue  
6 in this case. The only issue they have because  
7 they didn't raise an issue about proximity; they  
8 only raised the issue about whether it's traceable  
9 which is why I asked the questions, Your Honor,  
10 about whether or not they had a drug dog go hit on  
11 the actual safe deposit box because that would be  
12 something they could say, well, there might be  
13 drugs in there. That never happened in this case,  
14 so proximity doesn't become an issue. The question  
15 then is, well, is it traceable because you just  
16 can't go around seizing money from everybody  
17 everywhere. So again, they've got to be able to  
18 prove it is traceable to a drug transaction or some  
19 activity that they can say it's related to him. In  
20 this case, the subject of the matter is, again, the  
21 drugs in the house. That's the issue because they  
22 used that to go get the actual warrant for the  
23 actual search of the safe deposit box.

24 THE COURT: There were substantial  
25 amounts of drugs, enough that the law presumes that



1 there was trafficking, so if there had been, the  
2 law would presume that Mr. White is making money  
3 off his trafficking.

4 MR. WILSON: Well, I mean, Judge, law  
5 enforcement presumed it.

6 THE COURT: Certainly.

7 MR. WILSON: But just because law  
8 enforcement presumed it doesn't make it true.

9 THE COURT: Well, the law presumes that  
10 trafficking results in money.

11 MR. WILSON: If there's a connection,  
12 if there is a nexus between him and the drugs.  
13 They have to create a connection. They couldn't --  
14 I asked him --

15 THE COURT: No. The law presumes --  
16 the law here -- if, in fact, the drugs were Mr.  
17 White's, then the law presumes that Mr. White would  
18 make money off his trafficking.

19 MR. WILSON: If they made the  
20 connection, Judge.

21 THE COURT: Right.

22 MR. WILSON: But even in this Court,  
23 there has to be a nexus between that. I asked him  
24 on the stand: Did you confirm whose house it was?  
25 They didn't know. I asked him on the stand, you

1 know: Did you see him at the house that day? They  
2 didn't know. They have to offer evidence. The  
3 Court can't presume that they're on the right  
4 track. That's not enough. They've got to get past  
5 that threshold and then show that it is traceable  
6 which is one of the reasons the officer brought up  
7 the issue. And he's right. One of the reasons  
8 they do flash money, Judge, is so they when they go  
9 and do these buys -- or let's say they are trying  
10 to have a CI go out and do a buy, which they did in  
11 this case, then they can track the serial numbers  
12 to that transaction because it's required when you  
13 try to seize the money. And they're going to go  
14 back and try to get the money and any other money  
15 that they have.

16 THE COURT: But there were three --  
17 some controlled buys at the house where Mr. White  
18 lived.

19 MR. WILSON: Testified by, again, the  
20 agent. The CI was not on the stand here. There  
21 was no one who came and said, yes, I bought drugs  
22 from Mr. White. Nobody said that. All of this was  
23 from the agent who I don't even know if he was  
24 there when this guy was wired up and taped up.

25 THE COURT: But testimony that I



1 allowed into evidence.

2 MR. WILSON: That's right. Yes,  
3 testimony that was allowed. But, again, this is  
4 what happens in a trial. I mean, obviously if he's  
5 testifying about what a third party did and a CI  
6 that we don't even know about, I mean, I would  
7 think that is fairly weak. But, again, I would go  
8 back to the issue regarding the search warrant.  
9 Anytime that you have a search warrant -- and I've  
10 tried civil cases before -- you have a search  
11 warrant that goes bad for whatever reason, if it's  
12 not signed, if the Court believes that, you know,  
13 someone falsified evidence, whatever the reason is,  
14 everything that flows from that search warrant  
15 going bad makes it a problem with the actual  
16 evidence that was garnered. And I know obviously  
17 this is not criminal court. But, again, if I'm  
18 trying a case and the judge says, look, I'm not  
19 allowing the search warrant, none of that stuff  
20 comes in. The same thing applies in civil court.  
21 If he has an issue with the search warrant, that's  
22 not our problem. That is a problem for the State  
23 and the plaintiff. His issue is he's got to get  
24 this stuff in because it flows together. Again,  
25 the fruit of the poisonous tree always flows

1 together. So he's now trying to come in and say,  
2 look, we're going to circumvent that. We've got a  
3 search warrant for the safe deposit box but nothing  
4 else. That's what it is tantamount to, Judge, and  
5 I'm just saying that I think that when you look at  
6 this case in totality, even if there is an issue --  
7 but when you look at it from traceability, when you  
8 go one step beyond which is what the Constitution  
9 allows more protection for the defendants, there is  
10 no doubt that there's an issue with this taking.  
11 There is no traceability. You know, I think  
12 honestly if you apply the totality of the  
13 circumstances, I think it's a weak case, but I  
14 think when you go to that one extra step which, you  
15 know, Gordon and Gibson both talk about, there is  
16 no traceability here at all. None. I tried to  
17 ask -- and Lord knows I was asking questions I  
18 didn't know the answer to, so you never know what  
19 you're going to get. There was no traceability.

20 THE COURT: Even with the three  
21 controlled buys by the DEU agents?

22 MR. WILSON: Judge, even with that,  
23 they didn't bring in anything. Let's say for  
24 argument --

25 THE COURT: I understand they didn't



1 put the agent on the stand.

2 MR. WILSON: But Judge, not even that.  
3 Even if -- let's say right now that we would  
4 concede that he did three buys. And we don't have  
5 the video. Let's say I conceded it. The  
6 forfeiture they're talking about is related to the  
7 drugs at the house. They're saying this guy was  
8 selling drugs. They've got to bring in proof of  
9 that. Now, if they want --

10 THE COURT: They did bring in proof.  
11 They did bring in proof.

12 MR. WILSON: They brought in some  
13 evidence.

14 THE COURT: Sure.

15 MR. WILSON: But the question is  
16 whether or not that evidence is equal to the weight  
17 that the law requires for traceability.

18 THE COURT: They brought in enough  
19 evidence for probable cause for a search warrant.  
20 I mean, maybe not enough to convict, but we don't  
21 have to have that for this court.

22 MR. WILSON: But the Court has already  
23 ruled that the search warrant was no good. The  
24 Court ruled that even if you say --

25 THE COURT: I didn't rule that.



1 MR. WILSON: The Court didn't allow it  
2 in.

3 THE COURT: But I didn't rule it wasn't  
4 any good.

5 MR. WILSON: But you can't have --  
6 Judge, you can't have a search warrant go into a  
7 case and the Court says, look, it's not signed.  
8 I'm not going to allow this in. If they don't have  
9 a search warrant, they can't put in the rest of the  
10 stuff. It doesn't get in. It can't come in and  
11 say, look, you know, we're going to circumvent the  
12 search warrant.

13 THE COURT: But don't be presuming  
14 anything from my not letting it into evidence.

15 MR. WILSON: No, Judge.

16 THE COURT: I didn't rule that it was  
17 not a valid search warrant.

18 MR. WILSON: No, Judge.

19 THE COURT: I didn't rule that at all.

20 MR. WILSON: Judge, I'm not presuming.  
21 But again, one of the issues in this case obviously  
22 is whether or not the search warrant was signed.  
23 The Court took issue with that and I think  
24 rightfully so.

25 THE COURT: But keep in mind if, in

1 fact, the affiant, the agent who provided that  
2 affidavit to the judge who issued that search  
3 warrant, if that affiant was standing before the  
4 judge who signed that search warrant -- that agent  
5 was right there and filled in the blanks -- that's  
6 a valid search warrant.

7 MR. WILSON: Well, I mean, Judge, I  
8 think we could change those facts. And if he was  
9 here, he could tell us that, but he wasn't here.

10 THE COURT: That's true.

11 MR. WILSON: That evidence wasn't  
12 presented to the Court. And I think that, again,  
13 the Court has to be careful trying to fill in the  
14 blanks for the State. You know, I am concerned  
15 about obviously the lack of evidence of a traceable  
16 case. I am also concerned obviously if the Court  
17 is trying to fill in the gaps or fill in what's  
18 missing, I think that's a dangerous area to go  
19 into.

20 THE COURT: I'm not trying to fill it  
21 in now. That's why I didn't let it into evidence.  
22 But my point is I did not rule it was not a valid  
23 search warrant.

24 MR. WILSON: I understand the Court's  
25 position. I do understand the Court's concern also

1 about going back behind a magistrate, but this  
2 happens all the time where courts go back and say,  
3 look, there's no probable cause here. That happens  
4 almost all the time. I've had it to happen in at  
5 least three or four courts myself where I've  
6 challenged the probable cause. Magistrates are not  
7 infallible.

8 THE COURT: I understand. I'm  
9 understanding. I understand.

10 MR. WILSON: But, again, getting beyond  
11 that, even if the Court had let it in --

12 THE COURT: But you made a blanket  
13 statement that I held that it was not a valid  
14 search warrant. I did not hold that.

15 MR. WILSON: I apologize, Judge. Based  
16 upon my understanding of the law -- and I apologize  
17 if I -- but, again, if the Court does not allow  
18 that search warrant in, again, that search is  
19 deemed to be either bad or not good or not  
20 admissible, and everything that flows from it is an  
21 issue.

22 MR. BATTLE: It's my understanding that  
23 it was authenticity was the issue with it coming  
24 into evidence.

25 THE COURT: That's right. That's



1 correct.

2 MR. WILSON: It's like asking, you  
3 know, is this an apple or is this an apple. It  
4 doesn't matter. If the actual search warrant  
5 itself is deemed to be, for whatever reason,  
6 invalid, whether it's falsified, whether it is  
7 based on bad statements from the -- it doesn't  
8 matter.

9 THE COURT: But that's a big if. I  
10 didn't rule that.

11 MR. WILSON: If it's not allowed in,  
12 Judge, though they can't use -- it's not  
13 admissible. If it's not admissible, they can't get  
14 around the issue of the actual probable cause  
15 problem with the search warrant. But beyond that,  
16 even if it was admitted, this case doesn't show  
17 traceability. Again, them going in to search a  
18 house, they didn't have a warrant for his arrest.  
19 They go in to go search his house -- that's what  
20 were talking about -- and seize drugs from the  
21 house.

22 THE COURT: Are you saying that the  
23 only way they can show traceability is through a  
24 search warrant?

25 MR. WILSON: No, no, that's not what



1 I'm saying, Your Honor.

2 THE COURT: Okay.

3 MR. WILSON: What I'm saying is that --  
4 that's what I was going to say. The agent fleshed  
5 it out well. One of the things they do is they try  
6 to create traceability by doing the controlled  
7 buys. Okay? The issue is that there was a reason  
8 why they didn't put that evidence before Your  
9 Honor. There's a reason why they could actually  
10 prosecute him in state court. If they didn't put  
11 that before Your Honor, and they had three  
12 controlled buys, I would ask the Court if you fill  
13 in the gaps for the State, fill in our gaps because  
14 there's a question about whether or not he was even  
15 identified on those tapes. That was the issue.  
16 That's one of the things we fleshed out in the  
17 criminal case. That's one of the reasons the feds  
18 came in and said, look, we're going to take this  
19 case because they don't need identification. They  
20 only need drugs. But in this case, they've got to  
21 have that. They can't get around that. They can't  
22 get around the search warrant. They cannot get  
23 around actually having the traceability. And  
24 again --

25 THE COURT: Well, we saw him on the



1 tape.

2 MR. WILSON: You saw him on the tape  
3 counting money.

4 THE COURT: Well, we saw his face.

5 MR. WILSON: No, we're not talking  
6 about that, Your Honor. Were talking about the  
7 actual CI buys.

8 THE COURT: Oh, okay. I've got you. I  
9 didn't see those tapes. I didn't see those tapes.

10 MR. WILSON: And that's exactly my  
11 point. But again, the other tapes don't show CI  
12 buys. They simply show, you know, him counting the  
13 money, I would assume.

14 THE COURT: Yes, sir.

15 MR. WILSON: But the only thing  
16 published for the Court was him counting money.

17 THE COURT: Yes, sir.

18 MR. WILSON: I can count money right  
19 now, and that in itself is not illegal.

20 THE COURT: No. You're exactly right.

21 MR. WILSON: And that's why the  
22 totality of the circumstances, the court rejected  
23 it because it said Congress intended for  
24 traceability to be the issue. So, again, the court  
25 wants it to go one step further and say, look, it's



1 not enough to show somebody counting money.

2 THE COURT: But, you know, everybody in  
3 here can agree that most people don't keep cash in  
4 a safe deposit box because you're not supposed to  
5 keep cash in a safe deposit box.

6 MR. WILSON: But Judge --

7 THE COURT: And you wouldn't keep it in  
8 a safe deposit box, and Mr. Battle wouldn't keep it  
9 in a safe deposit box, and I wouldn't keep it in a  
10 safe deposit box.

11 MR. WILSON: That's a conversation for  
12 the IRS. If they want to call him about it, that's  
13 a conversation for the IRS.

14 THE COURT: Well, that's true, but --  
15 so first of all, you've got that issue. Then  
16 you've got the amount of money, the \$21,000 in --

17 MR. WILSON: In cash.

18 THE COURT: -- in cash. You know, it's  
19 not \$100 in cash.

20 MR. WILSON: That's right.

21 THE COURT: You've got a substantial  
22 amount of cash there.

23 MR. WILSON: Absolutely.

24 THE COURT: And then you've got this  
25 tape there.

1 MR. WILSON: Showing him counting  
2 money. All those things, none of them are illegal.

3 THE COURT: No. You're exactly right.  
4 And it's apparently a selfie of himself counting  
5 money. That's a little strange. That is a little  
6 strange.

7 MR. WILSON: A selfie where no one can  
8 connect that money to the money in the safe deposit  
9 box, and no one can say whether or not that money  
10 is real. I asked the agent. They had one witness.  
11 This is their case.

12 THE COURT: But that's even stranger.  
13 You don't keep Monopoly money in a safe deposit  
14 box.

15 MR. WILSON: Rappers and drug dealers  
16 use prop money all the time, I would suggest to the  
17 Court. That's what I was asking.

18 THE COURT: Are you saying your own  
19 client is a wrap dealer and a whatever -- what was  
20 the other thing you called it?

21 MR. WILSON: I said a rapper.

22 THE COURT: A rapper? I mean, why  
23 would a rapper keep --

24 MR. WILSON: Judge, I had a client  
25 once -- and I'm not trying to belabor this point.

1 But I had a client once that held \$100,000 of fake  
2 money. And to prove to the federal judge that he  
3 did it -- the reason he did it was because he was  
4 trying to front for people. What I'm suggesting to  
5 the Court is not that he's a rapper or anything  
6 like that. What I'm saying is that, again, if I  
7 have that kind of money in my safe deposit box and  
8 they go and seize it and say, Ralph, I found drugs  
9 at your grandmother's house. We think that you  
10 were selling drugs out of there. And then they  
11 produce the three buys to the Court, that's  
12 different.

13 What happened here is they found drugs  
14 at my grandmother's house. They then go to my bank  
15 and then seize my bank account or my safe deposit  
16 box and can't connect me to the drugs at the house.  
17 That is an issue. There were other people there as  
18 well. But, again, they have to have traceability.

19 THE COURT: I understand. I know the  
20 statute requires it, and I know case law requires  
21 it. I understand that.

22 MR. WILSON: My concern, Judge, is  
23 that, again, circumventing the law just saying  
24 okay, well, look, we believe that Dennis did the  
25 right thing in front of a judge.



1 THE COURT: I know that.

2 MR. WILSON: I know Dennis. This agent  
3 is a good agent. I know him.

4 THE COURT: Yes, sir.

5 MR. WILSON: You know --

6 THE COURT: I think he is too, and I  
7 just met him.

8 MR. WILSON: Yes, he's a good guy.

9 THE COURT: So now it's my job to  
10 determine based on what's been presented today and  
11 what you've disputed today whether, in fact,  
12 traceability has been proven.

13 MR. WILSON: Yes, Your Honor.

14 THE COURT: And I know we're all tired  
15 today, and so I'd like to give Mr. White a few  
16 moments to speak with his grandmother before he has  
17 to go. So I'm going to take this under advisement.  
18 I've got the evidence here. If the agents would be  
19 with him and give him five minutes or so to speak  
20 with his grandmother before he has to go back. So  
21 we are adjourned.

22 MR. BATTLE: Your Honor, did you have a  
23 copy of Gibson already?

24 THE COURT: Yes, sir. I have Gibson,  
25 Trey Gowdy versus Gibson, and Tom Pope versus

1 Gordon.

2 MR. BATTLE: Okay. I also brought a  
3 copy of the statute.

4 THE COURT: I have a copy of the  
5 statute. Is there anything else y'all would like  
6 to give me?

7 MR. BATTLE: No, your Honor. I'm good.

8 THE COURT: Okay. Very good. So we  
9 are adjourned.

10 MR. WILSON: Thank you, Your Honor, for  
11 indulging me. I appreciate it.

12 THE COURT: Thank you very much. And I  
13 know that it was tough on you not wanting to be  
14 here today.

15 Mr. White, I think that you'll agree  
16 that Mr. Wilson did a good job.

17 MR. WHITE: Yes, ma'am. Thank you,  
18 ma'am.

19 MR. WILSON: Thank you, Your Honor.

20 (The hearing was concluded at 4:55  
21 p.m.)

22

23

24

25

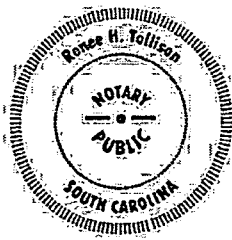


CERTIFICATE OF REPORTER

I, Renee H. Tollison, Court Reporter  
and Notary Public for the State of South Carolina  
at Large, do hereby certify that the foregoing  
transcript is a true, accurate, and complete  
record.

I further certify that I am neither  
related to nor counsel for any party to the cause  
pending or interested in the events thereof.

Witness my hand, I have hereunto  
affixed my official seal this 6th day of December,  
2016 at Conway, Horry County, South Carolina.



*Renee Tollison*

Renee H. Tollison, CVR  
Court Reporter  
My Commission expires  
May 23, 2022

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Master in Equity

The Honorable Cynthia Graham Howe

Case No. 2017-002365

Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of  
the 15<sup>th</sup> Circuit Drug Enforcement Unit,

Respondent,

v.

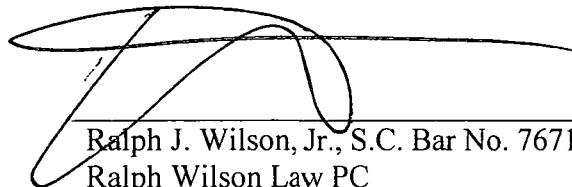
Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various  
Jewelry, Defendant Property, and Marvin White,

Appellant.

Certificate of Counsel

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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.



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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Master in Equity

The Honorable Cynthia Graham Howe, Master in Equity

Case No. 2017-002365

Jimmy A. Richardson, II, Solicitor for the Fifteenth Judicial Circuit, on behalf of the 15<sup>th</sup>  
Circuit Drug Enforcement Unit,

Respondent,

v.

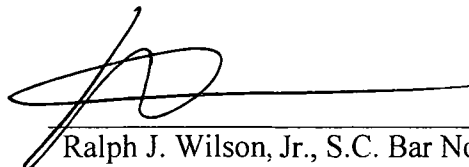
Twenty-One Thousand and no/100 Dollars (\$21,000) U.S. Currency and Various Jewelry,  
Defendant Property, and Marvin Joshua White,

Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on the Respondent by hand  
delivery to his attorney of record, James Richard Battle, II, Esquire of Battle Law Firm,  
LLC, at 1200 Main Street, in Conway, SC 29526.

July 20, 2018



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