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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO JASPER COUNTY
The Honorable Thomas A. Russo, Circuit Court Judge

Appellate Case No: 2019-001176

PHILLIP MONROE,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF JASPER
COURT OF GENERAL SESSIONS
CASE NO'S 2012-GS-27-00189 & 2012-GS-27-00190

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

FEBRUARY 11, 2013

TRANSCRIPT OF HEARING

RIDGELAND, SOUTH CAROLINA

PHILLIP MONROE

DEFENDANT

B E F O R E:

HON. PERRY M. BUCKNER, JUDGE; AND A JURY.

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

ON BEHALF OF THE STATE:

HON. CARRA HENDERSON

ON BEHALF OF DEFENDANT:

HON. ROBERT HUGHES

ORIGINAL

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

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1 BEGINNING 11:45 A.M.

2 BY THE COURT:

3 THE COURT: All right. Defendant's present,
4 Solicitor. Call your case.

5 MS. HENDERSON: Thank you, your Honor. State calls
6 State versus Phillip Monroe. Your Honor, he's charged
7 in Indictment 2012-189, with PWID controlled substance;
8 and 2012-190, trafficking in cocaine, ten grams or more,
9 but less than 28 grams.

10 THE COURT: Let the record reflect that the
11 defendant, Phillip Monroe, is in the courtroom, seated
12 at Defense table, with his attorney, Mr. Robert Hughes.
13 I understand from my attorneys that there is a pre-trial
14 matter that they wish to take up for which testimony
15 will be required.

16 Now, Madam Clerk, I understand -- is there anyone in
17 this courtroom that is here for jury duty for this week?
18 If so, please stand at this time.

19 Wanda, let the record reflect no one is standing in
20 the courtroom at this time, after being queried for jury
21 duty.

22 I understand, Solicitor, that there is, and Mr.
23 Hughes tells me that is correct, there is a matter
24 concerning a *Jackson/Denno* issue that needs to be
25 brought to the attention of the Court for purposes of

1 trying this case. Is that right, Counsel?

2 MS. HENDERSON: Yes, your Honor.

3 MR. HUGHES: Yes, your Honor.

4 THE COURT: Very well. All right. Solicitor, let's
5 proceed, then, with that. I have the indictments
6 involving Mr. Monroe, and let's proceed with you calling
7 your first witnesses. For purposes of this hearing,
8 there are no jurors in the courtroom.

9 MS. HENDERSON: Thank you, your Honor. The State
10 would call Master Sergeant Brian Baird.

11 THE COURT: Mr. Baird, if you'll come up and be
12 sworn, please, by the clerk.

13 MASTER SERGEANT BRIAN BAIRD: Yes, your Honor.

14 WITNESS SWORN.

15 THE COURT: Adjust that microphone for me, if you
16 would. And if you'd begin by stating your full name and
17 spelling your last name for the court reporter.

18 MASTER SERGEANT BAIRD: Brian Mark Baird, B/a/i/r/d.

19 MASTER SERGEANT BRIAN MARK BAIRD

20 DIRECT EXAMINATION, MS. HENDERSON:

21 Q Master Sergeant Baird, you are currently employed by
22 Beaufort County Sheriff's Office. Is that correct?

23 A Yes, ma'am.

24 Q Okay. And as you know, we are here for the *Jackson*
25 *v. Denno* hearing. At some point during the

1 investigation of this case, did you have opportunity to
2 interview Mr. Monroe?

3 A Yes, ma'am, I did.

4 Q Okay. And do you remember the date of that
5 interview?

6 A Not offhand.

7 Q Okay. Does April 30, 2012 sound about right?

8 A Yes, ma'am.

9 Q Okay. During that interview, do you remember, was
10 the defendant in custody at that time?

11 A Yes, he was.

12 Q Okay. And had he been advised of his constitutional
13 rights pursuant to *Miranda*.

14 A Yes, he was.

15 Q And how was that accomplished?

16 A I read them to him off a *Miranda* rights form we use.
17 He read along with me. He signed it, stated that he
18 understood them, and he was waiving those rights, and he
19 did sign that form stating that effect.

20 Q Okay. And he didn't appear to have any trouble
21 understanding those rights or anything you were saying
22 to him?

23 A No, none whatsoever.

24 Q What was his emotional state during the interview?

25 A He was pretty calm, fair. No issues that I noticed.

1 Q Okay. Who was present at the time of the interview?

2 A He was in a room with myself at that time.

3 Q Okay. So it was just you and him?

4 A In the room.

5 Q Okay. Did you threaten or coerce him in any way to
6 give a statement?

7 A Absolutely not.

8 Q Okay. And how did he respond when you asked if he
9 wanted an attorney present before any questioning?

10 A He did not want an attorney present at that time.

11 Q Okay. Did he ever change his mind during
12 questioning and ask for an attorney?

13 A Not while I was talking to him.

14 Q Okay. And he didn't appear to be under the
15 influence of any drugs or alcohol or have any mental
16 defects or anything like that; did he?

17 A No. He seemed emotionally and mentally fine, and I
18 believe he was coming from a detention center. So, as
19 far as I could tell, he wouldn't have access to any
20 alcohol or drugs.

21 Q Okay. And can you describe where the questioning
22 took place?

23 A At the Beaufort County Sheriff's Office. And I have
24 two offices there, and it was in one of my offices that
25 I have there.

1 Q Okay. Is it just a regular size room or?

2 A Yeah. It's a seven, maybe eight-by-ten room,
3 approximately.

4 Q How long did the questioning take place?

5 A Altogether, maybe two hours. If that long.

6 Q Okay. And is the person that you interviewed in
7 this courtroom?

8 A Yes, he's seated next to the Defense counsel, Mr.
9 Hughes.

10 Q Okay. And just as far as this case that we're here
11 for today, did he make any statements to you regarding
12 this incident?

13 A Yes, he did.

14 Q And what were those statements?

15 A While I was talking to him, he mentioned that, at
16 one point, he was, apparently, pulled over by the
17 police. I believe Ridgeland or Jasper County. I'm not
18 certain which agency. But he said he was pulled over,
19 and at that point he had a quantity of cocaine on him;
20 and he admitted that it was his cocaine; that he had
21 thrown it in the -- the passenger's lap, the other
22 gentleman that was in the car. He may have referred to
23 him by his first name. He threw it in his lap, and he
24 said that those were his drugs, and that they had
25 nothing to do with the other person in the car.

1 MS. HENDERSON: No further questions from the State
2 at this time, your Honor.

3 THE COURT: Cross-examination.

4 MASTER SERGEANT BRIAN MARK BAIRD

5 CROSS-EXAMINATION, MR. HUGHES:

6 Q I'm sorry, I didn't get your title.

7 A I'm a master sergeant.

8 Q Master Sergeant Baird, when did this occur?

9 A The interview, sir?

10 Q Yes.

11 A I believe she prompted me to be April 30, 2012.

12 Q Did you find out whether or not Mr. Monroe had an
13 attorney when you questioned him?

14 A At that point, I advised him of his rights to have
15 an attorney present. He said he did not want to have an
16 attorney present. I'm not aware if he had an attorney
17 on any other charges.

18 Q Okay. But you we're there to interview him on one
19 charge. On one potential charge, or was this just an
20 investigation?

21 A It was an investigation. I was talking to him. An
22 investigation into other matters.

23 Q So, was anybody from Ridgeland Police Department
24 there?

25 A Yes.

1 Q Who?

2 A Lieutenant Litchfield. And I can't remember Cris
3 McIntosh's rank.

4 Q Had they talked to him before you?

5 A They had driven him from Jasper County over to the
6 site where they had an opportunity to speak to him. I
7 don't know what they spoke to him about, if anything.

8 Q And did you question him about the matter that we're
9 here for trial, or was this just a voluntary, out-of-
10 the-blue statement?

11 A His statement to me was voluntary. Not out-of-the-
12 blue. I actually did not know what he was referring to
13 at that time, because I was interviewing him on another
14 matter. And when he commented on the drugs, I actually
15 had to take a break to go out and speak to the officers
16 to find out what they we're -- he was mentioning.

17 Q And this matter was recorded and videoed?

18 A No, it was not.

19 Q Why not?

20 A At the time, that was not a part of the Beaufort
21 County Sheriff's Office Department policy to require
22 video or audio recording an interview.

23 Q Now, do you remember his exact words?

24 A Like I said, to the best of my recollection, he had
25 told me that the cocaine that was recovered at the

1 traffic stop where it was, in fact, his cocaine. And
2 that he had thrown it into his passenger -- front
3 passenger seat's lap. And he said that gentleman there,
4 that person was not involved.

5 Q But you did not get an exact quote, and we have no
6 idea what inflections were used when he made this
7 statement.

8 A Just what I remember as it actually happened.

9 MR. HUGHES: No further questions, your Honor.

10 MS. HENDERSON: I have no --

11 THE COURT: Re-direct examination.

12 MS. HENDERSON: I have no re-direct.

13 THE COURT: One lawyer stands in my courtroom at a
14 time. One lawyer speaks in my courtroom at a time. You
15 understand, Solicitor?

16 MS. HENDERSON: Yes, your Honor.

17 THE COURT: Very well. Anything else of this
18 witness?

19 MS. HENDERSON: Not from the State, your Honor.

20 THE COURT: Any objection to this witness being
21 excused, Mr. Hughes?

22 MR. HUGHES: For the *Jackson/Denno* hearing, no, your
23 Honor.

24 THE COURT: All right. Now, for purposes of today,
25 Mr. Hughes, in light of what you already know, it

1 appears that we're not, because of the situation I
2 advised you of, earlier, --

3 MR. HUGHES: Yes.

4 THE COURT: -- it appears that we're not going to
5 get to any additional testimony. At least that's my
6 best estimate. So I'm assuming you're not objecting to
7 excusing him for the balance of today. Is that correct?

8 MR. HUGHES: None at all, your Honor.

9 THE COURT: Solicitor, is that what you want?

10 MS. HENDERSON: Yes, your Honor.

11 THE COURT: All right, Master Sergeant, you may step
12 down, and you're excused for the balance of the today.
13 Now, we're going to be selecting the jury this
14 afternoon. This case is either going to start tomorrow
15 or Wednesday, weather permitting.

16 MASTER SERGEANT BAIRD: Yes. Thank you very much,
17 your Honor.

18 THE COURT: The solicitor will be in touch with you.
19 Call your next witness.

20 MS. HENDERSON: Thank you, your Honor. The State
21 calls Officer Rett Long.

22 WITNESS SWORN.

23 THE COURT: Watch your step. Make yourself
24 comfortable. Pull your chair up. Adjust the microphone
25 to your height. State your first name and spell your

1 name, please, for my court reporter.

2 OFFICER RICHARD LONG: Officer Richard Long,
3 L/o/n/g.

4 THE COURT: Your witness, Counsel.

5 MS. HENDERSON: Thank you.

6 BY MS HENDERSON:

7 OFFICER RICHARD LONG

8 DIRECT EXAMINATION, MS. HENDERSON:

9 Q Officer Long, how did you become involved in this
10 case?

11 A On a traffic stop.

12 Q Did you initiate that traffic stop?

13 A Yes, ma'am, I did.

14 Q Okay. And at some point during the investigation of
15 this case, did you interview the defendant, Phillip
16 Monroe?

17 A Yes, ma'am, I did.

18 Q Okay. And was he in custody during that interview?

19 A Yes, ma'am.

20 Q And was he advised of his constitutional rights
21 pursuant to *Miranda*?

22 A Yes, ma'am, he was.

23 Q And how did you do that?

24 A I had him fill out the form. I read it to him. Had
25 him read along and sign it, initialed and sign it.

1 Q Okay. Did he appear to have any trouble
2 understanding those rights?

3 A No, ma'am.

4 Q Okay. And was anybody else in the room with you at
5 the time that those rights we're read?

6 A Officer Smith. Or Corporal Smith.

7 Q Anybody else?

8 A Courtney Baniel.

9 Q Okay.

10 THE COURT: Counsel approach.

11 OFF-THE-RECORD BENCH CONFERENCE;

12 PRESENT: THE COURT, MS. HENDERSON,

13 MR. HUGHES.

14 OFFICER RICHARD LONG

15 CONTINUE DIRECT EXAMINATION, MS. HENDERSON:

16 Q Give me one second, Officer Long. I'm pulling up
17 here a *Miranda* form that you --

18 THE COURT: Yes, ma'am. Absolutely.

19 MS. HENDERSON: May I approach the witness, your
20 Honor?

21 THE COURT: You may.

22 Q Officer Long, I'm handing you State's Exhibit for
23 the Court. Do you recognize that?

24 A Yes, ma'am.

25 Q And how are you able to recognize it?

1 A My signature.

2 Q Okay. And what is that?

3 A This is our standard *Miranda* form I use.

4 Q I apologize. If I could have it back.

5 MS. HENDERSON: May I approach, your Honor?

6 THE COURT: You may.

7 MS. HENDERSON: I need to show it to Mr. Hughes.

8 THE COURT: Absolutely.

9 MS. HENDERSON: And I apologize, Mr. Hughes, that I
10 didn't do that first.

11 May I approach again?

12 THE COURT: You may.

13 MS. HENDERSON: Thank you.

14 BY MS HENDERSON:

15 Q Officer Long, I'm sorry, what did you state that
16 was?

17 A This is our standard *Miranda* form we use at the
18 Police Department.

19 Q Okay. And is there a defendant's signature on that
20 form?

21 A Yes, ma'am, it is.

22 Q Okay. And who's is that?

23 A Phillip Monroe.

24 Q Okay. Is that the *Miranda* form that you've
25 testified that you advised him of his *Miranda* rights

1 with?

2 A Yes, ma'am, it is.

3 MS. HENDERSON: Your Honor, can we make that a
4 Court's exhibit?

5 THE COURT: Any objection, Mr. Hughes, for purposes
6 of this hearing only, as a Court's exhibit?

7 MR. HUGHES: No, your Honor.

8 THE COURT: Be Court's Exhibit Number 1. Hand that
9 to my court reporter and let her mark it.

10 COPY OF DOCUMENT REFERRED TO AS
11 MIRANDA FORM, DATED 4-10-12, MARKED
12 COURT'S EXHIBIT NUMBER 1.

13 THE COURT: Court's Exhibit Number 1, without
14 objection, for purposes of this hearing.

15 MS. HENDERSON: Thank you, your Honor.

16 BY MS HENDERSON:

17 Q Now, Officer Long, back to where we were after he
18 was *Mirandized*. I believe, did you testify that Officer
19 Long -- I mean, I'm sorry -- Officer Smith and the co-
20 defendant, Courtney Baniel, were in the room? Was that
21 your testimony before we stopped?

22 A Yes, ma'am.

23 Q Okay. Did anybody in the room threaten him or
24 promise him anything in exchange for his statement?

25 A No, ma'am. There was no promises made.

1 Q Okay. Did he ever ask for an attorney in your
2 presence?

3 A No, ma'am, he did not.

4 Q Okay. And do you remember the date of your
5 interview?

6 A April 10th.

7 Q Okay. And did he appear to be under the influence
8 of drugs or alcohol or have a mental defect of any kind?

9 A No, ma'am, not that I saw.

10 Q Okay. And how long do you think the questioning
11 took place?

12 A Twenty-five minutes total, possible.

13 Q Okay. And is the person that you questioned in this
14 room?

15 A Yes, ma'am, he is.

16 Q And where is he?

17 A Right there beside his attorney.

18 Q And for the court reporter, are you pointing to the
19 gentleman in the plaid shirt?

20 A Yes, ma'am, Phillip Monroe.

21 Q Okay. Okay. And what statements did he make to you
22 during that hearing regarding this incident?

23 A He made several statements that where he talked in
24 circles to a certain extent. He never really came out
25 and said that the drugs -- in the beginning, he said

1 that the drugs wasn't his. And then, toward the end of
2 the statement, he said that he didn't know whose they
3 belonged to; he didn't know who they belonged to at all,
4 the drugs. And then, toward the end of his statements,
5 when we was fixing to leave our squad room where we done
6 the interviewing, he started pointing out to the co-
7 defendant, saying, *You have to take these charges; I*
8 *already have charges; you have to take these charges.*

9 MS. HENDERSON: Nothing further from the State, your
10 Honor.

11 THE COURT: Cross-examination.

12 MS. HENDERSON: Thank you, your Honor.

13 OFFICER RICHARD LONG

14 CROSS-EXAMINATION, MR. HUGHES:

15 Q Officer Long, I don't think the State established
16 this. What organization are you with?

17 A Ridgeland Police Department, sir.

18 Q Thank you. And where did this examination take
19 place?

20 A Ridgeland Police Department Squad Room.

21 Q And how soon after the arrest did this take place?

22 A Within five minutes. Six minutes, possibly.

23 Q And what time of day was this?

24 A This was probably around 11:00 o'clock at night.

25 I'm just trying to recollect off the top of my head.

1 Q And was this interview recorded in any way, shape,
2 or form?

3 A Yes, it was.

4 Q How was it recorded?

5 A I wear a body camera that's supplied through the
6 police department. It's a Taser Axon, and it records
7 audio and video.

8 Q And a copy of that was made to the solicitor's
9 office?

10 A Yes, it was.

11 Q And Phillip never admits that the drugs were his.

12 A He stated in the interview that, in the beginning,
13 it was not his; he didn't know nothing about them. And
14 at the end of the interview, he's saying that -- he's
15 telling Mr. Baniel that he has to take these charges
16 because he already has charges.

17 Q But he never says the drugs were mine in any way,
18 shape, or form.

19 A He never came out and made any statements to that.

20 Q He maintained that the drugs were not his.

21 A Yes.

22 MR. HUGHES: No further questions, your Honor.

23 THE COURT: Wanda, hand me Court's Exhibit Number 1,
24 if you would, please. Re-direct.

25 MS. HENDERSON: Nothing from the State, your Honor.

1 THE COURT: As to this witness?

2 MS. HENDERSON: Nothing more from the State, your
3 Honor.

4 THE COURT: May he be excused?

5 MS. HENDERSON: Yes, your Honor.

6 THE COURT: Any objection, Mr. Hughes?

7 MR. HUGHES: No, your Honor.

8 THE COURT: You may step down, and you're excused.
9 Now, you're on call for the solicitor's office, because
10 we're going to be starting this. We're selecting the
11 jury this afternoon. I don't know whether the trial's
12 going to begin in the morning or Wednesday morning. The
13 Solicitor will be contacting you or a representative
14 office to let you know, but you're excused for the
15 balance of today. You may leave the courtroom at this
16 time.

17 OFFICER LONG: Thank you, your Honor.

18 THE COURT: Thank you. Call your next witness.

19 MS. HENDERSON: Thank you, your Honor. The State
20 would call Lieutenant Daniel Litchfield.

21 WITNESS SWORN.

22 THE COURT: Mr. Litchfield.

23 LIEUTENANT DANIEL LITCHFIELD: Thank you, sir.

24 THE COURT: Have a seat and make yourself
25 comfortable. Unbutton that coat, for God's sake. All

1 right. State your full name and spell your last name
2 for the court reporter.

3 LIEUTENANT LITCHFIELD: Daniel Litchfield. Last
4 name L/i/t/c/h/f/i/e/l/d, Investigator.

5 THE COURT: Your witness, Counsel, direct
6 examination.

7 MS. HENDERSON: Thank you, your Honor. Your Honor,
8 could I beg the Court's indulgence one second?

9 THE COURT: Absolutely.

10 MS. HENDERSON: Sorry about that, your Honor.

11 LIEUTENANT DANIEL LITCHFIELD

12 DIRECT EXAMINATION, MS. HENDERSON:

13 Q It is Lieutenant Long, is it -- I'm sorry.
14 Lieutenant Litchfield, correct?

15 A Yes, ma'am.

16 Q Okay. And what agency are you with?

17 A Ridgeland Police Department.

18 Q Okay. And during the investigation of this case,
19 did you become involved somehow?

20 A Yes, ma'am.

21 Q And how was that?

22 A The night of the arrest, I was -- I received a phone
23 call from Officer Long in reference to the arrest, just
24 so I'd be aware of it. I told Mr. Long that I would
25 attempt to interview the subject the following day.

1 Q Okay. And did you?

2 A No. It was a couple days later.

3 Q Okay. Do you remember the date of that interview?

4 A April 12th.

5 Q Okay. So it was two days after the incident?

6 A Yes, ma'am.

7 Q Okay. And was he in custody during that interview?

8 A Yes, ma'am.

9 Q Okay. And was he advised of his constitutional
10 rights pursuant to *Miranda* prior to questioning?

11 A Yes, ma'am.

12 Q And how were those rights read to him?

13 A We use a standard form. I believe, Officer Long
14 showed that earlier. We use that same form for
15 interview with *Miranda*.

16 Q Okay.

17 A That's audio/video.

18 MS. HENDERSON: Your Honor, those were not --
19 they're not attachments. Therefore, Investigator
20 McIntosh is seeking to find them. So that's where we
21 are with that.

22 THE COURT: Proceed.

23 MS. HENDERSON: Thank you, your Honor.

24 BY MS HENDERSON:

25 Q And did he sign this *Miranda* form?

1 A No, I did not have him sign it. We just read it,
2 because we had audio/videod it.

3 Q Okay. And would that be why your *Miranda* form is
4 not attached to the incident report?

5 A Yes, ma'am.

6 Q Okay. And did he appear to waive those rights?

7 A Yes, ma'am.

8 Q Who was present during this questioning?

9 A Well, the first interview that I'm discussing,
10 Investigator McIntosh was with me.

11 Q Okay. And what kind of room was it in?

12 A A courtroom.

13 Q Is that a descent-size room?

14 A Yes, ma'am. About half the size of this.

15 Q Okay. And how long did the questioning take place?

16 A About a half hour.

17 Q Okay. And during that half hour, did anyone coerce
18 him, threaten him, promise him anything to make him make
19 a statement to you?

20 A No, ma'am.

21 Q Okay. Did he appear to have any mental disabilities
22 or have consumed any drugs or alcohol?

23 A No, ma'am.

24 Q Okay. And did he ever stop and ask for an attorney
25 during your questioning?

1 A No, ma'am.

2 Q Okay. And do you see him in this courtroom?

3 A Yes, ma'am.

4 Q And can you please point out what he is wearing for
5 the benefit of the court reporter?

6 A He's wearing a plaid shirt, sitting next to Mr.
7 Hughes.

8 Q Okay. As to the April 12th interview, what did he
9 state to you?

10 A He stated that the drugs were -- were not his; they
11 were Courtney Baniel's. Towards the end of the
12 interview, he was like, look, I'm in a lot of trouble,
13 but these aren't mine; these are Courtney's.

14 Q Okay. And did you have the opportunity to interview
15 him again at some point?

16 A Yes, ma'am.

17 Q And do you remember the date of that interview?

18 A I believe that was April 16th.

19 Q Okay. And who was present during that interview?

20 A Investigator McIntosh and two officers from the Drug
21 -- Beaufort County Drug Task Force.

22 Q Okay. And where did that questioning take place?

23 A Same place. Courtroom.

24 Q Okay. And how did you go about doing another
25 interview with him?

1 A Through phone calls from Mr. Monroe and his wife
2 wanting us to talk with him, we went ahead and had him
3 picked up from the jail so we could to another
4 interview.

5 Q So he requested to speak with you all.

6 A Yes, ma'am.

7 Q Okay. Was he in custody during this interview?

8 A Yes, ma'am.

9 Q And was he advised of his *Miranda* rights?

10 A Yes, ma'am.

11 Q And how was he advised during this interview?

12 A Same as last time. We have a form that we go by,
13 and it was audio/videod.

14 Q Okay. So, again, there was no signature or initials
15 on the form?

16 A No, ma'am.

17 Q Okay. And did he appear to understand his rights as
18 read to him?

19 A Yes, ma'am.

20 Q Okay. And did you or anyone else in the room
21 threaten him, promise him, coerce him, anything to make
22 him give a statement?

23 A No, ma'am.

24 Q Okay. Did he appear to be under the influence of
25 any drugs or alcohol or have a mental disability at this

1 interview?

2 A No, ma'am.

3 Q Okay. And I believe you said -- where did the
4 questioning take place?

5 A In our courtroom.

6 Q The same place as it did the last time.

7 A Yes, ma'am.

8 Q Okay. And what was stated during that interview?

9 I'm sorry. Is he in this courtroom, the person you
10 interviewed on April 16th?

11 A Yes, ma'am.

12 Q And can you point out what he's wearing, please.

13 A Plaid shirt, next to Mr. Hughes.

14 Q Thank you. And what did he state to you during this
15 second interview?

16 A He was a little more forthcoming with the fact that
17 the drugs were his and Courtney Baniel; that they were
18 purchased together. He stated on that interview that he
19 actually was planning on turning the cocaine into crack.

20 Q Okay. Did he make any reference to the pills that
21 were located inside the bag?

22 A Yes.

23 Q What --

24 A He said that the pills were traded for crack from a
25 female on Augusta Street; that he had bought

1 approximately 100 pills. He'd already sold some.

2 Q Okay. And did he make any other statements to you
3 during that interview regarding this case?

4 A No.

5 MS. HENDERSON: No further questions from the State,
6 your Honor.

7 THE COURT: Cross-examination.

8 LIEUTENANT DANIEL LITCHFIELD

9 CROSS-EXAMINATION, MR. HUGHES:

10 Q Lieutenant Litchfield, all the recordings were
11 provided to the solicitor's office.

12 A Yes, sir.

13 Q And in the first interview at the courtroom over on
14 the magistrate's office, he never said anything as to
15 the drugs being his.

16 A No.

17 Q The second interview he does say that the drugs were
18 Baniel's and his.

19 A Yes, sir.

20 Q And you have not given him anything to ease that
21 confession out. Did you put any money on his account?

22 A I put money on his account afterwards.

23 Q Did you put money on his account before he went over
24 to Beaufort?

25 A No.

1 Q Well, when did you put money on his account?

2 A After that interview, because he had discussed
3 jailers bringing him contraband to the jail.

4 Q Did you take him over to Beaufort?

5 A Yes.

6 Q Were you a part of that interview?

7 A I was in a separate room, watching it on a closed-
8 circuit T.V.

9 Q Was the interview recorded?

10 A No, sir.

11 Q Was it transcribed? Did anybody take notes?

12 A No, sir.

13 Q Did you have a talk with him on the way over to
14 Beaufort?

15 A I don't recall anything.

16 Q Something. Anything about a bond reduction?

17 A He may have asked me if there's any way to get a
18 bond reduction. And I told him that's not my, you know,
19 anything that I can do; that's to the solicitor's
20 office; and my recommendation would weight heavily on
21 that, but that's it.

22 Q You didn't tell him that if you told them [sic] the
23 drugs were his that you'd help him with the bond
24 reduction?

25 A No, sir.

1 Q But the interviews that occurred over in the
2 courtroom are on videotape, but the one in Beaufort is
3 not.

4 A Correct.

5 MR. HUGHES: No further questions, your Honor.

6 THE COURT: Re-direct.

7 MS. HENDERSON: Briefly, your Honor.

8 LIEUTENANT DANIEL LITCHFIELD

9 RE-DIRECT EXAMINATION, MS. HENDERSON:

10 Q Lieutenant Litchfield, prior to the April 16th
11 interview, before him coming over there to speak to you,
12 did you promise him, his wife or him, anything to make
13 him come talk to you again?

14 A No.

15 Q Did you promise him anything in exchange for those
16 statements that were made?

17 A No.

18 Q Did you tell his wife you'd put money on his card at
19 the jail if he came and gave a statement?

20 A No.

21 Q And on the way to Beaufort, did you promise him that
22 you would seek my consent to have a bond reduction if he
23 told Investigator Baird the drugs were his?

24 A No.

25 MS. HENDERSON: No further questions, your Honor.

1 THE COURT: Re-cross limited to re-direct.

2 MR. HUGHES: No further questions, your Honor.

3 THE COURT: Counsel approach. Stay right there for
4 me, Lieutenant.

5 LIEUTENANT LITCHFIELD: Yes, sir.

6 OFF-THE-RECORD BENCH CONFERENCE;

7 PRESENT: THE COURT, MS. HENDERSON,

8 MR. HUGHES.

9 THE COURT: As to this witness, Solicitor, anything
10 further of this witness?

11 MS. HENDERSON: No, your Honor.

12 THE COURT: As to the witness's status for today,
13 Solicitor?

14 MS. HENDERSON: No, your Honor, he's free to leave.
15 I don't need him anymore. Sorry.

16 THE COURT: Mr. Hughes, any objection?

17 MR. HUGHES: None at all, your Honor.

18 THE COURT: Lieutenant Litchfield, you are excused.
19 You're on call. I'm not sure when we're going to start.
20 Weather permitting, tomorrow or the next day, please.
21 The solicitor office will be in touch, but you're
22 excused for today. Drive carefully in the weather.

23 LIEUTENANT LITCHFIELD: Thank you, your Honor.

24 THE COURT: Solicitor, I understand you have another
25 piece of evidence you'd like to introduce for purposes

1 of this hearing. Is that correct?

2 MS. HENDERSON: Yes, your Honor.

3 THE COURT: All right.

4 MS. HENDERSON: This was the *Miranda* form that was
5 filled out with Mr. Monroe and Master Sergeant Brian
6 Baird in Beaufort County. I've shown it to the Defense
7 counsel. He does have a copy of it. It's my
8 understanding that he's consenting to this being entered
9 in as a Court's Exhibit Number 2, your Honor.

10 THE COURT: For purposes of this hearing. Is that
11 correct, Mr. Hughes?

12 MR. HUGHES: Yes, your Honor.

13 THE COURT: Please mark it, Madam Court Reporter, as
14 Court's Exhibit Number 2, without objection, for
15 purposes of this hearing. And if you'd let me have a
16 look at it, please, after it's marked by the court
17 reporter.

18 MS. HENDERSON: Thank you.

19 THE COURT: Thank you.

20 DOCUMENT REFERRED TO AS *MIRANDA*
21 FORM, DATED APRIL 23, 2012, MARKED
22 COURT'S EXHIBIT NUMBER 2.

23 THE COURT: Very well. Call your next witness,
24 Solicitor. Give that to Wanda.

25 MS. HENDERSON: Your Honor, I don't have anymore

1 witnesses as far as direct statements. Now, Mr. -- I'm
2 sorry -- Investigator McIntosh will be testifying as to
3 statements that were already presented by the other
4 officers. And Mr. Hughes wants me to place him on the
5 stand.

6 THE COURT: All right. All right. I understand.
7 But for purposes of the *Jackson/Denno* hearing, the
8 answer is you don't intend to call any other witnesses?

9 MS. HENDERSON: Well, that's what I'm asking.

10 THE COURT: Well, let him decide that.

11 MS. HENDERSON: Okay. No, your Honor.

12 THE COURT: Mr. Hughes, does the Defense wish to
13 present any evidence for purposes of this hearing?

14 MR. HUGHES: Yes, your Honor.

15 THE COURT: Very well. Call your first witness.

16 MR. HUGHES: The Defense calls Phillip Monroe.

17 THE COURT: Come around and be sworn by the clerk,
18 please.

19 WITNESS SWORN.

20 THE COURT: Watch that step. Mr. Monroe, watch --
21 step up right here. I don't want you to trip on that
22 step. Have a seat. Make yourself comfortable. Now, I
23 want you to adjust -- it's close, but you adjust that. I
24 want you to speak into that microphone, cause it's going
25 to amplify your voice. And would you begin by stating

1 your full name and spelling your last name for the court
2 reporter.

3 DEFENDANT MONROE: Phillip Monroe, M/o/n/r/o/e.

4 THE COURT: Your witness, Mr. Hughes. Direct
5 examination.

6 MR. HUGHES: Thank you, your Honor.

7 DEFENDANT PHILLIP MONROE

8 DIRECT EXAMINATION, MR. HUGHES:

9 Q Mr. Monroe, do you remember talking to Master
10 Sergeant Baird at Beaufort County?

11 A Yes, sir.

12 Q Tell the Court what happened on the drive from
13 Jasper to Beaufort.

14 A Well, I came to see the detectives on -- on the 11th
15 -- I mean the 12th, April the 12th. And they gave my
16 *Miranda* rights. And I talked to them. I didn't know
17 that the drugs was mine. So McIntosh, Lieutenant
18 McIntosh, he was telling me about some officers that was
19 in the county jail from bringing drugs and this and that
20 and there, and that he wanted me to thinking that he
21 would let me work for him. And he told me that he goes
22 to class on a Wednesday, and he would be off like
23 Thursday and Friday, and he will get a solicitor to get
24 me a bond for \$10,000.00, because he been to court with
25 me when we went to magistary [sic], and the Judge

1 Scoggins had fined that Courtney --Courtney Baniel
2 guilty on a marijuana charge. And he told me that if I
3 go to talk -- first, he tell me I was going to sign some
4 papers. So when I get down there, I went in there, and
5 I seen that guy --

6 COURT REPORTER: I'm sorry. *I went down there and I*
7 *got the?*

8 MR. HUGHES: Speak slowly and clearly.

9 THE COURT: Slow down just a little bit so the court
10 reporter can keep up with you.

11 A Okay. I went down there. He tell me that I was
12 going to sign some papers, because he was writing. They
13 was two SLED officers in there, and they can tell you
14 the same thing. And he say I was going to sign some
15 papers. But when I went down there, I seen the papers
16 on that guy's desk, and they say Chad and Tameka. But
17 he tell me if I make a statement, and cause he wanting
18 to know about the murder charges, that Courtney Baniel
19 tell him I did. So he want to me to make a statement.
20 He said that if I would -- they find me that I didn't
21 did nothing, that he would get me a bond. And he know
22 the solicitors, and the solicitors would look out for me
23 if I would make this statement for him. That's why I
24 made the statement.

25 Q Okay. Did you tell Master Sergeant Baird that the

1 drugs in the car were yours?

2 A I never tell him nothing. We only talk about the
3 murder charge. He polygrammed [sic] me on the murder
4 charge.

5 Q Okay. Were you hooked up to the machine the time
6 you talked to him?

7 A Yeah, I was hooked. I had my arm hooked up, and I
8 my finger, and something wrapped around me. And he told
9 sit real still on this chair. And it was padded. And
10 you know, he tell me that he know that he was working
11 for, I think, 30 years or 25 years. And he told me that
12 he knowed that I didn't kill those people. He said what
13 he talked about I made a level of minus three on
14 something, he said. And he said that I might know
15 something. That was his exact words.

16 Q Did he ask you about the drugs?

17 A He never asked me about the drugs.

18 Q Okay. And you gave no statement while you were
19 hooked to the machine about the drugs?

20 A I never gave a statement about any of the drugs.

21 Q And that was the gentleman that talked first.

22 A Yes, the tall guy. He -- he work in Beaufort. They
23 take me to Beaufort.

24 Q And your entire time you're talking to him, you're
25 hooked to a polygraph.

1 A I'm hooked to a polygram. Well, he ask me like --
2 he asked me the questions that he was going to ask --
3 ask me. I think it was like eight questions. I'm not
4 sure. But the question that he asked me, he ran over
5 them before he actually put me through the test.

6 Q And before then, did you say -- who brought you over
7 to Beaufort?

8 A Litchfield and McIntosh.

9 Q And did they promise you anything on the drive from
10 Ridgeland to Beaufort?

11 A Yes, he did. He promised me that he would get me a
12 bond reduction and for \$10,000.00; that he knows the
13 solicitors and he know because Judge Scoggins had find
14 Courtney Baniel guilty of the marijuana charge. And he
15 said that he would get me a bond reduction for a hundred
16 -- \$10,000.00. And he want me to help him with the
17 murder charge when I get on the street.

18 MR. HUGHES: No further questions.

19 THE COURT: Cross-examination.

20 MS. HENDERSON: Yes, your Honor. Thank you.

21 DEFENDANT PHILLIP MONROE

22 CROSS-EXAMINATION, MS. HENDERSON:

23 Q Mr. Monroe, who promised you a bond reduction?

24 A Litchfield, Lieutenant Litchfield.

25 Q Was it not your testimony earlier that you said

1 McIntosh?

2 A Me and McIntosh, we -- he -- he works -- well, come
3 to find out, he --

4 Q And I'm asking you who promised you something. You
5 testified at first it was McIntosh. Now your testimony
6 is that it's Litchfield.

7 A No, Litchfield promised me that he would get me a
8 bond reduction.

9 Q And when exactly did he promise you that?

10 A When we was leaving from the place, he had already
11 tell me that.

12 Q What place?

13 A The jailhouse -- I mean, the courthouse.

14 Q What courthouse?

15 A Ridgeland Courthouse.

16 Q This courthouse?

17 A No, it's over there by the jailhouse. I mean, not
18 the jailhouse. I'm not from here, really. I know it's
19 by the water place, I believe.

20 Q Where you were interviewed? The courtroom in come
21 you were interviewed?

22 A Yes.

23 Q So, in the whole time this thing is being recorded,
24 your interview is being recorded, there's no mention of
25 this, correct?

1 A No.

2 Q That's what you stated, that it was on the ride to
3 the jail, correct?

4 A Right. Right. Right. It was on the ride going to
5 the state road and stuff.

6 Q So, it's your testimony that this was promised to
7 you after the cameras were turned off?

8 A Yeah, he put the -- and he was on -- he tell me he
9 was going to put the money on my account. He tell me,
10 he say, *Well, you work for me now.* And he put the money
11 on my account, and he wanted me to --

12 Q Who told you, you work for him now?

13 A Litchfield.

14 Q Litchfield.

15 A Yes. And I believe at the same time it was to
16 Beaufort. SLED. I believe it was SLED. They was in
17 the way heard them that they was in like a white guy and
18 a black guy.

19 Q I'm sorry. Was in the courtroom or was it in the
20 car? Because, again, you've now testified to two
21 different things.

22 A It was in the -- we talked about all this in the
23 courtroom and on the way going to the place.

24 Q And you said the two DTF officers -- they're not
25 SLED, they're DTF -- were present when those promises

1 were made.

2 A Yes, ma'am.

3 Q And if they came to this courtroom and were sworn,
4 that would be their testimony?

5 A Yes, ma'am.

6 Q And --

7 A Because he tell me, he say something about some --
8 some kind of cases they had on me or something like
9 that. And I was like, *Look, man, I just came home and I*
10 *was trying, you know.* And he was like, Litchfield, when
11 they have you, I'll have you. That's was his exact
12 words.

13 Q Who said that?

14 A That was the SLED, whoever he was.

15 Q And when you were in Beaufort with Master Sergeant
16 Baird, isn't it true that your statements were made to
17 him about the drug charges after you were taken off of
18 the machine?

19 A When I first came to -- only -- only reason I took
20 the polygram test is because he told me if I take the
21 test and I passed it, he would get me a bond reduction,
22 Litchfield. So, I took it.

23 Q Answer my question. Were you off the machine when
24 you made that statement about the drugs?

25 A I never made that statement about the drugs. I was

1 only there for murder.

2 Q Did Officer -- I'm sorry -- Master Sergeant Baird
3 ever question you when you were off of the machine?

4 A Yes, he -- he asked me a couple questions about the
5 question that he going to ask.

6 Q That's all I wanted to know; that he question you
7 when you were off the machine.

8 No further questions, your Honor.

9 COURT REPORTER: Was that yes?

10 A Yes.

11 DEFENDANT PHILLIP MONROE

12 RE-DIRECT EXAMINATION, MR. HUGHES:

13 Q Go ahead and finish your answer. What did he
14 question you about?

15 A He questioned me about -- he say he going to ask me
16 a question and then take five second, I think, five
17 seconds in between; and so, just sit back and he going
18 to -- he went over all the questions with me, he said,
19 because if a person going to lie, they going to know
20 what they going to lie about already, because he tell
21 you the same thing that he going to ask you. But they
22 never asked me nothing about drugs. They only asked me
23 about the murder charge.

24 Q Did he ask you any question about why you weren't
25 hooked up to the machine?

1 A He only asked me only questions about the murder
2 charge. He never asked me nothing about drugs.

3 MR. HUGHES: No further questions, your Honor.

4 THE COURT: Re-cross limited to re-direct.

5 MS. HENDERSON: Nothing from the State, your Honor.

6 THE COURT: You may step down from the witness
7 stand. Call your next witness, Mr. Hughes.

8 MR. HUGHES: Defense rests, your Honor.

9 DEFENSE RESTS.

10 THE COURT: Any reply testimony from the State?

11 MS. HENDERSON: Yes, your Honor. If it please the
12 Court, the State would call Investigator -- I'm sorry --
13 Lieutenant Litchfield back to the stand.

14 THE COURT: Lieutenant Litchfield, if you'll come
15 back. I remind you that you're still under oath. And
16 take the witness stand.

17 LIEUTENANT LITCHFIELD: Yes, your Honor.

18 MS. HENDERSON: May it please the Court.

19 THE COURT: Yes, ma'am.

20 LIEUTENANT DANIEL LITCHFIELD

21 RE-RE-DIRECT EXAMINATION,

22 IN REPLY, MS. HENDERSON:

23 Q Lieutenant Litchfield, you've been present in the
24 courtroom, correct?

25 A Yes.

1 Q And you just heard the defendant's testimony.

2 A Yes, ma'am.

3 Q And as to his statements regarding your promises
4 once the cameras were turned off in front of the DTF
5 officers that you would get a bond reduction for him if
6 he went to Beaufort and confessed to the drugs, is that
7 a true statement?

8 A No, sir.

9 Q Did you say anything to him that would lead him to
10 think you were promising him a bond reduction?

11 A No. The only thing that he ever asked me was can I
12 get a bond reduction. I told him the solicitor's office
13 does that; I can talk with them, but that's their
14 choice.

15 Q Did that conversation occur in the courtroom or in
16 the car on the way to Beaufort?

17 A In the car on the way to Beaufort.

18 Q Was there any conversation in the courtroom about a
19 bond reduction?

20 A No.

21 Q And in the car, on the way to Beaufort, did you make
22 any other promises to him if he told Master Sergeant
23 Baird the drugs were his or made any other confessions?

24 A No.

25 Q And were you present when Master Sergeant

1 interviewed him?

2 A Yes.

3 Q How were you present?

4 A I was in another room watching the actual interview
5 and a polygraph on a closed-circuit T.V.

6 Q And did Master Sergeant Baird question him after he
7 was finished with the polygraph?

8 A Yes.

9 Q And did he question him before he was hooked up to
10 the polygraph?

11 A Minor stuff about why you're here and his *Miranda*
12 and stuff like that, but no.

13 Q And did the statement that was made by the defendant
14 regarding the drugs in this case, was he hooked up to
15 the polygraph during that time, or was he off the
16 polygraph?

17 A He was off the polygraph. I believe Baird was
18 questioning him about the polygraph and the reason for
19 the polygraph. And I believe that Mr. Monroe wanted to
20 re-direct, and that's why he brought up the drugs.

21 Q So, you heard the statement that Master Sergeant
22 Baird testified to regarding the drugs in this case.

23 A Yes, ma'am.

24 Q Do you know what he said to Master Sergeant Baird?
25 Sorry. He being Mr. Monroe.

1 A Yes, ma'am.

2 Q About the drugs. And what was that statement?

3 A He stated that the drugs were his, and he threw it
4 in Courtney's lap. And he said Courtney didn't have any
5 idea what was going on with that part of it.

6 MS. HENDERSON: Nothing further, your Honor.

7 THE COURT: Cross-examination.

8 LIEUTENANT DANIEL LITCHFIELD

9 RE-CROSS-EXAMINATION IN REPLY, MR. HUGHES:

10 Q Lieutenant Litchfield, the interview in Beaufort,
11 when you say he wasn't hooked up to the machine, how do
12 you know that?

13 A I was watching it on closed-circuit T.V.

14 Q Had they removed all electrodes and everything from
15 him, or was he still attached? Did he still have stuff
16 on?

17 A I believe they had taken everything off by this
18 point.

19 Q Okay. But you're not sure.

20 A Not a hundred percent sure.

21 Q So, he could still be attached to stuff, but not be
22 hooked up to the machine.

23 A It's possible.

24 Q And how long did it take you to get from Ridgeland
25 to Beaufort?

1 A I'm not real sure. Thirty-five minutes or so.

2 Q And you and my client talked most of the way there.

3 A Not most of the way. It was very limited as far as
4 conversations go.

5 Q But you all did have a talk about a bond reduction.

6 A He asked me if he could get a bond reduction. I
7 told him the solicitor's office had to deal with that;
8 that I could ask, but it's up to them. I don't have
9 any, you know, say-so over that.

10 MR. HUGHES: No further questions, your Honor.

11 THE COURT: Re-direct.

12 MS. HENDERSON: No, your Honor.

13 THE COURT: You may step down.

14 LIEUTENANT LITCHFIELD: Yes, sir.

15 THE COURT: Any further reply evidence from the
16 State of South Carolina of purposes of this hearing,
17 Solicitor?

18 MS. HENDERSON: Yes, your Honor. The State would
19 like to call Investigator Cris McIntosh.

20 THE COURT: Well, Mr. McIntosh, come around and be
21 sworn by the clerk, please.

22 I understand this is in reply, Solicitor.

23 MS. HENDERSON: Yes, your Honor, to Mr. Monroe's
24 testimony.

25 WITNESS SWORN.

1 THE COURT: Make yourself comfortable and have a
2 seat. Adjust the chair. Adjust the microphone. State
3 your full name. Spell your last for the court reporter.

4 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH:
5 Christopher Allen McIntosh, M/c/I/n/t/o/s/h.

6 THE COURT: Your witness.

7 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH

8 DIRECT EXAMINATION IN REPLY, MS. HENDERSON:

9 Q Investigator McIntosh, what agency do you work with?

10 A Ridgeland Police Department.

11 Q Were you present when Investigator Litchfield
12 interviewed Phillip Monroe on April 12, 2012?

13 A Yes, ma'am.

14 Q Were you present when he interviewed him on April
15 16, 2012?

16 A Yes, ma'am.

17 Q Were you present when Master Sergeant Brian Baird
18 interviewed him on April 30, 2012?

19 A Yes, ma'am.

20 Q And how were you present at the April 30th
21 interview?

22 A Through a closed-circuit monitor in the second room.

23 Q During the April 12, 2012 interview, did you promise
24 him anything in exchange for a statement?

25 A No, ma'am.

1 Q Did you make any promises to him about a bond
2 reduction or putting money on his card?

3 A No, ma'am.

4 Q Did you hear Investigator Litchfield make any
5 promises regarding a bond reduction or putting money on
6 his card at the jail?

7 A No, ma'am.

8 Q During the April 16th interview, you said you were
9 present, correct?

10 A Yes, ma'am.

11 Q And there were two DTF officers present, as well, at
12 that interview. Is that correct?

13 A Yes, ma'am.

14 Q Did you make any promises to him regarding a bond
15 reduction or putting money on his card at that
16 interview?

17 A No, ma'am.

18 Q Did you hear Investigator Litchfield make any
19 promises to him regarding bond reduction or putting
20 money on his card?

21 A No, ma'am.

22 Q Did the two DTF officers make him any promises?

23 A No.

24 Q And were you -- you were present at the April 30th
25 with Master Sergeant Brian Baird, right?

1 A Yes, ma'am.

2 Q Did you ride in the car with Investigator Litchfield
3 and Mr. Monroe from Ridgeland to Beaufort?

4 A Yes, ma'am.

5 Q And do you recall any conversations that you had in
6 that vehicle with Mr. Monroe?

7 A Just some minor chitchat. The only conversation
8 involving any -- any legal matter would have been Mr.
9 Monroe requesting bond reduction.

10 Q And did you promise him a bond reduction in the car
11 on the way to Beaufort?

12 A No.

13 Q Did you overhear Investigator Litchfield promise him
14 a bond reduction on the way to Beaufort?

15 A No, ma'am.

16 Q And when you were watching the interview of Mr.
17 Monroe in Beaufort, at any point was he taken off of the
18 machine?

19 A Yes, ma'am.

20 Q At what point did he make his statement about the
21 drugs in this case?

22 A When Master Sergeant Baird was going over the
23 results of the -- the results of the polygraph
24 examination with him.

25 Q And had he been removed from the machine at that

1 point?

2 A Yes, ma'am.

3 Q And did you hear the statement he made regarding
4 these drugs?

5 A Yes, ma'am.

6 Q And what was that statement?

7 A He's stated that during that traffic stop in
8 Ridgeland, he threw the dope in Courtney Baniel's lap;
9 and that Courtney Baniel didn't know any about it.

10 MS. HENDERSON: No further questions from the State,
11 your Honor.

12 THE COURT: Cross-examination.

13 MR. HUGHES: No questions.

14 THE COURT: You may step down. Any further evidence
15 from the State in reply for purposes of this hearing?

16 MS. HENDERSON: Your Honor, I would prefer Master
17 Sergeant Baird have an opportunity to be called back and
18 reply to --

19 THE COURT: You agreed to excuse him, Solicitor.
20 Counsel approach.

21 OFF-THE-RECORD BENCH CONFERENCE;

22 PRESENT: THE COURT, MS. HENDERSON,

23 MR. HUGHES.

24 THE COURT: Step back. Is there any further
25 evidence at this time from the State of South Carolina

1 for purposes of the *Jackson/Denno* hearing?

2 MS. HENDERSON: Nothing further from the State, your
3 Honor.

4 BY THE COURT:

5 THE COURT: All right. Mr. Hughes, I understand
6 we're actually dealing with four different statements.
7 I'll characterize them as April 10, 2012; April 12,
8 2012; April 16, 2012; and April 30, 2012.

9 It is my understanding that you're objecting to the
10 admissibility of these statements. Is that correct?

11 MR. HUGHES: Your Honor, I'm objecting to parts of
12 one of the statements and the April 30th.

13 THE COURT: Which one?

14 MR. HUGHES: Okay. On the I believe it was the
15 April 10th statement.

16 THE COURT: That's the first statement in which your
17 client, as I understand it, from the testimony of the
18 first witness, denied any connection to the drugs that
19 are the subject matter. You're objecting to that
20 statement.

21 MR. HUGHES: I'm objecting to a part of it, your
22 Honor. It may be coming up later, and the *res gestae*
23 aspect of it.

24 THE COURT: On what basis?

25 MR. HUGHES: Officer Long testified that he heard my

1 client make the comment to the co-defendant concerning
2 other charges. I believe this will be --

3 THE COURT: We're talking now just about the
4 *Jackson/Denno* portion, because I have another motion
5 concerning *res gestae* from law enforcement. However,
6 Mr. Hughes, I understand from talking to you prior to
7 the commencement of the hearing that there is another
8 means by which the testimony you seek to raise now would
9 come in through a co-defendant, rather than from law
10 enforcement, but we're not there yet.

11 MR. HUGHES: We're not there yet.

12 THE COURT: We're talking about the voluntariness of
13 four statements, April 10th, 12th, 16th, and 30th of
14 2012. Of which statements do you object and why?

15 MR. HUGHES: April 30th there appears to be promises
16 made to my client.

17 THE COURT: Based on the testimony that you
18 introduced to the Court, you object to the voluntariness
19 of the April 30th, which I will also call the Beaufort
20 statement, for purposes of the court reporter. Is that
21 right?

22 MR. HUGHES: That is correct, your Honor.

23 THE COURT: Is that the only objection you have?

24 MR. HUGHES: I considered the fact that my client
25 had been hooked up to a polygraph before he supposedly

1 made these statements to be questionable. I do not know
2 if he was completely or if he was unhooked at all.
3 We've had no testimony from the person that hooked him
4 up that he unhooked him before my client supposedly made
5 this alleged statement. It's that statement alone, your
6 Honor.

7 THE COURT: We have had testimony from two officers
8 who said they were observing by closed-circuit
9 television, Mr. Hughes. Have you forgotten that?

10 MR. HUGHES: I'll agree, your Honor, but I have
11 observed polygraphs before, and I couldn't tell you if
12 they pulled some wires if it would be unhooked or not.
13 I'm not saying that had been -- no one's testified for
14 sure that all the equipment was taken off.

15 THE COURT: I see.

16 MR. HUGHES: My client might not have known he was
17 unhooked.

18 THE COURT: Anything else?

19 MR. HUGHES: No, your Honor.

20 THE COURT: Happy to hear from you, in light of Mr.
21 Hughes' objection now, Solicitor.

22 MS. HENDERSON: As to the Beaufort statement,
23 correct your Honor?

24 THE COURT: He's objecting to the April 30th
25 statement. Now, in fairness to Mr. Hughes, he's also

1 objecting to a portion of the April 10th statement, but
2 on grounds different than what we would take up in an
3 in-camera hearing during a *Jackson/Denno* hearing. That
4 involves, Solicitor, your *res gestae* argument, which I
5 haven't gotten to yet.

6 MS. HENDERSON: Yes, your Honor. In response to Mr.
7 Hughes' argument about the Beaufort statement, your
8 Honor, his client testified that promises were made to
9 him on the way there. However, two law enforcement
10 officers have testified to the contrary, that there were
11 no promises made. Investigator Litchfield said that his
12 -- that Mr. Monroe asked them about a bond reduction;
13 that he brought it up; and that Investigator Litchfield
14 responded to him by saying that's not -- I'm not putting
15 it exactly, but that that's not something I have power
16 over; that's the solicitor's office. But both he and
17 Investigator McIntosh testified that there were
18 certainly no promises of a bond reduction made to him in
19 route to Beaufort in exchange for his testimony, your
20 Honor.

21 They also were present, watching on closed-circuit
22 television. They have testified that they heard him
23 make the statement regarding the drugs that he denies
24 making, as well as Master Sergeant Brian Baird testified
25 that he was there to interview him about another

1 subject; and that, as a matter of fact, he had to go
2 take a break and go ask the officers what he was talking
3 about when he made the comment about the drugs because
4 he didn't know what it was in reference to. And that
5 he, Master Sergeant Baird, testified to the statement,
6 as well, that he made that the drugs were his and that
7 the other person in the car, Courtney Baniel, knew
8 nothing about them. And also both -- I'm sorry --
9 Investigator Litchfield and Investigator McIntosh
10 testified that it appeared to them from their viewpoint
11 that he had been removed from the machine prior to the
12 statement that he made about the drugs in this case.

13 So, your Honor, with all that combined, the State
14 would say that -- oh, I apologize -- and Officer Baird
15 also went through his *Miranda* warnings. The form has
16 been submitted as a court document, your Honor. And the
17 State would say that, with all those things combined,
18 the evidence is overwhelming; that it was -- that the
19 statement was, in fact, made per three officers'
20 testimony. And that, with the *Miranda* warnings, which
21 he signed and understood those rights, that it was
22 voluntary. And with both officers' testimony during the
23 car ride, there were no promises or threats made to him
24 in regards to that statement. So, it is the State's
25 position that it was freely and voluntarily made, your

1 Honor, and should be submitted.

2 BY THE COURT:

3 THE COURT: Thank you. Well, as both of you know,
4 the Defense is entitled to have the judge conduct an in-
5 camera evidentiary hearing at a threshold point to
6 establish the circumstances whenever there's an
7 objection as there was here by Mr. Hughes that there was
8 conduct that was violative of the defendant's
9 constitutional rights. And that's exactly what
10 *Jackson/Denno* held.

11 It is certainly very clear in the law that a
12 defendant is entitled to have a hearing to determine the
13 voluntariness of a statement or any alleged statement
14 made by a defendant prior to the submission of any such
15 statement to the jury.

16 Where there is more than one statement, Solicitor,
17 each statement must be ruled on separately on the
18 record. So, I advise you, in the future, that you
19 identify that. Here, we have two written waiver forms,
20 Court's Exhibits 1 and 2. They deal with two of the
21 four statements. And the reason I've given dates to
22 them for the appellate court as April 10th, April 12th,
23 April 16th, and April 30, 2012, so that it is clear that
24 my rulings will be applying to each of them, which I'm
25 required to do for purposes of a *Jackson/Denno* hearing.

1 The Court has carefully considered all of the
2 evidence which has been offered by both the State and
3 the Defendant during this hearing. This Court is
4 convinced by a preponderance of the evidence, which was
5 a standard that neither one of you argued, but is the
6 standard, that the Court is required to apply for
7 purposes of this hearing. And I so find for purposes of
8 this hearing that before any alleged statements -- I'm
9 now applying to April 10th, 12th, 16th, and 30th,
10 because I have had testimony, two written waivers,
11 Court's Exhibits 1 and 2, and then the rest was oral,
12 according to the testimony presented by the officers;
13 that before any alleged statement or statements were
14 obtained from the defendant, the defendant was fully
15 appraised of his rights under the *Fifth* and the *Sixth*
16 *Amendments* to the *Constitution of the United States*; and
17 the defendant was advised of his constitutional
18 safeguards that are required by *Miranda versus Arizona*.

19 It is the Court's opinion, from listening to the
20 evidence, and by a preponderance of the evidence, that
21 the Defense knowingly and intelligently waived his
22 rights under the *Fifth* and *Sixth Amendments* of the
23 *Constitution*, and the constitutional safeguards required
24 by *Miranda versus Arizona*; and that any alleged
25 statements, and I now refer to April 10th, April 12th,

1 April 16th, and April 30th, 2012, that were obtained
2 from the defendant were freely and voluntarily given,
3 without duress, without coercion, without undue
4 influence, leniency, reward, promise, hope of reward,
5 promise of leniency, without threat of injury, or
6 without compulsion or inducement of any kind; and that
7 such alleged statements were voluntary product of the
8 free and unconstrained will of the defendant.

9 I make all of those findings and conclusions by a
10 preponderance of the evidence. And I, therefore, find
11 that statements of April 10th, April 12th, April 16th,
12 April 30th, 2012, are admissible in evidence in the
13 trial of this case.

14 Counsel approach.

15 OFF-THE-RECORD BENCH CONFERENCE;

16 PRESENT: THE COURT, MS. HENDERSON,

17 MR. HUGHES.

18 DISCUSSION BETWEEN THE COURT AND

19 COURT REPORTER.

20 THE COURT: All right, counsel approach. I just got
21 some new information from my court reporter now.

22 OFF-THE-RECORD BENCH CONFERENCE;

23 PRESENT: THE COURT, MS. HENDERSON,

24 MR. HUGHES.

25 THE COURT: All right, ladies and gentlemen, I'm

1 advised now. We're going to adjourn at this time for
2 lunch. We're going to come back at 2:00 o'clock. The
3 jury's going to be here. This side of the courtroom is
4 reserved only for my jury.

5 There a lot of things in play here. I have a
6 situation involving my court reporter, and obviously, I
7 can't have court without her. I'm trying to accommodate
8 her schedule so she can make a medical appointment,
9 bless her heart. She was out last week, and I'm trying
10 to get her well. I want to make sure she does get well.

11 There is a chance I have an all-day commitment
12 tomorrow, weather permitting, because it's outside, and
13 I have to drive people and have to go a good ways. So,
14 I don't know yet. I'm trying to find out. I've called
15 them since 8:00 o'clock this tomorrow morning to ask
16 them are we going to cancel this so that it can be
17 rescheduled because of the weather. It's a seventy
18 percent chance of rain tomorrow. And they hadn't let me
19 know whether it's canceled yet or not. So I'm waiting.
20 So everything's up in arms.

21 If we have court tomorrow, it's not going to start
22 before 10:30 so I can accommodate the court reporter.
23 So everybody can plan their schedules accordingly. But
24 I don't know yet whether we're going to have court. As
25 soon as I know, I will advise you.

1

Court's in recess until 2:00 o'clock this afternoon.

ENDING 12:45 P.M.

CERTIFICATE OF REPORTER

FEBRUARY 11, 2013 TRANSCRIPT OF HEARING

STATE OF SOUTH CAROLINA


COUNTY OF JASPER

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing February 11, 2013 Transcript of Hearing is a true, accurate, and complete record of the proceedings had and evidence introduced and/or admitted at said proceeding in the case of State of South Carolina versus Phillip Monroe, Jasper County, Court of General Sessions, Case Numbers 2012-GS-27-00189 and 2012-GS-27-00190.

I further certify that I am of neither kin, counsel, or interest to any party hereto.

The original of this transcript, nor any copy of same, is not certified, nor authorized for use by me, to be true, accurate, and complete without my original signature and stamp affixed hereto.

Witness my signature May 10, 2013.



Wanda H. Rowe, CVR-M
Official Court Reporter

ORIGINAL

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