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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Roger L. Couch, Circuit Court Judge

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JUN 10 2019

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERRICK JERMAINE ANCRUM,

APPELLANT

APPELLATE CASE NO. 2018-000586

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
The State of South Carolina,	)	CASE NO. 2016-GS-10-01091
	)	2016-GS-10-01092
	)	2016-GS-10-01094
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
Derrick Jermaine Ancrum,	)	
	)	
DEFENDANT.	)	

October 10, 2017 and October 11, 2017

Charleston, South Carolina

B E F O R E:

The Honorable R. Markley Dennis

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I N D E X

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(DW) - DENOTES DEFENSE WITNESS

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2016-GS-10-01091
 2016-GS-10-01092
 2016-GS-10-01094

STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
)
) October 16-18, 2017
DERRICK JERMAINE ANCRUM,)
) Charleston, South Carolina
)
) Defendant.)

B E F O R E:

The Honorable Roger L. Couch, Judge.

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Reported By:

Amanda Kelly Haffenden, RPR, CRR
Circuit Court Reporter for the
Ninth Judicial Circuit

1 morning -- the jury will not report until 9:00 in the
2 morning. I'll ask the State to remind me, if you would,
3 put it on a piece of paper as to who is who, some names,
4 so that I'm not talking about somebody's brother's
5 mother's wife. If you do that for me, I'll be happy to
6 inquire of that juror as to whether or not that would
7 affect his service.

8 Are you ready to proceed?

9 MR. SMALDONE: We are ready to proceed, Your
10 Honor.

11 THE COURT: I'll be happy to hear from you.

12 MR. SMALDONE: I'm not sure how Your Honor
13 wants to hear it.

14 THE COURT: I want to know what your
15 objections are, first of all, so I know what I'm looking
16 for.

17 MR. SMALDONE: Sure, Your Honor, and I filed
18 the motion, basically, Your Honor, just to summarize --
19 may I come to the podium, just to gather my things?

20 Your Honor, just a brief rundown on the
21 State's versions of the facts of this case. Around
22 August of 2015, undercover officer was riding around on a
23 bicycle, just kind of placed into a random neighborhood.
24 His mission was to look for drugs. The officer made
25 contact with someone that he didn't know. The person

1 talked about drugs. The person went to a house,
2 allegedly went to a house, and came back and sold the
3 drugs to the undercover officer.

4 Your Honor, I believe that's best explained
5 in the -- does Your Honor have a copy of the search
6 warrant affidavit?

7 THE COURT: Well, I have your motion to
8 suppress evidence. Is it attached to that?

9 MR. SMALDONE: I don't believe on that
10 specific motion. I have an extra copy of the affidavit.

11 I'm a little cautious to argue right now
12 because it's all about the affidavit and what's in the
13 affidavit, so I'll just show it to them to make sure they
14 acknowledge it's the same affidavit that they provided
15 me.

16 THE COURT: All right. I've read it.

17 MR. SMALDONE: All right, Your Honor. Does
18 Your Honor want to hear from the State's witness or
19 proceed directly into argument?

20 THE COURT: Well, the issues you're raising
21 are what? I don't want you to argue them, just tell me
22 what the issues you want me to be looking at.

23 MR. SMALDONE: The issues I'm raising are,
24 one, and probably most importantly, the magistrate lacked
25 sufficient information upon which to determine whether or

1 not there was probable cause in this situation.

2 THE COURT: So you're saying the affidavit
3 lacks specificity?

4 MR. SMALDONE: It lacks specificity, and it
5 lacks probable cause on its face, Your Honor.

6 The second issue would be the issue of the --
7 I'm sorry, not the undercover officer but the second --
8 the first male that the undercover officer made contact
9 with. We don't know -- there's nothing in the affidavit
10 to show who that is. There's nothing in the affidavit to
11 determine whether or not that individual is reliable.
12 It's a State v. Robinson issue.

13 THE COURT: When I read the affidavit, the
14 officer observed him go to the location.

15 MR. SMALDONE: And, Your Honor, that's not
16 entirely correct. Your Honor, and not on a Franks test,
17 but one officer observed him walk down the street, lost
18 view of him, and then from the affidavit, we can
19 determine that officers kind of piecemealed their view
20 together and observed him to walk down the street.
21 That's the issue.

22 Your Honor, I reserve most of my argument for
23 later, but there are some pretty significant issues that
24 are in pretty stark contrast to the existing case law
25 that we have.

1 THE COURT: All right. Anything else?

2 MR. SMALDONE: Well, Your Honor, I ask -- I
3 don't know if Your Honor wanted to call the witness.

4 THE COURT: I don't call witnesses, other
5 lawyers call witnesses, so if y'all -- if you're ready to
6 let the State proceed, all I'm looking for is who saw him
7 go where.

8 Go ahead.

9 MS. FRIERSON: State's prepared to call their
10 first witness.

11 THE COURT: Wait a second. He wants to bring
12 something else up.

13 MR. SMALDONE: Your Honor, it's not just
14 about who saw who go where.

15 THE COURT: Now, I asked you three times.
16 I'll ask you one more time: Tell me what the issues are
17 that you want me to be looking at in this affidavit?

18 MR. SMALDONE: Your Honor, I would ask that
19 Your Honor compare the issues in this affidavit with
20 existing case law, particularly in State vs. Gentile and
21 how it's distinguished from State vs. Kinloch. I would
22 ask Your Honor to consider the totality of the
23 circumstances --

24 THE COURT: Tell me what that means. Use
25 some English here.

1 MR. SMALDONE: Essentially, there's a case
2 State vs. Gentile, Court of Appeals case from, I believe,
3 10 years ago, 2007. State vs. Gentile was out of
4 Charleston County. There was a -- there were reports of
5 foot traffic in a residence. There were reports of foot
6 traffic over several months and, in fact, I believe there
7 are complaints that said there was narcotics traffic.

8 Let me read directly from the case, if it
9 pleases Your Honor. The exact wording was: According to
10 Bradley, the Charleston police department received
11 citizen complaints regarding suspected narcotics
12 trafficking at Gentile's residence. That triggered
13 surveillance, Your Honor, and the Charleston police
14 department and I believe one of the investigators
15 involved in this case worked that particular case.

16 The Charleston police department conducted
17 surveillance at the residence. They would observe
18 several black males over the course of their surveillance
19 go to the house and leave the house and go to the house
20 for a few minutes and then come back. Additionally, Your
21 Honor, there was a report, a citizen's complaint,
22 regarding the smell of marijuana coming from the
23 residence. At the end of their surveillance, they
24 watched one of these males come into the house, and then
25 they watched him leave, and then they pulled him over --

1 let me make sure this is the one with the traffic stop,
2 Your Honor.

3 THE COURT: Which one are you talking about
4 right now?

5 MR. SMALDONE: State vs. Gentile, and you
6 want the cite? They made contact with the person leaving
7 the residence. The person that left the residence
8 resisted arrest, was ultimately arrested, and they found
9 narcotics on that person, and, Your Honor, so he was
10 convicted, sentenced for trafficking, and the defense
11 appealed.

12 The Court of Appeals determined that the
13 magistrate did not have a substantial basis upon which to
14 make a probable cause determination. One of the reasons
15 was that the State relied on two cases -- I believe the
16 State would intend to rely on today, so I would just like
17 to read from footnote three of Gentile, and I believe the
18 State cited both of them in their reply, in their
19 pretrial brief, Robinson and Scott, State v. Robinson or
20 State v. Scott.

21 Both of those cases involved slightly similar
22 situations, but not completely, and the reason that
23 they're different is what the Court of Appeals
24 determined, and I'll read that for Your Honor. The Court
25 of Appeals said, These cases are clearly distinguishable

1 from the instant cases. In both Keith and Scott,
2 defendant was arrested and searched at his residence.

3 Here, Gentile was not arrested. Instead,
4 officers followed and arrested a third party. This
5 person was a visitor at Gentile's residence who had not
6 been searched prior to his arrival, was not a target of
7 their surveillance, and, additionally, they held, as
8 previously discussed, the officers arrested the visitor
9 to Gentile's residence adds nothing to the probable cause
10 determination.

11 So we have a case that is -- my position,
12 Your Honor, is that Gentile was a stronger case than what
13 we know about this one from the affidavit. Gentile had
14 not only these facts, but a complaint about marijuana,
15 additionally, surveillance conducted on the residence,
16 and citizens' complaints about narcotics. In this case,
17 we have one person who's not associated with the house
18 allegedly go into the house, coming back, and selling an
19 officer drugs. In fact, in the affidavit, Your Honor,
20 there is no mention of what the black male looks like,
21 who he is, and if Your Honor reviews the affidavit
22 carefully, all he says is that he made contact with
23 another black male standing within the door frame of that
24 residence; no mention of hand-to-hand, no mention of
25 seeing plastic baggies exchanged, no mention of currency

1 being exchanged, and that's another difference, Your
2 Honor.

3 The State will probably rely on State v.
4 Kinloch. That's another Charleston case. Ms. Linder
5 prosecuted that case. She did a fine job, and that case
6 is against our side, Your Honor. I'll be frank. It is
7 against what we would show, but the reason this case is
8 distinguished from Kinloch is because in Kinloch --
9 Court's indulgence -- and the procedural history of
10 Kinloch, Your Honor, just to be brief, is a drug court,
11 Charleston County, suppression was granted at the trial
12 level, went to the Court of Appeals, found an unpublished
13 opinion, didn't really get specific, and the Supreme
14 Court didn't reverse that case and, I believe it came
15 back for a trial or a plea.

16 The difference between this and Kinloch --
17 and Kinloch is even more determinable and stark than the
18 difference between this and Gentile. In State v.
19 Kinloch, there were numerous complaints over several
20 months of narcotics activity, but in State v. Kinloch,
21 there were multiple hand-to-hand transactions. I believe
22 there was between six and eight -- from what I read in
23 the Court of Appeals, between six and eight hand-to-hand
24 transactions that the officers witnessed.

25 In fact, in most of the transactions -- not

1 most, but in several, more than one of the transactions,
2 the person would walk away -- walk on, I believe it was,
3 his porch or house, he would walk around, and he would be
4 counting cash, so he would be counting cash in this
5 situation in Kinloch. Additionally, the officers finally
6 saw a bag. They saw a hand-to-hand. Unlike in this
7 case, they saw a hand-to-hand transaction. One party had
8 a bag. I believe it even said a bag -- what appeared to
9 be a brown powder, but I don't want to misstate what the
10 facts are in that case. They didn't see a bag --

11 THE COURT: Are you talking about Kinloch?

12 MR. SMALDONE: In Kinloch, yes, Your Honor.

13 THE COURT: I'm reading it. The affidavit
14 said they dropped a bag containing a white powder
15 substance.

16 MR. SMALDONE: I don't know whether they saw
17 the clear plastic baggy at the residence. I think they
18 saw it later on.

19 THE COURT: They saw it later on.

20 MR. SMALDONE: Additionally, though, the
21 surveillance was conducted over several months, and the
22 fact that there are between six and eight transactions
23 that were witnessed at the house, I believe that's far
24 more, multitudes more, upon which a magistrate could
25 determine probable cause.

1 And, Your Honor, I want to read some
2 additional language from Kinloch. In dicta, Kinloch
3 holds that -- on the last page, it says, We reached the
4 conclusion after acknowledging that independently each
5 fact set forth in the search warrant affidavit is merely
6 suspicious, but the totality of the circumstances, namely
7 the numerous tips indicating drug activity was probably
8 present at 609(a) and the subsequent surveillance of
9 609(a) during which seemingly drug-related behavior was
10 observed, distinguishes this case from Gentile.

11 And from the facts we have in this case and
12 the affidavit and the facts of what happened with
13 Mr. Ancrum, there is nothing to distinguish it from
14 Gentile. In fact, I would say Gentile gives more
15 probable cause than my client.

16 THE COURT: All right. Anything else?

17 MR. SMALDONE: Not at this time, Your Honor.

18 THE COURT: Anything from the State?

19 MS. FRIERSON: Your Honor, I would just like
20 to give a brief argument before we introduce our
21 witnesses.

22 THE COURT: He argued. I'll let you argue.

23 MS. FRIERSON: I'll recap it: Three quick
24 points: First of all, I would argue under Williams that
25 probable cause does not mean absolute certainty. Kinloch

1 pointed out that, as the defense said, even if each
2 factor looked suspicious, the totality of the
3 circumstances that you will hear from the witnesses that
4 we would put up would give you a substantial basis for
5 PC, or to establish that there is PC, which is basically
6 a fair probability that drugs would be found and that
7 that would be enough.

8 This case is very distinguishable from
9 Gentile. There you have the unknown as a person in a
10 car. In this particular incident, we are dealing with
11 one person, not everybody else in this car, but just this
12 person, and there will be testimony that not only was he
13 watched by one detective on his way there, he was picked
14 up by other detectives, such that the individual who sold
15 the drugs to the undercover officer -- I should say, the
16 officers had visual eye contact on him the whole time.

17 And, finally, Your Honor, in Gore, it
18 specifically says that surrounding circumstances can
19 provide sufficient nexus to the residents to justify a
20 warrant under the totality of the circumstances. The
21 testimony from the detectives will advise you of what was
22 going on, why they went in and did an investigation in
23 this neighborhood. It wasn't just a cold investigation
24 completely. They had also received complaints of
25 narcotics activity and so they went in to do this buy so

LEON FORREST - DIRECT EXAMINATION

1 that they could start an investigation there, and it led
2 them to [REDACTED] Tripe Street, which is where they ultimately
3 got their search warrant. I'm happy to argue more
4 specifically once we have the testimony.

5 THE COURT: Okay. Call your witness.

6 MS. FRIERSON: Thank you. The State would
7 call Leon Forrest.

8 MR. SMALDONE: I would object to this witness
9 unless he determined he relayed information to the
10 magistrate.

11 THE COURT: Are you saying she can only call
12 witnesses who talked to the magistrate?

13 MR. SMALDONE: Your Honor, that's what the
14 probable cause determination is.

15 THE COURT: Overruled.

16 Come forward, sir, be sworn, please.

17 LEON FORREST, JR.,

18 having been first duly sworn,
19 was examined and testified as follows:

20 THE COURT: Counsel, your witness.

21 DIRECT EXAMINATION

22 BY MS. FRIERSON:

23 Q. Detective Forrest, where do you work?

24 A. I work for the city of Charleston.

25 Q. And how long have you worked for the Charleston

1 police department?

2 A. For about 15 years.

3 Q. Could you briefly describe your duties with the
4 police department.

5 A. I'm assigned to the special investigations unit.

6 Q. Were you involved in the preliminary investigation
7 that ultimately led to a search warrant for [REDACTED] Tripe
8 Street?

9 A. Yes, I was.

10 Q. Could you please tell the Court how you became
11 involved.

12 A. We got a couple complaints from citizens in the
13 neighborhood of Sycamore, so as a unit, we decided to try
14 to do some undercover buys in the neighborhood, and
15 that's how I became involved.

16 Q. Did you personally go undercover?

17 A. I did.

18 Q. Have you done undercover buys before?

19 A. Hundreds.

20 Q. And do you wear any kind of a recording device
21 when you complete these undercover operations?

22 A. We have two devices. We have an audio and video.
23 The video device gets pinned on my clothing. We have an
24 audio device. That's usually a smartpone, and it has a
25 GPS tracker on it.

LEON FORREST - DIRECT EXAMINATION

1 Q. And does that -- are other units or officers or
2 detectives in your unit also a part of the buy?

3 A. That's correct. We always have the software on
4 our phone so they can track my location. The audio is
5 also heard through that software on the other smartphones
6 that belong to all the guys in the unit so they all know
7 where I'm at at all times.

8 Q. And these are controls that you implement?

9 A. That's correct.

10 Q. And do you provide them updates on where you're at
11 over that wire?

12 A. I do. When I move from point A to point B, I let
13 everybody know which street I'm on, which people I see,
14 location; like, if there is a landmark, like a Sunoco gas
15 station, I tell them that.

16 Q. And is this done to provide them with information?

17 A. It is, and it's also safety for me, most
18 importantly.

19 Q. Now, did you perform an undercover buy on August
20 15th of 2015?

21 A. I did.

22 Q. How many buys did you perform that day?

23 A. One.

24 Q. And were you on foot, on a car, on a bicycle?

25 A. I was on a bicycle.

1 Q. What did you buy that day?

2 A. I bought \$40 worth of cocaine base.

3 Q. Could you please take the Court through what
4 happened.

5 A. After we got the complaints from the citizens, I
6 rode my bicycle around Ashleyville area for probably 15
7 minutes. I rode down different streets, didn't see very
8 many people out, and so I decided to ride back to
9 Sycamore at the gas station, and I sat there for a little
10 while until I observed a black male arriving on a bike,
11 and I engaged in a conversation with him.

12 Q. And did you ask him for anything?

13 A. Yes, I did.

14 Q. What did you ask him for?

15 A. I asked him if he knew anybody in the neighborhood
16 that was selling any turkeys.

17 Q. What did you mean by turkeys? What is that?

18 A. Turkey is a slang term used in the streets for
19 cocaine base, also known as crack.

20 Q. Why would you use a slang term when you're
21 undercover?

22 A. You change the way you speak. You change your
23 mannerisms. You change everything about you because you
24 want to fit in. You want to make people feel at ease.

25 Q. After you asked this individual if he had any

1 turkey, take us through what happened next.

2 A. After I said that to him, he said he had to make a
3 phone call. So he made a phone call to an unknown party
4 on the other end, and I think he said something to the
5 effect of, Do you have any candy? which is also another
6 word for crack cocaine. And he put the call on
7 speakerphone so I could hear the other party saying,
8 yeah, and I think he said, Well, I'll come into your
9 home.

10 Q. And what did you say candy is?

11 A. Candy is another word, another street name for
12 cocaine base.

13 Q. And after the black male that you encountered on
14 the bike said, I'm coming to your home, then what
15 happened immediately after that?

16 A. He said, Look, I'm not going to walk. You can
17 trust me. I'll give you my phone so you know I'm coming
18 back. So I gave him the money, he gave me his cellphone,
19 and then he said, I'm going down the street right here.

20 And I said, What, you mean the next street,
21 which is Tripe?

22 He says, Yes, I'm going to make a right. I
23 said okay. So I waited at the gas station for a few
24 minutes. I watched him because my body camera only shows
25 from the front, so I turned my head, and I watched him

1 leave my location. In the very first street off
2 Sycamore, he made a right turn down Tripe.

3 Q. And why did he give you his phone?

4 A. A lot of times throughout my career, they give you
5 their phone as a form of trust. So if they give you
6 their phone, it means he's not going to take my money and
7 not come back. So after I gave him the money, he gave me
8 his phone to build trust, that's all.

9 Q. And you said he went down what street?

10 A. Tripe.

11 Q. And while he was traveling to make that right, did
12 you see him make contact with anyone else?

13 A. No, I did not.

14 Q. Did you see him making any movements into pockets
15 or his shirt or any of his clothing?

16 A. No, ma'am, I did not. He was riding his bicycle.

17 Q. And were you communicating or giving this
18 information to other detectives over the live wire?

19 A. The minute he left, I gave the location, the
20 direction of travel, what he was wearing, height, weight,
21 and what street he turned down. I kept my eyes on him
22 until I no longer had a visual sight of him.

23 Q. Are you familiar with that neighborhood?

24 A. Yes, ma'am, I am.

25 Q. And how far was [REDACTED] Tripe Street from where this

1 buy occurred?

2 A. From where I was, I would say a quarter of a mile.

3 Q. And about how long was this individual gone?

4 A. A few minutes.

5 Q. Did anything happen while he was gone?

6 A. Yes. His phone, while I still had it, rang twice.

7 Q. Did you answer it?

8 A. No, I did not.

9 Q. And you said he was gone just a few minutes. What
10 happened when he returned?

11 A. When he returned, he gave me a rock-like substance
12 resembling cocaine base. I gave him back his phone. I
13 thanked him. He gave me his phone number, gave me his
14 street name. I gave him my phone number. He put my
15 phone number in his phone. He called me to make sure he
16 had the right phone, and I left the area.

17 Q. How long have you been in narcotics?

18 A. Seven years now, eight, almost eight.

19 Q. And would you say in your training and experience
20 that this method of distribution is normal?

21 A. It's normal, yes.

22 Q. What would somebody like that guy be called? What
23 would his role be in that operation?

24 A. In that call, on the street they call him a
25 runner.

LEON FORREST - CROSS-EXAMINATION

1 Q. Did you ever identify the black male on the bike
2 who sold you the drugs?

3 A. Yes.

4 Q. And did you charge him with that distribution?

5 A. Yes.

6 Q. Do you know what ultimately happened with that
7 case?

8 A. Yes. He pled guilty.

9 MS. FRIERSON: Court's indulgence, Your
10 Honor?

11 THE COURT: Yes.

12 MS. FRIERSON: I have no further questions at
13 this time. Please answer any that the defense may have.

14 THE COURT: You may cross-examine.

15 CROSS-EXAMINATION

16 BY MR. SMALDONE:

17 Q. Good afternoon. All right. Just to confirm, you
18 didn't see him go into a house?

19 A. That's correct.

20 Q. All right. You didn't see who he made contact
21 with?

22 A. That's correct.

23 Q. He left your line of sight?

24 A. He left my line of sight when he made the right
25 turn down Tripe Street. He disappeared shortly after he

1 made the turn down Tripe Street.

2 Q. So he left your line of sight.

3 A. Correct.

4 Q. And you never saw my client that day?

5 A. No, I didn't.

6 Q. You said that no one answered the phone when they
7 called? I'm sorry. You said that you didn't answer the
8 phone when it rang?

9 A. That's correct.

10 Q. Are you sure about that?

11 A. No, I'm not, because I do know he had it on
12 speakerphone. The first time he handed me his phone, I
13 told him that, Hey, a guy is coming to your house.

14 And he said, What guy?

15 I said, I don't know.

16 He says, Nobody is coming to my house, but
17 that was when he first gave me the phone because it was
18 still connected, right, and then he hung up. During the
19 same time frame the black male went around Tripe Street,
20 the phone rang maybe once, maybe twice after he was
21 already gone, and that's when I didn't answer.

22 Q. Okay. And you said he went down Tripe Street, but
23 you don't know where he ended up?

24 A. I do not.

25 Q. You just know he traversed Tripe Street.

1 A. That is correct.

2 Q. And isn't it your testimony that money was not

3 exchanged until after he came back?

4 A. No. I gave him \$40 before he left.

5 MR. SMALDONE: Okay. Court's indulgence.

6 THE COURT: Yes, sir.

7 BY MR. SMALDONE:

8 Q. All right. So it's your testimony the money was

9 exchanged before?

10 A. That's correct.

11 Q. And you have his cellphone?

12 A. That's correct.

13 Q. You didn't see what number was calling?

14 A. No.

15 Q. Did you arrest what you call the runner at the

16 scene?

17 A. No.

18 Q. Did you search the runner before you went over?

19 A. No.

20 Q. Did you search the runner after he came back?

21 A. No.

22 Q. Have you ever met this runner before?

23 A. No, I have not, and to expand on your question

24 from before, if you're buying drugs on the street as an

25 undercover officer, it's not a normal practice to search

1 anybody before or after.

2 Q. That's right. So have you ever dealt with
3 confidential informants?

4 A. I have.

5 Q. What's the purpose of a confidential informant?

6 A. Confidential informant has several purposes. A
7 lot of times they're a three-strike person, they want to
8 keep their nose clean. They know a third strike is going
9 to hurt them. They don't want their parents to know
10 about it. A lot of guys we know during college have a
11 good reputation. They come from a good family.
12 Confidential informants have different reasons why they
13 want to be confidential informants. They're all
14 different.

15 Q. And when you use a confidential informant, that's
16 called a controlled buy?

17 A. That's correct.

18 Q. Many times a confidential informant will wear a
19 wire?

20 A. That's correct.

21 Q. They'll wear audio equipment?

22 A. That's correct.

23 Q. With confidential informants, are they not
24 searched before the buy?

25 A. They are.

LEON FORREST - CROSS-EXAMINATION

1 Q. And they're searched after the buy?

2 A. That's correct.

3 Q. And they're given premarked bills?

4 A. That's correct.

5 Q. Before the buy?

6 A. That's correct.

7 Q. And the purpose of a confidential informant is to
8 strengthen a weak case?

9 A. All depends.

10 Q. You would agree that an audio and video of a
11 potential buy is a pretty strong defense?

12 A. I would agree.

13 MR. SMALDONE: Court's indulgence.

14 BY MR. SMALDONE:

15 Q. And just to clear a few things up, you never wrote
16 down the phone number that was calling the phone? You
17 never took possession of the cellphone?

18 THE COURT: That it was a no; is that right?

19 THE WITNESS: That is correct, sir, that was
20 a no.

21 BY MR. SMALDONE:

22 Q. And you never took physical possession of the
23 cellphone?

24 A. Yes, when he left. I had physical possession of
25 his cellphone.

LEON FORREST - REDIRECT EXAMINATION

1 Q. Did you leave the scene with his cellphone?

2 A. No.

3 Q. All right. Did you ever speak with a magistrate
4 about this case?

5 A. No.

6 Q. So you had no part in drafting the search warrant?

7 A. No. Why would you have an officer buy drugs and
8 then turn around and conduct a search warrant? No.
9 There's no reason for me to be on the search warrant.

10 Q. And that's a no?

11 A. That's a no.

12 Q. And you did not recognize the advice on the phone?

13 A. No, did not.

14 Q. And before all this, you didn't recognize
15 Mr. Ancrum?

16 A. No.

17 MR. SMALDONE: Court's indulgence.

18 No further questions for this witness.

19 THE COURT: Do you wish to redirect?

20 MS. FRIERSON: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. FRIERSON:

23 Q. Detective Forrest, was this a controlled buy for
24 the use of a CI?

25 A. No. This is a controlled buy for an undercover

1 officer. They're all called controlled buys. Whenever
2 you have a situation where you're buying drugs, using a
3 confidential informant or an undercover cop, everything
4 is controlled; otherwise, someone could get hurt.

5 So you control the area you go to. You don't
6 go outside the area. You control with the number of
7 officers you have, safety; everything is controlled.

8 Q. And is there a reason in narcotics investigations
9 to delay the arrest of a person in a buy like this?

10 For example, after the drugs were given to you, is
11 there a reason for not having all of the cops swarm that
12 individual, Mr. Bernard Barnwell, and arrest him right
13 there?

14 A. Sometimes you delay the arrest procedure because
15 you want to build a bigger case or you don't want that
16 person, a/k/a the runner, to know you're a police
17 officer.

18 MS. FRIERSON: Thank you. Nothing further.

19 THE COURT: Recross?

20 RECROSS-EXAMINATION

21 BY MR. SMALDONE:

22 Q. To follow up on that, did this runner ever make a
23 statement about this case, to your knowledge?

24 A. What sort of statement?

25 Q. Did the runner in this case ever implicate

LEON FORREST - RECROSS-EXAMINATION

1 Mr. Ancrum?

2 A. No.

3 MR. SMALDONE: No further questions.

4 THE COURT: I don't see in the affidavit of
5 the search warrant that I'm viewing, Officer, that there
6 was -- nothing was put in there about the complaints you
7 received from people in the community that you testified
8 to earlier?

9 THE WITNESS: Yes, sir.

10 THE COURT: Was the magistrate made aware of
11 those complaints or was -- it's not in the affidavit.

12 THE WITNESS: Normally, the complaints come
13 in via crime stopper, and a lot of the times we don't put
14 that information in the affidavit.

15 THE COURT: So it was left out on purpose.

16 THE WITNESS: Yes, sir, that's correct.

17 THE COURT: Any follow-up questions?

18 MS. FRIERSON: None from the State.

19 THE COURT: Any from the defense?

20 MR. SMALDONE: None.

21 THE COURT: All right, sir. You may step
22 down.

23 MS. FRIERSON: State would call Officer Gill.

24 PATRICK GILL,

25 having been first duly sworn,

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was examined and testified as follows:

DIRECT EXAMINATION

THE COURT: Counselor, your witness.

MS. FRIERSON: Thank you, Your Honor. May it please the Court:

BY MS. FRIERSON:

Q. Sir, what is your current occupation or profession?

A. I'm a special agent with Homeland Security Investigations.

Q. And how long have you been in law enforcement?

A. Almost nine years now.

Q. Did you work for the Charleston police department back in 2015?

A. I did.

Q. What was your assignment?

A. At that time I was a narcotics detective. I was there at that time probably about three years.

Q. And tell the Court about some of your duties as a narcotics detective.

A. We work cases, some of them are complex; some more simple drug buys, street buys; we worked informants; we perform search warrants, arrest warrants; we conducted surveillance; interviewed suspects, witnesses, informants.

PATRICK GILL - DIRECT EXAMINATION

1 Q. Do you have any advance training in drug
2 investigations?

3 A. I do. I've been through several schools through
4 the city of Charleston for surveillance, undercover work,
5 narcotics, advance trainings through the federal law
6 enforcement training academy and through Homeland
7 Security Investigations.

8 Q. Did you have the occasion to become involved in
9 the investigation for this particular case, State versus
10 Derrick Ancrum, back on August 27, 2015?

11 A. Yes, ma'am, I did.

12 Q. Were you involved in the preliminary investigation
13 that took place on August 15th?

14 A. Yes, ma'am, I did.

15 Q. What was the basis for this?

16 A. We did a controlled buy with an undercover
17 officer.

18 Q. Can you explain what happened during that
19 controlled buy.

20 A. During the controlled buy, we had an undercover
21 officer equipped with audio and video. We gave him some
22 recorded money. I believe he was on a bicycle in the
23 area of Tripe Street. We had been having complaints of
24 that area. During that time, the undercover officer made
25 contact with another black male on a bicycle. Myself and

1 Detective Scurry was on mobile surveillance on that area.

2 Q. Well, let me stop you right there. How do you
3 control a buy when you don't necessarily know who is
4 going to be at the end selling the drugs?

5 A. There's several ways. Like I said, we equip the
6 undercover officer with equipment, audio/video, so we can
7 hear where he is, and we set up several detectives in the
8 area so we can see where people go, if they go to certain
9 areas, pick up the drugs, do they have it on them? So
10 not only do we have the undercover officer witnessing the
11 drug buy with the video, we try to get other detectives
12 to witness the drug buy and the exchange.

13 Q. And on that particular day, were you providing a
14 roving surveillance?

15 A. I was. I was assigned to it with the case agent,
16 Detective Scurry, in his vehicle, and we were in charge
17 of roving the area.

18 Q. Now, was the undercover officer agent to buy drugs
19 that case?

20 A. He was.

21 Q. Did you actually witness that transaction?

22 A. I did not witness that transaction, no.

23 Q. Could you tell the judge what you personally did
24 witness.

25 A. Yes, ma'am. Like I said, that day we sent out

PATRICK GILL - DIRECT EXAMINATION

1 Detective Forrest, and he met a black male on a bicycle.
2 at that gas station right at the end of Tripe Street and
3 Sycamore, I believe. I believe that's the road that
4 intersects.

5 During that transaction, Detective Forrest
6 advised us over the wire that he was giving the money to
7 the black male on the bicycle. He then told us that he
8 drove the black male was on the bicycle up Tripe Street.
9 At that same time, myself and Detective Scurry were
10 turning the corner down Tripe Street, and I witnessed the
11 black male get off his bicycle in the front yard of [REDACTED]
12 Tripe Street, walked to the front door.

13 Another black male, dark skinned, heavy
14 build, kind of tall, little shorter than I was -- I'm
15 over six foot -- was standing in the doorway, opened the
16 screen door. That black male handed the guy on the
17 bicycle something, and the black male on the bicycle
18 handed him something. I couldn't tell you exactly what
19 it was. The black male on the bicycle turned around,
20 keeping his hands cupped, and then rode his bicycle back
21 toward Detective Forrest.

22 Q. I want to break down that just a little bit. The
23 black male you saw traveling down Tripe Street, was that
24 the individual that Detective Forrest was talking about
25 on the live wire?

PATRICK GILL - DIRECT EXAMINATION

1 A. Yes.

2 Q. And did he make contact with anyone while he was
3 in your sight?

4 A. No, just the black man that was in the doorway of
5 [REDACTED] Tripe Street.

6 Q. Did he make any movements on his person, into his
7 pockets, his shirt?

8 A. No. The whole time, like I said, on his way
9 towards it, he was on the bicycle, holding the bicycle
10 handles. On the way back, Detective Forrest had his
11 hands cupped, like he was trying to cup them with the
12 palms of his hand.

13 Q. When he got to [REDACTED] Tripe Street, did he
14 immediately walk up to the door?

15 A. Yeah. Like I said, he put his bicycle down, and
16 another black male opened the door. Black male came
17 outside but stayed in the doorway.

18 Q. But he came from inside the house?

19 A. Yes.

20 Q. Now, what would you describe the transaction to be
21 between the two of them, from what you could see?

22 A. From what I could see and my training and
23 experience, I believe the black male on the bicycle was
24 handing him the money to get the drugs that Detective
25 Forrest was asking for.

PATRICK GILL - DIRECT EXAMINATION

1 Q. Was it a hand-to-hand transaction?

2 A. Yes.

3 Q. And did he immediately go back to his bike?

4 A. Yes. As soon as that transaction happened, the
5 black male on the bicycle turned around, picked up his
6 bicycle, and rode it directly back toward Detective
7 Forrest's area.

8 Q. And at that point, on his return trip, did you see
9 him make contact with anybody else?

10 A. No.

11 Q. Did he go into his pockets, dig around?

12 A. No, ma'am.

13 Q. Through the use of the live wire that Detective
14 Forrest had, the information that he was relaying, and
15 your surveillance, was Mr. Barnwell under Charleston
16 police department surveillance one way or another
17 throughout this entire transaction?

18 A. Yes, ma'am.

19 Q. And did you review the video from that buy?

20 A. I believe so, ma'am, yes.

21 Q. And was the individual that you saw in the video
22 the same individual that you saw coming down Tripe
23 Street?

24 A. Yes, ma'am.

25 Q. And the same individual that went up to [REDACTED] Tripe

1 Street?

2 A. Yes, ma'am.

3 Q. And had the hand-to-hand transaction in the door?

4 A. Yes, ma'am.

5 MS. FRIERSON: Court's indulgence?

6 THE COURT: Yes, ma'am.

7 MS. FRIERSON: I don't have any other

8 questions.

9 THE COURT: You may cross-examine.

10 CROSS-EXAMINATION

11 BY MR. SMALDONE:

12 Q. Good afternoon. Is it fair to say that you didn't

13 prepare the search warrant?

14 A. I was not the affiant of the search warrant.

15 Q. All right. So you never communicated any of this

16 information to Judge Steinberg who signed the search

17 warrant?

18 A. I couldn't recall if I was there when it was

19 signed, so I can't testify to say I was or wasn't there.

20 Q. So you don't know?

21 A. I don't recall.

22 Q. And you don't know where the person on the bike

23 came from?

24 A. Meaning --

25 Q. Did you have an uninterrupted view of the biker

1 the whole time?

2 A. From what point, sir?

3 Q. He's by the Kangaroo, right?

4 A. Yes. That's when Detective Forrest met the black
5 male on the bicycle. Detective Forrest made an exchange.
6 They talked about buying drugs. They gave him the money.
7 The black male on the bicycle went up Tripe Street. We
8 were coming the opposite way down Tripe Street.
9 Detective Forrest told us he was going up Tripe Street.
10 We were coming down, and I witnessed the black male on
11 the bicycle lay his bike down and walk towards the front
12 door of that residence.

13 Q. You said you observed him hand money over?

14 A. I didn't say he handed money. I said he handed an
15 object to the guy in the doorway, the doorway handed
16 something. I said from my training and experience, I
17 believed it was money, due to the previous conversation
18 that Detective Forrest had with the guy on the bicycle.

19 Q. All right. And in your training and experience,
20 it's pretty common for people selling drugs to walk away
21 before they pull out their little stash, right?

22 A. Not necessarily.

23 Q. Does it happen?

24 A. It does happen, sure.

25 Q. It's pretty common for them not to pull out all

PATRICK GILL - CROSS-EXAMINATION

1 their bags and bag it up to someone on the street?

2 A. I wouldn't call it uncommon. It could be done
3 both ways. It depends on who's the drug dealer, who's
4 the buyer, who's the seller. It depends on the
5 relationship. It's different factors for different
6 people in the case.

7 Q. You've had cases that you've seen someone pull out
8 their whole stash and hand off some?

9 A. Yes, sir.

10 Q. All right. And you've had cases where they didn't
11 do that?

12 A. Yes, sir.

13 Q. And you know from your training and experience
14 that they wouldn't want to pull out their whole stash on
15 surveillance cameras?

16 A. I mean, I would assume nobody knew there was a
17 camera there.

18 Q. It was a Kangaroo; isn't that correct?

19 A. It was on the side of Kangaroo, correct.

20 Q. In the parking lot area?

21 A. Yes, sir.

22 Q. Somewhere where a surveillance would be?

23 A. I don't work for that business. I don't know
24 whether they have surveillance cameras.

25 Q. You've observed gas stations?

1 A. Yes, sir.

2 Q. And sometimes you even see the cameras kind of
3 flicker a little bit, right, with a strobe light?

4 A. Yes, sir.

5 Q. So it's pretty common knowledge that cameras can
6 be at gas stations?

7 A. Yeah. I assume there were cameras at gas
8 stations. I don't know if that particular one.

9 Q. Right. Do you know if he knew of that particular
10 one?

11 A. I don't know.

12 Q. Right. But, again, it's pretty common knowledge
13 there could be cameras there?

14 A. Again, I don't know if it's common knowledge that
15 there's cameras at that gas station, but it's common
16 knowledge that there could be cameras at a gas station,
17 right.

18 Q. Right. And it's common knowledge drug activity by
19 its nature is pretty secretive?

20 A. I would say so.

21 Q. And this Kangaroo is on a pretty major road; is
22 that right?

23 A. I have very little experience out in West Ashley
24 to what is a major road.

25 Q. Have you ever been on St. Andrews?

1 A. I have been on St. Andrews, but the Kangaroo is on
2 Sycamore.

3 Q. St. Andrews is the cross street, right, for the
4 Kangaroo?

5 A. Correct.

6 Q. It's fair to say that is a pretty busy gas
7 station?

8 A. Correct, but that's not where they were. They
9 were on the side of the gas station towards Sycamore, by
10 the beginning of Tripe Street where the intersection is.

11 Q. By the Kangaroo?

12 A. Correct.

13 Q. Within a car's view of St. Andrews?

14 A. I guess, if you're looking, correct.

15 Q. Right. And if you were looking at a car, you
16 could see that from St. Andrews?

17 A. I mean, yeah. I don't think you can really stop
18 right there in the middle of the road to look, but I'm
19 sure if there was a traffic jam you could stop and look.

20 Q. Right, because it's a busy road, right?

21 A. Correct.

22 Q. And so a car could probably see what would be
23 going on?

24 A. Again, I can't contest to that. I'm not going to
25 drive down the road and pay attention to what's going on

PATRICK GILL - CROSS-EXAMINATION

1 on the side of the road, but I could tell you there's
2 people there. People hang out there.

3 Q. Right. And you didn't see it, though, because you
4 were far away?

5 A. See what, sir?

6 Q. You didn't see the person on the bike make contact
7 with Forrest.

8 A. I saw them make the original contact. They drove
9 around the block. I heard the exchange. Detective
10 Forrest made the exchange to talk about a case and what
11 he wanted with the black male on the bike.

12 We turned around the corner. The black male on
13 the bike that he first made contact with was in the front
14 area yard of [REDACTED] Tripe and was walking towards the front
15 door, another black male in that doorway, from inside the
16 house.

17 Q. So you didn't see it, though.

18 A. Again, I didn't see what? I saw when they first
19 met up.

20 Q. You did see that?

21 A. Yes, I said that. I saw that. We kept driving.
22 They spoke. I could hear them on the wire. I didn't see
23 that. Detective Forrest told us which way he was going.
24 We circled the block. We were going down Tripe toward
25 Sycamore. He was coming up Tripe Street. When we turned

1 the corner, he was placing his bike down and walking
2 toward the front door, and there was a black male in that
3 front door area.

4 Q. And just to clarify, there were citizens'
5 complaints in that area?

6 A. I mean, I can't testify. Again, it wasn't my
7 case. I could assume there was, but I don't want to
8 testify and say yes or no.

9 Q. I think I had my opinions confused. You don't
10 know whether there were citizen complaints in that area
11 or not?

12 A. Off the top of my head, no, not without anything
13 that would recall, no.

14 Q. Fair to say you were just present in the vehicle?

15 A. I was assisting with the case.

16 Q. So it was your case?

17 A. I was assisting with the case. Somebody is
18 driving the case agent, somebody handling the radio,
19 looking out for surveillance. You can't drive and look
20 at the same time. You might get in an accident.

21 Q. I'm just trying to figure out if you were on this
22 case or not.

23 A. I just said I was on the case. I was in the car
24 with Detective Scurry, and I witnessed a black male on a
25 bicycle meet Detective Forrest drive up to [REDACTED] Tripe

1 Street, meet with another black male, and do an exchange
2 and go back to Detective Forrest. So I was there, yes,
3 sir.

4 Q. All right. You were there?

5 A. Yes, sir.

6 Q. All right. So were you assigned this case, or
7 were you doing this as a favor to Scurry?

8 A. I mean, I don't really -- I guess you could say I
9 was assigned.

10 Q. I'm not sure how assignments work, but Scurry
11 asked you to do this?

12 A. Correct. When we all go out, we go all as a unit,
13 for numbers, for safety, for surveillance. There's no
14 favors. We're a team.

15 Q. Yeah, and during all this, it's common to conduct
16 surveillance on the residence?

17 A. Correct, if we had a residence we were targeting.
18 At this time, we weren't targeting a specific residence.

19 Q. Right. And sometimes after you see activity, you
20 can make surveillance on a residence.

21 A. Correct. Certain locations you can make
22 surveillance on a residence, once we tie a resident to a
23 buy or we become knowledgeable that a house is selling
24 drugs.

25 Q. Right. You can audiotape stuff?

PATRICK GILL - CROSS-EXAMINATION

1 A. We could try. I mean, audiotape, I don't know
2 what you would audiotape. On a house videotape we could,
3 but, again, it depends on the area, the case, the
4 equipment we have available, the area, like I said, for
5 safety, for safety of our equipment, safety of the case.

6 Q. You make video surveillance on a house?

7 A. Have I?

8 Q. You can do that on a drug investigation?

9 A. Certain houses. Like I said, it's case by case.
10 Depends, again, on the area, integrity of the case,
11 safety of officers.

12 Q. Were you ever threatened by anyone in this case?

13 A. In this case, no, sir.

14 Q. Did this house have a fence around it that
15 prevented you from recording it?

16 A. I think it had a back yard fence, if I'm not
17 mistaken, but I don't know. The front was not fenced in,
18 I don't think, if I recall correctly.

19 Q. You could see what was going on from your
20 position?

21 A. You could, but it did have surveillance video, so
22 we had to be cautious from that. It may not have had a
23 fence, but it had numerous surveillance cameras on the
24 fence, so for us to go out there in the area, put
25 surveillance cameras on, would give away the entire case.

1 His surveillance cameras would see what we were doing.

2 Q. Did you pull those surveillance records from his
3 house?

4 A. I don't really think he would comply if I asked,
5 but it was a closed circuit TV, which we found out
6 afterwards.

7 Q. He also wouldn't comply with you going into the
8 house, would he?

9 A. I don't know. I can't speak for your client. I
10 don't know if he would give us consent.

11 Q. It's common to get a search warrant in cases like
12 this, right?

13 A. Right.

14 Q. When someone doesn't want you to do something, you
15 could get a search warrant to go make them do it, right?

16 A. Right.

17 Q. Just like you could get a search warrant for this
18 surveillance camera?

19 MS. FRIERSON: Objection. I believe this is
20 outside the scope of direct examination.

21 THE COURT: Are you talking about this case,
22 or just cases in general?

23 MR. SMALDONE: Your Honor, first of all, I
24 agree that -- I want to renew my objection that since he
25 didn't relay anything to the magistrate that it is

PATRICK GILL - CROSS-EXAMINATION

1 outside the scope, but I'm trying to determine whether or
2 not --

3 THE COURT: I'll overrule that because it's
4 possible for police officers working on the same
5 investigation to exchange information, which ultimately
6 is told to the magistrate by the person who brought it to
7 the magistrate.

8 Overruled.

9 MR. SMALDONE: Okay.

10 And, Your Honor, I'm just trying to see
11 what -- I want to know if there was probable cause, just
12 like the State is trying to show.

13 THE COURT: But, again, you're asking about
14 cases hypothetical, or cases we're not involved in.
15 Let's talk about this one.

16 BY MR. SMALDONE:

17 Q. There was surveillance video at the house?

18 A. There were surveillance cameras, yes, sir.

19 Q. And you never pulled any of those records?

20 A. Again, once we got in the house after the search
21 warrant, it was clear that it was closed circuit
22 surveillance. It wasn't recorded. I'm not an
23 audio/video expert, by any means, but you could tell
24 there wasn't an audio/video recording. It was closed
25 circuit, so he could visually watch and be there, but we

PATRICK GILL - REDIRECT EXAMINATION

1 didn't know that prior to that, going into the house.

2 Q. And, again, you did not prepare the search
3 warrant?

4 A. No. I was not the affiant of the search warrant.

5 MR. SMALDONE: Okay. No more questions at
6 this time.

7 THE COURT: Redirect?

8 MS. FRIERSON: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. FRIERSON:

11 Q. Detective Gill, I would like to show you
12 something, if I can get -- Detective Gill, are you
13 familiar with this area?

14 A. I know that's the area that we did the buy in.

15 Q. Are you able to -- is that a fair depiction of the
16 area where the buy occurred?

17 A. Yes, ma'am.

18 Q. I believe that's a touch screen in front of you.
19 Is it turned on?

20 A. It's not.

21 Q. If you could, show us where the Kangaroo gas
22 station is.

23 A. This isn't on, but yes.

24 THE COURT: You can mark on the screen now.

25 BY MS. FRIERSON:

1 Q. If you could, place an X where the Kangaroo gas
2 station is. And what side of that is the side -- the buy
3 prior to the search warrant, where did that occur?

4 A. Right exactly where I put that X, right in that
5 rough area.

6 Q. And is that the side, the front, the back?

7 A. That's the side. Like I said, it's the side
8 almost where Tripe and Sycamore meet.

9 Q. And tell the Court what your route was through the
10 neighborhood that day.

11 A. So as we came up Sycamore -- you want me to draw?

12 Q. You can use your finger to show.

13 A. As we came up Sycamore, came toward the X, I saw
14 Detective Forrest and the black male on the bicycle. He
15 couldn't stop, so he just kept driving up Sycamore. We
16 came down Burger Street, and we came all the way back
17 around and we came back down Tripe Street. That is back
18 towards Detective Forrest, and as we came back down Tripe
19 Street towards Detective Forrest, the black male on the
20 bicycle was coming up Tripe Street.

21 Q. Towards you?

22 A. Towards us.

23 Q. And was the black male that you saw coming towards
24 you the same black male that you saw with Detective
25 Forrest on the side of Kangaroo?

1 A. Yes, ma'am.

2 Q. And that was the same black male that came up to
3 [REDACTED] Tripe Street?

4 A. Yes, ma'am.

5 Q. And how far would you say the gas station was from
6 [REDACTED] Tripe Street? Are we talking a mile, around the
7 corner?

8 A. It was around the corner. I mean, it's almost a
9 straight shot. You can visibly see it. If you wanted to
10 stand at the corner, you could see down the street. It's
11 in eyesight, essentially. We stood out in the middle of
12 the street.

13 Q. Fair enough.

14 MS. FRIERSON: Thank you.

15 THE COURT: Recross?

16 MR. SMALDONE: None.

17 THE COURT: You can step down, sir. Thank
18 you very much.

19 State may call its next witness.

20 MS. LINDER: The State is going to call Jason
21 Scurry.

22 JASON SCURRY,

23 having been first duly sworn,

24 was examined and testified as follows:

25 DIRECT EXAMINATION

1 BY MS. LINDER:

2 Q. Were you the case agent in this case of Derrick
3 Ancrum?

4 A. Yes, I was.

5 Q. Were you the case agent on the search warrant in
6 this case?

7 A. Yes, ma'am, I was.

8 Q. And did you present this search warrant affidavit
9 to Magistrate Ellen Steinberg?

10 A. Yes, I did.

11 Q. And the information in your affidavit, does that
12 include items from your investigation that you yourself
13 witnessed or other individuals in your unit?

14 A. Yes, ma'am. We all supplement it.

15 Q. When you presented her the search warrant, did you
16 just stand silently or did you kind of talk her through
17 what happened?

18 A. No, ma'am. We always talk her through it, and she
19 also asked questions as well.

20 Q. And you did that in this case?

21 A. Yes, ma'am.

22 Q. And then Judge Steinberg signed the search warrant
23 based on the affidavit and your supplement?

24 A. Yes, ma'am.

25 Q. Why is every single detail not in that affidavit?

JASON SCURRY - DIRECT EXAMINATION

1 A. Essentially, you don't want to compromise our
2 investigation. We have to leave a copy of that search
3 warrant at the residence and stuff like that, so that's
4 the primary reason why we don't put everything in this.

5 Q. I notice in this one -- you didn't say there
6 that UC, but you don't say that it was Forrest.

7 A. Right.

8 Q. You knew it was Forrest?

9 A. Right.

10 Q. But you didn't put that in there?

11 A. Like I said, we don't want to compromise our
12 people or the investigation.

13 Q. And you say there's a black male that went to [REDACTED]
14 Tripe but you knew it was Bernard Barnwell because he
15 ended up getting charged with that distribution?

16 A. Right.

17 Q. But that's not in here?

18 A. He's in the community. They were trying to get
19 his drugs out, so we don't want to put his name in search
20 warrants.

21 Q. So that's why many things are aren't necessarily
22 in here but are supplemented to the judge?

23 A. Correct.

24 MS. LINDER: I have no further questions.

25 THE COURT: Your witness.

JASON SCURRY - CROSS-EXAMINATION

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Good afternoon.

A. Good afternoon.

Q. So you worked this case?

A. Yes.

Q. And you prepared the affidavit?

A. Yes, sir.

Q. All right. And you would agree that nothing in the affidavit indicates citizen complaints about the home?

A. I agree with that.

Q. All right. And nothing said anything about a smell of marijuana or anything like that at the home, right?

A. Right.

Q. And no previous reports of drug deals at the home?

A. None that I'm aware of.

Q. Nothing was related to the magistrate about this home other than what occurred on the day in question; is that correct?

A. I think there was a recent shooting there, and I may have mentioned something about the shootings and other criminal activity in the area.

Q. All right. But nothing about a specific --

1 A. Correct.

2 Q. It was sort of a background about why you started
3 there, right?

4 A. Correct.

5 Q. All right. I just wanted to make sure I
6 understand. And you know what probable cause is?

7 A. Yes.

8 Q. And in the law enforcement community, they usually
9 call it PC, right?

10 A. Right.

11 Q. And you know the stronger the PC, the better the
12 case?

13 A. Correct.

14 Q. And you know it's important to present your best
15 case to the magistrates because search warrants can get
16 challenged, right?

17 A. Correct.

18 Q. And you presented this affidavit to Judge
19 Steinberg?

20 A. Yes, sir.

21 Q. Do you recall if you swore an oath?

22 A. Yes, sir.

23 Q. Okay. Did you?

24 A. Yes, sir.

25 Q. What day did you request the warrant?

JASON SCURRY - CROSS-EXAMINATION

1 A. What day? I'm not sure.

2 Q. Just to clarify, nothing in this affidavit -- I
3 want you to agree with me, if you do; if not, just let me
4 know -- you'd agree that nothing in this affidavit
5 indicates that you were specifically present between the
6 initial conversation between the undercover and what
7 we'll call the runner. You were not physically present
8 there, right?

9 A. Right, monitored it through the wire.

10 Q. You didn't personally see it with your own eyes
11 there, right?

12 A. See what?

13 Q. You did not personally see the initial contact
14 with the bicyclist and Forrest; is that correct?

15 A. I did see that.

16 Q. And you didn't mention that in the affidavit?

17 A. Okay. I'm not sure. I would have to read it real
18 quick..

19 Q. And I think we would all agree nothing in the
20 affidavit indicates that the runner was searched prior to
21 the buy, right?

22 A. No, he wasn't.

23 Q. Right, because he wasn't.

24 A. He wasn't.

25 Q. And nothing in the affidavit -- again, because he

1 wasn't -- indicates that he was searched after the buy?

2 A. Correct.

3 Q. Nothing in the affidavit indicates that the runner
4 was arrested afterwards, correct?

5 A. No, sir.

6 Q. And nothing indicates he ever made any kind of
7 incriminating statement about Mr. Ancrum?

8 A. Correct.

9 Q. Nothing indicates that he made a good statement
10 about him either?

11 A. Correct.

12 Q. Because you didn't know at the time?

13 A. Correct.

14 Q. All right. And we know nothing in the affidavit
15 indicates who that runner was, right?

16 A. Correct.

17 Q. And, again, nothing in there says what day it
18 happened, right?

19 A. It should be within the last 72 hours that it
20 happened, so most recent.

21 Q. Recent. We could figure out what period it
22 happened, right?

23 A. Correct.

24 Q. But not what day?

25 A. Correct.

JASON SCURRY - CROSS-EXAMINATION

1 Q. And we also can't figure out what time?

2 A. We do an initial report versus just the affidavit,
3 so you need to understand that, so when the buy was
4 conducted, there was a report made with that particular
5 buy, so that has your date and has your time, it's just
6 not an affidavit, just for that purpose of keeping things
7 vague.

8 Q. Right, but nothing in the affidavit says it.

9 A. Okay.

10 Q. All right. And nothing in the affidavit says
11 whether the runner went back to the residence, right?

12 A. Correct.

13 Q. Because you're not sure?

14 A. Correct.

15 Q. And I'm going to show you the affidavit.

16 MR. SMALDONE: May I approach?

17 THE COURT: You may.

18 BY MR. SMALDONE:

19 Q. And is this the affidavit you prepared?

20 A. Yes, sir.

21 Q. It's fair to say in that affidavit it mentions
22 currency was exchanged after the runner came back?

23 A. Yes.

24 Q. All right. And law enforcement didn't know who
25 this runner was at the time?

1 A. No, sir, not at the time.

2 Q. And this wasn't a preplanned buy, right?

3 A. Correct.

4 Q. This was -- you called it a cold buy.

5 A. Correct.

6 Q. Is that different than a controlled buy?

7 A. Particularly the cold buy, he just went in there
8 cold and didn't have a particular target and just
9 happened to meet a black male in this case.

10 Q. And with the runner, you've dealt with him before?

11 A. No, sir.

12 Q. So you don't know if he was reliable?

13 A. Correct.

14 Q. You don't know if he told the truth?

15 A. Correct.

16 Q. You don't know if he lied?

17 A. Correct.

18 Q. You do know he had drugs at some point?

19 A. He did sell drugs to an undercover officer.

20 Q. And no recorded currency was found on him at any
21 point?

22 A. No, sir.

23 Q. All right. There was prerecorded currency in this
24 case?

25 A. Yes, sir.

JASON SCURRY - CROSS-EXAMINATION

1 Q. And that was never recovered?

2 A. We did not conduct a search warrant on the
3 runner's house. The currency was all located in Tripe
4 Street.

5 Q. Right. And so it's your testimony and we can
6 infer by the affidavit that you saw the bicyclist once he
7 got to Tripe Street, right?

8 A. Correct.

9 Q. And you know what a hand-to-hand transaction is?

10 A. Correct.

11 Q. You know in law enforcement terms, that's an
12 indicator of drug sales?

13 A. Correct.

14 Q. Sometimes with a hand-to-hand transaction you
15 could observe a bag or something like that being
16 exchanged?

17 A. Correct.

18 Q. Sometimes you could observe cash being exchanged?

19 A. Correct.

20 Q. Sometimes they'll walk away counting the cash,
21 right?

22 A. Correct.

23 Q. Is it fair to say nothing in this affidavit
24 mentions a hand-to-hand transaction?

25 A. Correct. On that particular incident, I was

1 driving the car. Detective Gill had eyes on the runner
2 and the house in question, which I see in my peripheral,
3 very briefly.

4 Q. And to your knowledge, Gill did not present any
5 information to the magistrate?

6 A. Correct. He told me, as a cooperating unit, he
7 talked to the UC. We talked to Gill. We all know what
8 was there, what was going on, so there was no problem
9 talking to the magistrate about what happened.

10 Q. Sure, but no mention specifically of a
11 hand-to-hand?

12 A. No, sir.

13 Q. And no mention about where the black male in the
14 affidavit that wasn't the runner, the black male at [REDACTED]
15 Tripe Street, no mention in that affidavit about when you
16 first saw him or what direction he came from?

17 A. Repeat your question?

18 Q. I'm sorry. I'll rephrase it. I don't want anyone
19 to be confused.

20 There is no mention -- in the affidavit of the
21 black male at [REDACTED] Tripe Street who wasn't the runner,
22 there is no mention of him until the sentence, Saw him
23 make contact with another black male; is that correct?

24 A. Right. That was also verbally supplemented to the
25 judge as well, that that runner went to [REDACTED] Tripe Street,

JASON SCURRY - CROSS-EXAMINATION

1 and that was a black male.

2 Q. No mention that he went back inside? Is there any
3 mention --

4 A. In the affidavit, no.

5 Q. All right. And you waited three days to get the
6 search warrant; is that correct?

7 A. Yes, sir.

8 Q. And you waited how many days to execute it?

9 A. I'm not sure.

10 Q. After this transaction, you left?

11 A. Yes.

12 Q. No additional surveillance was conducted on the
13 home?

14 A. That was a very hard home to conduct surveillance
15 on. Surveillance was limited. We did do drive-bys and
16 things like that. As far as sitting on it, no, sir.

17 Q. It was hard?

18 A. Yes, sir.

19 Q. Was it conducted -- it wasn't conducted?

20 A. Drive-bys and spot checks of the residence were
21 conducted. I'm just saying no one was stationed out
22 there.

23 Q. Okay. And nothing in this affidavit mentions a
24 specific target of the surveillance, does it?

25 A. No, sir.

JASON SCURRY - CROSS-EXAMINATION

1 Q. Nothing mentions Derrick's name?

2 A. No, sir.

3 Q. Nothing mentions any citizen complaints of drug
4 buys in that house or anything like that, right?

5 A. No, sir.

6 Q. All right. Is it fair to say the only time drugs
7 were actually seen -- according to the affidavit, the
8 only time drugs were actually seen, according to the
9 affidavit, the only time drugs were actually seen or
10 tested or seen in open view few drugs, that was at the
11 Kangaroo gas station?

12 A. Correct.

13 Q. All right. And no mention of ongoing drug
14 activity or continuous drug activity; is that correct?

15 A. What do you mean?

16 Q. Was there any mention this house was a drug house,
17 ongoing drug sales to the house or anything like that?

18 A. You're still referring to the affidavit?

19 Q. I'm referring to, yes, the affidavit.

20 A. Not in the affidavit, no, sir.

21 Q. All right. And you were present in the execution
22 of the warrant?

23 A. Yes, sir.

24 Q. Is it fair to say that due to your investigation
25 you believe that Mr. Ancrum resided in the home?

JASON SCURRY - REDIRECT EXAMINATION

1 A. Yes.

2 Q. All right. Court's indulgence.

3 And I apologize if you already answered. One
4 last question: Any affidavit that does specifically
5 mention that money was exchanged after the bicyclist came
6 back; is that correct?

7 A. Yes, sir.

8 Q. All right.

9 MR. SMALDONE: No further questions.

10 REDIRECT EXAMINATION

11 BY MS. LINDER:

12 Q. Briefly, to redirect, Detective Scurry, I think
13 there is some confusion. "After", is "after" a point in
14 time or is "after" the location on a piece of paper? I
15 think that's what the confusion may be about.

16 I would like to bring your attention -- anywhere
17 in here does it say that the money was given after,
18 a-f-t-e-r, and then he came back with the drugs? I would
19 like to bring your attention to the -- let me count the
20 lines. So it says, at the end of nine and ten:
21 Detectives Gill and Scurry then observed black male
22 subject travel directly back to the UC, give the UC a
23 quantity of cocaine base in exchange for a sum of
24 prerecorded U.S. currency.

25 Now, does that mean that is the time that the

1 exchange happened, or is it that is the buy that was
2 done? Because then you talk about cocaine base being
3 recovered. Is that the chronological of everything, or
4 is that just what happened in the course of the buy?

5 A. Overall, that's what happened during the course of
6 the buy, so I'm saying, at the end of the transaction
7 with the runner and Forrest, it was complete.

8 Q. So the drugs being given to Forrest completed the
9 buy?

10 A. Correct.

11 Q. And those drugs were given to him ultimately at
12 the end of the day, is more of a term of art than a time?

13 A. Correct.

14 Q. Okay. Now, there is a question about a search
15 warrant. Do you get a search warrant for a drug case for
16 a person or for a location?

17 A. For a location.

18 Q. Because when you do it and you go in a home or an
19 apartment or whatnot, you're searching a location; is
20 that right?

21 A. Correct.

22 Q. And Mr. Smaldone asked you a bunch of questions
23 about kind of the runner in this case. Was the runner an
24 informant of yours?

25 A. No.

JASON SCURRY - REDIRECT EXAMINATION

1 Q. Has he been an informant of yours since?

2 A. No, ma'am.

3 Q. Did you do -- this buy that Forrest did back
4 mid-August, was that done for the purpose of getting into
5 [REDACTED] Tripe?

6 A. No, it was not.

7 Q. Why not -- it was a cold buy?

8 A. Correct.

9 Q. So you just went out and did the buy?

10 A. Correct.

11 Q. And then this individual who ended up selling
12 drugs to Forrest, if he went to [REDACTED] Tripe and this
13 happened, would you have done it at [REDACTED] Tripe?

14 A. Yes, ma'am.

15 Q. And if you went to [REDACTED] Tripe, you would have done
16 it at [REDACTED] Tripe?

17 A. Correct.

18 Q. Because the search warrant was based on the
19 location. There is also a mention of recorded money.
20 The buy in this case, I know you only have the search
21 warrant in front of you, but the warrant was the 18th,
22 and it said the buy was conducted within 72 hours prior,
23 so mid-August is when the buy was done. Do you remember
24 the day you executed this search warrant? Would it make
25 sense -- in the return, it says August 27th.

1 A. Correct.

2 Q. So mid-August to August 27th, in that
3 week-and-a-half span, would you expect to have \$40 still
4 sitting at the same location?

5 A. Absolutely not.

6 MS. LINDER: I think that's all I have.
7 Thank you.

8 THE COURT: Recross?

9 MR. SMALDONE: No recross, Your Honor.

10 THE COURT: You may step down. State may
11 call its next witness.

12 MS. FRIERSON: We have no further witnesses,
13 Your Honor.

14 THE COURT: Defense wish to call any
15 witnesses?

16 MR. SMALDONE: No witnesses, Your Honor.

17 THE COURT: All right. Defense's motion,
18 I'll hear from you first.

19 First of all, why don't we take about a
20 five-minute break.

21 (Recess taken.)

22 THE COURT: All right. I'll hear from the
23 defense regarding this issue.

24 MR. SMALDONE: Thank you, Your Honor. May it
25 please the Court:

1 THE COURT: Yes, sir.

2 MR. SMALDONE: Thank you, Your Honor. We've
3 heard from the State's witnesses. We heard what
4 information was presented to the magistrate. We heard a
5 little bit of background about the case investigation.

6 Your Honor, it's still our position that the
7 affidavit as submitted to the magistrate lacked
8 sufficient information for the magistrate to make a
9 probable cause determination, and, Your Honor, again,
10 I'll look to State vs. Gentile in that respect.

11 Your Honor, again, State vs. Gentile, so many
12 more factors were present than in this case. State vs.
13 Gentile had foot traffic, had continued surveillance.
14 They had continued surveillance going back and forth to
15 the house and the smell of marijuana and arrest of a
16 visitor to the home.

17 I feel a need to clarify the arrest of the
18 visitor to the home. Gentile states that marijuana was
19 found on his person, so it was a vehicle search, but it's
20 specific that marijuana was found on that person, for
21 lack of a better term, so I believe the State argued that
22 it was a vehicle stop, which is true, but I do want to
23 distinguish this was not found stashed in the vehicle.
24 According to the record, it was found on that person's
25 body, Your Honor, so we have those factors set forth in

1 Gentile.

2 Certainly, we have factors set forth in
3 Kinloch. Kinloch, is, again, the case that the State
4 would argue, I believe, most matches the circumstances
5 here, Your Honor, and, again, Kinloch had so many more
6 factors than Gentile, which I submit to you has more
7 factors in this particular case, but, again, Kinloch had
8 numerous complaints over several months,
9 narcotics-related activity. I believe in Kinloch it was
10 specific to cocaine and heroin activity, so those
11 complaints -- we can deduce those complaints were backed
12 up by at least a little bit of information.

13 In Kinloch, there were multiple hand-to-hand
14 transactions from the same defendant, a male wearing, I
15 believe, black and red clothing, multiple hand-to-hand
16 transactions. Sometimes after the transactions, the
17 defendant in Kinloch would walk away, counting the money,
18 Your Honor, and after all of this, when they're
19 conducting surveillance, was which was not conducted in
20 this case, they finally arrested a visitor to this home,
21 which they found a bag of heroin, and that's what gave
22 rise to that probable cause determination.

23 Totally different set of facts. I submit to
24 Your Honor that from what we've heard, this could have
25 been Kinloch. This could have even been Gentile. This

1 was basically the start of an investigation. This was
2 one isolated incident. It was unclear whether money was
3 exchanged before or after, and, Your Honor, I believe on
4 the affidavit, it does at least strongly imply after, but
5 even if it was before, I would submit to you that
6 wouldn't make a difference.

7 There was no information presented to the
8 magistrate that a hand-to-hand transaction occurred.
9 There was no information presented to the magistrate that
10 multiple drug buys had occurred at the house; no
11 information presented to the magistrate about
12 surveillance of the home, whether before or after; no
13 information, again, about the smell of marijuana as in
14 Gentile, so we have kind of a test here.

15 Every case, Your Honor, as Your Honor knows
16 is about the totality of the circumstances about whether
17 a magistrate judge would have a substantial basis to
18 believe there's a fair probability of drugs being found
19 at a residence.

20 Your Honor, we have a cold buy. We have
21 somebody walking into a house. We have no evidence of a
22 hand-to-hand transaction. Possibly, we could argue about
23 whether the view was interrupted or uninterrupted, but we
24 would argue -- we would submit to Your Honor that
25 evidence has been shown that no one person had a view of

1 the entire incident, so we had to kind of piecemeal
2 together views of one single thing that occurred and
3 nothing else, nothing else. Additionally, it doesn't say
4 the date in which it happens. It doesn't say anything
5 else about this home.

6 THE COURT: It said 72 hours.

7 MR. SMALDONE: Your Honor, State v. Winborn
8 states that the search warrant must be specific as to the
9 date, and, Your Honor, I'm not basing my whole argument
10 on that because I believe that could probably be easily
11 overcome by subsequent case law and also Leon, so I'm not
12 staking my hat on the lack of date, but, Your Honor,
13 there is no information for the magistrate to decide
14 probable cause or not.

15 Again, this is the start of an investigation,
16 but investigations sometimes take months, as this did in
17 Gentile and as it did in Kinloch. You do surveillance.
18 You make contact with people. You might do a controlled
19 buy. There are none of these circumstances present, Your
20 Honor. It was a single, isolated event, no evidence of a
21 hand-to-hand transaction, no money exchanged until
22 probably after. It was unclear. The magistrate had no
23 basis to determine probable cause.

24 Additionally, it's my argument before the
25 State relied on someone who essentially became an

1 unwilling, unwitting informant, we didn't know who that
2 person was. We don't know anything about them. We don't
3 know if they had drugs on them before. They were
4 un-searched and un-tested. We don't know anything about
5 this person, Your Honor.

6 Additionally, I believe there was an
7 insufficient nexus between what occurred at that home and
8 that actual house. We have someone -- not sure if he's
9 inside or outside the house because it says standing
10 within the door frame of the residence, so we have
11 someone standing within the door frame of the residence,
12 no indication about where he came from, whether he was
13 hanging out on the porch, whether he lived there, what
14 happened afterwards. Did he go back into that residence?
15 We don't know, Your Honor, because, again, this was the
16 start of an investigation, not the end.

17 So, Your Honor, on that basis, the defense
18 would move to suppress all evidence recovered as a result
19 of the execution of the search warrant at [REDACTED] Tripe
20 Street. Thank you.

21 THE COURT: State?

22 MS. FRIERSON: The defense is arguing stuff
23 about these civilian tips to do surveillance, to get into
24 a house with a search warrant, which are the facts more
25 of Gentile and Kinloch. Here, we do have civilian tips,

1 but we had a controlled undercover buy with testimony
2 from an undercover officer as to what happened that day.

3 He testified, Detective Forrest, specifically
4 to the conversation. He went in. They admit this was a
5 cold buy. That's one of the techniques that they used,
6 and they go in and the controls that they have in place,
7 such as a live wire and him wearing a camera, and he goes
8 up and he asked a man for turkey. That individual
9 immediately gets on his phone and says, You got candy?

10 A male voice is heard on the speaker, Yeah.

11 I'm coming to your house, and that
12 individual, later identified as Bernard Barnwell,
13 immediately leaves from there, tells Detective Forrest,
14 I'm going there, that street, goes down Tripe Street, at
15 which time we have testimony from Detective Gill, who
16 immediately picked up sight of him based on the
17 information that they have, a live wire, he said it was
18 the same individual --

19 THE COURT: When you're talking about a live
20 wire, that means all the people involved in the
21 investigation could hear what was going on?

22 MS. FRIERSON: That is correct, Your Honor.

23 THE COURT: I just want to be sure that is
24 understood. Go ahead.

25 MS. FRIERSON: So not only did they hear the

1 transaction going on, they had just passed Detective
2 Forrest and seen Mr. Barnwell, and that is exactly who --
3 after he shows us on the map, when they did a lap of the
4 block, who they saw coming down, getting off of his bike,
5 going directly up to [REDACTED] Tripe Street, going to the
6 doorway where a man from inside the residence came to the
7 door frame, opened the screen door, and had a
8 hand-to-hand transaction.

9 THE COURT: Is that what the magistrate was
10 told?

11 MS. FRIERSON: The magistrate was told that
12 information. The magistrate was also given the
13 additional information that was discussed by Detective
14 Scurry to establish that sufficient nexus, the lack of
15 the date or the specific -- those specifics of who sold
16 and that information. The magistrate was informed of
17 this information because he explained that was left out
18 of the affidavits.

19 That search warrant has to be left at the
20 residence, and it could potentially damage their
21 investigation, and it could make it an unsafe condition
22 for the undercover officers or even the individual,
23 Bernard Barnwell, who ultimately pled guilty to this
24 facts from the community or from --

25 THE COURT: But it was clear that the

1 magistrate was informed of that information outside of
2 the affidavit.

3 MS. FRIERSON: Yes, Your Honor.

4 THE COURT: At the time the affidavit was
5 obtained.

6 MS. FRIERSON: Yes, Your Honor.

7 THE COURT: All right. Go ahead.

8 MS. FRIERSON: As you know, this is not near
9 certainty. It's a fair probability of Kinloch, based
10 upon the totality of the circumstances. It's also very
11 important to know that as officers or detectives were
12 watching Bernard Barnwell, both of them testified he was
13 not digging in his pockets, as if he already had the item
14 on him. He did not meet with anybody else.

15 In fact, Detective Forrest testified that he
16 was driving around the area for quite a while before he
17 came into contact with Mr. Barnwell. There were not
18 other -- he did not go to somebody else to obtain this.
19 He did not go in his pockets around the corner, as is
20 implied by the defense, so he didn't get robbed or pull
21 out his stash. He hopped on that bike. He made that
22 call to go to Mr. Ancrum's house. He hopped on that
23 bike. He went to Mr. Ancrum's house, and he went
24 directly up to the door where he obtained the drugs and
25 went right back, and specifically Detective Gill was

1 already saying he came down the street towards him,
2 riding on the bike, and then when he went back, he had
3 something cupped in his hand as he rode back towards
4 Detective Forrest.

5 State would submit what he had cupped in his
6 hands were the drugs that he got from [REDACTED] Tripe Street
7 that came from inside that residence. This investigation
8 started out cold. They went there based on these tips.
9 They conducted this undercover controlled operation.
10 They were not targeting the defendant nor the house, and
11 Detective Scurry cleared that up based on their
12 investigation. Thus far, they would have gotten a search
13 warrant for wherever this case had led them if it had
14 been in a different address under these same facts.

15 Also it's important to note Mr. Barnwell was
16 never an informant. He did plead guilty to these facts,
17 but under our own case law, even if that were an issue,
18 in Clyburn and Dupree, which I referred to in my brief, a
19 CI's controlled buy can constitute probable cause to
20 issue a warrant, even if their reliability is
21 questionable. Although we don't have that here, if the
22 Court looked at him in some type of way as an informant,
23 that is still sufficient probable cause under these
24 circumstances.

25 And finally, Your Honor, some of the facts

1 that were left out, that testimony was provided for why
2 they were -- as far as why Mr. Barnwell was not
3 immediately arrested. All of that was explained. It was
4 in their testimony, and the information that needed to be
5 relayed to the judge, the magistrate, was, in fact,
6 relayed, and for those reasons, we believe that there is
7 more than enough probable cause here.

8 There was a fair probability that drugs would
9 be found at [REDACTED] Tripe Street based on the investigation
10 by the Charleston County detectives.

11 THE COURT: All right. Sir, I'll let you
12 have the last word.

13 MR. SMALDONE: Thank you, Your Honor. I
14 would state -- beg the Court's indulgence. Let me get my
15 folder up.

16 I would state the Court of Appeals and South
17 Carolina Supreme Court said it best. Additionally, I
18 have some concerns. My concern, and I believe -- I
19 submit to you, the Court's concern should be what was
20 presented to the magistrate. We have an affidavit and we
21 have someone saying they supplemented the affidavit. We
22 never heard, We can play it back. We never heard exactly
23 what the magistrate heard, so my concern is the State is
24 now supplementing their supplement at the circuit court
25 level, which is not -- you know, it's not for Your Honor,

1 to consider and I submit to you.

2 So I do have some concerns they are trying to
3 correct an affidavit that was corrected at the time. All
4 that matters, Your Honor, is what the magistrate was
5 informed of, and what the magistrate was informed of was
6 circumstances very starkly similar to State v. Gentile.

7 Your Honor, I said it again and again. The
8 factors of Gentile, we have, I think, three, four, maybe
9 five factors. I wrote down four: The foot traffic,
10 surveillance, smell of marijuana, and arrest of visitor.
11 Now we have arrest of a visitor, Your Honor.

12 Additionally, I want to point out --

13 THE COURT: In Gentile, wasn't it the arrest
14 of a neighbor?

15 MR. SMALDONE: Your Honor, it was a visitor.
16 Hold on.

17 THE COURT: I am.

18 MR. SMALDONE: One of the factors -- I'm glad
19 I looked. One of the factors the Gentile Court did
20 consider was neither the driver nor his vehicle was
21 searched prior to going to defendant's residence.
22 Without surveillance, within the defendant's residence,
23 there was no verification that the driver, in fact,
24 purchased marijuana from defendant.

25 So on one of the headings, the controlled

1 substances heading, it says arrest of one of the
2 defendant's visitors did not support a finding of
3 probable cause to search defendant's residence, so, Your
4 Honor, I submit to the Court that it was a visitor to the
5 residence, exactly like this situation.

6 THE COURT: I didn't get -- they came
7 straight from the residence, and they were arrested
8 leaving the residence?

9 MR. SMALDONE: They were arrested leaving the
10 residence, Your Honor.

11 THE COURT: No evidence that they bought
12 anything inside?

13 MR. SMALDONE: Correct, and I submit to Your
14 Honor there is no evidence, from what the magistrate
15 knew, that anyone bought anything inside or outside. We
16 have none. I can't emphasize enough, Your Honor, the
17 language of the affidavit, and we don't know what the
18 supplemental testimony is --

19 THE COURT: She said that -- the testimony
20 said that they saw somebody come from inside.

21 MS. FRIERSON: If I may, Your Honor, the
22 testimony from the stand was that Mr. Barnwell dropped
23 his bike, approached [REDACTED] Tripe Street. Someone from the
24 inside came, opened the screen door, wherein detectives
25 witnessed a hand-to-hand transaction.

1 THE COURT: All right.

2 MR. SMALDONE: And we have no way of knowing
3 whether the magistrate was informed of this, Your Honor.

4 THE COURT: She said they testified they told
5 you this.

6 MR. SMALDONE: I did not hear that testimony,
7 Your Honor. I did not hear the magistrate ever being
8 informed of the hand-to-hand transaction.

9 THE COURT: You'll have to go back and read
10 the testimony if you can't reach an agreement on that.

11 MR. SMALDONE: And, Your Honor, I would state
12 that as a narcotics investigator, you put your best
13 reasons for probable cause in the affidavit. You put it
14 out there to get that search warrant.

15 THE COURT: They are allowed to supplement it
16 with live testimony. That's the law.

17 MR. SMALDONE: I agree, Your Honor. We
18 haven't heard what that was. We just heard that it
19 occurred. That's defense's position, and I think that's
20 very clear from the record we've made today, Your Honor,
21 so we don't know what the magistrate's testimony was.

22 Additionally, Your Honor, in that affidavit,
23 in something that's on paper that they can't change, that
24 they can't forget, that they can't paraphrase what they
25 told the magistrate, on that paper, it says made contact

1 with another black male standing within the door frame of
2 the residence.

3 I would inquire what officer, who supposedly
4 observed a hand-to-hand transaction, would leave that
5 fact out of the affidavit and just said made contact
6 with? That was a deliberate -- someone deliberately
7 typed that, Your Honor, so I submit to Your Honor the
8 magistrate was never informed there was a hand-to-hand
9 transaction.

10 Additionally, Your Honor, moving to Kinloch,
11 which is their case, Kinloch, I just want to stress those
12 factors again: Numerous complaints over several months;
13 multiple hand-to-hand transactions, between six and eight
14 hand-to-hand transactions, same defendant every time,
15 walking away, counting money, and then the arrest of
16 someone leaving the house when they saw a clear bag
17 exchanged --

18 THE COURT: I'm reading these cases, and I
19 don't know that you can keep score on each factor. The
20 question, given the totality of the circumstance, is it
21 sufficient to support a substantial suspicion that
22 provides probable cause?

23 So each case is going to be different.
24 There's going to be different factors in every case. You
25 can't score on and give so much for this, so much for

1 that, and if they reach a certain number, that's not the
2 way the cases do it. They do a more subjective analysis,
3 and so I understand what you're saying, that there is
4 factors in each case, but the issue is, given this case,
5 whether or not the information that was provided to the
6 magistrate was sufficient to rise to that level of
7 suspicion that would support a probable cause finding for
8 the search warrant.

9 MR. SMALDONE: Correct, Your Honor. So
10 looking at this case --

11 THE COURT: I appreciate you going over those
12 other cases, and I find them enlightening to read, but I
13 don't think you can say there were five factors in this
14 case and that got them over the top.

15 There were three factors in the case, and
16 that didn't get them over the top. You could have one
17 occurrence and all the information was so compelling that
18 it was insufficient to issue a search warrant. That's
19 what they're saying it had to be.

20 MS. FRIERSON: And, Your Honor, more recent
21 than Kinloch and Gentile is the State v. Gore. There
22 they did two buys, and they say in their response to the
23 defendant's argument that there was no probable cause
24 because the second buy didn't happen inside that
25 residence, even though the first one did, the Court

1 opined that the circumstances surrounding a transaction
2 provided a sufficient nexus to the residence to justify a
3 search warrant under the totality of the circumstances.

4 THE COURT: That's -- you know, again, I'm
5 not agreeing with them on the whole case, but I'm just
6 saying, you got to look at this case with the totality of
7 the circumstances, and it's important to me as to what
8 the magistrate heard, and maybe I should have listened to
9 it a little more carefully, but there's a disagreement
10 now as to what the testimony said.

11 So I'm probably going to let you read the
12 testimony. We'll defer to what it says.

13 MR. SMALDONE: Correct, Your Honor. So,
14 basically -- let's talk about this case, Your Honor.

15 Let's talk about illegal activity that
16 occurred in this case. The only illegal act that we
17 heard, and I submit the magistrate heard, was activity
18 occurring a quarter mile away, Your Honor.

19 THE COURT: Well, here's what he said, was
20 the guy makes a phone call to somebody on speakerphone.
21 He asked if he got drugs using street language. They
22 said they got it, so the guy says, I've got to go get the
23 drugs. I'm going to go down the street.

24 Right here he's observed going down that
25 street right there, having no contact with anybody else,

1 going to that location, meeting somebody in the doorway.
2 There's a question as to what transpired in the doorway
3 and where he came from to get to the doorway. Turns
4 directly had no contact with anybody else, so apparently
5 he didn't have the drugs at the beginning. He had the
6 drugs when he came back, and the way the State typically
7 proves that is with a controlled buy.

8 THE COURT: But this is not a controlled buy.
9 This is different, so there is nothing that says they can
10 only get a search warrant based on a controlled buy. The
11 question is, are the circumstances sufficient to rise to
12 the level that you give the magistrate a reason to issue
13 a search warrant for that location?

14 MR. SMALDONE: For that location, Your Honor,
15 where, again, no testimony of illegal activity occurs.

16 THE COURT: I understand that's your
17 position, and it depends whether there's sufficient
18 circumstantial evidence to give rise to this level of
19 suspicion necessary to support a search warrant.

20 MR. SMALDONE: I agree, Your Honor, and,
21 additionally, the reason the State conducts controlled
22 buys, the reason they have confidential informants is to
23 give rise to the probable cause.

24 THE COURT: There could be more airtight
25 cases than others, I agree.

1 MR. SMALDONE: So what we have here is a guy
2 walking down the street, coming back with drugs. I
3 submit to the Court it's very important to consider any
4 reliability of him, and, more importantly than just
5 reliability is the fact whether or not he was searched
6 before or after. They said it's impossible to search
7 him.

8 I agree, but I think that's why you do
9 controlled buys. That's why you send out informants.
10 That's why you send out CIs; Spartanburg calls them CRIs.
11 They do that for a reason, to finish a case, not to begin
12 a case. To begin a case is something like this, and then
13 they send someone in that house to get the probable cause
14 and then re-plead the case six months ago.

15 THE COURT: Okay. I think I understand the
16 arguments. Thank you very much. I'll take a look at
17 what the testimony says about what the magistrate heard.

18 All right. Next issue?

19 MS. FRIERSON: The next issue, Your Honor, as
20 far as motions --

21 MS. LINDER: Judge, just briefly, I went
22 through -- or both sides have had the chance to go
23 through the information that was copied that you
24 provided, the summaries, and Mr. Schwartz -- I think we
25 both agree that there is nothing in here that goes toward

1 MR. SMALDONE: No.

2 MR. SCHWARTZ: No, Your Honor.

3 THE COURT: He indicated he did not
4 understand that it was the same Detective Gill. He did
5 acknowledge the relationship, and he did indicate to the
6 Court that it would not affect his ability to be fair and
7 impartial in the case; therefore, it's my decision that
8 he can remain as a juror in this matter.

9 (Recess taken.)

10 (9:17 a.m., in open court, defendant and
11 counsel present.)

12 THE COURT: All right. Yesterday afternoon
13 when we broke, we completed a hearing concerning
14 defense's challenge to the affidavit of the search
15 warrant that was submitted for the search on Tripe
16 Street, [REDACTED] Tripe. At that time, I had asked for an
17 opportunity to review the testimony of Officer Scurry,
18 and I've had an opportunity to do that at this time and
19 have also gone through the other information that was
20 submitted to me at that time.

21 Now, in reviewing this case, it's my
22 responsibility to determine whether or not the totality
23 of the circumstances that were presented to the
24 magistrate would have given a substantial basis for that
25 magistrate to reach a finding that probable cause,

1 sufficient probable cause, existed for the issuance of
2 the search warrant, and, in doing so, I am not required
3 to establish or make -- see to it that the affidavit
4 established a near certainty as to where drugs would be
5 found. I think, rather, the test is whether or not there
6 was a fair probability that drugs -- drug activity may
7 have been going on in or around the residence at [REDACTED]
8 Tripe Street.

9 Now, I have reviewed the cases that the
10 attorneys submitted to me about the case, and it's
11 obvious to me in reading these cases that no two cases
12 are the same. The facts and circumstances of each case
13 are different, and they must be weighed on their own
14 merit.

15 In this particular case, what we have is a
16 little bit of an unusual situation. I say it's unusual
17 in that we did not have a reliable, confidential
18 informant. We did not have a police operative
19 participating in the buy who was wired. What we had was
20 an undercover officer who was participating in the buy.
21 This was a one-time transaction. There was testimony
22 that there had been previous complaints of drug activity
23 in the neighborhood, but it didn't -- the testimony
24 didn't rise to the point where it focussed, necessarily,
25 on that particular residence prior to the time of the

1 transaction.

2 Now, the question I was reviewing in
3 reviewing the officer's testimony was the extent to which
4 the magistrate may have been given information outside of
5 the four corners of the affidavit in the search warrant,
6 and in doing that, and in viewing that officer's
7 testimony, I'll refer to this particular testimony, and
8 I'm quoting it loosely because this is not the official
9 record in the case, but it's the information that I have
10 available to me.

11 This, of course, again, is from Jason Scurry.
12 He was the person who presented the search warrant
13 affidavit to the magistrate, and at that time he was
14 asked by the solicitor whether or not he supplemented the
15 information in the search warrant to the magistrate, and
16 at that time he was asked whether or not he talked her
17 through the transaction, giving her additional
18 information that was not contained in the affidavit.

19 And his answer was, We always walk her,
20 referring to the magistrate, through it. She also asked
21 questions as well.

22 Did you do that in this case?

23 And he said yes, ma'am.

24 And she said -- and prior to that, she said
25 and, Did you present the search warrant affidavit to

1 magistrate Ellen Steinberg?

2 He said he did. And the information in your
3 affidavit, did it include items from your investigation
4 that yourself and other individuals in your unit
5 witnessed?

6 And he said, Yes, we did. We supplemented
7 it.

8 Now, of course, the officers involved in the
9 investigation testified yesterday, and they also walked
10 us through the transaction, giving us their sworn
11 testimony as to what occurred, and given the statement by
12 Officer Scurry, he indicates that he walked the
13 magistrate through those stories that were related by the
14 other members of the investigation; in other words, he
15 says that the information provided, did it include the
16 items from your investigation that you yourself witnessed
17 and other individuals in the unit?

18 He said, Yes, we did. We supplemented it.

19 And when you presented it, did you stand
20 silently or did you walk her through what happened?

21 He answered, We always walk her through it,
22 and she asked questions as well.

23 So it does appear that the magistrate was
24 informed of the stories of the people involved in the
25 investigation. It would have been helpful if we had

1 testimony on each specific point, but, of course, that's
2 not the testimony that we had, but it does appear
3 supplementation did occur, and there's no evidence to
4 indicate that it was not consistent with the information
5 that was provided to the Court, this Court, yesterday
6 from the people involved in the investigation.

7 Nevertheless, the affidavit itself indicates
8 that the undercover officer asked a male subject if he
9 had cocaine base. After discussion, he indicated that he
10 had to go get the narcotics; in other words, he did not
11 have the narcotics in his possession at that time. It
12 appears that he was observed traveling from Sycamore
13 Street to Tripe Street, and when traveling on Tripe
14 Street, he was observed by Scurry and Gill and observed
15 to go to the residence at [REDACTED] Tripe Street and at that
16 point made contact with another black male subject
17 standing within the door frame of the residence.

18 They then observed him leave that residence
19 and travel directly back to the undercover officer and
20 give the undercover officer a quantity of cocaine base in
21 exchange for some money. There was discussion as to
22 whether or not the money changed hands either before he
23 went to Tripe Street or after he went to Tripe Street.
24 What they testified to was that it occurred before the
25 affidavit, leaves open that question as to whether the

1 money was exchanged before or after; however, there is
2 nothing in the affidavit that would indicate -- I'll call
3 him the runner, had contact with anyone else from the
4 time he talked to the undercover officer till he talked
5 to the gentleman who was standing in the doorway of [REDACTED]
6 Tripe Street.

7 There's no testimony or nothing in the
8 affidavit that indicates anybody saw exactly the exchange
9 of items. Although there was a meeting that took place
10 in that doorway, they weren't able to say exactly what
11 happened between these two people, but there's no doubt
12 that he determined from the testimony and the affidavit
13 he turned directly back to the officer when the drugs
14 were delivered at that point.

15 Now, given those facts and circumstances, the
16 issue becomes whether or not that would give the
17 magistrate a substantial basis or that there would be a
18 fair probability that illegal activity or illegal drug
19 activity was occurring at or around [REDACTED] Tripe Street
20 because the warrant was not given for a person, it was
21 given for a location.

22 You know, as I said, the question is not
23 whether or not that proves it beyond a reasonable doubt
24 or whether or not there are not other possibilities that
25 exist within the story, it's simply whether or not that

1 would give the magistrate a fair basis, fair probability,
2 for issuing the warrant. And we have to give great
3 deference to the magistrate's decision, this Court does,
4 because the magistrate dealt directly with the officers,
5 heard the supplemented story. There's no evidence that
6 it was any different from the stories that were given --
7 the versions of the case that were given by the officers
8 who were present yesterday.

9 Based on the totality of the circumstances,
10 although I recognize it's a close case, is the reason I'm
11 taking so long to look at it, I will find that the
12 magistrate did have a fair -- substantial information
13 that would have established a fair probability that the
14 location at [REDACTED] Tripe Street was involved in illegal drug
15 activity, and I will allow the evidence to resume.

16 Any other matters that I need to consider
17 from the State's perspective before we proceed?

18 MS. FRIERSON: Not at this time, Your Honor.

19 THE COURT: Anything else from the defense
20 perspective?

21 MR. SMALDONE: Your Honor, yesterday we
22 addressed issue of the marijuana indictment being read to
23 the jury.

24 THE COURT: We dealt with that while you were
25 out. Your co-counsel said I could do that.

1 Let me make you aware that I have removed the
2 one indictment that the State has agreed not to
3 prosecute. The other indictment, case number 1091, I
4 believe, on the back of the indictment it's stated
5 marijuana instead of cocaine. The body of the indictment
6 stated cocaine, so I corrected that scrivener's error as
7 well.

8 In your absence, I brought in juror 271.
9 Co-counsel was present. I inquired of that juror whether
10 or not he, in fact, was familiar with -- let's see. He
11 was a friend of the brother of Detective Gill's ex-wife.
12 He acknowledged -- he said yesterday he wasn't sure that
13 was the same detective that we were talking about, so he
14 did not respond. He did, however, acknowledge that
15 relationship; however, he said it would not affect his
16 impartiality, so I made a decision he could stay on the
17 jury, so I took care of those two things, in your
18 absence, with your co-counsel.

19 Any other matters you would like me to
20 address? And I think we're holding the question of the
21 affidavit and the testimony until a later time.

22 MS. FRIERSON: Yes, Your Honor.

23 THE COURT: So are we ready to proceed?

24 MS. FRIERSON: State is ready, Your Honor.

25 THE COURT: Defense ready?

1 MR. SMALDONE: I'm sorry. I'm a bit sweaty.
2 I need to work out more. I just need to get my notepad
3 for note-taking.

4 MS. FRIERSON: While he's doing that, do you
5 mind if I put some evidence up there?

6 THE COURT: No, that's quite all right.

7 MS. FRIERSON: It's my understanding between
8 me and defense counsel that they are agreeing everything
9 will be entered.

10 THE COURT: All right.

11 MR. SMALDONE: Your Honor, we are
12 stipulating. We discussed it at length, and because it
13 suits with our defense, we've not challenging the fact
14 that there were drugs. Our trial strategy is that they
15 weren't our client's.

16 THE COURT: What numbers would this cover?

17 MS. FRIERSON: Your Honor, I believe it will
18 go from one -- we actually have two stipulations that
19 we'll address after lunch, but 1, 2 -- I think we might
20 be up to 36. I'll have to double-check.

21 MR. SMALDONE: To be clear, we are
22 stipulating that they are drugs, but I do renew my
23 objection to their admissibility on previous --

24 THE COURT: Under the search warrant, search
25 warrant objection.

1 MR. SMALDONE: The search warrant objection,
2 not any other type of --

3 THE COURT: So you're agreeing to their
4 admissibility, other than your objection to the search
5 warrant?

6 MR. SMALDONE: I would object -- sorry. I
7 would object, to renew my previous objection. If Your
8 Honor overrules that objection, we agree that they are
9 drugs.

10 THE COURT: Okay. Very good. So they're
11 admitted, and the numbers are --

12 MS. FRIERSON: 35.

13 THE COURT: And that is subject to your prior
14 objection.

15 MR. SMALDONE: Thank you, Your Honor.

16 THE COURT: Bring the jury in.

17 (State's Exhibits 1 through 35 were marked
18 for identification and admitted into evidence.)

19 (In open court, jury present.)

20 Ladies and gentlemen: As you come and go
21 from the courtroom, there's only two assigned seats.
22 Those are the two alternates, the back row. Other than
23 that, just come in and fill in the seats. If you have a
24 particular seat you feel better sitting in, please do so,
25 and, of course, the witness stand is right over here to

1 burden of proof in this trial. For that reason we allow
2 the State to go first with its opening statements,
3 followed by the defense. After that, we'll start with
4 the presentation of evidence, and, again, the State with
5 the burden of proof is allowed to go first in calling
6 witnesses, and then once they've completed the
7 presentation of their evidence, the defense has the right
8 to put up any evidence they would like to put up.

9 Once all the evidence has been all presented,
10 then, of course, we'll have closing arguments, and once
11 the closing arguments have been completed and once the
12 charge is completed, the case will be turned over to you
13 for your verdict.

14 So that's the process that we're going to go
15 through as far as the trial of the case is concerned, so
16 at this time, the State can begin with its opening
17 comments. Ms. Frierson?

18 MS. FRIERSON: Thank you, Your Honor. May it
19 please the Court: Good morning, ladies and gentlemen.
20 Thank you very much for your service. As you know, we
21 had some legal matters yesterday in hopes to streamline
22 and minimize the trial, so we appreciate your service and
23 thank you for being here.

24 Now, this is the state of South Carolina
25 versus Derrick Ancrum, and drugs are illegal. It's

1 illegal to possess them or manufacture them in the state
2 of South Carolina. Specifically, there are certain
3 quantities that our legislature has determined is a
4 trafficking weight, and it is illegal to traffic cocaine
5 base or cocaine, which are illegal substances in our
6 state.

7 I'm going to show you a picture, hopefully,
8 of [REDACTED] Tripe Street. It's a four-bedroom residence in
9 the West Ashley community of Charleston, in Ashleyville,
10 specifically. We are here today because on August 27th,
11 2015, the Charleston police department narcotics unit
12 executed a lawful search warrant at that residence.
13 Inside, they located the defendant, Mr. Ancrum, a
14 six-month-old infant, his brother Brian Ancrum, and his
15 mother, Barbara Ancrum.

16 They also located a trafficking weight of
17 cocaine; a trafficking weight of cocaine base; \$4,366 in
18 cash, small bills; scales and small baggies as well as
19 other items commonly used to manufacture cocaine base.

20 Now, through this trial, you'll hear from a
21 variety of witnesses regarding their duty and their role
22 in this investigation. You'll hear from detectives about
23 those items they located and where they were located, and
24 you'll hear when narcotics detectives arrived that day,
25 they spoke with the defendant who made some statements,

1 and you'll hear what those statements were. You will
2 also hear testimony to confirm that the substances found
3 during that search warrant were, in fact, cocaine and
4 cocaine base.

5 And as I said when I began, drugs are
6 illegal, and on August 27, 2015, this defendant was in
7 possession of trafficking weights of cocaine and cocaine
8 base. I encourage you to listen to all the testimony
9 presented from that stand as well as all the evidence
10 presented to you. At the end of the trial, I believe
11 that you will be firmly convinced of the defendant's
12 guilt and find him guilty on each charge.

13 Thank you.

14 THE COURT: Defense may proceed.

15 MR. SCHWARTZ: Thank you, Your Honor. May it
16 please the Court: You all, I'm not going to talk to you
17 for a long time because, honestly, there really isn't
18 much to say.

19 The drugs the government found were not
20 Derrick's. The government thinks he's guilty because
21 they found some mail with his name on it. They found
22 some IDs. They found a picture of his -- or they found a
23 badge from his Mason group, and they found some men's
24 clothing in the house. What the government didn't tell
25 you was that they fingerprinted the bags of dope.

1 Nothing. They fingerprinted the scales. Nothing. They
2 fingerprinted the kitchen supplies used to turn cocaine
3 into cocaine base, or crack. Nothing. They found some;
4 mail, they found some IDs, they found some men's
5 clothing, and they came to the conclusion that the drugs
6 were his.

7 Now, what the government didn't tell you,
8 numerous people stayed in that house. Numerous people
9 had access to the room where the drugs and the money were
10 found. They didn't tell you that numerous pieces of mail
11 with other names on it were found in that residence at
12 [REDACTED] Tripe Street. Some of the names on that mail belong
13 to people who have drug convictions.

14 Now, the reason why we're here today is
15 because Charleston police department executed a search
16 warrant at that house. They waited nine days from when
17 they got that search warrant to go and raid it, and
18 inside that house they found Derrick, they found his
19 mother, and they found his nephew and his infant son.
20 His nephew's name is Brian Ancrum. They let Brian go.
21 They arrested Derrick.

22 Now, every case I try I have concerns, and in
23 this case, I do have a concern. Like the State said,
24 there was a statement made. The government is going to
25 put up witnesses and police officers to testify that

1 Derrick said the drugs were his, but I'm worried that
2 after you look at all the evidence, the pictures, the
3 pictures of the clothing, the pictures of the ID, the
4 mail, evidence that doesn't have a bias or a reason to
5 make something up, you're going to say, Why would a
6 police officer get on the stand and testify to that?

7 But on the flip side, I'm asking you that if
8 the government has nine days to prepare for a raid, is
9 nine days not enough to grab a body camera? Is nine days
10 not enough to grab a video camera, or even a cellphone?
11 I want you to hold them accountable for having all the
12 time to prepare. They had all the advantage, but they
13 had no additional evidence to back up their claim that he
14 claimed the drugs, and I want you to ask yourself, is
15 that enough for you to find somebody guilty.

16 Now, I'm sure before you were put on this
17 jury you've heard of reasonable doubt, and the judge is
18 going to charge you on that. The State has the burden of
19 proof, and they have all the resources. They have CPD;
20 they have SLED; they have the solicitor's office and
21 their \$10 million budget.

22 What does Derrick have? He's got Grant and
23 me, and so at the end of this trial, we're going to ask
24 you to use your common sense, and we don't think you're
25 going to be able to find him guilty beyond a reasonable

~~JASON SCURRY - DIRECT EXAMINATION~~

1 doubt, and in the trial, we're going to ask you to find
2 him not guilty.

3 THE COURT: State may call its first witness.

4 MS. FRIERSON: Thank you. State calls
5 Detective Jason Scurry.

6 JASON SCURRY,
7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 THE COURT: Counsel, your witness.

11 MS. FRIERSON: Thank you, Your Honor. May it
12 please the Court:

13 BY MS. FRIERSON:

14 Q. Good morning, Detective Scurry. Could you please
15 tell the jury where you work.

16 A. I currently work for the Charleston police
17 department.

18 Q. How long have you worked for the Charleston police
19 department?

20 A. For approximately 11 years now.

21 Q. Could you briefly describe your duties there.

22 A. I'm currently assigned to special investigations
23 unit, primarily consisting of narcotics investigation.
24 We do a lot of CI management, surveillance, and narcotic
25 cases.

JASON SCURRY - DIRECT EXAMINATION

1 Q. I apologize. I have a hard time hearing you so if
2 you wouldn't mind speaking up.

3 Now, were you involved in the narcotics
4 investigation of [REDACTED] Tripe Street on August 27th of 2015?

5 A. Yes, ma'am, I was.

6 Q. Is that in Charleston County?

7 A. Yes, ma'am.

8 Q. Have you seen this before?

9 A. Yes, ma'am.

10 Q. What is this?

11 A. That's the residence of [REDACTED] Tripe Street.

12 Q. And does that appear to be an accurate depiction
13 of what you saw that day?

14 A. Yes, ma'am, it is.

15 Q. And, again, what is this, Detective Scurry?

16 A. That's the residence of [REDACTED] Tripe Street.

17 Q. And how many bedrooms are there?

18 A. There's four bedrooms.

19 Q. And was that the house that you executed the
20 search warrant at?

21 A. Yes, ma'am, it was.

22 Q. And did that case involve Derrick Ancrum?

23 A. Yes, ma'am.

24 Q. Would you please tell the jury how you were
25 involved.

JASON SCURRY - DIRECT EXAMINATION

1 A. Essentially, I was a casing agent in the narcotic
2 investigation conducted at [REDACTED] Tripe Street, so our unit
3 conducted a search warrant there.

4 Q. And, generally, what was located in the house that
5 day?

6 A. There was approximately 284 grams of cocaine, 16
7 grams of crack cocaine, and also material used to
8 manufacture cocaine base, such as Pyrex cups, screened
9 mesh material, and numerous baggies, things of that
10 nature.

11 Q. Did you locate any currency, cash?

12 A. Yes. There was approximately \$4,045 there,
13 approximately.

14 Q. Where was the bulk of that located?

15 A. The bulk of that was located with the narcotics.

16 Q. And where specifically in the house was it
17 located?

18 A. It was in a bedroom within a tall dresser.

19 Q. Were you able to determine whose bedroom that was?

20 A. Yes. We did determine that to be Derrick Ancrum's
21 bedroom.

22 Q. And were you able to determine it was the
23 defendant's bedroom?

24 A. Based on his statements, based on mail being
25 there, IDs, additional IDs, mail addressed to [REDACTED] Tripe

1 Street and Derrick Ancrum's name on it and also his
2 statements.

3 Q. Did you find any memorabilia or awards?

4 A. There was one Mason award or father of the year
5 award that was on the wall as well.

6 Q. That was for the defendant?

7 A. Yes, ma'am.

8 Q. What about clothing?

9 A. Clothing, same scenario. It was male clothing
10 within the room. Matched the description of the
11 defendant, clothing that he could have worn.

12 Q. Did it appear to you that that room was a shared
13 space?

14 A. No, ma'am, it did not.

15 Q. Now, you mentioned something about some mesh
16 colander and some scrubbing pads. Were those also
17 located in the room?

18 A. Yes, ma'am.

19 Q. And as a narcotics detective, is there anything
20 significant about those items in relation to the drugs
21 that were found?

22 A. Essentially those items correspond with cooking
23 crack cocaine.

24 Q. And what about the grinder that was recovered with
25 residue? Was there any significance about that to you as

1 a narcotics detective?

2 A. Yes. There was a grinder that had cooking residue
3 on it. Essentially, cocaine comes in a rock form, and
4 they use a grinder to make it powdery.

5 Q. Did the grinder have any residue on it?

6 A. It did and field tested presumptive as cocaine.

7 Q. Would you explain to the jury what field testing
8 presumptive for cocaine means.

9 A. It's a field test. It's essentially a chemical
10 agent that you can drop on a particular item that has
11 cocaine or cocaine base on it, and it turns a particular
12 color, in this case blue, so it turns blue.

13 Q. Now, after you left the search warrant, did you
14 continue to do any follow-up work on this case?

15 A. Yes, ma'am.

16 Q. And did you send those substances to a lab?

17 A. Yes, ma'am.

18 Q. And what was the purpose of that?

19 A. The purpose of the lab, once we confiscate stuff,
20 we can do field presumptive tests; however, we send it to
21 a lab for official verification.

22 Q. And did you do any fingerprinting on any
23 materials?

24 A. We did do fingerprinting on two of the larger
25 bags.

1 Q. And why would you try to get fingerprints off a
2 bag?

3 A. Essentially, most bags, you can't get fingerprints
4 off of the smaller bags. You know, they crumple real
5 easy. It's just hard to get fingerprints off of them,
6 but we did try to get fingerprints off two larger bags.

7 Q. So you did it as part of a thorough investigation?

8 A. Of course.

9 Q. And have you sent off the bags of drugs in other
10 cases in your experience as a law enforcement officer?

11 A. Yes.

12 Q. And have you ever had a positive result?

13 A. No, ma'am, I have not.

14 Q. And is that common?

15 A. It is very common.

16 Q. And you mentioned something about the bags and
17 their surfaces. Can you elaborate on that for the jury.

18 A. Essentially, everyone wants to know if
19 fingerprints are on a bag and stuff like that. I'm not a
20 fingerprint expert, but from what I'm told from our
21 people, it's hard to get fingerprints off small drug
22 baggies. It's just basically texture, how they crumple
23 up, how they're palmed when they're handled and stuff
24 like that, so my experience, we have never gotten
25 fingerprints off a bag; however, we do try on the larger

JASON SCURRY - DIRECT EXAMINATION

1 bags in some cases.

2 Q: Now, what about -- did you recover a phone in this
3 case?

4 A. Yes, we did.

5 Q. And do you remember what kind of phone it was?

6 A. It was an old-style Cricket phone.

7 Q. Did you try and dump that phone or examine that
8 phone as part of the investigation?

9 A. No, we did not.

10 Q. And why was that?

11 A. Essentially, just burn style old phones. They
12 just don't provide us with a lot of information. Even if
13 we have the capabilities to download them, you can't play
14 games with them. You just buy these phones from
15 different gas stations or what have you, so it's really a
16 dead point in the investigation.

17 Q. Now, you mentioned the term burner phone. Can you
18 explain what a burner phone is to the jury?

19 A. A burner phone is, essentially, the cheaper-style
20 phones you buy from gas stations and stuff like that that
21 you pay cash for, that you don't go to Verizon and stuff
22 like that. So it's just a cheap phone that most drug
23 dealers use.

24 Q. And what is the significance of having a phone
25 that's not tied to you as a drug dealer?

JASON SCURRY - DIRECT EXAMINATION

1 A. It's just to avoid law enforcement detection.

2 Q. Did you locate any other items throughout the
3 house in other people's names?

4 A. Yes.

5 Q. And what items were those, do you recall?

6 A. I think in the upstairs portion of the residence,
7 there appeared to be a female's room. I think there was
8 ID, a student ID. The gentleman, Brian Ancrum, that was
9 located within the common area of the house, I think he
10 had a social security card as well. We took a picture of
11 that.

12 Q. Were those located in the defendant's bedroom with
13 the other drugs?

14 A. No.

15 Q. Now, you testified earlier that this was the
16 defendant's room, and this was based on some statements
17 he made to you. I would like to elaborate on that.
18 Where did he make these statements?

19 A. So the day of the operation, the SWAT team
20 executed the search warrant. After they secured the
21 residence, myself and other narcotics officers, we went
22 to the residence. We approached Derrick Ancrum, who was
23 outside on the front porch, detained. Myself and
24 Detective Jenkins approached him and began to talk to
25 him, and at that point he said --

—JASON SCURRY - DIRECT EXAMINATION—

1 MR. SCHWARTZ: I'm going to object, Your
2 Honor, just to renew my previous objection.

3 THE COURT: Previous objection is noted. You
4 may proceed.

5 BY MS. FRIERSON:

6 Q. I think you were saying that you approached the
7 defendant, and at that time, did you read him his Miranda
8 rights?

9 A. Yes. We approached the defendant. He was on the
10 front porch of the residence. We read him his Miranda
11 rights, and at that point he made several statements.

12 Q. And you read him his Miranda rights after you
13 explained why you were there?

14 A. Absolutely. We approached him, explained to him
15 who we were, what we were doing there. He was read his
16 Miranda rights, and he made several statements after
17 that.

18 Q. And how did you read him those Miranda rights?

19 A. Essentially, I have a card, a handheld card that
20 has Miranda rights on them.

21 Q. Did you do that because you intended to conduct a
22 formal interview at that time?

23 A. No.

24 Q. Do you do that as a matter of course in your
25 investigations?

1 A. Right.

2 Q. And who else was with you?

3 A. Myself and my lieutenant.

4 Q. At that time did the defendant appear to be

5 willing to talk to you?

6 A. Yes, he was.

7 Q. Was there a delay or did he make some comments

8 immediately?

9 A. He made some comments immediately.

10 Q. Take us through what he said.

11 A. We explained who we were, why we were there. We

12 read him his Miranda rights. At that point, he kind of

13 just bowed his head, looked down, and he's, like, I don't

14 want anybody else to get in any trouble, and he said, I

15 have a couple ounces in the bedroom.

16 He tried to get up and show us where the dope was

17 at. At that point, we told him to sit down, and we

18 proceeded on with our investigation at that point.

19 Q. So he pointed out a bedroom?

20 A. Yes, ma'am.

21 Q. And did you let him enter the house?

22 A. No.

23 Q. So which bedroom did he point to?

24 A. Essentially, he was sitting on the front porch,

25 and he pointed into the first bedroom in the residence.

1 As soon as you go through the front door, it's on the
2 right-hand side.

3 Q. I'd like to take a look back at State's Exhibit 4.
4 When you approached, was this the porch you're talking
5 about?

6 A. Yes, ma'am.

7 Q. And that's where the defendant made these
8 statements?

9 A. Yes, ma'am.

10 Q. And which bedroom did he point to?

11 A. To the one directly -- when you walk in the front
12 door, it's to the right..

13 Q. Can you see it on this? You can mark on the
14 screen?

15 A. The bedroom would be where these windows are right
16 here.

17 Q. And is that ultimately where the drugs were
18 recovered from?

19 A. Yes, ma'am.

20 Q. And he specified the bedroom. Did he specify what
21 kind of drugs?

22 A. He said two ounces of cocaine.

23 Q. Did he appear cooperative at that point?

24 A. Yes, ma'am.

25 Q. Did he make any threats to the detectives?

1 A. No, ma'am.

2 Q. To Detective Jenkins?

3 A. No, ma'am.

4 Q. Did you promise him anything if he talked to you?

5 A. No.

6 Q. How long did this interaction last?

7 A. Very short, within two minutes.

8 Q. And it was -- according to your testimony,
9 immediately he blurted out which room was his and what
10 drugs would be found there?

11 A. Yes. He didn't want anyone else to get in
12 trouble.

13 Q. Now, two ounces is significantly different from
14 the quantities that you stated earlier. I believe you
15 said approximately 284 grams of cocaine and about 17
16 grams of cocaine base?

17 A. Yes.

18 Q. Did you try to go back to the defendant after the
19 search warrant was done and after you located all that
20 and get a formal written statement?

21 A. No, we did not.

22 Q. And why not?

23 A. You know, basically, when he kind of owns up to it
24 at the beginning, he doesn't want anybody to get in
25 trouble, that's very common, saying you have a minimum

1 amount: I only got two ounces. He knows he's got more;
2 however, he just wants to minimize that, that's all.
3 It's pretty common --

4 MR. SCHWARTZ: Your Honor, we are going to
5 object to this. It's improper expert testimony. He's
6 testifying as to why people behave the way they do.

7 THE COURT: I'll sustain the objection as to
8 the defendant's intention, what he said. That would call
9 for speculation, unless you can lay some better
10 foundation.

11 MS. FRIERSON: May I rephrase the question?

12 THE COURT: You may rephrase the question. I
13 sustain the objection.

14 MS. FRIERSON: Thank you, Your Honor.

15 BY MS. FRIERSON:

16 Q. Detective Scurry, is it common for you in your
17 experience as a narcotics detective for someone to claim
18 drugs but not want to give a more specific statement
19 later on?

20 A. Yes, it is.

21 Q. In your training and experience, have you had an
22 investigation where someone minimizes their role in it?

23 A. Absolutely.

24 Q. And as a result of that, did you stick with the
25 statement that the defendant gave you initially?

1 A. Yes.

2 MS. FRIERSON: I have no further questions at

3 this time. Please answer any that the defense may have.

4 THE COURT: You may cross-examine.

5 MR. SCHWARTZ: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. SCHWARTZ:

8 Q. You're the case agent, the main detective, on this

9 case, correct?

10 A. Yes, sir.

11 Q. And as the case agent, you prepare what's called a

12 case jacket, correct?

13 A. Sure.

14 Q. And in that case jacket are incident reports?

15 A. Yes, sir.

16 Q. And evidence, pictures?

17 A. Yes, sir.

18 Q. Everything that you would need to prosecute a

19 defendant going forward after the arrest, right?

20 A. Not necessarily before the execution of a search

21 warrant; however, some information is developed prior to

22 conducting a search warrant.

23 Q. But you would rely on your case jacket for court

24 later down the road, right?

25 A. Sure.

1 Q. And in the course of that, you yourself in this
2 case prepared an incident report, correct?

3 A. After the search warrant?

4 Q. Yes.

5 A. Yes.

6 Q. Okay. Do you remember what you -- do you want me
7 to show you a copy of your incident report to refresh
8 your memory?

9 A. I think I'll be all right.

10 Q. And in that report, and correct me if I'm wrong,
11 you stated that bedroom two is identified by the
12 detectives to the offender one, Derrick Ancrum?

13 A. Yes, sir.

14 Q. And you located numerous items identifying him as
15 being the owner of that bedroom?

16 A. Correct.

17 Q. And that was a South Carolina driver's license?

18 A. Correct.

19 Q. Correct?

20 A. Correct.

21 Q. Additional identification cards, correct?

22 A. Correct.

23 Q. Various articles of mail?

24 A. Yeah.

25 Q. And male clothing?

1 A. Yes, sir.

2 Q. Now, I want to talk a little bit about the mail.

3 When you guys entered that house, there was a lot of mail

4 in the house, right?

5 A. Was there a lot of mail?

6 Q. Mail, yes, sir.

7 A. No, sir. There wasn't a lot of mail.

8 Q. There was just one piece of mail?

9 A. There was a little bit. What are you calling a

10 lot?

11 Q. I don't know, 20?

12 A. I wouldn't say there were 20 pieces.

13 Q. Would you agree with me that there are other

14 pieces of mail addressed to other people not named

15 Derrick Ancrum in the house?

16 A. There was other mail there, correct.

17 Q. I want to talk about the cellphone that you talked

18 about. I believe we have it right here, correct? Do you

19 recognize that?

20 A. Yes, sir.

21 Q. And you call that a burner phone?

22 A. Yes, sir.

23 Q. You testified you didn't attempt to get a search

24 warrant to dump that phone, correct?

25 A. Correct.

1 Q. So did you attempt to get a search warrant to find
2 any of the numbers that phone might have called?

3 A. No, sir.

4 Q. Did you attempt to get a search warrant to find
5 any text messages that might have come to or from that
6 phone?

7 A. No, sir.

8 Q. So we really don't know who that phone belongs to?

9 A. Correct.

10 Q. It could have belonged to somebody else?

11 A. It was in the defendant's room at the time.

12 Q. But we don't really know for a fact it belongs to
13 Derrick Ancrum, correct?

14 A. Correct, but based on phones like that, you would
15 never know. That phone is not registered to any
16 individual, most burner phones.

17 Q. But you could have got information to further your
18 investigation from the phone.

19 A. It's possible.

20 Q. Okay. And I think I gave you a little more credit
21 in my opening than you deserve. I'm going to talk about
22 some fingerprints.

23 You guys did try to fingerprint the baggies,
24 correct?

25 A. Two baggies, two of the larger baggies, were

1 attempted to get fingerprints.

2 Q. Did you guys attempt to fingerprint this phone?

3 A. No, sir.

4 Q. It's plastic, right?

5 A. Sure.

6 Q. Did you guys attempt to fingerprint this grinder

7 with the cocaine base in it?

8 A. Not to my knowledge.

9 Q. Did you guys attempt to fingerprint the scale?

10 A. Not to my knowledge.

11 Q. Okay. Would you agree with me that fingerprints

12 could be left on those items?

13 A. It's possible.

14 Q. Okay. You testified there was clothing in the

15 house, correct?

16 A. Correct.

17 Q. And I believe your quote was, Clothes he could

18 have worn.

19 A. Correct.

20 Q. Do we have any of those clothes as evidence here

21 today?

22 A. No, sir.

23 Q. So the jury doesn't know what size these clothes

24 were, correct?

25 A. Correct.

1 Q. So we don't know if they belong to Derrick,
2 correct?

3 A. Correct.

4 Q. We don't know if they belong to somebody who was
5 bigger or smaller than Derrick, correct?

6 A. Correct.

7 Q. So we don't know whose clothes they really were?

8 A. The point is, he said the room was his, so we
9 wouldn't want to waste all our resources fingerprinting
10 every item when he is pointing out the room that is his.

11 Q. Would it have been easy to take a few and put it
12 in an evidence bag and take it with you?

13 A. Of what?

14 Q. Clothes.

15 A. Normally we just take pictures of the clothing.
16 We won't take everything out of the room.

17 Q. Okay. Now, I want you to talk about his statement
18 that you discussed, all right?

19 A. Okay.

20 Q. You would agree that a confession can be very
21 important in a criminal case?

22 A. Correct.

23 Q. And if a person truly confesses, that would mean
24 they're guilty, right?

25 A. Correct.

1 Q. And unlike other evidence, it can be subject to
2 interpretation, a statement, right?

3 A. Correct.

4 Q. And, for example, a fingerprint might not tell you
5 when it got there or how it got there. We just know it
6 was there at some point, correct?

7 A. Correct.

8 Q. Eyewitnesses can be mistaken?

9 A. Sure.

10 Q. Okay. And witnesses can lie?

11 A. Sure.

12 Q. But if you agree that a suspect truly confesses,
13 by definition, he's guilty.

14 A. In some cases.

15 Q. Okay. I want to talk about your training. So
16 important is the confession that police officers receive
17 special training in interrogation techniques, correct?

18 A. Correct.

19 Q. Because interrogating a suspect isn't just like
20 talking to somebody in the street, right, it's not like
21 you and I having a conversation?

22 A. Correct.

23 Q. Did you take any special classes to learn
24 interrogation techniques at some point in the academy?

25 A. I did take an entry level interrogation course.

1 Q. And at that course you're taught how to talk to a
2 suspect, right?

3 A. Correct, correct. What I like to point out is
4 this is not a formal interview on the scene, conducted a
5 search warrant. There is a big difference between being
6 at the headquarters with cameras and more resources
7 versus just being on scene there where it's just a search
8 warrant. In other words, we're looking to interview
9 people quickly and just continue the investigation. He
10 was never transported for a formal interrogation
11 interview.

12 Q. Sure. And I'm not disagreeing with you on that,
13 but you continued to talk to the defendant, or
14 defendants, to elicit certain testimony out of that, or
15 statements out of that to further your investigation,
16 right?

17 A. In these particular cases, we don't want to go in
18 the house and tear up the grandmother's room, tear up the
19 kids's rooms. We would rather start with him and see
20 where the drugs are at in this incident. That's the way
21 it worked out. We don't want to be crawling under the
22 houses, tearing up kids' rooms, tearing up grandma's room
23 where they know where it's at and stuff like that.

24 Q. But you know that unlike other evidence, a
25 confession is extremely important, that the State has to

1 jump through certain hoops before a jury can even hear
2 it, correct?

3 A. Correct.

4 Q. And before you can testify as to what the
5 defendant told you, His Honor has to make sure that the
6 statement was taken properly, right?

7 A. Yes, sir.

8 Q. And he has to decide, you know, that a statement
9 was, in fact, made, correct, before he can testify to
10 that?

11 A. Correct.

12 Q. He has to make sure that you read him his rights?

13 A. Correct.

14 Q. And he understood his rights, correct?

15 A. Correct.

16 Q. And he waived them by talking to you?

17 A. Correct.

18 Q. Okay. You don't have to do that with any of this
19 other evidence, right?

20 A. What do you mean?

21 Q. We don't have to have a hearing on any of this
22 other evidence to make sure that it was correctly gotten,
23 right?

24 A. Sure.

25 Q. What I'm getting at is, it's that important

1 because, going back to what I said before is that he had
2 given a statement that he's truly guilty, truly confessed
3 that he's guilty, right?

4 A. Can you repeat the question, please.

5 Q. There are certain procedures that we have, the
6 State and defense, to ensure a statement was given freely
7 and voluntarily, correct?

8 A. Yes.

9 Q. You're familiar with the term corroboration,
10 right?

11 A. Sure.

12 Q. And that just means one fact supports another,
13 correct?

14 A. Right.

15 Q. And, for example, a suspect in a murder case might
16 tell you, I couldn't have done it. I was at work, right?

17 A. Correct.

18 Q. Now, you're not going to just believe what he
19 says. You're going to go to his job and maybe pull a
20 time card and talk to his co-workers and the boss, right,
21 to corroborate what he told you to either check him off
22 the list and move on or continue looking at him, right?
23 Correct?

24 A. Correct.

25 Q. And all things being equal, you would rather have

1 corroborative evidence than not?

2 A. Yes, sir.

3 Q. Would you say facts that are corroborated have
4 more weight than those facts that are not?

5 A. Sure.

6 Q. And you're familiar with the expression he said/he
7 said or he said/she said?

8 A. Correct.

9 Q. And that's one person says one thing and another
10 person says another?

11 A. Sure.

12 Q. And we have no other facts supporting either
13 position, right?

14 A. What do you mean?

15 Q. Well, if one person is saying A and another person
16 is saying B and there is no corroborating evidence to
17 support A or B, there is no facts supporting either one,
18 right?

19 A. Correct.

20 Q. Okay. And as a narcotics officer, you try to
21 avoid that at all cost?

22 A. Yes.

23 Q. You certainly wouldn't choose he said/she said
24 over corroboration, right?

25 A. Correct.

1 Q. Here, you didn't record any conversation with my
2 client, correct?

3 A. Correct.

4 Q. It's not on video, right?

5 A. Correct.

6 Q. Not on audio, right?

7 A. Correct.

8 Q. You read him his rights?

9 A. Correct.

10 Q. He acknowledged those rights?

11 A. Correct.

12 Q. And he waived them by talking to you.

13 A. Correct.

14 Q. But if we had a video, the jury could see exactly
15 what was said between you and he, right?

16 A. Sir?

17 Q. If we had a video, the jury could see how --

18 A. Correct.

19 Q. -- you and the defendant talked.

20 A. Correct.

21 Q. So this is kind of like a he said/she said here
22 with the State, right?

23 A. Correct.

24 Q. There is no corroboration to back up your story?

25 A. Sure there is. My lieutenant was on scene as

1 well, and we spoke to Derrick Ancrum together.

2 Q. Okay. Well, we'll hear from him, but other than
3 what you and your lieutenant are saying, there's nothing
4 else to support your fact that he --

5 A. We didn't have cameras. We normally don't use
6 cameras to record the interviews, per se, on the scene.
7 As I said, this is not a formal interview where he's at
8 the station, stuff like that. This is on the scene at a
9 residence during a search warrant.

10 Q. Isn't it true you all had cameras on the scene
11 after the fact?

12 A. I think our SWAT team used body cams to execute
13 the search warrant, yes.

14 Q. Did you have a body cam?

15 A. I did not.

16 Q. So CPD has body cams, you just did not?

17 A. Correct.

18 Q. Did your lieutenant have one?

19 A. No.

20 Q. So it was possible to actually record this
21 exchange, right?

22 A. Sure.

23 Q. Okay. Let me ask you a question: Given the
24 importance of a confession in a criminal case, the extra
25 steps that you would have to take to present the evidence

1 of a so-called confession, why would a police agency opt
2 to not operate with a body video camera when that
3 evidence is that important?

4 A. So this is not a homicide investigation. This is
5 narcotics work, and a lot of times when we go to these
6 houses and stuff like that, they want to cooperate with
7 us to get out of their charges and stuff like that. So
8 we're not recording that information based on the stuff
9 they may say and stuff like that; however, he was read
10 his Miranda rights in front of myself and the lieutenant,
11 and he made the statements.

12 MR. SCHWARTZ: Court's indulgence, Your
13 Honor.

14 THE COURT: Yes, sir.

15 MR. SCHWARTZ: No further questions.

16 THE COURT: Redirect?

17 MS. FRIERSON: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. FRIERSON:

20 Q. Detective Scurry, when you approached the
21 defendant, the purpose of speaking to him was to inform
22 him of what the search warrant was about.

23 A. Yes, ma'am.

24 Q. That wasn't a formal interview?

25 A. No.

1 Q. And as you just explained to Mr. Schwartz, you
2 don't record those because sometimes they may want to
3 cooperate?

4 A. Correct.

5 Q. And that doesn't need to be recorded?

6 A. Correct.

7 Q. It's part of a narcotics investigation?

8 A. Correct.

9 Q. And you did ensure that you had a witness there?

10 A. Yes, ma'am.

11 Q. And who was that?

12 A. Lieutenant Jenkins.

13 Q. And you didn't intentionally not wear a body
14 camera. You weren't issued them for that purpose?

15 A. Correct.

16 Q. And that decision is not made by you?

17 A. Correct.

18 Q. And that decision is made way up the chain?

19 A. Correct.

20 Q. The defense was also talking about corroborating
21 evidence, and I just wanted to make sure I understood
22 some of your testimony. Did the defendant tell you that
23 was his room?

24 A. Yes, ma'am.

25 Q. And did you find an ID in there to corroborate

1 that?

2 A. Yes, ma'am.

3 Q. Did you find clothing in there to ID that?

4 A. Yes, ma'am.

5 Q. Was that similar in size to the defendant at that
6 time?

7 A. Yes, ma'am.

8 Q. But you didn't take it because why?

9 A. We just -- not to say we're not doing a thorough
10 investigation, but we don't want to take every thing in
11 the room; as well, pictures will suffice in a lot of
12 things.

13 Q. Let's face it: A search warrant at somebody's
14 house is an inconvenience.

15 A. Correct.

16 Q. And so you are trying to take those items and
17 seize those items, which are evidence for a case, to
18 prove whatever the charge is?

19 A. Correct.

20 Q. But you document in your report the other
21 evidence?

22 A. Yes, ma'am.

23 Q. Did you find any other evidence to corroborate it
24 was his room, an award?

25 A. Yes, ma'am.

JASON SCURRY - RECROSS-EXAMINATION

1 Q. And was it in the defendant's name?

2 A. Yes, ma'am.

3 Q. What about mail corroborating that he lived there?

4 A. Yes.

5 Q. And as far as corroborating the substance, did the

6 defendant, in fact, tell you what substance would be in

7 that room?

8 A. Yes, ma'am.

9 Q. And what did he tell you would be in that room?

10 A. He said two ounces --

11 Q. Of --

12 A. -- of cocaine.

13 Q. Did you find at least two ounces of cocaine?

14 A. Yes.

15 MS. FRIERSON: I have no further questions at

16 this time.

17 RECROSS-EXAMINATION

18 BY MR. SCHWARTZ:

19 Q. Just briefly, would you agree, without a

20 recording, a police officer, or any witness, really,

21 could get up there and tell whatever they wanted?

22 A. In this case, we were kind of paired up during the

23 interview, so two people read him his Miranda rights and

24 what he said.

25 MR. SCHWARTZ: No further questions.

ANDRE JENKINS - DIRECT EXAMINATION

1 THE COURT: All right, sir. You may step
2 down.

3 Ladies and gentlemen of the jury: We're
4 going to take a short break at this time. I'll let you
5 go back to the jury room, stretch your legs, clear your
6 head. Don't discuss the case with anyone, though, during
7 the break.

8 You may retire to the jury room.

9 (In open court, jury not present.)

10 All right. We'll be in recess for about five
11 to ten minutes. Thank you very much.

12 (Recess taken.)

13 (10:57 a.m., in open court, defendant and
14 jury present.)

15 THE COURT: When we broke, the State was in
16 the process of calling their witnesses, and you may call
17 your next witness.

18 MS. FRIERSON: Yes, Your Honor. The next
19 witness would be Andre Jenkins.

20 THE COURT: Come forward and be sworn,
21 please.

22 ANDRE JENKINS,
23 having been first duly sworn,
24 was examined and testified as follows:

25 THE COURT: Counselor, your witness.

1 MS. FRIERSON: Thank you, Your Honor. May it
2 please the Court:
3 THE COURT: Yes, ma'am.
4 DIRECT EXAMINATION
5 BY MS. FRIERSON:
6 Q. Good morning, Detective Jenkins. Where do you
7 work?
8 A. I work for the Charleston police department.
9 Q. What is your rank?
10 A. I'm currently the lieutenant in commander of SIU,
11 special investigations unit.
12 Q. Lieutenant Jenkins, how long have you worked for
13 the Charleston police department?
14 A. Going on 19 years.
15 Q. Can you describe what your duties are as
16 lieutenant over the special investigations unit.
17 A. It's to oversee cases, everyday cases that the
18 guys do, administrative work along with supervising
19 search warrants, things like that, buys.
20 Q. And, Lieutenant Jenkins, were you involved in the
21 narcotics investigation at [REDACTED] Tripe Street on August 27,
22 2015 involving the defendant, Derrick Ancrum?
23 A. Yes, ma'am.
24 Q. Could you please tell the jury how you became
25 involved.

1 A. We were there to execute a search warrant at the
2 residence. While there, the SWAT team executed the
3 search warrant for us. Shortly after Mr. Ancrum was
4 detained, I walked up with the rest of our detectives to
5 the front porch, and that's when I encountered Defendant
6 Ancrum.

7 Q. Have you ever personally served on SWAT?

8 A. Yes.

9 Q. Would you tell us what happens when SWAT makes
10 entry. What happens to the people in the house if
11 anybody's inside?

12 A. They're usually detained where they're at. For
13 instance, if someone is at the front door, they would be
14 detained right by the front door, brought outside so the
15 SWAT team could get inside the house. Anybody else
16 inside the house, if they're located in the kitchen --
17 kitchen, bedroom, bathroom, they usually detain that area
18 close to where they would be encountered.

19 Q. And was this defendant detained?

20 A. Yes.

21 Q. And was he brought outside?

22 A. Yes.

23 Q. Was he ever introduced back into the house?

24 A. No, ma'am.

25 Q. And what is SWAT's role in a search warrant like

1 this when they're clearing, as you say, people out? What
2 is the purpose of that?

3 A. To make sure that there is no other threats inside
4 of the house, to make sure that there's nobody in there
5 with a weapon or something like that that is going to
6 cause anybody harm, to the officers or anybody else on
7 the scene.

8 Q. When you walked up that day, you walked up with
9 Detective Scurry?

10 A. Yes, ma'am.

11 Q. And at that point, the defendant, was he already
12 detained on that front porch?

13 A. Yes, ma'am.

14 Q. And was he under arrest at that point?

15 A. No.

16 Q. Now -- but was he free to leave?

17 A. No.

18 Q. Did Detective Scurry advise the defendant what you
19 guys were there for, what was about to take place?

20 A. Yes, ma'am.

21 Q. And did he then read him his Miranda warning?

22 A. Yes, ma'am.

23 Q. And was it your impression that there was going to
24 be a formal interview right then?

25 A. No, ma'am.

ANDRE JENKINS - DIRECT EXAMINATION

1 Q. What was the purpose of reading Miranda?

2 A. Just to let him know what his rights were.

3 Q. And after Detective Scurry read him Miranda, what
4 happened next?

5 A. That's when Mr. Ancrum stood up and said he had
6 two ounces of cocaine inside the bedroom to the right,
7 which was his bedroom, and he tried to go show us where
8 it was at, but we told him he couldn't go back inside the
9 house.

10 Q. And how much did he say he had, do you recall?

11 A. I think he said two ounces, approximately two
12 ounces.

13 Q. Of what substance, did he specify?

14 A. Cocaine.

15 Q. And at that point, had you or the other detectives
16 found anything?

17 A. No, ma'am.

18 Q. Did you attempt to question the defendant any
19 further?

20 A. No, ma'am.

21 Q. Did you relay that information to the detectives
22 performing the search inside?

23 A. Yes, ma'am.

24 Q. Was he cooperative up until then?

25 A. Yes, ma'am.

1 Q. How long would you say that interaction lasted?
2 A. One to three minutes.
3 Q. Did he appear to be under the influence?
4 A. No, ma'am.
5 Q. And was he promised anything for talking to you?
6 A. No, ma'am.
7 Q. Did you or Detective Scurry threaten the
8 defendant?
9 A. No, ma'am.
10 Q. Did you try to coerce him in any way to give you
11 that statement?
12 A. No, ma'am.
13 Q. After Detective Scurry read him Miranda, how soon
14 did he blurt this out?
15 A. Almost immediately.
16 Q. Was he promised anything from our office by you if
17 he cooperated with you?
18 A. No, ma'am.
19 Q. Now, after you talked with him then, I believe you
20 said you told the detectives inside what to look for, but
21 did you come back around and try to get a formal
22 statement from him?
23 A. Not at the time.
24 Q. And was there a reason for that? Was there --
25 A. Yes, ma'am. Usually once they know why we're

~~ANDRE JENKINS - CROSS-EXAMINATION~~

1 there and they know we're going to find everything that's
2 in the house, they usually become cooperative at that
3 point.

4 Q. And prior to serving as a lieutenant in narcotics,
5 did you actually work in narcotics?

6 A. Yes, I did. I worked in narcotics as a detective
7 for eight years prior to going back.

8 Q. And in your experience, both then and now as a
9 lieutenant, do you find that it is beneficial in your
10 investigation to go back and conduct a formal interview
11 once someone has blurted out a statement like that?

12 A. Not usually. When we do our formal interviews, we
13 try to do them at our station, at the office, someplace
14 that's away from the location where the incident
15 occurred.

16 MS. FRIERSON: I have no further questions at
17 this time. Please answer any the defense may have.

18 THE COURT: You may cross-examine.

19 CROSS-EXAMINATION

20 BY MR. SMALDONE:

21 Q. Good morning.

22 A. Good morning.

23 Q. All right. Officer Jenkins, you know that
24 defendants sometimes make statements, right?

25 A. Yes.

1 Q. Sometimes they do, right?

2 A. Yes.

3 Q. Sometimes they don't?

4 A. Yes.

5 Q. And you've been doing this, what, 20 years?

6 A. Approximately.

7 Q. Okay. And you know that it's pretty important to

8 get the statement right away, right?

9 A. Not necessarily.

10 Q. Well, you kind of implied earlier that you know a

11 lot of times later on that they cannot make a statement,

12 right?

13 A. Yes.

14 Q. Because they could think about things, right?

15 A. Yes.

16 Q. They could go to the police station, right?

17 A. Yes.

18 Q. And they could invoke the Miranda rights, right?

19 A. Yes.

20 Q. They could hire a lawyer?

21 A. Yes.

22 Q. They could get appointed a lawyer?

23 A. Yes.

24 Q. So you know right away the first statement is

25 sometimes the only statement you're going to get?

1 A. Sometimes, but not necessarily.

2 Q. Okay. And so sometimes you can interview them,
3 right?

4 A. Well, yeah. You can interview them sometimes,
5 yes.

6 Q. And my client was never interviewed?

7 A. No.

8 Q. And my client never gave a written statement?

9 A. No.

10 Q. All right. So you know that because defendants
11 sometimes don't talk later it's important to get that
12 first statement.

13 A. I wouldn't say it's important, because the fact we
14 had a search warrant for the house, we were going to find
15 the drugs anyway.

16 Q. Would you agree that a confession is an important
17 piece of evidence?

18 A. Well, when he said he had two ounces inside the
19 room, that was basically his confession right there.

20 Q. And you agree that's an important piece of
21 evidence?

22 A. It could be, yes.

23 Q. It could be?

24 A. Yes.

25 Q. It could be or it couldn't be, right?

- 1 A. Yeah. It's important.
- 2 Q. It's an important piece of evidence, right? And
- 3 sometimes in these narcotics cases, that's all you've
- 4 got, right, other than the narcotics? Sometimes with a
- 5 narcotics case, someone's word is really all the evidence
- 6 you could gather at some point, right?
- 7 A. You could gather other evidence, but yeah.
- 8 Q. Right. You could gather fingerprints, right?
- 9 A. Yes, possibly, possibly.
- 10 Q. Possibly and possibly not, but you would at least
- 11 test for fingerprints in a lot of cases, right?
- 12 A. Yes, sir.
- 13 Q. And you've been involved in cases with touch DNA,
- 14 right?
- 15 A. No.
- 16 Q. Okay. So no touch DNA in this case?
- 17 A. No. -I don't think so.
- 18 Q. Okay. And so basically what we're getting at is,
- 19 without fingerprints, it's important to have a
- 20 confession?
- 21 A. But a confession doesn't make the case.
- 22 Q. I agree with you. So it's important to have it,
- 23 though, to make a stronger case, right?
- 24 A. It could be, yes.
- 25 Q. I'm going to guess this confession was not

1 recorded.

2 A. No.

3 Q. This confession was not audio recorded?

4 A. No.

5 Q. This confession was not written?

6 A. No.

7 Q. This confession was not picked up on any cruiser's
8 dash cam or anything like that?

9 A. No, sir.

10 Q. All we have is your memory of events, right?

11 A. Yes, sir.

12 Q. In fact, you didn't make a police report about
13 this case, did you?

14 A. I did not.

15 Q. You didn't write anything down at the time?

16 A. Not me, no, sir.

17 Q. So this is strictly your memory, right?

18 A. Yes, sir.

19 Q. And this is from August of 2015?

20 A. Yes, sir.

21 Q. All right.

22 MR. SMALDONE: Court's indulgence.

23 THE COURT: Yes, sir.

24 BY MR. SMALDONE:

25 Q. All right. And so just to clarify, from your

1 testimony, there's no extrinsic evidence that a
2 confession existed?

3 A. Besides what he told us on the front porch.

4 Q. Extrinsic evidence, meaning physical evidence or
5 recorded evidence, correct?

6 A. No.

7 MR. SMALDONE: All right. No further
8 questions.

9 THE COURT: Redirect?

10 MS. FRIERSON: We have no further question,
11 Your Honor.

12 THE COURT: You may step down. Thank you
13 very much. State wish to excuse the witness?

14 MS. FRIERSON: He's excused for now, Your
15 Honor, but he's going to wait outside.

16 THE COURT: That's fine. Thank you.
17 You may call your next witness.

18 MS. LINDER: State calls Charles Jolliff.

19 CHARLES JOLLIFF,
20 having been first duly sworn,
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. LINDER:

24 Q. Good morning. How are you today?

25 A. Good morning. I'm fine, thank you.

CHARLES JOLLIFF - DIRECT EXAMINATION

1 Q. What's your occupation?

2 A. I'm currently an investigator with the solicitor's
3 office.

4 Q. So you work with myself and Ms. Frierson?

5 A. Yes, ma'am.

6 Q. And were you employed with the city of Charleston
7 police department back in 2015?

8 A. Yes, ma'am.

9 Q. And what capacity were you working at CPD?

10 A. I was a detective in the special investigations
11 unit.

12 Q. And what were some of your responsibilities with
13 the special investigations unit or the narcotics unit?

14 A. We were responsible for investigating narcotics
15 and vice cases, managing CIs, handling citizen complaints
16 about various narcotics problems and vice problems in the
17 area, just general things like that; and we also, as a
18 group, kind of help each other with case management.

19 Q. How long were you in law enforcement?

20 A. A total of 23 years.

21 Q. Twenty-three years?

22 A. Yes, ma'am.

23 Q. And can you tell the jury just a little bit about
24 your education, training, and experience.

25 A. I went to college at West Virginia University with

CHARLES JOLLIFF - DIRECT EXAMINATION

1 a journalism degree and then became a police officer in
2 1994 with the Mount Pleasant police department after
3 attending the academy and then left Mount Pleasant in '97
4 and was with the city until about six months ago.

5 Q. Were you involved in this case, State versus
6 Derrick Ancrum, back in August of 2015?

7 A. Yes, ma'am.

8 Q. And is Derrick Ancrum in this courtroom?

9 A. Yes, ma'am.

10 Q. And can you describe what he's wearing?

11 A. He's seated there in the button-down shirt,
12 dark-colored pants.

13 MS. LINDER: Your Honor, let the record
14 reflect that former Detective Jolliff referenced this
15 defendant, Derrick Ancrum.

16 THE COURT: Record will so reflect. You may
17 proceed.

18 MS. LINDER: Thank you, Judge.

19 THE COURT: Yes, ma'am.

20 BY MS. LINDER:

21 Q. Back in August 2015 with this case, were you part
22 of the search warrant team?

23 A. Yes, ma'am.

24 Q. What was your role during that search warrant?

25 A. I was one of the detectives that was in charge of

1 physically searching the rooms.

2 Q. And can you kind of explain a little bit? I want
3 to make sure the jury understands. We do this every day
4 so we're kind of used to it, but can you explain to the
5 jury what kind of goes into the execution of a search
6 warrant once you're in there?

7 A. Sure. So once the SWAT team makes entry and they
8 deem it safe for everybody else to come in, usually the
9 defendants and people in the house are secured,
10 handcuffed, that kind of thing, and then the rest of the
11 detectives -- at the time, we were about an eight- to
12 ten-man unit.

13 Detective Scurry was the case agent, and each
14 individual detective has a responsibility. A few of us
15 search the rooms. One of us is the recovery agent. If
16 some drugs are found, the guys that are searching the
17 room call for a recovery agent.

18 He comes in with a camera. He takes a picture of
19 where the drugs were found or where any evidence was
20 found, and then he physically collects that evidence. He
21 bags it, he writes on it, wherever it was found and who
22 found it, and he takes it over to another detective who
23 is on the return.

24 It's a search warrant return. It's basically a
25 receipt for everything that we find in the house. We

1 type down who found it, where it was found, what it was
2 so that the people who own the house have a receipt of
3 what was taken out of the house.

4 Q. And you said in this case you were part of the
5 searching team?

6 A. I was part of the search team, yes, ma'am.

7 Q. And what room or rooms in particular did you
8 search?

9 A. I searched the defendant's bedroom, the first room
10 to the right when you come in the door.

11 Q. I'm going to show you what has already come in via
12 stipulation as State's Exhibit 4, and this right here, is
13 this [REDACTED] Tripe Street?

14 A. Yes, ma'am.

15 Q. Based on the exterior view, can you see the
16 windows; or can you show the jury where the bedroom was
17 you searched?

18 A. Yes, ma'am. When you come to the front door, to
19 the right.

20 Q. All right. And when you go about searching a
21 room, what is your manner of searching a room? Do you
22 start in one corner? Do you start up high? You're
23 pretty tall. How do you do it?

24 A. We have -- two detectives per room is usually our
25 protocol. As you can imagine, some of these houses are

1 in different, you know, sorts of disarray.

2 What we normally do when we first go in, we take a
3 look around, see if there is anything obvious and in
4 plain view. The first thing we try to do is try to get a
5 place where we can stage things, and normally that's the
6 bed. So the first thing we do is we'll take the
7 bedspread and the pillows off the bed, search them, make
8 sure there's nothing there, lift the mattress with the
9 box springs, check under the bed, make sure there is
10 nothing there, and then once we have determined there is
11 nothing around the bed, then that's kind of the area
12 where we start to put things.

13 If there is clothing on the floor, we'll search
14 the clothing. Once it's clear, we'll put it on the bed.
15 If there is suitcases on the floor, we'll put pull them
16 out, open them up, search them, so the bed is kind of a
17 safe zone, and we kind of work our way around the
18 perimeter of the room. You know, if there is a dresser,
19 nightstand, we kind of go -- I go right to left, so I'll
20 start to the right, I hit the dresser, nightstand, the
21 other dresser; and the other detective usually kind of
22 works, you know, left to right, so we meet in the middle.
23 It's not the right way or wrong way, it's just the way we
24 do it.

25 Q. Okay. And so prior to searching that room that

1 you had circled, did you hear anything or get any
2 guidance before you did your search?

3 A. While I was in the room -- when I first entered
4 the bedroom, Detective Scurry came in and told me some
5 information.

6 Q. And did that information -- what did you do as a
7 result of hearing that information?

8 A. Focussed on the tallboy dresser.

9 Q. You focussed on the tallboy dresser based on the
10 information Detective Scurry gave you?

11 A. Yes.

12 Q. What was Scurry doing immediately before coming in
13 and giving you information?

14 A. He and Lieutenant Jenkins were on the front porch
15 with the defendant.

16 Q. All right. When you searched that tallboy, based
17 on the direction of Scurry after being on the front porch
18 with this defendant, what did you find in that tallboy?

19 A. Currency, large amounts of currency, cocaine,
20 cocaine base, the defendant's South Carolina ID, and a
21 digital scale.

22 Q. All right. And do you recall -- this bedroom, was
23 there a bed in it?

24 A. Yes, ma'am.

25 Q. And what other items were in the bedroom, as a

1 whole?

2 A. Okay. So as you walked in, the bed itself was
3 kind of directly in front of me. To the right, there was
4 kind of like a low, long dresser, to the right of the
5 bed. To the left of the bed --

6 MS. LINDER: Your Honor, may I approach? I
7 may want to use that dry erase board behind him.

8 THE COURT: You may do that.

9 BY MS. LINDER:

10 Q. I'm a visual learner, so I'm going to try to get
11 this so the jury can see.

12 All right. If you want to take any color,
13 pick a color. I'll get you started. Was the room a
14 typical square room or was it --

15 A. Square.

16 Q. Okay. So this one is not easy to read. So say,
17 based on this -- if you don't mind marking for the jury,
18 can you kind of orient them? Where is the front of the
19 house, these two windows we see?

20 A. Okay. The two windows are here. This is the
21 front of the house. The door to the bedroom was here,
22 and the bed was kind of like right here as you walked in.

23 Q. And where was the location of this tallboy you
24 were directed to?

25 A. Right here beside the bed, to the left of the bed.

1 There was a long dresser over here. There was a bathroom
2 here and a closet here.

3 Q. So in that tallboy, you said -- I don't know about
4 your handwriting, but could you kind of write down that
5 tallboy, just so we have an image of what drugs were
6 found in the tallboy?

7 A. You want me to write the drugs down too?

8 Q. Yes.

9 A. There was cocaine, crack cocaine --

10 Q. And does crack cocaine go by any other name?

11 A. Cocaine base.

12 Q. Cocaine base?

13 A. Yes, ma'am.

14 Q. Why does it go by that? How do you make cocaine
15 base, crack?

16 A. You take the powder cocaine and you mix it with
17 usually a cutting agent and some baking soda; add water
18 to it, cook it, heat it up. It gets you almost like a
19 pasty substance. You lay that out on, like, a cookie
20 sheet, dry it, and then it gets broken up into -- it
21 becomes a smokeable form of cocaine.

22 Q. And what is a popular type of cutting agent?

23 A. Basically anything, really; fine powder, like
24 Similac, a baby formula --

25 Q. What about inositol, dietary fiber?

1 A. Any kind of powdered vitamin, anything that's a
2 real fine powdery substance.

3 Q. And you're saying things are really fine. What
4 kind of tools do you use when you mix things?

5 A. Grinders and sieves, things with wire mesh, real
6 fine mesh, to get the impurities out.

7 Q. Okay. All right. Go ahead. So there's cocaine
8 and I think --

9 A. Crack cocaine, South Carolina ID, and a lot of
10 currency.

11 Q. Okay.

12 A. And a scale.

13 Q. And you can take a seat for right now.

14 A. Yes, ma'am.

15 Q. I'm just going to kind of -- we're going to
16 briefly go through these. I may not go through them all,
17 but you've already stipulated to State's Exhibit 5, 6, 7,
18 8, 9, 10, 12, 13, 14, 15, 16, 17, 18. Okay? I just kind
19 of want to go through these --

20 THE COURT: Let me explain to the jury.
21 Ladies and gentlemen of the jury: I indicated yesterday
22 that we were going to go through some matters to try to
23 take care of some things that would not slow us down in
24 trial.

25 We have been able to agree to the

1 introduction of exhibits. The ones that are on the table
2 here already been placed into evidence so they are part
3 of the record at this time.

4 You may proceed.

5 MS. LINDER: Thank you, Your Honor.

6 BY MS. LINDER:

7 Q. So this tallboy, can you tell the jury what is --
8 State's Exhibit 5, what is that?

9 A. That's a tallboy dresser.

10 Q. And what is this over here? Can you tell what
11 that is? This is, what, AC unit or -- I don't know if
12 you can tell. I can't tell. If you can't tell, that's
13 fine.

14 A. I'm not sure. It looks almost like a window unit.

15 Q. And on this tallboy dresser, inside the tallboy
16 dresser, what does State's Exhibit 6 show?

17 A. A wad of currency.

18 Q. State's 7?

19 A. Currency and cocaine.

20 Q. State's 8?

21 A. I believe that's also cocaine.

22 Q. Sometimes that glare -- I'm just going to hand
23 them to you.

24 A. Okay.

25 Q. I don't know if that makes it easier. What does

CHARLES JOLLIFF - DIRECT EXAMINATION

1 State's 9 show you?

2 A. That's small bags of cocaine.

3 Q. So these are small bags of cocaine. State's 10?

4 A. More cocaine, kind of compressed like, it's come
5 off a kilo, like a brick of cocaine.

6 Q. Because cocaine is -- typically you would think of
7 powder?

8 A. Right. When it's in the kilo form, it's
9 compacted, so it's a little hard. They call it a brick.
10 It's harder, so you have to grind it or chop it up to use
11 it.

12 Q. And to grind it, could you use a grinder?

13 A. Yes, ma'am.

14 Q. State's 12?

15 A. That's the digital scale.

16 Q. And is this -- what is this? What are we seeing
17 here?

18 A. It was in the dresser.

19 Q. In the dresser?

20 A. Yeah.

21 Q. 13?

22 A. That is a bank bag and some more cocaine in the
23 dresser.

24 Q. What does 14 show you?

25 A. That's the inside of the bank bag with the money

1 kind of packaged in with rubber bands.

2 Q. What about 15? What is all this?

3 A. That looks like more cocaine.

4 Q. And this was pretty blurry. What is all this, 16?

5 A. Yeah, more cocaine. Maybe some base. I can't
6 really tell.

7 Q. And then 17, I'm mainly looking up here.

8 A. Yeah. I think that was more money that was in the
9 bottom drawer.

10 Q. What are all these? These look like men's gym
11 socks or something.

12 A. Yeah, they're rolled up socks.

13 Q. What about 18?

14 A. Digital scales.

15 Q. And what's 18 right here?

16 A. That's also the tallboy.

17 Q. So all that stuff was found in the tallboy. And
18 then State's Exhibit 11 I believe you said you located?

19 A. Yeah. That was in drawer number three of the
20 tallboy. That's his ID.

21 Q. That was your role. Your role was to search?

22 A. Search, and if I found something, I called it out
23 to Detective Gill, who was on camera that day, and he
24 would come and take a photograph of the evidence and bag
25 it up.

1 Q. Now, aside from the tallboy, since you were
2 directed there by Scurry after being with the defendant,
3 did you search in that closet in the left corner,
4 according to the picture?

5 A. Yes, ma'am.

6 Q. And what type of items did you locate in that
7 closet?

8 A. There was some of the cooking items, I believe,
9 baggies, things associated with cooking crack cocaine.

10 Q. State's Exhibit 29 has already been stipulated
11 into evidence. Where was this located?

12 A. That was also in the closet, I believe.

13 Q. And can you take out the items that are in State's
14 Exhibit 29, show them to the jury, and kind of explain
15 the significance to you in your training and experience
16 in 23 years?

17 A. These are all very small zip-lock bags often used
18 by drug dealers to place single dosages of either cocaine
19 or cocaine base, just tiny zip-lock bags commonly used in
20 distribution.

21 Q. These are more bags.

22 A. There's a ton of them.

23 Q. All right. What else is in Exhibit 29?

24 A. There is inositol powder, which is a cutting agent
25 like we discussed earlier.

1 Q. Inositol, this is a cutting agent to make crack?

2 A. It's used to stretch your cocaine, and it's at
3 used --

4 Q. What do you mean stretch it?

5 A. So if you have an ounce of cocaine and you add
6 another ounce of cutting agent, you've automatically
7 doubled your money because you doubled the amount of
8 cocaine you have.

9 Q. Business move?

10 A. Business. There's more of that in there, another
11 digital scale.

12 Q. And from your training and experience, what are
13 digital scales used for in narcotics?

14 A. Weigh out the product, make sure you're keeping
15 the bags the same weight. There's same bags, different
16 colors. Sometime they'll package crack in one bag and
17 coke in another.

18 Q. Lots of tiny bags, is what you said.

19 A. Yeah, and then one more digital scale and that's
20 it.

21 Q. And this is another digital scale like the one
22 from before. All right. So all that stuff was found in
23 the closet, you said, right?

24 A. Yes, ma'am.

25 Q. I would like to now -- if you put back together

1 29, I would like to show you what has been marked and
2 admitted as State's Exhibit 28, based on prior
3 stipulations. What is that?

4 A. This is a Hamilton Beach grinder, electric
5 grinder, like a mixer, like a Bullet mixer kind of thing.

6 Q. And in the narcotics trade, how is that used?

7 A. You can use it to mix your cutting agent and your
8 cocaine. You can use it -- because the cocaine that
9 comes off the brick is kind of hard, you want to make
10 sure it's good and powdered before you cook it. You use
11 that.

12 Q. And that you located, in your search, in this
13 closet, right?

14 A. Yes, adjacent to the tallboy.

15 Q. Okay. Now, I'm going to show you what has been
16 marked and entered as State's Exhibit 27, according to
17 our stipulation, and did you locate those items while you
18 searched this bedroom?

19 A. Yes, ma'am.

20 Q. And what are these items?

21 A. These are the strainers and measuring cups.

22 Q. You can lift them up and show them.

23 A. The measuring cups and strainers, measuring
24 spoons, some sponges, and some copper.

25 Q. Are those items used in cooking crack?

1 A. Yes, ma'am.

2 Q. And packaging?

3 A. Packaging cooking, straining solids from the
4 liquids to make the crack cocaine.

5 Q. And all this was in the closet?

6 A. Closet, yes, ma'am.

7 Q. A lot of money. Approximately how much money did
8 you locate in searching in that room?

9 A. A little over 2,800.

10 Q. And is there anything significant about the money
11 that you found?

12 A. The majority of it was in 20's.

13 Q. What does a \$20 mean to you?

14 A. A crack rock is \$20.

15 MR. SCHWARTZ: I would object to this, Your
16 Honor. No foundation. Foundation and improper testimony
17 and speculation.

18 THE COURT: The question was, what did it
19 mean to him? Overruled.

20 BY MS. LINDER:

21 Q. And so \$20, with your training and experience, is
22 a common denomination of, I believe you said, a rock of
23 crack?

24 A. One rock of crack is commonly sold for \$20, yes,
25 ma'am.

CHARLES JOLLIFF - DIRECT EXAMINATION

1 Q. And in this case, there are thousands in cash?

2 A. Yes.

3 Q. In the drawer of the tallboy?

4 A. Yes, in multiple drawers.

5 Q. In multiple drawers of the tallboy, and the drugs
6 themselves, are those in the closet or are those in the
7 tallboy?

8 A. Multiple drawers of the tallboy.

9 Q. And the amount of drugs, do you remember
10 approximately what was located?

11 A. Total of -- a little over 280 grams of cocaine and
12 16 grams of crack.

13 Q. So 280 grams of cocaine, about 16 grams of crack,
14 just roughly. In your 23 years of law enforcement,
15 approximately what is the street value of that amount of
16 drugs?

17 A. \$25,000 to \$30,000.

18 Q. So the amount of drugs in that tallboy was about
19 \$25 to \$30,000 of drugs?

20 A. Yes, ma'am.

21 Q. Along with the cash that was in the dresser?

22 A. Yes, ma'am.

23 Q. And was there anything else in that bedroom that
24 you observed during your search that tied this defendant
25 to that bedroom?

CHARLES JOLLIFF - CROSS-EXAMINATION

1 A. Just the things that were mentioned previously,
2 the father of the year award, the men's clothing, no
3 kids' clothing, no women's clothing, some mail, his
4 personal identification, and the statements that he made
5 to Detective Scurry.

6 Q. So there is some important items in the room?

7 A. Yes, ma'am.

8 Q. And some expensive items were located in the room?

9 A. Yes.

10 MS. LINDER: Beg the Court's indulgence.

11 I have nothing more for you at this time, if
12 you could answer anything the defense may have.

13 THE COURT: You may cross-examine.

14 CROSS-EXAMINATION

15 BY MR. SMALDONE:

16 Q. Good morning.

17 A. Good morning.

18 Q. Just to clarify your testimony, you did not hear
19 my client give any statement, right?

20 A. No, sir, I was not there.

21 Q. Because you weren't there?

22 A. No.

23 Q. Your job was to find stuff?

24 A. Yes.

25 Q. And you found drugs?

1 A. Yes, sir.

2 Q. But you didn't find drugs on my client?

3 A. I didn't search your client, no, sir.

4 Q. So no --

5 A. I searched just the bedroom to the right.

6 Q. You searched the bedroom to the right?

7 A. I didn't touch your client. I had no interaction
8 with your client.

9 Q. Before you got to that bedroom and before you got
10 to that house, you had no idea whose room it was?

11 A. No, sir. I had no history with that house or your
12 client prior to the search warrant.

13 Q. All right. And you -- Court's indulgence.

14 You've never seen that house before probably,
15 right?

16 A. I've been in the area before, but I had never
17 focussed on that house. I never had any reason to focus
18 on that house, but I've been down Tripe Street in my
19 career.

20 Q. Sure. So other than that day, and evidence you
21 found that day, you have no history of knowing who stayed
22 in that room?

23 A. No, sir, I do not.

24 Q. You have no history of knowing who stayed in that
25 house?

1 A. No.

2 Q. You've been in Tripe Street before?

3 A. I've been in the area, yes, sir.

4 Q. And you never heard my client say he stayed in
5 that room?

6 A. No. It was all from what Detective Scurry passed
7 along to me.

8 Q. So just based on some mail, you made an
9 assumption.

10 A. Well, a little more than just mail. It was
11 clothing. It was the father of the year award with his
12 name on it. It was a South Carolina ID and the dresser
13 with all the drugs. It was clothing that were about the
14 same size that he was, no women's clothing, no kids'
15 clothing.

16 Q. Do you remember what size that was?

17 A. It was just larger sizes, probably large, extra
18 large.

19 Q. What size do you wear?

20 A. Double X.

21 Q. Did you find any double X in there?

22 A. I can't recall.

23 Q. Fair to say lot of people wear large clothing?

24 A. Absolutely.

25 Q. Fair to say lots of XL clothing?

CHARLES JOLLIFF - CROSS-EXAMINATION

1 A. Absolutely.

2 Q. Maybe not many as XXL, right?

3 A. Right.

4 Q. Do you shop at a big and tall store?

5 A. Sure.

6 Q. But based on the clothing, we have no way to know
7 who stayed in that room?

8 A. It was male and above average size.

9 Q. Based on the stuff there, you made that
10 assumption, but you didn't know who stayed there a week
11 before, right?

12 A. Correct.

13 Q. Two weeks before?

14 A. No idea.

15 Q. No clue?

16 A. No.

17 Q. So I just want to make sure. You had no history
18 of knowing what happened inside that house?

19 A. Not at all.

20 Q. The first time you were in that house was that
21 day?

22 A. That day, yes.

23 MR. SMALDONE: Court's indulgence.

24 THE COURT: Yes, sir.

25 MR. SMALDONE: No further questions. Thank

1 you.

2 THE COURT: Redirect?

3 MS. LINDER: No redirect.

4 THE COURT: You may step down. Thank you
5 very much. State may call its next witness.

6 MS. FRIERSON: The State calls Detective
7 Gill.

8 PATRICK GILL,
9 having been first duly sworn,
10 was examined and testified as follows:

11 THE COURT: Your witness, counsel.

12 MS. FRIERSON: Thank you, Your Honor. May it
13 please the Court:

14 DIRECT EXAMINATION

15 BY MS. FRIERSON:

16 Q. Detective Gill, could you tell the jury what your
17 current occupation is.

18 A. Currently, I'm a special agent with the Department
19 of Homeland Security for Homeland Security
20 investigations.

21 Q. And how long have you been in law enforcement?

22 A. Almost nine years now.

23 Q. Did you work for Charleston police department back
24 in 2015?

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

1 Q. In what capacity were you serving with them?

2 A. At that time I was assigned narcotics/vice unit,
3 and I was a detective.

4 Q. And what were your -- what were your duties as a
5 narcotics detective?

6 A. I assisted with cases. We controlled CIs,
7 surveillance, worked plainclothes, did undercover work,
8 arrests -- served warrants, arrest warrants, conducted
9 surveillance, like I said, and interviewed and
10 interrogated people.

11 Q. Now, would you tell the jury a little about your
12 background in terms of your education and training.

13 A. I graduated from Valley Forge Military College
14 with an associate's degree in criminal justice. Then I
15 went to the Citadel and graduated with a bachelor's
16 degree, went to South Carolina Justice Academy,
17 graduated, graduated, went through over 200 hours of
18 advanced training for drugs, narcotics, informants,
19 plainclothes, operations, and I've been through the
20 federal law enforcement training academy, graduated, and
21 then Homeland Security Investigations.

22 Q. And back when you were with the Charleston police
23 department, did you become involved in this particular
24 case?

25 A. I believe it was the search warrant day, correct,

1 ma'am?

2 Q. Yes, sir.

3 A. That day I was a recovery agent, so the case agent
4 assigns everybody a duty, and my duty was to recover any
5 evidence that was located. Once it was located, I would
6 take photographs of the area, tag it, and put it in a bag
7 and then secure it at the location until we further had
8 secured it permanently at CPD headquarters.

9 Q. Was that for [REDACTED] Tripe Street?

10 A. Yes, ma'am.

11 Q. Is that in Charleston County?

12 A. Yes, ma'am.

13 Q. Were there items of interest located that day?

14 A. Yes, ma'am, several.

15 Q. Do you recall what they were?

16 A. I could tell you blanket statements, generally. I
17 know there was scales; there was a large amount of drugs,
18 both being cocaine and crack cocaine; there was baggies,
19 small baggies, big baggies; large amounts of currency. I
20 believe there was mixing -- what we know as cutting
21 agents.

22 MS. FRIERSON: At this time, may I approach
23 the witness?

24 THE COURT: You may.

25 BY MS. FRIERSON:

PATRICK GILL - DIRECT EXAMINATION

1 Q. I'd like to show you some pictures. You testified
2 you took all the pictures that day, correct?

3 A. Yes, ma'am.

4 Q. I'd like to show you some of the pictures and go
5 through these, if you wouldn't mind telling the jury what
6 they are.

7 A. Yes, ma'am.

8 Q. Give me a second to get these back in order.

9 So explain to the jury while I'm doing this. When
10 you're on scene, do you set up, like, an office space
11 there for people to set a computer and you can log all
12 this? How does this work?

13 A. We try to find some sort of open space that's
14 clear of evidence and weapons and people. Obviously,
15 we're in somebody's house, so we can't just set up a
16 complete office space, but as clear as we can where a
17 little laptop will fit, something to write with, and
18 where we put a large bag to collect all the evidence so
19 it's secure, with an agent sitting next to it so we know
20 nobody can touch it or walk away with it.

21 Q. And then as items are found by the other
22 detectives, how do they notify you?

23 A. Depending on where I am, they would either yell my
24 name or camera. Like I say, they might yell "camera"
25 because sometimes we work undercover. They don't want to

1 use our names because there are people in the house. So,
2 like I said, where they are or where I am, they yell
3 "camera". We walk to that area, take -- depending on,
4 again, what the item is and where it was found, try to
5 take an overall picture of it up close, what they found,
6 before I come in and actually put it on a bag and then we
7 write on a bag of how it's found, who found it, where it
8 was previously located.

9 Q. So I want to touch on something you said. You
10 start with kind of an overall picture and then you get
11 closer?

12 A. Yes, ma'am. Again, we try, depending on -- given
13 the space of the room or where it is.

14 Q. So in this particular case, most of the evidence
15 was located in the tallboy dresser?

16 A. Yes, ma'am.

17 Q. And so did you take an exterior picture of the
18 dresser and then proceed through each drawer?

19 A. Yes, ma'am, I believe I did.

20 Q. If you wouldn't mind telling us -- it looks like
21 State's 25. What is that?

22 A. That's the tallboy dresser in the bedroom. Right
23 to the right is the front door that we just talked about.

24 Q. Okay. And was that later determined to be the
25 defendant's bedroom?

1 A. Yes, ma'am.

2 Q. And going through the pictures in order, what
3 would this be?

4 A. This, ma'am, is cash, and I believe there's some
5 baggies with -- I could tell you it's drugs, but it's
6 just -- I can't see if it's crack or coke.

7 Q. I understand. I'm kind of talking generally, but
8 you're saying cash, drugs --

9 A. It looks like men's clothing. There's a large
10 amount of cash, and I can tell you that's baggies with
11 drugs in it.

12 Q. What is this here that we're looking at?

13 A. That would be the dresser drawer, when things were
14 found, we just pulled out each dresser drawer and took
15 pictures of what was found overall.

16 Q. So when you talk in terms of zooming in, we had
17 the tallboy dresser, the drawers, and what would this now
18 be?

19 A. That would be the money I just talked about and
20 the drugs that were in that corner. So, like I said,
21 once we take the overall picture of the dresser, we'll
22 pull out the drawer, take a picture again, and, if we
23 can, we'll pull it out so we can get a better picture of
24 how much or the amount of exactly what we found so you
25 get a better picture, overall picture, of what was in

1 that drawer.

2 Q. And is that done to take care of a thorough
3 investigation in case you leave something out and it
4 changes in its size or dimensions?

5 A. Yes, ma'am.

6 Q. Okay. Next picture is State's Exhibit No. 8. Is
7 that another drawer?

8 A. That's another drawer with some men's clothing,
9 Q-tips, and I believe that's -- from what I can see I
10 know it's drugs. It's probably crack, I believe, just
11 from what I can see. It could be coke. I can't tell
12 from that picture.

13 Q. And State's Exhibit No. 9?

14 A. Again, small baggies of either crack or coke.

15 Q. State's Exhibit No. 10?

16 A. That is a baggy, a large baggy, of cocaine or
17 crack that we pulled from one of the drawers so we get a
18 better overall picture. Again, as you can see, the
19 dresser is in the background.

20 Q. The top of the dresser?

21 A. Yes, the top of the dresser.

22 Q. And State's Exhibit No. 11?

23 A. It's Mr. Ancrum's driver's license photo.

24 Q. And why would you take a photo of his driver's
25 license?

1 A. As we were searching through them, we find drugs.
2 We look for personal belongings, and during a search of
3 that dresser area or that room, we located his
4 belongings, because not everybody will stand in the room
5 and say, Hey, this is my room, so we would look for
6 personal belongings that would tie somebody back to that
7 room.

8 Q. Any other driver's licenses in that room?

9 A. I do not recall. I don't believe there was any
10 other ones.

11 Q. State's Exhibit No. 12, what are we looking at
12 there?

13 A. That's a dresser drawer pulled out and a large
14 scale with some men's socks, it looks like.

15 Q. State's Exhibit No. 13?

16 A. Another drawer pulled out. There's some drugs.
17 That is, like, a money envelope, a money deposit bag you
18 would use to go to and from the bank, and a lot of pocket
19 trash and some men's socks.

20 Q. And then talking about zooming in, what would this
21 now be?

22 A. Once we took that overall picture, we opened up
23 that money bag that you take to and from the bank, and
24 that was the money that's inside that blue bag.

25 Q. Moving on to the next drawer, what do we have

1 here, sir?

2 A. That is a zoomed-in picture of the same drawer
3 that we just had, just of the drugs that was located in
4 there.

5 Q. Okay. State's Exhibit No. 17, tell the jury what
6 you see here. Is that contraband? Is this clothing?

7 A. This is men's clothing. I believe there were some
8 drugs found in it.

9 Q. What is this right here?

10 A. Its kind of dark on the screen. That looks like
11 money, and, like I said, that's men's socks in another
12 drawer.

13 Q. Okay. State's Exhibit No. 18.

14 A. It's another scale. Looks like there's some
15 residue on that scale, just a smaller version, usually a
16 pocket size.

17 Q. In your training and experience as a narcotics
18 detective, what would residue on a scale indicate?

19 A. It usually indicates that somebody is weighing
20 their drugs on a scale without the bag. They'll have a
21 bigger scale when they get a bigger product in, and when
22 they're breaking it down, they'll use smaller scales,
23 whether they're out on the street or in the house, just
24 to break it down so it's more sellable items for smaller
25 buys, essentially, instead of larger buys.

1 Q. And State's Exhibit No. 21, what was this?

2 A. It's a picture of -- I forget the group, but it's
3 Mr. Ancrum -- I believe it's an award he got. Is it --
4 the Free Mason group, I believe, or the local lodge of
5 that particular group, he won an award, and it was
6 Mr. Ancrum it was found in his room.

7 Q. In that same bedroom?

8 A. Yes, ma'am.

9 Q. State's Exhibit No. 22, pretty self-explanatory,
10 but could you tell us what room you found it in?

11 A. Same bedroom. We found his driver's license, the
12 award, and all the drugs and the money.

13 Q. And it's what kind of bill?

14 A. It was a Comcast bill for Mr. Ancrum for that
15 residence.

16 Q. At that particular address?

17 A. Yes. For that address, yes, ma'am.

18 Q. And State's Exhibit No. 23?

19 A. This is a picture of -- this was all the contents
20 of Mr. Ancrum once he was detained by the entry team,
21 they search, make sure he didn't have any weapons. We
22 took pictures of everything on his person. I believe
23 there were large amounts of cash, mostly 20's, another
24 form of driver's license, and some pocket trash and some
25 keys.

PATRICK GILL - DIRECT EXAMINATION

1 Q. And mostly 20's, do you remember approximately how
2 much it was?

3 A. I believe it was a couple thousand, but I don't
4 recall exactly. I know it was at least a thousand.

5 Q. And approximately 20's, is there any significance
6 to that in your training and experience as a narcotics
7 detective?

8 A. Through my training and experience, when they sell
9 drugs, especially crack cocaine in small amounts, it's
10 usually \$20 rocks, so most people do business in \$20
11 increments. They're not giving change. They're --
12 usually the minimum would be, like, \$20 you would buy for
13 a rock.

14 Q. And in your experience, is drug dealing a cash
15 business?

16 A. Mostly cash, yes, ma'am.

17 Q. Now, the way that the drugs were packaged, the
18 drugs that you located, using your training and
19 experience as an officer, when they're packaged in
20 certain manners, is that indicative of anything?

21 A. Yes, ma'am. It all depends. Like I said, we
22 found some other evidence. There was smaller packaging,
23 as the one in the picture was smaller, smaller baggies.
24 That's usually for smaller sales. The larger packaging
25 is for larger sales, if somebody is buying bulk, but they

PATRICK GILL - DIRECT EXAMINATION

1 also could buy bulk cocaine, keep it in bulk and then
2 break it off and make small mixtures of crack, so they
3 would just keep the crack and coke separate and only sell
4 the crack and slowly make more crack as they need it.

5 Q. And after the search warrant was over, what did
6 you do with the drugs in this particular case?

7 A.. Once we're done in the residence, we put it in a
8 big bag because it's easier to carry, and we bring it
9 directly to headquarters and we start the evidence
10 process.

11 I don't recall the database we use, but we log it
12 into the electronic database. Charleston police department
13 uses, and we put it in the locker and lock the lock and
14 it stays there until -- depending on the day, but usually
15 the next morning or the next day when the evidence slowly
16 comes in, and they unlock it and then they can take
17 control of it.

18 Q. I would like to go through the remainder of the
19 evidence in this case with you. I'd like to start with
20 State's Exhibit 24 that's been agreed to and stipulated,
21 if you could tell us what that is.

22 A. Yes, ma'am. It's the scale in the one picture
23 that's in the one dresser drawer, just a large digital
24 scale which is used for larger weights, so when you buy a
25 bulk of drugs, you would weigh it on a larger scale like

PATRICK GILL - DIRECT EXAMINATION

1 this.

2 Q. The \$20 packages you talked about, would that be
3 something you typically weighed on here?

4 A. Not typically. They would probably use that
5 smaller scale that we took a picture of that had the
6 residue on it.

7 Q. I'd like to show you now State's Exhibit 25. What
8 is this?

9 A. That's a different form of a smaller scale. That
10 also could be used -- you can buy them anywhere, really,
11 so there's several versions of them, but that's a
12 different version that they would use for \$20 rocks or
13 baggies or smaller increments of drugs they're going to
14 sell.

15 Q. You packaged these all individually; is that
16 correct?

17 A. Yes, ma'am.

18 Q. And could you tell the jury a little about how you
19 package them and what the writing on them means?

20 A. Yes, ma'am. Once we get it -- like I said, we
21 don't have all the proper equipment at the house, so we
22 put it in a bag and relocate it. Once you put all that
23 information in the computer database, we put it in a
24 heat-sealed bag. We seal it on the bottom, and we seal
25 it on the top.

1 If you look closer, it's two lines, so it's double
2 sealed. Then we initial it so you know that we sealed
3 it, or I know that I sealed it, and then nobody has
4 tampered with it because my initials would be messed up,
5 and then we put an evidence tag on it which would
6 correspond to the case number -- I would have to look at
7 that. I believe it's -- what bag number it is, the case
8 number, the offense, and then who submitted it, which
9 would be my name, and the other sticker, I believe the
10 evidence puts on there once they recover it from the
11 database and then the locker.

12 Q. State's Exhibit No. 26, what is this?

13 A. Cellphone.

14 Q. And this was recovered from the defendant's
15 bedroom?

16 A. Yes, ma'am.

17 Q. State's Exhibit No. 27, if you would tell us what
18 that is.

19 A. These are the sifters that I was talking about
20 that we found, and they look like kitchen appliances, but
21 they're not used for the kitchen when they're found in
22 the bedroom. The sifters -- when you get coke and you
23 mix it, there's some sort of science behind it. They use
24 some kind of common product, like inositol, some kind of
25 cutting agent to dilute the coke so they can make more.

1 They put it through the sifter so it will mix together.
2 I don't know the science, but you would use certain
3 measuring cups. Obviously, there's a ratio, and there's
4 Brillo pads also.

5 Q. Where were these found?

6 A. In the bedroom.

7 Q. And you said that's significant to you as a
8 narcotics detective?

9 A. Yeah. As a narcotics detective, it raises our
10 suspicion because it shows us you're not using it for
11 cooking products, you're using it to manufacture crack
12 cocaine from the coke, because when we look in your
13 bedroom we find the cocaine, we find the crack, and we
14 find the cutting agent and, obviously, the sifters and
15 measuring spoons.

16 Q. And who's calling you to tell you they found all
17 this?

18 A. Just depends on who found it. For instance, if
19 Detective Scurry found something, he would call me. If
20 Detective Jolliff found something, he would call me --

21 Q. Whoever was searching that room?

22 A. Whoever was searching that room or was with them.
23 They would usually call me over.

24 Q. State's Exhibit 28, what is that?

25 A. It's miniature mixer. Once again, once it goes

1 through the sifter, they would probably put it in a
2 measuring cup and put it in here and just help bind it
3 and mixes it all together.

4 Q. Is there anything significant about this white
5 stuff in here?

6 A. It's all residue. Obviously, when they mix it,
7 whatever process they use, it leaves a residue in there.
8 They don't clean it out. We field test it just to make
9 sure it's not, you know, cake batter or pancake mix or
10 something like this.

11 Q. And this wasn't in the kitchen, was it?

12 A. No, ma'am, it wasn't.

13 Q. State's Exhibit 29, if you could, generally tell
14 the jury what is in there.

15 A. Like I said, it's what is called inositol, it's
16 just a white powdery substance, and small baggies.
17 Again, one of the pictures has a small baggy, so -- if
18 you want to pull them all out there.

19 Q. Just tell us what they are.

20 A. They were just small baggies, again, for, like,
21 \$20 rock. You would break up your coke or crack into
22 small baggies. There's probably a couple hundred in
23 here. There's another digital scale, and there's more of
24 the inositol that I talked about that they used to mix
25 it, or used as a cutting agent to get more product.

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1 Q. So the cutting agent -- if I understand your
2 testimony correctly, the cutting agent allows you to take
3 a certain quantity and multiply it?

4 A. Yes, ma'am. You know, if you buy ten grams of
5 cocaine and put ten grams of inositol on it, it will make
6 you 20 grams, and then you can cut it up to either sell
7 it as more coke, or you could do what they call it
8 cooking it and mixing it and add some other ingredients,
9 and you make crack, and you could break it up. So it
10 actually, like, expands your product so you can make more
11 money and get more profit out of it, so you can later, if
12 you owe somebody for the product you bought, you can pay
13 it back and still make a profit.

14 Q. So take a look at State's Exhibit 31, if you
15 would, and tell me what that is, appears to be.

16 A. This is the cocaine. It's more of a rock-like
17 substance, which tells me that it would be off, like, a
18 brick, or would be, like, a kilo. It's more pure, so
19 it's more of a fresher substance. It hasn't been really
20 what they call stepped on so it hasn't been mixed with
21 inositol yet.

22 Q. So by your testimony, you would -- somebody that
23 was in the business of dealing drugs would take this
24 quantity and use the other items in the same room as this
25 and double, triple, or quadruple their quantity and it

1 could be potentially put into those bags?

2 A. Yes, ma'am. Like I said, the way it's packaged
3 and how hard it is, they bought that in bulk, and they
4 would break it down with inositol and make smaller
5 quantities.

6 Q. And State's Exhibit 32?

7 A. I believe it's the exact same thing, again, just
8 in different baggies. You know, depending on what you
9 buy, you can buy a large amount of coke and you can break
10 some into crack and sell the other, you know -- if you're
11 a big enough dealer, you could be selling larger chunks
12 to smaller dealers, so they can make up their own product
13 because some people like to make crack their own way or
14 sell their own coke or step on it their own way. Not all
15 drug dealers cut it with inositol or anything like that.

16 Q. And each of these packages were packaged
17 separately because of where you found them in each
18 drawer?

19 A. Yes, ma'am.

20 Q. We'll move on to State's Exhibit 33. What do we
21 have here?

22 A. These are the smaller baggies. The way it's
23 packaged and the weight it is inside, it looks like
24 smaller baggies of coke. There are probably, depending
25 on what he charges, anywhere from \$420 to \$40 baggies of

1 coke.

2 Q. There's a bunch of writing. You talked about your
3 initials and this label, but there's a bunch of writing
4 on this inside little bag. Is that your writing?

5 A. No, ma'am.

6 Q. Who, just generally, is that?

7 A. The little -- inside the little baggies, it's
8 usually going to be the lab technicians. Once we submit
9 it, they open the package so they can test it to whatever
10 system they test, and they initial the baggies they
11 touched or opened or anything like that, and I think they
12 date it as well.

13 Q. Because they actually determine the weight and the
14 substance?

15 A. Yes. We only do field tests, or field weights.
16 They do more prestigious weights.

17 Q. You're not the biologist or the chemist, they are?

18 A. No, ma'am.

19 Q. Now, what is State's Exhibit 34?

20 A. Again, this is more cocaine. Again, it doesn't
21 look like it's so pure. It's a little crushed up, but it
22 doesn't look like it's been stepped on yet.

23 Q. When you say it doesn't look like it's stepped on,
24 what is that?

25 A. It doesn't look like it's been mixed yet with the

1 inositol, or whatever mixing agent they choose to use, so
2 it just looks like it's pure cocaine right now.

3 Q. What is the purpose of having two heat seals at
4 each end?

5 A. When we make a bag, it's just a roll, so we cut
6 it, and the two heat seals is just making doubly sure
7 that it's actually locked, because if one heat seal
8 breaks, there is a second one. Sometimes the heat
9 machine doesn't work. So as long as there's two, in case
10 one breaks, so it just proves we're not tampering with it
11 and shows that it's all sealed.

12 Q. And State's Exhibit 35?

13 A. These are smaller baggies. These look like -- I
14 believe that's crack. Again, it's the blue baggies we
15 have that are just packaged. Instead of being empty, it
16 looks like they're packaged with crack cocaine rocks.

17 Q. Once you collect all these drugs we're looking at,
18 do they stay in your sole care, custody, and control
19 until you drop them into evidence?

20 A. Yes, ma'am. They stay with me. Depending on the
21 vehicle we drive over in for a search warrant -- like I
22 said, we put them in a bigger bag. They stay with me.
23 I'll bring them into the evidence room.

24 There's always two of us with it because it's
25 money and drugs, so there is usually a witnessing

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1 officer. It could be anybody, but they're still in my
2 custody, and then once they're in there, once we package
3 them in those, we put them in a locker and we lock it.

4 Q. Okay. And so that also happened with State's 36,
5 if you could tell us what that is.

6 A. Yes. These are just crack rocks. Again, they're
7 in that big yellow bag. There's several of them.

8 Q. And in your experience and training, does all
9 crack look the same?

10 A. For the most part. I mean, it depends on who
11 makes it. Sometimes they'll add a little tint to it,
12 just make their own stamps so people know who they got it
13 from. If somebody smokes crack and they like that
14 product, they can go back to the same drug dealer.

15 Q. Kind of like a seal or trademark?

16 A. Yes, ma'am, but for the most part, it looks the
17 same.

18 Q. And all the evidence -- not just the drugs,
19 although the drugs are extremely important, but all of
20 the evidence that we went through remained in your sole
21 care and custody? You took them at the scene of [REDACTED]
22 Tripe Street, and you got them to the Charleston police
23 department?

24 A. Yes, ma'am.

25 Q. And those were entered into evidence?

1 A. Yes, ma'am.

2 Q. And when you dropped them into evidence, you said
3 something about a mailbox. Who else can access it from
4 there?

5 A. Well, there's a mailbox option, or they have
6 lockboxes or lockers, and, for the most part, once we put
7 them in there, they're all unlocked, unless they've been
8 used, and then we open it up. We put all the evidence
9 that we need in there. Once we're done logging it all,
10 then we lock it, and then there's evidence custodians
11 that come in every morning. I believe there's only,
12 like, two or three that work for the police department,
13 and they have access to it.

14 Once it's locked, if we need to add another
15 piece of evidence or recheck a cellphone or make sure --
16 we can't access it. It's not like we can go back in
17 there. We would have to get one of them to open the
18 locker for us.

19 Q. So there is limited access to that?

20 A. Yes, ma'am.

21 Q. And then once they get it -- you talked about this
22 computer system. Is the evidence tracked through a
23 computer system?

24 A. Yes, ma'am. I believe it's assigned an internal
25 number. I couldn't tell you what the number is, but it's

1 also tracked by the case number as well.

2 MS. FRIERSON: Court's indulgence, Your
3 Honor?

4 THE COURT: Yes, ma'am.

5 BY MS. FRIERSON:

6 Q. Now, there were other pictures than the ones we
7 discussed here taken that day.

8 A. Yes, ma'am.

9 Q. Other pictures generally of the house, and did you
10 locate anything else with somebody else's name on it?

11 A. Best of my recollection, I couldn't tell you
12 specifically, but I'm sure there was. I know there was a
13 bunch of junk mail in the residence. If there's anybody
14 else in the residence, if they have anything belonging to
15 them on them, we'll take pictures of that.

16 Q. But as it pertains to this investigation, the
17 pictures that we discussed, that pertained to the one
18 particular bedroom?

19 A. Yes, ma'am.

20 Q. And that's where the drugs were found that we just
21 went through?

22 A. Yes, ma'am.

23 Q. And it's a four-bedroom house?

24 A. Yes, ma'am.

25 Q. And so there was evidence that other people were

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1 staying in other rooms?

2 A. Yes, ma'am.

3 Q. Now, I want to go back to one picture, if I may.
4 I would like you to tell me if there is anything
5 significant, in your experience as a narcotics detective,
6 to the defendant's ID -- State's Exhibit No. 11 was the
7 defendant's ID, and I believe your testimony was it was
8 located in the bedroom in the dresser.

9 A. Yes, ma'am.

10 Q. What's the address on that ID?

11 A. [REDACTED] Hillsborough Drive, Charleston, South Carolina
12 29407.

13 Q. And in your experience and training as a narcotics
14 detective, is there a reason why somebody may have an
15 official document with an address different from where
16 they may be staying?

17 A. They do it for several reasons, just --

18 MR. SCHWARTZ: Your Honor, objection. Calls
19 for speculation and opinion.

20 THE COURT: We'll ask the jury to step back
21 to the jury room while I discuss the matter with the
22 attorneys. Thank you very much.

23 (In open court, jury not present.)

24 THE COURT: You've not qualified this
25 gentleman as any kind of expert in opinions. You're

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1 asking if he's ever arrested someone on a narcotics case,
2 I assume, who had possession of an identification that
3 had an address different from where they lived.

4 MR. SCHWARTZ: Thank you, Your Honor.

5 THE COURT: I'll let her ask that question.

6 MS. FRIERSON: Thank you, Your Honor.

7 THE COURT: All right. Let's bring the jury
8 back.

9 (In open court, jury present.)

10 THE COURT: Thank you. The record will
11 reflect the jury has returned to the courtroom. I have
12 made a ruling where I originally sustained the objection.

13 You may proceed per the Court's instructions.

14 MS. FRIERSON: Thank you, Your Honor.

15 BY MS. FRIERSON:

16 Q. Detective Gill, in your training and experience,
17 have you made an arrest and located an ID on an
18 individual with an address different than where they were
19 actually living?

20 A. Yes, ma'am.

21 Q. Thank you. Now, could you tell us what this ID
22 says for this defendant's height and weight?

23 A.. Five-nine, 205.

24 Q. Is that slightly larger than he is now?

25 A. Yes, ma'am.

~~PATRICK GILL - CROSS-EXAMINATION~~

1 MS. FRIERSON: I have no further questions
2 for the witness at this time. Please answer any
3 questions the defense may have.

4 THE COURT: You may cross-examine.

5 MR. SCHWARTZ: Briefly, Your Honor. Thank
6 you.

7 THE COURT: Yes, sir.

8 (Defendant's Exhibits 2-5 marked for
9 identification.)

10 CROSS-EXAMINATION

11 BY MR. SCHWARTZ:

12 Q. Detective Gill, you were the cameraman on this
13 raid, correct?

14 A. Yes, sir.

15 Q. And you took a multitude of pictures, right?

16 A. Yes, sir.

17 Q. Not just the ones the State had you testify to,
18 correct?

19 A. No, sir.

20 Q. The State has provided us some pictures, and I
21 want to go through them with you. I'm showing you what's
22 listed as Defendant's Exhibit 2. Do you recall taking
23 this picture?

24 A. I don't recall this necessary picture, but, I
25 mean, I know what picture you're talking about because I

1 see there is a dresser drawer and, like, a box of bags.

2 Q. And some female clothing?

3 A. To be -- I can't tell. It's pink, you know --

4 Q. And like a romance novel?

5 A. It's a book. I don't know.

6 Q. All right. Here's a different shot of that kind
7 of view from outside. Do you recognize that?

8 A. Yes, sir. It's the dresser drawer.

9 Q. And that's inside the house?

10 A. Yes, sir.

11 Q. And there's some mail here?

12 A. Yes, sir.

13 Q. And we don't have a picture of who that mail is
14 addressed to, do we?

15 A. There's that picture. Are you talking about a
16 close-up picture?

17 Q. Yes, sir.

18 A. No, sir.

19 Q. So it could be from somebody other than
20 Mr. Ancrum, my client, right?

21 A. Well, if that was the case, we would have taken a
22 picture of it.

23 Q. So you only took pictures of mail that was from my
24 client?

25 A. No. We take pictures of anything. I can't tell

1 you exactly where that could have been, residential --
2 like, auto populated mail that just got sent to -- like
3 junk mail, essentially, nobody's name on it, just says to
4 the current resident. So there is no point of taking a
5 picture of it if it says to the current resident. If
6 it's junk mail, I can't attest to what exactly that mail
7 is, but if there is no close-up picture, there is no
8 significant name on it, if that makes sense. If it has a
9 specific name that was tied to that bedroom, whether it
10 was your client's or not, we would have taken that
11 picture.

12 Q. Got some female, I guess, pantyhose there next to
13 the female clothes?

14 A. It looks like some boxes, and I can tell you it's
15 women's leg crossed, but I don't know what --

16 Q. You guys also found a social security card,
17 correct?

18 A. There's a picture of it, yes, sir.

19 Q. And we have crossed out the social security number
20 so nobody can go get a credit card after the trial. Can
21 you tell the jury, what is the name on that?

22 A. Brian Lenard Ancrum.

23 Q. That social security card was found inside the
24 house, correct?

25 A. If we took a picture of it -- again, like I told

PATRICK GILL - CROSS-EXAMINATION

1 you earlier, we would take a picture of it, yes.

2 Q. In fact, Mr. Ancrum was detained in this house
3 during the raid, right?

4 A. Yes. If I'm not mistaken, he was detained toward
5 the back of the residence on a couch. I believe he was
6 sleeping. I didn't make entry, but I believe he said he
7 was sleeping, or people who made entry, he was laying
8 down on the couch. He said he was spending the night.

9 Q. He was found inside the residence as well?

10 A. Yes, like I said, in the living room, in the back,
11 towards the back.

12 Q. Thank you. Do you recognize this piece of
13 equipment?

14 A. Yes, sir.

15 Q. What is it?

16 A. I don't know the official name, but it's a
17 toolbox, a multipurpose kind of roly toolbox that has
18 two drawers.

19 Q. It's not mine. Do you recognize these gloves?

20 A. Yes, sir. I didn't say it was yours.

21 Q. I thought you said it was mine.

22 A. I said it's a multipurpose toolbox that has
23 drawers.

24 Q. Is this something that CPD would use?

25 A. Yeah. I'll tell you what we use it for: We use

PATRICK GILL - CROSS-EXAMINATION

1 it to carry generalized equipment, not essentially police
2 sensitive. Yes, it has a Miranda card, but it's not
3 police sensitive. Everybody knows what a Miranda card
4 is. We're not talking about there is drugs or evidence
5 in there. It's baggies, 'gloves, stuff you can buy that
6 we use -- necessarily, when we search a house, we don't
7 know what it is, so we put gloves on it. We have a
8 Miranda card so we can read somebody their Miranda
9 rights.

10 There's probably baggies in there so when we find
11 something, we can put it in a bag because not necessarily
12 do we have a bag so we put it in there, so yes, we have a
13 kit that has general merchandise in that we bring with
14 us.

15 Q. Would you agree with me, this is CPD's toolbox?

16 A. Yes.

17 Q. Okay. This was found in --

18 MS. FRIERSON: Objection, Your Honor.

19 MR. SCHWARTZ: This was left in Mr. Ancrum's
20 house.

21 MS. FRIERSON: Objection. This isn't in
22 evidence.

23 THE COURT: Is that in evidence?

24 MS. FRIERSON: No, that's not been put in.

25 THE COURT: It's not been put in evidence.

~~PATRICK GILL - CROSS-EXAMINATION~~

1 MR. SCHWARTZ: I'm asking him about it.

2 THE COURT: You're asking him about it, but
3 it's not in evidence.

4 MR. SCHWARTZ: Can I premark this toolbox --

5 THE COURT: It can be marked for
6 identification purposes at this point.

7 MR. SCHWARTZ: It looks like it will
8 Defendant's 6.

9 (Defendant's Exhibit 6 marked for
10 identification.)

11 BY MR. SCHWARTZ:

12 Q. Do you recognize this specific toolbox?

13 MS. FRIERSON: Your Honor, objection. We
14 would object to the entry of this evidence.

15 THE COURT: He's asked if he recognizes it.
16 I'll let him ask whether or not he recognizes that.

17 Yes, sir. You can answer the question.

18 BY MR. SCHWARTZ:

19 Q. And that was left at Mr. Ancrum's house after the
20 investigation?

21 A. That was not my responsibility, but if you say it
22 was. My responsibility that day was to --

23 THE COURT: I'm going to direct the witness,
24 you're not allowed to speculate, just from your
25 knowledge.

~~PATRICK GILL - REDIRECT EXAMINATION~~

1 THE WITNESS: I do not have knowledge -- I
2 did not leave that there.

3 MR. SCHWARTZ: Okay.

4 BY MR. SCHWARTZ:

5 Q. Would you agree that's a CPD toolbox?

6 A. Yes, sir.

7 Q. And it was left at my client's house. Does that
8 make CPD a drug dealer, if they have items left at the
9 house?

10 A. I -- no -- ,

11 MS. FRIERSON: Objection, Your Honor.

12 THE COURT: I'll sustain the objection.

13 MR. SCHWARTZ: No further questions.

14 THE COURT: Do you wish to redirect?

15 MS. FRIERSON: Yes, briefly, Your Honor.

16 THE COURT: You may do so.

17 REDIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Detective Gill, weren't there two dressers in that
20 bedroom that came to be identified as the defendant's?

21 A. Yes, ma'am.

22 Q. And I'd like to compare two pictures, have you
23 tell me if they're the same dresser, if you would just
24 indulge me one second while I -- there was one referred
25 to as a tallboy dresser?

~~PATRICK GILL - REDIRECT EXAMINATION~~

1 A. Yes, ma'am.

2 Q. And in that dresser -- let me just make sure I
3 have it clear. Was the defendant's ID located there?

4 A. Yes, ma'am.

5 Q. And all of the drugs?

6 A. Yes, ma'am.

7 Q. And then there was another dresser?

8 A. Yes, ma'am.

9 Q. On the other side of the room?

10 A. Yes, ma'am.

11 Q. Okay. And is this the tallboy dresser?

12 A. Yes, ma'am.

13 Q. And that is where the drugs were?

14 A. Yes, ma'am.

15 Q. Is that correct?

16 A. Yes, ma'am.

17 Q. And the defendant's ID?

18 A. Yes, ma'am.

19 Q. The cash?

20 A. Yes, ma'am.

21 Q. Scales?

22 A. Yes.

23 Q. And then this the dresser, is that the same
24 dresser?

25 A. No, ma'am. That was the -- I mean, you can see

PATRICK GILL - RECROSS-EXAMINATION

1 it's smaller and has different pictures on the top. If
2 you look at the pictures on the top, there is pictures
3 where the other one had hats, and that has a jar of
4 Vaseline on it and a couple other pieces of mail on it.
5 If you look at the other one, it had totally different --
6 and you can tell it's shorter. It looks like only one or
7 two dresser.

8 Q. So State's Exhibit 5 is different from Defendant's
9 Exhibit 3?

10 A. Yes, ma'am.

11 Q. And State's Exhibit 5, if I understand, is the
12 tallboy dresser with all of the defendant's -- excuse me,
13 with the defendant's ID?

14 A. Yes, ma'am.

15 Q. The male socks, the drugs, and then there is this
16 other dresser on the other side of the room wherein you
17 did not find drugs?

18 A. No, ma'am.

19 MS. FRIERSON: I have no further questions at
20 this time.

21 THE COURT: You may recross.

22 RECROSS-EXAMINATION

23 BY MR. SCHWARTZ:

24 Q. Just briefly, when you entered the room with the
25 drugs and strainer and all that, was there a lock on the

PATRICK GILL - RECROSS-EXAMINATION

1 door?

2 A. I don't recall. I mean, I'm sure -- there might
3 have been a door lock on the handle -- are you talking
4 about a padlock or something?

5 Q. Sure.

6 A. I don't recall.

7 Q. But to the best of your knowledge, it was not
8 locked when you came into the residence?

9 A. It had already been cleared by the entry team, so
10 no door was locked, so I don't know if there was any
11 lock.

12 MR. SCHWARTZ: Okay. No further questions.

13 THE COURT: Mr. Gill, you may step down.

14 Ladies and gentlemen of the jury: At this
15 point in time we're going to break for lunch. If you're
16 going to be leaving the courthouse, I'll give you the
17 same instructions I gave you yesterday, and that is not
18 to attempt to gather any information about the case
19 outside the courtroom. Don't discuss the case with
20 anyone. Don't allow anyone to discuss it with you, and
21 should anybody attempt to contact you about your service,
22 please report that upon your return.

23 Please don't listen to, watch, or read any
24 media reports about the case. I'll ask you to be back in
25 the jury room -- we're about 12:30. Why don't we say at

1 2:00? Thank you very much. You're free to go to lunch
2 at this time.

3 (In open court, jury not present.)

4 THE COURT: All right. We'll be in recess
5 during lunch. The defendant will remain in custody
6 during this time. Thank you very much.

7 (12:23 p.m., recess taken.)

8 A F T E R N O O N S E S S I O N

9 (2:07 p.m., in open court, defendant and
10 counsel present.)

11 MR. SMALDONE: Your Honor, my co-counsel is
12 taking a very brief bathroom break.

13 MS. LINDER: Over lunch, we revised and both
14 parties signed two different exhibits, 1 and 2, which are
15 stipulations, and we discussed this with them. Also, I
16 think our last witness, who is the chemist, will be very
17 brief, and I think maybe it's the perfect time, if you
18 would like -- she's my witness. I'm happy to read the
19 stipulations into the record, or if Your Honor would
20 prefer to have them.

21 Everything in the stipulation is the items.
22 The items they were handled properly by and they were
23 admitted; of course, there is the exception of his
24 previous objection that Your Honor has noted.

25 THE COURT: Which has to do with the search

1 warrant?

2 MR. SMALDONE: I just want to renew my
3 objection to the search warrant. If my objection is
4 overruled, I stipulate the drugs are the drugs.

5 THE COURT: It's overruled.

6 MR. SMALDONE: Thank you.

7 MS. LINDER: And, Your Honor, it's my
8 understanding that there's no meaningful discussions
9 about any sort of offer at this point.

10 THE COURT: Okay. That's fine. I always try
11 to push people to try to work things out if they can.

12 MS. LINDER: Yes, of course, Judge.

13 THE COURT: All right. Let's bring the jury
14 in.

15 (In open court, jury present.)

16 THE COURT: If there were any of you that had
17 any difficulty complying with my discussions during the
18 break, please stand. It appears that all jurors have
19 been able to comply with my instructions thus far.

20 The attorneys have worked out a stipulation.
21 Let me explain to you what a stipulation is. A
22 stipulation is an agreement between the attorneys that a
23 certain fact is true, that once they agree to the truth
24 of a certain fact, there is no need to offer proof of
25 that fact; otherwise, you would have to bring in,

1 perhaps, a witness as establishing the fact to be true.
2 So a stipulation is designed to shorten the trial and
3 remove the necessity of witnesses testifying to facts
4 that both sides agree to be true.

5 I understand there has been a stipulation.
6 I'll allow the State's attorney to put that stipulation
7 on the record.

8 MS. LINDER: Thank you, Your Honor. May I
9 approach the exhibits?

10 THE COURT: You may.

11 MS. LINDER: The first stipulation indicates
12 in this case, the State versus Derrick Ancrum, the State
13 and the defense have agreed upon the following
14 stipulations regarding the chain of custody and exhibits
15 that are presented as evidence in this case: On August
16 27th, 2015, Charleston police department detectives
17 executed a search warrant at [REDACTED] Tripe Street located
18 within Charleston County. The State and defense agree to
19 the fair and accurate representation of pictures and maps
20 as taken by law enforcement. These include but are not
21 limited to exterior and interior photographs of [REDACTED] Tripe
22 Street and an aerial map. These items are admitted into
23 evidence.

24 The State and defense agree to the lab report
25 as created by Kaitlin Schroeder. A lab report is a

1 report produced by Kaitlin Schroeder and reflects expert
2 finding and results of the drugs she recovered from the
3 front bedroom at [REDACTED] Tripe Street. A copy of the lab
4 report is admitted into evidence and is State's Exhibit
5 30.

6 The State and defense agreed that the drugs
7 found within the bedroom of [REDACTED] Tripe Street are, in
8 fact, the drug exhibits in this case. They are the same
9 items that were recovered. A proper chain of custody was
10 maintained, and all items were handled properly up until
11 the entry of these items into evidence in this trial.
12 These items include, but are not limited to, State's
13 Exhibit 21, 32, 33, 34, 35, and 36. The drug evidence is
14 admitted into evidence.

15 (State's Exhibit 36 marked for identification
16 and admitted into evidence.)

17 The State and defense agree that all items
18 collected by law enforcement during the execution of the
19 search warrant at [REDACTED] Tripe Street were properly
20 collected, handled, and preserved up to the entry of
21 these items into evidence during this trial. These items
22 include, but are not limited to, scales, grinder, small
23 batteries, bottles, inositol, and measuring cups. These
24 items are also admitted into evidence.

25 Next, we have State's Exhibit 2, which is the

1 second stipulation, and this, again, is the State versus
2 Derrick Ancrum, and this stipulation states that the
3 State and the defense have agreed upon the following
4 stipulation regarding a latent print report lab number
5 L15-01895, number two. The report was prepared September
6 15th of 2015 by Mary Phillips of the Charleston police
7 department crime scene investigation unit.

8 The parties further stipulate that at no time
9 was the item damaged or substantively changed from its
10 original condition from collection until the time they
11 were submitted into and tested by crime scene tech Mary
12 Phillips.

13 THE COURT: The State has agreed to those
14 stipulations?

15 MS. LINDER: Yes, sir.

16 THE COURT: Is it true the defense agrees to
17 those stipulations as well?

18 MR. SMALDONE: Subject to my previous
19 objection that is overruled, we do.

20 THE COURT: I understand the objection is
21 continuing, and I'll make the same ruling, but otherwise
22 you would agree with the stipulation?

23 MR. SMALDONE: That is the stipulation I
24 agree to.

25 THE COURT: Thank you very much. When we

KAITLIN SCHROEDER - DIRECT EXAMINATION

1 broke earlier, the State was in the process of calling
2 its witnesses. You may call your next witness.

3 MS. LINDER: State calls Kaitlin Schroeder.

4 KAITLIN SCHROEDER,
5 having been first duly sworn,
6 was examined and testified as follows:

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

9 DIRECT EXAMINATION

10 BY MS. LINDER:

11 Q. Good afternoon, Ms. Schroeder. What is your
12 current occupation?

13 A. I'm a forensic scientist.

14 Q. Where do you currently work?

15 A. The Colorado Bureau of Investigation.

16 Q. And were you previously employed by the Charleston
17 police department?

18 A. Yes, ma'am.

19 Q. And did you have a similar job there?

20 A. I did.

21 Q. And could you just briefly tell the jury about
22 your education and your background.

23 A. Sure. I have a bachelor's degree in chemistry
24 from Colorado State University and a master's degree in
25 chemistry from Vanderbilt University.

1 Q. Were you previously employed by the city of
2 Charleston back in 2015?

3 A. Yes.

4 Q. And when you worked as a chemist for the city of
5 Charleston, did you chemically analyze substances to
6 determine whether they contained a controlled substance?

7 A. Yes.

8 Q. And was that part of your normal duties?

9 A. Yes.

10 Q. How many tests would you say you have run in your
11 career?

12 A. When I was with the city of Charleston, I think
13 they did approximately 2,100 cases.

14 Q. And do these analyses include that of substances
15 that tested to be cocaine base?

16 A. Yes.

17 Q. And of cocaine?

18 A. Yes.

19 Q. And what type of equipment did you use to do these
20 tests?

21 A. I identified those substances as being a courier
22 or an Fourier-transform infrared spectrometer, or an
23 FTIR, and I also performed presumptive color testing.

24 Q. And after making these analyses, did you produce a
25 report?

1 A. I did.

2 MS. LINDER: Your Honor, I would ask she be

3 admitted as an expert in the field of drug analysis.

4 THE COURT: Any objections?

5 MR. SMALDONE: No objection.

6 THE COURT: Ladies and gentlemen: Let me

7 explain briefly what we're doing at this point in time.

8 Generally, the rules of evidence I mentioned

9 or alluded to earlier do not allow witnesses to state

10 their opinions concerning matters. They must testify

11 concerning facts within their knowledge. There's an

12 exception to that rule, and that's for any witness who is

13 designated by the Court to be an expert within some field

14 or profession or science or calling, and as to a witness

15 who is designated as an expert, the rule is different.

16 Those witnesses are allowed to state their opinions

17 within the area of their expertise and also state the

18 reasons why they hold those opinions.

19 Later on when I charge you on the law, I will

20 go over this a little bit more with you in detail and

21 give you some additional information, but suffice it to

22 say, at this time, without objection this witness will be

23 qualified within the area of her calling, and she will be

24 allowed to state opinions within that area of expertise.

25 Counselor, you may proceed.

KAITLIN SCHROEDER - DIRECT EXAMINATION

1 MS. LINDER: Thank you, Your Honor.

2 BY MS. LINDER:

3 Q. At this time I'm going to put a report up. It
4 will come up on the screen in front of you. This is
5 State's Exhibit 30, which has already been admitted.
6 Okay. Can you please tell me what is this up here?

7 A. That is the lab case number, which is created when
8 the evidence is submitted to the city of Charleston
9 police department.

10 Q. What is that date?

11 A. That is the date the report was released.

12 Q. Can you kind of explain -- can you explain what
13 this shows right here.

14 A. That is basically an inventory of the items
15 included in that case.

16 Q. And then -- what does this portion show?

17 A. Those are the results that I'm reporting, the
18 items.

19 Q. And then here?

20 A. Is my signature.

21 Q. Okay. So in this case, can you go over what your
22 findings were.

23 A. So I identified cocaine base, or crack cocaine,
24 for items 3-1, 4-1, 4-1B; and then I also identified
25 cocaine in items 6-1, 7-1, 7-1B, 7-1C, 9-1, and 14-1.

1 Q. And what were the weights of the cocaine base that
2 you tested?

3 A. Item 3-1 weighed 13.85 grams; item 4-1, 1.22
4 grams; item 4-1B, 1.46 grams.

5 Q. And how do you go about weighing these drugs in
6 the lab?

7 A. The weights I report are the weight of just the
8 substance. So, for instance, in this case, item 3-1
9 consisted of plastic bags of rock-like substance. That
10 rock-like substance would have been separated from the
11 plastic bags, and that's the weight that we report.

12 Q. Okay. And at this time, I'm going to show you
13 State's Exhibit 36 that's already been entered, according
14 to the stipulation, and can you describe to the jury what
15 that is?

16 A. This is item 3-1 from the above case, case
17 1514500, which is the agency case number.

18 Q. What was the weight for this?

19 A. 13.85 grams.

20 Q. And the jury will have all this back there with
21 them, so in here, it's kind of all packaged together, it
22 looks like there's some handwriting up here.

23 A. Yes.

24 Q. Whose handwriting is that?

25 A. That's mine.

1 Q. And within the packaging, more handwriting. Whose
2 handwriting is that?

3 A. Also mine.

4 Q. And what type of information are you writing here?

5 A. I'm writing the lab number, the item number, the
6 weight, and then my initials.

7 Q. And you say the net weight. You didn't weigh all
8 these plastic bags in here?

9 A. Not the plastic bags, but I did weigh the
10 substance contained within each one of the plastic bags.

11 Q. On the little rock-like substances, and this
12 weight is 13.85.

13 A. Yes.

14 Q. So then what about 4-1?

15 A. Item 4-1 weighed 1.32 grams.

16 Q. And is this that item?

17 A. Yes, ma'am.

18 Q. And, again, you see in here there's lots of little
19 bags, and this handwriting on the inside, this is the
20 same as you just described in the other one?

21 A. Yes.

22 Q. And on it, it shows the weight. What weights did
23 you have for 4-1 and 4-1B?

24 A. So 4-1 was 1.32 grams and 4-1B, 1.46 grams.

25 Q. My math is not great, but can you give me --

1 approximately, what's the total of the weight of all
2 three of those items of cocaine base?

3 A. Approximately 16.5 grams.

4 Q. Now, can you go to item 6-1. Can you tell me what
5 6-1 says?

6 A. Item 6-1 was identified as cocaine with a weight
7 of 11.35 grams.

8 Q. And you recognize your handwriting and everything
9 on that?

10 A. Yes, ma'am.

11 Q. And, again, this -- what test do you use for this?

12 A. That would have been a color test and then the
13 FTIR that I mentioned earlier.

14 Q. And what is the color test? I don't think you
15 mentioned the color test. What is that exactly?

16 A. So the color test in this case is a two-step test
17 consisting of two super chemicals. The first is cobalt
18 thiocyanate, and the second is stannous chloride.

19 Essentially what happens is I would have a ceramic
20 well plate, and I would put the first part of the test
21 into that well plate, add a little bit of sample. In the
22 case of cocaine, that first chemical would turn a
23 brilliant blue, and then I would add the second step,
24 which is the stannous chloride, and it would form a
25 precipitate if it's positive for cocaine, and it's a

KAITLIN SCHROEDER - DIRECT EXAMINATION

1 presumption active test, so, basically, it's there to
2 guide our analysis, but it's not conclusive. It's not
3 specific to one particular substance. It's just a guide.

4 Q. And after that color test, what confirmatory test
5 did you complete?

6 A. So the FTIR would be the confirmatory test.

7 Q. And that says indeed that's what it is? It
8 confirms what the presumption is?

9 A. Correct.

10 Q. What about 7-1, what was your finding?

11 A. 7-1 was again identified as cocaine. The total
12 weight is 13.87 grams.

13 Q. And I'm going to show you this, State's Exhibit
14 34, which is already admitted. Is that 7-2, according to
15 your report?

16 A. Yes.

17 Q. And could you explain what this is up here?

18 A. That is the heat seal that I put on the evidence
19 to close it after I completed my analysis.

20 Q. And what's up here?

21 A. My initials.

22 Q. These are your initials up here. Okay. And in
23 here, there's three bags, and is this all your
24 handwriting again on each of these samples, saying what
25 the weights are?

KAITLIN SCHROEDER - DIRECT EXAMINATION

1 A. Yes.

2 Q. Now, what about -- this is 7-1B and 7-1C.

3 A. Yes.

4 Q. And all these tests, you did the color test and it
5 was FTIR confirmatory?

6 A. Yes.

7 Q. Okay. Now, what about 9-1?

8 A. Item 9-1 was again identified as cocaine with a
9 total of 83.44 grams.

10 Q. I'm going to show you this, and is that your item
11 9-1?

12 A. Yes.

13 Q. And your handwriting you see on the seal and on
14 the bags?

15 A. Yes.

16 Q. So this is what you have, I believe you said was
17 83.44 grams of cocaine?

18 A. Yes.

19 Q. And then tell me about item 14-1.

20 A. 14-1 was identified as cocaine with a total weight
21 of 31.71 grams.

22 Q. And, again, 14-1, if I'm reading this correctly,
23 your lab report indeed says you did the color test and
24 you did the confirmatory FTIR test?

25 A. Yes.

KAITLIN SCHROEDER - DIRECT EXAMINATION

1 Q. What about this? I see lots of your handwriting
2 in there.

3 A. Yes. This item consisted of 90 plastic bags, each
4 containing white powder.

5 Q. Okay. And so that's what you see in here then,
6 lots of little bags. So after you got all these drugs
7 and you complete this report, would you say, in your
8 expert opinion, that cocaine base was located in this
9 sample?

10 A. Yes.

11 Q. And I think you estimated it was like 16 grams of
12 cocaine base?

13 A. Yes, sir.

14 Q. And I know it's a frustrating question I'm going
15 to ask you. Can you estimate how much cocaine -- I can,
16 but I don't know if I would do much better. There's two
17 up there. So it's 111, 13, 83, 31 --

18 A. It looks like, roughly, 270 grams.

19 Q. All right.

20 MS. LINDER: All right. I don't have
21 anything else for you, if you could just answer anything
22 the defense may have.

23 MR. SMALDONE: No questions for this witness.

24 THE COURT: You may step down. Thank you
25 very much.

1 Do you wish to excuse the witness?

2 MS. FRIERSON: Yes.

3 THE COURT: Any objection?

4 MR. SMALDONE: No objection.

5 THE COURT: Ma'am, you're free to go if you

6 like. Thank you very much. The State may call its next

7 witness.

8 MS. FRIERSON: Your Honor, at this time the

9 State has rested.

10 THE COURT: That means they have completed

11 presentation of their evidence. There are some matters

12 that I need to take up with the attorneys at this point

13 in time outside of your hearing, so I ask you to step

14 back to the jury room. Don't discuss the case until I

15 ask you to do so. You may retire.

16 (In open court, jury not present.)

17 MR. SMALDONE: The defense makes a motion for

18 directed verdict on all counts in general and for the

19 specific reason that there's no indication of possession.

20 This was a mere presence case, Your Honor, and the State

21 has not met their burden or presented evidence that

22 Mr. Ancrum was in possession of any controlled substance.

23 THE COURT: I'll hear from the State.

24 MS. FRIERSON: Thank you, Your Honor. The

25 State would submit at this point we were comparing only

1 THE COURT: But I'll let you bring your
2 testimony, if somebody wants to say that Joe Doe was
3 living there or whoever. I don't know who they're going
4 to say, but if they want to say who was living in the
5 house at the time this happened, that would be relevant
6 to who might have control over the premises. Who had
7 control over the premises in which the drugs were located
8 is an issue in a constructive possession case. This is a
9 constructive possession case. I'll let you do that.

10 MR. SCHWARTZ: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. SCHWARTZ: Defense is ready, Your Honor.

13 THE COURT: Okay. Bring the jury in.

14 (In open, court jury present.)

15 THE COURT: Ladies and gentlemen: When you
16 left the courtroom, the State had completed the
17 presentation of its evidence in this case, and at this
18 time, the defense has the right to call witnesses.

19 You may do so at this time.

20 MR. SCHWARTZ: The State calls Mr. Derrick
21 Ancrum.

22 DERRICK ANCRUM,
23 having been first duly sworn,
24 was examined and testified as follows:

25 MR. SCHWARTZ: Thank you, Your Honor. May it

1 please the Court:

2 DIRECT EXAMINATION

3 BY MR. SCHWARTZ:

4 Q. Derrick, where were you born?

5 A. I was born in New York.

6 Q. How long have you lived in Charleston?

7 A. When my grandmother died, I moved down here in

8 about 1969.

9 Q. So you moved down here?

10 A. Yes, sir.

11 Q. You got a family?

12 A. Yes, sir.

13 Q. How many kids do you have?

14 A. I have three daughters.

15 Q. And how old are they?

16 A. They are two years apart, so my oldest one just

17 turned 21; so 21, 19, and 17.

18 Q. What do you do for a living, Derrick?

19 A. Well, I do landscaping.

20 Q. And how long have you -- you understand why you're

21 here today, right?

22 A. Yes, I do.

23 Q. Why don't you tell the jury about this house.

24 There seems to be a lot of issues. Why don't you

25 describe for them [REDACTED] Tripe Street.

DERRICK ANCRUM - DIRECT EXAMINATION

1 A. Okay. [REDACTED] Tripe Street is my mother's residence,
2 and her name is Barbara Ancrum, and from time to time --
3 I have three sisters. I'm the only boy. When people in
4 the family would have trouble, like, say they couldn't
5 pay their bills for some reason, they lost their house,
6 they would revert back to my mom's house with their kids.

7 So we had, on occasion -- I had a sister Leslie
8 Ancrum, and her kids consisted of Lakeshia Ancrum,
9 Antonio Kelly, and they were staying back at my mom's.
10 They were the first people to go back to the home.
11 Keshia has a kid, and they were living at the house
12 first, and then my sister Simone Ancrum had a problem at
13 her residence. Her sons caught a drug charge, and she
14 got kicked out of her house. She went back to my mom's
15 house, and her kids consist of Brian Ancrum, who was
16 caught at the scene during the drug bust, DeShawn Ancrum
17 and Tekia Ancrum, and Brian Ancrum had two kids and
18 DeShawn has one.

19 I was the last one to come back to the house. I
20 owned a day care center at the time. It's called the
21 owner's Little Angels, off of Sycamore, and I was living
22 at Savannah Highway, and the reason why I came back to
23 the house was to try to reduce down, because during the
24 time of opening my day care center, I was trying to get
25 on a food program, so I was traveling back and forth to

1 Columbia, trying to assist on the food program because
2 that way that would give the day care more money to
3 operate, the more power to officially just stay above
4 water.

5 So I was constantly traveling back and forth and
6 doing that, and in the process of having to pay my
7 workers, normal bills -- sometimes my bills at the house
8 would double up, like the light bill will double up.

9 So me and my wife made a conscious decision to go
10 stay at my mother's residence for a while, and in doing
11 that, the house was so crowded, nobody had an official
12 place to stay. Everybody was always bouncing, like, from
13 room to room; like, one day my wife might be sleeping on
14 an air mattress in my mother's room, or they might be
15 sleeping if they were watching -- the room in question
16 was an all purpose room, and that's where most people
17 went to watch TV or collect their mail because my niece
18 Lakeshia Ancrum would collect the mail, and she would put
19 it in that the tallboy dresser for everyone.

20 So when you came and entered the house, you would
21 get your mail and retrieve your mail and stuff like that,
22 and what I'm trying to say is the house was so
23 overcrowded, we -- me, I know for a fact, me and my
24 family didn't stay there, like, on an everyday basis.
25 Like, sometime we would go stay with my wife's sister. I

1 would go stay with a friend, just to get that peace of
2 mind because -- I'm trying to set up the picture of the
3 house for you. You got four families living in the house
4 with kids, and then my nephew has had a lot of friends,
5 and when their friends came over, you had just people
6 sleeping in the house maybe for a week, maybe two weeks,
7 but that's generally the scene of the house and the whole
8 picture of what's going on at the time with the multiple
9 families.

10 Q. So it's fair to say, this house, your mother would
11 allow people to stay there?

12 A. Yes, sir. She would allow it.

13 Q. At any given time, what is your best estimate of
14 the people that stayed in that house on any given week?

15 A. When you kind of counted just the family members,
16 I think that would average out to about 12 to 15.

17 Q. Okay.

18 A. And then, like, I had a cousin staying there also,
19 Markie Rivers. I'm not talking about my sisters and
20 their children now. I have a cousin staying there,
21 Markie Rivers.

22 Q. So is it safe to say this is a house people go to
23 when they're down on their luck to try to rebuild?

24 A. Yes.

25 Q. Describe for the jury the layout of the house.

1 You heard the police testify to it, but can you give a
2 little more description of the bedrooms and the layout?

3 A. Like I said, when I got there, the first bedroom
4 in the house that they were saying the drugs were found
5 in, initially, from my knowledge, what my niece -- like I
6 said, her family was staying there first. Leslie was, so
7 it was Lakeshia's bedroom at first, but, to my knowledge,
8 after the fact it turned into -- like, everybody was
9 using the room because she would get the mail from the
10 mailbox and put that in the room, and also, the tallboy
11 dresser in question, there was an underwear drawer where
12 my nephew would have their socks, T-shirts, and other
13 things like that, and there is another important note I
14 think y'all would need to know. When I came to the
15 house --

16 THE COURT: Sir, you're not allowed to
17 address the jury directly. You can answer your lawyer's
18 questions. You don't speak to the jury.

19 THE DEFENDANT: I'm sorry.

20 THE COURT: That's quite all right.

21 BY MR. SCHWARTZ:

22 Q. There was pictures of a lot of clothes. They said
23 there was a lot of male clothing. Tell the jury about
24 the clothing in that house and specifically in that room.

25 A. The clothing in the room, Markie Rivers had

DERRICK ANCRUM - DIRECT EXAMINATION

1 clothing in the room. Brian Ancrum had clothing in the
2 room. DeShawn Ancrum had clothing in the room. I also
3 had a couple of pieces of clothing in the room, but I
4 would like to call to your attention that because that
5 house was so crowded, clothing that I would wear on an
6 everyday basis, it had blue bags you could buy from
7 Target or Family Dollar. I had that in my mom's room,
8 and that's what I would use as far as that, but I also
9 wanted to -- when we was talking about the layout of the
10 house, there was something important I don't want to
11 miss.

12 When I came to the house, I had -- I'm a member of
13 the Masonic organization. I had a Masonic carryon bag,
14 and I asked my niece to clean that bag out for me and put
15 the items somewhere. She cleaned the bag out for me and
16 put the items on the tallboy dresser. That's how my
17 items got there. That's why that old ID was there. Even
18 though I did live at [REDACTED] Hillsborough, that was an old
19 ID. That's why that could be there.

20 The Masonic badge that they showed on the picture,
21 that was something we only wear on special occasions, so
22 I had no need for that, and I also had white Masonic
23 gloves that were dirty. She also placed that in there,
24 and I had no need for those because you constantly
25 replace your Masonic gloves because you don't go in with

1 gloves with dirt on them.

2 Q. There's been a lot of talk about mail, and the

3 prosecution, the State, showed a picture of a Comcast

4 bill in your name. Did you receive mail there?

5 A. They had an issue with Comcast, with being able to

6 get it in their name, so they asked me to get it in my

7 name because I was able to.

8 Q. Who else received mail in that house that you are

9 aware of?

10 A. Lakeshia Ancrum, Leslie Ancrum, DeShawn Ancrum,

11 Markie Rivers, Brian Ancrum, Ebony Ancrum, and Essence

12 Ancrum.

13 Q. Were all those people living there at once or did

14 they just get mail there? Explain that.

15 A. No, they were living there.

16 Q. Let's talk about the rooms in the house. Do they

17 have locks on them?

18 A. No, they don't.

19 Q. Okay. Who had access to the rooms, all the rooms?

20 A. Everybody in the house had access to the rooms.

21 Q. All right. There was a cellphone found, and we

22 saw a picture of that. Whose cellphone was that?

23 A. That was Brian Ancrum's cellphone, and it was not

24 a burner phone as it was --

25 MS. FRIERSON: Objection, Your Honor.

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1 THE WITNESS: This can be proven.

2 MS. FRIERSON: Objection. It's speculation.
3 Lacks personal knowledge.

4 THE COURT: I'm going to ask you to lay a
5 foundation as to his knowledge of the phone and its
6 origins before he testifies, as to the origins.

7 MR. SCHWARTZ: Okay.

8 THE COURT: You have to lay some foundation
9 as to how he would have that knowledge.

10 BY MR. SCHWARTZ:

11 Q. How do you know that was Brian's phone?

12 A. Because he was the primary carrier of that phone,
13 and he also placed my two daughters on his list to where
14 they would have cellphones under his name, but it was two
15 different cellphone numbers for them, but they were under
16 his plan, so that's how I know because he got the phone
17 from Cricket.

18 Q. That was not your phone?

19 A. No, it wasn't.

20 Q. I think the big elephant in the room, Derrick, is
21 the statement the police said that you made.

22 A. Yes, sir.

23 Q. And they said you told them you had two ounces in
24 that room.

25 A. Yes, sir.

1 Q. Why don't we go back to that day and talk about
2 when they had you on the porch. They pulled you out of
3 the house. What happened?

4 A. Okay. Actually, it started in the house.

5 Q. Okay. It started in the house. What happened?

6 A. There was never Lieutenant Jenkins and Scurry at
7 the same time. They were never there at the same time.
8 The person I talked to or made contact with after the
9 SWAT team was Lieutenant Jenkins, and Lieutenant Jenkins
10 had begun searching, and during their search, I guess
11 they found something.

12 He began to question, Whose stuff is this? And he
13 was saying, Somebody's got to go down for this stuff.
14 Somebody's got to claim it. I'm going to take -- my
15 nephew had his six-month-old son, [REDACTED], with him and he
16 was, like, Child Protective Services is going to come
17 pick up this kid, so you got to speak up. Say something.
18 Whose stuff is this?

19 And just -- I told him, I slept in the room. That
20 was my statement to Jenkins. I never claimed any drugs,
21 never said anything about any two ounces. I said, I
22 slept in the room, and, to be honest with you, I wasn't
23 even going to say I slept in the room until he said he
24 was going to take the kid, so they did have threat with
25 that, and then when I finally got on -- you want me to go

1 on to the porch now?

2 Q. Go on to where --

3 A. After the statement to Jenkins, they took me out
4 on the porch, and, like I said, I was in handcuffs for a
5 while or whatever, and Jenkins wasn't there at this time.
6 Detective Scurry walks up, and this is what -- this is
7 what I'm telling you. You know what I'm saying, if it
8 kills me, I'm going to tell the truth. Detective Scurry
9 walks up, by himself, no Jenkins. He had a black tape
10 recorder. He placed it on a chair or something that was
11 on the porch, to my recollection.

12 He distinctively -- he -- that's the only time he
13 read the Miranda rights, on the porch, not when Jenkins
14 asked him who slept in the room, and that took place in
15 the house. Now he brings out this tape recorder. He
16 reads the Miranda rights, and then after he reads the
17 Miranda rights, he says, you know, Do you want to say
18 anything to us or make any statements?

19 I said, What kind of statements can I make and you
20 got me in handcuffs? I don't have nothing to say to you,
21 or whatever.

22 He said, Well, you can get out of those handcuffs
23 if you give us somebody else or whatever. So I'm looking
24 at him, and I kind of like ran with that stuff right
25 there, and then he proceeds -- he presses a button. He

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1. turns that tape recorder off, and he takes that tape
2. recorder to his vehicle or whatever, and that's why, for
3. the life of me, I can't understand why these people, who
4. are law enforcement, keep saying that there was no
5. recorded -- recording of this action.

6. If you could mislead people about something that
7. simple and lie about something that simple and you are a
8. law enforcement officer and this is who is protecting us
9. and they're supposed to protect the peace and you can do
10. this to somebody and try to give me this time, it does
11. not sit well with me, but, I mean, we can go on to the
12. next --

13. Q. Let's be clear: Did you make the statement, I
14. have two ounces in that room?

15. A. I never made the statement. They made that
16. statement up.

17. Q. Were the drugs yours?

18. A. No, sir, they wasn't.

19. Q. Court's indulgence.

20. MR. SCHWARTZ: No further questions.

21. THE COURT: You may cross-examine.

22. CROSS-EXAMINATION

23. BY MS. FRIERSON:

24. Q. Thank you, Your Honor. May it please the Court:

25. Good afternoon, Mr. Ancrum.

DERRICK ANCRUM - CROSS-EXAMINATION

1 A. Good afternoon.

2 Q. Now, 850 Tripe, you said you only stayed there
3 occasionally because of some money problems; is that
4 correct?

5 A. Me and my family had decided as a family that we
6 intended to downsize, so we was going to stay there for a
7 while until we were able to downsize. I said we was
8 having -- like, I had a day care center, and I also had a
9 house, so at the same time, we're paying the workers for
10 the day care center and certain bills because I had not
11 gotten on the food program yet, that some of the bills
12 were backing up, and instead of just keep going down
13 until we made the decision let's go stay somewhere else
14 and downsize for a while. So I went there, and most of
15 my stuff was in storage, a couple of items.

16 Q. Okay. And this was because there was some money
17 problems, you downsized?

18 A. Yes.

19 Q. And you testified that on any given night there's
20 12 to 15 people staying there.

21 A. Yes, ma'am.

22 Q. So how do you figure that out? I mean, four
23 bedrooms. How do you figure out who has a place to stay
24 and who gets to stay there that night?

25 A. That's what I'm telling you. There is no set of

1 rules. It just depends on what the dynamics is.
2 Sometimes they might say all the girls go stay in this
3 room, and then the adult girls will stay in another room,
4 or they might say -- or the males might be in one room.
5 It just switches and just depends. Like, say the room at
6 the bottom that's in question, that's the room where the
7 cable TV was set up at, so everybody used that room.
8 So say you was in that room watching a particular
9 TV program or doing anything in that room and you fell
10 asleep in there, nobody was going to come in there and
11 wake you up and say, Get out of my room. Everybody used
12 the room, so whoever was in the room at that time used
13 that room. They would have been sleeping in that room,
14 and nobody would have bothered them. They just would
15 have found another place to sleep, like we had air
16 mattresses and stuff like that from Walmart or K-Mart.
17 So there has been some times when certain people
18 would stay on the air mattress. Just to give you an
19 example, sometimes my daughters would be in the room.
20 Sometimes they would sleep in my mother's room. Nobody
21 was in a set place.
22 Q. No matter how many people, everybody could stay
23 there?
24 A. Yes, everybody was there.
25 Q. And I want to go touch on the money thing for one

~~DERRICK ANCRUM - CROSS-EXAMINATION~~

1 more reason, or one more thing. You were struggling, but
2 you had \$1,509 in cash in your pocket; is that correct?

3 A. I don't want you to misunderstand the money thing.

4 Q. Is that correct?

5 A. I want to go to the money thing. I can --

6 Q. The --

7 THE COURT: I'm not going to let you shout in
8 my courtroom.

9 THE WITNESS: I'm not shouting, sir.

10 THE COURT: Don't try to talk the judge down,
11 all right?

12 THE WITNESS: I won't.

13 THE COURT: She's made an objection. I have
14 to deal with that.

15 THE WITNESS: Okay.

16 THE COURT: Yes, ma'am?

17 MS. FRIERSON: I was just asking you to
18 instruct the witness to answer my question. He said he
19 wanted to say something else.

20 THE COURT: Sir, you're required to answer
21 the questions that she asks unless you have some reason
22 that you feel that you have a right not to do so. If you
23 do not feel -- if you feel that you have a right not to
24 answer the question, that should be addressed to me, not
25 in an argument with the attorney. Once you have answered

1 the questions asked; you have a right to explain the
2 answer that you've given.

3 THE WITNESS: Yes, sir.

4 THE COURT: You may proceed.

5 MS. FRIERSON: Thank you.

6 BY MS. FRIERSON:

7 Q. Mr. Ancrum, you were having money troubles, but
8 you had \$1,509 in your pocket that day when they arrested
9 you; is that correct?

10 A. I honestly don't know how much money I had in my
11 pocket when they arrested me. I honestly don't know how
12 much money they have, but in my explanation, what I was
13 going to say, and I want to apologize --

14 MS. FRIERSON: Can he answer the question,
15 Your Honor?

16 THE WITNESS: You said I can answer the
17 question and then explain?

18 THE COURT: Explain your answer.

19 THE WITNESS: That's what I'm doing now.

20 THE COURT: I'll let him explain.

21 THE WITNESS: Okay. When I said I had a day
22 care center and I said I was having -- that I want to
23 downsize, I don't want you to get the understanding that
24 I was broke. When we go and we itemized how much we made
25 in one year at the day care center, we have itemized

~~DERRICK ANCRUM - CROSS-EXAMINATION~~

1 sheets through our accountant that we made \$80,000.

2 So when I said I want to downsize, I'm not
3 saying I was broke. Just like when people might do
4 bankruptcy, you're not broke. You're just not where you
5 have been or where you would like to maintain, so I don't
6 want you to get the idea that I was broke and I didn't
7 have any money. We had money.

8 BY MS. FRIERSON:

9 Q. So was the money in your pocket from the day care
10 proceeds?

11 A. Yes, it was.

12 MS. FRIERSON: May I approach the witness,
13 Your Honor?

14 THE COURT: You may.

15 BY MS. FRIERSON:

16 Q. Mr. Ancrum, I would like to show you some pictures
17 that were entered into evidence, just to make sure you
18 understand. These were the items they were stipulated to
19 and agreed that came from your pockets that day, so
20 that's your proceeds from the day care.

21 A. Yes.

22 Q. And you agree, as it was entered, it's \$1,509.

23 A. To that I said I have no knowledge about how much
24 I had on me, so I would be lying if I gave you an amount
25 that it was. I don't know how much it was.

1 Q. For your day care center, did you use a bank bag,
2 like an official bank bag?

3 A. No, I didn't.

4 Q. No? Okay. So there was a bank bag found in the
5 tallboy dresser. That's not your proceeds from day care.

6 A. That's not mine at all.

7 Q. Okay. But that was in the tallboy dresser where
8 you said everybody put the mail in, so everybody had
9 access to it?

10 A. Yes.

11 Q. And I don't remember which cousin you said put the
12 mail in there, but as everybody came in, you would -- but
13 as everybody came in, they knew the tallboy dresser was
14 kind of like the mailbox. That's my understanding of the
15 explanation. Yes or no?

16 A. Not only that, like I testified to earlier, my
17 nephews had underclothes. It was, like, an underclothes
18 drawer. They had T-shirts, socks and stuff in there, so
19 they would go in there for T-shirts and socks and stuff.

20 Q. My question was, the tallboy dresser was used as a
21 mailbox? Your cousin or niece put the mail there so
22 everybody knew where to get it?

23 A. Yes. Everybody would collect the mail.

24 Q. And on the day that this occurred, you've been in
25 here through the testimony, you heard that they didn't

1 find any mail in there; isn't that correct?

2 A. No, I didn't hear that.

3 Q. Okay. Now, your -- you had clothes in that
4 dresser as well, correct?

5 A. No. I didn't have any clothes in that dresser.
6 That was an underclothes drawer.

7 Q. Underclothes, clothes -- you had some belongings
8 in that dresser.

9 A. Yes. I told you my niece had placed my things out
10 of my Masonic bag, which was my Masonic gloves, badge
11 that I wore only on special occasions, and my old ID from
12 [REDACTED] Hillsboro where I resided at one point in time in my
13 life.

14 Q. But not at that point?

15 A. No.

16 Q. And this happened 1:15 in the afternoon, and you
17 weren't naked when you came to the door, were you?

18 A. No, I wasn't naked.

19 Q. So all your clothes had been put up. You would
20 have to go in the drawer to get dressed that day,
21 correct?

22 A. No, I wouldn't have to go in the drawer to get
23 dressed that day.

24 Q. Okay. Where would your clothes come from?

25 A. I already told you. I bought bins from Walmart --

1 I don't know whether it was Walmart or K-Mart, one of
2 those stores, the bins you can get from -- I'm trying to
3 give you a picture where the bins would be.

4 They would be big blue bins that you can store
5 clothes in. My clothes that I wore was in my mother's
6 room, and I did that for a specific purpose, because
7 people were constantly in and out of that room. You
8 didn't have friends of my nephew's able to go in my
9 mother's room, so my personal things that I would wear
10 every day was in my mother's room.

11 Q. And you heard detectives testify that the clothing
12 they found in that room belonged to a man, correct?

13 A. Yes, I heard.

14 Q. And you heard them say that it was similar in size
15 to you at that time; is that correct?

16 A. Yes, I heard that.

17 Q. So you're saying that your clothing was in another
18 room and all the clothes in there belonged to all the
19 male family members who are similar in size to you. Is
20 that your testimony today?

21 A. I believe earlier -- I don't want to confuse the
22 questions.

23 Q. I can restate it. I can restate it if you're
24 confused. Your clothes are in your mom's room, correct?

25 A. As far as clothes I wear every day and my

1 underclothes and stuff, I didn't have any underclothes in
2 the tallboy dresser. That was an underclothes drawer
3 that my nephews and my cousins used before I even got to
4 the house. That dresser was already folded up with their
5 underclothes and their socks. I had nothing to do with
6 that.

7 Q. The only thing you would have had in there was
8 your mail that you would have taken that out?

9 A. Yeah.

10 Q. So the Comcast bill that was found in the room
11 came from the tallboy dresser?

12 A. I really don't know where y'all got the Comcast
13 bill.

14 Q. The Comcast bill was found in the room, so you
15 would have had to take it out of the mailbox in the
16 tallboy dresser?

17 A. I would have to take it out in the mailbox when?
18 I'm trying to understand what you're saying.

19 Q. And I apologize, sir. I'm trying to understand.
20 You have a cousin or a niece that puts all of the mail
21 into the dresser?

22 A. Yes, ma'am.

23 Q. And everybody goes to that tallboy dresser to get
24 that mail?

25 A. Yes, ma'am.

1 Q. And when the detectives came that day, they found
2 a Comcast bill for [REDACTED] Tripe Street out in that room?
3 A. That's what you're saying they found. I don't
4 have no knowledge that they found that in the room.
5 Q. That evidence was stipulated and entered into
6 evidence.
7 A. I'm saying that's what they said, though.
8 Q. Okay.
9 A. I don't have to agree with it.
10 Q. Okay. But according to the way it works is the
11 dresser, being the mailbox, you would have had to go into
12 that dresser and remove that piece of mail for it to be
13 out in the room, if it was in the room?
14 A. Okay. I get what you're saying now, so now I can
15 kind of answer your question better. No, ma'am, because,
16 actually, my wife would handle our mail. I don't go
17 out -- I don't go out and pay none of our bills, whether
18 it's in my name or my wife's name.
19 My wife handles that stuff so, no, I wouldn't
20 necessarily -- they asked me -- one of the family
21 members, I think, had trouble putting cable in their
22 name, and they basically asked me if I would put it in
23 their name so we would be able to watch cable in the
24 room. So when you're dealing with a bill, even when it
25 comes to my credit card -- I have credit card bills.

1 I don't handle those bills. My wife opens those
2 bills. My wife goes to go pay those bills. Like, I have
3 an account with Navy Federal. She would go down there
4 and take the money out of the teller and then put it to
5 pay the credit card or something. I don't handle that
6 kind of stuff, so I would not necessarily touch that.

7 Q. Okay.

8 A. I wasn't trying to be funny or nothing. I'm just
9 trying to give you how things were operating.

10 Q. And I apologize if my questions are difficult.
11 I'm trying to understand how the shared residence works.

12 A. Yes, ma'am.

13 Q. And you went through -- you had two sisters,
14 Leslie and Simone, and Leslie was staying there first
15 with her kids, and Simone was staying there with her
16 family and kids, and you said everybody had access to
17 that room. Everybody had access to that tallboy, so even
18 the children would have had access to those drugs, if I
19 understand that correctly?

20 A. I didn't -- first of all, I didn't know anything
21 about any drugs, so I don't know about children having
22 access to the drugs because I don't know anything about
23 the drugs until the police got to the house. That's why
24 when they came to the house I was asking them why they
25 were there.

1 That should be on record. That is what my
2 question was when they came to the door. I was inquiring
3 as to what was going on, something like that, and they
4 put me on the ground and told me they would tell me
5 later.

6 Q. And you previously testified that you had stayed
7 there the night before this happened and possibly even
8 the night before and then stayed there on a regular
9 basis; isn't that correct?

10 A. The only thing confusing is me is when you say on
11 a regular basis, I don't know, because, like I said, the
12 house was so crowded. I would go to my sister-in-law's
13 house sometimes, and we would stay there, or there have
14 been occasions where we actually rented a hotel room and
15 stayed there.

16 The point of going to my mom's house was just to
17 downsize. Our things were in storage. It was not at the
18 house. It was not like I was bound to that house or I
19 had to stay there. That was just a place where we went
20 for a while, just a place to stay, but that was not the
21 only place we were staying.

22 Q. I understand that, but, specifically, based on
23 your prior testimony, you would stay there the past two
24 nights?

25 A. Yes.

DERRICK ANCRUM - CROSS-EXAMINATION

1 Q. And had there been any break-in? Had anybody that
2 was unknown to you come in and put anything in the house?

3 A. Not to my knowledge.

4 Q. When you came to stay here, you said I told them
5 you slept in the room; isn't that correct?

6 A. Yes.

7 Q. And you say that Detective Scurry read you your
8 Miranda rights; isn't that correct?

9 A. Not at the time -- I want you to understand that
10 because this --

11 Q. I wasn't asking about time right now. I just
12 asked you if Detective Scurry read you your Miranda
13 rights.

14 A. At a certain period of time, yes.

15 Q. And you said, and I quote, If it kills me, I'm
16 going to tell the truth.

17 A. Yes.

18 Q. And then you went on to talk about how Lieutenant
19 Jenkins made several threats to you?

20 A. Yes.

21 Q. But you never -- and you were upset about this.
22 You were upset about the threats?

23 A. What do you mean?

24 Q. Were you upset about these alleged threats that
25 Lieutenant Jenkins made to you?

1 A. At the time he made it, I don't remember being
2 of -- a motion or anything. My major thing is he was
3 saying he was going to take Brian's child and call CPS,
4 which they did, by the way. He says, If somebody doesn't
5 say something, this and that, so I said I slept in the
6 room, which wasn't a lie, along with a bunch of people
7 slept in the room.

8 Q. But you never filed -- there was no complaint or
9 anything you filed with CPD in reference to this case.

10 A. I don't -- why would I --

11 Q. You never filed a complaint about any of this
12 alleged wrongdoing by the detectives?

13 A. I talked to my lawyers about it. The only thing
14 legally -- I've never been through this before, ma'am, so
15 the only person I know who can give me some legal relief
16 about this, I told my lawyers about it.

17 Q. You've never been through what before?

18 A. Talking to CP -- the Charleston Child Protective
19 Services.

20 Q. The Charleston protective services?

21 A. Yeah. I've never had to talk to Charleston Child
22 Protective Services.

23 Q. I was talking about the incident with CPD.

24 A. No. You just asked me if I filed a grievance with
25 Child Protective Services.

~~DERRICK ANCRUM - REDIRECT EXAMINATION~~

1 Q. No. You said you were upset about what happened
2 with Lieutenant Jenkins. You said he had some improper
3 conduct, and then I asked, you never filed a complaint
4 with CPD, and your response was you told your lawyers.

5 A. I told my lawyers about it.

6 Q. And then you said you've never been through
7 something like that?

8 A. Child -- no, child -- your question was, did I
9 ever -- if that was not your question, then I'm sorry,
10 but this is what I heard: When they said they was going
11 to take the child, did you file charges with Child
12 Protective Services. That's what I thought you said. If
13 you didn't, then -- that's what I was replying to, that I
14 did not know how to file charges with Child Protective
15 Services, and I never did. That's what I was talking
16 about. I was not talking about CPD.

17 MS. FRIERSON: Okay. Court's indulgence,
18 Your Honor.

19 THE COURT: Yes, ma'am.

20 MS. FRIERSON: Thank you, Mr. Ancrum. I
21 don't have any further questions.

22 THE COURT: Redirect?

23 MR. SMALDONE: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. SMALDONE:

1 Q. Were the drugs yours?

2 A. No, sir.

3 MR. SMALDONE: No further questions.

4 THE COURT: Recross?

5 MS. FRIERSON: Nothing from the State, Your

6 Honor.

7 THE COURT: You may step down. You may call

8 your next witness.

9 MR. SMALDONE: Defense calls Essence Ancrum.

10 ESSENCE ANCRUM,

11 having been first duly sworn,

12 was examined and testified as follows:

13 THE COURT: State your full name for the

14 record.

15 THE WITNESS: Essence Ancrum, A-n-c-r-u-m.

16 THE COURT: Your witness.

17 MR. SCHWARTZ: We have an issue we would like

18 to take up outside the presence of the jury.

19 THE COURT: This is a matter I need to

20 discuss with the lawyers. I ask you to step out of the

21 courtroom. Don't discuss anything about the case while

22 you're outside the courtroom.

23 (In open court, jury not present.)

24 MR. SCHWARTZ: And we should have probably

25 taken care of it before. The third-party guilt thing we

~~ESSENCE ANCRUM - DIRECT EXAMINATION~~

1 got into earlier, I just wanted Essence to know she
2 can't -- you can't testify to the drugs were Brian
3 Ancrum's or somebody else's. We're not going to get into
4 that. We didn't talk about that. I just wanted to be
5 clear about that. I didn't want that to come out and
6 then we have a problem.

7 THE COURT: All right.

8 MR. SCHWARTZ: We're ready, Your Honor.

9 THE COURT: All right. Bring the jury in.

10 (In open court, jury present.)

11 THE COURT: You may proceed.

12 MR. SCHWARTZ: Thank you, Your Honor. May it
13 please the Court:

14 DIRECT EXAMINATION

15 BY MR. SCHWARTZ:

16 Q. Will you please state your full legal name.

17 A. Essence Ancrum.

18 Q. Spell the last name.

19 A. A-n-c-r-u-m.

20 Q. If you want, you can pull that microphone up.

21 You're a little soft spoken. And, Essence, who are you
22 in relation to Derrick?

23 A. That's my dad.

24 Q. And how old are you?

25 A. Twenty-one.

1 Q. Tell the jury a little bit about yourself. What
2 do you do?

3 A. I work -- I'm an assistant coordinator at an
4 elementary school in North Charleston, and I work at
5 Chick-fil-A now.

6 Q. Are you in school as well?

7 A. Yes.

8 Q. Where at?

9 A. Trident.

10 Q. Okay. And you haven't been in here for any of the
11 testimony, so are you familiar with [REDACTED] Tripe Street?

12 A. Yes.

13 Q. How do you know [REDACTED] Tripe Street?

14 A. I stay there from time to time.

15 Q. Can you tell the jury about that house. Does your
16 grandmother live there?

17 A. Yes, she owns it. Most of my family members and
18 friends of family stay over there, so if we're down or
19 having a hard time, they'll come over and stay at the
20 house.

21 Q. Just give the jury and me an estimate of how many
22 people stay there at any one time?

23 A. I'm going to use my fingers.

24 Q. Speak up for me.

25 A. I'm going to use my fingers; 12, 13.

—ESSENCE ANCRUM - DIRECT EXAMINATION—

1 Q. And that's all at night, or on a weekly basis?

2 A. It's kind of a come-and-go kind of thing.

3 Q. All right. Now, you said it's like a come-and-go
4 type of thing. Do people have specific rooms, or how
5 does that work? If I wanted to stay there, how do I
6 figure out where I'm staying?

7 A. Basically, you just come in -- it's usually -- I
8 would say the rooms are pretty -- anybody goes in, like
9 if I wanted to sleep in the back, I would sleep in the
10 back, and you can put your clothes and stuff in one room.
11 Like, me and my grandma shared a room at one point, and I
12 shared with my sisters at one point, and then I shared
13 with my mom and my dad at one point, and that's basically
14 how the rooms go.

15 Q. You heard a lot of talk about mail and people that
16 live in the house.. What can you tell the jury about the
17 mail that arrives at that place?

18 A. It is. There's a lot of mail that comes. My
19 cousin Keshia usually collects the mail and puts it up in
20 the drawer for everybody most of the time, but yeah, it's
21 a lot of mail.

22 Q. What drawer are you referring to? The jury
23 doesn't live there, so --

24 A. Sorry. A drawer in the first room. When you walk
25 inside the house, it's a room on the right, and there's a

ESSENCE ANCRUM - DIRECT EXAMINATION

1 drawer in there. And she would collect it and, like, put
2 it inside for basically everybody that needs their mail
3 put up.

4 Q. Okay. Does mail come to that house for people
5 that don't live there anymore?

6 A. Yeah.

7 Q. And mail comes to people who are still staying
8 there, right?

9 A. Yes.

10 Q. Do you get mail there?

11 A. Yes.

12 Q. Okay. Do you live there right now?

13 A. I live back and forth to that grandmother's house
14 and my other grandmother's house.

15 Q. Now, I want to go back to the rooms. Are the
16 rooms locked or can anybody go between them or how does
17 that work?

18 A. Anybody can go -- there are locks on the doors,
19 but anybody can go between them, in them.

20 Q. So more than one person has access to those rooms?

21 A. Yes.

22 MR. SCHWARTZ: Court's indulgence. No
23 further questions of this witness, Your Honor.

24 THE COURT: You may cross-examine.

25 MS. FRIERSON: I have no questions for the

1 witness, Your Honor.

2 THE COURT: You may step down. Thank you
3 very much.

4 THE WITNESS: You're welcome.

5 THE COURT: You may call your next witness.

6 MR. SCHWARTZ: Defense rests, Your Honor.

7 THE COURT: Does the State wish to call any
8 witnesses in reply or rebuttal?

9 MS. FRIERSON: No, Your Honor.

10 THE COURT: All right. Ladies and gentlemen
11 of the jury: That completes the presentation of evidence
12 in this case. Again, there are some matters I need to
13 take up with the attorneys at this point in time. We'll
14 look at some scheduling issues, and then I'll have you
15 step back in, so I'll ask you one more time to step back
16 to the jury room. Don't discuss anything about the case
17 while you're out of the courtroom.

18 Thank you very much.

19 (In open court, jury not present.)

20 THE COURT: I assume at this point in time
21 the defense renews its prior motions; is that correct?

22 MR. SMALDONE: All prior motions, et cetera,
23 renewed, including the motion for directed verdict on all
24 counts.

25 THE COURT: All those motions have been

1 closing arguments or the summations made by the
2 attorneys. This is their second opportunity to address
3 you, so at this time, as we have in the past, the State,
4 with the burden of proof, is going first.

5 You may proceed with your closing argument.

6 MS. FRIERSON: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, ma'am.

9 MS. FRIERSON: Good morning, ladies and
10 gentlemen. Closing argument is a time to connect the
11 dots, if you will, to put together the pieces of the
12 puzzle that you have seen and heard through evidence and
13 testimony. The judge advised they we had handled some
14 legal matters beforehand. We did this to not only
15 streamline the process, but he made several rulings
16 regarding the admissibility of evidence and statements.
17 You must follow these rulings, you must abide by these
18 rulings, and you must not question his rulings for, as he
19 instructed you earlier and will do so again, he is the
20 judge of the law and you are the judge of the facts.

21 Now, it's important to discuss the law so you
22 can apply the facts, but in doing this discussion, if
23 anything I say about the law differs from what the judge
24 instructs you on, you must follow the law as he gives it
25 to you, but, as I understand the law in South Carolina,

1 it is against the law to possess, to manufacture,
2 distribute, dispense, or otherwise aid, abet, attempt to
3 possess, or conspire to manufacture, distribute,
4 dispense, or traffic cocaine or cocaine base. The law
5 doesn't say you must do all of those things. It is
6 against the law to any one of them.

7 Now, our legislature has defined trafficking
8 in cocaine and cocaine base as anything over ten grams.
9 You also received some instruction from the judge on a
10 variety of other matters. The credibility of witnesses
11 is for you to decide. In his opening instructions, the
12 judge said, and I believe I quote, use your own good,
13 common sense when making a determination on the
14 credibility of the witnesses. Consider each witness's
15 training, their demeanor on stand, and their experience.
16 Additionally, look to see if anything that they said on
17 that stand right there is corroborated by any other
18 testimony, any other photos, or any other evidence.

19 The judge will also instruct you that it is
20 my job to prove beyond a reasonable doubt that this
21 defendant is guilty of these charges. What is beyond a
22 reasonable doubt? It's not a mathematical equation. It
23 doesn't require percentages. If you listen carefully to
24 the judge's charge, you won't hear that there is a
25 specific way to determine beyond a reasonable doubt. It

1 is something that would leave you firmly convinced of the
2 defendant's guilt.

3 That doesn't really clear it up. Here is an
4 example. So we've been in this courtroom for the past
5 day-and-a-half or so, and there's no windows. We have no
6 ability to know what is going on outside, and so as we're
7 sitting here, if you saw somebody walk in with a rain
8 jacket and brush the raindrops off their shoulder and
9 then a couple minutes later you saw somebody come in with
10 an umbrella and shake off some of the raindrops from the
11 umbrella; even though you had not been outside, even
12 though you hadn't seen the rain, even though you have no
13 idea what is going on outside of the courtroom, I would
14 submit to you, you would be firmly convinced that it was
15 raining or had just rained.

16 Now, the judge is also going to instruct you
17 on direct and circumstantial evidence. Direct evidence
18 is from the stand right there. It comes from people who
19 were there, people who saw things or heard things.
20 Circumstantial evidence is a chain of circumstances that
21 leads you to a conclusion, and both of those can be used
22 in a case to prove beyond a reasonable doubt that the
23 defendant is guilty.

24 So now let's talk about some of the facts in
25 this case. I think it's good to start with what we agree

1 with the defense on. [REDACTED] Tripe Street is a four-bedroom
2 house where multiple people live or stay the night. The
3 defendant was staying, by his own testimony, at [REDACTED] Tripe
4 Street for at least two nights prior to this search
5 warrant, possibly longer, but at least two nights, and
6 the evidence concerning the trafficking weight of cocaine
7 and cocaine base and the evidence of the manufacturing
8 equipment has all been stipulated and entered into
9 evidence by agreement.

10 So the issue becomes, who owns these drugs?
11 Who possessed them? So let's start with where the drugs
12 were found. This is a picture, State's Exhibit No. 5, of
13 the tallboy dresser where all of these drugs were found.
14 So in drawer one, the top drawer, the family drawer, the
15 mailbox drawer, that everyone, including the defendant,
16 by his own testimony, viewed, had access to, and removed
17 things from. This family drawer had approximately 24
18 grams of cocaine base, approximately 40 grams in cocaine,
19 \$657 in cash, no mail, from anybody, despite being a
20 mailbox. That is drawer one, the family mailbox.

21 Drawer two had approximately 80 grams of
22 cocaine and 110 grams of cocaine. There were two, ladies
23 and gentlemen of the jury. So far every weight we have
24 discussed is trafficking in cocaine, or cocaine base.
25 Drawer two, defendant's identification card. Old one, he

1 said. Drawer four, digital scale, kind of big when you
2 have big weights; and drawer five, an additional
3 approximately 44 grams of cocaine, again a trafficking
4 weight; drawer one, two, three, four, five.

5 The family drawer that defendant used, got
6 mail in, defendant found some of his mail, Comcast bill
7 there, presumably coming from drawer one. Drawer number
8 five also had \$2,200 in cash, and let's not forget,
9 outside of the dresser, in the defendant's bedroom, not
10 the kitchen, we have mesh colanders, measuring cups,
11 measuring spoons, copper scrubbing pads, more scrubbing
12 pads, and a grinder that detectives testified was field
13 tested, and this white residue was presumptive for
14 cocaine base. All of this in the room that defendant
15 said was his.

16 Now, prior to searching that day, prior to
17 finding all of this evidence, you heard testimony from
18 the detectives that the defendant was removed from the
19 house and put on the porch by SWAT. Detective Scurry
20 advised they then approached the defendant, read him his
21 Miranda rights, which the defendant acknowledged in his
22 own testimony, and upon learning they were there, the
23 defendant immediately dropped his head, and I submit to
24 you, ladies and gentlemen, at this point the defendant
25 knew he was caught. He knew what they were there for,

1 and he knew what they would find, but as one last-ditch
2 attempt to minimize his involvement in this drug
3 operation, he advised that he had a mere two ounces in
4 his room.

5 He got up to point to the room. He was not
6 allowed back in the house. As Lieutenant Jenkins
7 testified, once SWAT removes somebody from the house,
8 they don't introduce them back in. So from where he sat
9 on the porch, he pointed to that first bedroom, and he
10 said, I have two ounces in that room. I don't want
11 anyone else in trouble. Perhaps he was hoping if he
12 could direct detectives to a smaller amount he could keep
13 his business going. I don't know. That's for you to
14 decide.

15 Defense made reference in their opening to
16 this case being a he said/she said case with
17 uncorroborated evidence, so I think it's important to
18 look at the evidence we have and how it ties,
19 specifically, this defendant to the drugs.

20 The only place that the drugs were found were
21 in the defendant's bedroom, same room that he testified
22 was his. There's some testimony about air mattresses and
23 stuff all over the house. I encourage you to find that
24 information corroborated through any other witness's
25 testimony or any other pictures. I submit to you that

1 you will not. The cocaine, cocaine base, were located in
2 this room in the same dresser with his ID, next to the
3 bed that he slept in, in the same dresser with men's
4 underclothing, I believe is how he referred to it as, the
5 same room where his personal effects that he was proud
6 of, his Mason hat, his Shriner hat, his Mason gloves, his
7 award, all of this was in there.

8 He stated that despite living in this room,
9 all of his clothes were kept in bins in another room. I
10 submit to you that that is not corroborated through any
11 other pictures or testimony and evidence. We do have a
12 Comcast bill in the defendant's name at that address,
13 presumably from the mailbox, i.e., drawer number one. We
14 also have a phone that was located in that room.
15 Defendant testified that the phone belonged to his
16 brother Brian, who was located sleeping in another room
17 in the back area on a couch.

18 His social security card was found in the
19 residence, and, again, we're not saying nobody else lived
20 there. It wasn't found in this room, and it wasn't found
21 in that dresser. I would like to address what I think
22 are distractions that the defense raised, so I'll address
23 them briefly. There was a conversation about a body
24 camera on Detective Scurry. You heard his testimony he
25 wasn't wearing one.

1 It wasn't his decision. It was made higher
2 up the chain than him. He wasn't issued one at the time.
3 He was not planning to conduct a formal investigation --
4 or, excuse me, interrogation at that point. They walked
5 up to the house after SWAT had cleared it out, and they
6 advised the defendant why they were there. He was the
7 first person they came into contact with. They advised
8 him why they were there, and they said even if they was
9 planning to interview somebody, under these
10 circumstances, that they wouldn't necessarily report it
11 because you don't know if that person is going to end up
12 working as an informant, so that initial conversation
13 isn't recorded.

14 There is also, you know, some questions about
15 why he didn't take an additional formal statement after
16 this was all said and done. Detective Scurry testified
17 that in his experience and his years as a narcotics
18 officer that when things are said and done and everything
19 has been found, people try to distance themselves from
20 whatever that end result is.

21 And speaking of distancing themselves, I
22 think it's a good time to mention something that
23 Detective Gill testified to about this ID, and I believe
24 his words were it was not uncommon to arrest someone with
25 an ID different from where they actually lived. Why

1 would someone use an address on a government issued
2 ID when you have \$30,000 worth of drugs in your house?
3 And this other distancing yourself, there was this burner
4 phone, trying to go to the last distraction, I believe,
5 which is a lack of thorough investigation here.

6 Detective Scurry didn't dump this phone.
7 While he told you in his training and experience he
8 recognizes it to be a Cricket phone, they don't have
9 subscriber information, can't extract data from it, so
10 rather than waste resources on something that he knew
11 couldn't further their investigation, he used the
12 information they already had, the statements of the
13 defendant, where these items were located, what they were
14 located next to, to compile his investigation.
15 Additionally, he did try to further the investigation by
16 submitting the bags for prints. He explained he has done
17 this before. He has never had a positive result, but he
18 still tried.

19 And, finally, in this case, you heard from
20 the defendant, Mr. Ancrum. He had a lot of reasons and a
21 lot of explanations as to why everyone and anyone,
22 including several juveniles, would have access to and
23 would use this mailbox and these dresser drawers, and
24 even if that was his room and all his stuff was in there
25 and he did get mail in the first drawer, he said he

1 didn't use that dresser.

2 He acknowledges that Detective Scurry read
3 him his rights, and he told you that he told them that
4 this was his room, but I think you should listen and take
5 into consideration something very carefully. The
6 defendant said he only made this statement because
7 Lieutenant Jenkins took him back inside the home, told
8 them everything they had found, and threatened to take
9 everybody to jail if he didn't confess.

10 I'd like you to compare that to the other
11 testimony in evidence. Lieutenant Jenkins testified that
12 the defendant was pulled from the home by SWAT and never
13 reintroduced, and everybody agreed it's a safety thing.
14 It's also so they keep everybody separated, but then
15 Detective Jolliff said that prior to searching,
16 Lieutenant Jenkins came inside from that back porch and
17 advised, Hey, Detective Scurry and I are out there with
18 the defendant, and he said he had two ounces of cocaine
19 in his room. That was prior to searching.

20 Again, it is up to you to decide the
21 credibility of the witnesses, but I submit if you believe
22 the defendant's testimony, then you are ignoring the
23 corroborated testimony of Detective Scurry, Lieutenant
24 Jenkins, and Detective Jolliff. Perhaps, most
25 importantly, what the defendant gave us during his

1 testimony is his motive to sell drugs.

2 He's a struggling businessman with money
3 problems. Even though he had \$2,000 in his pocket, small
4 bills, his business was struggling, and he needed money.
5 \$30,000 worth of drugs plus the additional cut, the
6 inositol that you were shown which can double your
7 supply, that can get you back on track real quick. I
8 don't want to speak for the defendant, but it seems as
9 though he may be implying that this drug operation could
10 be a family business, and even if that is the case,
11 ladies and gentlemen, the defendant is guilty for his
12 role in possessing, conspiring, aiding, abetting,
13 manufacturing, or attempting to traffic cocaine or
14 cocaine base, or it any of those under, the laws of this
15 state.

16 We're not here to say that the defendant is a
17 bad man. We're not asking you to condemn Mr. Ancrum. We
18 here because this is a court of law, and we're asking you
19 to use your good old common sense and hold the defendant
20 accountable for his role in the possession of the
21 trafficking weight of cocaine and cocaine base and the
22 tools to manufacture these drugs at his residence at [REDACTED]
23 Tripe Street on August 27, 2015. We're asking you to
24 find him guilty on all three charges.

25 Thank you.

1 THE COURT: All right. Mr. Smaldone, you may
2 proceed for the defense.

3 MR. SMALDONE: May it please the Court,
4 counsel, co-counsel, Mr. Ancrum, ladies and gentlemen of
5 the jury: Seems like a long time ago, but I guess it was
6 a day-and-a-half ago, you heard from my friend and
7 co-counsel, Ryan Schwartz. He opened. He said the drugs
8 weren't his. Right? That was the first thing he said.
9 The drugs weren't his, and from that moment on, the State
10 had a job to do. The State had a job to do. The State
11 had to link the drugs that were found to my client. They
12 had to link them to him, not by suspicion, not by he
13 said/she said, not by just coincidence, but they had to
14 prove to you that those drugs belonged to him. They had
15 to prove it beyond a reasonable doubt, the highest
16 standard in all of law, beyond a reasonable doubt. They
17 had to prove that these drugs belonged to Derrick.

18 So what did they do? What tools do they
19 bring to this claim? Well, they did a pretty good job
20 showing that those were drugs, right? Like they got the
21 bags; they got the stuff; they got the cocaine. They're
22 drugs, right? I'm not arguing that they're not drugs.
23 They're drugs; it's cocaine. It's a good bit of cocaine
24 by state standards, and it's crack cocaine. Spent so
25 much time on it.

1 It's drugs. We know that. We know that, but
2 what links do they provide you to Derrick? What links do
3 they show you, and what's the strength of those links?
4 How strong are those ties? Do those ties leave you
5 firmly convinced beyond a reasonable doubt that they
6 belong to him? What were they? Let's talk about them.

7 First of all, you heard he gave a statement.
8 You heard a lot about the statement, testimony. Law
9 enforcement got a statement from him. What was the
10 statement? Law enforcement said he said he had two
11 ounces of cocaine. Well, was there two ounces of
12 cocaine? No, there was a lot more, but what did they do
13 to prove that beyond a reasonable doubt to you? What
14 tools did they bring to let you decide that beyond a
15 reasonable doubt?

16 In testimony, we learned that they had nine
17 days to prepare for this, nine days before the search
18 warrant was executed, according to Detective Scurry.
19 What did they do to record that? What did they do to
20 build a strong case? They're planning a raid. They're
21 deciding what to do. Did anyone think, Hey, let's record
22 what this guy says.. Let's record what the people say.
23 Let's give something to the jury to have them be able to
24 decide beyond a reasonable doubt that the drugs are his.

25 Did anyone have a cellphone? Did anyone have

1 a recorder that recorded something that you heard? Did
2 anyone ask him for a written statement that the drugs
3 were his? If he's willing to say that, if he's willing
4 to talk to the police, why isn't he willing to write it?
5 Ask yourself, how long does it take to press the voice
6 memo up on your Iphone, or your Android phone or any
7 phone? How long does it take? Maybe try it out.

8 How long does that take to record something?
9 Wouldn't that have made them have a good case? Wouldn't
10 we all be able to decide and sleep at night, that they
11 have proven beyond a reasonable doubt that those drugs
12 are his? And the statement, alleged statement, that he
13 made, one, it's not backed up by anything. There's no
14 proof that it happened. There is just as much proof that
15 he made that statement as what Derrick said, he said/he
16 said. So they have the option to record it. They have
17 the option to have them write it. They had all those
18 options. Derrick didn't have those options.

19 As you learned, Derrick was detained. They
20 didn't ask him, Hey, do you want to record this? He was
21 not able to record it. They were. The burden is on
22 them. They didn't do anything about it.

23 You heard testimony -- I thought it was
24 strange. I don't know if you caught it, maybe you did, I
25 did, testimony from the current solicitor's office

1 investigator, Mr. Jolliff. He said he received some
2 information to focus on the tallboy dresser. Did you
3 catch that? Maybe you did, maybe you didn't.

4 Did we hear that from anyone else? He
5 received information to focus on the tallboy dresser. He
6 didn't say the room, he said the dresser. Where in the
7 world did that come from? Did the State show you where
8 that came from? Did it come from someone else in the
9 house? Did it come from anything? Did anyone in the
10 house know? We don't know. They haven't shown it, but
11 already, we've shown you that when they told you the
12 statement it might not be the whole truth.

13 I submit to you it is not the truth at all,
14 but there's other information that we don't know about.
15 I don't know about it; Derrick doesn't know about it. We
16 just heard it the other day. I think it was yesterday.
17 Focus on the tallboy dresser. Where did that come from?
18 I don't know. I don't know. We do know that around,
19 what, 12 people, maybe 15 -- let's say eight, just to
20 draw -- let's say eight people stay there, which I think
21 we can state is over the line. We know eight people
22 stayed there.

23 What do we hear from them? What statements
24 do they give to law enforcement? Do you know why?
25 Remember, Derrick was the first person they saw when they

1 executed the search warrant, and from that moment, they
2 got that tunnel vision: That's our guy. And you know
3 why they got the tunnel vision, or do you know why I
4 could prove to you they got the tunnel vision? All those
5 pictures of mail, does the State really want you to
6 believe that only Derrick Ancrum had mail in the house?
7 Come on, man. Come on.

8 They didn't bring the mail. They took
9 pictures of it. They rifled through stuff and took
10 pictures of anything that fit their preexisting
11 narrative, anything that they could show you to make
12 Derrick their guy. Nothing else. Do we really think
13 that that's the only mail in the house? We heard there's
14 like 12 -- let's compromise and say eight, eight people
15 living there. He's the only guy with mail, and I think
16 it was Detective Gill who said we didn't take pictures of
17 junk mail.

18 How do you define junk mail? I define junk
19 mail as unsolicited advertisements, stuff that I don't
20 want. I was thinking last night, I think to the
21 detectives, junk mail was anything that didn't belong to
22 Derrick. That's junk. That doesn't help us. That's
23 junk. We're not going to take a picture of it.

24 Really, they want us to believe that's the
25 only mail? Come on, man. So we have the mail. We have

1 just pictures of anything that they think belongs to
2 Derrick. What did you hear? Men's clothing. That's
3 incriminating. Now, men's clothing, I think they said
4 large and extra large is in the house. Again, let's say
5 eight people live there. We know for a fact Brian Ancrum
6 was there on the scene during the execution of the search
7 warrant. We didn't hear at all about him. Men's
8 clothing, that's -- that must be his room. There's men's
9 clothing in the room, but you heard from Derrick and from
10 his daughter that generally men slept -- sometimes the
11 men would sleep in one room and all the women would sleep
12 in another. For obvious reasons, you don't want
13 everybody sleeping in the same room, girls and stuff like
14 that, so the men slept in one room. Men sometimes slept
15 in the other room, but now, all of a sudden, all the
16 stuff belongs to Derrick, all the clothes found, Oh, they
17 must be his. It must be his room.

18 Remember what Derrick said, and remember what
19 Derrick told law enforcement: He didn't say it was his
20 room. Did you catch that? They said he said it was his
21 room. He said I slept in the room. I slept in the room.
22 He didn't say the room was mine, mine only. I slept in
23 the room. That's according to Derrick. That's
24 corroborated by his daughter who also stayed in that
25 house. I slept in the room, and we heard other people

1 slept in the room, slept in the room, along with
2 everybody else.

3 Ladies and gentlemen: My friend and
4 co-counsel Ryan again gave them too much credit in his
5 opening statement. He said they sent everything off.
6 They sent the scales off to get fingerprinted. No
7 fingerprints back, and later we found out, no, they
8 didn't do that. It's too hard. We got our guy. We took
9 pictures of a few pieces of mail. We found men's
10 clothing, and we have an unrecorded statement that may or
11 may not exist. We don't bother to give him justice. We
12 don't bother to give the jury what they need. We don't
13 bother to test for fingerprints on a scale, on a metal
14 scale, plastic, on any of that equipment that was found.

15 They didn't bother because it's too hard.
16 They owe it to Derrick to do that. They owe it to the
17 community to do that, but more than anyone, they owe it
18 to you to do that. They owe it to you. You're making a
19 big decision today. I think you all realize that. Does
20 that make you hesitate to act? Does that make you feel
21 good that they did that to you? They didn't even test
22 anything. They talk about the phone, right? Might be
23 Brian's phone. They said it's Derrick's phone. It might
24 be Brian's phone.

25 They talk about the phone. They say it's too

1 hard to test. We didn't bother, right? And that goes
2 along with the fingerprints, but add a little common
3 sense: It's a flip phone, man. Is it that hard to turn
4 on a phone and just see what's going on with it? Maybe
5 it is, but I remember having a flip phone, and they're
6 not known to be the most secure devices. They didn't
7 bother to go through the flip phone.

8 Did they bring you the dresser? Did they
9 tell you every single thing in the dresser was
10 photographed or did they just take pictures of what
11 belonged to Derrick? Which one did they do? I know the
12 answer. Do you? They took pictures of everything that
13 belonged to Derrick because that's their guy, the first
14 guys they saw on the day the search warrant was executed.
15 That's the guy. We're going to leave. Pack up our
16 stuff. We're done here. Let's get a beer. It's almost
17 5:00. That's the kind of attitude they show Derrick, the
18 kind of attitude they show me, the attitude they show
19 you.

20 Eight people stayed there, 12 people stayed
21 there, maybe as many as 15 people stayed at the house.
22 Four-bedroom house, relatively big house, in West Ashley,
23 people were coming and going. Sometimes people -- as you
24 heard, sometimes people wouldn't live there. They were
25 just in and out, staying a couple days. That reminds me

1 of my grandma's house, to be honest. Growing up,
2 everybody stayed, and that's what you heard. Day care
3 center was having trouble. He was trying to get rid of
4 his overhead a little bit. Grandma's house. That's what
5 it's for.

6 So what has the State brought you? Like I
7 said, they got you a confession, supposedly, that
8 vanished into thin air the moment he spoke it because
9 there's no corroboration. There is no recording; there
10 is no audio; there is no video. Like I said, they got
11 you a bunch of untested stuff. They tested the heck out
12 of the cocaine and the cocaine base and everything like
13 that. Then really wanted to get that right, right? They
14 wanted to test that and make sure they're guilty, but
15 anything that might cause you to doubt, anything that
16 might point the finger at someone else, no, we didn't
17 test that. It's really tough, I guess. Too hard.

18 We don't test scales because we're scared of
19 what we might find. We think we already got enough, so
20 let's just backtrack a little bit and not make this too
21 complicated. That's about what they thought. That is
22 what they did to Derrick. That's what they did to the
23 jury.

24 Ladies and gentlemen of the jury: You heard
25 witnesses. All those witnesses were law enforcement,

1 which happens in drug cases. All the State's witnesses
2 were law enforcement. We brought in the rest of the
3 story. We told you what really went on at that house:
4 People coming and going. People had access to that room.
5 It wasn't just Derrick's room. Derrick stayed there, put
6 his stuff there. His niece or his daughter, I can't
7 remember who, he said she unloaded the bag in the dresser
8 drawer. After they unloaded the bag, the detectives
9 pulled out everything that fit their narrative, took a
10 picture of it, and left the rest.

11 We heard he didn't stay there that long, paid
12 some bills for his mom. We know now what really happened
13 in that house because law enforcement doesn't know. The
14 solicitor doesn't know. They think Derrick is a drug
15 dealer, so other than that instant in time, did we hear
16 any evidence of that? Did we see surveillance on the
17 house if he's a drug dealer? Did we find out where he's
18 supposedly getting these drugs from, who he's giving
19 these drugs to, anything that would corroborate whether
20 he's a drug dealer? I mean, give me something.

21 They don't have it. They have stuff in a
22 house, undisputed, illegal stuff at a house in a room
23 that belonged to everybody in a dresser that has some of
24 his mail in it. We don't know whose other mail was in it
25 because they didn't bring it. They didn't take pictures

1 of every single thing there because they don't care.

2 Ladies and gentlemen of the jury: Like Ryan
3 said in the beginning, I don't have much to say.
4 Sometimes I talk a lot, but they weren't his drugs. My
5 job is not to prove to you -- in fact, it's very
6 difficult for me. Under the law, I'm not allowed to
7 prove to you whose drugs they were. I'm not a solicitor
8 anymore. I don't do that. I'm not a prosecutor. I'm
9 not prosecuting someone else. I'm not showing you whose
10 drugs they were, they are, and they didn't do it. They
11 didn't do it.

12 They give you pictures of certain pieces of
13 mail. It's not enough, because they weren't his drugs.
14 You heard it from him directly: Not his drugs. I
15 hesitate because now is probably the hardest time for me
16 as an attorney, is when I stop talking. I like to talk
17 sometimes. It's hard to stop talking because for the
18 last year or two, I have represented Derrick. I have
19 safeguarded him; I've answered his questions. I've been
20 his lawyer. Derrick has been in my hands, to make sure
21 that justice is served. Derrick's been in my hands, and
22 now is the hardest time for me because I stop talking.

23 In a few seconds, it's going to change.
24 You're not going to hear from me anymore, and Derrick is
25 going to be in your hands, so if you have any questions

1 after I stop talking, I can't answer them. I just ask
2 that you go back there and you answer them for him,
3 answer those questions for him, and if you have those
4 questions and they make you not firmly convinced, when
5 they make you hesitate to act, there is a name for that:
6 That's reasonable doubt. I submit to you that this is
7 way more than just that. It's not a technically. This
8 is just not reasonable doubt.

9 Ladies and gentlemen of the jury: Derrick is
10 not guilty of this, and he's just not guilty of this,
11 he's innocent of this. That's not going to be on the
12 verdict form. Not guilty is.

13 Ladies and gentlemen: I now place into your
14 hands the fate of Derrick Ancrum. Thank you.

15 THE COURT: The State may reply.

16 MS. FRIERSON: Ladies and gentlemen: You
17 don't record something you don't know is going to happen.
18 You can't record a statement on a device you aren't
19 issued, nonetheless, but you can't record a statement you
20 don't know the defendant is going to blurt out.

21 The defense said the defendant did not have
22 options. You heard him say that he was read his Miranda
23 rights. I'm sure a few people have watched Law and
24 Order. You have the right to remain silent. You have
25 the right to an attorney, all these things the defendant

1 was advised of. There's no testimony that he doesn't
2 understand English or he's deaf. He heard that, but
3 instead of saying, I don't want to talk, instead of
4 saying, I don't want to give a statement, he hung his
5 head. I don't want anybody else to get in trouble. I
6 got two ounces in my room.

7 He made that statement, having heard his
8 rights, having had options, and he wanted to own up to
9 it. He wanted to own up to two ounces at least. He had
10 options, he had choices, and he made them. The defense
11 said no one else in the house made statements to law
12 enforcement that day.

13 Now, we're not disputing that, but just like
14 they didn't ask Mr. Ancrum for a statement, he just
15 blurted it out. If anybody else would have been willing
16 to talk, detectives were there to listen. They were
17 there for an investigation. All of this evidence you'll
18 have back there. The lack of all this mail for everybody
19 else, again, we haven't argued that nobody else lived
20 there, but go through there and see if you see stacks and
21 stacks of mail in that defendant's room, piled up.

22 Brief stuff about the freshly unpacked bag
23 and all these -- Mason hat and Mason gloves and all these
24 things, again, go back to these pictures. That Mason hat
25 is stashed with the Shriners hat. There's some other

1 stuff around it. It doesn't appear to be freshly
2 unpacked, but that's a decision you get to make, just
3 like the credibility of the witnesses.

4 Now, we don't have to prove that Mr. Ancrum,
5 the defendant, is a drug dealer. What I have to prove is
6 that he possessed, conspired, aided, abetted, attempted
7 to possess, manufacture, conspire that he trafficked
8 cocaine base. I'm not giving it a classification. He
9 could be a businessman. All I have to prove is that he
10 was in possession of those items when he conspired to
11 distribute, he conspired to manufacture, he aided,
12 abetted or attempted somebody else to possess them, to
13 conspire, to manufacture.

14 That is what my job is, not that he fits in a
15 certain classification in our society. No, I just have
16 to prove the elements of the law, and I believe when you
17 go back, you retire to your jury room, that the evidence
18 you have been presented will leave you firmly convinced
19 of the defendant's guilt in this case.

20 Thank you, ladies and gentlemen.

21 THE COURT: Ladies and gentlemen: That
22 completes the final arguments by the attorneys. It's now
23 my responsibility to charge you on the law in this case.
24 I note we have been going almost an hour, so I'll give
25 you a short break, move around, stretch your legs, and

1 we'll come back and I'll issue the law to you at that
2 time. As always, when you leave the courtroom, don't
3 discuss anything about this case until I ask you to
4 actually begin your deliberations.

5 You may retire to the jury room.

6 (Recess taken.)

7 THE COURT: Ladies and gentlemen: I told you
8 this is my time to charge you concerning the law in this
9 case, and I'll start with where we started when we first
10 picked the jury, and that is the discussion of the
11 indictments that are before this Court. As I explained
12 to you, the indictments are the documents that bring the
13 case into the court, and I will remind you the fact that
14 a defendant has been arrested, charged and even indicted,
15 those facts are not evidence in the case. They cannot be
16 considered by you as evidence of guilt, nor does the fact
17 that those things that happened create any presumption or
18 inference that guilt exists. Those documents are just
19 the documents that bring the case into court, and it
20 informs the defendant of the charges against him and us
21 of the charges to be tried..

22 There are three indictments in our case. The
23 indictments charge separate offenses. The first
24 indictment that I'll talk about is the indictment for
25 trafficking in cocaine. Trafficking in cocaine is case

1 number 2016-1091. That indictment states that Derrick
2 Jermaine Ancrum did, on or about August 27 of 2015 in
3 Charleston County, South Carolina, knowingly sell,
4 manufacture, cultivate, deliver, purchase or bring into
5 the state or did provide financial assistance or
6 otherwise aid, abet, attempt, or conspire to sell,
7 manufacture, cultivate, deliver, purchase, or bring into
8 the state or was knowingly in actual or constructive
9 possession or knowingly attempted to become in actual or
10 constructive possession of 200 grams or more of cocaine
11 or any mixtures containing cocaine as provided by code
12 section 44-53-210(d)4, and that's in violation of
13 44-53-370(d)2 of the code of laws of South Carolina 1976
14 as amended, and I'm going to explain the charges to you
15 in more detail, but I just want you to go over again in
16 your mind the first charge we're talking about is for
17 trafficking in cocaine.

18 Now, later on in my charge, I'm going to
19 discuss with you a lesser included offense to that
20 particular charge. I'll explain to you what that means,
21 but I'll tell you, generally, the trafficking statutes,
22 the severity of the crimes under trafficking of any drug
23 is generally determined by the amount of the drug
24 involved, by the weight of the drug involved, and in this
25 case, the charge is 200 grams or more of cocaine or a

1 mixture containing cocaine. That's that first
2 indictment.

3 The next indictment I'll talk about is
4 trafficking in cocaine base. You've heard and the
5 statute refers to crack cocaine as cocaine base. When
6 you hear me talk in my charge about cocaine base, that's
7 the same thing as crack cocaine. It's just a different
8 way of saying it. It's the same substance that we're
9 talking about, so crack cocaine and cocaine base are
10 interchangeable phrases or words for the same substance
11 that's involved, and this is case number 2016-GS-10-1092.

12 Trafficking in crack cocaine, that indictment
13 states that Derrick Jermaine Ancrum did on or about
14 August 27 of 2015 in Charleston County, South Carolina
15 knowingly sell, manufacture, deliver, purchase, or bring
16 into this state or did provide financial assistance or
17 otherwise aid, abet, attempt or conspire to sell,
18 manufacture, deliver, purchase, or bring into the state
19 or was knowingly in actual or constructive possession or
20 knowingly attempted to become in actual or constructive
21 possession of ten grams or more of crack cocaine, or
22 cocaine base, as defined and otherwise limited in code
23 sections 44-53-110, 44-53-210(d)1, and 44-53-210(d)2 in
24 violation of 44-53-375(c)1(a) of the code of laws of
25 South Carolina 1976 as amended. That's the second

1 indictment.

2 The final indictment is for the manufacture
3 of crack cocaine, and this indictment is for case number
4 1094, and this one states that the defendant, Derrick
5 Jermaine Ancrum, did on or about August 27 of 2015 in
6 Charleston County manufacture, distribute, dispense,
7 deliver, purchase, or otherwise aid, abet, conspire to
8 manufacture, distribute, dispense, deliver, or purchase
9 or possess with the intent to manufacture, distribute,
10 dispense, deliver, or purchase crack cocaine, or cocaine
11 base, in violation of sections 44-53-370, all in
12 violation of 44-53-375(b)1 of the code of laws of South
13 Carolina 1976 as amended.

14 Those are the three indictments. Now, I'm
15 going to give you these indictments along with the other
16 evidence in the case for you to take back into the jury
17 room during your deliberations so you'll have a chance to
18 look over them if you feel there is something you need to
19 see in the indictments, but each indictment, as I said,
20 charges a separate and distinct offense. You'll be asked
21 to draw a verdict, or decide each indictment, separately,
22 based on the evidence and the law that is applicable to
23 that indictment, and your decision on each indictment
24 must not be influenced by your decision on other
25 indictments. In other words, each charge should be

1 considered separately and on its own merits; therefore,
2 the defendant can be convicted and/or acquitted on any or
3 all of the charges that have been presented to you.

4 Again, you'll be asked to write a separate
5 verdict as to each indictment that's being presented to
6 you. I told you at the beginning of the trial, the
7 defendant has pled not guilty to those indictments and
8 under our system of justice, that plea places the burden
9 of proof upon the State and it's the State's burden to
10 prove the defendant guilty.

11 You see, a person who has been charged with
12 the commission of a criminal offense in this case and in
13 the United States is never required to prove himself
14 innocent of that charge. It's an important rule of law
15 that a defendant in a criminal trial, and it doesn't
16 matter how serious the offense might be, is always
17 presumed to be innocent of the crime for which the
18 indictment has been issued until and unless guilt has
19 been proven to you, the jury, by proof that satisfies you
20 of the guilt of the defendant beyond a reasonable doubt.
21 The presumption of innocence doesn't end when you begin
22 your deliberations. It accompanies the defendant
23 throughout these proceedings. Sometimes it's described
24 like the robe that a judge wears into the courtroom. In
25 other words, if the robe was the presumption of

1 innocence, it would be about the defendant's shoulders at
2 the beginning of the trial. It would remain about his
3 shoulders throughout the trial, and as you go into your
4 deliberations, it would still be around his shoulders.
5 It would stay there until such time as has been stripped
6 from him by evidence that satisfies you of the
7 defendant's guilt beyond a reasonable doubt. Therefore,
8 the presumption of innocence is not just a legal theory.
9 It's not just a legal phrase. It's a substantial right
10 that every defendant is entitled to until and unless you,
11 the jury, are satisfied from the evidence of the
12 defendant's guilt beyond a reasonable doubt.

13 Now, you've heard me refer to that standard
14 of proof, proof beyond a reasonable doubt, several times.
15 It's an important concept under our system of judges. I
16 want to be sure you understand what we mean by a
17 reasonable doubt. Now, a reasonable doubt has been
18 defined by Courts over the years as that kind of doubt
19 that would cause a reasonable person to hesitate to act,
20 and the State has the burden of proving the defendant
21 guilty beyond a reasonable doubt.

22 Now, some of you may have been involved in
23 civil cases. Let me talk about that briefly so you're
24 not confused by that. A civil case is where someone is
25 seeking monetary damages. It could be because someone

1 breached a contract, someone failed to pay a debt,
2 someone injured someone and is responsible for the
3 injuries, things of that nature. Those are civil cases,
4 and when someone brings a civil case, what they're
5 seeking is monetary damages. They're asking to be repaid
6 some money. They're asking to be made whole as a result
7 of the injuries they've suffered, so that's what we mean
8 by a civil case.

9 Now, when a civil case is tried, the standard
10 of proof is different in those cases, so if you've been
11 involved in a civil case, the standard of proof in those
12 cases is proof by the greater weight of the evidence, is
13 what the Courts refer to. You can imagine the scales of
14 justice. In a civil case, when you weigh all the
15 evidence and put it on either side of the scales, either
16 the plaintiff or the defendant, if it tilts ever so
17 slightly in favor of the plaintiff, the plaintiff gets
18 the verdict. If it tilts ever so slightly in favor of
19 the defendant, the defendant gets the verdict, and, of
20 course, if they remain dead even, the defendant gets the
21 verdict, so that's what we mean by the greater weight of
22 the evidence, and it's a mental process that a jury would
23 go through in weighing that evidence.

24 Now, the standard of proof in a criminal
25 case, the one that we're in, is more powerful than that

1 standard of proof. Proof beyond a reasonable doubt is
2 that kind of proof that would leave you firmly convinced
3 of the defendant's guilt, but I'm going to tell you there
4 are very few things that go on in this world between
5 people that can be proven beyond any doubt whatsoever,
6 and the State is not put to the burden of proving its
7 case to the level that its proof overcomes every possible
8 doubt.

9 What I will tell you is that after weighing
10 all of the evidence, if you are firmly convinced of the
11 defendant's guilt beyond a reasonable doubt, you should
12 find the defendant guilty. If, however, on the other
13 hand, you think there is a real possibility that the
14 defendant is not guilty, then you must give the defendant
15 the benefit of the doubt and find the defendant not
16 guilty.

17 Now, during the trial, I tried to point out
18 to you, especially at the beginning, that you and I have
19 different duties to perform in the trial. I've had the
20 duty of presiding over the trial, and I've had the duty
21 of ruling on some things that came up, and sometimes I
22 asked you to leave the courtroom while I did those
23 things.

24 And, again, I will tell you, you should only
25 consider the evidence that was entered into the record of

1 the case and was admitted into the evidence and into the
2 record, and you'll be getting the physical evidence to
3 take back with you, but, again, all the testimony that
4 was admitted, and if there was anything that I ruled out
5 of order or didn't allow in, you should not consider
6 those matters at all in reaching your verdict in this
7 case. Only what came into the record is what you should
8 be considering, of course, there is also, I believe, some
9 stipulations by counsel. Those will be given to you, and
10 you will have those available to you as well.

11 Now, I have the additional duty of charging
12 you on the law in this case, and as I told you at the
13 beginning of the trial, I'm the sole judge of the law in
14 the case, just as you are the sole judges of the facts.
15 It's your duties as jurors to accept and apply this law
16 as I give it to you. If you have an idea as to what the
17 law is or what an opinion as to what it ought to be,
18 leave those ideas and notions outside of the jury room
19 before you begin the deliberations. You should take the
20 law as I now give it to you and apply it to the facts as
21 you decide the facts to be. You are the sole judges of
22 the facts in this case, and I told you earlier and I'll
23 remind you, you should not take from anything that I say
24 or do in the performance of my duties in this case to
25 indicate to you that I have an opinion as to how you

1 should determine the facts:

2 I told you earlier I do not have an opinion
3 as to how you should determine the facts. The law does
4 not allow me one, so I have no opinion as to how you
5 should decide the facts, so please don't read into
6 anything that I say or do o indicate otherwise. The
7 determination of the facts is a matter which is solely
8 for you, the jury, to determine. It's your duty as
9 jurors to determine the effect, the value, the weight,
10 and the credibility of the evidence that's been presented
11 during the trial in this case.

12 Now, in doing your job, I will tell you, you
13 have the right to consider two types of evidence, and you
14 may say, well, I didn't realize there were two types of
15 evidence. Let me explain to you what the law means by
16 two types of evidence. Evidence generally is divided
17 into either direct evidence or circumstantial evidence.

18 Now, direct evidence is testimony from a
19 witness who claims to have direct knowledge of the facts
20 about which that witness testifies. In other words,
21 someone who actually experienced what they're testifying
22 about, they weren't an eyewitness, they heard something,
23 they saw something, they smelled something, and they're
24 relating their experience directly to you, so they're
25 testifying directly on the fact that is in question.

1 That's what we mean by direct evidence.

2 Now, the other type of evidence that we talk
3 about is what's referred to as circumstantial evidence.
4 Now, circumstantial evidence is proof of a chain of facts
5 or circumstances that indicate the existence of some
6 other fact. The law doesn't make a distinction between
7 the weight or the value that you as a juror are to give
8 to either direct or circumstantial evidence, and there is
9 not a greater degree of certainty required of one as
10 opposed to the other.

11 You are the sole judges of the facts. You
12 decide the weight that you choose to give to any type of
13 evidence that you consider.

14 Now, crimes may be proven by circumstantial
15 evidence. Again, the law doesn't make a distinction
16 between the weight or value that you should give to
17 either direct or circumstantial evidence; however, to the
18 extent that the State relies upon circumstantial
19 evidence, then all of the circumstances must be
20 consistent with each other and, when taken together,
21 point conclusively to the guilt of the accused beyond a
22 reasonable doubt.

23 If the circumstances merely portray a
24 suspicious behavior, then the proof would have failed.
25 The State has the burden of proving the defendant guilty

1 beyond a reasonable doubt, and the burden rests with the
2 State regardless of whether the State relies on direct or
3 circumstantial evidence or some combination of the two.

4 Now, in proving circumstantial evidence, I
5 like to use a very simple example as to what we mean by
6 that. Let's say last night when you went to bed you
7 walked over to your window, looked outside, beautiful
8 night, clear, nothing going on, went to bed. You slept
9 well all night. You didn't wake up at all.

10 Next morning you got up, sun shining. You
11 walk over to the same window to look outside, but when
12 you get there, you look a little closer because you
13 noticed all the trees in the front yard have water
14 dripping out of them. You notice there's puddles in the
15 driveway that weren't there the night before. Maybe the
16 lawn is soaking wet that morning.

17 Now, you were asleep all night. You didn't
18 hear it rain. You didn't see it rain, so you couldn't
19 tell directly that it rained at any particular time
20 during the night, but from the facts that you know to be
21 true, water dripping out of the trees, puddles that
22 weren't there the night before, wet lawn, you could
23 easily reach the conclusion or infer that at some time
24 during the night it rained, so that's what we mean by
25 proof by a chain of facts or circumstances that indicate

1 the existence of another fact.

2 I told you at the beginning of the trial part
3 of your job will be to determine the credibility of the
4 testimony that you heard. Credibility simply means
5 believability. It's always the duty of the jury as a
6 finder of fact to analyze and evaluate the evidence and
7 determine which evidence convinces you of its truth. In
8 determining the believability of any witness who may have
9 testified, you have the right to believe all of what a
10 witness told you, part of what a witness told you, or
11 none of what a witness told you. You have the right to
12 believe one over all the others or all the others over
13 one.

14 You're the sole judges of the facts. That
15 makes you the sole judge of the credibility of the
16 testimony that you've heard in this case. You have the
17 right in doing that, using your good, common sense, to
18 consider whether any witness may have exhibited to you a
19 bias, an interest in the trial, or other motive for
20 testifying. You can consider the appearance and the
21 manner in which a witness testified from the stand. I
22 urged you at the beginning of the trial to use your good
23 common sense. Make a determination as to what evidence
24 you think convinces you of its credibility or
25 believability.

1 Now, at one point in time in the trial, we
2 had a witness testify that I qualified as an expert
3 witness. I told you that when I did my charge on the
4 law, I'd talk to you a little more about that process and
5 what that means. Now, I explained at that time that the
6 rules of evidence ordinarily don't allow lay witnesses to
7 offer their opinions about things, and the exception to
8 the rule is for someone we designate as an expert
9 witness. That's a witness who because of their education
10 or experience or profession or science that they're
11 involved in has become an expert in a field, and as to
12 that witness, once they're designated as an expert, they
13 can state opinions as to any relevant matter in which the
14 witness claims to be an expert. They can state the
15 reasons why they have the opinions.

16 I'll tell you, the jury, you have the right
17 to consider the opinions given by experts like any other
18 evidence in this case. You give it the weight you think
19 it deserves. Should you decide that the opinion of an
20 expert is not based upon sufficient education or
21 experience, and if you reach the conclusion that the
22 reasons given to support the opinions aren't sound or you
23 decide that the opinion is outweighed by other evidence,
24 you have the right to disregard an opinion given by an
25 expert in part or wholly disregard it if you feel that is

1 the proper way to handle that.

2 So just because I designated someone as an
3 expert, that person's statements or testimony shouldn't
4 be given any greater weight because of that designation.
5 In other words, you should evaluate and weigh that
6 testimony like any other testimony. You give it the
7 weight you think it deserves.

8 Now, I'm getting ready to go over the charges
9 with you, the specific charges. There's going to be some
10 words that I use in those charges and the law that
11 applies. I'm going to try to give you some definitions
12 as to some of the phrases or some of the words I'll be
13 using in those statutes so we have an understanding.

14 You're going to hear in every statute,
15 criminal statute, a word requiring some kind of intent,
16 and let me explain to you what that means. In order to
17 establish criminal liability, criminal intent is
18 required. For example, that's the mental state that's
19 stated in the statute or in the law that is required to
20 be proven by the State or of a particular crime due to
21 have been committed. Intent, knowledge, recklessness,
22 criminal negligence might be some of the words that are
23 used.

24 Criminal intent can be proven by the State --
25 must be proven by the State beyond a reasonable doubt.

1 Criminal intent, I will tell you, is always a matter that
2 has to be determined by the facts and circumstances
3 surrounding the situation because, you know, there is no
4 way that when something happens we can somehow look
5 inside somebody's brain and scientifically determine what
6 they intend to do at that time. That's not possible.

7 So what you have to do is look at the facts
8 and circumstances as they existed at the time of the
9 event in order to make a determination as to whether or
10 not criminal intent existed that's necessary for the
11 statute in question to be violated.

12 So criminal intent is shown by -- not shown
13 by direct or positive evidence, it can be established by
14 inference the same way as any other fact taken into
15 consideration the acts of the parties and the
16 circumstances of the case.

17 I will tell you, criminal intent is a mental
18 state. It means a conscious wrongdoing, and it's up to
19 you to determine what a defendant intended to do based on
20 the circumstances that were shown to have existed. I
21 will also tell you that it's the law of the state that
22 merely being present where a crime is committed is not
23 sufficient to prove someone guilty of committing a crime.
24 A defendant's presence where a crime is being committed
25 or association with a person who might be committing a

1 crime does not make a defendant an accomplice, an aider,
2 or abetter in the commission of a crime.

3 The burden on the State is to prove every
4 element of the crime charged, and should you find, after
5 reviewing all the evidence, that the State has only
6 proven that the defendant was merely present at the scene
7 of a crime and that they have not proved beyond a
8 reasonable doubt any other participation, then you must
9 find the defendant not guilty. The law is that proof of
10 someone being at the scene of a crime by itself is not
11 sufficient to prove somebody guilty of a crime.

12 Also, I will be using the following phrases
13 in the statutes I'll be talking about. We're going to
14 talk about possession. So when the statute talks about
15 someone being in possession of drugs or certain amounts
16 of drugs, and to prove possession, the State must prove
17 beyond a reasonable doubt that the defendant had both the
18 power and the intent, that is that word I talked about,
19 intent, to control the disposition or use of the drugs,
20 and that can either be actual or constructive. Let me
21 tell you what I mean by that.

22 Actual possession means that the drugs would
23 be found on the person of the person being charged at the
24 this would be in actual physical possession of drugs.
25 That's one type of possession that the State could prove.

1 The other type of possession that the State could prove
2 is what is referred to as constructive possession.
3 Constructive possession means that the defendant had
4 dominion and control or the right to exercise dominion or
5 control over either the drug itself or the property on
6 which the drug was found.

7 Now, as I told you, mere presence at the
8 scene where drugs were found is not enough to prove
9 possession. A defendant's knowledge and possession can
10 be inferred when the substance is found in property or on
11 property under the defendant's control; however, this
12 inference is simply an evidentiary fact that can be taken
13 into consideration by you, the jury, along with other
14 evidence in the case, and you give it the weight you
15 think it should have, and I will tell you that two or
16 more persons can have joint possession of a drug.

17 Now, deliver as used in the statute means to
18 actually or constructively attempt to transfer the drug.
19 Distribute means to deliver by means other than
20 administering or dispensing a drug for medical reasons.
21 Manufacture means to produce, prepare, convert, process,
22 plant, cultivate, grow, or harvest a drug, naturally or
23 chemically. Manufacture includes any packaging or
24 repackaging the drug or labelling or relabelling a drug's
25 container.

1 Now, the defendant in this case is charged
2 with trafficking both cocaine and crack cocaine. The
3 State must prove trafficking beyond a reasonable doubt,
4 that the defendant knowingly sold, manufactured,
5 cultivated, delivered, purchased, brought into the state,
6 provided financial assistance or otherwise aided,
7 abetted, attempted, or conspired to sell, manufacture,
8 cultivate, deliver, purchase, or bring into the state or
9 the State may prove that the defendant was knowingly in
10 actual or constructive possession or knowingly attempted
11 to become in actual or constructive possession of the
12 drugs, and that would be cocaine or cocaine base or crack
13 cocaine.

14 Now, as to cocaine, the State must also prove
15 beyond a reasonable doubt that the amount of cocaine or
16 any mixture containing cocaine was 200 grams or more, but
17 less than 400 grams.

18 Now, there was proof offered in the case, and
19 I'll explain what I mean, that would give rise to a
20 possibility of a lesser included offense as to the
21 cocaine. Now, again, offenses are classified by the
22 weight of the drug involved, and so the charge, the
23 indictment, is for 200 grams or more. The lesser
24 included offense that I will give you an option
25 concerning involves the weight of 28 grams or more but

1 less than 100 grams, and I'll explain that to you in more
2 detail when I get to the verdict form in the case, but if
3 you were to find the defendant not guilty of trafficking
4 200 grams or more, then you would have to consider
5 whether or not the State did prove the lesser included
6 offense of 28 grams or more but less than 100 grams.

7 Now, as to crack cocaine, or cocaine base,
8 the State must prove beyond a reasonable doubt that the
9 amount of crack cocaine involved was 10 grams or more but
10 less than 28 grams, and as to the charge of
11 manufacturing, again, this involves the process of
12 preparing the drug to be distributed or sold,
13 repackaging, relabelling, things of that nature; in other
14 words, breaking the drug down from a larger amount
15 perhaps to a smaller amount.

16 So what is involved with manufacturing is
17 it's unlawful to manufacture, distribute, dispense,
18 deliver, purchase, aid, abet, attempt, or conspire to
19 manufacture, distribute, dispense, deliver or purchase or
20 process with the intent to manufacture, distribute,
21 dispense, deliver, or purchase a controlled substance in
22 the state, and I will tell you that cocaine and crack
23 cocaine, or cocaine base, are controlled substances.

24 Now, let me see. Juror number 64,
25 Mr. Corbett, you're the gentleman seated out there on the

1 end. You're going to be the foreperson of the jury.
2 What that means is that you will be the person who will
3 be responsible for keeping the discussions going and kind
4 of preside over that in an informal fashion, I guess, but
5 you will be the leading person in that job. Once the
6 jury starts its deliberations, if the jury has a question
7 that you would like to pose to me, I'm going to ask you
8 to get the jury to agree on whatever that question is,
9 the form of the question.

10 I want you to write it down on a piece of
11 paper; knock on the door; give it to the bailiff.
12 They'll be seated outside, and they'll bring that to me.
13 I'll make a decision how to respond to whatever question
14 the jury may have. I will tell you, I'm not allowed to
15 answer certain questions you may have during
16 deliberations. As I told you, I cannot get involved in
17 your decisions as to the facts of the case or comment on
18 the facts in any way.

19 I am allowed to answer your questions as to
20 the law I've charged, as to the procedure that you
21 followed, but I'm not asking you to edit any of the
22 questions. Write it down; submit it to me. Once I have
23 formulated a response, then I will bring you into the
24 courtroom and we'll discuss the question in the courtroom
25 in front of all the parties here so they're aware of what

1 we're talking about.

2 Now, I will also be giving you a verdict form
3 at that time. Be sure you understand it. It will be
4 your job, when the jury reaches a unanimous verdict as to
5 each of the questions on that form, you'll record that
6 verdict, and then once the form is completed, you'll sign
7 it, again inform the bailiff that a final verdict has
8 been reached, and we'll bring you back to the courtroom
9 to receive the verdict.

10 So those are the responsibilities that you'll
11 have as foreman of the jury, but I told you at the
12 beginning of the trial, I want to stress to you, no one
13 juror is more important than any other juror. You all
14 must agree on the verdict before it's a verdict of this
15 jury, and the verdict cannot be reached until it is
16 unanimous in nature.

17 I have gone over a great deal, and we've got
18 some evidence here. We want to be sure we only send back
19 to you what went into the record, so we're going to go
20 over that, and I've got to go over my verdict form with
21 the lawyers and be sure they don't have a problem with
22 what I've put on that verdict form.

23 So I've got a few housekeeping matters I've
24 got to take care of before I can tell you to begin your
25 deliberations. So at this point in time, I'll ask you to

1 step back in the jury room. This may be the last time
2 I'll ask you to not talk about the case before you come
3 back and get your final instructions.

4 Thank you. You may go back to the jury room.

5 (In open court, jury not present.)

6 THE COURT: -- objection to the charge from
7 the State?

8 MS. FRIERSON: None from the State.

9 MR. SMALDONE: None from the defense.

10 THE COURT: Okay. I've got a verdict form.
11 Let's take a look at that. Any objections to the form,
12 from the State?

13 MS. FRIERSON: Nothing from the State, Your
14 Honor.

15 THE COURT: Anything from the defense?

16 MR. SMALDONE: Nothing from the defense.

17 THE COURT: All right. Very good. Let's
18 bring the jury back in. Is there any objection to my
19 submitting the indictments to them?

20 MS. FRIERSON: None from the State.

21 THE COURT: I don't see anything about second
22 or third offenses in here, so that's what I'm looking
23 for.

24 (In open court, jury present.)

25 THE COURT: Okay. Thank you, sir. Bailiff,

1 if you would, pass these papers over to the foreperson
2 for me.

3 Mr. Corbett, I'm having the bailiff give you
4 some documents, and I want to go over those with you. If
5 you look at the top one, that is going to be the verdict
6 form. You'll see what county and state we're located in.
7 It has the parties, of course the State of South Carolina
8 against the defendant, Mr. Ancrum, and down below that
9 there is going to be a series of questions.

10 The first question has to do with the charge
11 concerning trafficking of cocaine, and you'll see below
12 that, as to that charge, there are two choices, either
13 not guilty or guilty, and let me point out to the jury at
14 this point in time. Some people think that you can tell
15 what a judge prefers by the order in which you put the
16 choices. I can assure you that is not the case. The
17 fact that I put one of the choices first and one of the
18 choices second, I've done it the same way for 14 years.
19 I don't plan to change it at all, in every case I've
20 tried, so it has nothing to do with this case or the
21 facts in this case. I just put it in that same order.

22 So the choices are not guilty or guilty.
23 Once the jury reaches a unanimous verdict as to that
24 charge, and I have put on there the weight of the drug
25 involved as far as that charge is concerned, then you

1 will check either not guilty or guilty. Again, it has to
2 be unanimous before that's done.

3 Now, should the jury find the defendant not
4 guilty of that charge, then you would have to find
5 whether or not the State did prove the lesser included
6 offense. That's the one right below that, 1(a). 1(a) is
7 on the next page, I believe, and that has to do with the
8 lesser included offense of possession or trafficking
9 crack cocaine, and that is a lower weight limit, and,
10 again, the choices would be guilty or not guilty.

11 Now, if you find the defendant guilty of
12 trafficking, question number one, then you don't answer
13 1(a). You only answer that if you find the defendant not
14 guilty of one. So do you understand how that works? The
15 next one is the trafficking crack cocaine or cocaine
16 base. Again, I placed the weight limit stated in the
17 indictment, and the choices are not guilty or guilty.
18 Finally, number three is the manufacturing charge, and
19 that is listed as -- again, that charge is listed as
20 either not guilty or guilty.

21 Now, once you have completed the form, in
22 other words, a verdict has been reached in 1 or 1(a) and
23 2 and 3, that would complete the form. You would sign
24 the form at that time; inform the bailiff a final verdict
25 has been reached.

1 I will bring you back into the courtroom for
2 us to receive that verdict, and, again, submit any
3 question by placing it in writing, handing it to the
4 bailiff by knocking on the door. The bailiff will bring
5 it to me. Now, I note that we're at 10:30. I don't know
6 how long you're going to take to deliberate. I'm not
7 trying to limit you or to encourage you to go longer.
8 The length of deliberation is entirely up to you and how
9 long it takes for you to get the job completed, but, at
10 any rate, should we go into the lunch hour, it may be
11 necessary for us to order you lunch, and once you begin
12 deliberations, we generally keep you in the jury room
13 until the verdict is reached, so if we send the bailiff
14 in for a lunch order, I will ask the foreman to stop
15 deliberations while that person is in there.

16 Do not discuss anything about the case while
17 that person is in the room. They'll take your order,
18 they'll leave promptly, and the same is true when lunch
19 is delivered. Don't discuss the case while that is going
20 on and there is a third party in the jury room. The case
21 should only be discussed among the jurors sitting on the
22 case, and that should be done in private with no one else
23 present. So, again, stop your deliberations if a third
24 party were to come into the jury room for whatever
25 purpose that became necessary.

1 Do you understand how that works?

2 Now, at this time, I am going to ask you to
3 go back to the jury room, begin your deliberations to
4 work toward a verdict. They will bring with them the
5 exhibits. I will caution you -- I would suggest that you
6 not attempt to open any of the containers containing the
7 drugs. That could create a medical problem as well as
8 some other problems, so let's leave all those in the
9 sealed containers that they're in. They should be clear
10 and you should be able to view them if you need to look
11 at the drugs through the containers, so don't attempt to
12 open any of those packages of drugs.

13 I'm going to ask that the two alternates
14 remain seated at this time. The rest of the jury should
15 retire and begin deliberations. Thank you very much.

16 (10:42 a.m., jury retires to deliberate.)

17 THE COURT: Y'all can be seated. Okay.
18 Let's see. I should have Jason -- is it Behrens? Did I
19 get that right? And I've got Jordan Hopkins; is that
20 right?

21 ALTERNATE JUROR: Yes, sir.

22 ALTERNATE JUROR: Yes, sir.

23 THE COURT: I want to thank you very much for
24 your cooperation in this case. Your responsibility was
25 to be here, be available. If any of the jurors had

1 gotten ill, had an emergency in the family, something
2 came up and they had to leave, you would have been here
3 to take their place, and we wouldn't have had to throw
4 all our work out and gone on with the trial.

5 When all 12 of the jurors go back and begin
6 deliberations, under the law it says your job is
7 completed, so you no longer have any responsibility in
8 this case. I'm releasing you from this matter at this
9 time. I tell jurors like this that alternates, we
10 invited you to the dance, but we didn't let you dance, is
11 what happened, but, at any rate, you did fulfill a
12 service for us, and I do appreciate that.

13 I told you throughout the trial not to
14 discuss it with anyone. I'll tell you now you have the
15 right to do so. You also have the right not to do so.
16 You see, a juror in America owes no one a duty to talk
17 about anything they do on a jury. When people do talk
18 about their experience as jurors, they are doing that
19 voluntarily, so I will tell you, if someone approaches
20 you and wants to discuss this case, you have the right to
21 talk to them. You also have the right to refuse to talk
22 to them.

23 I don't think this is going to happen, but if
24 anyone should involve you or harass you, call the clerk's
25 office. We'll take the appropriate action should

1 something like that occur. I don't anticipate that
2 happening, just wanted to let you know we're available if
3 you need us if something like that were to happen.

4 Any objections to my final instructions from
5 the State?

6 MS. FRIERSON: None from the State.

7 THE COURT: From the defense?

8 MR. SMALDONE: None.

9 THE COURT: We'll be in recess until such
10 time as we have a verdict or a question. If you're going
11 to leave the area, please have some way we can get in
12 touch with you so you can come back here.

13 (12:17 p.m, in open court, jury not present.)

14 THE COURT: All right. I have been informed
15 by the bailiffs that the verdict has been reached. Is
16 the State ready to receive the verdict?

17 MS. FRIERSON: Yes, Your Honor.

18 THE COURT: Is the defense ready?

19 MR. SMALDONE: Yes, Your Honor.

20 THE COURT: All right. Bring the jury in.

21 (12:19 p.m., in open court, jury present.)

22 THE COURT: I have been informed that a
23 verdict has been reached; is that true?

24 THE FOREPERSON: Yes.

25 THE COURT: If you would pass the form to the

1 bailiff, please. Thank you very much. Ask the defendant
2 to please rise, and the clerk may publish the verdict.

3 THE CLERK: State of South Carolina versus
4 Derrick Ancrum, verdict: We the jury unanimously find as
5 follows: One, in case number 16-GS-10-01091, trafficking
6 in cocaine, 200 grams or more, guilty; number two, in
7 case number 16-GS-10-01092, trafficking in crack cocaine,
8 guilty; number three, in case number 16-GS-10-01094,
9 manufacturing crack cocaine, guilty.

10 I certify this decision was the unanimous
11 decision of the jury, signed by the foreperson, dated
12 October 17th, 2017. Mr. Foreperson, ladies and
13 gentlemen: If this is your verdict, please raise your
14 right hand.

15 Your Honor, let the record reflect ail jurors
16 have raised their right hand.

17 THE COURT: Thank you very much. You may be
18 seated. Anything further from the State before I release
19 the jury?

20 MS. FRIERSON: Nothing from the State.

21 THE COURT: Anything from the defense before
22 I release the jury?

23 MR. SMALDONE: Your Honor, I ask you poll the
24 jury.

25 THE COURT: The clerk is going to inquire of

1 indulgence on that.

2 Solicitor's office has informed me they
3 believe it's one day; but I would ask to check on the
4 public index just to make sure we're all on the same
5 page.

6 THE COURT: Check it to be sure. I don't
7 want a question to come up at a later date that we have
8 to deal with.

9 MR. SMALDONE: I believe he was arrested on
10 the 27th of August. My records show he bonded out on the
11 31st, according to public index.

12 THE COURT: So four days?

13 MR. SMALDONE: I would say five if you count
14 the 27th.

15 THE COURT: I'll give him credit for five
16 days.

17 It is the sentence of the Court in all these
18 cases -- I have run these sentences concurrently with
19 each other. I've given you credit for the five days that
20 your counsel requested for previous service. As to the
21 charge of trafficking cocaine, the sentence is 25 years.
22 On the manufacturing cocaine base second, the sentence is
23 also 25 years to run concurrently, and on the trafficking
24 in crack cocaine, 10 to 28 , the sentence is 25 years,
25 run concurrently.



Charleston Police Department
FORENSIC SERVICES DIVISION



Lab #: L15-01895 #1

Drug Analysis

Case #: 1514500

Charleston Police Department
180 Lockwood Blvd
Charleston, SC 29403

September 3, 2015

Date Submitted: August 28, 2015

Suspect: DERRICK JERMAINE ANCRUM

This is an official report of the Charleston Police Department Forensic Services Division and is to be used in conjunction with an official criminal investigation. This report contains the conclusions, opinions and interpretations of the analyst whose signature appears on the report.

Evidence

- Container 3-1: Plastic bag
- Container 4-1: Plastic bag
- Container 9-1: Plastic bag
- Container 14-1: Plastic bag
- Item 3-1: Plastic bags with rock-like substance (63)
- Item 4-1: Plastic bags with white substance (3)
- Item 4-1b: Plastic bags with rock-like substance (5)
- Item 6-1: Plastic bag with white powder
- Item 7-1: Plastic bag with white powder
- Item 7-1b: Plastic bag with white powder
- Item 7-1c: Plastic bag with white powder
- Item 9-1: Plastic bags with white powder (3)
- Item 14-1: Plastic bags with white powder (90)



Items	Weight	+/-	Results	Methods
Item 3-1	13.85g	0.08	Cocaine base	Color Test FTIR Hypergeometric Sampling
Item 4-1	1.32g	0.02	Cocaine base	Color Test FTIR Administrative Sampling
Item 4-1b	1.46g	0.02	Cocaine base	Color Test FTIR Administrative Sampling
Item 6-1	111.35g	0.01	Cocaine	Color Test FTIR
Item 7-1	13.87g	0.01	Cocaine	Color Test FTIR

Case #: 1514500	Lab #: L15-01895 #1	Drug Analysis	September 3, 2015

Item 7-1b	13.47g	0.01	Cocaine	Color Test FTIR
Item 7-1c	13.94g	0.01	Cocaine	Color Test FTIR
Item 9-1	83.44g	0.02	Cocaine	Color Test FTIR Administrative Sampling
Item 14-1	31.71g	0.09	Cocaine	Color Test FTIR Hypergeometric Sampling

ADDITIONAL COMMENTS:

Item 3-1 and Item 14-1: A hypergeometric sampling plan was employed at a 95% confidence level that 90% of the population contains the result listed. The weight reported represents the net weight of the entire population.

Item 4-1, Item 4-1b, Item 9-1, [REDACTED] An administrative sampling plan was employed by which each sample in the exhibit was tested separately. The weight reported represents the net weight of the entire population.

For items in which an uncertainty is reported, that uncertainty has been assigned based on statistical calculations with a minimum coverage probability of 95%.

End of Report

Kaitlin Schroeder

Kaitlin A-Schroeder



Charleston Police Department
FORENSIC SERVICES DIVISION



Lab #: L15-01895 #2

Latent Recovery

Case #: 1514500

Charleston Police Department
180 Lockwood Blvd
Charleston, SC 29403

September 15, 2015

Date Submitted: September 10, 2015

Suspect: DERRICK JERMAINE ANCRUM

This is an official report of the Charleston Police Department Forensic Services Division and is to be used in conjunction with an official criminal investigation. This report contains the conclusions, opinions and interpretations of the analyst whose signature appears on the report.

Evidence

Item 29-1: Plastic bag

Items	Results	Methods
Item 29-1	No fingerprint(s) recovered	Visual Exam, Cyanoacrylate and Magnetic Powder

End of Report

Mary C. Phillips

Mary Phillips
Crime Scene Investigator

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT) Warrant No(s): 2015A1010203743-44,
2015A1010203745-46) Charge(s) Trafficking Cocaine et al.

STATE OF SOUTH CAROLINA

vs.

DERRICK ANCRUM

Defendant

**MOTION TO SUPPRESS EVIDENCE
AND MEMORANDUM IN SUPPORT**

THE DEFENDANT, by and through his undersigned attorney, moves this Court pursuant to the Fourth Amendment of the United States Constitution, Article 1, § 10 of the South Carolina Constitution, and South Carolina Code § 17-13-140 for an order suppressing all evidence found pursuant to a search warrant executed at [REDACTED] Tripe St., Charleston, South Carolina on or about August 27th, 2015.

Facts

According to Detective J. Scurry's search warrant affidavit, the CPD special investigations unit conducted a "controlled purchase" of narcotics near the area of Tripe St. in mid-August of 2015. The affidavit does not state the date of the "controlled purchase" other than "within the past 72 hours."

In the search warrant affidavit, Scurry states that an undercover officer (UC) (unidentified in the warrant affidavit) made contact with a black male subject (unidentified in the warrant affidavit). The UC asked the black male subject if he had any cocaine base. The black male subject told the UC that he had to go and get the narcotics.

Scurry states that the UC observed the black male subject travel from Sycamore Avenue to Tripe Street. Detective Scurry says that he and Detective Gill observed the black male subject go to a residence at [REDACTED] Tripe Street and make contact with another black male subject (unidentified in the search warrant) standing in the door frame of the residence.

Scurry states that he and Gill then observed the first black male subject travel directly back to the UC and give the UC a quantity of cocaine base in exchange for a sum or pre-recorded U.S. currency taken from the official CPD narcotics fund. Scurry met with the UC and recovered the cocaine base. It field-tested presumptive as cocaine base and was submitted into CPD evidence.

The search warrant affidavit states that the transaction involved a sale to an undercover officer, it was conducted under controlled conditions, pre-recorded currency was used, and the purchase was monitored by video and audio surveillance.

On August 18th, 2015, at 2:45 p.m., the affidavit was submitted by Detective J. Scurry for the issuance of a search warrant (see Defense exhibit A). A search warrant was signed and issued by Magistrate Judge Ellen Steinberg at the same date and time (see Defense exhibit 2).

On August 27th, 2015, the search warrant was executed at [REDACTED] Tripe St. Multiple officers and the SWAT Team raided the residence and recovered cocaine, cocaine base, and marijuana in a bedroom identified as bedroom #2. Derrick Ancrum was placed under arrest and charged with the drug offenses in the instant case. No other occupants of the home were charged.

Argument

A magistrate may issue a search warrant only upon a finding of probable cause. State v. Bellamy, 336 S.C. 140, 143, 519 S.E.2d 347, 348 (1999). "This determination requires the magistrate to make a practical, common-sense decision of whether, given the totality of the circumstances set forth in the affidavit, including the veracity and basis of knowledge of persons supplying the information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." State v. King, 349 S.C. 142, 150, 561 S.E.2d 640, 644 (Ct. App. 2002). "The affidavit must contain sufficient underlying facts and information upon which the magistrate may make a determination of probable cause. The magistrate should determine probable cause based on all of the information available to the magistrate at the time the warrant was issued." State v. Dupree, 354 S.C. 676, 684, 583 S.E.2d 437, 441 (Ct. App. 2003) (citations omitted).

In South Carolina, the General Assembly has imposed stricter requirements than federal law for issuing a search warrant. Both the Fourth Amendment of the United States Constitution and Article I, § 10 of the South Carolina Constitution require an oath or affirmation before an officer of the court can find probable cause and issue a search warrant. U.S. Const. amend. IV; S.C. Const. art. I, § 10. Additionally, the South Carolina Code mandates that a search warrant "shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record..." S.C. Code Ann. § 17-13-140 (1985).

The Detective's observations are not sufficient information upon which a magistrate could make a probable cause determination

Although the search warrant affidavit states that this was a "controlled purchase," none of the ordinary safeguards employed in a controlled buy were used in this case. The unidentified black male who sold the drugs to the UC was not searched before he went to the residence on Tripe Street. He was not arrested immediately after the purchase and never relayed any information to officers regarding the circumstances of the drug transaction prior to the drawing of the affidavit. He was not wearing audio or video surveillance equipment, and the officers have no

way of knowing whether the unidentified black male had the drugs on his person before he sold them to the UC.

Although the warrant affidavit says that the purchase was made with marked bills, there is no reference in the affidavit to a recovery of marked bills from the defendant or any person at his residence. Marked bills were not recovered, and this does not contribute to any probable cause determination.

There were no prior controlled purchases of drugs at the home on Tripe Street. There was no controlled purchase of drugs *at the home* on the unidentified date in mid-August that is described in the warrant affidavit. The UC made a controlled purchase from an unidentified black male. The affidavit alleges that the unidentified black male purchased a quantity of drugs from another unidentified black male standing "in the doorframe" of the home, which was some distance away from the UC and the location of the controlled buy.

The UC was not present at the home and did not witness the alleged drug transaction. There was no audio or video surveillance of the alleged drug transaction at the home. According to the warrant affidavit, Detectives Scurry and Gill were also not present at the home and did not witness the alleged drug transaction. They were driving by in a vehicle. The warrant affidavit does not allege that Scurry and Gill witnessed a drug transaction at the home. It states only that they saw the unidentified black male go to the residence and "make contact with another black male subject standing within the door-frame of the residence." The person that the first black male made contact with at the home is also unidentified in the warrant affidavit.

In *State v. Gentile*, 646 S.E.2d 171, 373 S.C. 506 (S.C. App., 2007), the Court found that the search warrant affidavit was insufficient to establish probable cause where: 1) There were numerous citizen complaints about a high volume of traffic at the residence; 2) A citizen told police that she smelled marijuana coming from the residence; and 3) Officers pulled over a visitor as he left the residence and found marijuana in his possession.

The warrant affidavit in this case does not allege any additional complaints such as a high volume of traffic or an odor of marijuana. It relies solely on Scurry's statement that he and Gill witnessed an unidentified black male "make contact" with another unidentified black male at the residence on Tripe Street, and the first black male's later sale of drugs to an undercover officer.

The officers have no knowledge as to whether the unidentified black male purchased drugs from the defendant in this case. The unidentified black male was not searched prior to going to the home on Tripe street. Although there was surveillance by Scurry and Gill from their vehicle as they drove down the street, there is no verification that the unidentified black male purchased the drugs from the residence. The officers did not state in the warrant affidavit that they saw drugs or money at the residence or even that they observed a hand-to-hand transaction.

The Court in *Gentile* found that there was no probable cause stated under similar circumstances:

Finally, the arrest of one of Gentile's visitors did not support a finding of probable cause to search the residence. According to the testimony and the affidavit, the officers discovered marijuana in the possession of the driver after he left Gentile's residence. The officers, however, had no knowledge of whether the driver purchased the marijuana from Gentile. Neither the driver nor his vehicle was searched prior to going to Gentile's residence. Furthermore, without surveillance within Gentile's residence, there was no verification that the driver in fact purchased marijuana from Gentile.

In contrast, the South Carolina Supreme Court upheld a search warrant in State v. Kinloch, 767 S.E.2d 153, 410 S.C. 612 (S.C., 2014), where the warrant affidavit established that:

- Officers had received numerous complaints over a period of several months of drug activity at the residence;
- Officers observed numerous parties conducting hand-to-hand transactions in front of the residence;
- Officers observed a man counting money as he returned to the residence following a transaction;
- Officers followed the same man to a nearby gas station where they observed him exchange a plastic baggy for money; and
- When they approached the individual who had purchased the baggy, he dropped it and its contents tested positive for heroin.

The facts in this case are exactly like the facts in *Gentile*, except, in *Gentile*, there were the additional allegations of the odor of marijuana and numerous citizen complaints. In this case, there were zero complaints of drug activity referenced in the warrant affidavit. There was no odor of marijuana at the residence. There were zero observations of hand-to-hand transactions at the residence. Officers did not observe drugs, money, or even a hand-to-hand transaction.

The only supporting testimony in the search warrant affidavit is that 1) the officers witnessed an unidentified black male "make contact" with another unidentified black male; and 2) the first unidentified black male then traveled to meet with the UC and sold crack cocaine to the UC.

The search warrant in this case does not state sufficient information upon which a magistrate could make a probable cause determination because, as in *Gentile*, the officers had no knowledge of whether the unidentified black male purchased the drugs from the defendant. The unidentified black male was not searched prior to going to the defendant's residence. In fact, it can be inferred from the affidavit that no one officer had an uninterrupted view of the unidentified black male walking from the UC to the residence on Tripe St. Instead, we are left to piece together his actions from the view of the undercover officer combined with the views of Scurry. Furthermore, without surveillance on the defendant's residence, there was no verification that the unidentified black male in fact purchased the drugs from the defendant.

The search warrant should be suppressed because it does not set forth information as to the reliability of the informant, the source of the facts that are alleged, or why the police believe the suspect is the person who committed the crime.

In State v. Johnson, 302 S.C. at 247, 395 S.E.2d at 169 (1990), our supreme court found an affidavit defective because "it [did] not set forth any information as to the reliability of the informant nor was the information corroborated."

Although the affidavit states that the informant saw the evidence in Johnson's home within 72 hours of the issuance of the warrant, it does not set forth any information as to the reliability of the informant nor was the information corroborated. The officer who had obtained the warrant testified during *248 the suppression hearing that he had worked with the informant on several other cases. It is not clear from the record, however, whether this information was given to the magistrate.

Without any information concerning the reliability of the informant, "the inferences from the facts which lead to the complaint will be drawn not 'by a neutral and detached magistrate,' as the Constitution requires, but instead, by a police officer engaged in the often competitive enterprise of ferreting out crime,' or, as in this case, by an unidentified informant." (Citations omitted.) Aguilar v. Texas, 378 U.S. 108, 115, 84 S. Ct. 1509, 1514, 12 L.Ed. (2d) 723 (1964). Applying the totality of the circumstances test, it is the opinion of this Court that the affidavit by itself did not provide the magistrate with sufficient information concerning the informant's reliability upon which he could base a probable cause determination.

In State v. Jenkins, our supreme court found an affidavit defective because:

- 1) The affidavit did not set forth facts as to why the police believed the suspect was the person who committed the crime;
- 2) The affidavit did not set forth the source of the facts alleged in it. "Mere conclusory statements which give the magistrate no basis to make a judgment regarding probable cause are insufficient." Smith, 301 S.C. at 373, 392 S.E.2d at 183; and
- 3) The affidavit did not contain even a conclusory assertion that the information or its source is reliable. See Gates, 462 U.S. at 238 (stating the circumstances a magistrate must consider include the "veracity" of the persons supplying the information on which the warrant is based).

In State v. Smith, 301 S.C. 371, 392 S.E.2d 182 (1990), our supreme court found an affidavit defective because it did not state why police believed the defendant committed the crime.

An affidavit must contain sufficient underlying facts and information upon which a magistrate may make a determination of probable cause. State v. Viard, 276 S.C. 147, 276 S.E. (2d) 531 (1981). Mere conclusory statements which give the magistrate no basis to make a judgment regarding probable cause are insufficient. "[H]is action cannot be a

mere ratification of the bare conclusions of others." *Illinois v. Gates*, 462 U.S. 213, 239, 103 S. Ct. 2317, 2333, 76 L.Ed. (2d) 527, 549 (1983).

Here, the affidavit sets forth no facts as to *why* police believed Smith robbed the Master Host Inn. Although the record reveals that police relied upon information from an informant, there is no indication that this fact was made known to the magistrate, or that the magistrate made any determination of the informant's reliability.

In *State v. Weston*, 329 S.C. 287, 494 S.E. 2d 801 (1997), our supreme court found an affidavit defective because it did not state why police believed defendant committed the crime and because there was no finding as to the credibility of the informant.

In this case, the affidavit failed to set forth any facts as to why police believed Weston committed the Crumlin crime. The first three sentences of the affidavit were mere conclusory statements. While the fourth sentence provided information *292 linking Weston to his car at the time of the incident, it offered nothing to link Weston or the Datsun to the Crumlin crime itself. Additionally, there was absolutely nothing on the face of the affidavit from which the ministerial recorder could have assessed the veracity and basis of knowledge of the informant. Therefore, based on the totality of the circumstances, we find the affidavit could not have provided the ministerial recorder with a substantial basis for finding probable cause to search Weston's car.

The search warrant must set forth information as to the reliability of the informant. The search warrant affidavit in this case states that an unidentified undercover officer (UC) purchased a quantity of drugs from an unidentified black male. Once this transaction occurred, the unidentified black male essentially became an unwitting, unsearched, and unrecorded informant for law enforcement. The affidavit does not name the UC or the black male subject, or even contain so much as a conclusory statement that the informant is reliable.

The "good faith exception" in *United States v. Leon*, 468 U.S. 897, 104 S. Ct. 3405, 82 L. Ed. 2d 677 (1984) does not apply.

"[W]hen an officer acting in objective good faith has obtained a search warrant from a judge or magistrate and acted within its scope, a reviewing court should not order a suppression of the evidence based on a lack of probable cause."

However, when, as in this case and the case of *State v. Gentile*, the warrant affidavit does not "provide the magistrate with a substantial basis for determining the existence of probable cause," the good faith exception does not apply and the appellate courts have consistently held that the court should not defer to a magistrate's finding of probable cause.

From *State v. Weston*:

The State argues that the search warrant should be upheld under *United States v. Leon*, 468 U.S. 897, 920, 104 S. Ct. 3405, 3419, 82 L. Ed. 2d 677 (1984). We disagree. In *Leon*, the Supreme Court carved out a good faith exception to the exclusionary rule. The Court held that when an officer acting in objective good faith has obtained a search warrant from a judge or magistrate and acted within its scope, a reviewing court should not order a suppression of the evidence based on a lack of probable cause. The Court went on to list three situations in which it had, in the past, held that deference to a magistrate's finding of probable cause was not warranted:

First, the deference accorded to a magistrate's finding of probable cause does not preclude inquiry into the knowing *293 or reckless falsity of the affidavit on which that determination was based ... *Second*, the courts must also insist that the magistrate purport to "perform his 'neutral and detached' function and not serve as a rubber stamp for the police." ... *Third*, reviewing courts will not defer to a warrant based on an affidavit that does not "provide the magistrate with a substantial basis for determining the existence of probable cause."

See also *U.S. v. Wilhelm*, 4th Cir. Op. No. No. 94-5764 (1996):

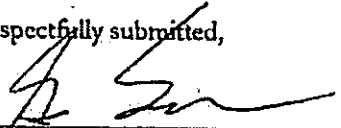
We follow the lead of two other Courts of Appeals in holding that the *Leon* good-faith exception does not apply in the case of a bare bones affidavit. In *United States v. Leake*, the Sixth Circuit, after finding that a warrant based only on an anonymous tip with scanty police corroboration was unsupported by probable cause, declined to rely on the good faith exception to the exclusionary rule. 998 F.2d 1359, 1367 (6th Cir.1993). The court found that the detective who sought the search warrant did not act in good faith, because he knew that he needed to provide corroboration of the tip, but did not. *Id.* The court held that "[j]udged on objective criteria, a reasonably well-trained officer 'would have known that the search was illegal despite the magistrate's authorization.'" *Id.*; see also *United States v. Baxter*, 889 F.2d 731, 734 (6th Cir.1989) (refusing to apply the good faith exception where "the officer involved ... had to realize that the source of the information against defendant was an unknown party who was unavailable and could not be demonstrated to be reliable").

Conclusion

For the reasons set forth above, the search warrant in this case was not valid and should be suppressed because it does not set forth sufficient information upon which a magistrate could make a probable cause determination. When a search warrant affidavit does not "provide the magistrate with a substantial basis for determining the existence of probable cause," *Leon*'s good faith exception does not apply. Therefore, the search warrant and all evidence found in the ensuing search should be suppressed.

312

Respectfully submitted,



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Dated: 10/02/2017

FILED
2017 OCT -2 PM 2:07
CLERK OF COURT
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STATE OF SOUTH CAROLINA

County of Charleston

45

9-27-2015

DCA #

15-14500

SEARCH WARRANT

Date: August 18, 2015

Officer: Det. J. Scurry

Δ Ex. A

Rule 5 23

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SEARCH WARRANT

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF CHARLESTON:

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

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

■ Tripe St. Charleston SC 29407

The residence is a two story structure that is pink in color with white in color window trim. The residence has a front porch surrounding the front door. The mailbox in front of the residence is marked with ■ There are white wooden rails leading to the front door.

See Attached Document

Also to be searched are any vehicles that can be directly linked to the residence at the time of the execution of the search warrant that are parked on the surrounding streets near the property and on the property. It should be noted that this link will be made by name or address contained within the vehicles registration that corresponds with the physical address, named residents of said location to be searched, or individuals located within the residence during the execution of the search warrant.

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

DESCRIPTION OF PROPERTY

See Exhibit A

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

A written inventory of all property seized pursuant to this Search Warrant shall be made to the Issuing Magistrate within ten days of this warrant, such inventory to be signed by the officer executing the warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made:

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

Charleston, South Carolina

August 18, 2013

Ellen L. Steinberg
Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, one Det. J. Scurry, who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located in the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

SEE EXHIBIT A

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)

TO BE SEARCHED

850 Tripe St. Charleston SC 29407

The residence is a two story structure that is pink in color with white in color window trim. The residence has a front porch surrounding the front door. The mailbox in front of the residence is marked with [REDACTED]. There are white wooden rails leading to the front door.

See Attached Document

Also to be searched are any vehicles that can be directly linked to the residence at the time of the execution of the search warrant that are parked on the surrounding streets near the property and on the property. It should be noted that this link will be made by name or address contained within the vehicles registration that corresponds with the physical address, named residents of said location to be searched, or individuals located within the residence during the execution of the search warrant.

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

Within the past 72 hours, the CPD Special Investigations Unit conducted a controlled purchase of illegal narcotics from the area of Tripe St. / Sycamore Ave., utilizing an undercover officer (UC) working under the direction and control of Det. Scurry. The UC was equipped with an audio / video recording device and the entire transaction was recorded. During the transaction, the UC made contact with the black male SUBJECT. The UC asked the male subject if he had any cocaine base. After a brief conversation the male subject advised the UC that he had to go get the narcotics. The UC observed the male subject travel from Sycamore Ave. to Tripe St. While traveling on Tripe St. Det. Scurry and Gill observed the male subject go the residence of [REDACTED] Tripe St. and make contact with another black male subject standing within the door frame of the residence. Det. Gill and Scurry then observed the black male subject travel directly back to the UC and give the UC a quantity of Cocaine Base, in exchange for a sum of pre-recorded US currency taken from the Official CPD Narcotics Fund. Det. Scurry then met back with the UC and subsequently recovered the Cocaine Base from the UC. The Cocaine Base field tested presumptive as cocaine base. The substance was submitted into CPD evidence and will be sent to the CPD Forensic Lab for further analysis.

The transaction listed above involved the sale to an undercover officer and was conducted under controlled conditions monitored by the Charleston Police Special Investigative Unit. The (UC) used pre-recorded currency to make the purchases and were monitored through visual and audio surveillance during the transaction. All of the purchased substances were entered into evidence and subsequently tested by the Charleston Police Department Forensic Services Division.

Furthermore, based on the affiant's training, experience, and participation in other narcotic and financial investigations involving drugs, your affiant further knows that drug distributors or traffickers use their residence(s) to store the following items:

- a) Large amounts of U.S. currency in order to maintain and finance their ongoing drug business.
- b) Currency, jewelry and other items of value that are proceeds of drug transactions.
- c) Items related to their business such as scales, baggies, packaging material, and drug paraphernalia.
- d) Records of trips to obtain illegal drugs as well as other information pertaining to the names and locations of such sources.
- e) Records from financial institutions which hold and/or show the proceeds of their illegal activities.
- f) Records of illegal cash proceeds obtained as a result of their drug transactions by purchasing money orders to pay bills.

I am an Officer of the City of Charleston Police Department (CPD) and have been so for over 9 years. I have been a Detective in the Central Investigations Division, Special Investigations Unit (Narcotics) and have been so nearly 2 years. During my tenure as a Narcotics Detective, I have written search and arrest warrants and frequently utilized the services of cooperating sources, and other confidential sources of information. I have written and submitted to the Court numerous affidavits in support of seizures and arrest warrants. I have also been involved in investigations whereby ETDs were placed on vehicles and monitored. As a result of my training and experience, I am familiar with how various drugs are used and the typical distribution and trafficking methods used by drug dealers and traffickers. In addition, I am also familiar with the typical methods used by traffickers to "courier" and clandestinely transport controlled substances. I have received training, both formal and informal, in the investigation of illegal drug trafficking. I have participated in the investigation, arrest, and prosecution of numerous narcotic related offences. Your affiant has a Bachelor's degree in Criminal Justice from Cameron University and has attended several narcotics related training classes and seminars over the course of his career taught by the South Carolina Criminal Justice Academy and Regional Counter Drug Training Academy. Prior to your affiant's assignment with the CPD Narcotics Unit, Detective Scurry served for over 2 years with Team 4 Power-shift, a proactive patrol unit tasked with enforcing municipal, state and federal narcotic/weapon law violations in crime plagued neighborhoods. During that time, Detective Scurry participated in the countless arrests of subjects for illegal drug offenses. Detective Scurry has served as lead case agent and assisted other investigators in narcotics investigations, which has led to the arrest of numerous individuals for illegal drug offenses. Furthermore, your affiant has conducted surveillance on suspected drug dealers, testified in federal and state court, managed informants, and interviewed numerous suspects and witnesses for drug related crimes.

Based on Detective Scurry training, experience, documentation obtain during this investigation, and the above facts, there is probable cause to believe that narcotics and / or the proceeds of narcotics are being stored inside of the residence of [redacted] Tripe St. Charleston SC 29407.

Sworn to and Subscribed before me
this 18 day of August, 2015
William S. Hendrix
Signature of Judge
2:45pm

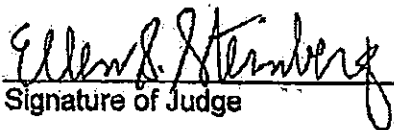
[Signature] 1482
Affiant
180 Lockwood Boulevard
Charleston, SC 29403
(843) 577-7434

EXHIBIT A

PROPERTY TO BE SEIZED

1. Books, records, receipts, notes, ledgers (both electronic and paper), and other papers and electronic documents relating to the transportation, ordering, purchasing and/or distribution of controlled substances, including but not limited to, Cocaine Base, a controlled dangerous substance.
2. Papers and electronic tickets, notes, schedules, receipts, travel itineraries and other items relating to domestic and international travel.
3. Books, electronic documents, records, receipts, bank statements and records, money drafts, letters of credit, money orders and cashier's checks, passbooks, bank checks, safe deposit box keys, and other items evidencing the obtaining, secreting, transferring, and/or concealment of assets and/or the obtaining, secreting, transfer, concealment and/or expenditure of money.
4. United States currency, precious metals, jewelry, and financial instruments, including stocks and bonds in amounts indicative of the proceeds of illegal narcotics enterprising.
5. Photographs, in particular, photographs of conspirators and co-conspirators, of assets and/or controlled substances, including but not limited to, Cocaine Base, still photos, negatives, video tapes, films, undeveloped film and the contents therein, recordable disks, and slides.
6. Papers, records, audio and video recordings, electronic transmissions and any other items showing a combination or relationship among conspirators and co-conspirators by real or alias names, correspondence, papers, records, and any other items showing employment or lack of employment or reflecting income or expenses.
7. Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to, utility, water, and telephone bills, any envelopes or other mail sent or forwarded to the premises, and keys to same.
8. Firearms and ammunitions, including but not limited to, handguns, pistols, revolvers, rifles, shotguns, and other weapons, and any records or receipts pertaining to firearms and ammunition sales, purchases or ownership.
9. Controlled Dangerous Substances, including but not limited to, Cocaine Base, and related paraphernalia.
10. Receipts for items evidencing the expenditure of the proceeds of drug distribution, including, but not limited to, clothing, furniture, jewelry, motor vehicles, boats and electronic equipment.

11. Cellular telephone devices, Computers, including personal computers, computer systems, central processing units; and computer peripheral devices, any electronic, magnetic, optical, electrochemical, or other high speed data processing and storage devices performing logical, arithmetic, or storage functions; data storage facilities (internal and/or peripheral) or media storage devices such as magnetic tape, hard disk drives, floppy disks, CD-ROM or scanner; modems, communications facilities directly relating to or operating in conjunction with such device; devices for printing records of data and such records or data produced in various forms.
12. Computer manuals, documents, logs and system documentation or instructional material including passwords, passphrases or other material whether handwritten, printed, or in book form, relating to such devices and printers.
- i. Data stored within computers or other processing and storage devices, to include computer applications, images, text, programs, encryption routines and algorithms, or other data that may be decoded, reconstituted, or otherwise manipulated to produce, utilize, transmit, receive, encrypt, encode, or display such images, text, programs, encryption routines, and algorithms that relate to the trafficking of illegal narcotics.
 - ii. Electronic communications stored within computers or other processing and storage devices as e-mail that evidence the trafficking of illegal narcotics. Such information and/or communications that may be in the form of electronic communications (such as e-mail) residing on any media (e.g., magnetic, optical or digital media). That information may include electronic communications held or maintained in electronic storage by an electronic communication service or remote computing service, as those services are defined within 18 U.S.C. 2703. These communications are referred to herein as "stored communications". These communications related to this case stored in the suspect's computer or other electronic devices as e-mail. That federal law, which is part of the Electronic Communications Privacy Act, allows interception of such electronic communication pursuant to a search warrant.
 - iii. Printed copy(s) of electronic communications between suspect and conspirators, known or unknown.


Signature of Judge


Signature of Affiant

RETURN
OCA# 15-14500
[REDACTED] Tripe Street

I received the attached search warrant on the 18th of August, 2015 and have executed it as follows: On August 27, 2015 at 1300 hours, I searched (the person) described in the warrant and (the premises). I left a copy of the warrant on the kitchen table of the residence.

Name of person searched or "at the place of search" with: Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

1. Brass colored grinder containing approximately .5 grams of marijuana. Located in top drawer of bedside table in Bedroom #2. Found by Det. Insley, recovered by Det. Gill.
2. Approximately 20 grams of numerous off white in color rock like substance consistent with cocaine base. Located inside the top dresser drawer of the tallboy dresser inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
3. Approximately 4 grams of numerous off-white in color rock like substance consistent with cocaine base located in the tall boy top dresser drawer in bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
4. Approximately 80 grams of cocaine located in the second dresser drawer from the top of the tall boy dresser inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
5. Approximately 110 grams of cocaine located in the second drawer from the top of the tall boy dresser inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
6. Approximately 40 grams of cocaine packaged in numerous small plastic bags housed inside a large plastic sandwich bag. Located inside the top dresser drawer of the tall boy inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
7. \$657 dollars of US currency in various denominations located inside the top dresser drawer of the tallboy dresser located inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
8. Box of Good sense sandwich baggies located on top of a vanity inside the downstairs back bathroom/laundry room. Found by Det. Frederick, recovered by Det. Gill.
9. Black in color AWS "blade" digital scale located on top of the vanity inside the downstairs back bathroom/laundry room. Found by Det. Frederick, recovered by Det. Gill.

Δ Ex 2

10. Approximately 20 grams of marijuana housed inside three separate plastic bags inside a large plastic bag. Located in the closet of bedroom #2 by Det. Insley, recovered by Det. Gill.
11. Black in color LG cricket flip phone cellphone located on the office chair inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
12. Black in color digital scale. Located on the corner shelf inside bedroom #2 by Det. Jolliff, recovered by Det. Gill.
13. Approximately 17 grams of marijuana packaged in 17 individual small bags inside a large plastic ziplock bag located inside a large black trash bag inside the closet of bedroom #2. Found by Det. Insley, recovered by Det. Gill.
14. South Carolina ID card DL# 007636881 in the name of Derrick Ancrum located inside the third dresser drawer of the tall boy dresser inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
15. Approximately 14 oz of marijuana inside a clear ziplock plastic bag located inside a black trash bag in the closet of bedroom #2. Found by Det. Insley, recovered by Det. Gill.
16. \$1509.00 of US currency in different denominations located on the person of Derrick Ancrum. Found by Det. Scurry, recovered by Det. Gill.
17. Small black address book located in the closet of bedroom #2. Found by Det. Insley, recovered by Det. Gill.
18. Cooking materials to include mesh colanders, copper scrubbing pads, measuring cups located inside the closet in bedroom #2 by Det. Insley, recovered by Det. Gill.
19. Black in color Hamilton Beach Coffee Grinder with white powder residue which tested presumptive for cocaine. Located inside the closet of bedroom #2 by Det. Insley, recovered by Det. Gill.
20. Blue in color bank bag containing \$2000.00 dollars in US currency in various denominations. Located in the fifth drawer of the tall boy dresser in bedroom #2 by Det. Jolliff, recovered by Det. Gill.
21. Blue and gray Brecknell digital scale located inside the fourth drawer of the tall boy dresser in bedroom #2. Located by Det. Jolliff, recovered by Det. Gill.
22. \$200.00 dollars in US currency in various denominations located inside the fifth drawer of the tall boy dresser in bedroom #2 by Det. Jolliff, recovered by Det. Gill.
23. Approximately 44 grams of cocaine housed inside 3 separate plastic bags found inside the fifth dresser drawer of the tall boy dresser inside bedroom #2. Found by Det. Jolliff, recovered by Det. Gill.
24. Black in color weigh max digital scale located on the back porch by Det. Engles, recovered by Det. Gill.
25. Black in color coast bicycle bearing serial # 07085 and CofC bike registration 2348. Located in the kitchen. Found by Det. Frederick, recovered by Det. Gill.
26. Yellow bag containing multiple packages of small ziplock baggies and 3 550 mg bottles of Inositol located in the closet of bedroom #2. Found by Det. Insley, recovered by Det. Gill.

I swear that this inventory is a true and detailed account of all the property taken by Detectives Gill, Marn, Jolliff, Scurry, Frederick, Insley, Engles, and Lt. Jenkins of the Charleston Police Department Special Investigation Unit.

SWORN to before me this 2

Day of September, 2015.

[Signature] 1482
Signature of Officer

Ellen S. Steinberg
Signature of Judge

JWS/0308368
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-14500

ARREST WARRANT NUMBER

2015A13*0203743

DATE OF ARREST

08/27/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: FEB - 1 2016 - 8 2016

VERDICT

Guilty

Foreperson of Petit Jury

Date: 10/10/17

DOCKET NO. 2016-GS-10-01091

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2016

THE STATE

VS.

DERRICK JERMAINE ANCRUM

B/M DOB [REDACTED] 7/19/72

Indictment for

TRAFFICKING IN NARCOTICS

SC Code: § 44-53-0370(e)(2)(d)

CDR Code: 0288

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2016, the Grand Jurors of Charleston County present upon their oath:

Trafficking in Cocaine

The defendant, Derrick Jermaine Ancrum, did on or about August 27, 2015, in Charleston County, South Carolina, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of two hundred (200) grams or more of Cocaine or any mixtures containing cocaine, as provided in 44-53-210(b)(4). All in violation of 44-53-0570(e)(2)(d) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WHIT SOWARDS
ASSISTANT SOLICITOR

JWS/0308358
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
2015-14500

ARREST WARRANT NUMBER
2015A1010203744

DATE OF ARREST
08/27/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: FEB - 8 2016

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: 10/18/17

DOCKET NO. 2016-GS-10-01092

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2016

THE STATE

VS.

DERRICK JERMAINE ANCRUM
B/M DOB [REDACTED]/1972

Indictment for

TRAFFICKING IN CRACK COCAINE

SC Code: § 44-53-0375(C)(1)(a)
CDR Code: 0450

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

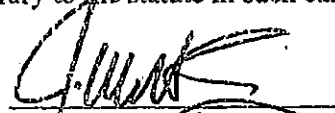
INDICTMENT

At a Court of General Sessions, convened February 2016, the Grand Jurors of Charleston County present upon their oath:

Trafficking in Crack Cocaine

The defendant, Derrick Jermaine Ancrum, did on or about August 27, 2015, in Charleston County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of ten (10) grams or more of Crack Cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). All in violation of 44-53-0375(C)(1)(a) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WHIT SOWARDS
ASSISTANT SOLICITOR

JWS/0308368
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
2015-14500

ARREST WARRANT NUMBER
201541010203746

DATE OF ARREST
08/27/2015

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date: FEB - 8 2016

VERDICT

Guilty

Clark
Foreperson of Petit Jury
Date: 10/18/17

DOCKET NO. 2016-GS-10-01094

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2016

THE STATE

VS.

DERRICK JERMAINE ANCRUM
B/M DOB [REDACTED] 1972

Indictment for

MANUFACTURE CRACK COCAINE

SC Code: § 44-53-0375(B)(1)
CDR Code: 3014

STATE OF SOUTH CAROLINA

INDICTMENT

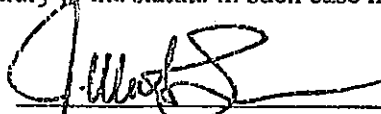
COUNTY OF CHARLESTON

At a Court of General Sessions, convened February 2016, the Grand Jurors of Charleston County present upon their oath:

Manufacture Crack Cocaine

The defendant, Derrick Jermaine Ancrum, did on or about August 27, 2015, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Crack Cocaine, a cocaine base, in violation of the provisions of Section 44-53-370. All in violation of 44-53-0375(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WHIT SOWARDS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF **CHARLESTON**
STATE VS.

DERRICK JERMAINE ANCRUM

AKA: Derrick J Ancrum

Race: Black/African American

Sex: M

DOB: 1/1972

SS#: [REDACTED]

Address: Hillsboro Drive

City, State, Zip: Charleston, SC 29407-6134

DL# [REDACTED]

SID# SC01529277

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmnt Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traffic Carcine 200g but <400g (35 years)

In violation of § 44-53-0370(e)(2)(d) of the S.C. Code of Laws, bearing CDR Code # 0288

☐ NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ Mandatory GPS

☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted,

☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Lauren M. Frickson

77023

Lauren M. Frickson, Assistant Solicitor

SC Bar #

Defendant

[Signature]

100410

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,

for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 10/18/17

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 5 days

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:

☐ Deferred

☐ Def. Waives Hearing

☐ Ordered

PTUP

Total: \$ _____ plus 26% fee: \$ _____

_____ days/hours Public Service/Employment

Payment Terms: _____

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso 61.6 (Public Def/Proin)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in instalments)

\$

TOTAL

\$ 283.25

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: [Signature]

Presiding Judge: [Signature]

Judge Code: 12135

Sentence Date: 10/18/17

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
STATE VS.DERRICK JERMAINE ANCRUMAKA: Derrick J AncrumRace: Black/African AmericanSex: MDOB: 1/1972SS#: [REDACTED]Address: Hillsboro DriveCity, State, Zip: Charleston, SC 29407-6134DL# [REDACTED]SID# SC01529277*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traffic Methyl Crack 10g bmt <28g 2nd (5-30 yrs)In violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Lawson M. Prierson 77023
Lawson M. Prierson, Assistant Solicitor SC Bar #

Defendant

[Signature] 100410
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections: 5 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: Recipient: *Fine: \$ §14-1-206 (Assessments 197.5%) \$ §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100-§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ §56-5-2995 (DUI Assessment) \$12 \$ §56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Prob) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25-§14-1-213 (Drug Court Surcharge) \$150 \$ 150-§50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ca \$ 3% to County (if paid in installments) \$ TOTAL \$ 283.25☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk: [Signature]Presiding Judge: [Signature]Judge Code: 2135Sentence Date: 10/18/17Court Reporter: [Signature]

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS. .

DERRICK JERMAINE ANCRUM

AKA: Derrick J Ancrum

Race: Black/African American

Sex: M

DOB: 1272

SS#:

Address: Hillsboro Drive

City, State, Zip: Charleston, SC 29407-6134

DL#

SID# SC01529277

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Manufacturing base 2nd (US-304YS)

In violation of § 44-53-0375(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

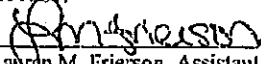
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

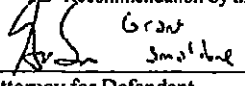
(CSC w/minor 1st or Lewd, Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:


Landon M. Frierson, Assistant Solicitor 77023 SC Bar # Defendant


Attorney for Defendant 100410 SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 10/18/17

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 5 days

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____ Obtain GED ☐

Payment Terms: _____ Attend Voc. Rehab. Or Job Corp. _____

☐ Set by SCDPPPS _____ May serve W/E beginning _____

Recipient: _____ Substance Abuse Counseling ☐

*Fine: _____ Random Drug/Alcohol Testing ☐

§14-1-206 (Assessments 107.5%) \$ _____ Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 pmts. of \$ _____ Beginning _____

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ \$ _____ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment) \$12 \$ _____ Other: _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

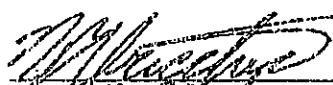
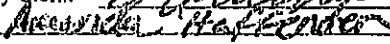
§14-1-213 (Drug Court Surcharge) \$150 \$ 150

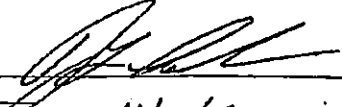
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____

3% to County (if paid in installments) \$ \$ 8.25

TOTAL \$ 288.25 ☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

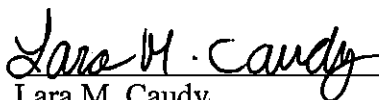
Clerk of Court/Deputy Clerk: 
Court Reporter: 

Presiding Judge: 
Judge Code: 2135
Sentence Date: 10/18/17

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of June, 2019.

RECEIVED
JUN 10 2019
SC Court of Appeals