

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable William H. Seals, Circuit Court Judge

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Oct 28 2020

S.C. SUPREME COURT

TREVIN MILLEDGE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2020-000276

APPENDIX

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STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NUMBERS 2011-GS-07-01653
2011-GS-07-01654, 2011-GS-07-01655, 2011-GS-07-01656

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

JANUARY 26, 27, 28, 2015
TRANSCRIPT OF PRETRIAL
MOTIONS/HEARINGS AND TRIAL
BEAUFORT, SOUTH CAROLINA

TREVIN LORENZO MILLIDGE

DEFENDANT

B E F O R E:

CARMEN T. MULLEN, JUDGE

AND A JURY

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

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1 DAY ONE, MONDAY, JANUARY 26,

2 2015, 11:59 A.M.

3 JUROR QUALIFICATION, BY THE COURT:

4 BAILIFF: Court is now in session, the Honorable
5 Carmen Mullen presiding.

6 THE COURT: Thank you. Please be seated. Good
7 morning, ladies and gentlemen.

8 RESPONSES FROM JURORS.

9 THE COURT: Is this working? Hopefully.

10 Ladies and gentlemen, my name is Carmen Mullen. I
11 am the resident circuit court judge here in Beaufort
12 County, although I do preside all over the state, and
13 specifically over the Fourteenth Judicial Circuit, which
14 includes not only Beaufort County, but also Jasper,
15 Hampton, Allendale, and Colleton Counties.

16 Ladies and gentlemen, this week, it is my pleasure
17 to be holding a term of criminal court. And
18 additionally, we have Craig Brown, from Florence, South
19 Carolina, holding a term of civil court here in Beaufort
20 County for us.

21 Ladies and gentlemen, there are a number of things
22 that we are required to do on Monday morning, when we go
23 ahead and qualify a jury. I want to go ahead and just
24 explain to you very briefly how court typically runs.

25 Ladies and gentlemen, I will tell you that your

1 service will not extend past Friday. So, if anyone has
2 problems or concerns about potentially being here over
3 the weekend, or if you have plans, I don't want you
4 worried about it. We're going to get you out of here.

5 Additionally, it's my understanding, at this point,
6 ladies and gentlemen, that we have, I believe, left,
7 two, possibly three, cases left on our jury trial
8 rosters, between both of us. When we begin a week, we
9 have a lot more than that, ladies and gentlemen. But
10 one way or the other, they have resolved.

11 So, what we are looking to do this morning is go
12 ahead and qualify you all as potential jurors. Then, I
13 will go ahead and ask questions specific to my first
14 trial, and I will pull my criminal trial. And then,
15 Craig Brown will come on out, and he will pull his civil
16 trial.

17 Those of you that are not chosen will be dismissed
18 to go home, and potentially called back, in case there
19 is another case. Again, we never know how long a trial
20 is going to take when it begins, so we ask that you call
21 back after 6:00 o'clock every evening, so we know
22 whether or not we need you to come back in, and if we
23 need your services. All right?

24 Jerri, have they been sworn in?

25 MADAM CLERK: Yes, ma'am.

1 THE COURT: Ladies and gentlemen, I am just going
2 to remind you that, under the oath that you took
3 earlier, when you first came in, you are required to
4 answer the questions that I am asking.

5 And I will tell you, ladies and gentlemen, some of
6 these questions can be a bit personal. I don't want
7 anyone to suffer any embarrassment here. If there is a
8 question that you need to respond to, and you don't feel
9 comfortable standing up and announcing it in front of
10 all of your fellow jurors, you can do one of two things,
11 ladies and gentlemen. You can stand, give me your name
12 and juror number, and then ask to approach. You and I
13 will then have a conversation in what I'm going to call
14 relative private, because it has to be on the record
15 with my court reporter, and the attorneys that are
16 trying the cases here this week are entitled to hear
17 what you have to say.

18 Or, ladies and gentlemen, at the very end of all my
19 questions, I am going to ask a catch-all question. It
20 simply says, for any reason whatsoever you need to speak
21 with me, now is the time to do it, because after this,
22 you're going to be found qualified. All right?

23 So, ladies and gentlemen, without any further ado,
24 I'm going to begin my questions.

25 Ladies and gentlemen, is any member of the jury

1 panel not a citizen of the United States? If so, please
2 stand.

3 Is any member of the jury panel not a resident and
4 citizen of Beaufort County? If so, please stand.

5 Is any member of the jury panel unable to read,
6 write, speak, or understand the English language? If
7 so, please stand. And I say this every week. If you
8 can't understand the English language, I have absolutely
9 no idea how you're supposed to respond to this question,
10 but I am required to ask it.

11 Ladies and gentlemen, does any member of the jury
12 panel have less than a sixth grade education or its
13 equivalent?

14 Now, ladies and gentlemen, if you have raised a
15 family, paid your bills, held a job, I think you have
16 more than a sixth grade education. But I want to make
17 sure you feel comfortable sitting and hearing and
18 accepting evidence in the case. If you have any
19 concerns about this question whatsoever, at the very end
20 of my questions, please come forward and speak with me.
21 I can tell you, within a thirty-second conversation, I
22 can determine whether or not you're able to sit. All
23 right?

24 However, is there anyone that would like to respond
25 to this question at this time? If so, please stand.

1 Ladies and gentlemen, is any member of the jury
2 panel unable, because of mental or physical infirmities,
3 to render efficient jury service?

4 Ladies and gentlemen, that is a very rounded-out
5 way of saying, is there anyone, because of some type of
6 physical condition or mental condition, that cannot sit
7 in that jury box for about an hour at a time?

8 Ladies and gentlemen, I will tell you, as far as
9 scheduling is concerned, Craig Brown and I run our
10 courtrooms very similar. We both are going to start,
11 roughly, at 9:30 in the morning or so. We'll run until
12 the morning break, where you go back to your jury room.
13 You will have Coke, coffee, Nabs, whatever you need to
14 keep going, ladies and gentlemen. We will typically run
15 to about 1:00, which is our lunch break. During that
16 lunch break, you'll be free to go out and get a bite,
17 and usually return in about an hour, hour and fifteen
18 minutes or so.

19 We'll start back up again, and then we'll run to
20 our, again, afternoon break. And then, typically, we'll
21 run -- and I have to say typically, because in each
22 trial, it's different; it's just based on the witnesses,
23 and the breakdown of the witnesses, and how tired my
24 jury is. If you can keep going, we'll forge forward,
25 certainly in both my and Craig Brown's cases. But when

1 a jury tells me they've had enough for the day, we're
2 done for the day. So, we will go ahead and break.

3 Ladies and gentlemen, this question is for people,
4 because of health problems, cannot sit in that jury box
5 for about an hour at a time. Is there anyone that needs
6 to respond to this question? If so, please stand. Very
7 good.

8 Ladies and gentlemen, has any member of the jury
9 panel been convicted, by guilty plea or trial, in a
10 state or federal court of record, of a crime punishable
11 by imprisonment for more than one year, and your civil
12 rights have not been restored by pardon or amnesty?

13 Ladies and gentlemen, this does not mean you had to have
14 gotten a year in prison. It simply means that, as an
15 adult, you plead guilty or were convicted of a charge
16 that carried a sentence of over a year.

17 And ladies and gentlemen, at the very end of my
18 questioning, if you do have a past conviction, and
19 you're just not sure how much time it carried, come up
20 and see me when I ask you to come question me, and I
21 will go ahead, and I'll be able to tell you. You tell
22 me what it is that you pled guilty to or were convicted
23 of, and I'll tell you whether or not it excuses you from
24 the trial. All right?

25 Ladies and gentlemen, is there any member of the

1 jury panel who is a clerk or deputy clerk of court,
2 constable, sheriff, or other commissioned law
3 enforcement officer, probate judge, county commissioner,
4 magistrate, or other county officer, or employed within
5 the walls of any courthouse? If so, please stand. And
6 yes, ma'am, your name and juror number.

7 JUROR NUMBER 97: My name is Sarah Farrow, Juror
8 Number 97.

9 THE COURT: Where do you work?

10 JUROR NUMBER 97: The City of Beaufort Municipal
11 Building.

12 THE COURT: All right, ma'am. I'm going to go
13 ahead and excuse you from trial, but I appreciate you
14 coming, and I appreciate you being here. Thank you,
15 ma'am. Anyone else?

16 Ladies and gentlemen, is there any member of the
17 jury panel who has previously served on jury duty up
18 here in circuit court, not city court, magistrate court,
19 or federal court, during the last calendar year? If so,
20 please stand.

21 Ladies and gentlemen, has any member of the jury
22 panel served as a member of the Beaufort County Grand
23 Jury during the past several years? If so, please
24 stand.

25 Ladies and gentlemen, we now move to what are

1 called jury exemptions. State law provides for several
2 exemptions to jury service. Now, an exemption does not
3 mean you are not qualified to serve. It means you may
4 choose not to serve, although, if you're inclined to
5 stay with us, we certainly would greatly appreciate it.

6 Is there anyone here on the jury panel who is 65
7 years of age or older who does not wish to serve with me
8 this week? If so, please stand.

9 Ladies and gentlemen, another exemption concerns
10 prior jury service. No person is required to serve as a
11 juror more often than once every three calendar years.
12 Therefore, do I have any member of the panel that has
13 served on jury duty, again, up here in circuit court,
14 during the last two calendar years, who would like to be
15 exempted this week? If so, please stand.

16 Ladies and gentlemen, any of you that have served
17 as grand jurors in the last five calendar years may also
18 be exempted from jury service. Do I have anyone who has
19 sat on our grand jury who does not wish to serve with me
20 this week? If so, please stand.

21 Ladies and gentlemen, the next question deals with
22 those of you that have small children, and I ask that
23 you listen carefully to this question, ladies and
24 gentlemen. It has four parts, all of which must apply
25 for you to be able to claim this exemption.

1 Ladies and gentlemen, you may be exempted from jury
2 service if you have a small child or small children
3 under the age of seven, for which you have the legal
4 custody of that child or children, and you have the
5 principle care, custody, and control of that child or
6 children; and lastly, you are unable to make adequate
7 arrangements for the care of your child or children
8 while performing jury duty.

9 Ladies and gentlemen, it is presumed that, if you
10 take your children to daycare and go to work, that you
11 can do the same and come to jury duty. My only caveat
12 to that, ladies and gentlemen, is, at certain daycares,
13 you have to be there at a specific time, and we can
14 certainly accommodate that. I just need to know, as
15 well as, Craig Brown needs to know, and how long it
16 takes you to get there, as well.

17 Additionally, ladies and gentlemen, this question
18 is also for, possibly, parents who work opposite shifts
19 or stay-at-home parents. Again, we don't want anyone's
20 children to go unattended this week, but please
21 understand, we need you here and you willing to serve.
22 All right? Yes, ma'am, your name and juror number.

23 JUROR NUMBER 166: Valerie Jackson, 166.

24 THE COURT: How old are your children, Ms. Jackson?

25 JUROR NUMBER 166: Well, actually, I'm a daycare

1 owner.

2 THE COURT: Okay. And who is covering the daycare
3 today?

4 JUROR NUMBER 166: I closed it today.

5 THE COURT: You had to close it today. You have no
6 one else that works there with you?

7 JUROR NUMBER 166: No, I don't have enough children
8 to -- to provide -- to hire someone.

9 THE COURT: Ms. Jackson, what I can do is this.
10 You can either agree to come and sit this week, and I
11 don't know if you will be chosen or not, but you are
12 going to be noticed a second time, and I can transfer
13 you.

14 But at that point, when you get transferred again,
15 I can't transfer you a second time, and you're just
16 going to have to close down the daycare for that week.
17 It is completely up to you, but again, I can't excuse
18 you. I understand that's part of your business, but
19 they are not your children and under your care, custody,
20 and control. So, I cannot just permanently excuse you.

21 Would you like to sit this week, or would you like
22 me to excuse you, and we'll work something else out, and
23 transfer you to another term of court?

24 JUROR NUMBER 166: Well, when will I be able to
25 find out whether or not I'll be selected?

1 THE COURT: Well, you can't decide afterwards,
2 because once you're selected, you're mine. So, if you
3 aren't selected, you can't go anywhere.

4 JUROR NUMBER 166: How long does it take to be
5 selected?

6 THE COURT: Well, for this first jury, I can tell
7 you that it's going to be done in the next 45 minutes to
8 an hour.

9 JUROR NUMBER 166: Okay.

10 THE COURT: After that, the second jury, it might
11 be after lunch. We may have to take a break before.
12 So, it could be two-ish, somewhere around there. That's
13 --

14 JUROR NUMBER 166: Do I have to come back?

15 THE COURT: You will have to come back, yes.

16 JUROR NUMBER 166: If I'm not selected the first
17 time.

18 THE COURT: If you're not selected the first time,
19 exactly. But again, once you're selected, ma'am, you
20 don't get the option of saying you can't be here and
21 want a transfer. Again, once you're selected, you're on
22 the jury.

23 JUROR NUMBER 166: All right.

24 THE COURT: You would like to stay?

25 JUROR NUMBER 166: Yes.

1 THE COURT: All right. Thank you, ma'am. You may
2 be seated. Anyone else? Yes, ma'am, your name and
3 juror number.

4 JUROR NUMBER 303: Candice Sterling, Juror Number
5 303.

6 THE COURT: Ms. Sterling, how old are your children
7 or child?

8 JUROR NUMBER 303: They are three and two.

9 THE COURT: All right. If you stay here, you'll
10 probably get a break this week, quite frankly. People
11 will be taking care of you. I'm sure you are very busy
12 at home. Who's taking care of your babies right now?

13 JUROR NUMBER 303: My grandmother, she's 85, and
14 she is disabled.

15 THE COURT: Okay. She can't take care of them for
16 the week?

17 JUROR NUMBER 303: Huh-uh.

18 THE COURT: Is that a no, for the record?

19 JUROR NUMBER 303: Um-hmm.

20 THE COURT: Is that a yes, for the record, now?
21 All right. I apologize. I'm going to tell you, my
22 court reporter, Wanda, is taking down everything anyone
23 says in this courtroom. We are a court of record. This
24 is the highest trial court in the State of South
25 Carolina, so again, everything is done on the record.

1 Ma'am, again, Ms. Sterling, your number?

2 JUROR NUMBER 303: 303.

3 THE COURT: 303. I'm going to go ahead and excuse
4 you. I think you've earned your exemption, again.

5 We'll go ahead and excuse you, ma'am, but we'll see you
6 when your kids are all over the age of seven. Okay?

7 JUROR NUMBER 303: Okay.

8 THE COURT: Good luck to you. It looks to me like
9 that'll be awhile from now, at this point, so you can
10 go.

11 Ma'am, your name and juror number.

12 JUROR NUMBER 349: Terry Young, 349.

13 THE COURT: Yes, Ms. Young. How old are your kids?

14 JUROR NUMBER 349: It's my granddaughter.

15 THE COURT: Okay.

16 JUROR NUMBER 349: Okay. I've got to be home to,
17 pick her up -- pick her up from school at 3:00 o'clock.

18 THE COURT: Do you have legal custody of your
19 granddaughter?

20 JUROR NUMBER 349: No.

21 THE COURT: Okay. You actually -- to be able to
22 claim this exemption, you have to actually have legal
23 custody of that child. She gets off the bus, is that
24 what happens, or?

25 JUROR NUMBER 349: Yeah.

1 THE COURT: Okay.

2 JUROR NUMBER 349: And then, on -- then, on
3 Wednesdays, I take her to therapy on Wednesdays.

4 THE COURT: You pick up what?

5 JUROR NUMBER 349: She goes to therapy on
6 Wednesday. I have to take her to therapy on Wednesday.

7 THE COURT: Ma'am, what I can do is this, because
8 it seems like you haven't arranged for someone else to
9 take care of her. What I can do is transfer your jury
10 service. But again, the next time we transfer you, you
11 cannot be excused in any way. Would you like me to do
12 that?

13 JUROR NUMBER 349: Yes.

14 THE COURT: All right. Well, come on up here. Go
15 ahead and we'll talk to Nikki, and we'll go ahead and
16 get you transferred. We'll get you rescheduled, but
17 ma'am, when you get this next notice, you need to have
18 someone else cover the children. Okay?

19 JUROR NUMBER 349: Okay.

20 THE COURT: All right. Come on over and talk to
21 us. Thank you.

22 BAILIFF: Come on around.

23 THE COURT: And give me your number again, ma'am.
24 Your number?

25 JUROR NUMBER 349: 349.

1 THE COURT: 349. All right. You're excused for
2 the week. Thank you.

3 BAILIFF: Go around, and come right here.

4 THE COURT: Yes, ma'am.

5 JUROR NUMBER 15: Indra Aviles, Number 15.

6 THE COURT: Yes, ma'am.

7 JUROR NUMBER 15: And I have a four-year-old.

8 THE COURT: How old?

9 JUROR NUMBER 15: Four.

10 THE COURT: Four-year-old? Do you stay home with
11 that child?

12 JUROR NUMBER 15: Yes, ma'am.

13 THE COURT: All right. You have no one to care for
14 that child this week?

15 JUROR NUMBER 15: I just asked my friend to do it
16 for today.

17 THE COURT: Just for today. All right. Well, I'm
18 going to go ahead and excuse you, and we'll look forward
19 to seeing you in another three years. All right? Thank
20 you.

21 COURT REPORTER: Is that Number 15?

22 THE COURT: That's Number 15, Wanda.

23 COURT REPORTER: Thank you.

24 THE COURT: She's excused. Anyone else?

25 Ladies and gentlemen, the next exemption involves

1 those of you who may be attending school at this time,
2 or working in some capacity with the school. Now, if
3 this exemption applies to you, and you wish to be
4 exempted, what I can do is transfer your jury service to
5 a term of court that doesn't conflict with your school
6 responsibilities. In other words, spring break, summer
7 break, holiday break. All right?

8 Ladies and gentlemen, therefore, is there anyone
9 who is a full-time student, school teacher, school
10 crossing guard, school bus driver, or who serves in any
11 other school-related function, who is unable to serve on
12 jury duty here this week as a result of your school
13 involvement? If so, please stand.

14 Sir, your name and juror number.

15 JUROR NUMBER 157: Delmer Hollingsworth, 157.

16 THE COURT: Yes, sir.

17 JUROR NUMBER 157: I teach the EMT program at a
18 technical college in the Lowcountry, and I have class
19 scheduled Tuesday and Thursdays. It starts at 9:00.

20 THE COURT: 9:00 in the morning?

21 JUROR NUMBER 157: Yes, ma'am.

22 THE COURT: Okay. Would you like me to transfer
23 you to a term that you're not teaching?

24 JUROR NUMBER 157: Yes, ma'am. We don't follow a
25 semester schedule. It's a continuing education site, so

1 that --

2 THE COURT: And that's fine. You know your
3 schedule. You just come up here and tell her what week
4 is good, and we'll look forward to seeing you back then.
5 Okay? And give me your number again, sir.

6 JUROR NUMBER 157: 157.

7 THE COURT: Thank you, sir. Come on up and tell
8 her when works for you. Okay?

9 BAILIFF: This way, sir.

10 THE COURT: Anyone else?

11 Ladies and gentlemen, is any member of the jury
12 panel employed with the Department of Corrections at a
13 penitentiary? If so, please stand.

14 Ladies and gentlemen, is there any juror who
15 performs services for a business, commercial, or
16 agricultural enterprise which are so essential to that
17 business or enterprise, that, if you are required to
18 perform jury duty here this week, that business or
19 enterprise would have to shut its doors or close down?

20 Ladies and gentlemen, I understand that this is
21 inconvenient for most people, and I understand that
22 there are many other things that you probably would
23 rather or need to be doing. However, ladies and
24 gentlemen, I simply cannot do Beaufort County's business
25 unless there are jurors here, willing to serve. Again,

1 and I've said it many times, other than fighting for
2 your country, jury service is the highest duty you can
3 perform, and it certainly is an obligation of citizens.

4 However, ladies and gentlemen, I do understand that
5 sometimes, you can get noticed for the absolute worst
6 week in 52 of the year for jury service. And again,
7 general inconvenience is not enough, but I can consider
8 transferring you, ladies and gentlemen, if you really
9 need me to. But I am going to tell you right now that,
10 when I started, I believe -- I should be down to what,
11 84? How many am I down to, Jerri? 82?

12 MADAM CLERK: I see 85.

13 THE COURT: Okay. Ladies and gentlemen, I need
14 jurors willing to serve to be able to pull two juries
15 here this morning. So, again, these are random pulls,
16 and we need a good deal of people. The attorneys are
17 able to exercise strikes, so there are a good number of
18 people. It's not just the minimum number that we need.
19 Again, I am encouraging you to stay.

20 However, ladies and gentlemen, now is the time, if
21 you need to talk to me concerning jury service, or,
22 ladies and gentlemen, there is an earlier question that
23 you needed to respond to, now is the time, because after
24 this, I'm going to find you qualified, and I am going to
25 pull the jury in my first case. All right?

1 So, if you do need to speak with me regarding jury
2 service, ladies and gentlemen, I'm going to ask that you
3 form a line right over here. I am going to do my very
4 best for you, ladies and gentlemen, but I do, again,
5 want to tell you how necessary your presence is here
6 today. All right? So, again, if you need to speak with
7 me, go ahead and line up, and I'll see what I can do.
8 Okay?

9 Give me one second. Where's Mr. Newman? Where's
10 Jared?

11 BAILIFF: He's coming from the back, your Honor.

12 THE COURT: There he is. Okay.

13 Come on up, sir.

14 BAILIFF: Juror Number 186, your Honor.

15 ON-THE-RECORD BENCH CONFERENCE, OUT OF
16 HEARING OF JURORS. PRESENT: THE COURT,
17 JUROR NUMBER 186, MS. MUSSER, AND MR. NEWMAN.

18 THE COURT: All right.

19 JUROR NUMBER 186: How are you?

20 THE COURT: Mr. Lawrence, it's a pleasure to meet
21 you, sir.

22 JUROR NUMBER 186: Nice to meet you.

23 THE COURT: Come on up. I'm going to make you come
24 close to me.

25 JUROR NUMBER 186: Okay.

1 BAILIFF: Order, please.

2 JUROR NUMBER 186: My stepfather is dying of
3 prostate cancer. He was given his last rites yesterday,
4 and --

5 THE COURT: I'm sorry.

6 JUROR NUMBER 186: -- I am going to have to leave
7 this week to go up there. Hospice is in the house.

8 THE COURT: I understand. Okay. Okay. Mr.
9 Lawrence, what I'm going to do is have you go talk to
10 this lady with the long hair over here.

11 JUROR NUMBER 186: Okay.

12 THE COURT: She's going to -- you tell her what
13 month is good for you. Okay?

14 END BENCH CONFERENCE.

15 THE COURT: All right. Mr. Lawrence, Number 186,
16 is excused.

17 BAILIFF: Juror Number 46, your Honor.

18 THE COURT: Come on.

19 ON-THE-RECORD BENCH CONFERENCE, OUT OF
20 HEARING OF JURORS. PRESENT: THE COURT,
21 JUROR NUMBER 46, MS. MUSSER, AND MR. NEWMAN.

22 THE COURT: How are you?

23 JUROR NUMBER 46: Hi. Tom Bullard.

24 THE COURT: Nice to meet you.

25 JUROR NUMBER 46: Good to meet you.

1 THE COURT: Pleasure, Mr. Bullard. What number are
2 you?

3 JUROR NUMBER 46: 46.

4 THE COURT: All right. What can I do for you?

5 JUROR NUMBER 46: My mother is actually having
6 heart surgery.

7 THE COURT: Okay.

8 JUROR NUMBER 46: At the end of this week, in
9 Virginia.

10 THE COURT: Um-hmm.

11 JUROR NUMBER 46: And I need to go up there.

12 THE COURT: When are you going?

13 JUROR NUMBER 46: Wednesday.

14 THE COURT: All right. Well, I can tell you, if
15 you want me to do this, if you want to stay for two
16 days, my case is only going to take two days to try, so
17 if I could keep you here just, you know, potentially,
18 for that case, if you get chosen, and just protect you
19 for the rest of the week.

20 JUROR NUMBER 46: Um-hmm.

21 THE COURT: Do you want me to do that, so you can
22 get it over with, or would you rather me just transfer
23 you?

24 JUROR NUMBER 46: Just transfer, because I --

25 THE COURT: You just want to transfer.

1 JUROR NUMBER 46: I've got some work I need to do
2 prior to that.

3 THE COURT: Okay.

4 JUROR NUMBER 46: I don't mind sitting, you know.

5 THE COURT: Okay.

6 JUROR NUMBER 46: Next time I'm called, I don't
7 mind.

8 THE COURT: All right.

9 END BENCH CONFERENCE.

10 THE COURT: Mr. Bullard is going to be transferred,
11 Number 46. So, go ahead.

12 BAILIFF: Juror Number 339, your Honor.

13 ON-THE-RECORD BENCH CONFERENCE, OUT OF
14 HEARING OF JURORS. PRESENT: THE COURT,
15 JUROR NUMBER 339, MS. MUSSER, AND MR. NEWMAN.

16 THE COURT: How are you, sir? Give me one moment.
17 I apologize. Mr. Williams, pleasure to meet you.

18 JUROR NUMBER 339: How are you doing?

19 THE COURT: Very good. Thank you, sir. What can I
20 do for you?

21 JUROR NUMBER 339: Due to my religious beliefs, I
22 choose not to pass judgment on anyone at any time.

23 THE COURT: Okay.

24 BAILIFF: Order, please.

25 THE COURT: Can you even -- would you do a civil

1 case?

2 JUROR NUMBER 339: No.

3 THE COURT: Can you even handle a civil case at
4 all?

5 JUROR NUMBER 339: No.

6 THE COURT: I mean, it's just money damages.

7 JUROR NUMBER 339: Not passing judgment.

8 THE COURT: You can't at all?

9 JUROR NUMBER 339: No, ma'am.

10 THE COURT: All right. What religion are you?

11 JUROR NUMBER 339: Holiness.

12 THE COURT: Okay. All right. We will go ahead and
13 excuse you, Mr. Williams, but thank you for being here.

14 JUROR NUMBER 339: Yes, ma'am.

15 END BENCH CONFERENCE.

16 THE COURT: Number 339 is excused. Go ahead and go
17 that way, sir.

18 BAILIFF: Juror Number 274, your Honor.

19 ON-THE-RECORD BENCH CONFERENCE, OUT OF
20 HEARING OF JURORS. PRESENT: THE COURT,
21 JUROR NUMBER 274, MS. MUSSER, AND MR. NEWMAN.

22 THE COURT: Mr. Ropes, Carmen Mullen. It's a
23 pleasure, sir.

24 JUROR NUMBER 274: Nice to meet you, Judge. My son
25 was admitted to -- to Beaufort County Hospital last

1 Thursday night. He is now in mental health area.

2 THE COURT: Okay.

3 JUROR NUMBER 274: He is going to be released by
4 the doctor tomorrow, and Social Secur -- Social Services
5 worker has requested my wife and myself meet with her
6 this afternoon to go over --

7 THE COURT: Okay. Okay. Bad week. Okay. Let me
8 do this. I'm going to go ahead and transfer you.

9 JUROR NUMBER 274: That's fine.

10 THE COURT: I want you to go see this lady right
11 down here, with the long hair. You tell her what month
12 is best for you.

13 JUROR NUMBER 274: Not a problem.

14 THE COURT: Okay? Thank you.

15 END BENCH CONFERENCE.

16 THE COURT: Mr. Ropes is going to be transferred.

17 BAILIFF: Juror Number 213, your Honor.

18 THE COURT: Thank you.

19 ON-THE-RECORD BENCH CONFERENCE, OUT OF
20 HEARING OF JURORS. PRESENT: THE COURT,
21 JUROR NUMBER 213, MS. MUSSER, AND MR. NEWMAN.

22 THE COURT: Mr. McNamara, it's nice to meet you,
23 sir.

24 JUROR NUMBER 213: Nice to meet you. I'm not a
25 county employee, obviously, but I do work in a detention

1 center probably three or four times a week.

2 THE COURT: Here?

3 JUROR NUMBER 213: I do facilities for the county.

4 THE COURT: Okay. You do facilities.

5 JUROR NUMBER 213: Yeah.

6 THE COURT: Do you have any problem sitting as a
7 juror?

8 JUROR NUMBER 213: Well, just because I tend to
9 deal with most of the guys when they're around.

10 THE COURT: Let me tell you what I would rather do,
11 if it's okay with you.

12 JUROR NUMBER 213: Um-hmm.

13 THE COURT: We're doing a double term of court.

14 JUROR NUMBER 213: Um-hmm.

15 THE COURT: We're doing, first, a criminal trial.

16 JUROR NUMBER 213: Yes.

17 THE COURT: And then, a civil trial. Do you feel
18 comfortable sitting in a civil trial?

19 JUROR NUMBER 213: That's fine.

20 THE COURT: Let me do that.

21 JUROR NUMBER 213: That's fine. Okay.

22 THE COURT: So, I'm going to protect you from this
23 first case. And then, when Craig -- you don't need to
24 answer any questions --

25 JUROR NUMBER 213: Right

1 THE COURT: -- that I'm going to ask for this first
2 case.

3 JUROR NUMBER 213: For this first one.

4 THE COURT: You got it. Craig Brown's going to
5 come out; you answer that. Okay?

6 JUROR NUMBER 213: That's fine.

7 END BENCH CONFERENCE.

8 THE COURT: Number 213, Mr. McNamara, is going to
9 be protected from my case, but put him on for the civil
10 case.

11 MADAM CLERK: Yes, ma'am.

12 THE COURT: Okay?

13 JUROR NUMBER 213: Thank you.

14 THE COURT: Appreciate it. Thank you.

15 BAILIFF: Juror Number 319, your Honor.

16 ON-THE-RECORD BENCH CONFERENCE, OUT OF
17 HEARING OF JURORS. PRESENT: THE COURT,
18 JUROR NUMBER 319, MS. MUSSER, AND MR. NEWMAN.

19 THE COURT: Pleasure to meet you.

20 JUROR NUMBER 319: I'm Mike Viccaro. It's good to
21 meet you.

22 THE COURT: Pleasure. What can I do for you?

23 JUROR NUMBER 319: I'm a single dad, and I'm an
24 architect. I own my own firm. I've got one employee.

25 THE COURT: Okay.

1 JUROR NUMBER 319: I'm not there to sign documents
2 or provide -- I've got to shut the doors.

3 THE COURT: Okay. I understand that.

4 JUROR NUMBER 319: So, you know, I've got a -- my
5 daughter's eight. I was just going to call for the
6 exemption, but she's, you know, just eight, and --

7 THE COURT: Okay. Just misses it.

8 JUROR NUMBER 319: Yeah.

9 THE COURT: Okay. What I can do is this. I can
10 transfer you, if you want, but because she's not for the
11 exemption, and I just can -- got to do it during that
12 time that's --

13 JUROR NUMBER 319: What do I do about my employee?

14 THE COURT: They have to work, or that's all they
15 can do. I mean, that's -- everyone is in the same
16 position you are. I have a lot of people who, again,
17 don't work, they don't get paid. So, it's the same
18 thing for everybody. But if you want to, I don't know
19 if there's a slower time for you or not; I don't know if
20 that exists. So, what I can do is this. I'm going to
21 go ahead and transfer you, so you can deal with work
22 this week.

23 JUROR NUMBER 319: I'd rather get it -- get it over
24 with this week than be transferred.

25 THE COURT: You would rather? You sure?

1 JUROR NUMBER 319: I'd rather be --

2 THE COURT: Are you sure?

3 JUROR NUMBER 319: -- dismissed.

4 THE COURT: Okay. Well, I can't dismiss you,
5 because you don't meet any of the exemptions for the
6 qualifications for it. So, it's up to you. I can
7 transfer you to a time that you think is going to be
8 slower. I just want to make sure you've arranged for
9 your daughter, and taken care of her and all that,
10 right?

11 JUROR NUMBER 319: I have to be there by -- I've
12 got to get her back to Okatie, get her back to Okatie by
13 6:00.

14 THE COURT: Okay.

15 JUROR NUMBER 319: So, I just need to be home by
16 5:00.

17 THE COURT: I know exactly where she goes. Okay.
18 Yeah, I know. Okay. Okay. But you've got to go pick
19 her up in Hilton Head, and then get there? Is that what
20 you have to do?

21 JUROR NUMBER 319: Yeah. So, I need to leave here
22 by 4:15.

23 THE COURT: I've got to tell you, you're going to
24 have to -- I'm going to have to transfer you, and you're
25 just going to have to arrange, next time, to have

1 someone be able -- you're just going to have to hire
2 someone, or get your employee or someone to do it,
3 because I don't think -- I know, at least in my case,
4 there's no way we're going to be able to break at 4:00
5 o'clock, for you to be able to get all the way there.
6 And I certainly understand that drive; I do it every
7 day. But that's a long way there and back, and you're
8 right. You would need at least by 4:00.

9 So, I want you to go talk to the lady over here.
10 I'm going to transfer you, sir. It's Number 319. We're
11 going to transfer you, and just shoot for something
12 that's not horrible for you.

13 JUROR NUMBER 319: Okay.

14 THE COURT: Okay? Time-wise. Okay? Thank you.

15 END BENCH CONFERENCE.

16 THE COURT: Mr. Vaccaro, Number 319, is being
17 transferred.

18 BAILIFF: Juror Number 5, your Honor.

19 ON-THE-RECORD BENCH CONFERENCE, OUT OF

20 HEARING OF JURORS. PRESENT: THE COURT,

21 JUROR NUMBER 5, MS. MUSSER, AND MR. NEWMAN.

22 THE COURT: How are you? It's so nice to meet you.
23 Ms. Albany, what can I do for you?

24 JUROR NUMBER 5: I have a little personal problem.
25 It's an issue here, and I need to, like, run back and

1 forth to the restroom.

2 THE COURT: Okay.

3 JUROR NUMBER 5: And so.

4 THE COURT: Let me ask you this. Can you not sit
5 for roughly 45 minutes or so?

6 JUROR NUMBER 5: I may -- probably can.

7 THE COURT: What I need you to do is this. If you
8 get chosen on a jury, all you got to do is flag us down.

9 JUROR NUMBER 5: Okay.

10 THE COURT: All you got to do is wave your hand.
11 We will take a break immediately. Are you okay with
12 that?

13 JUROR NUMBER 5: Oh, yes.

14 THE COURT: Are you sure?

15 JUROR NUMBER 5: Yeah, okay.

16 THE COURT: Are you sure?

17 JUROR NUMBER 5: Um-hmm.

18 THE COURT: That's all you have to do. Okay?

19 JUROR NUMBER 5: Okay.

20 THE COURT: And if you can't get a judge's
21 attention, you're going to have a bailiff that's going
22 to stick a chair right there. If you get chosen --

23 JUROR NUMBER 5: Um-hmm.

24 THE COURT: -- you just get their eye and say --
25 you go like this. You want a break, you go like this.

1 JUROR NUMBER 5: Okay.

2 THE COURT: And that means a break.

3 THE COURT: And so, we'll immediately take one.

4 But I'd love to keep you, if I can.

5 JUROR NUMBER 5: Okay.

6 THE COURT: Is that all right?

7 JUROR NUMBER 5: That's fine.

8 END BENCH CONFERENCE.

9 THE COURT: All right. Ms. Albany, Number 5, we're
10 going to keep her. Thank you. I appreciate it.

11 BAILIFF: Juror Number 199, your Honor.

12 ON-THE-RECORD BENCH CONFERENCE, OUT OF
13 HEARING OF JURORS. PRESENT: THE COURT,
14 JUROR NUMBER 199, MS. MUSSER, AND MR. NEWMAN.

15 THE COURT: How are you? And I'm not shaking your
16 hand, your poor thing. What can I do for you?

17 JUROR NUMBER 199: I had total shoulder
18 replacement, so I don't think -- I was looking forward
19 to coming, out of boredom, but I just --

20 THE COURT: That's terrible.

21 JUROR NUMBER 199: Oops.

22 THE COURT: Okay.

23 JUROR NUMBER 199: And I don't want to take the
24 medication, because I think it'll --

25 THE COURT: It will --

1 JUROR NUMBER 199: I won't hear anything you're
2 saying, and it'd be a total waste.

3 THE COURT: Right. Okay.

4 JUROR NUMBER 199: I'm not quite on my feet yet.

5 THE COURT: I understand. You want me to go ahead
6 and have you transferred? Is that okay?

7 JUROR NUMBER 199: Probably. Unless the others are
8 not willing.

9 THE COURT: Let's hope it doesn't go. You're
10 right. Let's do this, Ms. MacDonald.

11 END BENCH CONFERENCE.

12 THE COURT: Ms. MacDonald, Number 199, we're going
13 to transfer her. And I want you to go tell her when you
14 think is a good -- the very last girl over here.

15 JUROR NUMBER 199: Okay. Okay.

16 THE COURT: Tell her when is a good time.

17 JUROR NUMBER 199: Okay.

18 THE COURT: Whatever month you -- I can't give you
19 an exact date, but I can give you a month. And you just
20 say --

21 JUROR NUMBER 199: Okay.

22 THE COURT: -- give yourself some time.

23 JUROR NUMBER 199: Thank you.

24 END BENCH CONFERENCE.

25 THE COURT: Feel better. Okay? Thank you.

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JUROR QUALIFICATION

1 BAILIFF: Juror Number 193, your Honor.

2 ON-THE-RECORD BENCH CONFERENCE, OUT OF
3 HEARING OF JURORS. PRESENT: THE COURT,
4 JUROR NUMBER 193, MS. MUSSER, AND MR. NEWMAN.

5 THE COURT: Hi. Mr. Lisk, it's a pleasure to meet
6 you.

7 JUROR NUMBER 193: This might be a little
8 frivolous.

9 THE COURT: That's okay.

10 JUROR NUMBER 193: I only have Mondays and Tuesdays
11 off every week.

12 THE COURT: Okay.

13 JUROR NUMBER 193: So, I work every weekend.

14 THE COURT: Right.

15 JUROR NUMBER 193: I don't know if -- just to give
16 me any time to myself, then, if I mean, you know, a
17 juror Monday through Friday and have to work every
18 weekend.

19 THE COURT: Okay. You know, I can't excuse you for
20 that.

21 JUROR NUMBER 199: Okay. Okay.

22 THE COURT: I'm sorry, and I apologize, but --

23 JUROR NUMBER 199: That's okay.

24 THE COURT: Okay.

25 JUROR NUMBER 199: Thanks.

1 THE COURT: We'll -- okay. Thank you.

2 END BENCH CONFERENCE.

3 THE COURT: All right. Mr. Lisk is going to stay
4 with us.

5 BAILIFF: Juror Number 28, your Honor.

6 THE COURT: Okay.

7 ON-THE-RECORD BENCH CONFERENCE, OUT OF
8 HEARING OF JURORS. PRESENT: THE COURT,
9 JUROR NUMBER 28, MS. MUSSER, AND MR. NEWMAN.

10 THE COURT: How are you?

11 JUROR NUMBER 28: Fine.

12 THE COURT: Good. Ms. Blanding, yes, what can I
13 do?

14 JUROR NUMBER 28: I actually work mornings, and I
15 have a four-year-old, and my mother watches him through
16 the morning, and after that, I have him. His father is
17 incarcerated.

18 THE COURT: Okay. His --

19 JUROR NUMBER 28: So, I don't have anyone else.

20 THE COURT: To watch?

21 JUROR NUMBER 28: To watch him.

22 THE COURT: Okay. So, you can't stay. All right.
23 I'm going to go ahead and excuse you, and I'll see you
24 when that child's a little bit older. Okay?

25 JUROR NUMBER 28: Okay. Thank you.

1 END BENCH CONFERENCE.

2 THE COURT: All right. Ms. Blanding, Number 28, is
3 excused.

4 BAILIFF: Juror Number 166, your Honor.

5 ON-THE-RECORD BENCH CONFERENCE, OUT OF
6 HEARING OF JURORS. PRESENT: THE COURT,
7 JUROR NUMBER 166, MS. MUSSER, AND MR. NEWMAN.

8 THE COURT: How are you? It's nice to meet you.

9 JUROR NUMBER 166: Nice to meet you.

10 THE COURT: Yes, ma'am.

11 JUROR NUMBER 166: Despite the fact that I have the
12 daycare, I have a daughter that I home school.

13 THE COURT: Um-hmm.

14 JUROR NUMBER 166: I'm going to probably need to
15 accept that --

16 THE COURT: Transfer?

17 JUROR NUMBER 166: Yeah.

18 THE COURT: Okay. What I'm going to have you do is
19 this, Ms. Jackson. Go see Nikki over there, and she is
20 going to go ahead and transfer you. You just tell her
21 what month is the best. Okay?

22 JUROR NUMBER 166: Okay.

23 THE COURT: And you know what? I can tell you
24 this. How old is your daughter?

25 JUROR NUMBER 166: Fifteen.

1 THE COURT: Bring her on up. If you get called
2 next time --

3 JUROR NUMBER 166: She's right there.

4 THE COURT: She -- I can tell you right now, on top
5 of it all, she would learn a lot here. And I hope --
6 you call me, it would be a term of court of mine, and I
7 will talk to her all week long and keep her here. It
8 wouldn't -- she could learn a lot.

9 JUROR NUMBER 166: Well, how would that affect the
10 school?

11 THE COURT: How would that affect her school? She
12 could actually be, also, doing her other work. I'm
13 assuming some of it is done on computer, or not?

14 JUROR NUMBER 166: Online, yes.

15 THE COURT: I'm sure it is. So, I'm sure we could
16 figure out something where she could sit back there and
17 work on her computer, too, so.

18 JUROR NUMBER 166: I didn't think about that.

19 THE COURT: I think we can work with her, but we
20 can certainly handle that. And I'd love to have her up
21 here for a week.

22 JUROR NUMBER 166: Okay.

23 THE COURT: Okay?

24 JUROR NUMBER 166: Thank you.

25 END BENCH CONFERENCE.

1-26-15 STATE V. MILLIDGE

JUROR QUALIFICATION

1 THE COURT: All right. Ms. Jackson, go see the
2 young lady over here, and we will go ahead and transfer
3 you. Give me one second. What was her number?

4 BAILIFF: Juror Number 316, your Honor.

5 THE COURT: Okay. Thank you.

6 COURT REPORTER: 2 or 316?

7 THE COURT: 316.

8 ON-THE-RECORD BENCH CONFERENCE, OUT OF
9 HEARING OF JURORS. PRESENT: THE COURT,
10 JUROR NUMBER 316, MS. MUSSER, AND MR. NEWMAN.

11 JUROR NUMBER 316: Hey.

12 THE COURT: Hi. Give me one second, Ms. Tipton.

13 JUROR NUMBER 316: Okay.

14 THE COURT: I'm sorry. It's 316. Yeah, 316. Yes,
15 ma'am, what can I do for you?

16 JUROR NUMBER 316: I'd just like to have a
17 transfer. I start a job tomorrow. And I just start
18 tomorrow, and I really don't want to miss my first day
19 of training, so.

20 THE COURT: Okay.

21 JUROR NUMBER 316: I was going to see if you could
22 just transfer me.

23 THE COURT: I understand. Okay. All right. Let's
24 do this. I am going to transfer. You go tell her what
25 month is good, and get yourself some time out, a little

1 bit.

2 JUROR NUMBER 316: All righty.

3 THE COURT: So you can get in with your new job.

4 Okay?

5 JUROR NUMBER 316: Okay.

6 THE COURT: But good luck to you. Okay?

7 JUROR NUMBER 316: Thank you.

8 END BENCH CONFERENCE.

9 THE COURT: Number 316, Ms. Tipton, is going to be
10 transferred.

11 BAILIFF: Juror Number 141, your Honor.

12 ON-THE-RECORD BENCH CONFERENCE, OUT OF
13 HEARING OF JURORS. PRESENT: THE COURT,
14 JUROR NUMBER 141, MS. MUSSER, AND MR. NEWMAN.

15 THE COURT: How are you? It's nice to meet you.

16 JUROR NUMBER 141: Nice to meet you.

17 THE COURT: Pleasure. What can I do for you?

18 JUROR NUMBER 141: I have a cancer diagnosis, and
19 I've got to have a consult for today at 3:00 o'clock.

20 THE COURT: Okay.

21 JUROR NUMBER 141: I don't want to miss that.

22 THE COURT: No worries at all.

23 JUROR NUMBER 141: I -- if I can be out by then,
24 I'm fine to work the week. I just need to be out --

25 THE COURT: You need to go. You need to go. I'm

1 going to go ahead and transfer you, because I think both
2 these trials, we're going to have to work this
3 afternoon. Okay?

4 JUROR NUMBER 141: Okay.

5 END BENCH CONFERENCE.

6 THE COURT: So, Number 141, we're going to go ahead
7 and transfer her. Okay.

8 JUROR NUMBER 141: Thank you.

9 THE COURT: Okay? Good. All right. You all go
10 back really quickly. And Jerri, if you would, just sit
11 here for a second.

12 MADAM CLERK: Sure.

13 OFF THE RECORD BENCH CONFERENCE, OUT
14 OF HEARING OF JURORS. PRESENT: THE
15 COURT, MS. MUSSER, MR. NEWMAN.

16 END BENCH CONFERENCE.

17 THE COURT: Ladies and gentlemen, at this time, I
18 find this jury panel qualified.

19 Ladies and gentlemen, does anyone need a quick
20 break? Okay. This is what -- I see just a couple
21 hands. No worries, ladies and gentlemen.

22 I always endeavor, and I will tell you this, on
23 Monday morning, we do a lot of what I call hurry up and
24 wait, unfortunately, and that's just the nature of the
25 beast here in court.

1 We are going to take, ladies and gentlemen, a five-
2 minute break, literally a five-minute break. If you
3 don't need to leave, please don't. If you do have to go
4 out, I'm going to ask that you hand your badge to the
5 bailiff so we can find you.

6 As soon as you come back in, ladies and gentlemen,
7 I'm going to go ahead and pull my jury. And then, I
8 will speak with Craig Brown to see when he wants to pull
9 his, if he can go ahead and do it, or if he has to wait
10 until after lunch. It just depends.

11 So, ladies and gentlemen, by the clock in the back,
12 it is 12:30-ish, 1:00, almost. Five minutes, all right?
13 Be back, ladies and gentlemen. And then, we'll go ahead
14 and get this first jury pulled. Thank you.

15 BAILIFF: Do not leave the courthouse.

16 JURORS LEAVE COURTROOM 12:33 P.M.

17 MR. NEWMAN: Your Honor, may I approach?

18 THE COURT: Certainly.

19 MR. NEWMAN: Thank you.

20 OFF THE RECORD 12:33 P.M.

21 BACK ON THE RECORD 12:40 P.M.

22 VOIR DIRE, BY THE COURT:

23 THE COURT: All right. Are we ready? State ready?

24 MS. MUSSER: Yes, ma'am.

25 THE COURT: Is Defense ready?

1 MR. NEWMAN: Yes, ma'am.

2 THE COURT: All right. Ms. Musser, call your case.

3 MS. MUSSER: Thank you, your Honor. The State
4 calls State versus Trevin Lorenzo Millidge. He has
5 Indictment Number 2011-GS-07-01653, for trafficking
6 cocaine. As to 2011-GS-07-01654, that would be
7 possession with intent to distribute cocaine. As to
8 Indictment 2011-GS-07-01655, that would be possession
9 with intent to distribute a Schedule IV substance. As
10 to 2011-GS-07-01656, that is possession of a controlled
11 substance, Schedule I to V. And then, lastly 2011-GS-
12 07-01657, possession of a weapon during the commission
13 of a violent crime.

14 THE COURT: Thank you.

15 MS. MUSSER: And your Honor, I'm sending up the
16 original, as well as the amended versions are on top.

17 THE COURT: Thank you.

18 Ladies and gentlemen, if you will give me your
19 attention, we are about to begin the trial of the case
20 entitled, the State of South Carolina versus Trevin
21 Millidge, who is charged in the Bill of Indictments by
22 the Grand Jury of Beaufort County with the offenses of
23 trafficking in cocaine, possession with intent to
24 distribute cocaine, possession with intent to distribute
25 a Schedule IV substance, possession of a controlled

1 substance, and possession of a weapon during the
2 commission of a violent crime.

3 Ladies and gentlemen, I'm going to ask each of the
4 attorneys to introduce themselves to you, ladies and
5 gentlemen, who will be trying this case. Ms. Musser, if
6 you would, again.

7 MS. MUSSER: Good morning, your Honor. I'm Lynorr
8 Musser on behalf of the State. And sitting with me is
9 Assistant Solicitor Brian Hollen.

10 THE COURT: Mr. Newman?

11 MR. NEWMAN: Hi. My name is Jared Newman, and I
12 represent Trevin Millidge, who is --

13 THE COURT: Mr. Millidge, if you will stand and
14 face the panel, as well, sir. Thank you.

15 MR. NEWMAN: Trevin lives out in Burton. Formerly,
16 of Burton. He lives in North Carolina.

17 THE COURT: All right. Thank you, gentlemen. You
18 may be seated.

19 Ladies and gentlemen, I remind you that, under the
20 oath you took earlier, there is a number of questions I
21 need to ask you in regards to this specific case.

22 The first question is, is there any member of the
23 jury panel related by blood or connected by marriage
24 with the defendant in this case, Mr. Trevin Millidge?
25 If so, please stand.

1 Is there any member of the jury panel that is a
2 close personal friend, or share a special relationship,
3 or have any business relationship with the defendant in
4 this case, Mr. Trevin Millidge? If so, please stand.

5 Ladies and gentlemen, you have been introduced to
6 the attorneys trying this case, Ms. Musser, Mr. Hollen,
7 and Mr. Newman. The first question is, is anyone
8 related by blood, connected by marriage, or have a
9 personal friendship, or share a special relationship
10 with any of the attorneys that are trying this case? If
11 so, please stand.

12 Additionally, ladies and gentlemen, has any member
13 of the jury panel ever been prosecuted by or represented
14 by or employed by either the Solicitor's Office or their
15 law firms, or Mr. Newman's law firm? If so, please
16 stand.

17 Ladies and gentlemen, the following is a list of
18 potential witnesses in this case, and my question is
19 going to be, are you related by blood, connected by
20 marriage, or have a close personal relationship, or any
21 type of social relationship with any of these potential
22 witnesses? They are -- and if these people are here, if
23 you would please stand and face the panel for me?

24 Justyna Lindahl. Thank you. Kyle Strickland.
25 Thank you. Angela Boland. Mike Malonis. Chris

1 Sankowski. Thank you, sir. William Squires. Walker
2 Michaud. Thank you. Eric Angstadt. Raymond Heroux.
3 Renita Berry. Andres Florencio. Jeff Vortisch. John
4 Donahue. James Padgett. Eileen Rios. Jackie Legree.
5 Ramona Cooper. John Keough. William Crumpton. Rebecca
6 Whitney. Walter Criddle. Mark Cobb. Kyle Blackmon.
7 And John Ferguson.

8 Ladies and gentlemen, again, the question is, is
9 anyone related by blood, connected by marriage, or have
10 a close personal relationship, or social relationship,
11 or a friendship with any of these potential witnesses?
12 If so, please stand.

13 Ladies and gentlemen, I know you've heard this
14 case, there is an allegation of trafficking in cocaine,
15 as well as other possession with intent to distribute a
16 couple of different drugs.

17 Ladies and gentlemen, is there anything about the
18 nature of this case that would make you unable to sit
19 and hear this case? If so, please stand.

20 And again, ladies and gentlemen, the importance is
21 that you can be fair and impartial to both the State of
22 South Carolina and the defendant in this case, Mr.
23 Trevin Millidge.

24 Ma'am, your name and juror number.

25 JUROR NUMBER 192: Joan Linyard, 192.

1 THE COURT: Yes, ma'am. What would you like to
2 tell me?

3 JUROR NUMBER 192: Can I approach you?

4 THE COURT: Certainly. Come on up. And the
5 attorneys are welcome to come on up, as well.

6 BAILIFF: Juror Number 192, your Honor.

7 THE COURT: Come on up.

8 ON-THE-RECORD BENCH CONFERENCE, OUT OF
9 HEARING OF JURORS. PRESENT: THE COURT,
10 JUROR NUMBER 192, MS. MUSSER, AND MR. NEWMAN.

11 THE COURT: How are you?

12 JUROR NUMBER 192: Good.

13 THE COURT: It's so nice to meet you, ma'am.

14 JUROR NUMBER 192: Nice to meet you, also.

15 THE COURT: Thank you. Come a little closer.

16 JUROR NUMBER 192: My husband, he is incarcerated,
17 currently serving time just for trafficking in cocaine.
18 So, I don't know.

19 THE COURT: Can you be fair and impartial?

20 JUROR NUMBER 192: I think I can.

21 THE COURT: You have to be sure.

22 JUROR NUMBER 192: I think I can.

23 THE COURT: And I appreciate that. You just have
24 to be sure that you can be fair and impartial to both
25 the State and the defendant. Can you be?

1 JUROR NUMBER 192: I believe I can.

2 THE COURT: Again, I can't have you say believe.

3 JUROR NUMBER 192: Yeah.

4 THE COURT: I have to know. You have to be sure --

5 JUROR NUMBER 192: Yeah.

6 THE COURT: -- that you can put aside your
7 husband's case, knowing it has nothing to do with yours.

8 JUROR NUMBER 192: Um-hmm.

9 THE COURT: Can you do that?

10 JUROR NUMBER 192: I -- I believe I can.

11 THE COURT: Okay. Let me ask you this. Would you
12 rather not?

13 JUROR NUMBER 192: I probably would rather not.

14 THE COURT: Okay. Let me tell you what I'm going
15 to do.

16 JUROR NUMBER 192: Okay.

17 THE COURT: I'm going to excuse you from the trial
18 of this case, but the next case that we're going to pull
19 is a civil case.

20 JUROR NUMBER 192: Um-hmm.

21 THE COURT: It has nothing to do with any criminal
22 charges.

23 JUROR NUMBER 192: Um-hmm.

24 THE COURT: I'd love to be able to keep you, --

25 JUROR NUMBER 192: Um-hmm.

1 THE COURT: -- and have you answer those questions,
2 so I'm going to excuse you from this trial.

3 JUROR NUMBER 192: Um-hmm. Um-hmm.

4 THE COURT: But I want you in the next court --
5 next trial.

6 JUROR NUMBER 192: Um-hmm. Um-hmm.

7 THE COURT: Answer all those questions.

8 JUROR NUMBER 192: Um-hmm.

9 THE COURT: And then, you know, maybe there will be
10 a chance we'll put you on that. All right?

11 JUROR NUMBER 192: Yes, ma'am.

12 THE COURT: All right. Ms. Linyard, I appreciate
13 your honesty.

14 JUROR NUMBER 192: Yes, ma'am.

15 THE COURT: It's a pleasure to meet you, ma'am.

16 JUROR NUMBER 192: Thank you. You, too.

17 END BENCH CONFERENCE.

18 THE COURT: Thank you. Number 192 is excused from
19 this trial, but not the next one.

20 MADAM CLERK: Okay.

21 THE COURT: But not the next one.

22 MADAM CLERK: Got it.

23 THE COURT: Okay.

24 BAILIFF: Juror Number 84, your Honor.

25 THE COURT: Come on up.

1 BAILIFF: Juror Number 84, your Honor.

2 ON-THE-RECORD BENCH CONFERENCE, OUT OF
3 HEARING OF JURORS. PRESENT: THE COURT,
4 JUROR NUMBER 84, MS. MUSSER, AND MR. NEWMAN.

5 THE COURT: How are you? Come on up.

6 JUROR NUMBER 84: I'm not -- don't want you to
7 think I'm trying to get out of anything.

8 THE COURT: No worries.

9 JUROR NUMBER 84: My sister ex-fiancé is in twenty
10 years for trafficking cocaine.

11 THE COURT: Okay.

12 JUROR NUMBER 84: I don't know if that would make
13 me partial or not.

14 THE COURT: Okay.

15 JUROR NUMBER 84: Or be able to properly judge.

16 THE COURT: Okay. Okay. Let me do this, Mr. Ryan.
17 I'm going to excuse you from the trial of this case.

18 JUROR NUMBER 84: Okay.

19 THE COURT: But I'm going to put you on the civil
20 case.

21 JUROR NUMBER 84: No, absolutely.

22 THE COURT: Is that okay?

23 JUROR NUMBER 84: That's fine. Thank you.

24 THE COURT: So, when Judge Brown comes up, if there
25 are anymore questions that I ask, you don't need to

1 respond to them. But when Judge Brown comes up and asks
2 his questions on his case, you need to respond. Okay?

3 JUROR NUMBER 84: Absolutely.

4 THE COURT: I appreciate it. It's Mr. Ryan?

5 JUROR NUMBER 84: Ryan DeBoer.

6 THE COURT: Very good. All right. Number 84, Mr.
7 Ryan [sic], is going to be excused from this case, but
8 he is subject to the civil case. Okay?

9 MADAM CLERK: Thank you.

10 END BENCH CONFERENCE.

11 THE COURT: Come on up.

12 BAILIFF: Juror Number 69, your Honor.

13 ON-THE-RECORD BENCH CONFERENCE, OUT OF
14 HEARING OF JURORS. PRESENT: THE COURT,
15 JUROR NUMBER 69, MS. MUSSER, AND MR. NEWMAN.

16 THE COURT: How are you? It's nice to meet you.

17 JUROR NUMBER 69: Nice to meet you, too. I don't
18 know if this is of any importance.

19 THE COURT: That's All right.

20 JUROR NUMBER 69: My son, right now, is in a drug
21 rehab facility.

22 THE COURT: Okay.

23 JUROR NUMBER 69: And has been for the past year.

24 THE COURT: Okay.

25 JUROR NUMBER 69: So, I felt just, kind of, funny

1 with it because I have --

2 THE COURT: Okay. You felt like you should
3 disclose it? Yeah.

4 JUROR NUMBER 69: Yeah. That I should disclose
5 that.

6 THE COURT: Okay. Let me ask you this. Does he
7 have an alcohol problem, or alcohol and drugs?

8 JUROR NUMBER 69: Drugs.

9 THE COURT: Drugs. Okay.

10 JUROR NUMBER 69: Yes.

11 THE COURT: Do you feel comfortable sitting as a
12 juror in the trial of this case? And again, the
13 importance is, is that you need to absolutely sure that
14 you can put aside anything you have to do with your son,
15 or feelings.

16 JUROR NUMBER 69: See, that's why I don't feel like
17 I could.

18 THE COURT: Okay. And I appreciate that.

19 JUROR NUMBER 69: I mean, I could just be --

20 THE COURT: Ms. Cole, I appreciate the honesty,
21 quite frankly. What I'm going to do is this. I'm going
22 to excuse you from the trial of this case, but I want
23 you to be subject to the civil trial, which is the next
24 case.

25 JUROR NUMBER 69: Okay. That's fine.

1 THE COURT: It'll have nothing to do with drugs.
2 Is that okay with you?

3 JUROR NUMBER 69: That's fine. Yes.

4 THE COURT: Okay. So, you don't need to answer
5 anymore questions that I'm asking now.

6 JUROR NUMBER 69: Okay.

7 THE COURT: Just wait until Judge Brown comes up
8 here, and any questions he has, you do have to respond
9 to. Okay?

10 JUROR NUMBER 69: Okay.

11 THE COURT: Okay. All right.

12 JUROR NUMBER 69: Thank you.

13 THE COURT: Thank you. Got it? Okay.

14 END BENCH CONFERENCE.

15 BAILIFF: Juror Number 203, your Honor.

16 ON-THE-RECORD BENCH CONFERENCE, OUT OF
17 HEARING OF JURORS. PRESENT: THE COURT,
18 JUROR NUMBER 203, MS. MUSSER, AND MR. NEWMAN.

19 THE COURT: How are you? It's nice to meet you.
20 Hey, come on up.

21 JUROR NUMBER 203: I think I could be partial --
22 impartial to this, but my son died of a drug overdose,
23 and I don't think I could -- I just want them off the
24 streets.

25 THE COURT: You can't do it. Okay. And I

1 appreciate that. What I will do is this. I'm going to
2 protect you from this trial.

3 JUROR NUMBER 203: Yes, ma'am.

4 THE COURT: But I'm going to have you subject to
5 the civil trial. Is that okay with you?

6 JUROR NUMBER 203: That's fine.

7 THE COURT: All right. Thank you.

8 JUROR NUMBER 203: Thank you.

9 THE COURT: All right. Number 203 will be
10 protected from this trial, but not the civil case.

11 END BENCH CONFERENCE.

12 THE COURT: Ladies and gentlemen, I know you know
13 almost nothing about this case, and I know I've told you
14 almost nothing about this case. The allegations are
15 that this occurred on July 30th of 2011. And certainly,
16 you know the defendant that's involved in this case.

17 Ladies and gentlemen, has anyone seen, heard, or
18 read anything about this case, or have any independent
19 knowledge about this case whatsoever? If so, please
20 stand.

21 Ladies and gentlemen, has anyone formed or
22 expressed an opinion as to the guilt or innocence of the
23 defendant in this case, Mr. Millidge? If so, please
24 stand.

25 Ladies and gentlemen, has any member of the jury

1 panel or any member of your immediate family ever been
2 charged with or arrested for a drug offense? If so,
3 please stand.

4 All right. For each of you, I am going to ask that
5 you come up and approach me. So, if you all would come
6 over here, if you don't mind.

7 BAILIFF: Juror Number 243, your Honor.

8 THE COURT: Thank you.

9 ON-THE-RECORD BENCH CONFERENCE, OUT OF
10 HEARING OF JURORS. PRESENT: THE COURT,
11 JUROR NUMBER 243, MS. MUSSER, AND MR. NEWMAN.

12 THE COURT: How are you?

13 JUROR NUMBER 243: I'm doing good. How about
14 yourself?

15 THE COURT: Nice to meet you. What's your last
16 name?

17 JUROR NUMBER 243: Parlagreco.

18 THE COURT: Oh, nice name. What is that?

19 JUROR NUMBER 243: Italian.

20 THE COURT: Okay. Who is it that has been
21 arrested?

22 JUROR NUMBER 243: Oh, I got arrested for marijuana
23 a long time ago.

24 THE COURT: Like, when you were young?

25 JUROR NUMBER 243: Yeah. Seven years ago.

1 THE COURT: How old are you? Yeah. I was going to
2 say, you're pretty young now, so. Okay. I just needed
3 to know that, and we need to disclose it. Can I ask you
4 another quick question?

5 JUROR NUMBER 243: Yeah.

6 THE COURT: Come here. What happened with that?
7 Did they just write you a ticket, or how was it?

8 JUROR NUMBER 243: Well, back then, you lost your
9 license and stuff. I don't think you lose your license
10 no more for it.

11 THE COURT: Okay.

12 JUROR NUMBER 243: It was just simple possession.

13 THE COURT: Did you plead guilty to it or what did
14 you do?

15 JUROR NUMBER 243: I think I pled no contest.

16 THE COURT: Just no contest to it? Okay. And it
17 was about ten years ago?

18 JUROR NUMBER 243: Yeah, a long time ago.

19 THE COURT: All right. I appreciate that. Go sit
20 down. Thank you.

21 MR. NEWMAN: Tell him he can get that off his
22 record if he wants to.

23 THE COURT: Oh, well. I'll go tell him that, sure.
24 Come on.

25 END BENCH CONFERENCE.

1 BAILIFF: Juror Number 206, your Honor.

2 ON-THE-RECORD BENCH CONFERENCE, OUT OF
3 HEARING OF JURORS. PRESENT: THE COURT,
4 JUROR NUMBER 206, MS. MUSSER, AND MR. NEWMAN.

5 THE COURT: How are you?

6 JUROR NUMBER 206: All right.

7 THE COURT: It's nice to meet you.

8 JUROR NUMBER 206: Yes, ma'am.

9 THE COURT: Yes, sir.

10 JUROR NUMBER 206: My foster sibling was arrested
11 for distribution.

12 THE COURT: Okay. How long ago?

13 JUROR NUMBER 206: She was 18. I don't know. I
14 wasn't even living in the same state.

15 THE COURT: Okay. Do you have any idea what
16 happened with those charges? Did she plead guilty, or?

17 JUROR NUMBER 206: She served some jail time.

18 THE COURT: She served some jail time for it.

19 JUROR NUMBER 206: So.

20 THE COURT: Okay. All right. I appreciate it.
21 That's all I needed to know. Okay? Thank you, sir.

22 JUROR NUMBER 206: No problem.

23 THE COURT: Appreciate it.

24 END BENCH CONFERENCE.

25 BAILIFF: Juror Number 249, your Honor.

1 ON-THE-RECORD BENCH CONFERENCE, OUT OF
2 HEARING OF JURORS. PRESENT: THE COURT,
3 JUROR NUMBER 249, MS. MUSSER, AND MR. NEWMAN.

4 THE COURT: Hey. How are you?

5 JUROR NUMBER 249: Doing well.

6 THE COURT: Nice to meet you, sir. Give me your --
7 and I apologize, I'm going to grab it, Mr. Pinckney.

8 JUROR NUMBER 249: I'm sorry. Um-hmm.

9 THE COURT: Yes, what is it?

10 JUROR NUMBER 249: My uncle pulled a strong-armed
11 robbery back in -- I don't know, it happened when I was
12 seven.

13 THE COURT: Your uncle?

14 JUROR NUMBER 249: Yeah, he recently got out five
15 days ago.

16 THE COURT: Okay. All right. Well, I appreciate
17 that. That's all I needed to know. Thank you. Okay?
18 Thank you, Mr. Pinckney.

19 JUROR NUMBER 249: You're welcome.

20 END BENCH CONFERENCE.

21 BAILIFF: Juror Number 94, your Honor.

22 ON-THE-RECORD BENCH CONFERENCE, OUT OF
23 HEARING OF JURORS. PRESENT: THE COURT, JUROR
24 NUMBER 94, MS. MUSSER, AND MR. NEWMAN.

25 THE COURT: How are you?

1 JUROR NUMBER 94: I'm fine. How are you?

2 THE COURT: Nice to meet you.

3 JUROR NUMBER 94: Nice to meet you.

4 THE COURT: Come on over. Yeah.

5 JUROR NUMBER 94: My father was convicted of
6 marijuana charges, felony.

7 THE COURT: Okay.

8 JUROR NUMBER 94: Thirty-some-odd years ago.

9 THE COURT: Okay. All right. Long time ago.

10 JUROR NUMBER 94: Long time ago.

11 THE COURT: All right. I appreciate it, Ms.
12 Eggert. We're going to let you go. Thank you. She's
13 still here.

14 END BENCH CONFERENCE.

15 BAILIFF: Juror Number 149, your Honor.

16 ON-THE-RECORD BENCH CONFERENCE, OUT OF
17 HEARING OF JURORS. PRESENT: THE COURT,
18 JUROR NUMBER 149, MS. MUSSER, AND MR. NEWMAN.

19 THE COURT: How are you? Pleasure.

20 JUROR NUMBER 149: Well, thank you.

21 THE COURT: Thank you. Yes.

22 JUROR NUMBER 149: This is irrelevant. I mean, it
23 goes way back to the seventies. An older brother of
24 mine got a pot conviction.

25 THE COURT: It doesn't matter. That's all I needed

1 to know. It doesn't matter. Of course. It doesn't
2 matter.

3 JUROR NUMBER 149: It wouldn't play in my mind.

4 THE COURT: I got it. Don't worry. Thank you.

5 END BENCH CONFERENCE.

6 BAILIFF: Juror Number 5, your Honor.

7 ON-THE-RECORD BENCH CONFERENCE, OUT OF

8 HEARING OF JURORS. PRESENT: THE COURT,

9 JUROR NUMBER 5, MS. MUSSER, AND MR. NEWMAN.

10 THE COURT: Yes, ma'am.

11 JUROR NUMBER 5: Again. I got a nephew was
12 arrested and --

13 THE COURT: That's all right.

14 JUROR NUMBER 5: -- and I had to sit in on his
15 trial.

16 THE COURT: You did?

17 JUROR NUMBER 5: Um-hmm.

18 THE COURT: How long ago was that?

19 JUROR NUMBER 5: Maybe seven, eight years ago, I
20 think.

21 THE COURT: Was he convicted, or do you know? Was
22 he convicted?

23 JUROR NUMBER 5: No.

24 THE COURT: No, he wasn't?

25 JUROR NUMBER 5: Huh-uh.

1 THE COURT: Okay. All right. Well, very good.

2 Was that here in Beaufort County?

3 JUROR NUMBER 5: Right here in this courthouse.

4 THE COURT: And what was his last name?

5 JUROR NUMBER 5: Albany. George Albany.

6 THE COURT: Okay. Okay. Well, I appreciate that.

7 JUROR NUMBER 5: Okay.

8 THE COURT: Thanks for telling me.

9 JUROR NUMBER 5: All right.

10 THE COURT: Okay. Thank you.

11 END BENCH CONFERENCE.

12 BAILIFF: Juror Number 350, your Honor.

13 ON-THE-RECORD BENCH CONFERENCE, OUT OF

14 HEARING OF JURORS. PRESENT: THE COURT,

15 JUROR NUMBER 350, MS. MUSSER, AND MR. NEWMAN.

16 THE COURT: How are you?

17 JUROR NUMBER 350: Hi. I'm good.

18 THE COURT: Nice to meet you. Come on up, if you
19 would.

20 JUROR NUMBER 350: Yes. My -- I think my brother
21 might have been.

22 THE COURT: Convicted of what? Tell me.

23 JUROR NUMBER 350: I don't know. A minor marijuana
24 charge.

25 THE COURT: Just nothing.

1 JUROR NUMBER 350: Yeah.

2 THE COURT: Just like minimum.

3 JUROR NUMBER 350: Yeah.

4 THE COURT: Okay. Yeah. I appreciate knowing
5 that. Do you remember how long ago it was?

6 JUROR NUMBER 350: I have no idea.

7 THE COURT AND MS. MUSSER CONFERRING.

8 BACK TO BENCH CONFERENCE:

9 THE COURT: Let me ask you, do you have a brother
10 that's got pending charges right now? You do?

11 JUROR NUMBER 350: That's him, yeah.

12 THE COURT: That's him? Okay. All right. That's
13 all I needed to know. Thank you. Thank you. You're
14 fine. Okay. Anything else? Anything else? All right.
15 You all can go sit down.

16 END BENCH CONFERENCE.

17 BY THE COURT:

18 THE COURT: Ladies and gentlemen, is there anyone
19 on the jury panel or a member of your immediate family
20 ever served as a law enforcement officer? That could be
21 either in the past or currently, ladies and gentlemen.
22 Again, has any member of the jury panel ever served in
23 law enforcement or any member of your immediate family?
24 In other words, your husband, your children. Okay?

25 Do you know what? We can go ahead, and we can

1 include your parents, as well, but certainly not in-laws
2 and everybody else. And cousins, that -- I don't need
3 to know that. Okay?

4 All right. Sir, let's start with you. Your name
5 and juror number.

6 JUROR NUMBER 37: William Broome, 37.

7 THE COURT: Yes, sir.

8 JUROR NUMBER 37: I did serve in the South African
9 police for four years, back from 1978 to 1981.

10 THE COURT: Thank you, sir. I appreciate it. You
11 may be seated.

12 Sir, your name and jury number.

13 JUROR NUMBER 234: Clifford Mrkvicka, Juror Number
14 234. My father served in law enforcement in the state
15 of Oregon, state police and sheriff's department.

16 THE COURT: For how long, roughly? Was it his
17 entire career, or?

18 JUROR NUMBER 234: For most of his career, roughly
19 25 years.

20 THE COURT: All right. Sir, I appreciate it.
21 Thank you. You may be seated, sir.

22 Yes, sir.

23 JUROR NUMBER 57: My brother is retired Prince
24 Georges County, Maryland, police officer, 24 years.

25 THE COURT: Thank you, sir. I appreciate it.

1 Yes, ma'am.

2 BAILIFF: Juror Number, please?

3 MADAM CLERK: Number? Juror number?

4 THE COURT: Sir, I'm sorry. I apologize. Sir,
5 what was your number again?

6 JUROR NUMBER 57: Oh. 57.

7 THE COURT: Thank you. I'm sorry, ma'am. Yes.

8 JUROR NUMBER 307: Susan Summerall, Juror Number
9 307.

10 THE COURT: Yes, ma'am.

11 JUROR NUMBER 307: My mother was a Beaufort County
12 Deputy Sheriff for ten years.

13 THE COURT: Okay. When did she retire?

14 JUROR NUMBER 307: She didn't retire. She quit in
15 2007.

16 THE COURT: Okay. All right. I appreciate it,
17 ma'am. Thank you.

18 Yes, ma'am.

19 JUROR NUMBER 86: My name is Camille Donaldson.
20 I'm Juror Number 86. I was a sergeant at a correctional
21 facility for two years.

22 THE COURT: Okay. Which correctional facility?

23 JUROR NUMBER 86: Augusta Youth Development Campus.

24 THE COURT: About how long ago?

25 COURT REPORTER: I'm sorry?

1 THE COURT: You said it was for two years?

2 JUROR NUMBER 86: Yes.

3 THE COURT: She said Augusta Youth Development
4 Campus. Is that correct?

5 JUROR NUMBER 86: Yes, ma'am.

6 THE COURT: How long ago was that, again? I'm
7 sorry.

8 JUROR NUMBER 86: I've been gone almost -- probably
9 about nine months now.

10 THE COURT: Okay. Thank you, ma'am. Anyone else?

11 BAILIFF: One standing, your Honor.

12 THE COURT: Oh, yes, sir.

13 JUROR NUMBER 112: My name, for the record, Joshua
14 Fritz, Juror Number 112. My mother does work for
15 Coastal State Prison. She's a nurse.

16 THE COURT: Where is Coastal State Prison?

17 JUROR NUMBER 112: In Pooler, Georgia.

18 THE COURT: All right, sir. Thank you. I
19 appreciate it.

20 Ladies and gentlemen, is anyone conscious of any
21 interest, any bias, or any prejudice, for or against the
22 defendant in this case, Mr. Millidge? If so, please
23 stand.

24 Ladies and gentlemen, does anyone know of any
25 reason whatsoever that you cannot give both the State of

1 South Carolina and the defendant in this case, Trevin
2 Millidge, a fair and impartial trial? If so, please
3 stand.

4 Is there anything further requested of this jury
5 from the State?

6 MS. MUSSER: No, your Honor. Thank you.

7 THE COURT: From the Defense?

8 MR. NEWMAN: No, your Honor.

9 THE COURT: All right. Ladies and gentlemen,
10 what's going to happen at this time is, all of those
11 that have been qualified for this case, your name is
12 going to be placed into the computer. It is going to
13 draw me a random list.

14 The strikes are five and five, Jerri, as well as,
15 we're going to pull two alternates.

16 Ladies and gentlemen, that list is going to be
17 drawn. What is going to happen is, when your name is
18 called, I want you to simply stand in place. You don't
19 have to do anything. Just stand there. The attorneys
20 are going to look at you, and they're going to beg my
21 indulgence as they're looking back for your name and for
22 your record and what you do, and each of them are going
23 to be given an opportunity to accept you or to strike
24 you as jurors.

25 If you are accepted, ladies and gentlemen, you're

1 going to come take a seat up here. If you are rejected
2 on this trial, and I hate to use the word rejected; I
3 don't mean it that way -- I'm going to have you sit
4 right -- stay in your seat, and we're going to go ahead,
5 and I'll go ahead and tell you what we're going to do
6 after this, after we pull this jury. All right?

7 So, bear with us. Does anyone need a quick break?

8 RESPONSES FROM JURORS.

9 THE COURT: No. They're ready to go. All right.
10 I certainly understand that. Will you let me know when
11 we've got it all in? Okay?

12 And ladies and gentlemen, if anyone wants to stand
13 up and take what I call the first inning stretch, you
14 more than are welcome to. I know baseball season is
15 coming up, and in my house, everyone is very excited.

16 MR. NEWMAN: Your Honor, while they're doing that,
17 can we approach?

18 THE COURT: Certainly.

19 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
20 HEARING OF JURORS. PRESENT: THE COURT, MS.
21 MUSSER, AND MR. NEWMAN.

22 END BENCH CONFERENCE.

23 THE COURT: Are we ready?

24 MADAM CLERK: Yes.

25 THE COURT: All right.

1 JUROR SELECTION:

2 MADAM CLERK: Juror Number 17, Joseph Barentine.

3 What says the State?

4 MS. MUSSER: Please excuse the juror.

5 THE COURT: You may be seated, sir.

6 MADAM CLERK: Juror Number 232, Carol Morrissey.

7 What says the State?

8 MS. MUSSER: Please present the juror.

9 MADAM CLERK: What says the Defense?

10 THE COURT: Keep standing, ma'am.

11 MR. NEWMAN: Please excuse the juror.

12 THE COURT: You may be seated now.

13 MADAM CLERK: Juror Number 89, Rodney Drayton.

14 What says the State?

15 MS. MUSSER: Please excuse the juror.

16 MADAM CLERK: Juror Number 57, James Carr. What
17 says the State?

18 MS. MUSSER: Please present the juror.

19 MADAM CLERK: What says the Defense?

20 MR. NEWMAN: What was the juror number again?

21 THE COURT: Number 57.

22 MR. NEWMAN: Please swear the juror.

23 THE COURT: Come on around, Mr. Carr. Welcome.

24 MADAM CLERK: Juror Number 307, Susan Summerall.

25 What says the State?

1 MS. MUSSER: Please present the juror.

2 MADAM CLERK: What says the Defense?

3 MR. NEWMAN: Your Honor, may we approach?

4 THE COURT: You may.

5 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
6 HEARING OF JURORS. PRESENT: THE COURT,
7 MS. MUSSER, AND MR. NEWMAN.
8 END BENCH CONFERENCE.

9 MR. NEWMAN: Strike the juror.

10 MADAM CLERK: Juror Number 231, Carlene Morris.

11 What says the State?

12 MS. MUSSER: Please present the juror.

13 MADAM CLERK: What says the Defense?

14 MR. NEWMAN: Please swear the juror.

15 THE COURT: Come on around, Ms. Morris.

16 MADAM CLERK: Juror Number 264, Jaclyn Reiselt.

17 What says the State?

18 MS. MUSSER: Please present the juror.

19 MADAM CLERK: What says the Defense?

20 MR. NEWMAN: Please swear the juror.

21 THE COURT: Come on around.

22 MADAM CLERK: Juror Number 5, Thelma Albany. What
23 says the State?

24 MS. MUSSER: Please excuse the juror.

25 BAILIFF: You can sit down, ma'am.

1 MADAM CLERK: Juror Number 309, Albertha Taylor.

2 What says the State?

3 MS. MUSSER: Please present the juror.

4 MADAM CLERK: What says the Defense?

5 MR. NEWMAN: Please swear the juror.

6 THE COURT: Come on around, Ms. Taylor.

7 BAILIFF: Come and take a seat, ma'am.

8 MADAM CLERK: Juror Number 91, Andrew Dudley. What
9 says the State?

10 MS. MUSSER: Please present the juror.

11 MADAM CLERK: What says the Defense?

12 MR. NEWMAN: Please excuse the juror.

13 BAILIFF: Sit down, sir.

14 MADAM CLERK: Juror Number 12, Craig Arnold. What
15 says the State?

16 MS. MUSSER: Please present the juror.

17 MADAM CLERK: What says the Defense?

18 MR. NEWMAN: Please swear the juror.

19 MADAM CLERK: Juror Number 336, Linda Wise. What
20 says the State?

21 MS. MUSSER: Please present the juror.

22 MADAM CLERK: What says the Defense?

23 MR. NEWMAN: Please excuse the juror.

24 BAILIFF: Sit down, ma'am.

25 MADAM CLERK: Juror Number 262, Stephanie

1 Rasmussen. What says the State?

2 MS. MUSSER: Please present the juror.

3 MADAM CLERK: What says the Defense?

4 MR. NEWMAN: Please swear the juror.

5 THE COURT: Come on around, ma'am.

6 MADAM CLERK: Juror Number 330, James Warfield.

7 What says the State?

8 MS. MUSSER: Please present the juror.

9 MADAM CLERK: What says the Defense?

10 MR. NEWMAN: Please swear the juror.

11 MADAM CLERK: Juror Number 3, Tenaya Adams. What
12 says the State?

13 MS. MUSSER: Please present the juror.

14 MADAM CLERK: What says the Defense?

15 MR. NEWMAN: Please swear the juror.

16 MADAM CLERK: Juror Number 112, Joshua Fritz. What
17 says the State?

18 MS. MUSSER: Please present the juror.

19 MADAM CLERK: What says the Defense?

20 MR. NEWMAN: Please swear the juror.

21 MADAM CLERK: Juror Number 241, Gilda Owen. What
22 says the State?

23 MS. MUSSER: Please present the juror.

24 MADAM CLERK: What says the Defense?

25 MR. NEWMAN: Please excuse the juror.

1 MADAM CLERK: Juror Number 265, James Reynolds.

2 What says the State?

3 MS. MUSSER: Please present the juror.

4 MR. NEWMAN: Please swear the juror.

5 MADAM CLERK: Juror Number 224, Thomas Michaels.

6 What says the State?

7 MS. MUSSER: Please present the juror.

8 MR. NEWMAN: Please swear the juror.

9 MADAM CLERK: Juror Number 193, Andrew Lisk. What
10 says the State?

11 MS. MUSSER: Please excuse the juror.

12 MADAM CLERK: Juror Number 243, Joshua Parlagreco.

13 What says the State?

14 BAILIFF: Sit up.

15 THE COURT: Sir, sit up.

16 MS. MUSSER: Please present the juror.

17 MR. NEWMAN: Please swear the juror.

18 MADAM CLERK: Juror Number 57 --

19 THE COURT: I'm sorry. Sir? Sit down.

20 UNIDENTIFIED: Who, me?

21 THE COURT: Yes, sir.

22 UNIDENTIFIED: I am.

23 THE COURT: And don't say anything.

24 MADAM CLERK: We are now pulling for the
25 alternates.

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JUROR SELECTION

1 THE COURT: Two and one, yes, sir.

2 MADAM CLERK: Juror Number 53, Charles Cain. What
3 says the State?

4 MS. MUSSER: Please present the juror.

5 MADAM CLERK: What says the Defense?

6 MR. NEWMAN: Please excuse the juror.

7 BAILIFF: Please sit down, sir.

8 MADAM CLERK: Juror Number 326, William
9 Vanvolkinberg. What says the State?

10 MS. MUSSER: Please excuse the juror.

11 MADAM CLERK: Juror Number 245, Vincent Passero.

12 MS. MUSSER: Please present the juror.

13 MADAM CLERK: What says the Defense?

14 MR. NEWMAN: Please excuse the juror.

15 MADAM CLERK: Juror Number 86, Camille Donaldson.

16 What --

17 MS. MUSSER: Please pre --

18 MADAM CLERK: What says the State?

19 MS. MUSSER: Please present the juror.

20 MR. NEWMAN: Please swear the juror.

21 THE COURT: Come on up, Ms. Donaldson.

22 MADAM CLERK: Juror Number 39, Angel Brown. What
23 says the State?

24 MS. MUSSER: Please present the juror.

25 MADAM CLERK: What says the Defense?

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1 MR. NEWMAN: Please swear the juror.

2 BY THE COURT:

3 THE COURT: Are there any matters of law that we
4 need to take up regarding the jury selection process,
5 from the State?

6 MS. MUSSER: No, your Honor.

7 THE COURT: From the Defense?

8 MR. NEWMAN: Yes, ma'am.

9 THE COURT: Okay. Ladies and gentlemen that are
10 back here, what I'm going to do is this. Ladies and
11 gentlemen, I'm going to simply ask that you all go to
12 lunch, and I'm going to ask that you return at 2:30,
13 where we'll go ahead and continue, either with this
14 case, or Craig Brown will go ahead and try -- or pull
15 his jury, ladies and gentlemen. I appreciate you being
16 here as promptly as possible. We can't start until
17 every one of you are here.

18 Go grab a bite to eat, ladies and gentlemen. I
19 look forward to seeing you back here in the courtroom at
20 2:30. Thank you.

21 BAILIFF: Leave your badges with the bailiffs at
22 the back of the courtroom, please. You will come back
23 to the jury assembly room, like you did this morning.

24 JURORS NOT CHOSEN LEAVE COURTROOM 1:18 P.M.

25 THE COURT: All right. Ladies and gentlemen, there

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1 is matter that I need to take up with the attorneys, and
2 rather than sit and have you wait on it, I'm going to
3 send you all to lunch, as well. I just have a couple of
4 other additional comments I need to give you, as
5 potential jurors in the trial of this case.

6 To begin with, when you go grab lunch today, you
7 are not allowed to tell anyone that you have been chosen
8 as a juror in a trial. The only thing you can do is,
9 over the lunch hour, if you talk with a family member or
10 a boss or something, or work, you may say that you have
11 been chosen as a juror in a criminal trial, but that is
12 it. You cannot say the charges. You cannot say the
13 parties involved. You cannot say the attorneys trying
14 the case. And the reason why is, inevitably, someone is
15 going to try to tell you something about something, and
16 they know nothing about this case.

17 Ladies and gentlemen, you all have everything you
18 need to decide this case right here in this courtroom,
19 and it would be highly inappropriate for you to be
20 influenced by any outside source. So, in addition to
21 not talking about it, I don't want you, over the lunch
22 hour, to do any independent research. I don't want you
23 to look up the law. I don't want you to do anything in
24 regards to this case, other than go get a bite to eat.
25 Come back.

1 What I'm going to do now is, I'm going to excuse
2 you back to a jury room. They're going to take you to a
3 jury room. That is where you're going to report back at
4 2:30, ladies and gentlemen, where we'll go ahead and
5 finish taking up this matter. At that point, I will
6 have spoken with the lawyers, and we'll see where we're
7 going from here. Okay?

8 Ladies and gentlemen, also, if you were able to get
9 into the courthouse with a cell phone, leave it back in
10 your car over the lunch hour. You can get so much
11 information off of a cell phone. You simply are not
12 permitted to bring it into the courthouse. For some
13 reason you forget again, just hand it to the wonderful
14 bailiffs, and they will hold it for you. All right?
15 You all are excused back to your jury room.

16 BAILIFF: Follow me, please.

17 THE COURT: And they'll walk you right out. Okay?
18 Thank you.

19 JURORS LEAVE COURTROOM 1:20 P.M.

20 BAILIFF: The jury has left the courtroom, your
21 Honor.

22 BATSON MOTION, BY MR. NEWMAN:

23 THE COURT: Okay. Mr. Newman.

24 MR. NEWMAN: Your Honor. Motion pursuant to *Batson*
25 *versus Kentucky*. The State exercised fifty percent of

1 its strikes to strike African-American members from the
2 jury. The jury pool is deleted as is with African-
3 American members, and we believe, at this stage, that
4 the State is required to put race-neutral reasons for
5 exercising their strikes for Juror Number 89 and Juror
6 Number 5.

7 THE COURT: Okay.

8 MS. MUSSER: Again, what were the numbers?

9 THE COURT: Juror Number 89, Mr. Drayton.

10 MS. MUSSER: Your Honor, the State struck him.
11 Although, if the record could just reflect that I used
12 two of my strikes for African-Americans, but three were
13 for white individuals.

14 THE COURT: We understand that.

15 MS. MUSSER: With respect to Number 89, I struck
16 him because my records indicate that he had a 2005
17 resisting arrest, arrest. So, I think he would be
18 prejudiced against law enforcement.

19 THE COURT: And again, because Mr. Newman doesn't
20 have the rap sheets of all the potential jurors, he's
21 going to say I don't have any way to counter that,
22 because he hasn't had an opportunity to look at the list
23 to know if you seated any other similarly-situated
24 persons. Not to make your argument for you, Mr. Newman,
25 but I'm assuming that's going to be your argument.

1 MR. NEWMAN: Yes, ma'am.

2 THE COURT: All right. And --

3 MS. MUSSER: Well, and would you like for me to
4 respond to that? I also struck Number 17, because he
5 had a family member that had been arrested and charged
6 with --

7 THE COURT: That's a woman. Oh, I'm sorry, Number
8 17. I apologize.

9 MS. MUSSER: Yeah. That was a -- he was a white
10 male --

11 THE COURT: Okay.

12 MS. MUSSER: -- that I struck for the exact same
13 reason.

14 THE COURT: For the same reason. Okay. Well,
15 that's helpful. All right. And now, tell me about
16 Thelma Albany.

17 MS. MUSSER: Ms. Albany, there were two reasons
18 that I struck her. One, she approached the Bar of the
19 Court to indicate that she had a nephew that had been
20 arrested, and I believe that would prejudice her against
21 law enforcement; as well as the fact that, for a large
22 part of the jury selection, since I was actually facing
23 the jury pool, she had her head resting on the side, and
24 she looked like she was sleeping through some of it.

25 THE COURT: I'm sorry. Tell me what your first

1 part of it was.

2 MS. MUSSER: That her -- she had approached and
3 discussed how her nephew had been arrested, and I think
4 she said he was serving time, and I think that would
5 predispose her against law enforcement.

6 MR. NEWMAN: George Albany. She said he had --
7 apparently, had a trial in this courtroom and was not
8 convicted.

9 FINDINGS ON BATSON MOTION

10 BY THE COURT:

11 THE COURT: Oh, she did say that. You're right.
12 Okay. Well, I do find that is a race-neutral reason,
13 and I also find that the first one was also a race-
14 neutral reason, based on her also having struck Joseph
15 Barentine, who was a white male. So, respectfully --
16 you want to argue against her race-neutral reasons, Mr.
17 Newman?

18 MR. NEWMAN: I just need to -- the only way I'd be
19 able to do that is to look at her rap sheets on all the
20 jurors, and see which ones she -- on the other jurors
21 that were seated and the ones that were struck by the
22 State.

23 THE COURT: I know she stated that Mr. Barentine
24 was also struck for the same reason, and I think there's
25 also recent case law that also says that rap sheets are

1 not work product by the prosecutor's office. I think
2 it's a pretty recent case, too.

3 However, Ms. Musser, do you have any objection to
4 giving him the rap sheets, so he can look to see if
5 there's anyone else similarly situated?

6 MS. MUSSER: I don't, your Honor.

7 THE COURT: Okay. Then, why don't you give it to
8 him.

9 MS. MUSSER: The whole stack?

10 THE COURT: Whatever he wants. Okay. It's my
11 understanding we also need to do a *Jackson v. Denno* in
12 this case. And are there any other pretrial motions?

13 MR. NEWMAN: The *Jackson v. Denno*, we're moving on
14 an issue to suppress on the search warrant. I have --
15 and I need to look at the actual indictments, but I have
16 a motion in the nature of to quash.

17 THE COURT: Okay. The indictments, as well? Okay.

18 MS. MUSSER: And then, your Honor, the State would
19 just -- in response to something that came up in the
20 back, with respect to Corporal Strickland, the State
21 would have a motion in limine to prevent Counsel from
22 asking that, because it's our understanding that he did
23 not -- was not, in fact, fired. There was no -- that he
24 left to take another position that was more favorable in
25 Colleton County. So, I would just make a motion in

1 limine with respect to that.

2 THE COURT: All right. Well, we need to take a
3 break. I have another matter to take up at 1:30.
4 Grayson? Well, no, he's not even in custody.

5 Are you all okay, if we came back at about ten
6 after, is that enough for you all to grab a bite to eat?
7 Will that be okay, Ms. Musser and Mr. Newman? That will
8 give you all a chance to go grab a bite, come back.
9 We'll do -- again, they're going to be across the hall,
10 anyway. We'll do as far as we can, pretrial motions are
11 concerned, and go from there.

12 MS. MUSSER: Yes, ma'am. it depend -- assuming
13 that the hearing at 1:30 -- because I'm also the
14 attorney for that matter, as well.

15 THE COURT: Well, you're not going anywhere, then.

16 MS. MUSSER: Correct.

17 THE COURT: So, let's just sit tight. Okay? All
18 right. Anyone else? All right.

19 So, we'll be at ease until -- in this case, until
20 ten after, where, at that time, you all need to be
21 ready. All my witnesses I'm seeing over there, I'm
22 assuming, we're going to do the *Jackson v. Denno* first.
23 And then, I assume we're going to do the search warrant
24 issue after that. So, we'll get you all out of here as
25 quick as we can. Okay?

1 So, I appreciate it if you all come back about ten
2 after, and we'll go ahead and take care of it. I
3 appreciate it, again. Thank you.

4 MR. NEWMAN: And Judge, also, through the Clerk or
5 court reporter, I need to have actual sight of the
6 indictments, so I can --

7 THE COURT: Yes. I just put them right there. You
8 all, would you hand them to Jared?

9 MR. NEWMAN: I can come up there in a second.

10 THE COURT: Okay.

11 OFF THE RECORD 1:27 P.M.

12 BACK ON THE RECORD. THE COURT AND

13 MR. NEWMAN PRESENT.

14 MR. NEWMAN: I have looked through the Solicitor's
15 material, and she just corrected her assertion. There
16 were no other persons stricken for the *Batson*.

17 THE COURT: Okay. Thank you. I appreciate that.

18 OFF THE RECORD.

19 BACK ON THE RECORD 3:21 P.M.

20 FINDINGS AND RULING ON *BATSON*

21 MOTION, BY THE COURT:

22 THE COURT: All right. Well, respectfully, as to
23 your *Batson* motion, Mr. Newman, I do believe the State
24 made race-neutral reasons for striking Jurors Number --

25 MR. NEWMAN: 17 and 5.

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JACKSON V. DENNO HEARING

1 THE COURT: Thank you. I appreciate it, sir.

2 MS. MUSSER: I thought it was 8.

3 THE COURT: So, I am respectfully denying that
4 motion. Any other further motions as to this jury?

5 MR. NEWMAN: Not as to the jury.

6 *JACKSON VERSUS DENNO* HEARING:

7 THE COURT: Okay. What I plan on doing is this,
8 you all, if we can. And I'm going to have them sit back
9 there. Let's go ahead and do our pretrials. I'm going
10 to tell Judge Brown to go ahead, and he's going to pull
11 his jury in the next courtroom. Okay?

12 So, if you want to go ahead and begin on the
13 *Jackson v. Denno*, is that --

14 MS. MUSSER: Yes, ma'am.

15 THE COURT: -- acceptable for you all? Is that --

16 MR. NEWMAN: Is it --

17 THE COURT: Or would you rather start with the
18 search warrant issue, Mr. Newman?

19 MR. NEWMAN: I'll do it however the Court wishes.

20 THE COURT: Okay. Wherever you've got the most
21 people. Let's go.

22 MS. MUSSER: Okay.

23 THE COURT: I'm assuming the same people that are
24 hopefully going to turn around and then testify,
25 potentially, in the trial?

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1 MS. MUSSER: Yes, your Honor. So, we would just
2 ask that they be sequestered. Have them step out,
3 except for -- I'm sorry, you're right. Michaud --
4 Sergeant.

5 COURT REPORTER: Who's stepping out? Sergeant who?

6 MS. MUSSER: No. Everybody but Sergeant Michaud is
7 stepping out.

8 COURT REPORTER: Oh.

9 MADAM CLERK: You may come up and be sworn in for
10 me, please.

11 THE COURT: Come on up, sir.

12 MADAM CLERK: Do you solemnly swear or affirm to
13 truthfully answer all questions asked of you by this
14 court, so help you God?

15 SERGEANT WALKER MICHAUD: I do.

16 MADAM CLERK: Please be seated. Please state your
17 name.

18 THE COURT: All right. Ms. Musser, I need to ask
19 you to cut to the chase.

20 MS. MUSSER: I will, your Honor.

21 THE COURT: Just go ahead and put his name on the
22 record and his rank, and we'll go from there.

23 SERGEANT WALKER MICHAUD

24 DIRECT EXAMINATION, BY MS. MUSSER:

25 Q Sergeant, your last name is Michaud, correct?

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1 A Michaud, yes, ma'am.

2 Q Okay. You're with the Beaufort County Sheriff's
3 Office?

4 A I am.

5 Q Were you still working on July 30th of 2011?

6 A I was.

7 Q And did you have occasion to be present for the
8 execution of a search warrant at ■ Miranda Circle, in
9 Beaufort?

10 A Yes, ma'am, I did.

11 Q And that's Beaufort County, correct?

12 A Yes, ma'am.

13 Q And what was your role back then? Did you have
14 occasion to interview an individual by the name of
15 Trevin Millidge?

16 A I did.

17 Q And do you see him in the courtroom today, sir?

18 A I do.

19 MS. MUSSER: Your Honor, will the Court -- the
20 record reflect an in-court identification of the
21 defendant.

22 THE COURT: Sure.

23 BY MS. MUSSER:

24 Q Sir, did you have an opportunity to speak with Mr.
25 Millidge?

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1 A I did, yes, ma'am.

2 Q Okay. Where was he when you spoke with him?

3 A The front yard of the residence. He was seated in
4 a patrol vehicle.

5 COURT REPORTER: I'm sorry, *front yard of the*
6 *residence, seated?*

7 A Yes, ma'am.

8 COURT REPORTER: Seated where?

9 A In a patrol vehicle.

10 THE COURT: In the back seat or the front?

11 A Front seat of a patrol vehicle. Excuse me.

12 THE COURT: Thank you.

13 A Yes.

14 BY MS. MUSSER:

15 Q And was there anyone in the patrol vehicle as far
16 -- that was in non-law enforcement? In other words,
17 were there any other suspects in the car with him?

18 A No, ma'am.

19 Q Did you have occasion to read him *Miranda* warnings?

20 A I did.

21 Q And where did you -- how did you read them to him?
22 Was it a pre-printed form, or how did you read those?

23 A It was a department-issued *Miranda* card.

24 Q And when you interviewed the defendant, was -- he
25 was handcuffed already, correct?

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1 A Yes, ma'am.

2 Q Were there any other officers present when you
3 spoke with Mr. Millidge?

4 A Yes, ma'am.

5 Q And who was present?

6 A It was Corporal Whitney at the time.

7 Q And were there any other officers that were present
8 prior to that?

9 A During *Miranda*, Sergeant Criddle and Lance Corporal
10 Strickland. But during the interview itself, just
11 Corporal Whitney.

12 Q Okay. And would you take out the card and read --
13 THE COURT: Okay. I think we can all agree that
14 what *Miranda* is, and if you read the *Miranda* off of your
15 card or off a paper, or whatever you have.

16 A Yes, ma'am.

17 THE COURT: Okay. Is that correct? Is it off of
18 your card that you have?

19 A Yes, ma'am.

20 THE COURT: All right. I appreciate that.

21 MS. MUSSER: That -- okay.

22 THE COURT: Cut to the chase.

23 MS. MUSSER: Okay.

24 BY MS. MUSSER:

25 Q Where were you when you read the defendant -- or,

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1 where was the defendant when you read him those *Miranda*
2 rights?

3 A He was in the front seat of the patrol car,
4 passenger seat. I was in the driver's seat.

5 Q Okay. And where was Officer Whitney?

6 A She was in the back seat.

7 Q Okay. And did the defendant indicate that he
8 understood the rights?

9 A He did.

10 Q And how did he indicate that to you?

11 A He was asked if he understood his rights, and he
12 stated he did.

13 Q Okay. At that time that you were speaking with
14 him, did you notice that he was under the influence of
15 any drugs or alcohol that would impair his ability to
16 understand those rights?

17 A No, ma'am.

18 Q Did you threaten him or force him in any way to get
19 him to speak with you?

20 A No, ma'am.

21 Q Generally speaking, what did the defendant indicate
22 to you?

23 A During the course of the interview, he indicated he
24 had been out at a club, prior to returning back to the
25 residence. Furthermore, he indicated where a content or

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1 a sufficient amount of the illegal drugs were located in
2 the residence, and described a garment or a pair of
3 white shorts that were rolled up in his closet that
4 contained about an ounce of cocaine.

5 Q At the time that you were speaking -- about how
6 long did you speak with the defendant, in total?

7 A I'd say roughly thirty minutes.

8 Q Was there any -- did he give you any -- was there
9 any indication from him that he was under any kind of
10 physical or mental impairment that would have affected
11 his ability to speak with you voluntarily?

12 A No, ma'am.

13 Q Okay. At any time during the thirty-minute
14 interview, was he forced or threatened?

15 A No, ma'am.

16 Q Okay. Did anyone else in your presence threaten
17 him in any way, or -- or touch him, physically touch him
18 in any way, to get him to speak with you?

19 A No, ma'am.

20 Q Was he promised anything if he were to speak with
21 you?

22 A No, ma'am.

23 Q Anyone promise anything? At any point, did you
24 have your gun drawn on him?

25 A No, ma'am.

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1 Q At any point, did he indicate that he wanted to
2 speak with an attorney?

3 A No, ma'am.

4 MS. MUSSER: Nothing further, your Honor.

5 THE COURT: Let me ask you, Sergeant, how was it
6 that you all came to have a search warrant for his
7 house?

8 A I believe we conducted controlled purchases from
9 the residence itself.

10 THE COURT: Okay. Thank you.

11 A Yes, ma'am.

12 THE COURT: All right. Mr. Newman, do you have any
13 questions of him?

14 SERGEANT WALKER MICHAUD

15 CROSS-EXAMINATION BY MR. NEWMAN:

16 Q Are you familiar with BCSO Form 101?

17 A No, sir.

18 Q The *Miranda* Form?

19 A Yes, sir.

20 Q Okay.

21 A The *Miranda* Form, yes.

22 Q All right. And there's no audio recording of Mr.
23 Millidge's statement?

24 A No, sir.

25 Q And your vehicle, is it -- you don't have any type

1 of audio recording device in your vehicle or on your
2 person, such as a little digital device, like that thing
3 up there?

4 A No, sir.

5 Q No?

6 A No.

7 Q Did you have a pen and pencil, or a pencil?

8 A I did. I did.

9 Q Okay. And did you have a *Miranda* Form?

10 A No, I did not.

11 Q All right.

12 MR. NEWMAN: I don't have any further questions.

13 THE COURT: Anything further from the State?

14 MS. MUSSER: No, your Honor.

15 THE COURT: Okay. You may step down, sir.

16 A Thank you.

17 THE COURT: Anything further?

18 MS. MUSSER: No, your Honor.

19 THE COURT: Okay. Any argument, Mr. Newman?

20 ARGUMENT:

21 MR. NEWMAN: Yes, your Honor. The *Miranda* requires
22 two different elements that must be met, and that is
23 that the rights were read, and that there was a knowing,
24 voluntary, intelligent waiver for those rights. And I
25 don't think the State put up any testimony as to whether

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1 or not Mr. Millidge was asked whether or not he would
2 waive his rights when the officer just proceeded into
3 questioning him.

4 So, I would say that -- the case is *Jackson*. I
5 can't think of the first case, though. There is no
6 showing of a valid waiver of those rights.

7 THE COURT: Ms. Musser.

8 MS. MUSSER: Your Honor, I believe I specifically
9 asked Sergeant Michaud, how did he indicate that to you,
10 and he said that he would speak with them.

11 COURT REPORTER: He said?

12 THE COURT: He would speak with them.

13 MS. MUSSER: That he would speak with them.

14 FINDINGS AND RULING ON *JACKSON VERSUS*

15 *DENNO* HEARING, BY THE COURT:

16 THE COURT: Okay. Anything further from anyone? I
17 do find, by preponderance of the evidence, that the
18 statement was voluntarily made. And respectfully, I am
19 going to allow it in.

20 MOTION TO SUPPRESS SEARCH WARRANT,

21 BY MR. NEWMAN:

22 THE COURT: The next motion is a search warrant
23 motion. Is that correct?

24 MR. NEWMAN: That's correct, your Honor.

25 THE COURT: Okay. You want to direct me to that

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1 issue?

2 MR. NEWMAN: Yes, ma'am. The affidavit in the
3 search warrant --

4 THE COURT: Do you have a copy of it for me?

5 MS. MUSSER: Your Honor, I have Officer Lindahl
6 here that can testify to that, and how she obtained the
7 warrant, but I do have a copy marked as --

8 THE COURT: I just need a copy of it right now.

9 MS. MUSSER: State's Pretrial 1. I also have a
10 copy for your clerk.

11 ITEM IDENTIFIED AS SEARCH WARRANT

12 DATED 7-28-11, MARKED

13 COURT'S EXHIBIT NUMBER 1.

14 THE COURT: Great. Thank you. Okay. All right.
15 Mr. Newman.

16 MR. NEWMAN: Your Honor, most of the -- you've seen
17 these. Most of the language in there is boiler-plate
18 language about what the cops say they know and what they
19 don't know, and things like that. Boils down to that
20 they're saying within a month, and then, within the last
21 72 hours, a reliable, confidential informant working
22 under their direction made a controlled purchase from
23 Mr. Millidge.

24 The problem on that is that the magistrate, unless
25 there is testimony outside the four corners of the

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1 warrant, would not have anything to judge the
2 reliability of the informant on, such as past
3 experience, how long the officer's known the informant,
4 what type of information was provided in the past, those
5 types of things. Because a magistrate does have to make
6 sure that the informant, if it's based on an informant,
7 is reliable, and other than a boiler plate saying he's a
8 reliable and confidential informant, there's nothing in
9 there which would lead the magistrate to be able to
10 judge on the reliability or credibility of the
11 informant.

12 We've been provided no information with either one
13 of these buys, whether or not they really occurred or
14 not, and I would say that the warrant is fatal for those
15 paragraphs 3 and 4. And 5, to some extent. Or 2, 3, 4,
16 and 5 are fatal; strike those out. The rest of the
17 warrant just talks about the officer's experience with
18 Mr. Millidge from past record, which is not an indicator
19 of individualized probable cause they'd think would be
20 found at a certain kind of place. And we would move to
21 suppress the evidence taken from the residence, based on
22 this arrest warrant -- I mean, search warrant. I'm
23 sorry.

24 THE COURT: Okay.

25 MS. MUSSER: Thank you, your Honor. As the Court

1 knows, from the case of *State versus Dupree*, as well as
2 *State versus Gore*, once a confidential informant gives
3 information to law enforcement, and then law enforcement
4 subsequently corroborates that, that is sufficient
5 within the four corners of the warrant for a magistrate,
6 and it will be upheld.

7 In this case, the confidential informant gave
8 information to law enforcement. They specifically gave
9 the defendant's identity and his address at ■ Miranda
10 Circle. From that, DTF obtained his driving record from
11 the South Carolina Department of Motor Vehicles, which
12 corroborated that information. They additionally
13 corroborated information from the confidential informant
14 by conducting surveillance, which is indicated in the
15 warrant, as well as the controlled buys. As a result,
16 within the four corners of the warrant, clearly, the
17 magistrate had a sufficient probable cause basis to
18 issue that warrant.

19 THE COURT: Is there anything further, Mr. Newman?

20 MR. NEWMAN: No, your Honor.

21 FINDINGS AND RULING ON MOTION TO

22 SUPPRESS SEARCH WARRANT, BY THE COURT:

23 THE COURT: All right. Well, respectfully --
24 excuse me -- I agree with the State. I do think that
25 the magistrate was given sufficient probable cause to

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1 issue the warrant. Obviously, with the confidential
2 informant, there was surveillance, controlled buys, and
3 he did establish, which was corroborated by DTF, that it
4 was, in fact, the defendant, and that the residence is
5 established. So, respectfully, I am going to deny your
6 motion.

7 Next. Anything else?

8 MOTION TO QUASH INDICTMENT OR

9 FOR CONTINUANCE, BY MR. NEWMAN:

10 MR. NEWMAN: I had -- Mr. Millidge wished me to
11 raise an issue with you. He believes that --

12 THE COURT: With the indictments? Right? With the
13 indictments?

14 MR. NEWMAN: Yes.

15 THE COURT: Okay.

16 MR. NEWMAN: The indictments were amended. Two of
17 the indictments, 01653 and 01654, were amended.

18 THE COURT: What were they? What are each of those
19 for? What is 53 for?

20 MR. NEWMAN: 01653 is for trafficking in cocaine
21 base, 28 to 100 grams.

22 THE COURT: Got you.

23 MR. NEWMAN: That was amended to trafficking in
24 cocaine, 10 grams, but less than 28 grams.

25 THE COURT: 10 to 28. Okay. Which is a lesser

1 included.

2 MR. NEWMAN: Which is a lesser included. And
3 raising the issue, at my client's behest, --

4 THE COURT: Okay.

5 MR. NEWMAN: -- I have the notice I may not have
6 given my client notice of the indictment. I do not
7 believe it changes the nature of the offense, and I do
8 not think it changes what we, under *Gentry*, are on
9 notice to call to defend against in the case, and to
10 know what likely sentences are possible.

11 THE COURT: Okay.

12 MR. NEWMAN: Also, we believe that the amendment is
13 actually a favorable amendment, --

14 THE COURT: Amendment.

15 MR. NEWMAN: -- because it cuts sentencing ranges
16 down. I do have an argument --

17 THE COURT: Is it 01654?

18 MR. NEWMAN: On -- and same thing on 01654. Those
19 were amended down to --

20 THE COURT: From what to what?

21 MR. NEWMAN: It was amended down -- he was
22 originally indicted for trafficking, 10 to 28. And now,
23 it is moved down to possession with intent.

24 THE COURT: Is that cocaine, or?

25 MR. NEWMAN: It's -- actually, yes.

1 THE COURT: Okay. I just -- you have the
2 indictments. I don't have them, so I can't -- I can't
3 refer to them, but that's fine. Okay. So, it's the
4 cocaine. Okay. All right. And respectfully, again, is
5 it the same argument again, or why your client's stating
6 that --

7 MR. NEWMAN: Yes. I agree with him that I may not
8 have given him notice of that, on an oversight on my
9 part.

10 THE COURT: Okay.

11 MR. NEWMAN: As his attorney, I had notice of it,
12 the indictments. I believe they were amended in
13 October.

14 MS. MUSSER: Yes, sir.

15 MR. NEWMAN: In October. I was given notice in
16 October. I don't believe they change the nature of the
17 offense, but I am raising that issue before the Court.

18 THE COURT: Okay.

19 MR. NEWMAN: To let the Court rule on that.

20 THE COURT: And again, it's a lesser included,
21 possession with intent to distribute cocaine. So, it
22 actually inures to your client's benefit.

23 MR. NEWMAN: And I'm assuming these went up there,
24 but I'm assuming six -- the original 01653 and 4 are
25 being withdrawn?

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MOTION TO QUASH/FOR CONTINUANCE

1 MS. MUSSER: Yes.

2 THE COURT: Okay. And were the amendments the
3 result of the drug test coming back, the lab report?

4 MR. NEWMAN: Judge, I can't figure out --

5 THE COURT: Based on the quantities?

6 MR. NEWMAN: -- it's going to be -- it's going to
7 be an issue in this case. The report says they took
8 like, 34 grams off of him, and it turned out, 9 grams,
9 and about 13 grams of cocaine base.

10 So, the reports, the sworn-to testimony, I am going
11 to get into that during trial.

12 THE COURT: Okay.

13 MR. NEWMAN: We're missing about 69 percent of the
14 cocaine that they claim they've seized.

15 THE COURT: Okay. Okay. So, you were just looking
16 to quash just those two indictments. Is that correct?

17 MR. NEWMAN: I'm sorry, your Honor.

18 THE COURT: You were looking to quash just those
19 two indictments, 01653 and 54. Is that correct?

20 MR. NEWMAN: The original ones, yes, ma'am.

21 THE COURT: Okay. Okay.

22 MR. NEWMAN: Based on the amendment. My client has
23 also asked me to raise Section 17-19-100. It talks
24 about defects in the form of indictment. Your Honor is,
25 I'm sure, familiar with the statute. It talks about the

1 indictments may be amended to conform to proof at trial,
2 so long as it does not increase the penalty or change
3 the nature of the charge called upon to defend.

4 So, I -- my client is objecting under 1617 -- I
5 mean, 17-19-100, and we move to either quash the
6 indictments, or for a continuance, based on the cite and
7 the language.

8 FINDINGS AND RULING ON MOTION TO

9 QUASH INDICTMENT, BY THE COURT:

10 THE COURT: Okay. Well, respectfully, I think it
11 does comport with 17-19-100, as far as these are
12 reductions. It certainly reduces the amount of
13 exposure, and they are all lesser included. So, again,
14 I think it's appropriate.

15 MR. NEWMAN: Your Honor, I would just point out, at
16 my client's behest, under the statute, he says that he
17 is surprised in this change, and says that he -- in
18 which case, the defendant should be entitled, upon the
19 demand to a continuance of the case.

20 THE COURT: Okay.

21 MR. NEWMAN: I can show you a copy of the statute
22 that --

23 THE COURT: That's all right. I've got a copy of
24 the statute. Well, again, respectfully, I think it
25 comports. Again, that's what's appropriate.

1 Yes, ma'am.

2 MS. MUSSER: Your Honor, with the Court's
3 permission, we'd just wanted to put the offer on the
4 record, just so that there's no confusion that the State
5 had offered the defendant, today, if he wanted to plead
6 to the trafficking cocaine second, which would carry a
7 30-year max, if he wanted to plead to a negotiated 20.
8 If he is convicted on trafficking cocaine base, this is
9 a third or subsequent offense. As a result, the
10 mandatory minimum would be 25 years. And again, the
11 maximum is 30.

12 THE COURT: Okay. And then, what would you -- as
13 far as your offer is concerned, would it be just
14 pleading to the trafficking in cocaine, 10 to 28, second
15 offense, with a negotiated 20? And does that mean you
16 are going to dismiss the other charges, or what does
17 that mean?

18 MS. MUSSER: Yes, your Honor. As long as he pled
19 to the negotiated 20, I would say to the PWID cocaine
20 and the trafficking in cocaine, obviously, they would
21 run concurrent, since it's a negotiated 20.

22 THE COURT: So, you would want him to plead to both
23 of those. I just want to make sure, for the record, he
24 knows exactly what he's turning down.

25 MS. MUSSER: Correct. Yes. It's just the two

1 charges, for a total of 20 years.

2 THE COURT: Okay. And again, I think, obviously,
3 you seem to have a, you know, very intelligent client.
4 And I just want to make sure you understand, sir, and
5 you know what you're facing. Obviously, you're on trial
6 here.

7 You are looking at, on what you are facing is third
8 offenses. I went through and I totaled it up, and I
9 know your attorney has for you, as well. But on the
10 trafficking in cocaine, third offense, 10 to 28 grams,
11 you're looking at a max of 30 years. On the possession
12 with intent to distribute cocaine, third offense, you're
13 looking at another max of 30 years. On the possession
14 with intent to distribute a Schedule IV substance, third
15 offense, you're looking at a maximum of five years. And
16 on the possession of a controlled substance, third
17 offense, this one is the oxycodone, you're looking at a
18 maximum of one year. And on the possession of a weapon
19 during the commission of a violent crime, you're also
20 looking at a maximum of five years. I just wanted to be
21 clear about that.

22 And is there any issue with what we've put on the
23 record, Mr. Newman?

24 MR. NEWMAN: I apologize.

25 Your Honor, as to the original plea agreement and

1 those issues, my client has asked to address the Court
2 on his own behalf on that issue.

3 THE COURT: Certainly. If you will just stand,
4 please. I need to swear you in, sir.

5 DEFENDANT MILLIDGE: Yes, ma'am.

6 THE COURT: Do you swear or affirm the testimony
7 you give will be the truth, so help you God?

8 DEFENDANT MILLIDGE: Yes, ma'am.

9 THE COURT: All right. Yes, sir. What would you
10 like to tell me?

11 DEFENDANT MILLIDGE: Yeah. First of all, I wanted
12 to express that, when I originally was -- when Meredith
13 -- I done had about five different prosecutors. When
14 Meredith was --

15 THE COURT: Meredith Bannon?

16 DEFENDANT MILLIDGE: Yeah. When Ms. Bannon was the
17 actual prosecutor, she gave me a offer.

18 THE COURT: Of thirteen years. I saw that offer.

19 DEFENDANT MILLIDGE: Yes, ma'am.

20 THE COURT: Yes.

21 DEFENDANT MILLIDGE: Okay. And all that was in
22 writing.

23 THE COURT: Right.

24 DEFENDANT MILLIDGE: Well, what happened then, I
25 got in trouble, and I was supposed to plead guilty in

1 Charleston to my federal offence, but I was on federal
2 probation.

3 THE COURT: Okay.

4 DEFENDANT MILLIDGE: And I was supposed to transfer
5 down here, and then plead guilty, but something came up.
6 I got in trouble again. So, the feds snatched me up and
7 took me to Charleston, and I had -- because I was on
8 probation with them. And I don't know if you remember,
9 but you even gave me a bond so that I could meet that
10 bond, so that I could go to Charleston.

11 THE COURT: Charleston.

12 DEFENDANT MILLIDGE: Yes, ma'am. But, my thing is,
13 I did nothing, other than go to Charleston. I spent
14 like, maybe like, thirteen -- almost close to a year in
15 Beaufort County. Then, I went to Charleston and stayed
16 like, almost seven, eight months. I never did nothing
17 to violate that first offer I was given, but they said
18 they take it off the table, because I didn't adhere to
19 that first offer.

20 Now, I come this morning, and Mr. Newman told me
21 that they wanted to give me -- I think he told me one
22 time, like, 16 years or 17. What I told him, I said,
23 well, all these indictments was wrong, and I brought it
24 to his attention. And then, just one night, I was
25 looking on the computer. You can go online and look on

1 the computer, and I saw where, you know, some things
2 that had been changed, and I contacted Mr. Newman. He
3 didn't tell me that, okay, they changed these
4 indictments. I'm just --

5 THE COURT: They amended them to lesser included
6 charges, though. That was to your benefit.

7 DEFENDANT MILLIDGE: I understand that. But what I
8 was defending myself against was these actual charges.
9 But now, they've turned -- they said it was a surprise.
10 It's a surprise to me. I never -- the only thing I
11 got is what I've been charged with, the 28 to 100, the
12 trafficking in cocaine, the 10 to 28, the 100. I
13 didn't see nothing until just this now. He's showing
14 me the new amended indictment. And under that statute,
15 it says I have the right, you know what I'm saying? And
16 then, --

17 FINDINGS AND RULING ON CONTINUANCE

18 BY THE COURT

19 THE COURT: Sir, it's a lesser included. I can
20 tell you that I'm not going to continue your case based
21 on that.

22 DEFENDANT MILLIDGE: Okay.

23 THE COURT: I think you've been out on bond for a
24 long time on these charges.

25 DEFENDANT MILLIDGE: I understand.

1 THE COURT: My biggest concern for you is right
2 now, that, adding all this up, you're facing 71 years in
3 prison. It's my understanding you are 47 years of age.

4 DEFENDANT MILLIDGE: 46.

5 THE COURT: At 46 years of age. I mean --

6 DEFENDANT MILLIDGE: I'm --

7 THE COURT: I mean, you realize, I mean, you get
8 convicted of this, and depending on the sentencing and
9 after I hear everything, again, I don't know what I'm
10 going to do. I have no idea. But I will tell you that,
11 on the mandatory minimum of trafficking cocaine, 10 to
12 28, on a third offense, I have to give you 25 years,
13 which is already five more years than what their offer
14 is.

15 DEFENDANT MILLIDGE: I want -- I want --

16 THE COURT: And I'm just telling you this, because
17 I'm concerned. I'm concerned you're going to die in
18 prison. And so, I just want to make sure, for the
19 record. You never have to take a deal. The problem is
20 this, though. You're up for trial. We've pulled a jury
21 in your case. The State has expended money. Your
22 attorney has certainly worked very hard, and we're going
23 forward, and we're trying your case right now.

24 So, the only offer that was placed on the table
25 right now is a negotiated 20 years to a trafficking in

1 cocaine, 10 to 28, second offense, and a possession with
2 intent to distribute cocaine, second offense. That's
3 it.

4 So, I just want to make sure -- that's the only
5 thing I'm putting on this record, is that, I want to
6 make sure you understand that, because, at the end of
7 the day, I don't want you to turn around and say, wait a
8 minute; I couldn't or didn't know that I could have
9 gotten a lesser sentence if had accepted the plea offer.
10 That's what I want to make sure you understand.

11 And you know, I've seen you. You've been here
12 during, you know, jury selection. You've been assisting
13 your lawyer. You seem like a very bright man. I am
14 sure that you can assist Mr. Newman in defending you.
15 And I don't know the merits of your case, sir. I don't.
16 I haven't seen it. But again, you know the merits of
17 your case, and your lawyer certainly knows the merits of
18 the case.

19 So, again, that's just a decision you have to make.
20 We just needed to put it on the record. And I just want
21 to make sure that you recognize and are mindful of what
22 you could be facing here. Okay?

23 DEFENDANT MILLIDGE: Yes, ma'am. I am. I'm just
24 trying to see where did I go wrong for me not to be able
25 to get the same plea offer that I was offered in writing

1 to -- from Meredith.

2 THE COURT: Because you didn't accept it when it
3 was extended.

4 DEFENDANT MILLIDGE: I --

5 THE COURT: And they told you that there was a
6 deadline, and that it would expire. That's what
7 happened, which, the State is entitled to do. They're
8 entitled to do that.

9 DEFENDANT MILLIDGE: Can I ask you a question?

10 THE COURT: Sure.

11 DEFENDANT MILLIDGE: Does plea agreement supposed
12 to be in writing? Do I supposed to receive it in
13 writing?

14 THE COURT: You don't have to. Back then, you
15 didn't have to. I can tell you that, now, it's one
16 thing that we try to extend on our new differentiated
17 case management system. Nowadays, we require it. But
18 in your case, it was extended in writing back when
19 Meredith Bannon gave you --

20 DEFENDANT MILILDGE: Yes.

21 THE COURT: -- because I saw it, and it wasn't
22 accepted. And when it isn't accepted, then it expires,
23 so.

24 MS. MUSSER: And that's true, your Honor. Also,
25 for -- I have my email that I sent to Mr. Newman on

1 October 30th, indicating the revised offer, which was 17
2 years, so.

3 MR. NEWMAN: Your Honor, as to that offer, I can
4 back Mr. Millidge up on that. He was back and forth to
5 Charleston. And one of the reasons he caught federal
6 time of revocation was for the drugs that were in this
7 case. That's why Meredith and I were able to negotiate
8 that out. In fact, she even gave me two options. She
9 gave me an option (a) of a negotiated 13; or an option
10 (b), recommended on a -- on a second.

11 I don't know what happened in the interim with Mr.
12 Millidge going back and forth. There are timing issues
13 on, you know what I'm saying, with the bond. If you're
14 sitting on a state and federal charge at the same time,
15 you don't get credit for any time in the federal system
16 has to be purely a federal charge. So, if some of that
17 is my lapse, and I will admit that. We had great
18 difficulty over the time with Mr. Millidge going back
19 and forth.

20 Meredith and I had drafted this deal, and that's
21 why there was an option (a) and an option (b), because
22 we were going to accept one of them, and it was probably
23 option (a). So, I feel -- and this may be an issue for
24 another court -- some of that, I do lay the blame at my
25 feet, as to not getting him in court. We switched

1 solicitors. He went for a good long time with actually
2 no solicitor assigned to this case. Then, it was -- it
3 may have been Patrick or somebody else -- briefly had
4 it, and then it was when Ms. Musser came. No, I'm
5 sorry. Hunter Swanson had it for a period of time, and
6 then Ms. Musser.

7 THE COURT: Well, my concern is twofold. Number
8 one, I can't make the Solicitor honor any original offer
9 or any prior offer, and there's nothing I can do in my
10 sentencing. Even if you were to plead straight up, the
11 mandatory minimum on the trafficking cocaine, third
12 offense, 10 to 28 grams, is 25 years. So, unless they
13 are willing to reduce the charge, there is nothing even
14 I can do to assist you. That is within their purview to
15 determine what they're going to go forward on.

16 As far as setting up any potential PCR purpose, I
17 will note, for the record, that I think it does get
18 difficult when you have someone going in and out of
19 federal custody, state custody, back and forth. But
20 again, I didn't create that problem. I understand you
21 were on federal release. Is that supervisonal release
22 at the time. I don't know if you were incarcerated
23 subsequent to that. I'm going to guess you were revoked
24 on that supervision.

25 MR. NEWMAN: He was.

1 THE COURT: And again, you know, that, I
2 understand, may have frustrated things, but that's
3 still, at this point, water under the bridge. The only
4 offer that the State has put out right now is a 20-year
5 negotiated offer, unless Ms. Musser is going to change
6 that, and my understanding is, she's shaking her head
7 no. So, that is either the offer, or we've got a jury
8 back there. It's 3:00 o'clock. They've been waiting
9 for about 30 minutes or so, and we're ready to go
10 forward. I know the State's got all the witnesses here.
11 I've seen them in the courtroom this morning, and
12 they're ready to put them up and go forward, so.

13 MS. MUSSER: And your Honor, just to clarify some
14 of the things indicated by Mr. Newman. I have emails
15 from August 14th of 2013 from Ms. Swanson, indicating
16 the offer. She then sent that in the similar letter on
17 September 20th of 2013. She then followed that written
18 offer up with another email on November 4th of 2013, to
19 Mr. Newman, indicating -- asking him if he had spoken
20 with Mr. Millidge, and trying to -- and indicate in here
21 the federal court issue, specifically bringing that.

22 In her last thing:

23 *I would like to get this case resolved*
24 *before the end of the year. It needs to be*
25 *pled by the end of the December term, or all*

1 *offers are revoked.*

2 So, again, there was recognition there of the
3 federal issue, and still trying to work out those two --
4 those two cases, if you will.

5 And then, I emailed again October 30th of 2014.

6 So, over a year went by, and --

7 THE COURT: When did your client get out of federal
8 custody, Mr. Newman?

9 MR. NEWMAN: February, end of February of 2014.

10 THE COURT: Well, I don't think there's any failure
11 to relay offers in this case by counsel. I think it's
12 more of -- I appreciate, and certainly understand, Mr.
13 Millidge, the difficulty in pleading guilty to a case or
14 a charge that you know you're going to go to prison for
15 a significant amount of time. It's not unnatural for
16 you to want to stay out as long as you possibly can
17 before you're here at this point.

18 But we are here at this point. We have pulled a
19 jury at this point. And we're either going to go
20 forward, or if you wish to accept the plea offer, you
21 can do that. But after that, we're here, and we're
22 trying your case. So, we're going forward.

23 Is there anything else we need to do for the record
24 before we go ahead and bring this jury out and do
25 opening statements?

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1 MS. MUSSER: Just one issue, your Honor. And I
2 understand Mr. Newman's position where his options to
3 stipulate are limited. By way of background, when the
4 Sheriff's Office executed the search warrant, they put
5 all of the controlled substances in this box, which I'm
6 handing over, which is sealed. It's labeled under
7 Container 109.

8 However, there were many types of substances.
9 There are, I think, 16 types in here. Of those, the
10 State only plans on using five, for the purposes of the
11 trial.

12 THE COURT: Okay.

13 MS. MUSSER: I'm looking to pre-mark the evidence;
14 go through it; sort it, pull out what we need; so that
15 once we get going, we can go. However, I was reluctant
16 to break the seal, since chain is obviously at issue,
17 without doing it on the record or without Mr. Newman's
18 stipulation, so.

19 THE COURT: Okay.

20 MS. MUSSER: With the Court's permission, I'll go
21 ahead and --

22 THE COURT: Okay. And there's no question as to
23 the chain. Is that correct? As to that box?

24 MS. MUSSER: Correct. Correct.

25 THE COURT: Okay.

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1 MR. NEWMAN: There's a great question in my mind,
2 because I ain't seen nothing.

3 MS. MUSSER: Well, --

4 THE COURT: Okay. Well, let's look at the outside
5 of the box and see who had it and where they turned it
6 in, and let's go ahead and establish the box's chain so
7 we can get that taken care of, and we can move forward.

8 MS. MUSSER: And I did -- Mr. Newman, this is in
9 the material that I sent, with respect to the chain.
10 Here's the chain of custody report.

11 MR. NEWMAN: Is the State going to establish their
12 chain of custody by competent evidence?

13 THE COURT: Okay. This is what we're going to do.
14 Don't open it yet. You're just going to have to
15 establish the chain as it is right there. And then, at
16 the time, you're going to open up the box, we're going
17 to take a break, and we're going to open up the box, and
18 you're going to take just the drugs out that you're
19 going to use. Okay? That's the way to do it.

20 MS. MUSSER: Okay.

21 THE COURT: Okay? And that way, you will have
22 established your chain on the record, in front of the
23 jury. And again, we'll just take a quick break. And if
24 I forget, for some reason, just say, may we take a
25 break. And I'm going to say, oh, yes. Okay?

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1 MS. MUSSER: Okay.

2 THE COURT: All right. So, don't open it yet.

3 Very good. It's only five. Wanda can do that fast.

4 Okay. Anything further, before we bring the jury out?

5 MS. MUSSER: No, your Honor.

6 THE COURT: Anything further, Mr. Newman?

7 MR. NEWMAN: No.

8 THE COURT: Let's bring the jury out, Norman.

9 And you're going to swear the jury for me?

10 MADAM CLERK: Yes.

11 THE COURT: You think you're good? I'll have them
12 stand and raise their right hand, to accept the oath.

13 Okay?

14 BAILIFF: The jury is entering the courtroom, your
15 Honor.

16 THE COURT: Thank you.

17 JURORS ENTER COURTROOM 3:08 P.M.

18 BAILIFF: The jury is seated, your Honor.

19 THE COURT: Thank you. I appreciate your patience,
20 ladies and gentlemen. The attorneys and I have been
21 taking up matters so we can streamline the trial of this
22 case. But at this time, we are going to go ahead and
23 begin the trial. But before we do that, ladies and
24 gentlemen, we need to swear you in as the jury as this
25 trial.

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1 So, if you would all please stand to accept the
2 juror's oath, and if you accept it when it's completed,
3 please say, I do, and you may be seated. Please raise
4 your right hand, ladies and gentlemen.

5 JURORS SWORN, BY MADAM CLERK:

6 MADAM CLERK: Do you solemnly swear or affirm that
7 you shall well and truly try and true deliverance make
8 between the State of South Carolina and the accused at
9 the Bar, and a true verdict, give accordingly to the
10 evidence, so help you God?

11 RESPONSES FROM JURORS.

12 GENERAL CHARGE, BY THE COURT:

13 THE COURT: Thank you, ladies and gentlemen. You
14 may be seated.

15 What I'm going to tell you is intended to serve as
16 an introduction to the trial of this case. These
17 remarks are not a charge on the law. I'm going to
18 instruct you on the law that's applicable to this case
19 at the end of the case. This is merely an explanation
20 so you can better understand the procedure that we're
21 going to follow during this trial.

22 Ladies and gentlemen, the defendant in this case is
23 charged by indictments that are filed in this court with
24 the offenses of trafficking in cocaine; possession with
25 intent to distribute cocaine; possession with intent to

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GENERAL CHARGE

1 distribute a Schedule IV substance; possession of a
2 controlled substance, Schedule I to V; and possession of
3 a weapon during the commission of a violent crime.

4 Ladies and gentlemen, the elements of these offenses I
5 will explain to you at the end of the case.

6 I want you to understand that these indictments are
7 simply the charge by which a case is brought into the
8 courtroom, and they are not, in any sense, evidence of
9 any of the allegations that they contain.

10 Now, ladies and gentlemen, the defendant Mr.
11 Millidge, has pled not guilty to these indictments. The
12 State, therefore, has the burden of proving each of the
13 elements of each of the indictments beyond a reasonable
14 doubt, and it's your duty as jurors to decide that the
15 State has met that burden.

16 Now, ladies and gentlemen, your purpose as jurors
17 is to find and determine the facts. You, the jury, are
18 the sole judge of all facts in this case. If, at any
19 time, I make any comment regarding the facts of this
20 case, you must disregard it.

21 And ladies and gentlemen, you are only to determine
22 the facts from the testimony you're going to hear up in
23 the witness stand, as well as any other evidence that's
24 introduced into this case. And please understand that
25 it is up to you to determine the inferences which you

1 feel may be properly drawn from the evidence. Please
2 understand that it is especially important that you
3 perform your duty of determining the facts diligently
4 and conscientiously, because ordinarily, there is no way
5 to correct an erroneous determination of the facts by a
6 jury.

7 On the other hand, ladies and gentlemen, and with
8 equal emphasis, the same law that makes you the judges
9 of the facts, makes me the judge of the law. The law
10 that is given by the Court is the only law that you may
11 consider. You must accept and follow it, even though
12 you may disagree with it.

13 I cannot tell you what the facts of this case are,
14 and you cannot disagree with me about what the law is or
15 what you think the law ought to be. Your job is to take
16 the law as I give it to you and apply it to the facts as
17 you find them, and from there, render a true and just
18 verdict under the oath you just took.

19 Now, until you -- until I advise you, ladies and
20 gentlemen, to begin your deliberations in this case, you
21 must not discuss this case with anyone, and that
22 includes your fellow jurors, until you've heard all the
23 evidence, you've heard the closing arguments from the
24 lawyers, and I've charged you on the law that's
25 applicable in this case.

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1 Additionally, ladies and gentlemen, the attorneys,
2 the parties, and the witnesses in this case have been
3 advised that, in coming over -- coming back and forth in
4 the courthouse over the next couple of days, that if
5 they pass you in the hallway, they are not to speak to
6 you in any way whatsoever.

7 Ladies and gentlemen, the reason why is, even an
8 innocent conversation outside of, it looks like it's
9 going to rain, can be misinterpreted. And it will be
10 reported back, ladies and gentlemen, and I will have to
11 query you about it. And out of an abundance of caution,
12 I tell them not even to speak to you. So, again, if you
13 pass them in the elevator or the hallway and they don't
14 even say hello, don't be offended; they're just
15 following my orders.

16 Additionally, ladies and gentlemen, as of right
17 now, I don't think there's going to be anything in the
18 news or the radio or the T.V. about this. But out of an
19 abundance of caution, if you go home tonight and turn on
20 the news, or in the morning, in the newspaper, and there
21 is something about this case, you are to disregard it,
22 because I remind you, ladies and gentlemen, you are the
23 finders of facts and not anybody else, and it's your
24 determination, ladies and gentlemen, that matters. So,
25 again, I just caution you not to read anything, watch

1 anything, listen to anything.

2 And additionally, don't do any independent research
3 on this case. As I told you before, you are going to
4 have everything you need to determine this case right
5 here in this courtroom, and it would be highly
6 inappropriate for you to be influenced by any outside
7 source.

8 Now, I want you also to understand, it's important
9 that you keep an open mind, and not decide any issue in
10 the case until all of the evidence has been presented,
11 the parties have made their closing arguments, and
12 again, I've instructed you on the law.

13 Please understand that it is your solemn
14 responsibility to determine the guilt or the innocence
15 of the defendant, and your verdict must be based solely
16 on the evidence as it's presented to you in this trial,
17 and on the law that I've instructed you during and at
18 the close of this trial.

19 Ladies and gentlemen, in just a minute, the
20 Solicitor is going to make what's called an opening
21 statement. And then, the Defense attorney is also going
22 to make an opening statement, but he is not required to
23 do so. What I want to tell you is this, ladies and
24 gentlemen. What these attorneys say in their closing --
25 or I'm sorry, in their opening statements is not

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1 evidence in this case. It is simply their argument, or
2 what they believe the issues are in this case. I remind
3 you, the evidence comes from the witness stand, and as
4 well as any other physical evidence that's introduced
5 into this case.

6 Now, I want you to know, ladies and gentlemen,
7 that, from time to time during this trial, you may hear
8 me say something to the attorneys like, come up here,
9 and we may have a conference up at the bench; or they
10 may say, your Honor, we have a matter of law we need to
11 take up; or I may send you back to your jury room while
12 I discuss something with the attorneys. I want you to
13 know, ladies and gentlemen, that we are not hiding
14 anything. Oftentimes, when I have to rule as a matter
15 of law, whether or not certain evidence is admitted, I
16 may make a comment on the facts of this case. And
17 because I would never want anything I do or say to
18 influence you in your determination of the facts, out of
19 an abundance of caution, we just do it outside of your
20 presence.

21 Now, ladies and gentlemen, in determining what the
22 true facts are in this case, you must decide whether the
23 testimony of a witness is believable. It's my
24 responsibility to rule as a matter of law whether or not
25 certain testimony is admitted, but once it is admitted,

1 whether or not you believe it is for you to determine,
2 ladies and gentlemen.

3 In deciding whether to believe a witness, you have
4 a right to consider any interest of that witness, the
5 bias of that witness, the prejudice of that witness; and
6 you can also look at the opportunity that witness had to
7 have seen the things and matters about which they are
8 testifying. And you can also look at how the witness
9 acts on the witness stand.

10 Ladies and gentlemen, you have the right to
11 consider anything that's in the record that will help
12 you evaluate the testimony of the witnesses. And that
13 means it's your duty, ladies and gentlemen, to pay close
14 attention to the witnesses, to observe them, to listen
15 to them, so that, at the end of the case, you can
16 accurately remember their testimony.

17 Now, ladies and gentlemen, in order to preserve
18 everyone's rights, I'm going to ask the attorneys if
19 there's anything further they'd like me to instruct you.
20 If not, we're going to go ahead and continue or begin
21 with the trial of this case.

22 Ms. Musser, anything further?

23 MS. MUSSER: No, your Honor.

24 THE COURT: Anything further, Mr. Newman?

25 MR. NEWMAN: No.

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OPENING STATEMENT - STATE

1 THE COURT: Ladies and gentlemen, we're going to go
2 ahead and begin the trial of this case. If you'll give
3 the Solicitor your attention, please.

4 OPENING STATEMENT ON BEHALF OF

5 THE STATE, BY MS. MUSSER:

6 MS. MUSSER: Thank you. May it please the Court?
7 Mr. Newman.

8 Good afternoon, ladies and gentlemen. In the case
9 that you're about to hear, the State will prove beyond a
10 reasonable doubt that the defendant, Trevin Millidge, is
11 guilty of trafficking crack, or what's also called
12 cocaine base, as well as possession with intent to
13 distribute cocaine, and the other charges that Judge
14 Mullen read to you.

15 This case started on July 30th, of 2011, when an
16 officer from the Beaufort County Sheriff's Office, the
17 Drug Task Force, went to the defendant's home at 6
18 Miranda Circle, here in Beaufort, to serve a search
19 warrant that they had obtained.

20 When they were there, they searched the defendant,
21 they searched the residence, and they also spoke with
22 the defendant. When they searched him, they found a
23 quantity of crack and cocaine in his pocket, as well as
24 \$385.00 in one pocket, and \$443.00 in another.

25 Now, that's important, you see, because when

1 officers spoke with the defendant, he confessed. He
2 confessed that he had just been out at a club selling
3 crack and cocaine. And he also directed officers who
4 were, at that time, already searching the residence, of
5 where they would find additional drugs. When they
6 searched his house, in his bedroom, and in his closet,
7 they also found an even larger quantity of crack and
8 cocaine. They found over \$955.00, additionally.

9 But what's important, as well, is the large
10 quantity of drugs, both on him and in his bedroom, and
11 in his closet, is the fact that the evidence will show
12 that he also had tools of the trade. And by that, I
13 mean, things that would help in the trafficking
14 profession, that being, a gun and ammunition. He had a
15 digital scale, which would -- the evidence will show he
16 used to weigh drugs. He had a police scanner. They
17 found a ledger. And again, also, a cutting agent.

18 So, ladies and gentlemen, we're going to talk about
19 the law at the end of the case, and Judge Mullen, at the
20 end of the trial, will give you all the law, and what
21 she says goes. But when you listen to the evidence and
22 the context, and the common-sense logic and life
23 experience that you brought with you today, there are a
24 couple things I would ask that you pay particular
25 attention to -- where the evidence and the drugs and all

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OPENING - DEFENSE

1 the other physical evidence that you're going to see,
2 where they were found, who had control over those items,
3 as well as listen carefully to the words that came out
4 of his mouth when he confessed, when he confessed to
5 having the drugs in the house, and when he confessed to
6 being out and selling.

7 Ladies and gentlemen, if you listen to the evidence
8 and the testimony of the officers and look at the
9 physical evidence, I submit to you that this is going to
10 be a straightforward, simple facts, simple -- a simple
11 case with simple facts, and a simple conclusion. And
12 that is that the defendant, Trevin Millidge, is guilty.
13 Thank you.

14 THE COURT: Mr. Newman?

15 OPENING STATEMENT ON BEHALF OF

16 THE DEFENSE, BY MR. NEWMAN:

17 MR. NEWMAN: Thank you, Judge. I'm sorry I wasn't
18 paying attention. That's my fault.

19 You're going to hear some things in this case that
20 are not quite as the Solicitor would have you believe
21 them to be. You will hear some things are stretched.
22 Some things are inflated, trying to make it seem worse.
23 You're going to hear about this statement Mr. Millidge
24 made. It's not recorded, it's not written down, none of
25 that. He denies everything the State is arguing in this

1 case.

2 They didn't tell you some things like, other people
3 live in that house. They didn't tell you that. They
4 didn't tell you that other people were charged in this
5 case. They're trying to amalgamate and root certain
6 things out to make it look a lot worse than what it is.

7 The State's going to tell you that one of their
8 indictments that he possessed a pill or two of
9 oxycodone. Had a prescription. Somebody swore that.
10 I'm going to ask the officers about Mr. Millidge's
11 prescription. So, bottom line is, we're going to have
12 to hear together the testimony and the cross-examination
13 of the State's witnesses, because you're going to find,
14 I believe, some problems with that testimony.

15 We're going to have a chance to talk after the case
16 about what we really think that this is about. But
17 we're going to have to go through this process, because
18 I believe the State has over-charged in this case. I
19 believe there are some witnesses that are not going to
20 be totally credible, although they're going to appear
21 shiny and credible, until they get cross-examined a
22 little bit.

23 So, if you will, keep an open mind. Just like the
24 -- I can't think of the word -- there used to be an old
25 radio commentator called Paul Harvey that had a very

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OPENING - DEFENSE

1 interesting voice, and he'd give you a setup, and you'd
2 hear something, and you'd be thinking one way, and then,
3 he'd say, now let's hear the rest of the story. So,
4 that's all I ask. You took an oath to do that. We
5 picked you, and I certainly believe you would do that.
6 So, let's hear what they've got to say, and let's hear
7 what they don't say. Thank you all very much.

8 STATE'S CASE:

9 THE COURT: The State will call their first
10 witness.

11 MS. MUSSER: State calls Angie Boland.

12 THE COURT: Okay.

13 MS. MUSSER: Your Honor, with the Court's
14 permission, Officer Lindhal, formerly with the Sheriff's
15 Office, is the case officer.

16 THE COURT: Okay. Thank you.

17 MADAM CLERK: Do you solemnly swear or affirm to
18 truthfully answer all questions asked of you by this
19 court, so help you God?

20 SERGEANT ANGELA BOLAND: I do.

21 MADAM CLERK: Be seated, and please state your
22 name.

23 BAILIFF: Please speak into the microphone.

24 SERGEANT ANGELA BOLAND: Angela Boland,
25 B/o/l/a/n/d.

1 MS. MUSSER: May I inquire, your Honor?

2 THE COURT: You may.

3 MS. MUSSER: Thank you.

4 SERGEANT ANGELA BOLAND

5 DIRECT EXAMINATION, BY MS. MUSSER:

6 Q Ma'am, what is your current rank?

7 A I'm currently a sergeant with the Beaufort County
8 Sheriff's Office.

9 Q And how long have you worked for the Sheriff's
10 Office?

11 A I started with Beaufort County in August of 2009.
12 And --

13 Q And what department did you start with?

14 A Beaufort County. I was assigned to the Drug
15 Investigations Section, or Drug Task Force. And then, a
16 year -- approximately a year ago, I transferred to the
17 Criminal Investigations Division in Northern Beaufort
18 County.

19 Q And back in 2011, what were some of your job
20 responsibilities?

21 A In 2011, I was assigned with the Drug Task Force,
22 or Drug Investigations Section. We would -- or, my
23 duties would include following up on complaints,
24 conducting controlled buys, assisting with or executing
25 search warrants, and investigating drug complaints.

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DIRECT - ANGELA BOLAND

1 Q And prior to becoming employed with the Beaufort
2 County Sheriff's Office, were you employed anywhere else
3 in the field of law enforcement?

4 A Yes. I began my law enforcement career in 1998, in
5 New Mexico. I then trans -- or, moved to South Carolina
6 the very end of 1999. And in the first week of 2000 and
7 -- correction, 2000, I started in South Carolina.

8 Q Ma'am, were you working on July 30th of 2011?

9 A I was.

10 Q And did you have occasion to be present when a
11 search warrant was executed at ■ Miranda Circle, in
12 Beaufort?

13 A I was, yes.

14 Q And Beaufort -- is that a part of Beaufort County,
15 that's also Beaufort County?

16 A That is correct.

17 Q Okay. And ma'am, would you explain generally what
18 happens as part of the process when a search warrant --
19 officers are about to execute a search warrant.

20 A Okay.

21 Q What happens?

22 A After the case officer has obtained a search
23 warrant from the magistrate judge and it is signed, and
24 preparations are done --

25 MR. NEWMAN: Your Honor, I believe I have to object

1 on relevance of grounds here. Based on your rulings,
2 the fruits of the search are going to come in, too. So,
3 during the execution, or whatever happened, it's just
4 not relevant in this case.

5 THE COURT: Okay. I think she can talk about what
6 was done in this case. I think you asked her, somewhat,
7 in general, and I think we just want to know in this
8 case what happened.

9 A Okay.

10 THE COURT: Okay?

11 A Yes, ma'am.

12 THE COURT: Thank you.

13 BY MS. MUSSER:

14 A In this case, we prepped and planned, and I was the
15 assistant case officer, with Officer Lindahl; prepped
16 and planned for the search warrant; the search warrant,
17 and then the SWAT Team.

18 MR. NEWMAN: Your Honor.

19 THE COURT: Okay.

20 MR. NEWMAN: That's specifically why I made some
21 objection, and I have a matter of law that I would like
22 to take up.

23 THE COURT: Okay. Ladies and gentlemen of the
24 jury, there is a matter of law I need to take up with
25 the attorneys. I am going to excuse you back to your

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DIRECT - ANGELA BOLAND

1 jury room. Again, do not discuss this case. It
2 wouldn't be appropriate to do so. We'll bring you right
3 back out here. Okay? Thank you.

4 BAILIFF: Follow me, please.

5 JURORS LEAVE COURTROOM 3:27 P.M.

6 ON-THE-RECORD BENCH CONFERENCE, OUT
7 OF PRESENCE OF JURORS. PRESENT: THE
8 COURT, MS. MUSSER, MR. HOLLEN, MR. NEWMAN.

9 BAILIFF: Jury is clear, your Honor.

10 THE COURT: Okay. Mr. Newman?

11 MR. NEWMAN: Please the Court, your Honor. And
12 this is the exact issue that came up in -- with the
13 trial judge in the case of Mr. Alberto Garcia. All this
14 about coming in with the SWAT Team and all that kind of
15 stuff, this was a peaceful situation. Mr. Millidge
16 didn't --

17 THE COURT: Which lends to why your argument of,
18 they're overcharging and overreacting, I'm assuming,
19 but.

20 MR. NEWMAN: But you know, bringing in the SWAT
21 Team and dynamic entries and all this kind of stuff,
22 that goes -- that goes to a character issue in this
23 case. They're making him look like a bad guy. We had
24 to bring the SWAT Team and the dogs and the helicopters
25 and all that kind of stuff, when the fact is, you've

1 made a ruling that what they found on the search warrant
2 is admissible into evidence. So, all of this stuff
3 about SWAT, dynamic entry, and all that stuff, under
4 403, (1) it's not relevant in anything, and it is
5 prejudicial.

6 And I don't know if you remember, I showed you
7 affidavits from a number of jurors that that's why they
8 convicted Mr. Garcia, was based on, they thought he was
9 a very dangerous person, because they had to execute a
10 dynamic entry, and come in with the SWAT Team, when it's
11 just not relevant.

12 It does go to his character. It does, you know,
13 make him look like a bad boy that we have to bring in
14 the tank and the guns and all this kind of stuff, when
15 the fact is, Mr. Millidge never resisted. He just let
16 them execute their search warrant. I'm assuming he was
17 handcuffed. Sat in his house. They searched, and they
18 took him away.

19 THE COURT: And he apparently gave a voluntary
20 statement as to where the drugs were.

21 MR. NEWMAN: According to the cops.

22 THE COURT: According to the police officers.

23 MR. NEWMAN: Yeah.

24 THE COURT: Okay. Ms. Musser?

25 MS. MUSSER: Well, your Honor, that's why, in part,

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1 that I had started, generally speaking, so that I could
2 just move on into what was that -- in other words,
3 minimizing the SWAP. Unfortunately, it is a dangerous
4 situation, and the officers do act in safety. It's not
5 -- Officer -- I'm sorry, Sergeant Boland hasn't said one
6 thing that couldn't be clarified on cross.

7 You know, Mr. Newman's free to say, well, he was
8 cooperative. It's not about that. It's the jury
9 understanding that, when they go in the house, there's
10 no other opportunity for anyone else to get in there,
11 get out, no other --

12 THE COURT: I mean, the whole point is to do it by
13 surprise, I mean, obviously, so things can't be disposed
14 of. I mean, that's the whole point of it.

15 MR. NEWMAN: That's understandable. But we're
16 talking about evidence in the trial, not about general
17 procedure, not what they normally do and all this kind
18 of stuff, the fact is, factually, they executed the
19 search warrant. There was -- without incident, period.
20 So, I just -- it's not relevant. It just makes it look
21 bad, and that's not relevant to anything.

22 THE COURT: Okay. Well, I do think what they did
23 and how they went about it, I think she can say how they
24 executed it, but I think you can also downplay as to how
25 it happened. I mean, quite frankly, if we were saying

1 that -- if we were so careful as to say this looks big
2 and bad, you wouldn't be allowing her to testify that
3 she's a member of the Drug, you know, Task Force. She
4 just is a criminal investigator, in some way, shape, or
5 form.

6 MR. NEWMAN: I didn't mention any of that.

7 THE COURT: I know. But what I'm saying is this.
8 At some point, we can't completely tie their hands. I
9 think she can go and testify, and just say, we executed
10 the search warrant; we went in there; there were a
11 number of people. I'm assuming -- you gave me a witness
12 list of, you know, some-odd, you know, 15 people. You
13 know, that indicates that there were a lot of people
14 there, as far as I can see, and far as I'm concerned,
15 unless every last one of them are chain witnesses.

16 So, I guess, the point is, you can just say that
17 there were people there; there were a number of people
18 who were executing, you know, the search warrant. You
19 know, it's the typical, you never know what you're going
20 to get. You don't know what you're going to get when
21 you get there, and the answer to the question is going
22 to be yes, and he was peaceable, and he, you know, there
23 was not an issue.

24 Let's just not belabor the point, but I don't think
25 there's any prejudice. I think it is what happened.

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1 So, again, I don't think we have to lie as to how it
2 occurred. So, to that end, I'm going to bring the jury
3 back out. You're going to continue. I just don't need
4 you to make him to look like a big, bad, scary guy.
5 It's just what you did and how you did it, and let's
6 just move on. Okay?

7 A Yes, ma'am.

8 THE COURT: Because really, and in some defense to
9 Mr. Newman, the whole question is, what was there when
10 you got there, and it was the drugs. I mean, that's
11 what he's charged with, so.

12 A Yes, ma'am.

13 THE COURT: Anyway. Okay. Let's bring them back
14 in.

15 BAILIFF: The jury is entering the courtroom, your
16 Honor.

17 JURORS ENTER COURTROOM 3:33 P.M.

18 THE COURT: Welcome back, ladies and gentlemen.
19 Ms. Musser, continue.

20 BY MS. MUSSER:

21 Q Sergeant Boland, explain to the ladies and
22 gentlemen what happens when the officers go to execute
23 the search warrant.

24 A Okay. In this particular incident, we went to
25 execute the search warrant. The SWAT Team went in,

1 cleared the residence, secured any occupants of the
2 residence. And then, by policy and -- or, by procedure,
3 we had a K-9 officer come through with a dog and search
4 the residence. And then, I, as the assistant case
5 officer, went through and videotaped the interior and
6 exterior of the residence.

7 We then set up and began a search, where different
8 officers will search different parts of the house. And
9 then, in this particular incident, with Officer Lindahl
10 being the case officer, if an -- if another officer
11 found something that they felt was important, they would
12 leave it there. They would go get Officer Lindahl, who
13 then would go photograph it and collect the items, and
14 then she would bring them to me. And I -- I was sitting
15 in one particular location within the residence, and I
16 would log everything onto an inventory -- seized items
17 inventory list that gets attached with the search
18 warrant.

19 Q Now, after officers originally got -- you said the
20 scene is secured. Would any additional occupants --
21 where would they go? In other words, would they be
22 brought outside of the house? Would they stay inside,
23 in this case?

24 A That -- that goes on a case-by-case basis,
25 depending on the age, like with small children or an

1 elderly person, they're going to leave them inside, once
2 they've assured that there was no weapons.

3 In this particular incident, I believe there was
4 three individuals in the house, and they were all
5 brought outside. And what I mean by secured is, they
6 will go through and make sure that there's nobody else
7 in the house, and nobody else would go in or out of the
8 house, other than law enforcement, while we're
9 maintaining the custody of that house.

10 Q I mean, once that happens, are any other occupants
11 allowed to roam and move --

12 A No.

13 Q -- any items?

14 A No. Once the residents -- or the occupants of the
15 house are brought out, they are -- an -- excuse me -- an
16 officer stays with them, and they are either interviewed
17 or just -- they're just there with them, to assure that
18 nobody is -- is wandering through the house.

19 Q So, it's fair to say that nobody else has access
20 once the officers go in?

21 A Other than law enforcement, that's correct.

22 Q Okay. You indicated that you videoed before. Did
23 you video while the search was being conducted, or
24 before that, to show the condition of where -- of the
25 property before?

1 A The video is done before the search of the house,
2 and that's done just to show the condition of the house,
3 the property that's in it, you know, where things are.
4 And then, it is generally done at the conclusion of the
5 search warrant, to, also, again, show the condition that
6 we left it in, what items are left there, et cetera.

7 Q Is that also for, I guess, liability purposes?

8 A Yes, it is.

9 Q At some point, were the substances that were
10 located in this case field tested?

11 A Yes. Once the -- the drugs that were found were
12 collected and photographed by Officer Lindahl, she
13 brought them to me. I logged them in. After -- at the
14 conclusion of the search warrant, her and I would have
15 maintained custody of the -- the drugs. We would have
16 been together in the same vehicle. They went back to
17 our office -- excuse me -- for what we call processing,
18 which is just where they get put into the bags. They
19 get sealed. The bags are filled out.

20 Prior to being put into the bags for submission,
21 they're then weighed, a rough weight, you know, in
22 packaging material. Then, they're field tested, and
23 that was done in the -- Officer Lindahl did that in my
24 presence.

25 Q Okay. And from the time that the items were

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1 collected, and then you said subsequently transported,
2 did anyone other than law enforcement have access to
3 them?

4 A No. The only people that would have touched those
5 at that time would have been Officer Lindahl or myself.

6 Q Okay.

7 A And then, once we're back at the office, and
8 everything is sealed into bags, Officer Lindahl then
9 secured everything and submitted it into evidence.

10 Q Okay. And then, you -- with respect to the
11 property, so --

12 MS. MUSSER: Your Honor, may I approach?

13 THE COURT: You may.

14 BY MS. MUSSER:

15 Q Sergeant Boland, I'm handing you what has been
16 marked as State's Exhibit 1. What is this?

17 A That is a -- a sketch of the residence. Generally,
18 with a search warrant, the case officer or the assistant
19 will do a -- a rough sketch. It's not to scale. We're
20 not architects. But it is just a sketch to show the
21 layout of the residence.

22 Q And does this diagram that you've seen fairly and
23 accurately depict the layout of the property, as you
24 recall it?

25 A Yes.

1 Q What type of residence was it?

2 A It was a trailer.

3 Q Okay. Single, double? If you recall.

4 A I -- I don't recall off the top of my head. I'm
5 sorry. I want to say it's a double, but I don't want to
6 misspeak.

7 MS. MUSSER: Your Honor, with the Court's
8 permission, and unless there's an objection from
9 Counsel, may Sergeant Boland come down and point out the
10 layout to the ladies and gentlemen of the jury?

11 THE COURT: You may.

12 A Thank you.

13 Q And if you don't mind, I'll hold it.

14 A Okay.

15 Q Would you --

16 MR. NEWMAN: Can I move this?

17 THE COURT: Sure.

18 MS. MUSSER: May the Court inquire if they can see
19 from --

20 THE COURT: Can you all see it?

21 BY MS. MUSSER:

22 A This is the front porch area. Come into the living
23 room. Kitchen and dining room area. There's a den area
24 here. The master bedroom and bathroom. On the right
25 side of the house, we have two -- a bedroom here and a

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1 bedroom -- or, correction, three bedrooms, I'm sorry.
2 Bedroom 2, 3, and 4, with the two closets and the other
3 bathroom right there. And this would have been the rear
4 door there.

5 Q And which one was Trevin Millidge's room?

6 A I believe this would be the master bedroom, which
7 would be Bedroom 1.

8 Q Okay. Thank you.

9 MS. MUSSER: Your Honor, no further questions.

10 THE COURT: Okay.

11 SERGEANT ANGELA BOLAND

12 CROSS-EXAMINATION, BY MR. NEWMAN:

13 Q Did you file the report in this case?

14 A Did I file the report? No, sir. I was the
15 assistant case officer.

16 Q Well, with respect to this search, I know you were
17 involved with something else, but did you file a report
18 with respect to this search?

19 A Mr. Newman, I'm not clear. Are you talking about
20 the original report, or a supplemental report?

21 Q Yeah, the one that they did on contemporaneous,
22 either on July 30th or August 1st or so.

23 A The original report? No, sir. That would have
24 been Officer Lindahl.

25 Q Okay. So, everything you're going on is just

1 memory --

2 A That's --

3 Q -- from 2011.

4 A Memory and review of the reports, that's correct.

5 Q Okay. But you didn't write a report.

6 A I wrote -- would have wrote a supplemental.

7 Q A supplemental report, but not involving --

8 A But not the original report. That is correct.

9 Q Okay. So, all the evidence was handed to you?

10 A At the house. That is correct.

11 Q Okay. And in the report that references your name
12 as being tested in the presence of Corporal Angela
13 Boland, it was noted that there was 35.7 grams of crack
14 cocaine, and 14 1/2 grams of cocaine. Does that go with
15 your recollection?

16 A I remember there was multiple bags, yes. And I
17 believe that, at one point, there was a portion of the
18 cocaine that was actually compressed, if I remember
19 correctly. So, it may have tested out to be crack
20 cocaine or vice versa. I'd have to look at the report.

21 Q Okay. But do you recall those weights?

22 A Yes. Roughly, yes.

23 Q Okay.

24 A And those -- and for clarification, Mr. Newman,
25 those are just preliminary weights that are done in the

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1 packaging, with the packaging material. We don't
2 separate the -- the content from the package when we do
3 the weighing.

4 Q Yeah, I --

5 A That's for the lab.

6 Q I understand the little baggy thing, but you've got
7 35.7 grams.

8 A Officer Lindahl would have wrote that, yes.

9 Q Okay. And 14 1/2 grams of cocaine. Do you recall
10 that, as well?

11 A Yes.

12 MR. NEWMAN: Okay. Thank you.

13 THE COURT: Anything else?

14 MS. MUSSER: No, your Honor. May Sergeant Boland
15 remain in the courtroom as the assistant case officer,
16 since her testimony is finished?

17 THE COURT: Any objection, Mr. Newman?

18 MR. NEWMAN: As long as she won't testify again.

19 THE COURT: All right. As long as she's not
20 testifying again. You may step down. Thank you.

21 BAILIFF: Please watch your step.

22 MS. MUSSER: State calls Kyle Strickland.

23 THE COURT: May I see the attorneys very quickly
24 over here?

25 OFF-THE-RECORD BENCH CONFERENCE, OUT OF

1 HEARING OF JURORS. PRESENT: THE COURT

2 MS. MUSSER, AND MR. NEWMAN.

3 END BENCH CONFERENCE.

4 MADAM CLERK: Right hand here. Do you solemnly
5 swear or affirm to truthfully answer all questions asked
6 of you by this court, so help you God?

7 SERGEANT KYLE STRICKLAND: I do.

8 MADAM CLERK: Please be seated, and state your
9 name.

10 SERGEANT KYLE STRICKLAND: I'm Kyle Strickland.

11 SERGEANT KYLE STRICKLAND

12 DIRECT EXAMINATION, BY MS. MUSSER:

13 Q And sir, by whom are you employed?

14 A I'm currently employed with Colleton County
15 Sheriff's Office.

16 Q And how long have you worked there?

17 A I've been there almost -- about -- this is going on
18 my, almost, third year.

19 Q Okay. And where were you before you started with
20 Colleton County Sheriff's Office?

21 A I was employed here at Beaufort County Sheriff's
22 Office.

23 Q And when did you start with their Sheriff's Office?

24 A With the Sheriff's Office here?

25 Q Yes, sir.

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1 A I started in around 2010.

2 Q Okay. And when did you leave?

3 A Around 2013.

4 Q Okay. Sir, what is your current rank?

5 A I'm a sergeant.

6 Q And Sergeant, where were you employed before the
7 Sheriff's Office?

8 A Beaufort County? I was employed with the South
9 Carolina Highway Patrol, stationed here in Beaufort and
10 Jasper County.

11 Q Okay. And when did you start with them?

12 A In 2008.

13 Q Were you working on July 30th of 2011?

14 A Yes, ma'am, I was.

15 Q And did you have occasion to be present for a
16 search warrant being executed at ■ Miranda Circle, in
17 Beaufort?

18 A I did.

19 Q Okay. And what was your function that day? What
20 was one of your primary responsibilities?

21 A One of my primary responsibilities was, when we
22 detained Mr. Millidge that day, was to search him.

23 Q Okay. And where was he when that happened?

24 A He was out in the yard.

25 Q Okay. And do you see Mr. Millidge in the courtroom

1 today?

2 A I do.

3 Q Would you please point out what color shirt he's
4 wearing.

5 A It's a brown and white and gray checkered shirt.

6 MS. MUSSER: Your Honor, may the record reflect the
7 in-court identification of the defendant, Trevin
8 Millidge?

9 THE COURT: It does.

10 MS. MUSSER: Thank you.

11 BY MS. MUSSER:

12 Q And sir, you indicated that you searched the
13 defendant. How did you go about your search?

14 A When I checked his front, left pants pocket, I
15 believe he had around \$443.00 of U.S. currency. And --

16 Q And which pocket was that?

17 A His front, left pocket.

18 Q Okay.

19 A And then, in his right-front pocket was some clear,
20 plastic baggies containing suspected crack cocaine and
21 cocaine.

22 Q Okay. And did you locate any additional funds on
23 him?

24 A I did. In his back, right pocket, there was a
25 wallet. And inside the wallet was \$385.00, along with a

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1 South Carolina I.D. card that did identify Mr. Millidge
2 as Trevin Millidge, and the address on it was ■ Miranda
3 Circle, in Beaufort, South Carolina.

4 MR. NEWMAN: I've got a partial objection.

5 MS. MUSSER: All right. Your Honor, may I
6 approach?

7 THE COURT: You may.

8 BY MS. MUSSER:

9 Q Sergeant, I'm handing you what has been marked as
10 State's Exhibit 3. Sir, what is that?

11 A This is a South Carolina commercial driver's
12 license for an I.D. card.

13 Q And whose name is on it?

14 A Trevin Lorenzo Millidge.

15 Q What is the address, as you read it from the
16 license?

17 A ■ Miranda Circle, Beaufort, South Carolina.

18 Q And is that the license that you recovered that
19 day?

20 A It is.

21 Q And you indicated that you also found some plastic
22 baggies containing a white powder.

23 A Yes, ma'am. In -- in his front pocket.

24 Q And sir, I'm just going to ask you to read the
25 container number on this box. Are you familiar with

1 these types of boxes, from your employment with the
2 Sheriff's Office?

3 A Yes, ma'am, I am.

4 Q Okay. And what is that container number?

5 A The actual container number that -- that's on this
6 box is a case number, I'm assuming? Or are you asking
7 about the container I.D. number?

8 Q The container I.D. number.

9 A Okay. Just to be clear. So, 11-08-0109-B.

10 Q Okay. And is that box currently sealed?

11 A Yes, it does appear to be that way.

12 Q And are there various signatures on the top of the
13 box?

14 A That's correct.

15 Q Okay. And just for the ladies and gentlemen of the
16 jury, sir, I'm just going to ask you to open that box,
17 cut it open with the scissors.

18 MS. MUSSER: Your Honor, at this time, may we take
19 a break?

20 THE COURT: We can. All right. Ladies and
21 gentlemen, at this time, we're going to go ahead and
22 take a very brief recess. Again, do not discuss this
23 case. It wouldn't be appropriate to do so, and we'll be
24 right back with you. Okay? Thank you.

25 JURORS LEAVE COURTROOM 3:50 P.M.

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1 BY THE COURT:

2 BAILIFF: Jury is clear, your Honor.

3 THE COURT: Okay. All right. So, you've
4 established the chain so far, so we're going to go
5 ahead, as far as who got it, where it was put together.
6 I need you to go ahead and get out the drugs that you're
7 using, if you would, for that. Let's mark those.

8 While you're doing that, I'm going to take a quick
9 step off, and I'll be right back in one minute. Anyone
10 else need to refresh themselves, and then we're going to
11 take up the issue that Mr. Newman has. Okay? So, thank
12 you.

13 OFF THE RECORD 3:51 P.M.

14 BACK ON THE RECORD 4:09 P.M.

15 OFFICER KYLE STRICKLAND, PROFFER

16 DIRECT EXAMINATION, MR. NEWMAN:

17 THE COURT: All right. Mr. Newman, your issue's
18 with former Officer Strickland, I guess, now. Yes, sir.

19 MR. NEWMAN: I know this has been an issue. The
20 State tells me that Mr. Strickland was not dismissed
21 from the Sheriff's Office. I would like to inquire,
22 however, whether he was disciplined over either
23 truthfulness about evidence disposition, generally.

24 SERGEANT KYLE STRICKLAND: Absolutely not.

25 MR. NEWMAN: Okay. So, there's no disciplinary

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1 record on your file from the Sheriff's Department.

2 SERGEANT KYLE STRICKLAND: No, and there's never
3 been one with any department I've ever been with.

4 MR. NEWMAN: Okay.

5 THE COURT: Anything further?

6 MR. NEWMAN: No.

7 THE COURT: Okay. Let's bring that jury out.
8 Let's go.

9 BAILIFF: The jury is entering the courtroom, your
10 Honor.

11 JURORS ENTER COURTROOM 4:11 P.M.

12 THE COURT: Welcome back, ladies and gentlemen.
13 All right. Ms. Musser?

14 MS. MUSSER: Thank you.

15 OFFICER KYLE STRICKLAND

16 CONTINUE DIRECT EXAMINATION, BY MS. MUSSER:

17 Q Sergeant, during our break, did you have an
18 opportunity to review the contents of the sealed box?
19 Again, it was Container 109, were the last four [sic]
20 letters and numbers. Did you have a chance to look at
21 it?

22 A Yes, ma'am, I did.

23 Q Okay. And do you have what has been marked up
24 there as State's Exhibit 2?

25 A Yes, ma'am, I do.

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1 Q And what is that item, and how are you familiar
2 with it?

3 A This was the plastic bags containing the suspected
4 cocaine and crack cocaine that I located on Mr.
5 Millidge.

6 Q Okay. And does -- other than the packaging -- what
7 kind of packaging is it in now?

8 A It's in a sealed evidence bag, but the actual
9 contents of the drugs are still in the clear, plastic
10 baggies.

11 Q And is that how -- other than the testing, is that
12 how you observed it when you retrieved it from the
13 defendant?

14 A Yes, ma'am.

15 Q And you indicated. Which pant pocket was it in?

16 A This was in his right-front pants pocket.

17 Q And is that also indicated on the evidence bag?

18 A It is.

19 MS. MUSSER: No further questions, your Honor.

20 THE COURT: Mr. Newman.

21 SERGEANT KYLE STRICKLAND

22 CROSS-EXAMINATION, BY MR. NEWMAN:

23 Q Where I'm reading from, it says they found crack
24 cocaine with approximate total weight of 35.7 grams,
25 with baggies. Those the ones that were referred to?

1 MS. MUSSER: I'm sorry. I'm having difficulty
2 hearing.

3 THE COURT: You need to be louder, Mr. Newman.

4 MR. NEWMAN: Your Honor, I'm sorry, I apologize.
5 I've been extremely hoarse, your Honor.

6 BY MR. NEWMAN:

7 Q This would be the crack?

8 A I'm not sure about the weights, sir, but that's the
9 stuff that I found on Mr. Millidge.

10 Q This is Ms. Lindahl's report? Would that be what
11 we're talking about, the crack cocaine of 35.7?

12 A That's a total of all. I believe, in the line
13 before, it says, *all of the suspected crack*.

14 Q Okay. And then, that's a total weight of 14.5 on
15 the cocaine?

16 A I'd have to look at the actual breakdown of the --
17 the drug testing to see specifically. I know there was
18 -- well, I'll let you all get to that, but.

19 Q Okay. I just want to make sure we're talking about
20 the same thing.

21 A Just what's in this bag, yes.

22 Q Okay.

23 A Yeah.

24 Q Excellent. Thank you.

25 MR. NEWMAN: I don't have anything further.

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1 MS. MUSSER: Your Honor, at this time, the State
2 would just move for, conditionally, of course, State's
3 Exhibit 2, subject to the completion of the chain, as
4 well as State's Exhibit 3.

5 THE COURT: Subject to the chain being established,
6 correct?

7 MR. NEWMAN: If they're only being admitted at this
8 time for the purposes of identification, I don't have a
9 problem with it.

10 THE COURT: Okay. Thank you.

11 ITEMS IDENTIFIED AS EVIDENCE BAG,
12 PLASTIC BAG CONTAINING COCAINE AND
13 CRACK COCAINE, MARKED
14 STATE'S EXHIBIT NUMBER 2, FOR
15 IDENTIFICATION.

16 ITEM IDENTIFIED AS SOUTH CAROLINA
17 COMMERCIAL DRIVER'S LICENSE FOR I.D.
18 CARD FOR TREVIN LORENZO MILLIDGE
19 MARKED STATE'S EXHIBIT NUMBER 3, FOR
20 IDENTIFICATION.

21 THE COURT: All right. Anything further?

22 MS. MUSSER: No, your Honor.

23 THE COURT: Sir, you may step down. Thank you.

24 MS. MUSSER: And may he be excused?

25 THE COURT: Any objection?

1 MR. NEWMAN: No, ma'am.

2 THE COURT: You are excused, sir. Thank you very
3 much.

4 BAILIFF: Please watch your step.

5 MS. MUSSER: State calls William Squires.

6 BAILIFF: Please go up to be sworn in.

7 MADAM CLERK: Raise your right hand, left hand on
8 the *Bible*. Do you solemnly swear or affirm to
9 truthfully answer all questions asked of you by this
10 court, so help you God?

11 SERGEANT WILLIAM SQUIRES: Yes, ma'am, I do.

12 MADAM CLERK: Please be seated, and state your
13 name.

14 BAILIFF: Please speak directly into the microphone
15 for the jury can hear you.

16 SERGEANT WILLIAM SQUIRES: Okay. My name is
17 William Squires.

18 SERGEANT WILLIAM SQUIRES

19 DIRECT EXAMINATION, BY MS. MUSSER:

20 Q Sir, by whom are you employed?

21 A I currently work with the Beaufort County Sheriff's
22 Office.

23 Q And how long have you worked for the Sheriff's
24 Office?

25 A Going on nine years now.

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1 Q And in what capacity?

2 A I'm a sergeant with the -- currently on the drug
3 team.

4 Q And how long have you been on the drug team?

5 A Going on four-and-a-half, five years.

6 Q Were you working on July 30th of 2011?

7 A Yes, ma'am.

8 Q Did you have occasion to be present for the
9 execution of a search warrant at ■ Miranda Circle in
10 Beaufort?

11 A Yes, ma'am.

12 Q And what were some of your responsibilities that
13 day?

14 A I was assigned to search inside the residence.

15 Q Okay. Did you also have occasion to search an
16 individual by the name of Tyrone Jenkins?

17 A Yes, ma'am.

18 MS. MUSSER: Your Honor, may I approach?

19 THE COURT: You may.

20 BY MS. MUSSER:

21 Q Sir, I'm handing you what's been marked as State's
22 Exhibit 4. What is that?

23 A It is a smoking device.

24 Q And what --

25 A Also known as a crack pipe.

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1 Q Okay. And what would that be used for?

2 A Smoking. For smoking.

3 Q Okay. Smoking crack?

4 A Yes, ma'am.

5 Q Okay. And where did you find that on Mr. Jenkins?

6 A I would have to refer back -- back to the report.

7 I don't have a copy exactly where it was at.

8 MS. MUSSER: Your Honor, may I approach?

9 THE COURT: You may.

10 BY MS. MUSSER:

11 Q If you would look at Items 2 and 3, and then hand
12 me -- to see if that refreshes your recollection, and
13 then hand that back to me. Does that refresh your
14 recollection as to where you found State's Exhibit 4 on
15 Mr. Jenkins?

16 A Yes, ma'am.

17 Q And where did you find it?

18 A The left, front -- front pocket of his jeans or
19 shorts that he was wearing.

20 Q And does it appear in the bag as it appeared to you
21 that day?

22 A Yes, ma'am.

23 Q Okay. Did you search any rooms within ■ Miranda
24 Circle?

25 A Yes. I searched the master bedroom and the

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1 kitchen, I believe.

2 MS. MUSSER: And your Honor, may I ask Sergeant to
3 come down and point on the diagram where he searched?

4 THE COURT: You may.

5 BY MS. MUSSER:

6 Q Can you point out for the ladies and gentlemen of
7 the jury which rooms you searched.

8 A The master bedroom, and it looks like the -- looks
9 like the kitchen area, right in here.

10 Q Okay. Thank you. And when you searched the master
11 bedroom, what, if any, items did you find?

12 A I'll have to refer to the original report, but I
13 believe we found a handgun inside the dresser, illegal
14 drugs, found money. We found, I believe, two utility
15 bills, or bills with the -- with the defendant's name on
16 it, with the ■ Miranda Circle address.

17 Q Okay. Sir, I'm handing you what has been marked as
18 State's Exhibit 5, and --

19 A Okay.

20 Q -- what is that?

21 A This is a gun box that includes a Highpoint model
22 handgun inside the box.

23 Q Okay. Can you take a look inside the box.

24 A Do you want me to wear gloves?

25 Q Sure. I just want you to look at it and see --

1 A Okay.

2 Q -- if it appears to be substantially the same way
3 as it did.

4 A Yes. Yes, ma'am. Looks like the same gun, except
5 for the gun lock that's on it. I wasn't present for
6 that.

7 MS. MUSSER: Your Honor, upon speaking with Mr.
8 Newman, he does not have an objection to the Sergeant
9 having a copy of the Detective Lindahl -- or, I'm sorry,
10 Officer Lindahl's report.

11 A Perfect.

12 BY MS. MUSSER:

13 Q And sir, you've already indicated that that appears
14 in a substantially similar way that it did. Where did
15 you find that item? Which room of the house?

16 A I believe the handgun was found in the master
17 bedroom, inside the -- inside the dresser drawer.

18 Q And was there any ammunition included in that area?

19 A None that's noted on this report. So, I don't have
20 an answer for you on that.

21 MS. MUSSER: Your Honor, may I approach?

22 BY MS. MUSSER:

23 Q If you could look at Item Number 13, and see if
24 that refreshes your recollection.

25 A Oh, okay. It's a separate item. Okay. I thought

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DIRECT - SQUIRES

1 we were still talking about the handgun item. Yeah.

2 Item Number 13, one magazine with seven rounds, located
3 in master bedroom, inside of the dresser drawer.

4 Q Okay. And you indicated that you found some mail.
5 Is that correct?

6 A Yes, ma'am.

7 Q And where was the mail when you found it?

8 A I believe it was hanging on the wall inside the
9 master bedroom.

10 Q Okay. Sir, I'm handing you what has been marked as
11 State's Exhibit 7.

12 A Okay.

13 Q And would you please break the seal on that. There
14 should be a pair of scissors up there.

15 A All right.

16 Q And what two documents are in there, sir?

17 A Inside this evidence bag, there's -- there's a --
18 there's a Beaufort/Jasper -- looks like a water bill.

19 Q And whose name -- who's being billed?

20 A Trevin Millidge.

21 Q And what's the address being billed for their
22 services?

23 A The service average for this bill -- it was mailed
24 to ■ Miranda Circle, but the service address is 24
25 Millidge Village Road.

1 Q Okay. And then, what about the other item?

2 A Looks like a -- looks like a tax notice from
3 Beaufort County in 2011.

4 Q And what address appears on that document?

5 A ■ Miranda Circle.

6 Q Okay. And where were these items hanging?

7 A These were hanging in the master bedroom.

8 Q Did you find additional sums of money in the
9 bedroom?

10 A Yes, ma'am. I located \$25.00 in U.S., located in
11 the master bedroom, inside the -- inside the dresser
12 drawer.

13 Q Okay. Any other sums?

14 A \$901.00 in U.S., located in the master bedroom,
15 inside the dresser drawer.

16 Q Okay.

17 A And I believe a -- \$15.00 U.S. currency that was
18 also located in the master bedroom, inside the dresser
19 drawer.

20 Q Okay.

21 A Along with \$9.00 of U.S. currency that was from a
22 -- that was from a jar that was located in the master
23 bedroom, inside the closet.

24 Q Okay.

25 A And a \$5.00 bill that was found ripped in two

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1 pieces, located in the master bedroom, on the dresser.

2 Q Okay. And these items that you've been testifying
3 about, are they all items that you located?

4 A Yes, ma'am, while searching the master bedroom.

5 Q What did you do, once you found those items?

6 A If we find items that we deem that needs to be
7 taken from the residence, we contact the -- the actual
8 case officer. They come, they take pictures of the
9 evidence, and they collect it from there.

10 Q And who was the case officer here? Was that
11 Officer Lindahl?

12 A Yes, ma'am.

13 Q Sir, I'm handing you what's been marked as State's
14 Exhibit 9. Are you familiar with this item?

15 A Yes, ma'am. This is GNC Inositol powder.

16 Q And what is Inositol powder used for?

17 A It's commonly used to cut cocaine.

18 Q And where did you find this item?

19 A That was located in the master bedroom. I believe
20 it was on top of the dresser, on the ledge of the
21 dresser.

22 Q Okay. Now, with respect to the big box in front of
23 you, that's Container Number 109-B, would you please
24 take a look in that box to see if there are additional
25 items that you found while searching the master bedroom?

1 I believe it's Number 20.

2 A You are referring to our -- an item in our report
3 as 8, or?

4 MS. MUSSER: Your Honor, may I approach?

5 THE COURT: You may.

6 BY MS. MUSSER:

7 A Or this one right here, ma'am?

8 Q That one.

9 A Number 20?

10 Q Yes, starting with Number 20.

11 A Okay.

12 Q And what's in that bag?

13 A This is a plastic bag that -- it contained 23 -- 23
14 blue pills suspected as Xanax, that we've listed. In
15 the report, that came back as Xanax.

16 Q Thank you.

17 A I believe.

18 Q Thank you.

19 MS. MUSSER: And your Honor, with the Court's
20 permission, I just ask that that be -- we put an
21 evidence sticker on that, for State's Exhibit 8.

22 ITEMS IDENTIFIED AS 23 XANAX PILLS

23 MARKED STATE'S EXHIBIT NUMBER 8,

24 FOR IDENTIFICATION.

25 BY MS. MUSSER:

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DIRECT - SQUIRES

1 Q So, the other item that you're holding in your
2 hand, what is that?

3 A This is a plastic bag containing suspected cocaine
4 and suspected crack.

5 Q Okay. And were you present when that was -- did
6 you find that, as well as Officer Lindahl?

7 A Yes, ma'am.

8 Q Okay.

9 MS. MUSSER: Your Honor, I'd ask that that bag be
10 marked as Number 12.

11 ITEM IDENTIFIED AS EVIDENCE BAG
12 CONTAINING COCAINE AND CRACK COCAINE
13 MARKED STATE'S EXHIBIT NUMBER 12, FOR
14 IDENTIFICATION.

15 BY MS. MUSSER:

16 Q And sir, what's in this bag?

17 A Cocaine, and looks like -- looks like -- looks like
18 crack cocaine.

19 Q And where was that recovered from?

20 A This was from the master bedroom, in the -- in the
21 -- in the -- in the closet that, I believe, fell on the
22 ground.

23 Q And do all of these items that you've testified to
24 appear in a substantially similar condition as they
25 were, aside from the packaging, of course?

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DIRECT - SQUIRES

1 A Yes, ma'am.

2 Q Okay. Did you search any other items -- or any
3 other rooms in the house? You said --

4 A The kitchen.

5 Q Okay. And what, if any, items did you find in the
6 kitchen?

7 A I believe I found a -- found a digital scale. I'll
8 have to refer back to the report.

9 Q Sir, I'm handing you State's Exhibit 10. Are you
10 familiar with that?

11 A Yes, ma'am.

12 Q What is it?

13 A It's a -- it's a -- it's a digital scale to weigh
14 items.

15 Q Okay. And what is that commonly used for?

16 A To weigh drugs.

17 Q And is that the scale that you found in the
18 kitchen?

19 A Yes, ma'am.

20 ITEM IDENTIFIED AS DIGITAL SCALE

21 MARKED STATE'S EXHIBIT NUMBER 10,

22 FOR IDENTIFICATION.

23 Q And again, that has been marked as State's Exhibit
24 10. Sir, you were searching the master bedroom, With
25 respect to the clothes in the closet, were they male or

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DIRECT - SQUIRES

1 female?

2 A The master bedroom, to me, when I was searching, I
3 believe, was more of a male-dominant room.

4 Q Okay. Once you located these items, did you bring
5 them to Officer Lindahl's attention?

6 A Yes, ma'am. While I was searching the residence,
7 if -- or the master bedroom, if I found something, then
8 we usually call out to Officer Lindahl, and they'd come
9 take -- come and take pictures of it.

10 Q Okay.

11 A Um-hmm.

12 Q And did that happen with items that you've just
13 described for the ladies and gentlemen of the jury?

14 A Yes, ma'am.

15 Q Okay.

16 MS. MUSSER: And your Honor, at this time, the
17 State would move for the admission of State's Exhibit 4,
18 5, 6, 7, 8, which would be conditional on the rest of
19 the chain, 9 and 10.

20 MR. NEWMAN: Are they for identification only?

21 COURT REPORTER: I'm sorry, Mr. Newman?

22 THE COURT: For identification only, is what he
23 said.

24 MS. MUSSER: I guess everything except for the
25 items in the chain.

1 THE COURT: Okay. Thank you.

2 MS. MUSSER: Which would be Number 8 and -- pardon
3 me -- 20. I'm sorry, 8 and 12.

4 MR. NEWMAN: I don't remember which ones 8 and 12
5 were.

6 MS. MUSSER: They would be -- 8 was the pills
7 recovered from the master bedroom inside dresser; and
8 then, 12 was the crack and the cocaine from the closet.

9 THE COURT: Okay. Okay. All right.

10 MR. NEWMAN: Just subject to our previous motion.

11 THE COURT: Yes.

12 MS. MUSSER: No further questions, your Honor.

13 THE COURT: Okay. I assumed as much. All right.
14 Mr. Newman.

15 ITEM IDENTIFIED AS CRACK PIPE
16 MARKED STATE'S EXHIBIT NUMBER 4,
17 ADMITTED AS EVIDENCE.

18 ITEM IDENTIFIED AS GUN BOX THAT
19 INCLUDES A HIGHPOINT MODEL HANDGUN
20 MARKED STATE'S EXHIBIT NUMBER 5,
21 ADMITTED AS EVIDENCE.

22 ITEM IDENTIFIED AS 7 ROUNDS MAGAZINE
23 MARKED STATE'S EXHIBIT NUMBER 6,
24 ADMITTED AS EVIDENCE.

25 ITEM IDENTIFIED AS EVIDENCE BAG

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1 CONTAINING 2011 WATER BILL FOR TREVIN
2 MILLIDGE FOR 24 MILLIDGE VILLAGE
3 ROAD, AND TAX NOTICE FOR ■ MIRANDA
4 CIRCLE MARKED STATE'S EXHIBIT NUMBER 7,
5 ADMITTED AS EVIDENCE.
6 ITEM IDENTIFIED AS 23 XANAX PILLS
7 ALREADY PREVIOUSLY MARKED
8 STATE'S EXHIBIT NUMBER 8,
9 FOR IDENTIFICATION.
10 ITEM IDENTIFIED AS GNC INOSITOL
11 POWDER MARKED
12 STATE'S EXHIBIT NUMBER 9,
13 ADMITTED AS EVIDENCE.
14 ITEM IDENTIFIED AS DIGITAL SCALE
15 MARKED STATE'S EXHIBIT NUMBER 10,
16 ADMITTED AS EVIDENCE.
17 ITEMS IDENTIFIED AS EVIDENCE BAG
18 CONTAINING COCAINE AND CRACK COCAINE
19 HAS ALREADY BEEN MARKED
20 STATE'S EXHIBIT NUMBER 12,
21 FOR IDENTIFICATION.

22 SERGEANT WILLIAM SQUIRES
23 CROSS-EXAMINATION, BY MR. NEWMAN:

24 Q Bear with me a little bit.

25 A Oh, yes, sir.

1 Q I came down with that, you know, crud over the New
2 Years, and it's kind of lingering on the pipes, there.

3 A I believe all of the evidence is laying right here,
4 sir. Except for the gun box.

5 Q Yeah. Let me take a look at the gun box. And this
6 is all the same, except for the gun lock on it, correct?

7 A Yes, sir. I don't believe I put the lock on the
8 gun.

9 Q Okay. Now, guns, due to their makeup, are very
10 receptive items for fingerprints; are they not?

11 A All depends. I'm not too sure. I'm not the one to
12 dust it for latents, if that's what you're asking.

13 Q You don't know nothing about fingerprints and
14 dusting fingerprints?

15 A Oh. Yes. I mean, you can get latents.

16 Q Okay.

17 A Um-hmm.

18 Q How about DNA?

19 A Yes, sir.

20 Q And it's common to swab evidence like guns for DNA,
21 correct?

22 A Sometimes. It all depends on the case officer.
23 Yes, sir.

24 Q I understand that, but you agree with me, the same
25 material that exudes that makes your fingerprints is

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CROSS - SQUIRES

1 basically genetic material. It's sebum and urea that's
2 excreted from your body, correct?

3 A Yes, sir.

4 Q Okay. And you have those all on the -- you even
5 have those on the palm of your hand, as well, correct?

6 A Yes, sir.

7 Q Okay. So, you all charged Mr. Millidge with this
8 possession of a handgun during the commission of a
9 violent crime. Did Mr. Millidge have the handgun on his
10 person?

11 A No, sir. That was located inside the master
12 bedroom in the dresser drawer.

13 Q Okay. And also located in that same dresser drawer
14 by you was Item 19. What was Item 19?

15 A A South Carolina D.O. to John Schuster, located in
16 master bedroom, inside the -- inside the dresser drawer.

17 Q Okay. Same dresser where you found the gun?

18 A I believe so, yes, sir. I would have to look at
19 the picture, but.

20 Q Okay. And the gun was not out open in the obvious.
21 Is that correct?

22 A No, sir.

23 Q You not only actually had to open the drawer, I'm
24 assuming move some clothing, or at least open the
25 drawer, correct?

1 A I believe so, yes, sir.

2 Q Okay. There was also mail in the house addressed
3 to Shatike Shabazz. Isn't that correct?

4 A Which item are you looking at, sir?

5 Q I'm looking at Item 40.

6 A 40? Yes, sir. Located in one of the bedrooms.

7 Q Okay. And likewise, as to the -- I guess the
8 Inositol and the cocaine itself, none of that was DNA
9 tested, was it?

10 A I don't have the answer. I'm not sure if it was or
11 not, sir.

12 Q Okay. To your knowledge, you can't say that Mr.
13 Millidge touched any of those things. Isn't that
14 correct?

15 A To my knowledge, reference to the DNA, no, sir. I
16 -- I don't know if it -- I have no answer if it was or
17 not.

18 Q Okay. Were you there when the cocaine, the crack
19 cocaine, was weighed?

20 A I don't believe so, no, sir.

21 MR. NEWMAN: Okay. Thank you, sir.

22 THE COURT: Anything further, Ms. Musser?

23 MS. MUSSER: Just briefly.

24 SERGEANT WILLIAM SQUIRES

25 RE-DIRECT EXAMINATION, BY MS. MUSSER:

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RE-CROSS - SQUIRES

1 Q In the dresser drawer where the gun was found, were
2 there any female items? Any items that would be
3 apparent as a woman's?

4 A No, ma'am, I don't believe so.

5 MS. MUSSER: Nothing further, your Honor.

6 MR. NEWMAN: Followup.

7 THE COURT: Sure.

8 SERGEANT WILLIAM SQUIRES

9 RE-CROSS-EXAMINATION, BY MR. NEWMAN:

10 Q You didn't write any kind of report about that; did
11 you?

12 A No, sir. I'm just going by the report that I have,
13 and I'm sure that you have.

14 Q Okay. And it doesn't say anything about -- whether
15 it was noted whether male items or female items were in
16 those drawers, correct?

17 A No, sir.

18 Q So, you're just going off some kind of memory,
19 based on a leading question the Solicitor asked you.

20 A I'm going off the memory of what I can recall when
21 I was searching the room.

22 Q But you didn't write a report about that.

23 A No, sir. No.

24 Q Okay. And this was 2011.

25 A Yes, sir.

1 Q I'm assuming you've done a search or two since
2 then.

3 A Absolutely.

4 Q Like, just bookoos of them.

5 A Numerous.

6 Q Okay. There was a -- Ms. Tori Higgins was in the
7 house and arrested, wasn't she?

8 A I'll have to recall back to the report to see who
9 was in the house.

10 Q And didn't she live in the master bedroom?

11 A I don't know if she lived in the master bedroom or
12 not.

13 Q And didn't she claim possession and ownership of
14 the weapon?

15 MS. MUSSER: Objection, your Honor.

16 A I don't have any knowledge of that at all.

17 BY MR. NEWMAN:

18 Q Okay. So, I'm asking the wrong guy.

19 A Yeah, my job was to search the master bedroom and
20 the kitchen.

21 Q Okay. I'll ask the case officer.

22 MR. NEWMAN: All right. Thanks.

23 THE COURT: Anything further, Ms. Musser, of this
24 witness?

25 MS. MUSSER: No, your Honor.

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DIRECT - MALONIS

1 THE COURT: You may step down, sir. Thank you.

2 SERGEANT WILLIAM SQUIRES: Thank you.

3 MS. MUSSER: Your Honor, State calls Mike Malonis.

4 MADAM CLERK: Do you solemnly swear or affirm to
5 answer all -- truthfully answer all questions asked of
6 you by this court, so help you God?

7 CORPORAL MICHAEL MALONIS: I do.

8 MADAM CLERK: Have a seat, and please state your
9 name.

10 BAILIFF: Please speak directly into the
11 microphone.

12 CORPORAL MICHAEL MALONIS: Michael Malonis.

13 CORPORAL MICHAEL MALONIS

14 DIRECT EXAMINATION, BY MS. MUSSER:

15 Q Sir, what is your current rank?

16 A Corporal.

17 Q And by whom are you employed?

18 A Beaufort County Sheriff's Office.

19 Q How long have you worked for the Beaufort County
20 Sheriff's Office?

21 A Three-and-a-half years.

22 Q And where did you work before that?

23 A Jasper County Sheriff's Office.

24 Q And what did you -- back in July of 2011, were you
25 in a particular unit?

- 1 A Narcotics.
- 2 Q Okay. And that was with Beaufort?
- 3 A I was attached to Beaufort County.
- 4 Q Okay. Through Jasper?
- 5 A Yes.
- 6 Q Is it part of a task force?
- 7 A Yes. Drug Task Force.
- 8 Q Did you have occasion to be working on July 30th of
- 9 2011 during the execution of a search warrant at 6
- 10 Miranda Circle, in Beaufort?
- 11 A That's correct.
- 12 Q What rooms were you assigned to search?
- 13 A The master bedroom and the master bath, I believe.
- 14 Q And who else searched those rooms with you?
- 15 A Sergeant Squires.
- 16 Q Okay. And what's the purpose of having two
- 17 officers search a room?
- 18 A More or less, just to speed up the time.
- 19 Q Okay. Is it also to double-check that what one set
- 20 of eyes might not see, another would?
- 21 A That's correct. Correct.
- 22 Q Okay. And sir, did you have occasion to find
- 23 anything with -- any drugs in the master bedroom?
- 24 A Yes, I --
- 25 Q Bathroom.

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DIRECT - MALONIS

1 A Yes, I did.

2 Q And you should have 109-B, stuff in a big box. And
3 if you could look for Item 11. It should be circled,
4 the numbers. And see if you're familiar with that.
5 I'm sorry, 29.

6 THE COURT: And while he's looking, ladies and
7 gentlemen of the jury, if you all want to go ahead and
8 stand, you are welcome to, and take a little stretch.
9 You all are welcome to. If not, either way.

10 BY MS. MUSSER:

11 Q Did you find it?

12 A Yes, I did.

13 Q Okay.

14 MS. MUSSER: And with that, I would just ask to put
15 State's Exhibit 11 on that particular bag.

16 ITEM IDENTIFIED AS 1/2 AN OXYCODONE
17 PILL MARKED STATE'S EXHIBIT NUMBER 11,
18 FOR IDENTIFICATION.

19 BY MS. MUSSER:

20 Q I'm sorry. Are you familiar with this item?

21 A Yes, I am.

22 Q Would you please describe to the ladies and
23 gentlemen of the jury what that is and where you found
24 it.

25 A It is a -- half of a oxycodone pill. It was

1 located in -- on the master bedroom dresser.

2 Q Okay. Did you search the master bath, as well?

3 A Yes, I did.

4 Q Did you find any sums of money?

5 A Yes, I did.

6 Q How much did you find?

7 A I don't recall the exact amount.

8 Q Would it help to look at the report?

9 A Please.

10 Q There should be -- if you want to take a look at
11 that, and see if it refreshes your recollection, and
12 then hand it back to me.

13 MR. NEWMAN: Judge, I don't mind him reading from
14 it. It might speed things up.

15 MS. MUSSER: Okay.

16 THE COURT: Okay.

17 BY MS. MUSSER:

18 Q With respect to the first amount that you found,
19 would you please tell the ladies and gentlemen of the
20 jury how much.

21 A It was \$10.00 in U.S. currency.

22 Q And where was that found?

23 A On the master bathroom counter.

24 Q Okay. And then, did you find another amount in the
25 bathroom?

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DIRECT - MALONIS

1 A Yes. \$12.00.

2 Q Did you search any other rooms of the house?

3 A No, I did not. I don't believe. Oh, yes, I did.
4 The kitchen area. I'm sorry.

5 Q Okay. And what, if any, items did you find in the
6 kitchen?

7 A A paper with some notes, with numbers on it, on the
8 kitchen counter.

9 Q And what drew your attention to that item?

10 A It was broken down into individual numbers, with a
11 name and number on the top of it, I believe.

12 Q I'm handing you State's Exhibit 14, if you could
13 take a look at that, and tell us, are you familiar with
14 it?

15 A Yes. This is the paper with the different numbers
16 and the phone number, that was on the kitchen counter.

17 Q And if you could actually break that seal, and open
18 it up. While you're doing that, how many years total do
19 you have in the narcotics unit?

20 A I only had year in narcotics.

21 Q Okay. Through your over 20 years of experience,
22 have you had occasion to participate in felony drug
23 arrests?

24 A Yes, I have.

25 Q Okay. What, in particular, drew your attention to

1 that item?

2 A Just the way it was broken down, and with the
3 total at the -- at the end of it. Basically, just the
4 -- the numbers, and had a name and number at the top of
5 it as --

6 Q And in your experience, what type -- what other
7 type of documents is that consistent with? Or why did
8 you seize it for evidentiary purposes?

9 A Well, I pointed it out to the case officer, just
10 based on -- it looked like it was assigned to an
11 individual person.

12 Q Are you familiar with ledgers?

13 A Yes.

14 Q Okay. And ledgers being kept when there's drug
15 sales?

16 A Correct.

17 MS. MUSSER: And your Honor, with that, we would
18 move for the admission of 11, subject to the rest of the
19 chain.

20 THE COURT: Okay.

21 MS. MUSSER: As well as 14. And then, with respect
22 to what Officer Squires testified to, we would ask for
23 the admission -- did we already do that? Conditionally?
24 4, 5, 6. I think we already did that. Okay.

25 THE COURT: Okay.

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CROSS - MALONIS

1 MS. MUSSER: So, just those two, your Honor.

2 THE COURT: Okay. So, 11 and 14.

3 MS. MUSSER: No further questions.

4 REPORTER'S NOTE: STATE'S EXHIBIT

5 NUMBER 11 IS ALREADY MARKED FOR

6 IDENTIFICATION.

7 ITEM IDENTIFIED AS PAPER WITH

8 DIFFERENT NUMBERS AND PHONE NUMBERS

9 MARKED STATE'S EXHIBIT NUMBER 14,
10 ADMITTED AS EVIDENCE.

11 CORPORAL MICHAEL MALONIS

12 CROSS-EXAMINATION, BY MR. NEWMAN:

13 Q There was also mail in the house found, to Shatike
14 Shabazz. Isn't that correct?

15 A I don't recall that.

16 Q There was also a driver's license for John Schuster
17 located in the dresser drawer in the master bedroom.

18 A I don't recall those items, sir.

19 Q It would be Item Number 19.

20 MS. MUSSER: Objection, unless that's something
21 that Corporal Malonis found himself.

22 A I wasn't part of that. That's not me.

23 Q So, you weren't in the master bedroom?

24 A I was. I was also in there with Squires at the
25 time.

1 Q Well, then, you don't know anything about Item 19,
2 the driver's license of John Schuster?

3 A I did not see it.

4 Q Okay. Do you deny it's in the report?

5 A No, I don't deny it.

6 Q Okay. And likewise, with Item 40, the mail to
7 Shatike Shabazz. Tell you what, I'll ask Heroux about
8 that.

9 And is this a Xerox of a photograph of the note
10 that you found?

11 A Yes, on the kitchen counter.

12 Q Okay.

13 A That's correct.

14 Q All right. And who authored that note?

15 A Who -- ask the question again?

16 Q Who authored, who wrote that note?

17 A That I -- I can't answer. I have no idea.

18 Q Was it tested for DNA?

19 A I'm unaware. I don't know if it was or not.

20 Q Was it fingerprinted?

21 A I did not do it. I did not collect it.

22 Q Okay. And that was found in a common area in the
23 kitchen?

24 A It was on the kitchen counter.

25 Q Okay. So, as to Trevin Millidge, you have

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CROSS - MALONIS

1 absolutely no evidence he has anything whatsoever to do
2 with that note. Isn't that true?

3 A I don't know who the note belongs to.

4 Q Or who it's for, or what, exactly, it means, other
5 than notes you've seen in the past.

6 A Correct.

7 Q Okay. So, in this particular note, this one, you
8 can't put any context to it.

9 A That's correct.

10 Q Okay. Thanks. Good to see you, Mike.

11 THE COURT: Hold on one second.

12 MR. NEWMAN: I don't have anything further.

13 Thanks, Judge.

14 THE COURT: Anything further?

15 MS. MUSSER: Nothing further, your Honor.

16 THE COURT: Corporal, you're excused. Thank you.

17 CORPORAL MICHAEL MALONIS: I appreciate it. Do I
18 just leave those here?

19 THE COURT: Sir, thank you. Yes.

20 BAILIFF: Watch your step.

21 MS. MUSSER: And your Honor, we have one more quick
22 witness for the day, if that's okay.

23 THE COURT: Okay. And if you have anymore, too.
24 You have anything after that?

25 MS. MUSSER: No, because the following witness

1 would be very lengthy, so.

2 THE COURT: Okay. All right.

3 MS. MUSSER: State calls Ray Heroux.

4 THE COURT: While this witness is coming up, could
5 I see the attorneys?

6 OFF-THE-RECORD BENCH CONFERENCE, OUT
7 OF HEARING OF JURORS. PRESENT: THE
8 COURT, MS. MUSSER, MR. NEWMAN:

9 THE COURT: Please go ahead and swear him in.
10 Sorry, sir. We were just talking scheduling.

11 MADAM CLERK: Do you solemnly swear --

12 CORPORAL RAYMOND HEROUX: That's okay, your Honor.

13 MADAM CLERK: Do you solemnly swear or affirm to
14 truthfully answer all questions asked of you by this
15 court, so help you God?

16 CORPORAL RAYMOND HEROUX: I do.

17 MADAM CLERK: Please be seated. State your name.

18 CORPORAL RAYMOND HEROUX: Raymond S. Heroux,
19 H/e/r/o/u/x.

20 CORPORAL RAYMOND HEROUX

21 DIRECT EXAMINATION, BY MS. MUSSER:

22 Q Good afternoon, sir. By whom are you employed?

23 A Beaufort County Sheriff's Office.

24 Q And how long have you worked there?

25 A Just a little over four years.

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DIRECT - HEROUX

1 Q And in what capacity?

2 A I work the Norther Division, Enforcement Division,
3 right now.

4 Q Okay. And where were you back in 2011? Where were
5 you assigned to?

6 A I was assigned to the Multi-jurisdictional Drug
7 Task Force for the Beaufort County Sheriff's Office.

8 Q And before coming to work with the Beaufort County
9 Sheriff's Office, were you employed as a police officer
10 anywhere else?

11 A I was. That was the Beaufort City Police
12 Department.

13 Q Sir, were you working with DTF on July 30th of
14 2011?

15 A Yes.

16 Q And did you have occasion to go to ■ Miranda Circle
17 for the execution of a search warrant?

18 A I did.

19 Q Did you have occasion to search the den area?

20 A I did.

21 Q Sir, I'm handing you what's been labeled as State's
22 Exhibit 15. Would you please open that bag -- there
23 should be a pair of scissors -- and tell the ladies and
24 gentlemen of the jury if you're familiar with it.

25 And sir, are you familiar with that item?

1 A Yes.

2 Q What is it?

3 A It's known as a police scanner.

4 Q Did you find it when you were searching the den
5 area?

6 A I did.

7 Q Do you recall where, in the den, you found it?

8 A To the best of my knowledge, it was in a drawer, in
9 some type of cabinet that was in the den area.

10 Q Okay. And does it appear today as it did --
11 substantially appear the same way?

12 A From what I recall, yes, ma'am.

13 MS. MUSSER: Your Honor, at this time, I'd request
14 to admit and publish Item 15.

15 THE COURT: Okay. Without objection?

16 MR. NEWMAN: No, I object to it.

17 THE COURT: Okay.

18 COURT REPORTER: I'm sorry, I can't hear you.

19 THE COURT: It's without objection.

20 MR. NEWMAN: No, I said I did object.

21 THE COURT: You did object to it.

22 MR. NEWMAN: I'm sorry.

23 THE COURT: Okay. Basis?

24 MR. NEWMAN: On the basis of tying it to Mr.
25 Millidge.

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DIRECT - HEROUX

1 MS. MUSSER: I mean, your Honor, the jury would
2 ultimately put whatever weight they wanted to, but for
3 the purposes of them seeing what was collected.

4 THE COURT: Okay. At the scene, correct?

5 MS. MUSSER: Correct.

6 THE COURT: Okay.

7 MS. MUSSER: In the den, in the drawer.

8 THE COURT: Okay. Yes. It's in evidence, subject
9 to your objection.

10 ITEM IDENTIFIED AS POLICE SCANNER

11 MARKED STATE'S EXHIBIT NUMBER 15,

12 ADMITTED AS EVIDENCE.

13 MS. MUSSER: With that, may I publish it, just ask

14 --

15 THE COURT: You may.

16 BY MS. MUSSER:

17 Q Is it corporal? Is that your right rank?

18 A Yes, ma'am.

19 Q Okay. And it's Heroux?

20 A Heroux.

21 Q Would you just take that and hold it up for the
22 ladies and gentlemen of the jury to see. Okay. And are
23 you familiar with those? How do they work?

24 A Well, there's different -- different departments
25 have different frequencies. They could be used for

1 fire, EMS, airplane towers, police, as well. And each
2 department has its own frequency. You program the
3 frequency of the department you want to listen to into
4 the scanner, and you're able to -- to use it and listen
5 to what they're saying.

6 Q So, it's a way to listen to what the police are
7 doing?

8 A Yes, it could be.

9 MS. MUSSER: I have no further questions, your
10 Honor.

11 CORPORAL RAYMOND HEROUX

12 CROSS-EXAMINATION, BY MR. NEWMAN:

13 Q You say it could be, but you, in truth and reality,
14 absolutely have no clue? Isn't that correct?

15 A No clue as to?

16 Q That it was used to listen to police calls.

17 A That would be correct.

18 Q You have absolutely no clue whether it's programmed
19 to any of the police channels.

20 A That's correct.

21 Q All right. It was found inside a drawer, so it was
22 not out in the open?

23 A That's correct.

24 Q You have absolutely no knowledge that Mr. Millidge
25 knew a thing about that scanner. Isn't that correct?

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RE-DIRECT - HEROUX

1 A That's correct.

2 Q And there's no fingerprints, DNA, or anything from
3 Mr. Millidge on that scanner. Isn't that correct?

4 A That, I would not be able to attest to.

5 Q Okay. You also found mail addressed to Shatike
6 Shabazz. Isn't that correct?

7 A Yes.

8 Q Okay. And he has been a suspect in a number of
9 things; has he not?

10 A I -- I've heard his name, but I don't know if he's
11 a suspect in other things.

12 Q Okay. Also located in the house was a driver's
13 license for a John Schuster, or would you know about
14 that?

15 A That, I don't recall.

16 MR. NEWMAN: Okay. Thank you.

17 CORPORAL RAYMOND HEROUX

18 RE-DIRECT EXAMINATION, BY MS. MUSSER:

19 Q Just briefly. Corporal the mail for Shatike
20 Shabazz, that was found in the Bedroom Number 4 closet,
21 correct?

22 A It was -- I don't exactly recall the bedroom, but I
23 -- if I remember correctly, it was in a closet.

24 Q It wasn't in the master bedroom, though, correct?
25 Because you didn't search that.

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1 A I --

2 Q Would helping -- would looking at the report
3 refresh your recollection?

4 A Yes, ma'am.

5 MS. MUSSER: I apologize, your Honor.

6 BY MS. MUSSER:

7 Q By looking at Officer Lindahl's inventory, would
8 you be able to determine which rooms that you searched
9 by seeing your name?

10 A Yes.

11 Q Does that refresh your recollection as to what
12 rooms you searched?

13 A Yes.

14 Q What rooms did you search in that home?

15 A Bedroom 4, the den area, the den, some vehicles,
16 and that's it.

17 Q Okay. So, not the master bedroom. Okay.

18 A Not the master bedroom. Thank you.

19 MS. MUSSER: No further questions, your Honor.

20 THE COURT: Anything further? All right. You may
21 step down, sir. Thank you.

22 CORPORAL RAYMOND HEROUX: Thank you, your Honor.

23 BAILIFF: Please watch your step.

24 CORPORAL RAYMOND HEROUX: All right.

25 BY THE COURT:

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1 THE COURT: Ladies and gentlemen of the jury, the
2 attorneys tell me now is a good time to break for the
3 evening. We have been going all day.

4 Ladies and gentlemen, I would like to begin at 9:30
5 tomorrow morning. Does anyone have a problem with that?
6 No. All right.

7 Ladies and gentlemen, there is a few things I need
8 to tell you before we leave, and then, also, I need you
9 to elect a foreperson when you come in, in the morning.
10 Ladies and gentlemen, a foreperson doesn't have anymore
11 say than anyone else on a jury. They're simply the
12 person that I communicate with regarding scheduling, and
13 they're also the person that, when we send this case to
14 you for your deliberations, they will be able to get the
15 ball rolling, ladies and gentlemen, and make sure
16 everyone's contributing to the deliberations and
17 discussions.

18 When you've elected your foreperson in the morning,
19 if you would give that name to the bailiff, and she'll
20 give it to me, and I'm going to ask that person to take
21 this front seat here, as well as my alternates, if you
22 would stay back, somewhere in the back row. The rest of
23 you, as you come and go tomorrow, you certainly don't
24 have to take the same seats. You can move around.

25 Ladies and gentlemen, I will tell you that this

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1 case is supposed to -- and when I say supposed to, it
2 was expected that we probably would finish tomorrow.
3 So, I am going to go ahead and tell you that. There is
4 a chance that it could go over to Wednesday. You just
5 never know, based on, sometimes, things slow down, and
6 it's unexpected.

7 I need to make sure all of you are okay to be here.
8 I have no idea how long you would deliberate in this
9 case. But again, if you have something you have to do
10 tomorrow night at a particular time, I need you to tell
11 that to the bailiffs, so I can make sure and adjust
12 accordingly, and so I can make sure the witnesses are
13 here as is necessary. All right?

14 Ladies and gentlemen, I need to tell you, again,
15 tonight, you are not to discuss this case, not only,
16 again, with each other, but with anyone else you may
17 come in contact with. Again, I remind you, if you see a
18 family member, a friend, whomever, wife, spouse, doesn't
19 matter, the only thing you're permitted to say is that
20 you are a juror in a criminal trial. Again, you cannot
21 say the attorneys, the charges, anything it has to do
22 with. I remind you, ladies and gentlemen, of your oath
23 that you took, you have sworn not to talk to anyone in
24 regards to this case.

25 Additionally, you are not to post anything on any

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1 type of social media site, if you're a Facebooker or a
2 blogger, or anything else. Ladies and gentlemen, it
3 would not be appropriate, because it invites comment.
4 You are also not to do any independent research, ladies
5 and gentlemen.

6 The only thing I ask, that you go home, get a good
7 night's sleep, and come back tomorrow morning at 9:30.
8 You all were wonderful and prompt at lunch, and I want
9 to thank you so much for that.

10 I'm sure you all already realize that we can't
11 start unless all 14 of you are here. So, if anyone runs
12 into car trouble or has a problem tomorrow morning,
13 please call into the Clerk of Court's Office, because
14 I'm looking for all of you all. Okay?

15 We look forward to seeing you all in the morning,
16 9:30, in your jury room. At that time, you can give me
17 your foreperson, and I appreciate it, you all. Good
18 night.

19 JURORS LEAVE COURTROOM 5:00 P.M.

20 BAILIFF: The jury is clear, your Honor.

21 THE COURT: All right. Obviously, trial has
22 started. Your client's out on bond. Does the State
23 have any position as far as --

24 MS. MUSSER: Bond?

25 THE COURT: -- bond is concerned?

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1 MS. MUSSER: No, your Honor. He's come to every
2 listing.

3 THE COURT: Okay. I appreciate that. All right.
4 Anything further we need to take up this evening before
5 in the morning?

6 MR. NEWMAN: Yeah. And I don't necessarily need
7 this on the record. I noticed that the State --

8 COURT REPORTER: Do you want it on the record or
9 not?

10 MR. NEWMAN: No.

11 OFF THE RECORD BRIEFLY.

12 BACK ON THE RECORD.

13 THE COURT: Yes, Ms. Musser.

14 MS. MUSSER: Your Honor, the only, I guess,
15 question that I have, and I don't know if we have the
16 ability to find another box. At this point, we have
17 some of the drugs have been conditionally admitted --

18 BAILIFF: Order in the Court, please.

19 MS. MUSSER: -- have been conditionally admitted,
20 while the balance of the items in 109 have not.

21 THE COURT: Okay.

22 MS. MUSSER: So, I didn't -- in other words, we've
23 gone through the likes of separating everything and --

24 THE COURT: So, you want to keep them separated.
25 So, find another box.

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1 MS. MUSSER: Okay.

2 THE COURT: Find another box, right? To separate
3 them. Okay. Okay. Anything else? All right, you all.
4 We'll see you tomorrow morning, 9:30 in the morning.

5 OFF THE RECORD 5:03 P.M.

6 END DAY ONE, MONDAY, JANUARY

7 26, 2015, 5:03 P.M.

8 BEGIN DAY TWO, TUESDAY, JANUARY

9 27, 2015, 9:39 A.M.

10 BY THE COURT:

11 BAILIFF: Court is now in session. Judge Mullen
12 presiding.

13 THE COURT: Thank you. Good morning. Please be
14 seated. Good morning.

15 MS. MUSSER: Good morning, your Honor.

16 THE COURT: Good morning. Good morning, Mr.
17 Newman.

18 MR. NEWMAN: Hi, Judge.

19 THE COURT: All right. Who is the first witness
20 this morning, Ms. Musser?

21 MS. MUSSER: Christina Lindhal.

22 THE COURT: Okay.

23 MS. MUSSER: And then, your Honor, there's just one
24 -- I'd like to officially admit the search warrant that
25 we used with the pretrial motion that was labeled

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1 State's Pretrial 1, and ask that that be formally
2 admitted into the record.

3 THE COURT: Okay. Is there a reason why you didn't
4 identify it through whoever? Have someone identify it
5 and --

6 MS. MUSSER: It was during our pretrial motion.

7 THE COURT: You still have to have someone lay a
8 foundation to get it in.

9 MS. MUSSER: It wasn't -- right, because you -- I
10 had handed up the copy, and your Honor looked at it.

11 THE COURT: I'd ask -- okay. Did you admit it
12 through a witness? is my question.

13 MS. MUSSER: For the trial? No.

14 THE COURT: You have not.

15 MS. MUSSER: No, and I'm only marking this because
16 you referred to it yesterday. So, it's being marked for
17 the purpose of the pretrial only.

18 THE COURT: Okay. Fine. I thought we'd already
19 done that.

20 MS. MUSSER: No, it wasn't -- I handed --

21 MR. NEWMAN: If it's coming into evidence, I would
22 object to it coming into evidence. If it's a Court's
23 exhibit, I have no objection; I think it should be part
24 of the record.

25 THE COURT: That's what I was asking. I thought

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1 she was putting it up in the case.

2 MS. MUSSER: No. No, not at all.

3 THE COURT: Okay.

4 MR. NEWMAN: And I think while we're here --

5 COURT REPORTER: I'm sorry. Court's Exhibit,
6 rather than?

7 THE COURT: Court's Exhibit.

8 MR. NEWMAN: It's a court's exhibit.

9 ITEM IDENTIFIED AS SEARCH WARRANT

10 HAS ALREADY BEEN MARKED

11 COURT'S EXHIBIT NUMBER 1.

12 MR. NEWMAN: There are a number of photographs, I
13 guess, that the Solicitor wants to -- I object to some
14 of them, but some of them I don't.

15 THE COURT: Lay them all out. Let's get them done
16 right now.

17 MS. MUSSER: All right. Well, can we keep them in
18 order? because they're going to be the order I'm going
19 to use them.

20 THE COURT: Okay. Just lay them all the way across
21 the bar and let's go.

22 Okay. We're going to go through -- we're talking
23 in reference to Court's -- or State's Exhibit -- it
24 appears. Are they all in order, and are they subsequent
25 to each other? So, that's 16 through 32. Is that

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1 correct? Okay? Yes?

2 MS. MUSSER: Yes.

3 THE COURT: Yes.

4 MS. MUSSER: Except for there's no 32.

5 THE COURT: And there's no 35, I'm seeing, either.

6 MS. MUSSER: Well, they're out of -- they're out of
7 order because they're based on just Lindahl's testimony.

8 THE COURT: Okay. Okay. Well, let's go through
9 them. Let's start with 16. What is your objection?

10 MR. NEWMAN: No problem, no problem, no problem, no
11 problem.

12 THE COURT: Okay. Let's just -- when you say, no
13 problem, you have no problem with 16, 17, 18, 19.

14 MR. NEWMAN: 20, I object to.

15 THE COURT: 20 you object to. And your basis for
16 your objection?

17 MR. NEWMAN: This is in evidence, and this was a
18 staged photograph. That's not how it was found.

19 THE COURT: Oh. Okay. And this I.D. is already in
20 evidence?

21 MS. MUSSER: It -- yes.

22 THE COURT: Okay. We're taking that out. That
23 one's not coming in. So, 20's not coming in.

24 MS. MUSSER: Okay.

25 THE COURT: Okay. That. What else?

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1 MR. NEWMAN: This is a staged array of stuff that
2 they found. That's not how it was found.

3 MS. MUSSER: That's in the bedroom how it was
4 found. No. Wait.

5 THE COURT: Is that drugs, or is that --

6 MS. MUSSER: Again, --

7 MR. NEWMAN: No, maybe it's not this one.

8 THE COURT: I think that's then. So, I don't think
9 you would have an objection to that.

10 MR. NEWMAN: I don't have a problem with that.

11 THE COURT: Okay. 21, you're fine with. 22?

12 MR. NEWMAN: No problem.

13 THE COURT: Number -- no problem with 22. Number
14 23?

15 MR. NEWMAN: No problem.

16 THE COURT: Okay. 23 is fine for the Defense.

17 MR. NEWMAN: No problem.

18 THE COURT: No problem with 24.

19 MR. NEWMAN: No problem with that.

20 THE COURT: No problem with 25. That's in a
21 drawer.

22 MR. NEWMAN: That's in a drawer. I don't have a
23 problem with that.

24 THE COURT: No problem with 26. Okay.

25 MR. NEWMAN: That's fine.

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1 THE COURT: No problem with 27.

2 MR. NEWMAN: That one, I love. No problem with
3 that.

4 THE COURT: No problem with 40. Okay.

5 MR. NEWMAN: I don't have a problem with that one,
6 either.

7 THE COURT: No problem with 41. What about 42?

8 MR. NEWMAN: Oh, I don't have no problem with that.

9 THE COURT: No problem with 42. I know you love
10 that. Okay.

11 MR. NEWMAN: Yeah, that's a good one.

12 THE COURT: Yeah, you and I both need some glasses;
13 don't we? It's for a motor vehicle.

14 MR. NEWMAN: Okay. Motor vehicle.

15 THE COURT: It's a --

16 MR. NEWMAN: That's what I was getting at.

17 THE COURT: Yes, it's a motor vehicle.

18 MR. NEWMAN: I have no problem with that.

19 THE COURT: No problem with 29.

20 MR. NEWMAN: I don't have a problem with that one,
21 either.

22 THE COURT: No problem with 30.

23 MR. NEWMAN: 30. This, if they lay the foundation
24 for it.

25 THE COURT: They just have to lay the foundation

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1 for 31. Okay. 34?

2 MR. NEWMAN: I don't have a problem with that.

3 THE COURT: No problem with 34. What is that?

4 MR. NEWMAN: This is the scale, and I object to 35,
5 36.

6 THE COURT: Okay.

7 MR. NEWMAN: 37, I do not object to.

8 THE COURT: Okay. Let's talk about each one. So,
9 what's the problem with 35?

10 MR. NEWMAN: Because these are not how the item was
11 found. That's --

12 THE COURT: Where was it found?

13 MR. NEWMAN: That's where it was found. It was
14 found under that piece of paper that they introduced
15 into evidence.

16 THE COURT: Hmm. Well, I think you can do the
17 paper, and then one. So, choose which one you want.

18 MS. MUSSER: Well, Judge, the reason -- and I knew
19 that this was going to be an issue -- why it's key,
20 because this shows the relation of how they were. In
21 other words, the scale is right by the ledger.

22 THE COURT: Okay. Well, then, keep that one in and
23 get rid of this.

24 MS. MUSSER: And then, this one -- no, but this one
25 shows the white residue on it; whereas, that's not

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1 depicted. So, there's a reason that --

2 THE COURT: Got it. Okay. I understand that, and
3 that shows actual white residue?

4 MS. MUSSER: Yes.

5 THE COURT: At least, that's what you allege it to
6 be.

7 MS. MUSSER: Correct.

8 THE COURT: Okay. I'm fine with that. I'm going
9 to let that in.

10 MR. NEWMAN: Okay.

11 THE COURT: 35 and 36 are in, subject to your
12 objection.

13 MS. MUSSER: And this shows the complete version of
14 what that -- it's a close-up, so that's legible. This
15 one isn't so legible. That's why I wanted that one.

16 MR. NEWMAN: This is actually in evidence.

17 THE COURT: What does that say? Is that Doshe?
18 Does that say Doshee?

19 MR. NEWMAN: Yeah. That would be an associate
20 of --

21 THE COURT: Is this in evidence?

22 MS. MUSSER: Yes, ma'am.

23 THE COURT: Okay. Well, then, we're going to not
24 put 37 in.

25 MS. MUSSER: Okay.

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1 THE COURT: Because it's already in evidence, the
2 close-up.

3 MS. MUSSER: Okay.

4 THE COURT: What about 33?

5 MR. NEWMAN: I don't have an objection. I just
6 don't know what it is.

7 THE COURT: No objection to 33. I don't either,
8 but it looks like there's some kind of crack box in
9 there. 38 is a scanner.

10 MR. NEWMAN: That's already in evidence.

11 THE COURT: Well, it shows where the scanner was
12 found. Is this exactly where it was found, or was it in
13 a drawer?

14 MS. MUSSER: It's my -- yes, because that's in the
15 drawer, and I believe that that's how it was
16 photographed, correct?

17 THE COURT: It was found in the drawer?

18 JUSTYNA B. LINDAHL: Yes, ma'am.

19 THE COURT: And that's the drawer, it looks like
20 the witness took that. What is that? What are those?
21 Can you tell?

22 JUSTINE LINDAHL: I don't recall what that was,
23 ma'am.

24 THE COURT: What's this?

25 JUSTYNA B. LINDAHL: That just looks like a wheel.

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1 THE COURT: Okay. Okay. Well, I'm going to allow
2 them 38. And then, 32.

3 MR. NEWMAN: The photo array, I object to that.

4 THE COURT: Is that money?

5 MR. NEWMAN: Yeah, that's --

6 MS. MUSSER: That depicts how they laid it out to
7 count it, to make sure that --

8 THE COURT: How much was there, again?

9 MR. NEWMAN: \$901.00

10 COURT REPORTER: One at a time. One at a time.

11 THE COURT: I'm sorry.

12 COURT REPORTER: That's all right. That's all
13 right.

14 THE COURT: There was \$918.00. So, they laid it
15 out like this. How was it found and packaged?

16 MR. NEWMAN: It was found in his left pocket and
17 his right pocket.

18 THE COURT: Okay.

19 MS. MUSSER: That's different. That's the \$901.00
20 from the bedroom. Then, there was different money --

21 THE COURT: Did you enter that into evidence?

22 MS. MUSSER: The money?

23 THE COURT: Yes.

24 MS. MUSSER: The money isn't part of the -- the
25 sheriffs don't keep the money.

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1 THE COURT: Yeah. What do they do with it? I
2 don't know.

3 MS. MUSSER: They deposit it into an account.

4 THE COURT: Okay.

5 MS. MUSSER: So, I don't even have the actual money
6 for -- the picture is all that I have.

7 THE COURT: Okay. Well, I mean, I'm going to let
8 her, then. If she doesn't actually have the money, I'm
9 going to allow it to be like this big -- it needs to be
10 very clear that this is not how it was found. It was
11 found, you know, all together.

12 MS. MUSSER: Yes, ma'am.

13 MR. NEWMAN: That this is a staged photograph.

14 THE COURT: Again, they have to put the money out
15 there somehow, if they don't save the money. I'm
16 actually surprised they don't, quite frankly.

17 MS. MUSSER: And there's a process where they count
18 it and re-count it.

19 THE COURT: Is there a reason why? You can
20 probably tell me better than anybody.

21 MR. NEWMAN: What they do, the sheriff get tired of
22 keeping actual cash in the evidence. So, the Sheriff's
23 Association kind of had a policy on it. What they do
24 with the drug money is, they take it, and they deposit
25 it in an account. And they keep a good journal and a

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1 ledger for it. If there's a particular reason to save a
2 bill, such as, it's got a serial number on it, --

3 THE COURT: Okay.

4 MR. NEWMAN: -- they will ferret that bill out, and
5 then --

6 THE COURT: Or if there's like, cocaine on it or
7 something.

8 MR. NEWMAN: Or if there's cocaine residue that
9 they tested, they'll keep it out.

10 THE COURT: Yeah. Okay. Okay.

11 MR. NEWMAN: But they found it's a lot easier and a
12 lot less tempting for -- you know, people could --

13 THE COURT: Got it.

14 MR. NEWMAN: You get big stacks of cash.

15 THE COURT: Got it. Okay.

16 MR. NEWMAN: So, you just keep a good journal.
17 It's kind of like our trust account.

18 THE COURT: Okay.

19 MR. NEWMAN: They got ledger accounts on.

20 THE COURT: Okay.

21 MR. NEWMAN: And if they have to give it back, they
22 know who they have to give it back to.

23 THE COURT: Got it. Okay.

24 MR. NEWMAN: Or if I can get it.

25 THE COURT: Okay. Okay. Yeah. Okay. So, we've

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1 taken care of that. Anything else we need to discuss
2 this morning?

3 MS. MUSSER: No, your Honor.

4 THE COURT: Before we're ready to go? Okay. We're
5 ready to go.

6 Good morning. How are you?

7 Are we ready to bring the jury in? And my
8 understanding is, we do have a foreperson. So, Ms.
9 Musser, are you ready to go?

10 MS. MUSSER: Yes, your Honor.

11 THE COURT: And ready -- do we have our first --
12 Ms. Lindahl's right here. We have our first person
13 right here. Thank you. All right. Mr. Newman, you
14 ready to go?

15 MR. NEWMAN: Yes, ma'am.

16 THE COURT: Let's bring the jury in, Rick. Thank
17 you. You're going to swear in Ms. Lindahl when she
18 comes up?

19 MADAM CLERK: Sure.

20 THE COURT: Perfect.

21 BAILIFF: Your Honor, are you ready? Your Honor,
22 are you ready?

23 THE COURT: We're ready. Thank you.

24 BAILIFF: The jury is entering the courtroom, your
25 Honor.

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1 THE COURT: Thank you. You don't need to stand up.
2 You're fine.

3 JUSTYNA B. LINDAHL: Okay.

4 THE COURT: Mr. Newman, up.

5 JURORS ENTER COURTROOM 9:49 A.M.

6 BAILIFF: The jury is seated, your Honor.

7 THE COURT: Thank you. Good morning, ladies and
8 gentlemen.

9 RESPONSES FROM JURORS.

10 THE COURT: I appreciate you all for being so
11 promptly, and thank you, Madam Foreperson, for your
12 willingness to serve.

13 Ladies and gentlemen, at this time, we are going to
14 go ahead and continue with the trial of this case. Ms.
15 Musser, if you'll call your next witness.

16 MS. MUSSER: Thank you, your Honor. Good morning.
17 The State calls Justyna Lindahl.

18 THE COURT: Come on up, Ms. Lindahl.

19 BAILIFF: Please speak directly into the
20 microphone.

21 MADAM CLERK: Raise your right hand. Do you
22 solemnly swear or affirm to truthfully answer all
23 questions asked of you by this court, so help you God?

24 JUSTYNA B. LINDAHL: I do.

25 MADAM CLERK: Please be seated, and state your

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1 name.

2 JUSTYNA B. LINDAHL: Justyna B. Lindahl,
3 L/i/n/d/a/h/l.

4 JUSTYNA B. LINDAHL

5 DIRECT EXAMINATION, BY MS. MUSSER:

6 Q Ma'am, back in July of 2011, by whom were you
7 employed?

8 A I was employed by the Beaufort County Sheriff's
9 Office.

10 Q And in what capacity?

11 A I was assigned as an investigator to the
12 Beaufort/Jasper Multi-Agency Drug Task Force.

13 Q Okay. And ma'am, were you present on July 30th of
14 2011 for a search warrant being executed at ■ Miranda
15 Circle?

16 A I was.

17 Q And who lived there?

18 A The defendant, Mr. Trevin Millidge.

19 Q Okay. And did you have occasion to interact with
20 Mr. Millidge? Did you see him that day?

21 A I did.

22 Q And do you see him in the courtroom today?

23 A I do.

24 Q And could you please describe where he's seated and
25 what he is wearing, for the record.

1 A He is sitting next to -- he just stood up, wearing
2 a white shirt with a tie.

3 MS. MUSSER: Your Honor, may the record reflect the
4 in-court identification of the defendant, Trevin
5 Millidge?

6 THE COURT: It does.

7 MS. MUSSER: Okay.

8 BY MS. MUSSER:

9 Q And ma'am, what were -- what was your -- what were
10 your -- what was your job assignment that day? What was
11 your role?

12 A I was assigned as the case officer that day.

13 Q What does a case officer do?

14 A To begin with, I obtained a search warrant. And
15 then, at the scene, I collect and photograph all the
16 evidence. And then, I make sure everything that's being
17 collected is turned over to the assistant case officer,
18 who, at the time, was Sergeant Boland.

19 Q Okay. And you indicated, -- when the evidence is
20 photographed, as a general rule, is it moved? Or did
21 you come in and photograph it as it was pointed out to
22 you?

23 A As it's pointed out to me.

24 Q Okay. After the evidence was collected and turned
25 over to Sergeant Boland, was it then your responsibility

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1 to seal it?

2 A Yes, ma'am.

3 Q Okay. And did you confirm, because as the
4 assistant case officer, Sergeant Boland, would be
5 responsible for keeping the running tally of -- or
6 inventory, correct?

7 A Yes, ma'am.

8 Q In other words, pursuant to the rules of a search
9 warrant, you would keep an inventory of everything
10 seized, correct?

11 A Yes, ma'am. Every piece of evidence I bring is
12 tracked.

13 Q Okay. So, it's given a specific number, correct?

14 A Yes, ma'am.

15 Q And then, Sergeant Boland would have kept the list.
16 Is that right?

17 A Correct?

18 Q And then, it would be your responsibility to do a
19 final check to make sure that what was seized, and the
20 number on what was seized, corresponds with the list,
21 correct?

22 A That is correct.

23 Q Okay. As part of your responsibilities for being
24 the lead case officer, did you also draft a report?

25 A I did.

1 Q And did that report memorialize in writing what
2 officers were assigned to search what area?

3 A Yes, ma'am.

4 Q Did it also include a record of who searched the
5 defendant?

6 A Yes, ma'am.

7 Q Did it include what items were located on the
8 defendant?

9 A Yes, ma'am.

10 Q As well as where they were found on his person.

11 A Yes, ma'am.

12 Q Did that report also include the diagram that we
13 have incorporated as State's 1?

14 A Correct.

15 Q Were you present for the entire execution of the
16 search warrant?

17 A I was.

18 Q In other words, from the time the officers arrived,
19 'til the end?

20 A Correct.

21 Q Okay. And to your knowledge, we've heard some
22 testimony with respect to some other individuals in the
23 home at the time the officers arrived. Would that
24 include a Tyrone Jenkins?

25 A That is correct.

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1 Q And was he located in Bedroom Number 3?

2 A That is correct.

3 Q Okay. And then, the defendant's girlfriend, Ms.
4 Higgins-Dunlap was there, as well, correct?

5 A Yes, ma'am.

6 Q Okay. And do you recall where she was located?

7 A If I recall correctly, she was in the bedroom, the
8 master bedroom.

9 Q Master bedroom?

10 A Yes, ma'am.

11 Q Okay. And was there anyone else, in addition to
12 those two individuals, present in the home?

13 A There was the defendant, Mr. Millidge, and then
14 there was a nine-year-old girl.

15 Q Okay.

16 A She was in the living room.

17 Q Okay. Were you present -- what does a K-9 sniff?

18 A The K-9 conducts a sniff of the residence when we
19 go into the residence, and they -- they're looking for
20 any illegal drugs.

21 Q So, K-9 is obviously the dog, and it's a specially
22 trained dog --

23 A Yes, ma'am.

24 Q -- used by the Sheriff's Office and the Drug Task
25 Force, correct?

1 A Yes, ma'am.

2 Q Okay. And were you present when that occurred?

3 A Yes, ma'am.

4 Q Okay. And did you go with -- and the dog has a
5 handler, correct?

6 A That is correct.

7 Q In other words, it's not a dog just loose in the
8 house.

9 A Correct.

10 Q So, did you go with Deputy Sheriff Angstadt when he
11 was running his dog, Pasha?

12 A Yes, ma'am.

13 Q Okay. Did you subsequently photograph any evidence
14 that was found during that K-9 search? Not while the
15 search was -- not while the K-9 sniff was ongoing, but
16 subsequently.

17 A Yes, ma'am. Later on.

18 Q Okay. All right. So, if you don't mind, we're
19 going to walk through some pictures, and then, we'll get
20 the corresponding item. Okay?

21 A Yes, ma'am.

22 Q So.

23 MS. MUSSER: And your Honor, based on, of course,
24 prior ruling, and I don't believe there's any objection
25 from Counsel at this point, may I ask Officer Lindahl

1 about the pictures, and then immediately publish?

2 THE COURT: You may.

3 MS. MUSSER: Okay.

4 BY MS. MUSSER:

5 Q All right. Starting with Picture 16, ma'am, I'm
6 going to ask you to look at that picture and tell us
7 what is depicted in that.

8 A It's a photo of the defendant, Mr. Millidge.

9 Q And is that how he appeared on July 30th of 2011?

10 A That is correct.

11 Q Now, what time did the search happen? I mean, what
12 time did officers arrive? Was it at 4:54 a.m.?

13 A That sounds around the time.

14 Q In other words, it was first thing in the morning,
15 correct?

16 A Yes, ma'am. It was early in the morning.

17 Q So -- because I see it's dark in the picture,
18 because that was outside.

19 A Correct.

20 Q Okay. Now, I'm going to hand you Picture 17. And
21 would you tell the ladies and gentlemen of the jury what
22 is depicted in Photo 17?

23 A Those are the baggies that we are -- the Drug Task
24 Force located on the defendant. They were in his
25 pocket. Inside the baggies were suspected illegal

1 drugs.

2 Q Um-hmm.

3 A Later identified as cocaine, crack cocaine.

4 Q And is that what Corporal Strickland identified
5 yesterday?

6 A I do not recall that it was Corporal Strickland or
7 -- oh, correct, it was.

8 Q Correct? Corporal Strickland?

9 A Correct.

10 Q Okay. Now, ma'am, I'm going to hand to you what
11 has been marked as State's Exhibit 2. Ma'am, what type
12 of bag is State's Exhibit 2 contained in?

13 A The evidence bag.

14 Q Okay. Now, when the search warrant was executed,
15 were the drugs inside that bag?

16 A They were not.

17 Q Okay. Who completes, generally speaking, an
18 evidence bag like that?

19 A I do. I'm the one that signs the chain of custody
20 on it.

21 Q Okay. What is located within that bag?

22 A The suspected drugs, which were later tested.

23 Q Does the front of the bag indicate where the drugs
24 were recovered? In other words, how do we know -- or
25 how would the ladies and gentlemen of the jury know that

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1 those drugs are what's depicted in that picture?

2 A There's a description right here, and it says,
3 plastic bag containing suspected cocaine. And then, the
4 location, the right-front pocket of Mr. Millidge.

5 Q So, after you collected -- after Corporal
6 Strickland removed the drugs from the defendant's front,
7 right pocket, you photographed it, correct?

8 A Correct.

9 Q Are you the one that took that picture?

10 A Yes.

11 Q And it fairly and accurately depicts the items as
12 they were coming out of his pocket.

13 A Yes, ma'am.

14 Q And then, you would put it in -- you would take it
15 to Sergeant Boland?

16 A Correct.

17 Q Okay. And then, you would confirm that it's given
18 -- there's a number in the upper, right-hand corner,
19 designated 1. Is that the number that corresponds to
20 the search warrant inventory?

21 A It does.

22 Q Okay. And at some point, did you seal that bag?

23 A I did.

24 Q And what happens when you -- after you seal the
25 bag? Do you sign it in any way, or date it?

1 A I do. I put this red evidence tape on it, and then
2 my signature, my badge number, and then the date.

3 Q And what's the purpose of signing it in that way?

4 A I would know if anybody opened the bag at this end.

5 Q Okay. Other than for chemical testing, was that
6 bag, in any way, tampered with?

7 A No. It just appears that it was opened on this
8 side, which, I'm sure, the lab can talk about.

9 Q Okay. So, this is the bottom.

10 COURT REPORTER: *Which, I'm sure the what? Left?*

11 A The lab.

12 COURT REPORTER: Lab.

13 A Personnel. Correct.

14 BY MS. MUSSER:

15 Q Okay. So, your seal is at the top.

16 A Correct.

17 Q And it was signed when you turned it in.

18 A Yes, ma'am.

19 Q Now, with respect to this item and other physical
20 evidence that you're going to testify to today, can you
21 determine, from looking at that bag, who you turned the
22 bag over to? In other words, after the search warrant
23 is done, where does the evidence go?

24 A The evidence is collected by the evidence division
25 personnel.

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1 Q What is something called -- are you familiar with
2 the term temp storage?

3 A Correct.

4 Q What is temp storage?

5 A The temp storage I submitted all this evidence to
6 was located at the Drug Task Force office. Once I
7 submit all of the evidence into that locker, I can no
8 longer access it. As soon as I lock it, the only people
9 that can access it are the evidence personnel.

10 Q So, do officers from the Drug Task Force have a
11 key, which would subsequently open that locker after it
12 has been locked?

13 A No, ma'am.

14 Q Okay. Can you tell -- and does that bag indicate
15 that you turned it over to temp storage? Or who
16 received it from evidence after you got it. Let me put
17 it that way.

18 A It looks like the lab personnel initials are at the
19 bottom.

20 Q Okay. And do you see Jimmy Padgett's signature on
21 there? Or actually --

22 A It would be on the back side.

23 Q Okay. That's good. So, after all of the drugs and
24 the items that were seized that were suspected to be
25 controlled substances, did they remain in individual

1 bags like that, or did they go into another box?

2 A I put all the suspected drugs into the box you see
3 right there.

4 Q And specifically, if you can refer to that
5 container number.

6 A The container I.D. number is 11-08-0109-B, as in
7 boy.

8 Q Okay. So, it's 109-B?

9 A Yes, ma'am.

10 Q And is that a number designated by the evidence
11 room?

12 A Yes.

13 Q Okay. And that's the box that we opened yesterday
14 in court?

15 A Yes, ma'am.

16 Q In your presence?

17 A Yes, ma'am.

18 Q Okay. Okay. If we could move on to Picture 18.
19 Ma'am, what is depicted in that?

20 A That's the money -- the U.S. currency that was
21 found inside the defendant's pocket.

22 Q Okay. And that looks like the back-left pocket?
23 Oh, I'm sorry, back, right.

24 A Back, right pocket.

25 Q Back, right pocket. And how much currency was in

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1 there?

2 A The back, right pocket had \$385.00 in it.

3 Q Okay.

4 A U.S. currency.

5 Q Now, Picture 19, does that depict the defendant's
6 left, front pocket?

7 A Correct.

8 Q And how much money was recovered from there?

9 A It was \$443.00, U.S. currency.

10 Q Okay. So, to make sure I understand it, right --
11 front, right pocket is drugs; left, front pocket is
12 \$443.00.

13 A Correct.

14 Q And back, right pocket is \$385.00.

15 A Correct.

16 Q Okay. Ma'am, I'm handing you what has been marked
17 as State's Exhibit 3. What is that item?

18 A It's a South Carolina driver's license.

19 Q And who is the individual on that license?

20 A It's Trevin Lorenzo Millidge.

21 Q And what address is listed on there?

22 A It's ■ Miranda Circle, in Beaufort, South Carolina.

23 MS. MUSSER: Your Honor, at this time, I'd like to
24 publish it to the jury.

25 THE COURT: You may.

1 BY MS. MUSSER:

2 Q Now, ma'am, you've indicated that you also
3 recovered -- I'm sorry. I believe it was Officer
4 Strickland had conducted a search of Mr. Tyrone Jenkins,
5 as you testified, who was located in Bedroom Number 3.
6 Are you -- I'm going to hand you what's been marked as
7 State's Exhibit 4. And did you collect that item?

8 A I did. It was located by Corporal Squires.

9 Q I'm sorry. And what is it?

10 A It's a crack pipe.

11 Q Used for smoking crack?

12 A Correct.

13 Q Now, if you could take a look at Photograph Number
14 21, ma'am, what is depicted in that picture?

15 A It's a bedroom.

16 Q Okay. And what bedroom was it? They were all
17 given a designation, correct?

18 A Correct.

19 Q Would viewing an additional photograph of --
20 refresh your recollection as to what bedroom that is?

21 A Yes, please.

22 Q I'm handing you State's 32. Does that refresh your
23 recollection as to what bed that is?

24 A That would have been the master bedroom.

25 Q Thank you. Okay. So, I'm not sure if I -- okay.

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1 Is that the master bedroom?

2 A Correct.

3 Q Okay. Indicating the master bedroom. All right.

4 Okay. If you could, then, take a look at Picture Number
5 22. What's depicted in that?

6 A That was the dresser in the master bedroom.

7 Q Okay. Is that the same dresser that has repeatedly
8 been referred to as where items were located?

9 A Correct.

10 Q Okay. How about Picture 23? And again, are each
11 of these pictures that you're testifying about a fair
12 and accurate depiction of how the items occurred -- or
13 looked and appeared to you on the day of the search
14 warrant?

15 A Correct.

16 Q Okay. And what is depicted in Number 23?

17 A This was the closet in the master bedroom,
18 contained.

19 Q Okay. And again, does that fairly and accurately
20 depict the clothing that was in the closet at the time
21 the search was conducted?

22 A Correct.

23 Q In other words, no clothing items had been removed,
24 correct?

25 A Correct.

1 Q Now, with respect to Number 24, is that also in the
2 closet area?

3 A Correct.

4 Q And what's significant about that picture?

5 A That was where some of the illegal drugs were
6 located. See those shorts on the side there.

7 Q Okay.

8 MS. MUSSER: I'm sorry, do we have a -- I'm sorry,
9 do we have a pointer?

10 BAILIFF: I'll get you one.

11 MS. MUSSER: Thank you. We'll come back to that.

12 BY MS. MUSSER:

13 Q Okay. So, with respect to Number 20 -- Photograph
14 Number 25, are you familiar with that item?

15 A Correct. I am.

16 Q And what's depicted in that photograph?

17 A It was a plastic bag containing illegal drugs.

18 Q Okay. And is that the same shelf that was in the
19 previous photo?

20 A Correct.

21 Q Okay. And were you present when the K-9 alerted in
22 that area?

23 A Yes, ma'am.

24 Q Okay. Ma'am, I'm handing you what has been marked
25 as State's Exhibit 12. Is that another evidence bag?

1 A Yes, ma'am.

2 Q Can you tell, from the number at the top -- left-
3 hand, top -- if that was on the inventory, from the
4 items that were collected?

5 A Yes, ma'am.

6 Q And where was it collected from? The item that
7 you're holding in your hand, where was it collected
8 from?

9 A From the master bedroom closet. It was wrapped
10 inside the mens' shorts.

11 Q Okay.

12 MS. MUSSER: I'm sorry. Can we go back to 24?
13 Now, with the Court's permission, may Officer Lindahl
14 step down and use the pointer, and show the ladies and
15 gentlemen where the drugs came from, within that
16 picture?

17 THE COURT: You may.

18 BY MS. MUSSER:

19 A The white shorts right here.

20 COURT REPORTER: I'm sorry, I need you to speak up.

21 A The white shorts.

22 Q Now, ma'am, does that evidence bag, does your
23 signature appear anywhere on the bag?

24 A Yes, ma'am, under the chain of custody.

25 Q Okay. Is it also sealed in the same manner as

1 State's Exhibit 2 was?

2 A It is. The red evidence tape, my signature, the
3 date.

4 Q Is it also dated?

5 A Yes, ma'am.

6 Q Okay. Does that indicate that it was sealed after
7 you recovered it?

8 A Correct.

9 Q Other than you and Sergeant Boland, with respect to
10 any of the drugs, did anyone else have access to those
11 drugs during the time -- in other words, did anybody
12 tamper with that?

13 A Negative.

14 Q Okay.

15 A I'm sorry, no.

16 Q Okay. And once again, did you turn that over to
17 the secure temporary storage locker?

18 A Yes, ma'am. I put it in the bag -- or in the box,
19 and I submitted it to the temporary storage locker.

20 Q Okay. Okay. I'm handing you Photograph 26.

21 Ma'am, what does that depict?

22 A That is the gun we found inside the dresser.

23 Q And where was the dresser located that that gun is
24 sitting in?

25 A It was in the master bedroom.

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1 Q So, in the same room that what you just testified
2 to?

3 A Yes, ma'am.

4 Q Okay. And does it fairly and accurately depict how
5 that item was observed in the drawer?

6 A Yes, ma'am.

7 Q Okay. It looks like the picture is a close-up of
8 the firearm. Were there any, like, female items in that
9 drawer?

10 A Not that I recall. It was --

11 Q Okay. Now, I'm handing you State's Exhibit 5. Is
12 this that same firearm? If you want to take a look at
13 it.

14 A Yes, ma'am.

15 Q And again, other than the gun lock, does it appear
16 in substantially the same way as when you observed and
17 collected it?

18 A Yes, ma'am.

19 Q From that location. I'm handing you items --
20 State's Exhibit 6. Is that depicted in the photograph?

21 A Yes, ma'am. It's the magazine for the weapon.

22 Q Now, when -- what else is in there? In addition to
23 the magazine itself, are there bullets in that bag?

24 A There -- yes, there were bullets, ammunition inside
25 the magazine.

1 Q And that was what was previously testified to
2 yesterday by Corporal -- did I get his rank correct?
3 Corporal Squires?

4 A Yes, ma'am.

5 Q When it was in the drawer, were the bullets inside
6 or outside the magazine?

7 A They were inside the magazine.

8 Q Okay. So, the picture depicts how it was at the
9 time it was originally located, photographed, and then
10 subsequently seized.

11 A Yes, ma'am.

12 Q Why were the bullets taken out of the magazine?

13 A Safety purposes.

14 Q I'm handing you State's 27.

15 A Can I give these back?

16 Q What is depicted in 27?

17 A That was one of the drawers on the dresser. One of
18 the drawers on the -- in the dresser, in the master
19 bedroom.

20 Q Okay. Is there a way that we can zoom in? Okay.

21 Ma'am, in looking at that photograph, can you see
22 whose address appears on that piece of mail?

23 A Trevin Millidge, ■ Miranda Circle, Beaufort, South
24 Carolina.

25 Q Okay. And then, if we can zoom out again. Okay.

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1 The money that's depicted in that photograph, as well as
2 other currency that was found, was there a process to
3 count the money?

4 A Yes, ma'am. Would you like me to go into detail
5 with it.

6 Q Yes. I mean, what was the system? Because,
7 obviously, cash is something that you need to keep track
8 of. So, how was the process of when it was taken from
9 -- was it taken from that drawer?

10 A Yes, ma'am.

11 Q Okay. And then, what did you do with it after
12 that?

13 A We took the -- or, I take the money out. And then,
14 I count the money in front of at least one other person,
15 usually more than that. There's also a supervisor that
16 counts the money, to make sure that's the correct
17 amount.

18 Q Okay.

19 A It's also photographed and then submitted.

20 Q Okay. All right. I'm handing you what has been
21 marked as State's Exhibit 40. Okay. What is depicted
22 in that photograph?

23 A That's another drawer that was in the dresser in
24 the master bedroom.

25 Q And whose license appears in that photograph?

1 A It was a John Mark Schuster. And that's at 6
2 Timberleaf Court, in Charleston.

3 Q Now, I understand if I -- if you flip the picture
4 upside-down, and there is a blue box up at the top,
5 right-hand corner, can you see that on your picture?

6 A Yes, ma'am.

7 Q And what is that item?

8 A Some medication, prescription medication for Trevin
9 Millidge.

10 Q Okay. I'm sorry. What was the address for the
11 driver's license?

12 A The driver's license, and that's a 9 Timberleaf
13 Court in Charleston, South Carolina.

14 Q And who is the name on the -- for the license?

15 A John Mark Schuster.

16 MS. MUSSER: Your Honor, with the Court's
17 permission, I'd ask to publish 40, since it has to be
18 turned upside-down. And I actually have two copies, one
19 for the top bar and one for the bottom bar.

20 THE COURT: That's fine.

21 MS. MUSSER: Okay.

22 BY MS. MUSSER:

23 Q Now, ma'am, was this dresser the same dresser where
24 the firearm was located?

25 A Yes.

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1 Q Okay. I'm going to hand you State's Exhibit 41.

2 What is depicted in that photograph?

3 A There's a prescription bottle.

4 Q Was that bottle seized?

5 A It was.

6 Q Do you also collect prescription sheets?

7 A I do --

8 Q Prescription sheets, you know, like, when you go to
9 the drugstore, and they give you the instructions for
10 medications and such?

11 A They were collected at some point.

12 Q Okay. And have you had a chance to look at the
13 photo -- or the Xerox copy of those?

14 A I did.

15 Q Okay. And were you able to determine if that is a
16 prescription for Prednisone?

17 A That was.

18 Q Okay. And you can -- can you kind of see the last
19 couple letters on the prescription bottle?

20 A Yes, ma'am.

21 Q And whose name is on that?

22 A The first name's Trevin. The last name appears to
23 be Millidge.

24 Q Okay. So, in other words, you collected items that
25 were in prescription bottles, correct?

1 A Correct.

2 Q And the defendant isn't charged with those,
3 correct?

4 A Correct.

5 Q There's also a piece of mail, or a document in the
6 -- on the right-hand side. Can you see an address on
7 there?

8 A There's two addresses on here. The employee's name
9 and address shows a ■ Miranda Circle, in Beaufort.

10 Q And the first name on there?

11 A Trevin.

12 Q Okay. Actually, you can put it with the other
13 pictures. Okay. Now, I'm handing you State's 42. And
14 I'm sorry, to go back, that bottle of Prednisone, was
15 that in the same dresser as the gun?

16 A Yes, ma'am, it was the same dresser, in the master
17 bedroom.

18 Q Okay. And what is depicted in Picture 42?

19 A It's an envelop with a -- just a piece of mail.

20 Q Okay. And who is the mail addressed to?

21 A Shatike Shabazz.

22 Q What is the address on there?

23 A 2907 Polk Street, in Beaufort.

24 Q What is the date of the postmark on that?

25 A January 25, 2011.

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1 Q So, seven months before?

2 A Yes, ma'am.

3 Q The search warrant was executed?

4 A Yes, ma'am.

5 Q Okay. Thank you. Okay. That's number 29. And
6 what's depicted in that photograph?

7 A It's a Beaufort County -- looks like a water bill,
8 or maybe a tax notice. It's a tax notice.

9 Q And what's the property being taxed? I'm sorry,
10 what's the -- is there an address on it?

11 A It says, property is actually a motor vehicle, but
12 the --

13 Q The mailing address at the top --

14 A The mailing address at the bottom is ■ Miranda
15 Circle, Beaufort, South Carolina.

16 Q Okay. And then, I'm handing -- now, where was that
17 located when you were conducting the search warrant, and
18 when you photographed it?

19 A This was in the master bedroom. It was hanging on
20 a wall.

21 Q Hanging on the wall in the master bedroom?

22 A Yes, ma'am.

23 Q Okay. Now, I'm going to hand you State's Exhibit
24 30. What is that?

25 A That's a Beaufort/Jasper water bill.

1 Q And what is the mailing address on there, at the
2 top left-hand corner?

3 A It's addressed to Trevin Millidge, ■ Miranda
4 Circle, Beaufort, South Carolina.

5 Q And again, is that -- does that photograph fairly
6 and accurately depict how it was hanging on the wall, in
7 the master bedroom?

8 A Yes, ma'am.

9 Q Okay. I'm handing you State's Exhibit 7. Are
10 there two documents in that evidence bag?

11 A Yes, ma'am.

12 Q And are those the originals of what's depicted in
13 the two photographs, in 29 and 30?

14 A Correct.

15 Q Moving on to Picture 31. Ma'am, what is that?

16 A It's illegal drugs wrapped in a plastic baggy.

17 Q Was it a powder or a tablet form?

18 A This one would have been a powder, if I could
19 verify that.

20 COURT REPORTER: I'm sorry, I need you to speak up
21 a little. *This would have been powder, like a?*

22 A If I could verify that.

23 Q If you could refer to your -- do you have your
24 search warrant inventory with you?

25 A I do not. I do not.

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1 Q Okay. Do you have the -- your log in your report?

2 A Yes, ma'am.

3 Q Okay. Would you take a look at Number 20 on your
4 report? And does that refresh your recollection as to
5 what's depicted in that photograph?

6 A Yes, ma'am. That would -- that would have been 23
7 pills, suspected Xanax at the time.

8 Q I'm handing you what has been marked as State
9 Exhibit 8. Ma'am, is that also -- are you familiar with
10 the packaging, that evidence bag?

11 A Yes, ma'am.

12 Q Does your signature appear at the top, in the red
13 tape?

14 A It does.

15 Q Is it sealed, signed, and dated by you?

16 A Yes, ma'am.

17 Q What's the date that is indicated on there?

18 A The seal date is July 30, 2011.

19 Q Is that an item that you collected?

20 A It is.

21 Q And what is in that bag?

22 A It's a plastic baggy, and it's got little light
23 blue pills.

24 Q Okay. Is it tied in the same manner as that is?

25 A It is.

1 Q Okay. All right. I'll take the pills, please.

2 I'm handing you what's been marked as State's 34. What
3 is that?

4 A It's a GNC bottle with the receipt right underneath
5 it.

6 Q And is --

7 A That --

8 Q I'm sorry. Go ahead.

9 A -- contains powder material, many times used as a
10 cutting agent when mixing drugs.

11 Q And what does the term *cutting agent* mean?

12 A You just mix it in with whatever drugs you're
13 using.

14 Q Okay. Let's use the example of cocaine.

15 A Cocaine.

16 Q And why would you mix it in there?

17 A Well, one, it -- it's a -- you have more of the
18 drug to distribute.

19 Q So, you have a bigger product to sell, correct?

20 A Yes, ma'am.

21 Q I'm going to hand you State's 9. Is that the same
22 bottle of Inositol that's depicted in that photograph?

23 A Yes, ma'am. With the receipt inside, as well.

24 This was located inside the master bedroom, inside the
25 -- or on the dresser.

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1 Q Now, I'm handing you what has been marked as
2 State's Exhibit 11. Once again, is that an evidence bag
3 with the red evidence tape?

4 A Yes, ma'am.

5 Q Does it contain your signature?

6 A It does.

7 Q And is it also dated?

8 A It is. July 30, 2011.

9 Q And once again, along with all the other items that
10 you've testified to, were those -- was that put in
11 temporary storage, following the search warrant?

12 A It was.

13 Q And was that after you checked it, made sure that
14 it was consistent with the inventory?

15 A Yes, ma'am.

16 Q And it was reported on your officer's report?

17 A Yes, ma'am.

18 Q Okay. And again, I'm sorry, did you say what was
19 in there?

20 A No, I did not. It's a -- it's a pill. It was
21 oxycodone.

22 Q Okay. I'm handing you State's Exhibit 35. What's
23 depicted in that photograph?

24 A It's a digital scale.

25 Q And what is a digital scale used for?

1 A Many times, it's used to weigh drugs.

2 Q Okay. To the right of that, there appears to be a
3 piece of paper. Again, were those items -- did you
4 photo -- take that photograph before manipulating
5 anything on the table, or moving it? In other words,
6 does it fairly and accurately depict how the items
7 appeared when you first saw them, and when -- how they
8 were found?

9 A In this situation, I do not recall. I mean,
10 sometimes, they may have moved a piece of paper that was
11 on top of it, but --

12 Q Okay.

13 A The -- this one, I would have taken the way it was.

14 Q Okay. So, relatively, that would depict their
15 relationship to each other, correct?

16 A Yes, ma'am.

17 Q Okay. Now, I'm handing you what's been marked as
18 State's Exhibit 36. Is that the same digital scale?

19 A That is.

20 Q Is it a close-up view?

21 A Yes, ma'am.

22 Q What's on top of the scale?

23 A It appears to be residue.

24 Q And is that how it appeared to you when you
25 observed it and collected it?

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1 A Yes, ma'am.

2 Q With the white residue on top?

3 A Yes, ma'am.

4 Q Okay. 14. Oh, here it is. And I'm handing you
5 State's Exhibit 14. Is that the piece of paper that was
6 depicted in the last photograph?

7 A Yes, ma'am.

8 Q Okay. And was that what Corporal Malonis testified
9 to yesterday, with respect to a ledger?

10 A Yes, ma'am.

11 Q Okay. And what is -- what is a drug ledger?

12 A You can keep track of the amounts you're selling.

13 Q So, it's like bookkeeping.

14 A Pretty much. Yes, ma'am.

15 Q Okay. I'm handing you what's been marked as
16 State's Photograph 33. And what is depicted in that?

17 A There's illegal drugs on the ground, a two rock, a
18 white rock.

19 Q And did you first see those when you were with
20 Officer Angstadt, or Deputy Angstadt, and his K-9 dog,
21 Pasha?

22 A Correct.

23 Q What bedroom of the house was this located in?

24 A This was in Bedroom Number 3.

25 Q Okay. And is that the same bedroom where Tyrone

1 Jenkins was found?

2 A Correct.

3 Q And again, with respect to State's Exhibit 4, the
4 crack pipe, was that found on Mr. Jenkins' person?

5 A The crack pipe?

6 Q Yes.

7 A Correct.

8 Q Was it in a pant-pocket?

9 A Yes, ma'am.

10 Q Okay. Originally, when you observed the drugs, is
11 that how you first observed them?

12 A Yes, ma'am.

13 Q Originally, in looking at that, what did you
14 believe or suspect that that drug was?

15 A When I first saw that, I suspected it to be crack
16 cocaine.

17 Q Okay. And what made you -- what's the difference,
18 in general terms, between crack and -- crack cocaine, or
19 cocaine base, and cocaine?

20 A You think of cocaine, it's the loose powder-like
21 substance. Crack cocaine looks like rocks. It's --
22 it's harder.

23 Q Once again, did you collect that item?

24 A I did.

25 Q And what happened, if anything, when you attempted

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1 to collect it?

2 A When I was placing it into an evidence bag, it fell
3 apart, more like cocaine would.

4 Q Okay. So, when it was documented, did you write
5 that down as crack or cocaine?

6 A I documented it as crack at that time.

7 Q And did you subsequently document that it fell
8 apart as you were picking it up?

9 A I did, in my report.

10 Q Now, I'm handing you Container 109, which, again,
11 is the big box. Could you look in there to see if your
12 item -- it should be right on top -- I believe it was
13 your Item 20.

14 A Yes. 28.

15 Q 28. Okay. And are you familiar with that item?

16 A Yes, ma'am. It's the item in the picture.

17 Q I need a 13 sticky. And ma'am, I'm going to ask
18 you to place an exhibit tag on there as State's Exhibit
19 13. And once again, was this an item that you -- you've
20 already testified that you photographed it. Did you
21 collect it?

22 A Yes, ma'am.

23 Q Did you put it in a bag?

24 A I did.

25 Q Did you seal the bag?

1 A Yes, ma'am.

2 Q Did you confirm that the evidence bag with the
3 description matched where you had recovered it from?

4 A Yes, ma'am.

5 Q Did you, again, with all the other evidence,
6 properly secure it, and then ultimately put it in
7 temporary storage?

8 A Yes, ma'am.

9 Q Did anyone else have access to it, other than
10 Sergeant Boland, during that time?

11 A No.

12 MS. MUSSER: Your Honor, I'd move for the
13 conditional admittance of Item 13, pending completion of
14 the chain.

15 THE COURT: Pending completion of the chain.

16 ITEM IDENTIFIED AS COCAINE MARKED
17 STATE'S EXHIBIT NUMBER 13, FOR
18 IDENTIFICATION.

19 BY MS. MUSSER:

20 Q Now, I'm handing you Photograph 38. I'm going to
21 take this back. And if I could take the drugs back.
22 Okay. What is depicted in Number 38?

23 A It's the scanner that was mentioned yesterday.

24 Q And what room of the house was that located in?

25 A That was -- this was in the den.

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1 Q Okay. Was it inside a desk drawer, or out in the
2 open?

3 A It was inside the desk drawer.

4 Q Does that fairly and accurately depict how it
5 appeared in the desk drawer?

6 A Yes, ma'am.

7 Q I'm handing you State's Exhibit 15. Is that the
8 same scanner that is depicted in the photograph?

9 A Yes, ma'am.

10 Q And then, I'm also handing you State's 10. Is that
11 the same digital scale that you collected, with the
12 white residue on top?

13 A Yes, ma'am.

14 Q What testing, if any, is done on site to try -- for
15 an officer to try and confirm whether or not something
16 is a controlled substance?

17 A Out in the field, you can use a KNICK Cocaine White
18 weight, it's Model 6500, to determine if there's a
19 cocaine-based substance in whatever you're testing.

20 Q When you do -- when you do the field test, so, how
21 does it -- how does it work? In other words, you have
22 something that you think is a controlled substance. How
23 do you test it? In other words, explain the process.

24 A You would take a minimal, like, very small amount
25 of whatever you're testing and put it on the white -- if

1 the white turned a blue color, you know there's a
2 cocaine-based substance.

3 Q So, does it -- would it test positive for both
4 crack, as well as cocaine?

5 A Yes, ma'am.

6 Q So, is that another reason why what originally
7 looked to you to be the crack cocaine in Bedroom 3,
8 because on-site, it still would have tested positive?

9 A Yes, ma'am.

10 Q And you would -- you, being an officer and not a
11 chemist, wouldn't be able to make that distinction?

12 A Correct. That's why I originally thought it was
13 crack cocaine.

14 Q What measures, after an item is collected, such as
15 the pills, do you take any measures or steps to try and
16 figure out whether a pill is something simple, like an
17 aspirin versus a controlled substance?

18 A We would call the poison control center, give them
19 the description of the pill, and the number that's
20 located on the pill, and they would let us know what it
21 is. And then, after that, we still submit it to the
22 lab. That's just for us to know that -- a very small
23 measure we can take. Obviously, I'm not a chemist. I
24 can't tell you what drug's what. That's why I would
25 call the poison control center.

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1 Q Now, with respect to -- so, after you gather that
2 information, do you, at some point, do a preliminary
3 weight of the drugs?

4 A Yes, ma'am.

5 Q What is the purpose of doing a preliminary weight?

6 A I just need the weight for any arrest warrants that
7 may be issued at the time.

8 Q And the arrest warrant is the initial charging
9 document?

10 A Yes, ma'am.

11 Q Okay. What type of scale do you use to weigh the
12 suspected controlled substances?

13 A The scale we have is pretty much what you would see
14 -- what you saw in the pictures, just a small digital
15 scale. And I take the drugs, in its original packaging
16 -- I don't take them out -- and then, I put it on the
17 scale and do a total weight.

18 Q So, it's -- with that type of scale that you just
19 had in your hands, State's Exhibit 10, is that, like,
20 officially calibrated on a daily or a per-use basis?

21 A No, ma'am. Like I said, it's just for us to get an
22 initial understanding or an idea of how much drugs there
23 are. When I send it out to the lab that -- they're the
24 ones that actually do an accurate measurement on the
25 weight.

1 Q And you've already indicated that you don't, in any
2 way, dump out the drugs onto the scale and then put it
3 back in the packaging. You weigh the whole bundle.

4 A Correct. So, all the photos you saw of the
5 packaging that's wrapped up with the drugs, I would just
6 put that on the digital scale. The two rocks that were
7 on the ground, I put in an evidence bag, a small
8 evidence bag, and I weighed that.

9 Q Where does that weighing take -- or in this
10 particular case, where did you weigh the drugs?

11 A Back at the DTF office.

12 Q Okay.

13 A Or, I'm sorry, the ones that are wrapped in the --
14 the packaging that's found, I would weigh it at -- at
15 the house, still, with our digital scale.

16 Q And is the reason that you need a preliminary
17 weight on the arrest warrants, to distinguish between,
18 say, a trafficking charge or a possession with intent to
19 distribute charge?

20 A Correct.

21 Q And once again, with respect to all the controlled
22 substances indicated in State's 2, 8, 11, 12, and 13,
23 were they all placed in Container 109, or what you've
24 identified as 109, the box?

25 A Yes, ma'am.

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1 Q Okay. And were they all turned over to temp
2 storage?

3 A Yes, ma'am.

4 Q After you turned them over to temp storage and put
5 them in the secure locker, did anyone else, other than
6 evidence custodians, have access to it?

7 A No, ma'am.

8 MS. MUSSER: Your Honor, at this time, I would move
9 for the official admittance of State's 2, 8, 11, 12, and
10 13, as far -- up until the point where Officer Lindahl
11 turned them in to temp storage. We'll complete the
12 chain.

13 ITEM IDENTIFIED AS EVIDENCE BAG,
14 PLASTIC BAG CONTAINING COCAINE
15 AND CRACK COCAINE MARKED
16 STATE'S EXHIBIT NUMBER 2, ADMITTED
17 AS EVIDENCE.

18 ITEM IDENTIFIED AS 23 XANAX PILLS
19 MARKED STATE'S EXHIBIT NUMBER 8,
20 ADMITTED AS EVIDENCE.

21 ITEM IDENTIFIED AS 1/2 OXYCODONE PILL
22 MARKED STATE'S EXHIBIT NUMBER 11,
23 ADMITTED AS EVIDENCE.

24 ITEM IDENTIFIED AS EVIDENCE BAG
25 CONTAINING COCAINE AND CRACK COCAINE

1 MARKED STATE'S EXHIBIT NUMBER 12,
2 ADMITTED AS EVIDENCE.
3 ITEM IDENTIFIED AS COCAINE MARKED
4 STATE'S EXHIBIT NUMBER 13, ADMITTED
5 AS EVIDENCE.

6 THE COURT: Okay.

7 BY MS. MUSSER:

8 Q With respect to the currency, you already
9 testified, and what we heard yesterday, as well, that
10 the defendant had cash in his front, left pocket,
11 correct?

12 A Yes, ma'am.

13 Q And then, in his -- in one of his back pockets, as
14 well, correct?

15 A Yes, ma'am.

16 Q Was there additional -- with respect to the
17 additional sums that both Corporal Squires and Malonis
18 testified to, was the money found in the master bedroom
19 and the bathroom, laid out?

20 A Yes, ma'am.

21 Q Okay. Is that what is depicted in State's Exhibit
22 32?

23 A Yes, ma'am.

24 Q In other words, you -- in other words, when
25 officers walked into the master bedroom, the money

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1 wasn't laying on the bed like that, correct?

2 A No, it was not.

3 Q Because Ms. Higgins-Dunlap was in the bed, right?

4 A Well, I was in the --

5 Q Okay. But in other words, you purposely laid out
6 the money. Is that so you could count it?

7 A Yes, ma'am.

8 Q As the case officer, and given the importance of
9 cash and tracking cash that people are accountable for
10 cash that's taken, did you not only count it once?

11 A It was counted multiple times.

12 Q How much total cash between what was on the
13 defendant and what was in the master bedroom, and other
14 locations within the house? I believe the den. None of
15 the other bedrooms. There wasn't any cash in any of the
16 other bedrooms, correct?

17 A No, ma'am.

18 Q How much cash, total, was taken?

19 A We seized \$1,800.00, total.

20 Q Was there an additional five-dollar bill that was
21 ripped, that couldn't be included in that?

22 A Yes, ma'am. It was on the dresser.

23 Q With respect to State's Exhibit 5, did you request
24 any testing be done? 5 is the firearm in question.

25 A Yes, ma'am. I requested a DNA analysis.

1 Q And as the case officer, did you receive the
2 results of that testing?

3 A I did see the results of the test.

4 Q And what was the result?

5 MR. NEWMAN: Your Honor? I have an objection.

6 THE COURT: Okay. You want to approach?

7 MR. NEWMAN: Sure.

8 THE COURT: Come on up.

9 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
10 HEARING OF JURORS. PRESENT: THE COURT, MS.
11 MUSSER, AND MR. NEWMAN.
12 END BENCH CONFERENCE.

13 BY MS. MUSSER:

14 Q Ma'am, we're there any DNA samples on the gun?

15 A The test came back -- or insufficient.

16 Q To even test, correct?

17 A Correct.

18 MS. MUSSER: Your Honor, may I have just a moment?

19 THE COURT: Certainly.

20 MS. MUSSER: Your Honor, with the Court's
21 permission, I'd like to use the easel.

22 THE COURT: I'm sorry. Pardon?

23 MS. MUSSER: I'd just like to use the easel for a
24 couple minutes.

25 THE COURT: That's fine.

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1 MS. MUSSER: Okay. Your Honor, may Officer Lindahl
2 step down?

3 THE COURT: You certainly may. Thank you.

4 MS. MUSSER: If you can bring the report with you.

5 MR. NEWMAN: May I stand over by the bar rail?

6 THE COURT: Of course.

7 BY MS. MUSSER:

8 Q Just to recap. Ma'am, I'm handing you State's
9 Exhibit 2. I'm sorry. Okay. Where was Exhibit --
10 State's Exhibit 2, where was that found?

11 A It was located in the right-front pocket of Mr.
12 Millidge.

13 Q So. Okay. So, State's 2 found on Mr. Millidge,
14 correct?

15 A Correct.

16 Q All right. How about --

17 BAILIFF: Excuse me. One of the jurors in the back
18 can't see.

19 MS. MUSSER: Sorry.

20 BAILIFF: Is there any way we can move this out?

21 BY MS. MUSSER:

22 Q All right. Now, State's 12, where was that
23 located?

24 A This was located in the master bedroom closet, on
25 the shelf. It was, I believe, wrapped up in the men's

1 shorts.

2 Q Okay. I'll move, sorry. How about 13?

3 A This was located in Bedroom Number 3 on the floor.

4 COURT REPORTER: I'm sorry. *This was located in*
5 *Bedroom Number 3 on the floor?*

6 A Yes, ma'am.

7 Q And how about 8?

8 A This is the 23 pills that were inside a plastic bag
9 of the master bedroom dresser.

10 Q Okay. And then, Number 11.

11 A That's the pill that was located on the master
12 bedroom dresser, the oxycodone.

13 COURT REPORTER: I'm so sorry. You've got your
14 back to me, and -- tell me again, please.

15 A It's the pill that was located in the master
16 bedroom, on the dresser, oxycodone.

17 MS. MUSSER: Okay. Thank you, your Honor. Your
18 Honor, I have no further questions.

19 And with that, your Honor, we would just move in
20 the pictures. I believe, they were without objection.

21 THE COURT: Okay. Well, subject to my ruling,
22 certainly. Thank you.

23 ITEMS IDENTIFIED AS PHOTOGRAPHS

24 MARKED STATE'S EXHIBIT NUMBERS

25 16, 17, 18, 19, 21, 22, 23, 24, 25,

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1 26, 27, 29, 30, 31, 32, 33, 34, 35,
2 36, 38, 40, 41, 42, ADMITTED AS EVIDENCE.

3 JUSTYNA B. LINDAHL

4 CROSS-EXAMINATION, BY MR. NEWMAN:

5 Q Is this the driver's license of this John Schuster?

6 MS. MUSSER: Your Honor, that has not been marked.

7 That has not been introduced by the State.

8 THE COURT: Okay.

9 MS. MUSSER: So.

10 THE COURT: Well, he can introduce it, if he wants
11 to. He would need to identify it.

12 MS. MUSSER: Right, but he would need his -- right,
13 but he would need his sticker. He would need it,
14 because that -- I had marked it, but --

15 MR. NEWMAN: I'm not moving to put it in evidence.

16 THE COURT: He's not putting it in evidence.

17 MR. NEWMAN: I simply asked her a question. She
18 testified to this.

19 THE COURT: Go ahead.

20 BY MR. NEWMAN:

21 A It is.

22 Q That's the one that they found.

23 A Yes, sir.

24 Q In the dresser, in that bedroom.

25 A Yes, sir.

1 Q Okay. And you were there when they ran the drug
2 dog through the house, and I believe you said it hit in
3 the closet?

4 A I was there, yes, sir.

5 Q Okay.

6 A What the dog hit on, that's something you'd have to
7 ask the K-9 handler.

8 Q Okay. Now, as to the -- let's start with the
9 OxyContin pill. Upon what information do you have that
10 Mr. Millidge did not have a prescription for that?

11 A At the time, sir?

12 Q Sure.

13 A There was nothing saying he had a prescription for
14 it.

15 Q Okay. Did you check with any pharmacies?

16 A At the time, no, sir.

17 Q Did you ask Mr. Millidge?

18 A I do not recall. I -- obviously, even if he's told
19 us he had one, there was no proof to it.

20 Q Okay. Because you swore in the warrant that he did
21 not have a prescription for the controlled substance,
22 correct?

23 A At the time, he did not.

24 Q Okay. Let me ask you, does that appear to be a
25 pharmacy readout for oxycodone to Mr. Millidge?

1 MS. MUSSER: I'm sorry, can I see what she --

2 MR. NEWMAN: Sure. Let her read it.

3 MS. MUSSER: Your Honor, we're just going to object
4 to this.

5 THE COURT: Basis?

6 MS. MUSSER: Because it -- there's no indication
7 that Officer Lindahl wrote it, and it would constitute
8 hearsay if she's just reading what's on the back of it.
9 In other words, it has -- I can't cross-examine the
10 document that came from somewhere else. I don't know if
11 Mr. Millidge printed that out on his computer, if he
12 drafted it, so it would be hearsay.

13 THE COURT: Let me look at it.

14 Okay. You can ask her about it. It's not coming
15 into evidence until you establish whatever.

16 MR. NEWMAN: I'm not moving it into evidence.

17 THE COURT: Okay.

18 MR. NEWMAN: I just want to ask her some questions
19 about it.

20 THE COURT: Okay.

21 BY MR. NEWMAN:

22 A I don't know. It's not -- it says it's from
23 Walgreen's, but I've never seen one like this. It says:

24 *Confidential Patient Information*

25 *Prescription Profile.*

1 Q And it's for the hydrocodone or oxycodone?

2 A That's what it says on here.

3 Q And what address is listed?

4 A The piece of paper says ■ Miranda Circle.

5 Q Okay.

6 A There's also --

7 Q But you never checked the Walgreen's or any
8 pharmacy to see whether or not Mr. Millidge had a
9 prescription of that, correct?

10 A I did not.

11 Q But you swore on a warrant that he did not have a
12 prescription.

13 A Like I said, at that time, he did not.

14 Q How do you know he did not?

15 A There was no proof there that he did.

16 Q Now, in your report, you said that there was a
17 total approximate weight of crack cocaine of 35.7 grams.
18 Is that correct?

19 A In the report, yes, 35.7 grams.

20 Q Okay. And the drug report accounts for about 14
21 grams, total.

22 A The lab report.

23 Q The lab report.

24 A Correct.

25 Q Right. Well less than half of what you accounted

1 for.

2 A Correct, which I explained before. When I weigh
3 the drugs, I weigh them in the original packaging. As
4 you saw, there was a lot of plastic wrapped around it.
5 Then, I use just a regular scale. The drugs lab
6 actually takes the drugs out and weighs them on a
7 certified scale, which they then talk about.

8 However, I also mentioned the crack cocaine that
9 was found, that I thought was crack cocaine, actually
10 turned out to be cocaine. So, there's a discrepancy
11 there.

12 Q Yeah. That totaled for .023 of a gram, and .98 of
13 a gram.

14 A I'm not sure what the totals were.

15 Q Okay. I'm just trying to figure out why there's a
16 huge discrepancy.

17 A Well, I just explained it, sir.

18 Q Okay. And the packaging shouldn't weigh anymore
19 than a gram or two, should it?

20 A I don't know how much the packaging weighs. I --

21 Q I'll ask the chemist that. Thank you. Okay. So,
22 you swore out in a warrant for Mr. Millidge for
23 trafficking, 28 to 100 grams, correct?

24 A I would have to see the --

25 Q You don't remember the warrant you swore out for

1 him?

2 A Sir, it was three-and-a half years ago. I -- it
3 would have been around -- obviously, if my -- my
4 weight's at 35.7 grams, then, that sounds right.

5 Q So, that would be more than 28 grams. And as the
6 Solicitor said, weight makes a difference, because
7 there's different inferences that could go to a jury.
8 Isn't that correct? as to what a person might be guilty
9 of, a greater charge of trafficking or a lesser charge
10 of possession with intent, or even a lesser charge of
11 just possession.

12 A Correct.

13 Q Correct?

14 A What Mr. Millidge is getting charged with is what
15 the lab results are, not what my findings as the weight
16 were.

17 Q Right. But what I'm asking, because I'm trying to
18 figure out these discrepancies that -- you testified
19 before a grand jury in October. Is that correct?

20 MS. MUSSER: Objection, your Honor. Counsel full
21 well knows that the Solicitor's Office is the one that
22 makes that charging decision after the lab is received.
23 And it's not the decision to file the indictments and
24 what indictments lies with our office and not with the
25 officer.

1 THE COURT: Okay. Mr. Newman.

2 MR. NEWMAN: Well, your Honor, the officer is the
3 testificant before the grand jury. Listed on the
4 warrant is J. Lindahl, BCSO.

5 BY MR. NEWMAN:

6 Q So, you would have been the testifying officer for
7 the grand jury, correct?

8 A And when was the grand jury?

9 Q The grand jury was October 20, 2011.

10 A I don't think I was employed by Beaufort County
11 Sheriff's Office anymore at that time. I could verify
12 that.

13 Q Okay. So, you did not testify before the grand
14 jury?

15 A I do not recall, sir.

16 Q And the lab report was actually received August
17 30th, that showed about 13.8-something grams. Do you
18 recall the lab date?

19 A I do not.

20 Q Did you look at any leases for ■ Miranda Circle?

21 A Any leases, sir?

22 Q Yes.

23 A I do not recall looking at any.

24 Q Okay. Do you know who the lessee or owner of
25 Miranda Circle was?

1 A Well, based on the --

2 Q No, ma'am, I'm asking you, do you know, not based
3 on the fact that he happened to be there -- my kids live
4 in the house, but they don't own it. They think they do
5 sometimes. I want to know about lease information.

6 A I can't give you lease information, sir, I don't
7 know.

8 Q And you can't tell me that.

9 MS. MUSSER: Objection. Asked and answered.

10 A No, sir.

11 THE COURT: Okay.

12 MR. NEWMAN: All right.

13 BY MR. NEWMAN:

14 Q You have absolutely no evidence whatsoever about
15 this gun found in a drawer, whether or not Mr. Millidge
16 knew it was in that drawer. Isn't that correct?

17 A You'd have to ask Corporal Michaud that. He --
18 he's the one that interviewed Mr. Millidge.

19 Q Okay. But weren't you the case officer?

20 A I was.

21 Q Okay. And weren't you the one that told us about
22 the non-finding of DNA?

23 A I did.

24 Q Okay.

25 A Based on the lab results.

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1 Q Other than the fact you found it in the drawer,
2 what evidence -- you have no evidence, correct? that Mr.
3 Millidge ever possessed that gun. Isn't that correct?

4 A That is correct.

5 Q Okay.

6 A It was just in his bedroom.

7 Q No fingerprint, no DNA, no nothing. Same question
8 for the scale that was under a piece of paper, not out
9 in plain view, and this scanner that was in a desk
10 drawer. You have absolutely no evidence whatsoever,
11 other than the fact of where it was found, that Mr.
12 Millidge even knew any of that stuff was there. Isn't
13 that correct?

14 A I'm sorry, the scale the was on the kitchen
15 counter?

16 Q Yep.

17 A Where Mr. Millidge was found?

18 Q Yep. That was actually under a piece of paper; was
19 it not?

20 A I do not recall that.

21 MS. MUSSER: May I see what --

22 BY MR. NEWMAN:

23 Q Is that from you?

24 MS. MUSSER: What --

25 COURT REPORTER: I'm sorry, I didn't hear you, Mr.

1 Newman.

2 THE COURT: Okay, you all.

3 MR. NEWMAN: I said, is that from --

4 THE COURT: You all don't need to be testifying in
5 front of the jury.

6 MS. MUSSER: I would just ask that Mr. Newman mark
7 it in some way, because that's not one of the State's --
8 something that the State was permitted to put in. In
9 other words, there is no mark -- in other words, I would
10 just ask that, for the record, that it have some kind of
11 label.

12 THE COURT: Okay. Let's go ahead and mark it for
13 identification purposes, Mr. Newman, only.

14 MR. NEWMAN: Sure.

15 THE COURT: And if you choose to move it in, you
16 can.

17 MR. NEWMAN: I am not moving it into evidence.

18 THE COURT: That's fine. Let's just mark it for
19 I.D. purposes.

20 COURT REPORTER: Defendant's Exhibit 1?

21 MR. NEWMAN: For identification.

22 COURT REPORTER: For I.D. purposes.

23 THE COURT: For I.D. purposes only. Thank you.

24 ITEM IDENTIFIED AS PHOTOGRAPH

25 MARKED DEFENDANT'S EXHIBIT NUMBER 1,

1 FOR IDENTIFICATION.

2 BY MR. NEWMAN:

3 Q Let me show you what's been marked for I.D. This
4 is a photograph that you took; is it not?

5 A I'd have to see the photos I took. This looks --
6 somehow, it doesn't look like a photograph.

7 Q Okay.

8 A Not very clear on here.

9 MR. NEWMAN: Do you have the State's photographs?

10 MS. MUSSER: This is the one that was objected to
11 in our pretrial. I don't know -- your Honor, may I -- I
12 have a technical question for Ms. Wanda.

13 THE COURT: Okay. Go ahead and ask her.

14 DISCUSSION BETWEEN MS. MUSSER AND
15 COURT REPORTER.

16 BY MS. MUSSER:

17 MS. MUSSER: Judge, I have no -- as I did this
18 morning, I have no objection to our picture.

19 THE COURT: Okay. That's fine.

20 MR. NEWMAN: Okay. And I'm not going to introduce
21 it as an exhibit.

22 THE COURT: Okay.

23 MR. NEWMAN: I just want to ask some questions
24 about it.

25 BY MR. NEWMAN:

1 Q This I received from Solicitor, is that --

2 A That's --

3 Q -- not a better print?

4 A It is a better print, sir.

5 Q Okay. And you recognize that, and you took that
6 photograph, correct?

7 A Yes, sir.

8 Q And that shows that scale being covered up. It's
9 not out in the open, as it appears in the State's
10 photographs.

11 A Yes, sir.

12 Q And you agree with that.

13 A Yes.

14 Q Okay. Thank you.

15 COURT REPORTER: Mr. Newman, is that supposed to be
16 Defendant's 2, for I.D.?

17 MR. NEWMAN: If the Judge wants me to mark it for
18 identification, I will.

19 THE COURT: Go ahead and mark it for
20 identification.

21 MR. NEWMAN: Not as an exhibit. Thank you.

22 ITEM IDENTIFIED AS PHOTOGRAPH

23 MARKED AS DEFENDANT'S EXHIBIT NUMBER 2,
24 FOR IDENTIFICATION.

25 BY MR. NEWMAN:

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1 Q And did you do -- this gun that was found in the
2 dresser drawer, the same dresser drawer that had the
3 license of Mr. Schuster, I believe it was. You also
4 found items of identification for Sharik [sic] Shabazz,
5 or something like that.

6 A That is incorrect. The Shatike Shabazz was -- the
7 mail was found in another bedroom, unrelated.

8 Q That's what I'm asking. Connected with the
9 residence. You found an item connecting him to that
10 residence, as well.

11 A Like I said, that piece of mail was in Bedroom
12 Number 4. It wasn't open; it was just there.

13 COURT REPORTER: I'm sorry. It wasn't open?

14 A It was not open.

15 BY MR. NEWMAN:

16 Q Okay. Well, if it was Mr. Millidge's, you'd like
17 to save that connection to the residence, wouldn't you?

18 A That was not addressed to ■ Miranda Circle. It was
19 addressed to an address unrelated.

20 Q But, in fact, there is a guy named Mr. Shabazz, who
21 is a frequent suspect --

22 MS. MUSSER: Objection, your Honor.

23 A I don't know that.

24 THE COURT: Overruled. You can ask her.

25 BY MR. NEWMAN:

1 Q Maybe I'll ask -- you don't know. Maybe I'll ask
2 Corporal Michaud. But there is a way, is there not, to
3 trace firearms.

4 A I'm sorry, to what?

5 Q There's a way to trace firearms; is there not?

6 A To run the serial number on the gun?

7 Q Sure.

8 A That is correct.

9 Q And you all do that regularly in law enforcement,
10 don't you?

11 A I'm sorry?

12 Q You all do that regularly in law enforcement, don't
13 you?

14 A Yes, sir. We can see if the weapon comes back
15 clear.

16 Q Okay. And this weapon, in fact, was registered to
17 a Tori Dunlap. Isn't that correct?

18 A If I recall, sir, yes, the -- Mr. Millidge's
19 girlfriend at the time.

20 Q Ms. Dunlap gave you a statement, did she not? that
21 Mr. Millidge had no knowledge of that firearm, her
22 firearm?

23 MS. MUSSER: Objection, your Honor.

24 THE COURT: Can I ask her a question. I don't
25 know. I haven't seen the discovery.

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1 MS. MUSSER: Well, it's hearsay, because Ms. Dunlap
2 isn't testifying. And it doesn't --

3 THE COURT: If she gave a statement, you can ask
4 her, in her investigation, whether or not she gave you a
5 statement.

6 BY MR. NEWMAN:

7 Q Did she give you a statement?

8 A To another officer.

9 Q To another officer, correct?

10 A I did not interview her.

11 Q Okay. But you're the case officer, correct? You
12 reviewed all the interviews and material; did you not?

13 A I reviewed them, yes, sir.

14 Q Okay. And I'm asking you, did she give a statement
15 saying that Mr. Millidge had no knowledge of that gun?

16 MS. MUSSER: Objection, your Honor. It's the same
17 thing. Counsel's trying to back-door the hearsay. It
18 doesn't fit with the --

19 THE COURT: He can ask her if she learned, in her
20 investigation, whether or not so-and-so gave a
21 statement. You can say, have you learned, in your
22 investigation.

23 MR. NEWMAN: Okay.

24 BY MR. NEWMAN:

25 Q Did you learn in your investigation that Ms. Dunlap

1 gave a statement?

2 A She -- she was interviewed, and gave some sort of
3 statement. I was not present for that.

4 MR. NEWMAN: I believe I'm about done. I would
5 just --

6 THE COURT: Okay.

7 MR. NEWMAN: -- beg the Court's indulgence, please.

8 BY MR. NEWMAN:

9 Q I just want to make sure I was clear. Do you have,
10 looks like, Page 8 of 11, of the original report. You
11 listed the crack cocaine weight at 35.7 grams, correct?

12 A Yes, sir. Like I said before.

13 Q Okay. And you don't recall whether or not you
14 testified before the grand jury.

15 A Sir, I do not recall. Like I said, it was three-
16 and-a-half years ago.

17 Q Okay.

18 MR. NEWMAN: I don't have any further questions.

19 MS. MUSSER: Just briefly, your Honor.

20 JUSTYNA B. LINDAHL

21 RE-DIRECT EXAMINATION, BY MS. MUSSER:

22 Q Ma'am, I'm handing you State's Exhibit 45. Is the
23 lone piece of mail for or anything at all in the case
24 that mentions Mr. Shabazz?

25 A Yes, ma'am. This was located in Bedroom 4. There

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1 was no money, no drugs, nothing found in that bedroom of
2 such value.

3 Q Was that the one in the closet?

4 A I'd have to just look back to my report, but I'm
5 pretty sure it was. Yes, ma'am. It was located in
6 Bedroom 4, in the closet.

7 Q Okay. And that's the original doc -- that's the
8 original piece of mail, correct?

9 A Yes, ma'am.

10 Q And what is the postmark date on that?

11 A January 25, 2011.

12 Q Where was it addressed to? What street address?

13 A It was addressed to 2907 Polk Street, in Beaufort,
14 South Carolina.

15 MS. MUSSER: Your Honor, at this time, the State
16 would move for the admission of State's Exhibit, I
17 think, 45.

18 THE COURT: Any objection?

19 MR. NEWMAN: No, ma'am.

20 THE COURT: Without objection.

21 ITEM IDENTIFIED AS ORIGINAL PIECE
22 OF MAIL MARKED AS
23 STATE'S EXHIBIT NUMBER 45, ADMITTED
24 AS EVIDENCE.

25 BY MS. MUSSER:

1 ITEM IDENTIFIED AS PRESCRIPTION
2 INFO SHEETS MARKED
3 STATE'S EXHIBIT NUMBER 43, FOR
4 IDENTIFICATION.

5 Q Ma'am, did you also -- with respect to the
6 prescription questions that Mr. Newman was asking, did
7 you collect what's been marked as State's Exhibit 43?

8 A Yes, ma'am. Prescription info sheets.

9 Q And -- sorry, I'm looking for my scissors. Can you
10 open that. Knew I had them. Thank you.

11 A Thank you. May I open it?

12 Q Yes, please.

13 A Thank you.

14 MR. NEWMAN: What is it?

15 MS. MUSSER: The prescription sheets.

16 BY MS. MUSSER:

17 A These are the prescription information sheets that
18 were located in the master bedroom, in the dresser.

19 Q And ma'am, there were other items that came back,
20 for example, the Diazepam that was collected, and was
21 confirmed by the lab to be Diazepam, the defendant had a
22 prescription for that, correct? Not necessarily related
23 to the sheets, but he had a prescription, correct?

24 A Correct.

25 Q And it was in a prescription bottle, correct?

1 A Correct.

2 Q And obviously, he's not charged with that today,
3 correct?

4 A Correct.

5 Q Now, when you look, how many prescription sheets
6 are in there?

7 A Four.

8 Q And of those, one of those is for the Prednisone
9 that we saw up on the photograph, correct?

10 A Yes, ma'am.

11 Q Prednisone, 20 milligrams, correct?

12 A Tablets, correct.

13 Q Twenty-milligram tablets, correct?

14 A Yes, ma'am.

15 Q Okay. So, you did take measures to confirm what
16 the defendant, at the time, had prescriptions for,
17 correct?

18 A Based on the prescription sheets.

19 Q And the prescription bottles that you also found on
20 site.

21 A Correct.

22 Q Correct?

23 MS. MUSSER: Your Honor, I have no further
24 questions.

25 THE COURT: Mr. Newman.

1 MR. NEWMAN: Thank you.

2 JUSTYNA B. LINDAHL

3 RE-CROSS EXAMINATION, BY MR. NEWMAN:

4 Q Following up on that, in Bedroom 4 in this house
5 was correspondence to Mr. Shatike Shabazz. Also found
6 was an Apple computer with a serial number on it,
7 correct?

8 A Correct, sir.

9 Q Okay. Also found was a black Motorola cell phone
10 with a charger.

11 MS. MUSSER: Your Honor, objection. At this point,
12 we're beyond the scope of my direct and my re-direct.

13 THE COURT: You may ask. Go ahead.

14 MR. NEWMAN: Thank you, your Honor.

15 BY MR. NEWMAN:

16 Q Also located was a black iPhone, correct?

17 A Yes, sir, in a dresser.

18 Q Okay. Also found in that bedroom was a Verizon LG
19 -- I don't know what an LG would be, some kind of
20 electronic device. That would be Item 44, correct?

21 A Yes, sir, all in the dresser drawer.

22 Q Okay. Nokia and a Cricket USB WiFi, correct?

23 A Yes, sir.

24 Q Okay. And there are ways to run down ownership on
25 those; are there not?

1 A I'm sorry, what's the question?

2 Q There's ways to run down ownership. You can look
3 in the computer, right?

4 A I just can't log into a computer and look it up.
5 It's not that simple, sir.

6 Q Well, can't you get a search warrant, and get Mr.
7 Hightower and all the high-tech people at the
8 Solicitor's Office to do data mining?

9 A I can.

10 Q And extracting?

11 A Yes, sir.

12 Q So, it's available, correct?

13 A Yes, sir.

14 Q And you didn't do any of that.

15 A I submitted the -- I got a search warrant for some
16 of the items.

17 Q Okay.

18 MR. NEWMAN: I don't have anything further.

19 THE COURT: Hold on one second.

20 MR. NEWMAN: Well, hold on.

21 THE COURT: That's fine.

22 MR. NEWMAN: Your Honor, I beg the Court's
23 indulgence.

24 THE COURT: Yes.

25 BY MR. NEWMAN:

1 Q Would you agree that, on the original indictments
2 for trafficking 28 to 100, that it lists you as the
3 witness before the grand jury?

4 A It does.

5 Q Okay. And on the cocaine, trafficking 10 grams or
6 more, you listed as the witness?

7 A Correct. Like I said, I don't recall how the State
8 used to do those.

9 Q Okay. And these arrest warrant numbers would be
10 your arrest warrants.

11 A Yes, sir.

12 Q On both of them, correct?

13 A Yes, sir.

14 Q And these were done on October 20th.

15 A Is that what it is?

16 COURT REPORTER: I'm sorry, October 20?

17 MR. NEWMAN: 20th. Two, zero.

18 BY MR. NEWMAN:

19 Q By the grand jury.

20 A Yes, sir.

21 Q Signature? Okay. And that was after the lab
22 analysis that was done on August 20th, correct?

23 A I'd have to verify that, sir. I don't recall what
24 date the lab results.

25 Q I'll show you. I've made some notes on it. Does

1 this appear to be the document from your lab on the
2 forensic examine report?

3 A September 28, 2011.

4 Q Yeah, but what's the date up there?

5 A Well, there's two dates. There is --

6 Q Right.

7 A -- the September 20, 2011 at the bottom, and
8 there's August 30, 2011.

9 Q But even at the later date, that's well three --
10 good three weeks before the grand jury, correct?

11 A Yes, sir.

12 Q September 28, October 20, approximately. Take
13 eight days off.

14 A Yes, sir.

15 Q Approximately three weeks. Okay. And cocaine was
16 not over ten grams. It only weighed out -- well, I'll
17 ask the chemist that. But it weighed under that.

18 A Okay.

19 Q Correct? The crack didn't weigh 37 grams. It
20 weighed --

21 MS. MUSSER: Objection. Again, Counsel knows that
22 it's the Solicitor's Office that prepares the
23 indictments.

24 THE COURT: Okay.

25 MS. MUSSER: And not the officer.

1 THE COURT: Just ask her a question.

2 BY MR. NEWMAN:

3 Q The information you would have given the
4 Solicitor's Office to prepare the indictments would have
5 been based on your testimony and weights, correct?

6 A Based on my testimony, correct.

7 Q Okay. That's what I thought. Thank you.

8 MR. NEWMAN: No further questions.

9 THE COURT: Anything further, Ms. Musser?

10 MS. MUSSER: Just briefly, your Honor.

11 JUSTYNA B. LINDAHL

12 RE-RE-DIRECT EXAMINATION, BY MS. MUSSER:

13 Q And ma'am, that's why the indictments were amended,
14 correct? And that's why the charges are what they are
15 as it stands today.

16 A Correct.

17 Q Because the Solicitor's Office amended the
18 indictments to reflect the appropriate weights, correct?

19 A Correct. I -- like I mentioned before, what Mr.
20 Millidge is being charged with today is not my original
21 weights. It's what the lab came back with.

22 MS. MUSSER: No further questions, your Honor.

23 BY THE COURT:

24 THE COURT: Okay. Anything further? You may step
25 down.

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1 A Thank you.

2 THE COURT: Ladies and gentlemen of the jury, I
3 think now is a very good time for a break this morning.
4 Again, do not discuss this case. It wouldn't be
5 appropriate to do so. We'll be back with you shortly,
6 ladies and gentlemen. Thank you.

7 JURY LEAVES COURTROOM 11:25 A.M.

8 JUSTYNA B. LINDAHL: May I step down, your Honor?

9 THE COURT: Absolutely. And I apologize, I didn't
10 mean to trap you up there. Just trying to move along.

11 Okay. What do you have left as far as witnesses?
12 How many, and is the next one short, long? I just need
13 to know, kind of, where we're going to break. It's
14 about 11:20 now.

15 MS. MUSSER: I have two short chain witnesses.

16 THE COURT: Okay.

17 MS. MUSSER: And then, I have --

18 THE COURT: And then, after that, are you going to
19 be able to move everything in? Will that establish your
20 total chain?

21 MS. MUSSER: Yes.

22 THE COURT: Okay, so two --

23 MS. MUSSER: No, because it has to go to the
24 chemist at the end.

25 THE COURT: Okay. So, you have two short chain

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1 witnesses. Then, what else?

2 MS. MUSSER: And then, Walker Michaud.

3 THE COURT: Michaud?

4 MS. MUSSER: Yes, ma'am.

5 THE COURT: And?

6 MS. MUSSER: And then, Renita Berry.

7 THE COURT: Got it. The chemist. Okay. So, my
8 question is, do you think we can get all that done
9 before lunch? 1:00 o'clock?

10 MS. MUSSER: I would think so, your Honor.

11 THE COURT: I would think so, too.

12 MS. MUSSER: Not, I mean, all of the -- all of the
13 balance of the testimony.

14 THE COURT: Yours. Yes.

15 MS. MUSSER: But we can go -- I mean --

16 THE COURT: Okay. It sounds like we can. Okay.

17 MR. NEWMAN: Michaud's going to be a little while,
18 I'll just tell you.

19 THE COURT: Okay. How long do you think you're
20 going to be, Mr. Newman?

21 MR. NEWMAN: I don't know. I need the State to --
22 and this might be a good juncture for them to do that,
23 so that I may be able to correctly inform my client as
24 to the -- like, to have the State proffer as to what
25 criminal record they would seek to cross-examine him on.

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1 THE COURT: Okay.

2 MS. MUSSER: Okay.

3 THE COURT: All right. Ms. Musser, will you look
4 at it and see, based on his rap sheet, what you would
5 cross-examine him on? Okay? And you can do that over
6 the next five minutes' break, so he can make an educated
7 decision on whether or not he wishes to testify.

8 MR. NEWMAN: Yes, ma'am. Thank you.

9 THE COURT: Okay? All right. We're going to step
10 down, you all. We're going to take a brief break, five
11 minutes. I really would like to push forward.

12 OFF THE RECORD 11:27 A.M.

13 BACK ON THE RECORD 11:46 A.M.

14 BY THE COURT:

15 BAILIFF: Court is back in session.

16 THE COURT: Thank you all. Please be seated. All
17 right. Mr. Newman and Ms. Musser, I will tell you that
18 I asked our clerk of court to buy pizza for the jury.
19 So, my hope is that we can do a short lunch break as a
20 result of that. So, just to let everybody know. I hope
21 that's okay. So, we'll end up probably taking about a
22 30- or 45-minute break, if that's all right.

23 You don't have anybody back there you need to feed,
24 do you? No?

25 BAILIFF: No, ma'am.

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1 THE COURT: We're good, so. Okay. Yes, ma'am.

2 MS. MUSSER: Judge, at some point after we do our
3 charging conference, I would need a small break, just to
4 finalize closing, if --

5 THE COURT: Well, we'll see how long we got. Just
6 depends on where I'm at. Okay.

7 MR. NEWMAN: Judge, on the two chain witnesses, I
8 forgot those names -- Ms. Rios, I'm probably not going
9 to ask them any questions. So, if Solicitor wants to
10 lead them and get through it --

11 THE COURT: Quickly, that's fine.

12 MR. NEWMAN: -- quickly, that's fine.

13 THE COURT: Okay.

14 MR. NEWMAN: Because I've known Ms. Rios for 25
15 years. She's going to say she's made a log; this is the
16 log.

17 THE COURT: She's going to say the same thing she
18 testifies to in every case.

19 MR. NEWMAN: Every time.

20 THE COURT: She's as consistent as they come. All
21 right. Let's go, then. Let's bring the jury in.

22 MS. MUSSER: And I'm assuming Counsel can just
23 stipulate.

24 THE COURT: He will stipulate that he's not going
25 to ask any questions, he says.

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1 MR. NEWMAN: I say that, based on what they say.

2 THE COURT: I know it. Obviously, subject to that.
3 I get it.

4 BAILIFF: The jury is entering the courtroom, your
5 Honor.

6 THE COURT: Thank you.

7 JURORS ENTER COURTROOM 11:49 A.M.

8 BAILIFF: The jury is seated, your Honor.

9 THE COURT: Please be seated. Welcome back, ladies
10 and gentlemen. And I am sure the bailiffs have told
11 you, our clerk of court has so graciously offered to
12 bring in pizza. My hope is that we're going to
13 streamline this trial and get it to you today. That is
14 my goal, ladies and gentlemen. I hope that's okay with
15 everybody.

16 If you do need to use a phone, or you were trying
17 to make alternate plans for lunch, certainly, just let
18 the bailiffs know, and they will accommodate you,
19 whatever you need. Okay? So, at this time, Ms. Musser,
20 if you will call your next witness.

21 MS. MUSSER: Thank you, your Honor. The State
22 calls Jimmy Padgett.

23 MADAM CLERK: Left hand. Raise your right. Do you
24 solemnly swear or affirm to truthfully answer all
25 questions asked of you by this court, so help you God?

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DIRECT - PADGETT

1 JAMES PADGETT: I do.

2 MADAM CLERK: Please be seated, and state your
3 name.

4 BAILIFF: Please speak directly into the
5 microphone, so the jury can hear.

6 MS. MUSSER: May I inquire, your Honor?

7 THE COURT: You may.

8 JAMES PADGETT

9 DIRECT EXAMINATION, BY MS. MUSSER:

10 Q Sir, back in 2011, where were you employed?

11 A I was employed by Beaufort County Sheriff's Office.

12 Q And what did you do for the Sheriff's Office?

13 A I worked in the evidence section for the
14 department.

15 Q And is there a particular branch that you worked
16 at?

17 A I was primarily out of the Hilton Head Island
18 branch.

19 Q Would you have occasion to stop by the DTF building
20 to pick up items out of their temporary storage?

21 A Yes, ma'am.

22 Q Okay. Were part of your responsibilities to pick
23 up and transport evidence?

24 A Yes, ma'am.

25 Q Would you also then have to make sure it was

1 properly sealed and packaged correctly?

2 A Yes, ma'am. That was part of our duties.

3 Q And while the items were in your possession, would
4 you let anybody else near them?

5 A No, ma'am.

6 Q When an item was in temporary storage, no one else
7 had access to it, correct?

8 A That's correct.

9 Q And who had -- who had keys to it? Just the
10 evidence technicians?

11 A Evidence technicians are the only ones that had
12 keys to open those boxes.

13 Q Okay. Now, you've already indicated that,
14 sometimes, you would stop by the DTF building on your
15 way from Hilton Head. Where was, ultimately, evidence
16 stored? Would that be in Beaufort?

17 A That would have -- I would have picked it up on the
18 way to Beaufort, and then taken it to Beaufort to be
19 processed and stored there.

20 Q And is Beaufort where the main storage locker is?

21 A Yes, ma'am.

22 Q Okay. Now, are you familiar with chain of custody
23 reports?

24 A Yes, ma'am.

25 Q Okay. I'm going to hand you one, just for you to

1 reference. I don't believe Counsel has any objection to
2 him referring to the chain of custody report.

3 MR. NEWMAN: I do not.

4 THE COURT: No? Okay.

5 BY MS. MUSSER:

6 Q With respect to -- under Incident Number 2011-07-
7 3001002, specifically Container Number 11-08-0109-B.
8 Okay? And does that -- are you familiar with that
9 document? Is that a standard BCSO chain of custody?

10 A Yes, ma'am.

11 Q All right. I'm going to hand you this box, which
12 was opened in court. Sir, is that Box 109-B? 109-B.

13 A It's several things here. Down to where -- yes,
14 this is 109-B.

15 Q Okay. And in looking at that chain of custody
16 report, you would have received that, correct, on August
17 1st, and logged it in on August 2nd of 2011?

18 A Yes, ma'am. According to this report, I got that
19 into Central Receiving and logged it in.

20 Q So, was it your process to leave Hilton Head, stop
21 at the DTF building. You would have picked up that box,
22 taken it to Beaufort?

23 A Yes, ma'am.

24 Q Put it in a secured location?

25 A Right.

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DIRECT - PADGETT

1 Q Correct? And then, log it in the computer the next
2 day?

3 A It could happen that way. To take it over there,
4 it's a -- because I was on my way to Beaufort, I would
5 take it in, and if time permitted, log it in that day.
6 If time didn't, it would be stored in the facility there
7 until the next day.

8 Q Okay. So, if I showed you your evidence submittal
9 form that you signed for the evidence on August 1st of
10 2011, would you have any reason -- let me ask you this.
11 Is your signature on there?

12 A Yes, ma'am.

13 Q And is it highlighted?

14 A I'm sorry?

15 Q Is it highlighted?

16 A Yes, ma'am.

17 Q And what date is indicated on it?

18 A It's 8/01/11.

19 Q Okay. So, was it ever out of your possession
20 before you logged it in, in Beaufort?

21 A No, ma'am.

22 Q Did anybody else have access to it?

23 A No, ma'am.

24 MS. MUSSER: Your Honor, no further questions.

25 THE COURT: Okay.

1 BY MS. MUSSER:

2 MS. MUSSER: I'm sorry. Was the box sealed when
3 you got it?

4 A What I see here, it would have been sealed with the
5 red tape, which is done by the officer that collects and
6 presents the evidence to us for storage.

7 Q And you wouldn't have put anything in it or taken
8 anything out?

9 A No, ma'am.

10 MS. MUSSER: Your Honor, at this time, no further
11 questions.

12 THE COURT: Anything?

13 MR. NEWMAN: Just briefly.

14 JAMES PADGETT

15 CROSS-EXAMINATION, BY MR. NEWMAN:

16 Q Prior to receiving the evidence, obviously, you're
17 not on the street. You're not there when it's
18 collected. Is that correct?

19 A I'm sorry, I have trouble hearing.

20 Q Me, too, and I'm having trouble talking.

21 A Oh.

22 Q Sorry, Mr. Padgett. Prior to receiving the
23 evidence, you don't have any knowledge of where it comes
24 from, what circumstances it was seized under, any of
25 that. Isn't that correct?

1 A That's correct.

2 Q All right. And you can't warrant the -- prior to
3 your receiving the evidence, whether it was subtracted
4 from, added to, co-mingled, or altered. Is that
5 correct?

6 A That's correct. When I receive it, it is sealed,
7 like it is here, and I do not open it, so I have no --
8 no reason to know what's in it or -- other than what's
9 listed.

10 Q Right. And none of the circumstance, added to,
11 subtracted from, co-mingled? Okay. Thank you, Mr.
12 Padgett.

13 A Right.

14 COURT REPORTER: I'm sorry, your answer? I don't
15 believe he answered your last question, Mr. Newman.

16 THE COURT: We didn't hear the last thing that was
17 said, sir.

18 BY MR. NEWMAN:

19 MR. NEWMAN: The last thing I said, just to
20 reiterate, just to reiterate, you don't know whether it
21 was added to, subtracted from, co-mingled, altered,
22 added, or subtracted, correct?

23 A Correct.

24 MR. NEWMAN: All right. Thank you, sir.

25 THE COURT: Thank you. Anything further?

1 MS. MUSSER: No, your Honor.

2 THE COURT: All right. sir, you are excused.

3 Thank you.

4 JAMES PADGETT: Thank you.

5 MS. MUSSER: State calls Eileen Rios.

6 MADAM CLERK: Do you solemnly swear or affirm to
7 answer -- truthfully answer all questions asked of you
8 by this court, so help you God?

9 EILEEN RIOS: I do.

10 MADAM CLERK: Please be seated, and state your
11 name.

12 BAILIFF: Please speak directly into the
13 microphone, so the jury can hear.

14 EILEEN RIOS: Last name, Rios, R/i/o/s; first name,
15 Eileen.

16 EILEEN RIOS

17 DIRECT EXAMINATION, BY MS. MUSSER:

18 Q Good morning, Ms. Rios. Ma'am, were you previously
19 employed with the Beaufort County Sheriff's Office?

20 A I was.

21 Q And what was your job responsibilities?

22 A I was an evidence technician.

23 Q And how long did you hold that position? How long
24 did you work for the Sheriff's Office, total?

25 A Twenty-four years.

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DIRECT - RIOS

1 Q All right. And what were some of your
2 responsibilities as an evidence technician?

3 A To receive and maintain the evidence. Log it into
4 the computer, make sure the packaging was correct --

5 Q And --

6 A -- transfer the evidence.

7 Q Where was the evidence stored?

8 A We have an evidence lockup, a secure lockup that,
9 once it's been logged into the computer and given a
10 number, we put it in there, until such time it's needed
11 for court.

12 Q Who has access to -- where is that located? What
13 town?

14 A We're located on Depot Road, at the present time.

15 Q And that's in Beaufort?

16 A Yes.

17 Q Who has access to the main storage vault?

18 A Only evidence personnel would have access to the
19 lockup.

20 Q So, part of your job is to make sure all of the
21 evidence is not tampered with, correct?

22 A Correct.

23 Q All right. Are you familiar with the chain of
24 custody reports?

25 A Yes.

1 Q And is that something that was part of your
2 responsibility, with respect to the computer and logging
3 evidence in?

4 A Yes.

5 Q Okay. I'm handing you the chain of custody report.
6 Is that the container with the last four letters and
7 numbers, 109-B?

8 A Yes.

9 Q And is that a document that was kept in the
10 computer system that you're familiar with?

11 A Correct, yes.

12 Q Okay. Would you look at the box in front of you?
13 I realize it's open now, but when you received it, would
14 you have made sure it was sealed?

15 A Yes. Yes, we would.

16 Q Would you have taken anything in or out of the box?

17 A No.

18 Q I'm sorry. Is that container 109-B?

19 A Yes, it is.

20 Q Can you tell by looking at the chain of custody
21 report when it came into your custody?

22 A It was logged into temp storage on July 30, and
23 picked up by Jimmy Padgett on August the 1st of 2011.

24 Q Okay. And who did Jimmy Padgett give it to?

25 A Jimmy would have logged it into the computer

1 system, and brought it over and logged it into our
2 evidence lockup.

3 Q Okay. And did it stay in evidence lockup for a
4 period of time?

5 A Yes.

6 Q And by looking at the chain of custody report, at
7 some point, did you take it out of the main vault?

8 A Yes.

9 Q Okay. When did you do that?

10 A According to our documents, it was transferred to
11 the drug lab August the 8th of 2011, by myself.

12 Q So, from the time of August the 1st of 2011, when
13 Jimmy Padgett dropped it off and put it in the vault,
14 and the time that you took it out, would anybody else
15 have had access to it, other than --

16 A No. No, it would you it stayed secure in our
17 lockup.

18 Q Okay. What was the reason that you took it out?

19 A At that time, for drug analysis.

20 Q And who did you give it to?

21 A I transferred to Renita Berry.

22 Q Okay. And who is she, the chemist?

23 A Yes. She's our drug chemist.

24 Q And when you took it out, was it still sealed?

25 A Correct.

1 Q Okay. And no one else had accessed it from the
2 time it was in the vault?

3 A No one.

4 MS. MUSSER: No further questions, your Honor.

5 EILEEN RIOS

6 CROSS-EXAMINATION, BY MR. NEWMAN:

7 Q Ms. Rios, just let me ask you a couple questions,
8 and I'll let you get you back to your retirement.

9 A Okay.

10 Q Prior to you receiving the evidence, you all aren't
11 in the street and don't know the circumstances of how
12 it's packaged, any of that type of stuff, correct?

13 A No. We -- it would have been brought in, in this
14 state, and we would have logged in a cardboard box.

15 Q Right. And prior to you receiving it, you can't
16 testify or state whether the evidence was added to,
17 subtracted from, co-mingled, or re-packaged. Is that
18 correct?

19 A When you say *evidence*, I'm going -- we took this
20 box. This box could have had twelve items in it, or it
21 could have had one.

22 Q Right.

23 A But we're taking a box.

24 Q Right. And that's my point. That's what I was
25 asking you. You don't know whether things were re-

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DIRECT - MICHAUD

1 packaged, re-bagged, added to, subtracted from, or co-
2 mingled, do you?

3 A Correct.

4 MR. NEWMAN: Okay. Thanks, Ms. Rios.

5 THE COURT: Anything further?

6 MS. MUSSER: No, your Honor. Thank you.

7 THE COURT: All right. You are excused. Thank
8 you. So, call the next witness.

9 MS. MUSSER: Your Honor, State calls Walker
10 Michaud.

11 MADAM CLERK: Do you solemnly swear and affirm to
12 truthfully answer all questions asked of you by this
13 court, so help you God?

14 SERGEANT WALKER MICHAUD: I do.

15 MADAM CLERK: Please be seated, and state your
16 name.

17 BAILIFF: Please speak directly into the
18 microphone.

19 SERGEANT WALKER MICHAUD: Yes, ma'am.

20 SERGEANT WALKER MICHAUD

21 DIRECT EXAMINATION, BY MS. MUSSER:

22 Q Good afternoon, sir. By whom are you employed?

23 A Beaufort County Sheriff's Office.

24 Q How long have you worked for the Sheriff's Office?

25 A Nine years.

1 Q And what is your current rank?

2 A Sergeant.

3 Q All right. What are some of your job
4 responsibilities?

5 A I work for the drug investigations section.

6 Q How long have you held that position?

7 A Five years.

8 Q And within the drug investigations section, what
9 are some of your daily responsibilities?

10 A I conduct long-term investigations, primarily drug
11 investigations, controlled purchases, search warrants,
12 things of that nature.

13 Q Did you have occasion to be present for a search
14 warrant at ■ Miranda Circle, on July 30th of 2011, at
15 approximately 5:00 a.m.?

16 A I was.

17 Q And what was your role that day? Did someone
18 assign you certain tasks?

19 A I was assigned to conduct the interviews.

20 Q And who assigned you that task?

21 A It would have been my supervisor or the case agent.

22 Q Okay. And who was the case agent?

23 A Ms. Lindahl.

24 Q Okay. Did you arrive -- did all of the law
25 enforcement arrive together? In other words, was

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DIRECT - MICHAUD

1 everybody -- did you come before the search had started?

2 A No, we all arrived together.

3 Q Okay. What was the first thing that you did, with
4 respect to the investigation?

5 A I met with the defendant and the other defendants.

6 Q Okay. And by the defendant, did you have occasion
7 to interview somebody named Trevin Millidge?

8 A I did.

9 Q Do you see him in the courtroom today?

10 A I do.

11 Q And could you please point out where he is located
12 and what he's wearing, for the record?

13 A Seated with Mr. Newman, wearing the white shirt.

14 MS. MUSSER: Your Honor, may the record reflect the
15 in-court identification of the defendant, Trevin
16 Millidge?

17 THE COURT: Yes.

18 BY MS. MUSSER:

19 Q Did you speak with him?

20 A I did.

21 Q Where did your conversation take place?

22 A The front yard of the residence, seated in a patrol
23 vehicle.

24 Q And was that a marked car or an unmarked car?

25 A It would have been an unmarked car.

1 Q Unmarked car?

2 A Yes, ma'am.

3 Q Okay. What type of clothing were you wearing that
4 day?

5 A Just regular clothing, jeans and a tee-shirt; and
6 then, we also have a tack vest, or black vest that's
7 marked with placards. It says, *Sheriff's Office*.

8 Q And we've had officers come in that are in their
9 uniform. It's equipped with a radio, body mic. Did you
10 -- were you wearing any of that type of attire?

11 A Just a radio.

12 Q Okay. Did the unmarked cars -- you said it was
13 unmarked, correct? So, just a plain --

14 A Yes, ma'am.

15 Q -- plain vehicle?

16 A Yes, ma'am.

17 Q When you spoke with the defendant, you said outside
18 in an unmarked car, right?

19 A Yes, ma'am.

20 Q Where was he in the vehicle?

21 A He would have been seated in the front-passenger
22 seat, and I was seated in the front-driver's seat.

23 Q Okay. And at that point, he had been detained,
24 correct?

25 A Yes, ma'am.

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DIRECT - MICHAUD

1 Q Handcuffs, so, no question he was in custody,
2 correct?

3 A Yes, ma'am.

4 Q Did you take any measures to see if he wanted to
5 speak with you?

6 A Yes, ma'am. He was advised of his rights.

7 Q And when you say his rights, what do you mean?

8 A His *Miranda* rights.

9 Q And what are those rights?

10 A You want me to read them?

11 Q Sure. Do you have the -- do you have the same
12 card, or same type of card?

13 A I do.

14 Q Are those rights printed on the card?

15 A They are.

16 Q Is it standard issue for the Sheriff's Off -- every
17 officer to receive those, so that they can give somebody
18 their constitutional rights?

19 A Yes, ma'am.

20 Q Okay. So, he is in the front-passenger seat,
21 correct?

22 A Yes, ma'am.

23 Q Where are you, when you talk to him?

24 A Driver's seat.

25 Q Okay. And were there other officers present as you

1 read him what you're about to read us?

2 A Yes, ma'am.

3 Q Who was present?

4 A Sergeant Criddle, Corporal Whitney, and Lance
5 Corporal Strickland.

6 Q Okay. Now do you have your --

7 COURT REPORTER: I'm sorry. And *Lance Sergeant*?

8 A Lance Corporal Strickland.

9 Q Do you have your report with you?

10 A I do.

11 Q You need to refer --

12 MS. MUSSER: Mr. Newman, any objection to him
13 referring to his report?

14 MR. NEWMAN: No, ma'am.

15 BY MS. MUSSER:

16 Q Was there anybody else in the car with you, other
17 than the defendant?

18 A Ms. Whitney.

19 Q Would you proceed to explain to us what you
20 explained to the defendant, with respect to his *Miranda*
21 warnings? Did you retrieve your card, like you just did
22 now, out of your pocket?

23 A I did.

24 Q Okay.

25 A I keep it in my wallet.

1 Q Do you always carry it with you when you're
2 working?

3 A Yes, ma'am.

4 Q Okay.

5 A He was advised his *Miranda* rights. States:

6 *You have the right to remain silent.*

7 *Anything you say can and will be used against*

8 *you in a court of law. You have the right to*

9 *talk with a lawyer and have one present with*

10 *you while you're being questioned. If you*

11 *cannot afford a lawyer, one will be appointed*

12 *to represent you before any questions, if you*

13 *wish. You can decide at any time to exercise*

14 *these rights, and not answer any questions or*

15 *make any statements.*

16 And it has the waiver of the rights at the bottom.

17 It says:

18 *Do you understand each of these rights*

19 *I have explained to you?*

20 *Having these rights in mind, do you*

21 *wish to talk with us now?*

22 Q Okay. And is that exactly how you read it to the
23 defendant?

24 A Yes, ma'am.

25 Q Now, at the time you're reading it, are you

1 pointing your gun or anything at him?

2 A No, ma'am.

3 Q Are you physically touching him, or hurting him in
4 any way?

5 A No, ma'am.

6 Q Did you ask him that same question as to whether or
7 not he wanted to waive his rights?

8 A Yes, ma'am.

9 Q Did he give you a response?

10 A Yes, ma'am.

11 Q What was his response?

12 A He indicated he would speak with investigators.

13 Q Okay. And how did he say that? What did he say?

14 A He said yes.

15 Q Now, at the time that you read the rights, was
16 Officer Whitney with you the entire time, in the car?

17 A She was.

18 Q Okay. Was there any kind of recording made?

19 A No, ma'am.

20 Q Okay. Did the car have a recording system?

21 A It does not.

22 Q Okay. At the time that you spoke with the
23 defendant, was there anything to indicate to you that he
24 was under the influence of drugs?

25 A No, ma'am.

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DIRECT - MICHAUD

1 Q Was there anything to indicate that he was under
2 the influence of alcohol?

3 A No, ma'am.

4 Q Was there any indication that he was under any kind
5 of mental infirmity, or that he couldn't otherwise
6 understand the rights?

7 A No, ma'am.

8 Q No, there was no indicator.

9 A There was no indicator.

10 Q Did he ask any questions after you read the card to
11 him?

12 A Not that I recall.

13 Q Okay. Did he ever ask for an attorney?

14 A No, ma'am.

15 Q At any time, did you threaten him?

16 A No, ma'am.

17 Q Did you coerce him in any way to give up his
18 rights, and to speak with you?

19 A No, ma'am.

20 Q Did you promise him anything that, if he were to
21 speak with you?

22 A No, ma'am.

23 Q Okay. Was there any part of your conversation that
24 wasn't voluntary?

25 A No, ma'am.

1 Q Did he indicate if he could -- did he answer you in
2 English?

3 A He did.

4 Q Was there anything to indicate that he did not
5 understand English?

6 A No, ma'am.

7 Q Okay. Did you proceed to have a conversation with
8 him --

9 A I did.

10 Q -- about the events that had transpired after he
11 waived his *Miranda* rights?

12 A I did.

13 Q And did you ask him any questions?

14 A I did.

15 Q What did you ask him?

16 MR. NEWMAN: It pleases the Court, your Honor, just
17 note, subject to your prior ruling, that we still
18 maintain the objections.

19 THE COURT: Thank you. You may continue.

20 BY MS. MUSSER:

21 A I spoke with the defendant about what time he had
22 left the residence the evening before.

23 Q So, you asked him, Mr. Millidge, what time did you
24 leave the residence?

25 A Yes, ma'am.

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DIRECT - MICHAUD

1 Q And what did he respond to that?

2 A He stated he had left around 11:00 o'clock, or 2300
3 hours, the evening before; and returned at 0500 hours,
4 5:00 o'clock in the morning, on 7/30/2011.

5 Q Okay. So, he goes out the night before at what
6 time in non-military time?

7 A At 11:00 o'clock.

8 Q Okay. So, 11:00 o'clock the night before, he goes
9 out. And then, he got back at what time in the morning?

10 A 5:00 o'clock.

11 Q Okay. Did he indicate -- did you ask him, well,
12 where were you?

13 A I did. He stated he was out at a club, and named
14 The Hut.

15 Q Okay. The Hut is a club?

16 A Yes, ma'am.

17 Q Okay. Did he indicate if he had been at the club
18 with anyone?

19 A He stated he had been there with a girl.

20 Q Okay. Now, had you told him, at that point, why
21 you guys were there, and that you were executing a
22 search warrant?

23 A I did, and then he was read the search warrant.

24 Q And what do you mean, he was read the search
25 warrant? You read -- in other words, you had the paper

1 document; you read it to him. Did you then ask him if
2 he understood it?

3 A Yes, ma'am.

4 Q Okay. Did he indicate, yes, he did understand?

5 A He did.

6 Q Okay. Was that before or after you gave him the
7 *Miranda* warnings?

8 A It was after.

9 Q Okay. At any point, did he ask for an attorney?

10 A No, ma'am.

11 Q Okay. Any point did he stop wanting to talk to
12 you?

13 A No, ma'am.

14 Q Okay. Was he hesitant in any way about talking to
15 you?

16 A No, ma'am.

17 Q Or was he just, freely, like we're having a
18 conversation?

19 A Just freely.

20 Q So, after he said that he had been to The Hut, did
21 he name the person he was with?

22 A Not that I recall.

23 Q Okay. But he said a girlfriend.

24 A He said a girl.

25 Q A girl?

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DIRECT - MICHAUD

1 A Yes, ma'am.

2 Q Were there any girls found on the premises at the
3 time?

4 A I believe so. I don't have their names.

5 Q Okay. What else did you ask him, if anything?

6 A I asked him if there was any illegal drugs, since
7 it was a drug search warrant, in the house, that he knew
8 of. He indicated where they would be.

9 Q Okay. Now, had -- at that point, have you -- were
10 you aware that, I think it was Corporal Strickland had
11 recovered drugs out of his pocket? Did you know that?

12 A I knew that when he was detained.

13 Q When he was detained.

14 A Yes, ma'am.

15 Q All right.

16 A We normally search them prior to people -- prior to
17 being detained.

18 Q Okay. So, he's searched before he's allowed to be
19 in the car with you, correct?

20 A Right.

21 Q For your safety.

22 A Yes, ma'am.

23 Q Okay. So, you knew that he had had a quantity of
24 drugs on him.

25 A Absolutely.

1 Q And cash, as well.

2 A Yes, ma'am.

3 Q Okay. Now, is it standard, I guess, practice, for
4 someone to hand draw a diagram of the area that's being
5 searched?

6 A It is, because --

7 Q And is it --

8 COURT REPORTER: I'm so sorry. Answer, please?

9 A Yes.

10 Q And after -- is that -- that's like, handwritten,
11 like on a normal piece of paper?

12 A Yes, ma'am.

13 Q And is that later turned into a computer diagram
14 such as -- well, in this case, the one that's -- for
15 this case?

16 A Yes, ma'am.

17 Q State's 1? Okay. When you asked him, hey, are
18 there other drugs in the house, what did he say?

19 A He said the only drugs that he had knowledge of,
20 personal knowledge of, was located in a white pair of
21 shorts folded up, that were in his closet.

22 Q Okay. Now, when he said -- and he specifically
23 said, his closet, correct?

24 A Yes, ma'am.

25 Q So, he said, okay, there's drugs in white shorts.

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DIRECT - MICHAUD

1 A Yeah.

2 Q In my closet.

3 A Yes, ma'am.

4 Q Okay.

5 MS. MUSSER: And your Honor, may I --

6 BY MS. MUSSER:

7 Q I'm sorry, what is your rank? Sergeant?

8 A Sergeant. Yes, ma'am.

9 MS. MUSSER: May Sergeant Michaud come down and
10 point out to the ladies and gentlemen of the jury where
11 he pointed out that his room was?

12 THE COURT: Yes.

13 BY MS. MUSSER:

14 Q Okay. As you're doing that, did you have a
15 handwritten diagram similar to this one?

16 A I did.

17 Q Okay. And again, where was the front door?

18 A The front door would be here.

19 Q And where is the master bedroom?

20 A The master bedroom is Bedroom 1.

21 Q And where is Bedroom Number 2?

22 A Number 2.

23 Q Bedroom Number 3?

24 A 3.

25 Q And 4.

1 A 4.

2 Q Okay. And so, the master bedroom is on the other
3 side of the house than the others, correct?

4 A Yes.

5 Q Did he say -- did he identify which of the four
6 bedrooms in the house were his?

7 A The only one he identified as his would be Bedroom
8 Number 1.

9 Q And you just pointed out to -- and that's the
10 master bedroom?

11 A Master bedroom.

12 Q Did he specifically point to your diagram when he
13 looked at it?

14 A Yes, ma'am.

15 Q And said, that's my bedroom.

16 A Yes, ma'am.

17 Q So, after that, he told you that there were more
18 drugs in his closet, in his bedroom, what else did he
19 say?

20 A He estimated the amount of the drugs that he was
21 speaking about in the pair of shorts, the white pair of
22 shorts, to be about an ounce, or an ounce.

23 Q And --

24 A Of cocaine.

25 Q Okay. I'm sorry?

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DIRECT - MICHAUD

1 A One ounce of cocaine.

2 Q Okay. And about how much is an ounce? I mean, is
3 it -- look --

4 A Twenty-eight -- 28.3 -- 348 grams, I think. 28
5 grams.

6 COURT REPORTER: I'm sorry.

7 A 28 grams.

8 Q Okay. Did he claim ownership of those items that
9 were found in the shorts?

10 A He did.

11 Q Okay. Did he indicate to you -- so, we know that
12 he's -- he told you, his words, were that he left and
13 went out to the club around 11:00 o'clock, didn't return
14 until about 5:00 o'clock the next day.

15 A Yes, ma'am.

16 Q So, close in time to when the officers arrived,
17 correct?

18 A Yes, ma'am.

19 Q Did he indicate what he was doing while he was out?

20 A When referring to the quantity that was found in
21 his shorts pocket, he stated that he had sold some, a
22 quantity of cocaine while he was out at The Hut that
23 evening.

24 Q Okay. You said a whole lot, and I'm having trouble
25 hearing it.

1 A He stated he had sold some cocaine while he was out
2 that evening.

3 Q Okay. Did you ask him about money?

4 A I did.

5 Q And why would you ask him about money?

6 A It's common practice.

7 Q Is that because that money and drugs go hand-in-
8 hand?

9 A It is.

10 Q And people sell drugs to make money?

11 A They do.

12 Q Okay. What did he indicate about money? Did he
13 have more money in the house?

14 A He was asked if there was any additional money in
15 the residence. I believe he stated, per my report, that
16 there was around -- said he thinks he had around
17 \$1,000.00 in a dresser, in his bedroom.

18 Q Okay. And again, was that the same master bedroom
19 that he picked out on the diagram?

20 A Yes, ma'am.

21 Q Now, at the time they're having this conversation
22 with him, is your gun out?

23 A No, ma'am.

24 Q Are you putting a gun to his head --

25 A No.

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DIRECT - MICHAUD

1 Q -- saying, give me information; tell me where the
2 stuff is?

3 A No, absolutely not.

4 Q Okay. Did you ask him -- did you become aware, at
5 some point, that he had -- there was a firearm that was
6 located?

7 A Yes, ma'am.

8 Q Okay. Did you ask him about that?

9 A I did.

10 Q And what did he tell you?

11 A He stated there is a handgun in the residence, in
12 his bedroom, but stated it belonged to his girlfriend.

13 Q Okay. So, again, he claimed ownership of the
14 dresser, correct?

15 A Yes, ma'am.

16 Q Did he claim ownership of the dresser?

17 A He just said the dresser was in his bedroom.

18 Q Okay. And he said it was his girlfriend's.

19 A Yes, ma'am.

20 Q Did he indicate who Mr. Tyrone Jenkins was?

21 A Yes, ma'am.

22 Q And who did he say that Tyrone Jenkins was?

23 A Said he also stayed in the residence, and stayed in
24 a rear bedroom, and indicated it was on the diagram as
25 Bedroom Number 3.

1 Q Okay. So, he didn't say that he stayed in the
2 master bedroom with Tyrone Jenkins.

3 A No, ma'am.

4 Q Tyrone Jenkins had his own bedroom.

5 A Yes, ma'am.

6 Q Okay. And that was identified on our diagram as
7 Bedroom 3, correct?

8 A Yes, ma'am.

9 Q Did he tell you why he had been out at the club
10 selling drugs?

11 A The only thing he said is that he sold drugs on the
12 side to make money.

13 Q Did he say -- or what did he tell you, with respect
14 to his girlfriend, meaning Ms. Higgins-Dunlap? What did
15 he say about her knowledge?

16 A Stated she had no knowledge of the drugs that were
17 located in his bedroom.

18 Q Okay. So, it's mine, girlfriend doesn't know
19 anything about it.

20 A Yes, ma'am.

21 Q At any point, was there any indication that the
22 defendant didn't understand what was going on?

23 A No, ma'am.

24 Q Was there any point that he seemed to not want to
25 talk to you anymore?

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DIRECT - MICHAUD

1 A No, ma'am.

2 Q At any point, did he say, I don't -- I want to end
3 this; I want a lawyer?

4 A No, ma'am. We ended the conversation.

5 COURT REPORTER: I'm sorry. *We ended?*

6 A We ended the conversation.

7 Q And you already testified, but at any point in your
8 interaction with him, was he threatened, coerced, or
9 otherwise harmed in any way?

10 A No, ma'am.

11 Q Approximately how long did the conversation take
12 place?

13 A Around thirty minutes, if I had to estimate.

14 MS. MUSSER: Your Honor, may I have a moment?

15 THE COURT: You may.

16 BY MS. MUSSER:

17 Q And you indicate -- at any point, did Officer
18 Whitney get out of the car?

19 A No, ma'am.

20 Q Okay. Did any other officers come over and
21 threaten him? other than the ones that you testified
22 were present when you read him his rights, meaning
23 Criddle and Strickland?

24 A No, Corporal Whitney was the only one there during
25 the interview.

1 Q Okay. So, nobody else had access to him to
2 threaten him or coerce him.

3 A No, ma'am. No.

4 MS. MUSSER: No further questions, your Honor.

5 THE COURT: Mr. Newman?

6 MR. NEWMAN: Thank you.

7 SERGEANT WALKER MICHAUD

8 CROSS-EXAMINATION, BY MR. NEWMAN:

9 Q During this 30-minute interview, did Mr. Millidge
10 tell you that he worked, that he had a job, that he
11 worked at Crager Plumbing?

12 A I believe he mentioned something about an employer.
13 I don't have it in my interview, though.

14 Q Okay. Now, this interview that took place for 30
15 minutes, tell me everything that you said, everything
16 witness said, and everything Mr. Millidge said, for the
17 30 minutes.

18 A You want me to take 30 minutes and tell you
19 everything that was said in the conversation?

20 Q I want you to tell me, verbatim, everything that
21 was said by you; verbatim, everything that was said by
22 Mr. Millidge; and verbatim, everything that was said by
23 Ms. Whitney.

24 A I can read you, verbatim, my supplement. That's
25 about the extent of it.

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CROSS - MICHAUD

1 Q Well, I read your supplement, and it takes about 30
2 seconds to read. It's a one-paragraph supplement, is it
3 not?

4 A Yes, sir.

5 Q Consisting of about, I don't know, 14, 15
6 sentences?

7 A Yes, sir.

8 Q Okay. And there was no reason whatsoever that you
9 could not have taken Mr. Millidge back to your detective
10 office, which I think's right across the street here.
11 Correct?

12 A No, that's not common practice.

13 Q It's not common practice to bring in suspects to
14 interview them in the interview room, where you have
15 recording equipment, audio and video recording
16 equipment?

17 A Not while we're searching their house, no, sir.

18 Q Well, what prevented you from taking Mr. Millidge
19 over to where you had equipment, so that you could
20 document these alleged statements by Mr. Millidge?

21 A The fact that we were searching his residence.

22 Q Okay. Are you still searching his residence?

23 A I believe they were, yes, sir.

24 Q Okay. What prevented you from taking him there
25 after the residence was being searched?

1 A Nothing.

2 Q Okay. And your job, I don't see your name on any
3 of the search stuff, your job was to interview Mr.
4 Millidge, correct?

5 A Yes, sir.

6 Q You didn't even need to stay there. Correct? You
7 didn't need to stay on-scene.

8 A I did.

9 Q Are you agreeing with me?

10 A No, I'm not. I'm agreeing I needed to stay there.

11 Q Okay. When did the search end?

12 A I don't have the time table in front of me.

13 Q Okay. What prevented you from taking him to the
14 office, to do a recorded statement, after the search
15 ended?

16 A After the search ended?

17 Q Yes.

18 A We were done -- we were already done with the
19 interview.

20 Q All right. And this is from almost five years ago.

21 A Yes, sir.

22 Q Four-and-a-half years ago.

23 A Yes, sir.

24 Q And you're saying that the Sheriff's Office has a
25 practice -- it does have an interview room, in fact, a

1 number of interview rooms that have recording equipment,
2 both video and audio, correct?

3 A Yes, sir.

4 Q And in those rooms are contained written forms --
5 written *Miranda* forms. In fact, the form is called a
6 *BCSO 101*; is it not?

7 A I don't know what the name or the number is. I
8 know it's called a *Miranda* form.

9 Q Right. And you use that document that, you read
10 these rights, typically. If I'm wrong, you get the
11 suspect to initial each of the rights, get them to put
12 down what level of education he has. And if he wants to
13 make a waiver of those rights, he signs the form.

14 A When that form is available, yes, sir.

15 Q When that form is available? I thought we were in
16 a patrol car.

17 A We were in an unmarked patrol car. Yes, sir.

18 Q Unmarked patrol car. Do you -- you keep any
19 special equipment in that car?

20 A It wasn't my vehicle. And I couldn't tell you
21 whose it was.

22 Q Okay. So, you have no idea whether there was a
23 note pad or a pen and paper in that car?

24 A I had a note pad.

25 Q You had a note pad.

1 A Yes, sir.

2 Q All right. And you didn't ask Mr. Millidge to make
3 a written statement?

4 A No, sir.

5 Q You didn't write down notes and ask Mr. Millidge to
6 sign those?

7 A No, sir.

8 Q We have no audio; we have no video.

9 A No, sir.

10 Q Of a 30-minute conversation that you wrote a
11 paragraph about.

12 A No, sir.

13 Q Isn't, in fact, the only thing that Mr. Millidge
14 admitted to you is that he'd been out at a club, and
15 that he did have cocaine on him?

16 A Can you repeat the question? I'm sorry.

17 Q Isn't what he admitted to you was, that he did have
18 cocaine on him, and that he had been out at a club?

19 A And then, the quantity that was located in the
20 house and where it was, yes, sir.

21 Q Okay. Now, if Mr. Millidge denies that, all we
22 have is your statement from four-and-a-half years ago,
23 correct?

24 A Yes, sir.

25 MR. NEWMAN: I believe I'm finished. Let me just

1 check with my client here.

2 BY MR. NEWMAN:

3 Q Did any other -- would it be your testimony, out of
4 all the officers that were there, and it seems like
5 there was a whole yard full of them, nobody had any type
6 of digital recording device?

7 A Not to my knowledge, sir.

8 Q Okay. And you don't carry one.

9 A No, I don't.

10 Q You don't keep one in your car.

11 A I keep one in my car.

12 Q Okay. But we weren't in your car.

13 A No.

14 Q We don't know whose car we were in, correct?

15 A No, sir.

16 Q But it, at least, had a note pad and a pen.

17 A Yes, sir.

18 Q All right. Thank you, sir. Let me ask you this.
19 I thought I'd heard, from somebody's testimony, that it
20 is a standard practice to video-record a residence prior
21 to the search and when the search is completed, so that
22 you can document that there were no damages, or somebody
23 claimed something was stolen from their house, you'd
24 have it documented, correct?

25 A Yes, sir.

1 Q So, there was a video recorder on-scene, correct,
2 during the search?

3 A Right, being used by the case officer.

4 Q Okay. Well, as I get it, they search -- they do
5 the video prior to the search. And then, they do one
6 after the search.

7 A Yes, sir.

8 Q And you're interviewing Mr. Millidge during the
9 search.

10 A Yes, sir.

11 Q Well, why can't you film that?

12 A I don't have an answer for you.

13 Q Okay.

14 A It's just not common practice. It's not in our
15 policy.

16 MR. NEWMAN: Thank you.

17 SERGEANT WALKER MICHAUD

18 RE-DIRECT EXAMINATION, BY MS. MUSSER:

19 Q Sergeant, sometimes, is there a reason why
20 narcotics investigators stay on site with individuals,
21 rather than transporting them somewhere else?

22 A One would be, we don't have vehicles with cages in
23 them to transport when we're not in a common place to
24 transport.

25 COURT REPORTER: I am so sorry. I need you to

1 speak up.

2 A We don't have vehicles that have cages in them, or
3 equipped with the equipment necessary to transport
4 defendants or suspects.

5 Q Okay. Now, is it true that, sometimes, if
6 something is found, it will be brought to someone being
7 interviewed? In other words, the person is on-site,
8 their house is being searched, and you would show them
9 items, correct?

10 A Yes, ma'am.

11 Q And isn't it true, in your -- how long have you
12 been with narcotics?

13 A Five years.

14 Q Okay. And the decision to transport somebody or
15 not transport, that would come from a supervisor,
16 correct?

17 A Most of the time, yes, ma'am.

18 Q And isn't it true that, sometimes, when someone is
19 -- or in your experience, have you had occasions where
20 someone is caught, say, red-handed, with drugs found in
21 the house or on their person, and they say, I'll
22 cooperate. Has that ever happened?

23 A It has.

24 Q And are people more willing or less willing to do
25 that when they're being recorded?

1 MR. NEWMAN: Your Honor, --

2 THE COURT: Okay.

3 MR. NEWMAN: That's just speculation.

4 THE COURT: Calls for speculation. He can't answer
5 that.

6 BY MS. MUSSER:

7 Q To your knowledge, why aren't things recorded?

8 A Sometimes, our interviews go beyond just the
9 interview of the incident that's happening that day.
10 Sometimes, people do want to cooperate and talk further
11 about other things that do not involve that incident.

12 Q So, is it -- I mean, in other words, the search of
13 Mr. Millidge's residence, wasn't singled out. In other
14 words, you don't, for everybody else that has an
15 investigation, record them, but just, for some reason,
16 didn't record his. No -- drug investigations aren't
17 generally recorded, correct?

18 A No, they are not.

19 Q And unless my math is wrong, 2011 was only three-
20 and-a-half years ago, correct?

21 A Yes, ma'am.

22 Q Okay. Because we've been -- Mr. Newman keeps
23 saying four and a half, four and a half, and you're --
24 and I'm like, well, by my math, it's three and a half,
25 right?

1 Now, oftentimes, it takes a couple of years to come
2 to court, correct?

3 A Yes, ma'am.

4 Q And as a result of that, what precautions do you
5 take to make sure -- in other words, do you -- were you
6 taking notes when Mr. Millidge was talking to you?

7 A I wasn't. I believe Ms. Whitney would have been
8 taking notes while I'm talking.

9 Q Okay. And did you make sure that -- in other
10 words, you didn't -- you were having a normal
11 conversation, correct?

12 A Yes, ma'am.

13 Q You weren't -- he wouldn't say something, and you'd
14 say, oh, hold that thought; let me write it down
15 verbatim, as you're giving it to me.

16 A No.

17 Q Correct? So, you would generate your report when
18 you came back to the unit, building, correct?

19 A Yes, ma'am.

20 Q So, at that point, are you going to talk about, you
21 know, any other small talk that you may have had with
22 him?

23 A No.

24 Q Are you going to document -- are you just going to
25 highlight what was relevant to this particular case?

1 A Yes, ma'am.

2 Q Did he indicate -- because there was a question I
3 wanted to clarify your response to Mr. Newman. In
4 addition to saying he had been out, he specifically
5 identified the club name, correct?

6 A Yes, ma'am.

7 Q Did he or did he not indicate he had been selling
8 while he was out?

9 A He did.

10 Q And did he or did he not indicate that he was doing
11 it to make extra money on the side?

12 A He did.

13 MS. MUSSER: Your Honor, may I have a moment?

14 THE COURT: You may.

15 MS. MUSSER: No further questions, your Honor.

16 MR. NEWMAN: Re-cross, your Honor.

17 THE COURT: Yes, sir.

18 SERGEANT WALKER MICHAUD

19 RE-CROSS-EXAMINATION, BY MR. NEWMAN:

20 Q You were asked about -- well, maybe it's an
21 investigative technique that we don't record somebody,
22 because they might clam up if we break the cameras out.
23 Did you say that?

24 A I didn't.

25 Q Okay. She said that, right? In fact, you're

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RE-CROSS - MICHAUD

1 trained in an investigation technique that initially,
2 when you talk to the suspect, that you don't record it,
3 because it's easier to get them to talk, especially if
4 you have a suspect that wants to talk to you. Isn't
5 that correct?

6 A No, sir.

7 Q And that it's an investigative technique that you
8 get them to, so-called, let the cat out of the bag.
9 Then, you sit down with the video cameras and get
10 everything that was recorded, so that it can be recorded
11 correctly.

12 A No, sir.

13 Q All right. You disagree with that.

14 A I do.

15 Q And you disagree you were ever trained in any of
16 those type of techniques like that.

17 A I do.

18 Q All right. How many deputies were on the scene?
19 How many cars were out there?

20 A I don't recall.

21 Q Were there any marked units out there?

22 A Not at the time, no, sir.

23 Q Okay. Could you have called a marked unit to come
24 to the scene that has video recording equipment?

25 A Dependability. Depending if they're on calls or if

1 there's anybody available. Yes, sir.

2 Q All right. How many deputies you got?

3 A On shift?

4 Q Yeah.

5 A I would say anywhere from 12 to 14.

6 Q In your area.

7 A Not in that area.

8 Q All right.

9 A Total. Northern Beaufort County.

10 Q Well, isn't it true that Beaufort County that
11 almost every marked unit has video recording equipment
12 and audio recording equipment?

13 A At that time, I do not know. Now, yes.

14 Q Well, at that time, they were all equipped, were
15 they not, because the DUI bylaws changing a good number
16 of years ago.

17 A I --

18 Q Your cars have had cameras in them for probably
19 close to ten years. Isn't that correct?

20 A If you say so.

21 Q I'm asking you. If you don't know, you don't know.

22 A I don't know.

23 Q All right. So, you're saying there's not one
24 marked unit you all could have called, because if I'm
25 mistaken, every DUI arrest that I've seen or represented

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RE-CROSS - MICHAUD

1 somebody in, you've got the camera, because they have to
2 film them doing the field sobriety test, correct?

3 A Yes, sir.

4 Q They have to film them with the rights being read
5 to them during a DUI, correct?

6 A I believe so.

7 Q Okay. So, you're telling me you couldn't have
8 called a marked unit, and sat in that unit. Correct?

9 A No, not at the time.

10 Q And it's your testimony that, at that time,
11 Beaufort County did not have the equipment to video- and
12 audio-record a statement.

13 A No, at that time, we -- we do not.

14 Q You're saying the Sheriff's Department --

15 A Video --

16 Q -- did not have video and audio equipment in 2011
17 to record a statement?

18 A I'm saying the drug investigations section does not
19 record our interviews on-scene. No, sir.

20 Q Okay.

21 A In any shape.

22 Q Okay. And my simple question to you is, you could
23 take him off-scene after you were finished; could you
24 not?

25 A After we were finished, and after the interview was

1 over, we could have conducted a followup interview, if
2 that's what you're talking about.

3 Q Yes, and you did not do that.

4 A No, sir.

5 Q So, we don't have any of this 30 minutes that we
6 can play for the jury, and let them hear what was
7 actually said.

8 A We do not.

9 MR. NEWMAN: All right. Thank you.

10 SERGEANT WALKER MICHAUD

11 RE-DIRECT EXAMINATION, BY MS. MUSSER:

12 Q Sir, the Drug Task Force, or the investigations,
13 narcotics investigations, that's a specialized unit,
14 correct?

15 A Yes, ma'am.

16 Q In other words, you don't -- you're not in the
17 search warrant one hour, and then quick change of
18 clothes and go on patrol, correct?

19 A No, ma'am.

20 Q Okay. And you follow the procedures that are set
21 forth by your supervisors and such, correct?

22 A I do.

23 Q Okay. And after the search warrant is done,
24 everything that was to be found was found, correct?

25 A Yes, ma'am.

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RE-DIRECT - MICHAUD

1 Q In other words, so, if you transferred somebody
2 back later, you've already found your evidence.

3 MR. NEWMAN: Your Honor, I object as to leading.
4 This is a re-re-direct, not a re-cross.

5 THE COURT: Okay. Go ahead.

6 MS. MUSSER: Okay.

7 BY MS. MUSSER:

8 Q Sir, once the search warrant is done, are items
9 inventoried?

10 A Yes, ma'am.

11 Q And the house is -- would be thoroughly searched.

12 A Yes, ma'am.

13 Q Okay. And the items are inventoried; are they not?

14 A They are.

15 Q Okay. So, after the search is complete, would the
16 inventory be complete or not complete?

17 A Complete.

18 Q So, does it serve a purpose, once you've already
19 found all the evidence in the place where you've had the
20 search warrant, to transport somebody about drugs you've
21 already found?

22 A No, ma'am.

23 MS. MUSSER: No further questions, your Honor.

24 THE COURT: Anything further, Mr. Newman?

25 MR. NEWMAN: I give. No, ma'am.

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

2 Thank you.

3 SERGEANT WALKER MICHAUD: Thank you.

4 THE COURT: State will call their next witness.

5 MS. MUSSER: Your Honor, State calls Renita Berry.

6 THE COURT: Okay.

7 MADAM CLERK: Left hand. Left hand. Do you
8 solemnly swear or affirm to truthfully answer all
9 questions asked of you by this court, so help you God?

10 RENITA BERRY: Yes, I do.

11 MADAM CLERK: Please be seated, and state your
12 name.

13 BAILIFF: Please speak directly into the
14 microphone.

15 RENITA BERRY: Thank you. Renita L. Berry.

16 MS. MUSSER: Excuse me.

17 STIPULATION AS TO QUALIFICATIONS

18 OF WITNESS RENITA BERRY:

19 MR. NEWMAN: Your Honor, unless the State feels
20 compelled, if they must, I know Ms. Berry's
21 qualifications, and I know she's testified a number of
22 times in this court, and we would stipulate that she is
23 certified to give her opinion as a forensic chemist, as
24 to the make and quantity of --

25 THE COURT: Drug analysis?

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DIRECT - BERRY

1 MR. NEWMAN: Drug analysis.

2 THE COURT: All right. Ladies and gentlemen, in
3 this case, Ms. Berry is being qualified as an expert in
4 the area of drug analysis as a chemist. That allows her
5 to give her opinion and her reasons for her opinion.

6 Ladies and gentlemen, that is for you to see as you
7 wish, and as compared to other evidence in the case.
8 You can accept it or reject it. It's completely for you
9 to determine, and to assist you in any way in your fact-
10 finding. Ms. Musser.

11 MS. MUSSER: Thank you, your Honor.

12 RENITA BERRY

13 DIRECT EXAMINATION, BY MS. MUSSER:

14 Q Ma'am, and one other stipulation, can you briefly
15 tell, how long have you been a forensic chemist?

16 A I've been a forensic chemist since February of
17 1998.

18 Q 1998?

19 A Um-hmm.

20 Q Okay. And what is your current job title now?

21 A I'm a forensic chemist, and I'm also the laboratory
22 director for the Beaufort County Sheriff's Office
23 Forensic Services Lab.

24 Q How long have you held that position?

25 A Since 2010.

1 Q How long have you worked for Beaufort County?

2 A Since 2011. I'm sorry, since 2001.

3 Q Okay. What are your primary -- with respect to the
4 forensic chemist component of your job, would you
5 explain to the ladies and gentlemen of the jury what you
6 do?

7 A My primary responsibility is to analyze any
8 substance or any evidence that is submitted to the
9 laboratory, as -- submitted to the laboratory as a
10 suspected controlled substance or controlled or
11 dangerous substance; to analyze that substance and
12 determine what it is, if possible, and to determine a
13 weight, if necessary; and then, to generate a report;
14 and when necessary, to testify in court.

15 Q Now, to be a forensic chemist -- I know that we've
16 already agreed that you're an expert in this area, but
17 what type of -- just generally speaking, what type of
18 education do you have to have?

19 A I have a chemistry degree, a chemistry degree from
20 the University of South Carolina. I received the
21 majority of my training from South Carolina Law
22 Enforcement Division, commonly known as SLED. SLED has
23 a detailed program for any forensic chemist. I
24 completed that program.

25 I've also been certified by the DEA as a certified

1 drug chemist. And throughout the years, I've completed
2 various training courses relating to the instrumentation
3 and to the various drugs that are possibly submitted.

4 Q Did you used to work for SLED, as well?

5 A Yes, I did.

6 Q Did you have occasion to receive evidence, with
7 respect to Beaufort County Sheriff's Office, Number
8 2011-030-0102?

9 A Yes.

10 Q And as a result of your involvement, did you
11 prepare a report?

12 A Yes, I did.

13 Q Okay. And would you explain the process of what
14 happens when you get drugs. Would you -- chain of
15 custody indicates that you received the drugs from Ms.
16 Rios.

17 A Yes.

18 Q What happens -- what's the first thing you do? Do
19 you examine the items?

20 A We retrieve those items from evidence, our main
21 evidence area. We don't receive anything into the lab
22 that is not properly sealed. Once we receive those
23 items, those items are placed into a secure location
24 until we're ready to analyze those items.

25 Q Okay. Now, I'm going to hand you -- you said that

1 when you receive a box, you make sure it's properly
2 sealed, correct?

3 A Yes.

4 Q So, with respect to this case, and this being --
5 has a lengthy container number, but does your signature
6 appear anywhere on that box?

7 A Yes, it does.

8 Q Okay. So, let's talk in general terms, and then
9 we'll get specifically, with respect to that box. Okay?
10 So, evidence comes in; you check it to make sure it's
11 sealed. Do officers submit any paperwork with evidence,
12 as it comes to the lab?

13 A A request is submitted along with the evidence.

14 Q And a request for what?

15 A An examination request stating that they want those
16 items examined for controlled substances.

17 Q Okay. And so, do you review that document when it
18 comes in?

19 A To some degree, yes.

20 Q Okay. And then, do you open whatever container it
21 is, after checking that it's properly sealed, do you
22 open it?

23 A Once I'm ready to work that case, yes.

24 Q Okay. So, in this case, can you tell when you
25 received the box, either by that or with the chain of

1 custody?

2 A I received the box on August 8, 2011.

3 Q And who did you receive it from?

4 A Eileen Rios.

5 Q Is a lab number given to make sure that -- in other
6 words, so that the lab doesn't confuse that box with,
7 say, another box, is a unique number given?

8 A Yes. There's a unique number given, once it's
9 entered into our system at the laboratory.

10 Q Have you had occasion to review the document that
11 you prepared prior to your testimony today?

12 A Yes, I did.

13 Q Okay. And did you have occasion to -- your lab
14 number, is it 2 -- 20 -- 2011L0464?

15 A Yes, it is.

16 Q Okay. And does that contain a summary of your
17 analysis?

18 A Yes, the report does.

19 Q Okay.

20 A When you first observed the box in front of you as
21 109B, was it sealed?

22 A Yes, it was.

23 Q When you opened -- that container was opened in
24 court, so obviously, the seal is broken now, but were
25 there multiple items in there?

1 A Yes, there were.

2 Q Okay.

3 MS. MUSSER: And your Honor, may I hand --

4 THE COURT: You may.

5 MS. MUSSER: -- Ms. Berry the basket of --

6 THE COURT: You may.

7 MS. MUSSER: Here. You can put that over there.

8 BY MS. MUSSER:

9 Q And then, those items were taken out and previously
10 testified to. Are there additional items still in the
11 box?

12 A Yes, there are.

13 Q Okay. And when you generated this report, did
14 everything come back as a controlled substance?

15 A No, not everything.

16 Q Okay. So, is it fair to say that there were some
17 things that were prescription, other things that were
18 not a controlled substance at all; and then, certain
19 quantities of other drugs that we'll get to in a minute?

20 A Yes.

21 Q Okay. When you opened the -- did you -- obviously,
22 you opened the box, at some point?

23 A Yes.

24 Q Okay. What did you do with it after -- what was
25 the next step in your process?

1 A Once opening the box, you remove the items and you
2 separate them out, looking at each, and then getting
3 ready to work your first item. Each item is worked one
4 item at a time.

5 Q And is that to prevent any kind of cross-
6 contamination or something like that? In other words,
7 why you work with just one at a time.

8 A To prevent any type of cross-contamination, and to
9 make sure that you keep that evidence with that item,
10 and not to get confused or anything.

11 Q When you opened 109-B, that's in front of you, and
12 you indicated that there were multiple items of evidence
13 in the box, correct?

14 A Yes.

15 Q Were they in their individual evidence bags?

16 A Yes, they were.

17 Q Okay. What did you do -- so, learning that it was
18 given a unique lab number, do you then -- how do you
19 itemize each piece of evidence in the box, to keep track
20 of what the different items are?

21 A Okay. If there's an -- may I pick this up?

22 Q Of course.

23 A If there's an evidence bag, this evidence bag would
24 be considered Evidence Bag Number 1, or Item Number 1.

25 If that bag has something in it, let's say it has two

1 different items in it, two different plastic bags, so
2 then, one item may be Item 1.1; the next may be Item
3 1.2.

4 Q Okay. So, do you also check to make sure that each
5 evidence bag is sealed within the box? That it had been
6 properly sealed while it was -- before it was put in
7 there?

8 A In most cases, those items are sealed. But if the
9 box is sealed, and it has -- it does not seem to have
10 been tampered with, then that's sufficient.

11 Q Okay. So, if you could start with -- do you have a
12 copy of your report in front of you?

13 A Yes, I do.

14 Q Okay. With respect to Item 1 -- you should have
15 Item 1 up there.

16 A Yes.

17 Q Okay. And how many components or sub-parts does
18 Item 1 have, as indicated on your report?

19 A There were three different items within this bag.

20 Q Okay. What was the first item? In other words,
21 when you opened that evidence bag, there were -- how
22 many pieces were in there?

23 A There were three different -- I categorize it as
24 three different items, sub-items.

25 Q Okay. And then, what do you do with it? In other

1 words, why would you separate it into three items?

2 A It's either based on the packaging, or it's based
3 on the fact that some of the items may be loose. Maybe
4 some of the substance is loose in the bag. I can't
5 determine which bag it came from, so that item is
6 treated separately.

7 Q So, can you tell what you examined, by looking at
8 the bag? Or do you have to open it and look at it
9 again?

10 A By looking at the bag or?

11 Q In other words, can you tell us how many bags there
12 were within the first evidence bag?

13 A Not really. I can go by my report.

14 Q Okay. Let's do it that way. Okay. So, what's the
15 process for testing something that's, say, suspected to
16 be cocaine base, or crack?

17 A For any substance that comes into the lab, a series
18 of presumptive tests are performed, along with a series
19 of confirmatory tests. For suspected cocaine or cocaine
20 base, there's a series of what we call presumptive
21 tests, again, chemical tests that we use.

22 You take a small amount of the substance, and you
23 add some of the chemicals to it, and you watch what we
24 call a color change. That color change just simply
25 gives you that family or classification of drugs. It

1 just gives you an idea of what you may or may not have.

2 We next take a sample, then, for the confirmatory
3 testing. The confirmatory testing gets done in the gas
4 chromatograph mass spectrometer. It actually is a two-
5 part instrument, the gas chromatograph, and then the
6 mass spectrometer.

7 And then, you look for such things as retention
8 time, along with spectra. And with that information,
9 you're able to determine what that substance is. That
10 gives you your confirmation.

11 Q Prior to doing the actual test, is there a
12 procedure to weigh the items?

13 A Yes, those items were weighed before the samples
14 are taken.

15 Q What are they weighed on?

16 A An analytical balance.

17 Q And is that analytical balance a type of scale?

18 A Yes.

19 Q Okay. In layman's terms. Okay? It's a scale,
20 right?

21 A Yes. A balance is a -- is also considered a scale.

22 Q How is it -- is it calibrated or checked? How do
23 you make sure it doesn't get off, if you will?

24 A The balances in the lab are calibrated by an
25 outside vendor on a regular basis. We also do what we

1 call verification checks, prior to doing any type of
2 case work, and case work is considered whenever I open a
3 case and start working it. That's considered case work.

4 So, prior to doing case work for that day, the
5 balance is checked using reference weights, or reference
6 masses, other little small weights, that we're able to
7 determine whether or not the balance is reading
8 correctly.

9 The balance also has what -- a function that does
10 internal calibrations, and if any of those things are
11 off, then that balance is placed out of order.

12 COURT REPORTER: *Is placed?*

13 A Out of order.

14 Q Are the suspected controlled substances, or the
15 items that you're testing, weighed inside or outside of
16 their packaging?

17 A Only the substance is weighed.

18 Q Okay. So, the packaging isn't weighed at the same
19 time.

20 A Right. No packaging is weighed.

21 Q Ma'am, I'm going to show you what's been marked as
22 Exhibit 39, for you to refer to. Ma'am, is this a copy
23 of your lab report?

24 A Yes, it is.

25 Q And do you have State's Exhibit 2 in front of you,

1 in the basket?

2 A Yes.

3 Q Okay. Can you tell me if you're familiar with that
4 item?

5 A Yes, I am.

6 Q And how are you familiar with it?

7 A If you look here, you will see the lab number,
8 along with the item number, along with my initials. You
9 -- across the evidence tape, you also see my initials.
10 And also, in the packaging, the different pieces of
11 plastic on the inside, you see my initials, along with
12 the case number.

13 Q And you've already indicated that there were three
14 separate components to that, correct? So, was it three
15 separate bags?

16 A No, just three different components.

17 Q Okay. And did you have occasion to test those?

18 A Yes, I did.

19 Q And based on your training and experience, did you
20 form an opinion as to what the substances were, as to
21 Item 1.1. We'll start with just Item 1.1.

22 A Okay. Item 1.1 was a loose, compressed pieces of
23 substance.

24 Q And what does that mean for lay people? Like,
25 loose compo -- is it like a powder?

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DIRECT - BERRY

1 A Compressed pieces of substance, I would say similar
2 to a little -- a small rock.

3 Q Okay. And did you test that item?

4 A Yes, I did.

5 Q And what did you determine that substance to be?

6 A Cocaine base was found.

7 Q Okay. And how much did it weigh? In other words,
8 do you individually weigh each item?

9 A Yes.

10 Q Okay. And how much did Item 1.1 weigh?

11 A Item 1.1 weighed 0.23 grams.

12 Q Okay. And you've already said that that's State's
13 Exhibit 2, correct?

14 A Yes.

15 Q And that was -- so, the weight and the substance
16 were, you said, cocaine based, correct?

17 A Yes.

18 Q And .23 grams?

19 A .023 grams.

20 Q I'm sorry. .23, correct? Item 1.1?

21 A Item 1.1, .023. 0.23 grams.

22 Q I'm sorry. I just want to make sure I'm looking at
23 the same thing you're looking at. 0.23, correct? So,
24 it's point -- .23?

25 A Yes.

1 Q Okay. Okay. That's why I was confused, because
2 you were putting the zero before the decimal, right?

3 A Yes.

4 Q Okay. And so, that's cocaine base, right? How
5 about Item 1.2? Did you test that item, as well?

6 A 1.2 was a plastic bag containing compressed pieces
7 of substance.

8 Q Okay. And how much did that weigh?

9 A 0.98 grams.

10 Q And what did you determine that substance to be?

11 A Based on my opinion -- based on examinations and my
12 opinion, cocaine base.

13 Q And what schedule is cocaine base?

14 A Cocaine base is a Schedule II.

15 Q And that's just a federal categorization method?

16 A Yes.

17 Q And what about Item 1.3?

18 A 1.3 was four sandwich bags, each containing white
19 powder substance.

20 Q Now, when you weighed those, again, it had four
21 bags, correct?

22 A Yes.

23 Q And the plastic bags would have to weigh something,
24 correct?

25 A Yes.

1 Q Did you weigh the bags?

2 A No.

3 Q Okay. So, there's no way to tell how much the bag
4 -- the drugs in the bag weighed, correct?

5 A Only the substance was weighed.

6 Q Okay. And what was the total weight of the
7 contents of each of the four bags?

8 A 1.28 grams.

9 Q And what was that substance determined to be?

10 A Cocaine.

11 Q What's the difference between cocaine and cocaine
12 base?

13 A Cocaine base or -- cocaine base is a smokeable
14 form. It has -- you can put it in a pipe. It has much
15 more melting point, so you're able to smoke it. With
16 cocaine itself, cocaine hydrochloride, it has an
17 additional chlorine atom -- ion on it, which gives it a
18 higher melting point.

19 With cocaine, you can put it in water. You can
20 either snort it, or you can put it in water and then
21 inject it.

22 Q Okay. Do you have State's Exhibit 12 in front of
23 you, ma'am?

24 A 12? Yes.

25 Q Okay. And how many components were within -- did

1 you keep track of -- how did you describe what Item 2
2 was?

3 A Item 2?

4 Q Yes, ma'am.

5 A Okay. Item 2 is described as a large evidence bag
6 containing a sandwich bag, containing the following.

7 Q Okay. And then, did you perform an analysis on the
8 contents of Item 2?

9 A Yes, I did.

10 Q And how many components was that broken down into?

11 A It was broken into two different items, sub-items.

12 Q Okay. So, starting with 2.1, did you test that
13 item?

14 A Yes. Item 2. -- 2.1 was two sandwich bags, each
15 containing white powder substance.

16 Q Okay. And did you determine what that white powder
17 substance was?

18 A Cocaine.

19 Q And how much did it weigh?

20 A 6.51 grams.

21 Q Okay. And then, did you examine Item 2.2?

22 A Yes, I did.

23 Q And what did that -- did you determine what the
24 substance was on that?

25 A Cocaine base.

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DIRECT - BERRY

1 Q And how much cocaine base?

2 A 13.49 grams.

3 Q Do you have Item 8 -- State's Exhibit 8 in front of
4 you?

5 A Yes, I do.

6 Q And what lab number did you give that?

7 A Item Number 7.

8 MR. NEWMAN: What's the exhibit number, again?

9 THE COURT: It's 8.

10 A Exhibit 8.

11 Q And what did that -- what did you determine that
12 substance to be? Let me -- let me just ask you that, is
13 it pill form, powder, or something else?

14 A It's in pill form.

15 Q And how many pills -- did you count the number of
16 pills?

17 A Yes, I did.

18 Q And how many pills were there?

19 A The evidence bag containing a sandwich bag
20 contained 23 blue, round tablets.

21 Q And what did you determine that to be?

22 A Alprazolam.

23 Q Is that also known as Xanax?

24 A Yes, it is.

25 Q Do you have Number -- do you have State's Exhibit

1 13 in front of you?

2 A Yes, I do.

3 Q And did you give that a specific item number on
4 your report?

5 A Yes, I did.

6 Q And what item is that?

7 A It's Item 9.

8 Q Okay. And what did you determine that to be?

9 A Cocaine.

10 Q And how much?

11 A 1.21 grams.

12 Q And do you have State's Exhibit 11 in front of you?

13 A Yes.

14 Q Okay. And what lab number did you give that?

15 A Item 10.

16 Q And what did you determine that to be? Is that a
17 pill or powder, or something else?

18 A It's a pill.

19 Q Okay. And how many of those?

20 A One round, white tablet.

21 Q And what did you determine that to be?

22 A Oxycodone and acetaminophen.

23 Q Okay. How do you spell acetaminophen? I'll just
24 put aceto. What schedule -- I'm sorry, going back to
25 the 23 pills, what schedule is that classified as? That

1 was the Alprazolam.

2 A That's a Schedule IV.

3 Q And what is the schedule of that oxycodone and
4 acetaminophen?

5 A It's a Schedule II.

6 Q Now, all the conclusions that you reached, as far
7 as the substance, the chemical -- after your chemical
8 analysis, are all of the opinions that you've rendered
9 today in court to a reasonable degree of scientific
10 certainty?

11 A Yes, they are.

12 MS. MUSSER: Your Honor, at this time, I would move
13 for the admission of State's 39, which is the lab
14 report.

15 THE COURT: Say that again. You want to move the
16 lab report in?

17 MS. MUSSER: I was.

18 THE COURT: Okay. So, I just wanted to ask you.
19 I'm sorry, I missed it.

20 MS. MUSSER: Yes, your Honor.

21 THE COURT: Any objection?

22 MR. NEWMAN: I do, because I believe it's been
23 testified to, your Honor.

24 THE COURT: She has testified to it, so I'm
25 assuming your objective is -- your objection is

1 cumulative. Is that correct?

2 MR. NEWMAN: Yes.

3 MS. MUSSER: I just didn't -- I thought it might be
4 helpful for the jury to be able to take it back with
5 them, so if they needed to double-check the totals.

6 THE COURT: She's already testified to it.

7 MS. MUSSER: Yes, ma'am.

8 ITEM IDENTIFIED AS LAB REPORT BY

9 JUSTYNA B. LYNDALH MARKED

10 STATE'S EXHIBIT NUMBER 39, FOR

11 IDENTIFICATION.

12 BY MS. MUSSER:

13 Q So, in adding up the totals for the cocaine base,
14 that would be 14.7 grams?

15 A Yes.

16 Q And for the cocaine, how many grams?

17 A 9 grams.

18 Q Once you -- you indicated, already, that you would
19 do -- analyze one item; and then put it away; and start
20 with the next, correct?

21 A Yes.

22 Q Are there protocols to make sure that, when you're
23 weighing them, that everything is separate?

24 A Yes, there are.

25 Q Okay. And once you were finished with an item,

1 would you re-seal it?

2 A It's placed back into either the same evidence bag.
3 When necessary, it may be placed into a added bag, one
4 that I add. And then, it's placed there and sealed.

5 Q Okay. And do you personally seal it?

6 A Yes.

7 Q And is that why you're in a position today to look
8 and see if anything has been tampered with?

9 A Yes.

10 Q Has anything been tampered with?

11 A No, it has not.

12 Q Once you were finished with your testing, did Ms.
13 Rios then come and get the items?

14 A The evidence were returned to the main evidence
15 location.

16 MS. MUSSER: Your Honor, may I have a moment?

17 THE COURT: You may.

18 BY MS. MUSSER:

19 Q All right. So, just so that we're clear, with
20 respect to the number of bags that were weighed, Item 1
21 had one plastic bag, as to Item 1.2. And Item 1.3 had
22 four bags, correct?

23 A Yes.

24 Q So, a total of five bags?

25 A Yes.

1 Q And then, it would -- it was -- it was contained in
2 one bigger bag, so that would be six plastic bags?

3 A It was --

4 Q Just to Item 1, correct?

5 A It was contained in a larger -- in a evidence bag.

6 Q So, we have the plastic bag that it came in. Then,
7 Item 1.2 had -- I'm sorry -- Item 1.3 had four
8 additional bags.

9 A Yes.

10 Q And then, Item 2.1, how many plastic bags did that
11 have in it?

12 A There were two sandwich bags.

13 Q And then, how many bags on Item 2.2?

14 A There were nine sandwich bags.

15 MS. MUSSER: I have no further questions, your
16 Honor.

17 THE COURT: Okay.

18 MS. MUSSER: I would just ask for the official
19 admission for State's Exhibits -- sorry -- 2 -- 2, 12,
20 8, 13, and 11, now that the chain is complete.

21 THE COURT: 2, 12, 8 -- what else?

22 MS. MUSSER: 13 and 11.

23 THE COURT: Okay. Mr. Newman? Any objection?

24 MR. NEWMAN: Subject to our prior motion.

25 THE COURT: Okay. They're in evidence.

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1 ITEMS IDENTIFIED AS EVIDENCE BAG,
2 PLASTIC BAG CONTAINING COCAINE AND
3 CRACK COCAINE, MARKED
4 STATE'S EXHIBIT NUMBER 2, HAS
5 ALREADY BEEN ADMITTED AS EVIDENCE.
6 ITEM IDENTIFIED AS 23 XANAX PILLS
7 MARKED STATE'S EXHIBIT NUMBER 8,
8 HAS ALREADY BEEN ADMITTED AS EVIDENCE.
9 ITEM IDENTIFIED AS 1/2 OXYCODONE
10 PILL MARKED STATE'S EXHIBIT NUMBER 11,
11 HAS ALREADY BEEN ADMITTED AS EVIDENCE.
12 ITEM IDENTIFIED AS EVIDENCE BAG
13 CONTAINING COCAINE AND CRACK COCAINE
14 HAS ALREADY BEEN MARKED
15 STATE'S EXHIBIT NUMBER 12,
16 AND ADMITTED AS EVIDENCE.
17 ITEM IDENTIFIED AS COCAINE MARKED
18 STATE'S EXHIBIT NUMBER 13, HAS
19 ALREADY BEEN ADMITTED AS EVIDENCE.

20 MS. MUSSER: Your Honor, that was 2, 12, 8, 13, and
21 11.

22 RENITA BERRY

23 CROSS-EXAMINATION, BY MR. NEWMAN:

24 Q Good afternoon, Ms. Berry.

25 A Good afternoon.

1 Q How are you?

2 A Doing well, thank you.

3 Q You get -- oh, okay. It's in here. This just
4 looks like State's 11, and this is what you tested to be
5 oxycodone? Is that correct? Will you please take a
6 look.

7 A Yes.

8 Q Okay. Let me ask you, I'm going to show you a
9 Walgreen's printout, and ask you to take a look at that.
10 I know it's not your document.

11 MS. MUSSER: And again, your Honor, we would have
12 the same objection that Mr. Newman is going to ask what
13 purports to be -- just to be -- I can't cross-examine
14 that document or who generated it, or when, or -- I
15 can't cross-examine the document.

16 MR. NEWMAN: It's the same document we talked about
17 --

18 THE COURT: Okay.

19 MR. NEWMAN: -- with the other witness.

20 THE COURT: Go ahead and answer it. I know what it
21 is.

22 BY MR. NEWMAN:

23 Q Go ahead. Who's the patient?

24 A Trevan? Trevin?

25 Q Trevin. Trevin.

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1 A Trevin Millidge.

2 Q Okay.

3 A And I'm sorry for butchering his name.

4 Q That's all right. And let me -- I should have made
5 a second copy. Looks like they were two prescriptions
6 filled on 2/21/11 and 3/31/11. Do you recognize the
7 controlled substance that was listed on that
8 prescription record?

9 A The first item that's highlighted, it says,
10 Oxycodone and acetaminophen.

11 Q Okay. And that's a common mixture, right? When
12 they give hydrocodone pills, it's not just -- or Oxy
13 pills, they're usually a combination; are they not?

14 A Usually. Usually, yes. Um-hmm.

15 Q Okay. So, that's not uncommon.

16 A No, it's not uncommon.

17 Q All right. And there's a second scrip for that, as
18 well?

19 A Yes, there is.

20 Q Okay. Based on what you see on that document,
21 would that match up what you found chemically and
22 generally with the amounts of what that pill would be?

23 A I don't know the logo. I don't have the logo.

24 Q Um-hmm.

25 A For this particular item. Manu -- the manu -- on

1 tablets, there's -- may I explain?

2 Q Sure, sure. Please.

3 A On tablets, there's usually a logo or
4 manufacturer's imprint that's located on each tablet,
5 and that tablet gives you an indication of what -- what
6 that tablet actually is. That's why they always tell
7 you to check it before you take it.

8 Q The number is 543.

9 A Based on the logo -- based on published
10 documentation, the logo, 543, or 54543, which matched up
11 with this tablet originally, before half of it was
12 analyzed, was oxycodone and acetaminophen. The
13 milligrams were 3. -- 3 -- excuse me -- 325 milligrams
14 of acetaminophen and 5 grams -- milligrams of
15 oxycodone. That doesn't match up with the milligrams
16 shown here.

17 Q Okay. But it is oxycodone, correct?

18 A Yes, it is.

19 Q All right. Now on State's 13, that appears to have
20 no baggage to it. It appears to be just loose -- I
21 guess this is what you identified as cocaine.

22 COURT REPORTER: *Identified as?*

23 Q Cocaine.

24 Q In your Item 9?

25 A Yes.

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1 Q Okay. And there's no baggy associated with that.

2 A No, just evidence bag containing the chunks of
3 white powder, white powder substance.

4 Q And State's Number 8, which would be your -- not
5 must have wrote that down -- I'm sorry, State's 12;
6 there's a Number 8 on the bag. It's a little confusing.
7 State's 12 is two sandwich bags with 6.51 grams of
8 cocaine found, and cocaine base at 13.49 grams. Is that
9 correct?

10 A Item 2? Is that on there?

11 Q Let me get you straight here.

12 A May I?

13 Q Yes, ma'am. Item 2, the 2.1. I think it's marked
14 as State's Number 12.

15 A Okay. Yes, that's correct.

16 Q Okay. And then, in State's Number 2 -- not Number
17 2. Yeah, State's Exhibit 2.

18 MR. NEWMAN: I apologize, your Honor. I'm getting
19 a little confused with the lab numbering and the exhibit
20 numbering.

21 THE COURT: That's all right.

22 MR. NEWMAN: I apologize for that. Okay. I've got
23 State's 2.

24 BY MR. NEWMAN:

25 Q And I'm sorry, this is your Item 1.1, 1.2, and 1.3,

1 correct?

2 A Yes, it is.

3 Q Okay.

4 A It's on the side of the bag.

5 Q All right. And that was, I guess, the 0.23 of
6 cocaine base, .098 of cocaine base?

7 A Yes, it is.

8 Q Okay. And it adds up to about 1.22s of a gram?
9 I'm not making you do math.

10 A Thank you.

11 Q Pretty close?

12 A Pretty close.

13 Q Okay. And the powder weighed out to 1.28 gram of a
14 gram?

15 A Yes, it did.

16 Q Okay. And you and I spoke a little bit, depending
17 on the baggy, the baggy itself can weigh approximately
18 one to two grams. Is that correct?

19 A I haven't done those calculations myself -- for
20 those weights myself, but my co-worker has, and yes, one
21 to two grams.

22 Q And of course, if something is a small piece of
23 cellophane wrap, you wouldn't know the weight on that?

24 A No, because we don't weigh the packaging.

25 Q Right. Would you estimate the cellophane -- piece

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1 of cellophane wrap, or a piece of a baggy would weigh
2 less than a full baggy?

3 COURT REPORTER: *Would weigh less than?*

4 Q A full baggy.

5 A Yes.

6 MR. NEWMAN: Okay. Thank you very much, Ms. Berry.

7 RENITA BERRY: Thank you.

8 BY THE COURT:

9 THE COURT: Anything else?

10 MS. MUSSER: No further questions, your Honor.

11 THE COURT: Okay. You may step down, ma'am.

12 RENITA BERRY: Thank you.

13 THE COURT: Thank you. You are excused.

14 RENITA BERRY: Thank you, your Honor.

15 THE COURT: Ms. Musser, anything further?

16 MS. MUSSER: No, your Honor. At this time, the
17 State would rest.

18 THE COURT: Ladies --

19 MS. MUSSER: Subject to all the admission of the
20 drugs and all the items that we previously marked.

21 STATE RESTS.

22 THE COURT: Okay. Well, we can go through that
23 once we've sent the jury back to their lunch.

24 Ladies and gentlemen, the State has now rested
25 their case, and your pizza is here. So, what I am going

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1 to ask, Madam Foreperson, you all go back, get a bite to
2 eat.

3 As soon as you all are ready to come back out,
4 knock on the jury room door for us. We'll bring you
5 back in here. We hope the lunch break to be roughly 30
6 to 45 minutes, at the most. Again, we want to put this
7 case in front of you as most efficiently as we possibly
8 can.

9 Madam Foreperson, I also need you to inquire of the
10 jury if anyone has any engagements or places they have
11 to be at a certain time tonight, in case, for some
12 reason, we end up going late, or the jury ends up
13 deliberating late. Okay? I appreciate it.

14 And if you would just let the bailiff know, we,
15 again, appreciate it. I have to tell you, yet again, do
16 not discuss this case. It's not appropriate to do so at
17 this time, and we'll be back with you when you're
18 finished with lunch. Thank you.

19 JURY LEAVES COURTROOM 1:18 P.M.

20 BAILIFF: Jury is clear, your Honor.

21 THE COURT: Thanks, Rick. All right. Ms. Musser,
22 have you had an opportunity to speak with Mr. Newman to
23 determine what you would use against Mr. Millidge if he
24 were to testify?

25 MS. MUSSER: We had that talk, but I have that

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1 ready. Basically, your Honor --

2 THE COURT: Why don't you do this. Why don't you
3 do this, instead of reading it out to me and letting Mr.
4 Newman have -- why don't the two of you talk for just a
5 few minutes, very quickly.

6 MS. MUSSER: Okay.

7 THE COURT: And then, we will come back. You want
8 to go ahead and take about 20 minutes right now. You
9 talk about that. You all grab a bite to eat. I think
10 your client needs a little bit of time to digest it,
11 once you've heard it, and then we can argue over it.
12 But you can think about it, and then we'll come back.
13 And then, we'll also talk about the charge.

14 Other than your client, is there anyone potentially
15 you're going to put up, Mr. Newman?

16 MR. NEWMAN: No, ma'am.

17 THE COURT: I'm not asking you who; I'm just
18 saying, is there? Okay.

19 MR. NEWMAN: I don't know. Maybe --

20 THE COURT: And if you don't know yet, that's fine.
21 It's okay.

22 MS. MUSSER: And I would -- your Honor, just, I
23 would object, because Mr. Newman didn't submit any kind
24 of witness list, and the jury hasn't been qualified as
25 to anyone else.

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1 THE COURT: Okay. Anyway.

2 MR. NEWMAN: If I do, it's going to be high-ranking
3 member of the Sheriff's Department.

4 THE COURT: Okay. All right. So, let's go ahead,
5 and let's take about 20, 25 minutes or so. Ms. Musser,
6 though, before the break, will you please let Mr. Newman
7 know what you intend on using against Mr. Millidge if he
8 does take the stand?

9 MS. MUSSER: Yes.

10 THE COURT: We'll come back. I'll go over his
11 rights with him. He can determine whether or not he
12 wants to testify. My intent would then be to talk about
13 the charge, give you a little bit of a break, and I want
14 to say a very little bit of a break, and then go into
15 closing arguments, if he chooses not to testify.
16 Obviously, if he testifies, we'll put him up there, and
17 we'll go ahead and let him testify. Okay? So, let's
18 just go ahead and take 20, 25 minutes or so right now.
19 Okay?

20 MS. MUSSER: Thank you, your Honor.

21 THE COURT: Thank you.

22 OFF THE RECORD 1:20 P.M.

23 BACK ON THE RECORD 2:09 P.M.

24 BY THE COURT:

25 THE COURT: Thank you all. Please be seated. Mr.

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1 Newman, have you and Ms. Musser had an opportunity to
2 discuss what the State intends to examine Mr. Millidge
3 on, his prior record, if he decides to testify?

4 MR. NEWMAN: I have, but I didn't get a clear
5 answer. I got the answer of, whatever I opened the door
6 to, she's going to seek to admit.

7 THE COURT: Okay. Well, let's go ahead and just
8 tell me, based on the rap sheet, let's look.

9 MS. MUSSER: Okay. Okay. He has a 2000 conspiracy
10 and -- I'm sorry. It's criminal conspiracy to -- it was
11 the federal case for selling the crack cocaine. He has
12 a small amount, which, obviously, I wouldn't mention.
13 Disorderly conduct in 1988. Obviously, that's not part
14 of it. He has a 1989 sale or distribution of crack. He
15 has a 1988 criminal conspiracy to sell cocaine and sale
16 of cocaine.

17 THE COURT: That's in '88?

18 MS. MUSSER: Yes, ma'am, and '89.

19 THE COURT: Okay. He has a 1995 possession with
20 intent to distribute crack in South Carolina. And then,
21 in 1994, he has a possession with intent to distribute
22 from North Carolina.

23 THE COURT: Okay.

24 MS. MUSSER: My position would be, depending on
25 what he says on the stand --

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1 THE COURT: Okay.

2 MS. MUSSER: -- I would ask for a motion -- I would
3 ask to see you at sidebar, and present my argument.
4 Because, in other words, if he says something that would
5 go to --

6 THE COURT: My question is, are you going to try to
7 introduce, or do you think right now, you can go ahead
8 and introduce all those convictions?

9 MS. MUSSER: I don't think, at this moment, I would
10 introduce them. However, if he says something on the
11 stand, my plan would be to --

12 THE COURT: Like, I'm not a drug dealer? Is that
13 what you're saying?

14 MS. MUSSER: Correct. Or, oh, I didn't -- I don't
15 know what that scale would be used for. Or, oh, yeah,
16 it wasn't -- it wasn't my gun; it was my girlfriend's
17 gun. Well, you know that you're a person that has a
18 federal conviction, so you're not permitted to have a
19 firearm. So, that gives you motive.

20 THE COURT: Which is fine. Which is fine. And he
21 says, it's not mine; it's my girlfriend's.

22 MS. MUSSER: Right. And it give -- but his prior
23 conviction gives him motive, since he is a person not to
24 possess.

25 THE COURT: Okay. All right.

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1 MS. MUSSER: Again, I think it also -- since we
2 have a possession with intent to distribute, his intent
3 is at issue. I think his prior convictions go to that
4 intent, as opposed to, oh, you know, personally; no, you
5 sold in the past, and you sold the same type of drugs.
6 So, I think that it would be relevant under 404. And
7 it's an element of the offense, so his intent is
8 directly at issue.

9 THE COURT: Okay. Mr. Newman.

10 MR. NEWMAN: The State is seeking to use propensity
11 evidence, your Honor, and it would be a violation under
12 *Lyle*, number one. Number two, under *Rule 6* --

13 THE COURT: Well, I don't think it would be used as
14 propensity. It would be only if he said that he didn't
15 have the intent. But keep going.

16 MR. NEWMAN: Further, under *Rule 609*, that they
17 seek to use convictions that are more than ten years
18 old, and I have to get written notice prior to trial of
19 those convictions, and the reasons for their
20 admissibility.

21 MR. HOLLEN: Your Honor, we never mentioned 609.
22 It's 404 that we're seeking to introduce the prior
23 convictions under.

24 THE COURT: But you are required, under 404(2)(a)
25 to provide reasonable notice, which you're intending to

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1 seek.

2 MS. MUSSER: Right.

3 THE COURT: I'm assuming you gave him a copy of his
4 rap sheet, didn't you? because of *Brady*?

5 MS. MUSSER: We did. And I think there is a
6 distinction between us trying to use something in our
7 case-in-chief, versus their response to what the
8 defendant puts at issue.

9 THE COURT: Well, I can tell you, it's admissible
10 if you're talking about another bad act that was
11 relevant to an element of the offense and is not offered
12 to establish the character of the defendant, but rather,
13 used to prove the element.

14 And in this case, I'm assuming what you're arguing
15 is, is that, there is no intent to distribute in any
16 way. Therefore, there's no trafficking and there's no
17 possession with intent to distribute. It's simple
18 possession. Again, I don't know if that's what you're
19 doing, but they can use it, again, to show what his
20 intent was.

21 Again, as long as you're staying away from any
22 reference to Mr. Millidge's character, again, you can
23 show it as intent, motive, knowledge, lack of accident.

24 Well, just in reviewing *Rule 404(b)*, as long as it
25 doesn't go to Mr. Millidge's character, and if it has

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1 another purpose for being offered, and that would be
2 something like, there would be an issue in the case. It
3 would be like, intent or knowledge, motive, preparation,
4 plan.

5 I think it could be gotten into -- of course, it
6 has to also be relevant. It also has to survive a 403
7 balancing, and it's got to be more probative than
8 prejudicial, which, again, Ms. Musser, just like you
9 said, if you do intend on introducing it, you're going
10 to need to come and, you know, ask to have a, you know,
11 a bench bar, and we'll have a discussion on it, and
12 we'll put it on the record. Okay?

13 MS. MUSSER: Yes, ma'am.

14 THE COURT: Okay. All right. Well, at this time,
15 Mr. Newman, if you and your client would stand, again,
16 I'm going to have the Clerk swear him in. I'm just
17 going to ask you, sir, a number of questions regarding
18 to whether or not you wish to testify. All right?
19 Okay? So, go ahead and raise your right hand.

20 MADAM CLERK: Do you solemnly swear or affirm to
21 truthfully answer all questions asked of you by this
22 court, so help you God?

23 DEFENDANT MILLIDGE: Yes, ma'am.

24 DEFENDANT'S RIGHTS, OUT OF PRESENCE

25 OF JURORS, BY THE COURT:

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1 THE COURT: All right. Mr. Millidge, at this time,
2 I'm going to explain to you certain rights that you
3 have. If there's anything you don't understand, ask me
4 to stop, repeat, rephrase, and I'm happy to do it, sir.

5 At this time, the State has rested their case, and
6 we've now reached that stage in the trial where you may
7 present your defense. Sir, you have the right to claim
8 the protections that are given to you by the *Fifth*
9 *Amendment* to the *Constitution*, which states, in part,
10 that no person shall be compelled in any criminal case
11 to be a witness against himself.

12 Sir, what this means is that you cannot be required
13 to testify. And if you choose not to testify in this
14 case, in my jury charge, I'm going to tell the jury that
15 the fact that you didn't testify cannot even be
16 considered or discussed back in the jury room by them,
17 sir. However, sir, you also need to know that you have
18 the right to testify if you wish to, sir, but I want to
19 make sure that you understand that, if you choose to
20 testify in this case -- and I'm sorry, it's just -- the
21 echo is so bad -- sir, if you do decide to testify in
22 this case, that you are going to be subject to the same
23 rules that govern all the other witnesses, and you can
24 be examined and cross-examined on any issue that I deem
25 relevant in this case.

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1 And again, sir, any past convictions you have for
2 crimes that are punishable by imprisonment for more than
3 one year, and I, again, determine that, a, they are
4 relevant, and b, that their probative value outweighs
5 any prejudice, if they're using them to go to intent or
6 knowledge or purpose or motive or absence of a mistake,
7 or something like that, as to your current charges,
8 they're going to be allowed to ask you about them. All
9 right? And I just want to make sure you understand
10 that. And they're going to do that to try to attack
11 your credibility, and I want to make sure you also
12 appreciate that.

13 Sir, what you need to understand, whether or not to
14 testify is a personal choice. It is a right that only
15 you can choose and determine. I expect you to talk to
16 Mr. Newman about it, but again, whether or not you want
17 to testify in the trial of this case is something for
18 you to determine.

19 Sir, I want to make sure you've understood what
20 I've told you here today.

21 DEFENDANT MILLIDGE: Yes, your Honor.

22 THE COURT: Okay. And do you have any questions
23 about what I've told you, sir?

24 DEFENDANT MILLIDGE: No, ma'am, your Honor.

25 THE COURT: Okay. And sir, at this time, do you

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1 know whether or not you want to testify?

2 DEFENDANT MILLIDGE: Can I have a couple --

3 THE COURT: Do you want a few minutes?

4 DEFENDANT MILLIDGE: Yes, ma'am.

5 THE COURT: Absolutely, sir. Let's do this. We're
6 going to go ahead and take about another five minutes or
7 so, five, ten minutes. You all talk. Okay? And then,
8 you can make that determination, and then, we'll go
9 forward from there. Okay, Mr. Newman?

10 MR. NEWMAN: I appreciate that, your Honor.

11 THE COURT: You all are welcome to go talk in that
12 back room.

13 MR. NEWMAN: That's what we'll do.

14 THE COURT: Absolutely.

15 MR. NEWMAN: That also is based on kind of what we
16 discussed with the 404 element, so.

17 THE COURT: Okay. All right. I appreciate that.

18 MR. NEWMAN: Thank you, your Honor.

19 THE COURT: Okay. Sure. All right. We'll just
20 take a about a ten-minute break, you all. Okay?

21 OFF THE RECORD 2:23 P.M.

22 BACK ON THE RECORD 3:15 P.M.

23 BY THE COURT:

24 THE COURT: Okay. Mr. Newman, I've gone and did my
25 own review of *Rule 609* and *404(b)*, as far as what could

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1 be used, potentially, against your client. Certainly,
2 the rule states that *Rule 609* is to be used --
3 convictions are to be used as impeachment evidence to
4 attack a witness's character or truthfulness. For
5 anything that pertains specifically to that, it would
6 have to be within the ten years. All right?

7 So, for instance, in this case, for them to use the
8 conviction just to attack his character for
9 truthfulness, based on what he says, from what I am
10 seeing -- and again, you're going to have to go through
11 and look at it; it's from the time of release. I would
12 assume that the federal conviction that he was released,
13 and I think it was what, two thousand and --

14 DEFENDANT MILLIDGE: 2008.

15 THE COURT: 2008 would be admissible. So,
16 certainly, you could use that for just, again, attacking
17 the truthfulness.

18 Secondly, as to a *404(b)* testimony, again, if they
19 use it for another purpose, to show intent, motive,
20 absence of mistake, anything along those lines, *609* does
21 not apply, and the ten years -- it would be outside of
22 the ten years. However, I can tell you that there is
23 going to be a tight balance, because the convictions are
24 so similar -- or not the convictions, but the past
25 convictions versus what he's charged with now are so

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1 similar. Obviously, I'm going to have to do a 403
2 balancing test, whether or not the probative value
3 outweighs any prejudice.

4 So, I think what your answer is, in all of this is,
5 again, they're going to be able to use the federal
6 conviction, no question, to be able to impeach your
7 credibility. No question. Whether or not you open the
8 door as to the intent and whether or not you -- what you
9 intended to do, what your knowledge was, that kind of
10 thing, it's just going to be based on, you know, Mr.
11 Millidge, what you say, whether or not they're going to
12 open the door.

13 And Ms. Musser has agreed that, if that happens,
14 obviously, we're going to be able to come up here and
15 talk about it, and then I'm going to make a ruling. And
16 I'm going to do, like I said, a relevance analysis, you
17 know, and then a probative versus a prejudice analysis.
18 So, again, that -- that's really what it comes down to.
19 I don't think there's any further necessity for more
20 research. I mean, that's just what the rules say. So,
21 again, that's just what it is, Mr. Newman.

22 So, do you want to talk some more to your client
23 for a few minutes, and decide? Because if he is going
24 to testify, at a minimum, we're putting that testimony
25 up today. And we're going to do everything but, you

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MOTION FOR DIRECTED

1 know, argue and charge today. So, he needs to make that
2 determination, Mr. Newman. Okay?

3 MR. NEWMAN: Yes, your Honor. Respectfully, I'd
4 like to have a few minutes.

5 THE COURT: Okay. So, we'll take another few
6 minutes.

7 MR. NEWMAN: And I apologize, your Honor. It's
8 just --

9 THE COURT: You know, really, you under -- you have
10 to understand, it's really the weight of whether or not
11 you think that that, you know, conviction in federal
12 court, you know, was going to, unfortunately, do him in,
13 either. I mean, that's really, I think, what you're
14 talking about when you do have those discussions with
15 your client.

16 MR. NEWMAN: Thank you.

17 THE COURT: So. Okay. All right. So, I guess
18 we'll just be at ease for a few more minutes.

19 OFF THE RECORD 3:18 P.M.

20 BACK ON THE RECORD 3:25 P.M.

21 BY THE COURT:

22 THE COURT: Please be seated. All right. Mr.
23 Newman, are you ready to go forward?

24 MOTION FOR DIRECTED VERDICT,

25 BY MR. NEWMAN:

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1 MR. NEWMAN: I am ready to go forward, your Honor.
2 And so that I don't forget, this will be very brief. I
3 do make a motion for a directed verdict in this case,
4 based on the -- all of my prior objections. The
5 evidence we have come through, we do not believe there
6 is substantial evidence, and therefore, in order to
7 sustain a conviction in this case, and we would move for
8 a directed verdict.

9 FINDINGS AND RULING ON MOTION FOR
10 DIRECTED VERDICT, BY THE COURT:

11 THE COURT: All right. Well, respectfully, taken
12 in the light -- or, taking all the evidence in the light
13 most favorable to the State, I do think that there is
14 ample direct and circumstantial evidence from which this
15 jury can determine the defendant guilty on each of the
16 charges, so I'm respectfully denying your motion.

17 DEFENDANT'S RIGHTS; FINDINGS AND
18 RULING, BY THE COURT:

19 THE COURT: Do you want me to go ahead and inquire
20 of your client as to whether or not he wishes to
21 testify, Mr. Newman?

22 MR. NEWMAN: Yes, your Honor. We made -- we've
23 made that decision.

24 THE COURT: And if you don't mind just standing up
25 again, Mr. Millidge. And just -- I'm reminding you,

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1 under the oath that you took earlier, all right, sir?

2 DEFENDANT MILLIDGE: Yes, your Honor.

3 THE COURT: You're still under that oath. I
4 appreciate that. Sir, at this time, have you had an
5 opportunity to speak with your lawyer about whether or
6 not you wish to testify?

7 DEFENDANT MILLIDGE: No, ma'am, I don't wish to
8 testify.

9 THE COURT: You don't want to testify. All right.
10 Have you had an opportunity to talk to Mr. Newman about
11 it, though?

12 DEFENDANT MILLIDGE: Yes, your Honor.

13 THE COURT: All right. And is this a decision that
14 you have made, sir?

15 DEFENDANT MILLIDGE: Yes, your Honor.

16 THE COURT: All right, sir. You may be seated. I
17 do find it's freely, intelligently, and knowingly made,
18 understanding the protections that are afforded to you
19 by the *Fifth Amendment*.

20 What would you all -- what is your wish, at this
21 point? I know you need to renew your motion again.
22 You're not going to put up any evidence. Is that
23 correct?

24 MR. NEWMAN: At this time, your Honor, the Defense
25 would rest.

1 DEFENSE RESTS, OUT OF PRESENCE OF
2 JURORS.

3 THE COURT: Okay.

4 RENEWAL OF ALL MOTIONS, OBJECTIONS,
5 GROUNDS FOR DIRECTED VERDICT, BY
6 MR. NEWMAN; FINDINGS AND RULING, BY

7 THE COURT:

8 MR. NEWMAN: I renew all my motions, my pretrial
9 motions, my objections, and my grounds for a directed
10 verdict at this time, as well, after resting my case.

11 THE COURT: Okay. And respectfully, just based on
12 my prior rulings, again, I am, you know, respectfully
13 denying your motion. It is 3:25.

14 BY THE COURT:

15 THE COURT: And I will go ahead and tell you right
16 now, the jury is here and ready to go, and they are all
17 willing to work. They have all said that they are
18 willing to work and go forward. So, Ms. Musser, do you
19 have a preference about going forward, or arguing and
20 charging in the morning, or?

21 MS. MUSSER: Judge, I'm ready.

22 THE COURT: Okay. Mr. Newman, do you have a
23 preference now?

24 MR. NEWMAN: Respectfully, your Honor, I would ask
25 to continue this matter 'til 9:30, or 9:00, or whenever

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1 the Court wishes to start in the morning. There is --
2 of course, you know there's a lot at stake in this case.
3 There are, I think, over 45 exhibits that have been
4 introduced. There have been not only a number of
5 witnesses, and a fair number of credible witnesses that
6 have been introduced that I would respectfully, in order
7 to confidently do a closing argument, be able to prepare
8 my notes, prepare my notes from the various witnesses
9 that have testified, in order to give Mr. Millidge the
10 full benefit of what I believe we can argue before this
11 jury.

12 THE COURT: And we also do need to talk about the
13 charge, obviously, and lesser included's --

14 MR. NEWMAN: Yes, ma'am.

15 THE COURT: -- in that charge. Okay. Well, let's
16 do this. Let's go through and start, at least, at a
17 minimum, with our charge conference, to determine what
18 we are going to charge, and partial way through there, I
19 may just let the jury go ahead and go for the day, just
20 explain to them that there's more we have to do, and
21 just tell them we're going to be back tomorrow. I mean,
22 I did tell them there was a potential we could finish
23 tonight or, potentially, tomorrow, so. I know they're
24 all willing to continue to work, but let's go through
25 the charge, if we could, and then, I certainly urge you,

1 Mr. Newman --

2 CHARGE CONFERENCE:

3 THE COURT: You both know my charges. It's the
4 standard *Bench Book* charge. I charge, certainly, that
5 the charge, arrest, and indictment are not evidence. I
6 charge presumption of innocence; reasonable doubt; that
7 the jury is the judge of the facts, and I'm the judge of
8 the law; direct and circumstantial evidence; that they
9 must weigh the credibility of the witnesses. I instruct
10 them on expert witnesses. I charge them that the
11 defendant is not testifying; can't even be considered by
12 them.

13 I would then charge them in trafficking in cocaine
14 base, crack cocaine, more than 10 but 28 grams. Then,
15 as to the possession with intent to distribute cocaine,
16 I would charge possession with intent to distribute
17 cocaine. And are you requesting any lesser included
18 charge on the cocaine, Mr. Newman?

19 MR. NEWMAN: I am, your Honor. And that's based on
20 the relatively small amount that was actually found.

21 THE COURT: In his pocket?

22 MR. NEWMAN: In his pocket. So, I do think that --

23 THE COURT: It's appropriate, and I would agree
24 with you. I've got it in here, for sure, and I do think
25 it's appropriate. I don't think it's appropriate on the

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CHARGE CONFERENCE

1 trafficking, because the 13.9 that were found in a
2 rolled-up shirt, they're either his or they're not his.
3 There is no lesser included on that trafficking.

4 What else was -- was there crack found in his
5 pocket, as well, though?

6 MS. MUSSER: Yes.

7 THE COURT: And how much was that, the crack?

8 MR. NEWMAN: There was 1.21 grams.

9 MS. MUSSER: Wait. Hold on.

10 MR. NEWMAN: 1.22 grams.

11 MS. MUSSER: 1.28 of the cocaine.

12 THE COURT: I'm not asking about the cocaine. I'm
13 asking about the crack cocaine.

14 MS. MUSSER: Right. 1.21, correct.

15 THE COURT: Okay. So, are you asking me, then, on
16 the crack cocaine charge, also, a charge to simple
17 possession?

18 MR. NEWMAN: Yes, ma'am.

19 THE COURT: To the crack cocaine?

20 MR. NEWMAN: Yes, ma'am.

21 THE COURT: Okay. And but you agree with me that
22 you don't think there's a PWID? There's no inference
23 over one, is there, on cocaine? Is there an inference
24 over one?

25 MR. NEWMAN: I believe there is.

1 THE COURT: There is. That it's to be distributed?

2 MR. NEWMAN: It can.

3 THE COURT: It is. It can be considered? Well,
4 then, I've got to charge PWID on that, too.

5 MR. NEWMAN: Well, I would also ask for the charge
6 of possession, because basically, you're talking about
7 --

8 THE COURT: Well, I agree with you on -- I agree
9 with you on both. I think all. If you did assume it
10 was just a little over one, that it could be for
11 personal use.

12 MR. NEWMAN: Yes, ma'am.

13 THE COURT: So, I think we have to charge on -- I
14 don't really guess, on trafficking, I think we have to
15 charge both trafficking, the PWID on the crack cocaine,
16 and the simple possession of cocaine. You all are just
17 going to have to argue that.

18 As to the straight cocaine, I'm going to charge
19 both possession with intent to distribute and simple
20 possession, as well, on the cocaine. Is that correct?
21 Is that what you're requesting, Mr. Newman?

22 MR. NEWMAN: Yes, your Honor.

23 THE COURT: Okay. What about as to the Alprazolam,
24 which is the 23 blue pills that were found?

25 MR. NEWMAN: I believe that amount is just a

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1 possession. I think you have to have like, more than 50
2 pills.

3 MS. MUSSER: I don't think there's an inference at
4 all in the statute, with respect to the Alprazolam.

5 MR. NEWMAN: Maybe the legislature sees it that
6 way.

7 THE COURT: Is he charged just with simple
8 possession of the Alprazolam?

9 MS. MUSSER: No.

10 THE COURT: I thought he was.

11 MS. MUSSER: PWID.

12 THE COURT: PWID.

13 MS. MUSSER: Correct.

14 THE COURT: I thought there was a PWID.

15 MS. MUSSER: Correct.

16 THE COURT: I'm not talking about any inference on
17 that one. I'm talking about whether or not I need to
18 charge, in addition to the possession with intent to
19 distribute, based on the amount of pills it was, which
20 is 23, whether or not the jury could determine whether
21 or not that was simply to be distributed, which is what
22 he's charged with, so, that's for sure getting charged,
23 in addition to whether or not simple possession of a
24 Schedule IV substance is appropriate. I'm asking you,
25 Mr. Newman. I mean, are you going to make an argument

1 that the 23 pills were for your client's own personal
2 use?

3 MR. NEWMAN: I believe there -- I believe that's an
4 appropriate charge. It's common knowledge, on Xanax,
5 they're typically dispensed in 30 to 60 to 90 pills at a
6 time, as being dispensed. It is an RX drug, so.-

7 THE COURT: So, you would ask for a simple
8 possession charge on that, as well.

9 MR. NEWMAN: Yes, ma'am.

10 THE COURT: Okay. And then, lastly, we just have
11 the -- this says, both, the same thing. And then, --
12 I'm sorry. And on the possession of a controlled
13 substance, the oxycodone, it's simple possession of
14 oxycodone, correct?

15 MS. MUSSER: Yes, ma'am.

16 THE COURT: And then, just possession of a weapon
17 during the commission of a violent crime.

18 MS. MUSSER: And your Honor?

19 THE COURT: Yes.

20 MS. MUSSER: Just with respect to the charge --

21 THE COURT: Yes.

22 MS. MUSSER: -- on the Alprazolam, it's my
23 understanding that there's an inference with respect to
24 15 pills. I will try and find that in black and white
25 that says --

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1 THE COURT: You need to find it for me, because I
2 don't have it in our standard charge, so, as to,
3 specifically, pills. Okay?

4 MR. NEWMAN: And then, on that, your Honor, you
5 mentioned the possession of a weapon during a violent
6 crime.

7 THE COURT: Yes.

8 MR. NEWMAN: On that indictment, at this time, we
9 move to have that indictment dismissed, because it
10 alleges possession of a violent crime, 28 to 100 grams
11 of base cocaine. And the State's failed to prove that
12 element as indicted.

13 THE COURT: Trafficking is not -- 10 to 28 is not a
14 violent crime?

15 MR. NEWMAN: What I'm saying, your Honor, on the
16 indictment for the possession of a pistol --

17 THE COURT: Yes.

18 MR. NEWMAN: -- during a violent crime, the
19 indictment itself, the State has alleged that he
20 possessed over 28 to 100 grams in that indictment, and
21 the State has failed to prove that.

22 THE COURT: Okay. But there's still --

23 MR. NEWMAN: It's in the body of the indictment.

24 THE COURT: But its still, also, could be -- let me
25 see.

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1 MS. MUSSER: No.

2 THE COURT: No?

3 MS. MUSSER: No. The indictment says --

4 THE COURT: The indictment simply says, that I'm
5 looking at, unless it's -- unless you quoted the wrong
6 section, but it just says during the commission,
7 trafficking in cocaine or trafficking in crack cocaine a
8 violent crime. It doesn't say the amount. Will you
9 pull up 16-23-490?

10 MR. NEWMAN: Can I see the indictment? I may be
11 mistaken, your Honor. And is that an amended
12 indictment?

13 THE COURT: Pardon me?

14 MR. NEWMAN: Is that an amended indictment?

15 THE COURT: I have no idea.

16 MR. NEWMAN: It would say amended.

17 MS. MUSSER: No, that's true billed.

18 THE COURT: Will you hand that to him, so he can
19 read it. This doesn't -- it just says, trafficking.

20 MR. NEWMAN: I agree, your Honor. I may have been
21 mistaken.

22 THE COURT: That's okay. Okay. Okay. Ms. Musser,
23 my law clerk says she just pulled up the inference on
24 the pills, with the number of 15.

25 MS. MUSSER: Yes.

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1 THE COURT: And she says it's specific just as to
2 Ecstasy, and not on all controlled substances. So,
3 unless you find me something that says differently, I'm
4 not going to charge that, unless you tell me it's as to
5 all pill form of controlled substances, or that it
6 includes Alprazolam. Okay?

7 MS. MUSSER: Okay. I'll look into it, your Honor.

8 THE COURT: Okay? Okay.

9 MR. NEWMAN: And I'm assuming, in your jury charge,
10 your Honor, I always ask for this, and you're going to
11 shoot it down, but I'm going to ask for it anyway. That
12 we would hold the possession of the pistol during a
13 violent crime charge, unless and until Mr. Millidge is
14 convicted of a violent crime.

15 In the alternative, I would ask for a charge that,
16 in the event that they do not find a trafficking
17 violation, that the jury cannot consider the possession
18 of the pistol during a violent crime. He's not charged
19 with possession of a pistol; it's just during a violent
20 crime. So, that would be immaterial. In other words,
21 if they found him guilty with a PWID crime and not a
22 trafficking, that they would not be able to pass on the
23 --

24 THE COURT: All right. I can put that in my
25 charge. Okay. Anything else?

1 MR. NEWMAN: Yes, ma'am. The Court's intending to
2 give a constructive possession charge, based on the
3 drugs that were found in the home. Under *State versus*
4 *Heath*, we would respectfully object to a constructive
5 possession charge, because while there is evidence that
6 Mr. Millidge received mail at that location, and had
7 that location on his driver's license, there's also
8 evidence that shows his address as 24 Millidge Village
9 Road, which is the property that he owns. There have
10 been no entry of a lease that shows Mr. Millidge -- no
11 deed, no lease. The State has merely shown that Mr.
12 Millidge has a right to access, at that time, had right
13 to access ■ Miranda, as well, apparently, as Mr. Shabazz
14 did, and Mr. Jenkins, and Ms. Dunlap.

15 THE COURT: And in fact, was there when the warrant
16 was executed.

17 MR. NEWMAN: I understand that. In *State versus*
18 *Heath*, he was home when the officers executed the
19 warrant. *State versus Heath*, they said they merely --
20 they did not show that he actually owned the premises,
21 which is -- you have to show that you have a dominion
22 and control over it.

23 I argued a very similar case to this in front of
24 the Supreme Court in December that *State versus Heath* is
25 very clear. Mr. Heath lived at his mother's residence,

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1 had a room there, had all his clothes there, his
2 driver's license there. And the Supreme Court found
3 that, since there wasn't proof of ownership of the
4 house, basically, that it was his mother's house, that
5 he merely just had a right to access, and therefore, did
6 not exercise dominion and control. In this case,
7 typically -- I kept waiting for to see --

8 THE COURT: Where were the drugs found in the
9 house?

10 MR. NEWMAN: I understand that. But we're talking
11 --

12 THE COURT: I said, where were they? I'm asking
13 you.

14 MR. NEWMAN: One of them was apparently found in
15 the closet. One of them was found in Bedroom 3.
16 Something was found in a dresser drawer.

17 THE COURT: Correct me if I'm wrong, was the crack
18 cocaine not found in what you all purport to be Mr.
19 Millidge's bedroom?

20 MS. MUSSER: Yes, ma'am, and he confessed. He
21 pointed it out on the diagram to --

22 THE COURT: Well, I understand that. I understand
23 that, and they're challenging that. But again, you
24 attached that room to him, so.

25 MS. MUSSER: Correct.

1 THE COURT: And that's where the crack cocaine was
2 found.

3 MS. MUSSER: Correct. Along with his --

4 THE COURT: Rolled up.

5 MS. MUSSER: -- his prescriptions and --

6 THE COURT: Everything else. Okay. All right.
7 Well, I'm going to go back and read *State v. Heath*. But
8 again, I think there's probably a distinction in the
9 cases. So, let me just read it and take a look at it.
10 Okay?

11 MR. NEWMAN: And this is a Supreme Court case, I
12 think, from around 2006, your Honor. H/e/a/t/h.

13 THE COURT: We can find it. Okay. Anything else?
14 Yes.

15 MS. MUSSER: Just a quick question. The charge
16 that you have from your book, is that the same one
17 that's found on the website, the judicial website?

18 THE COURT: It's pretty similar. I mean, we change
19 it around.

20 MS. MUSSER: So that I would be able to get a copy
21 and read it?

22 THE COURT: Pardon?

23 MS. MUSSER: I'm just wondering where I could get a
24 copy of what you're working -- to make sure that mine's
25 the same as yours.

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1 THE COURT: You're not going to get a copy of what
2 I said. So, again, I'm just going to charge what we
3 have in our *Bench Book*, which I think we've changed,
4 somewhat, or we've changed a little bit, so.

5 MS. MUSSER: Okay. But it's substantially similar
6 to the one --

7 THE COURT: Substantially similar, yes.

8 MS. MUSSER: All right.

9 MR. NEWMAN: And out of caution, you don't charge
10 any preparatory language about jury's duties and
11 conscience of community and things like that, do you?

12 THE COURT: No.

13 MR. NEWMAN: Okay. Thank you.

14 MS. MUSSER: And then, there was just one last
15 thing, your Honor. I guess it's kind of a motion in
16 limine, of sorts, with respect to closing. I know that
17 Counsel went into, with Officer Lindahl, the
18 indictments, potential penalties, and I guess I would
19 just -- because the Court specifically instructs the
20 jury that they're not allowed to consider penalty or
21 sentencing, and I would ask that Counsel not testify
22 about what he knows is a penal -- since that's not part
23 of the record. In other words, we're limited to just
24 arguing what's in the record, not what we, as attorneys,
25 know or may not know. Just like I can't do that, I

1 would just ask that --

2 THE COURT: I don't know what you're saying he
3 would do. He's not going to say what any of these
4 carry, if that's what you're asking.

5 MS. MUSSER: No, I'm worried that he's -- because
6 he made -- he actively asked questions about the
7 indictment process, that he could go into the
8 distinction of what was originally charged and how it's
9 charged now and the penalties.

10 THE COURT: He's not going into the penalties, in
11 any way, shape, or form.

12 MS. MUSSER: Okay.

13 THE COURT: I do think he's going to argue, though.
14 What I expect him to argue that he was originally
15 charged with this, and it was amended, or that was over-
16 charged. I mean, quite frankly, that's been his theme.
17 So, I'm assuming he's going to argue that. But he's not
18 going to talk about penalties. It's never appropriate
19 in front of a jury.

20 MS. MUSSER: Okay. I just -- okay.

21 THE COURT: Okay.

22 MR. NEWMAN: I assure you, I will not talk about
23 penalties. I never have, your Honor.

24 THE COURT: Okay. Anything else?

25 MS. MUSSER: Not from the State, your Honor.

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1 THE COURT: All right. I'm going to bring the jury
2 out, and give them the -- to them, is going to be
3 unhappy news, that they're going home. We'll start
4 tomorrow morning at 9:30, and we'll go ahead and finish
5 up.

6 MS. MUSSER: Would the Defense, then, officially
7 rest on the record, in front of the jury?

8 THE COURT: Absolutely, right now.

9 MR. NEWMAN: If you would like me to, yes, ma'am.
10 Now, also, noting, on the record, that I've already made
11 the appropriate motions. This is merely for the jury to
12 hear, but it's already been done.

13 THE COURT: Already done. Already noted. Okay.
14 Let's bring them in.

15 MR. NEWMAN: Just have to be careful.

16 THE COURT: Anyway.

17 BAILIFF: The jury is entering the courtroom, your
18 Honor.

19 THE COURT: Thank you.

20 JURORS ENTER COURTROOM 3:45 P.M.

21 BAILIFF: The jury is seated, your Honor.

22 THE COURT: Thank you. Welcome back, ladies and
23 gentlemen. Thank you so much for your patience. Mr.
24 Newman? Would you like to go ahead?

25 MR. NEWMAN: It pleases the Court, your Honor, at

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1 this time, the Defense rests.

2 DEFENSE RESTS, IN PRESENCE OF JURORS.

3 BY THE COURT:

4 THE COURT: Ladies and gentlemen, at this time, the
5 Defense has also rested their case. What we have left
6 to do is hear the lawyers' arguments and my charge on
7 the law, and get the case sent to you. I will tell you,
8 as a judge, that I appreciate so much your all's
9 willingness to work and work into the evening. However,
10 we have, kind of, a rule of thumb, that we do not argue
11 and charge after 3:00 o'clock, because that is a lengthy
12 process. What we just started right now, and there are
13 some other matters I need to take up with the lawyers,
14 we wouldn't even be sending this case to you until about
15 5:30 or so. So, again, that's late. I respect that and
16 understand that.

17 And again, while I apologize, I always tell myself
18 I should never tell a jury we're going to hopefully
19 finish at a specific time. I just think it's best,
20 ladies and gentlemen, just based on how hard everyone's
21 working, how diligent you all have been. Does anyone
22 have a problem with being back at 9:30 tomorrow morning?
23 And I will tell you, that will conclude your service for
24 the week. You will be done. I will -- when you're
25 finished deliberating on this case, you will be done

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1 with your service. You will have earned your exemption
2 for the next three years. Is everybody okay? And is
3 9:30 all right, Madam Foreperson? Is that okay? I can
4 start at 10:00; I can start at 9:00. I can start
5 whenever you want to. But again, just based on the
6 hour, I really would appreciate if everyone is okay with
7 that. It just is very late, and we try very hard --

8 Once things are sent to you for your deliberations,
9 it takes a lot of work on your behalf. At that point,
10 we all kind of sit back and rest, because that's when we
11 give the case to you, and that's when your work really
12 begins. So, I think it's probably best that we start at
13 9:30 in the morning. All right? Everyone? Okay?
14 Thank you, ladies and gentlemen. I appreciate it. If
15 anyone has an issue with work, or has any problems, or I
16 can assist you in any way with your employers, simply
17 let me know. I can take care of that.

18 Ladies and gentlemen, I do need to tell you that,
19 although, now that you have heard all the evidence in
20 this case, you have not heard the lawyers' charge -- I'm
21 sorry -- the lawyers' arguments, nor my charge on the
22 law, and it would be inappropriate for you to talk to
23 anyone about this case, ladies and gentlemen. It would
24 be inappropriate for you to do any independent research.

25 There has been nothing on the newspaper or on the

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1 news, but again, I need to tell you, out of an abundance
2 of caution, don't read anything. Don't talk to anyone,
3 ladies and gentlemen. Simply go home, get a good
4 night's sleep.

5 I am confident our bailiffs are going to have
6 something yummy in the morning for you to keep you
7 going. I'm sure it's going to have sugar added with it,
8 and we'll go ahead and efficiently, ladies and
9 gentlemen, tomorrow morning, these lawyers are going to
10 close. I'm going to give you the law, and we will send
11 the case to you. All right? Again, thank you so much.
12 We really appreciate your helping us resolve this case,
13 and we look forward to seeing you all at 9:30 in the
14 morning. Thank you, Madam Foreperson and members of the
15 jury.

16 JURY LEAVES COURTROOM 3:49 P.M.

17 BAILIFF: Jury is clear, your Honor.

18 THE COURT: All right. Anything further?

19 MS. MUSSER: No, your Honor. Thank you.

20 THE COURT: You all okay for the night? Okay. All
21 right. And no question, Mr. Millidge can remain out on
22 bond? No objection from the State. Is that correct,
23 Ms. Musser?

24 MS. MUSSER: That's correct.

25 THE COURT: And I appreciate that. Okay? Thank

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1 you.

2 MR. NEWMAN: Thank you, your Honor.

3 THE COURT: All right, you all. I'll see you all
4 in the morning, bright and early. We'll start at 9:30.
5 Okay?

6 MR. NEWMAN: Yes, ma'am.

7 MS. MUSSER: Yes, ma'am.

8 MR. NEWMAN: We'll be here, and we'll be ready.
9 Thank you.

10 THE COURT: Got it. All right.

11 END DAY TWO, TUESDAY, JANUARY

12 27, 2015, 3:50 P.M.

13 BEGIN DAY THREE, WEDNESDAY,

14 JANUARY 28, 2015, 9:48 A.M.

15 BY THE COURT:

16 CONTINUE CHARGE CONFERENCE:

17 THE COURT: Please be seated. All right.

18 Everybody ready to go?

19 MS. MUSSER: Yes, ma'am.

20 THE COURT: Mr. Newman?

21 MR. NEWMAN: Yes, your Honor. I did talk with your
22 able clerk. I was going to ask for a charge on mere
23 presence, but she told me that is in your charge.

24 THE COURT: I've got it within each portion of when
25 I talk about constructive possession. So, I will say,

1 this charge is long, and it's a bit repetitive, but I
2 think it's important each time when I talk about actual
3 constructive, and I have to talk about it, under each of
4 the charges, we talk about mere presence, of course.
5 So, yes, I'm pretty much beating them over the head with
6 it.

7 MR. NEWMAN: Okay. And as to the -- you answered
8 my question as to *State versus Heath* issue on a
9 constructive possession; you are going to charge that?

10 THE COURT: On constructive possession -- I don't
11 know, when you say *State versus Heath*, we're charging
12 mere presence, but, and constructive possession, but I
13 can tell you that I read *State v. Heath*, and the facts
14 have absolutely nothing to do with this same case. That
15 was an -- that class -- or that case can so easily be
16 distinguished.

17 That was the case where, as you know, the police
18 came to do -- execute a search warrant. Two brothers
19 were outside. The one brother runs in the house while
20 the police officers were there, the defendant in that
21 case, which was the appellant, stays put, and they find
22 drugs just outside the back door in a recycling bin.
23 So, I mean, it begs the question, and I would completely
24 agree with the chief justices, or the justices and the
25 chief that, simply, there's too much likelihood that the

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1 brother went and just ditched those drugs. There's no
2 way you could pin, with no other evidence in the case,
3 there's no way you can pin those drugs on him.

4 MR. NEWMAN: I understand that, but the ruling was
5 since that he merely had a right to occupy the
6 residence, that you could not get a constructive
7 possession charge.

8 THE COURT: And I --

9 MR. NEWMAN: That was the law in the case that came
10 out.

11 THE COURT: I can tell you --

12 MR. NEWMAN: I agree with you. Factually, --

13 THE COURT: There's no question that --

14 MR. NEWMAN: He should have never been convicted,
15 because it was the brother who did it.

16 THE COURT: It was clearly. And that was a
17 ridiculous case. But the point being is that, in this
18 case, it is shown that your client is there. There is
19 an appropriate constructive possession charge in this
20 case, whether or not it was defendant's controlled
21 dominion.

22 Plus, you have to realize, the other difference
23 between that case and this case, we have lots of
24 circumstantial evidence in this case, in addition to,
25 when you've got things like scanners, you have cash, you

1 have money, you have all those things. In addition,
2 your client's got drugs on him. I mean, on top of
3 everything. So, their big point in that case was, there
4 was absolutely no circumstantial evidence for, and to be
5 able to, charge a constructive possession, because it
6 wasn't found on him. I think the case is so different.
7 I'm not concerned in any way.

8 I am charging constructive possession. If they
9 believe, just as if -- that he testified or told Michaud
10 that the drugs were in the closet, rolled up in
11 whatever, that white thing, if the jury chooses to
12 believe that, then, absolutely, that's constructive
13 possession. It's within his control and dominion. He
14 knew where it was. He told them where it was. It's
15 appropriate. So, there's no question it's appropriate.
16 So.

17 MR. NEWMAN: Respectfully, so I don't have to carry
18 it any further, your Honor, I --

19 THE COURT: Just --

20 MR. NEWMAN: -- object to the charge, respectfully,
21 your Honor.

22 THE COURT: Got it.

23 MR. NEWMAN: And I understand your ruling.

24 THE COURT: You got it.

25 MR. NEWMAN: Because I don't think that, in any

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1 way, limits me in my argument.

2 THE COURT: Well, you can argue whatever you want
3 on the law. Just be correct. I mean, I will tell you
4 this. I am, while you're doing your closing arguments,
5 going to read, just, the verdict form, to make sure it's
6 good. If there is any changes I need to make or
7 anything I have an issue with, we'll break before I
8 actually go ahead and either charge, or before I send it
9 to you, just to let you know. So, that's what I'm
10 doing, is reading through, just verbatim.

11 I will also tell you, too, in this case, because we
12 are charging so many lesser included's, Mr. Newman, I am
13 sending the charge back to the jury in its totality,
14 which is why I'm going through it one last time, to make
15 sure it is perfect, because I do think they need a copy
16 of it. Just, again, for them to understand the
17 difference between, you know, trafficking, possession
18 with intent to distribute, or simple possession, I think
19 it's very difficult. I think it's -- even though it's
20 repetitive, I think they're going to be confused by the
21 time I'm done. So, I think they need to have it.

22 MR. NEWMAN: And that is one thing I wanted to ask,
23 as it does affect a little bit on how argument is
24 structured. As to the possession charges, will the --
25 for example, the indictment on trafficking, give the

1 choice, guilty or not guilty, of trafficking; guilty or
2 not guilty of possession. And I'm assuming the PWID
3 will be guilty or guilty of possession with intent, or
4 guilty/not guilty of possession of cocaine.

5 THE COURT: Right.

6 MR. NEWMAN: Okay. And I think all the other drugs
7 -- I don't think the Solicitor found you anything to say
8 -- I think all the other drugs are just a possessory
9 level.

10 THE COURT: Exactly. I can tell you that the first
11 question asks, first, trafficking cocaine base, crack
12 cocaine. And then, if you don't find him guilty of
13 that, you can consider possession with intent to
14 distribute crack cocaine. And then, if you don't find
15 that, then you can look at simple possession of crack
16 cocaine. Question Number 2 -- that's Question Number 1.
17 There are three questions, three sub-questions,
18 obviously.

19 Question Number 2 is, you know, do you believe
20 there was possession with intent to distribute cocaine?
21 If you don't find that, then you can consider possession
22 -- simple possession of cocaine.

23 And then, as to Number 3, we've got possession with
24 intent to distribute the Alprazolam, which is a Schedule
25 IV substance, which is what he was charged with; or

1 simple possession of Alprazolam. And then, as to,
2 simply, the oxycodone is just the possession of a
3 controlled substance. So, I think you misspoke slightly
4 when we're talking about the Alprazolam, because the 23
5 pills, there can be -- the jury can assume that that was
6 to be distributed. So, that's at that level, and it
7 just ends with the possession of a weapon during the
8 commission of a violent crime.

9 I will tell you this, what we have written in, in
10 the charge, just so there's no question, you had asked
11 me for yesterday. What I told --

12 *In order to find the defendant guilty*
13 *of possession of a weapon during the commission*
14 *of a violent crime, you must first find the*
15 *defendant guilty of committing a violent crime.*

16 And I say:

17 *The offense of trafficking cocaine*
18 *is a violent crime. The offenses of possession*
19 *with intent to distribute and simple possession*
20 *of any drugs are not categorized, by law, as*
21 *violent crimes.*

22 So, they absolutely know. Okay?

23 MR. NEWMAN: Okay.

24 THE COURT: So, I just -- I want to be real clear
25 with them so they got it. Okay? And I actually may

1 change the words a little bit, too, anyway, so.

2 I might even say, or not categorized by law,
3 because it almost makes it -- cocaine is -- I could say,
4 the offense of trafficking cocaine is, by law, a violent
5 crime. I think if -- I'm going to do both of them. Do
6 you want me to say by law in both of them, or not in
7 both of them? Does anyone care? I'm just going to do
8 this. It makes it easier. Okay. Sorry. Okay?

9 I just wanted you to know that, just so that part
10 is clear. I just don't want an inconsistent verdict. I
11 mean, obviously, I can fix it afterwards, if I have to.
12 If they were to find him guilty of that, and they didn't
13 find him guilty of the trafficking, obviously, I would
14 have to amend that sentence. So, I'm just going to
15 amend that for the record. So, anyway. Anything else?

16 MR. NEWMAN: Yes, ma'am. Do you intend to send the
17 indictments into the jury room?

18 THE COURT: No.

19 MR. NEWMAN: Okay. That takes care of that. Thank
20 you.

21 THE COURT: I never do that.

22 MS. MUSSER: And your Honor, that does bring me --
23 because I know that we had discussed and put on the
24 record the amendments.

25 THE COURT: Right.

1 MS. MUSSER: However, if, at some point, the Court
2 wants the original indictment to be written on to
3 correctly reflect what we had -- and memorialize our --
4 what was on the record, as far as the statute.

5 THE COURT: I thought what we had were the amended
6 indictments. Isn't that what I have?

7 MS. MUSSER: You had the amended indictments, with
8 respect to --

9 THE COURT: Well, just the only ones that were
10 amended.

11 MR. NEWMAN: There were two different amended --

12 MS. MUSSER: Right.

13 THE COURT: Right.

14 MR. NEWMAN: -- and I think, by operation of law,
15 acquitted or convicted on the amended indictments. The
16 un-amended, the original indictments are nullities.

17 MS. MUSSER: Judge, there's two --

18 COURT REPORTER: *The original indictments are?*

19 THE COURT: He said nullities.

20 MR. NEWMAN: Nullities, for jeopardy purposes.

21 THE COURT: They don't exist anymore.

22 MS. MUSSER: No.

23 THE COURT: They don't exist anymore.

24 MS. MUSSER: No. There's --

25 THE COURT: I don't think --

1 MS. MUSSER: I think you're misunderstanding.
2 There was the amended indictment for trafficking
3 cocaine. That was right. That's what we proceeded on.
4 The original one would be null and dismissed. The
5 possession with intent to distribute cocaine had been
6 amended, true billed. Obviously, the original would no
7 longer be valid. But the one that I had specifically
8 brought up in the back was the amendment to the
9 Alprazolam, which the section numbers changed on the
10 statute. So, we had discussed that at sidebar, but the
11 original -- the indictment, the statute number on the
12 indictment has not been changed. And even though your
13 Honor had said, yes, it's fine; we're proceeding on
14 the correct statute number, I did not, obviously, change
15 --

16 THE COURT: So, you need to change this copy, is
17 what you're telling me.

18 MS. MUSSER: Just the -- yeah. Yes, ma'am.

19 THE COURT: Okay. Well, I'm going to give this
20 back to you.

21 MR. NEWMAN: Is that --

22 THE COURT: You can just change it, and I'll --

23 MR. NEWMAN: Is that an amended indictment?

24 THE COURT: I don't know.

25 MS. MUSSER: I amended it on Monday. That's what I

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1 said.

2 THE COURT: Yes. Because it was true-billed in
3 2011, so it hasn't been amended yet. So, she needs to
4 amend it.

5 MR. NEWMAN: She wants to change the statute
6 number?

7 MS. MUSSER: Because it --

8 MR. NEWMAN: That the jury passed on?

9 MS. MUSSER: Because it was a lesser included. We
10 had this discussion about how he --

11 THE COURT: You're right. We did have this
12 discussion.

13 MS. MUSSER: -- how it was originally charged under
14 the section of the statute that dealt with a Schedule I,
15 II, or III. I was amending it and downgrading it to a
16 Schedule IV, which is actually in Mr. Millidge's
17 benefit, because it is a lesser penalty.

18 THE COURT: This needs to be corrected. That is
19 what she verbally made a motion, and I granted it, and I
20 think she's right. I think we should go ahead, and we
21 should change it, and then, I'll initial it. So, Karen,
22 will you give this to Ms. Musser?

23 MADAM CLERK: Yes, ma'am.

24 THE COURT: And then, once you've amended it, I
25 want you to show it to Jared, so he understands what you

1 just did.

2 MS. MUSSER: Yes, ma'am.

3 THE COURT: Okay.

4 MS. MUSSER: Your Honor, you'll see, on the front,
5 I changed the sub-section number, and just reflected it
6 to be a Schedule IV.

7 THE COURT: Okay. Got it. And I initialed it all.
8 Okay. Okay. You all, can we just -- if you're good, I
9 just want to take about three minutes, and let me just
10 read through this completely, just so I've got it ready.
11 Okay?

12 MS. MUSSER: Do you mind if I use the ladies' room
13 one more time --

14 THE COURT: Go. You all have three minutes.

15 MS. MUSSER: -- since it will be a long charge?

16 OFF THE RECORD 9:59 A.M.

17 BACK ON THE RECORD 10:00 A.M.

18 BY THE COURT:

19 THE COURT: Is the State ready?

20 MS. MUSSER: Yes, your Honor.

21 THE COURT: Is Defense ready?

22 MR. NEWMAN: Yes, your Honor.

23 THE COURT: Okay. Let's bring the jury in. You
24 didn't introduce anything, did you, in this case?

25 MR. NEWMAN: No, ma'am.

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1 THE COURT: You get the last argument.

2 MR. NEWMAN: That was the plan.

3 BAILIFF: The jury is entering the courtroom, your
4 Honor.

5 THE COURT: Thank you.

6 JURORS ENTER COURTROOM 10:13 A.M.

7 BAILIFF: The jury seated, your Honor.

8 THE COURT: Thank you. You may be seated. Good
9 morning, ladies and gentlemen.

10 RESPONSES FROM JURORS.

11 THE COURT: As I told you yesterday, what we have
12 left to do was closing arguments from the lawyers; I am
13 going to charge you on the law; and then, we are going
14 to send back the evidence that was entered into this
15 case, my verdict form, and also a written copy of the
16 charges to you, for you to begin your deliberations.
17 But at this time, you can give your attention to the
18 attorneys, so you can hear their closing arguments. All
19 right?

20 Ms. Musser, whenever you're ready.

21 MS. MUSSER: Good morning, your Honor. May it
22 please the Court?

23 THE COURT: Yes, ma'am.

24 MS. MUSSER: Good morning, Mr. Newman. Good
25 morning, ladies and gentlemen.

1 RESPONSES FROM JURORS.

2 CLOSING ARGUMENT ON BEHALF OF THE

3 STATE, BY MS. MUSSER:

4 MS. MUSSER: At this time, you have heard all the
5 testimony from the officers, and you have seen all the
6 physical evidence has been admitted. So, soon, you will
7 go back into the jury deliberation room, and it will be
8 your function and your job to decide what the true facts
9 of the case are. In other words, what's the history;
10 what do you believe happened. Once you get that, you
11 apply what you found to be the true facts to the law.

12 Now, in a few minutes, we're going to go over some
13 slides about the law, and the language that I'm going to
14 ask you to look for when you not only hear Judge
15 Mullen's charge to you, but as you have it back in the
16 jury deliberation room. Obviously, what the Judge says
17 goes about the law. She is the boss, and whatever she
18 says. So. However, again, there are some things that I
19 would ask you to be conscious of as you are reviewing
20 the evidence.

21 First of all, the defendant is charged with
22 trafficking cocaine. And what's important about that,
23 obviously, I have the section number up there -- but
24 that is defined by knowingly, in actual or constructive
25 possession of cocaine base, which is crack, in layman's

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CLOSING - STATE

1 terms. The amount of crack that he is charged with is
2 between 10 grams or more, but less than 28. So, to find
3 him guilty, you're looking at two things: did he
4 possess it, which is really what this case is all about,
5 who possessed the items. And the weight.

6 When Ms. Berry was on the stand, we carefully went
7 over each item, and we totaled it. So, if you believe
8 that he possessed it, and the weight is 14.7 grams, so,
9 it's two things: possession and weight.

10 The possession with intent to distribute the
11 cocaine is a little bit different. There, once again,
12 the major question in the case is the possession
13 component. But you also have to find that he intended
14 to distribute it. The cocaine in this case, the total
15 was nine grams. So, the statutes -- the legislatures of
16 South Carolina have already built into the statute an
17 inference that's it's not for personal use when it's
18 more than one gram. And again, this is something that
19 the statute has given to you as a tool, and evidence
20 that you may consider.

21 The Alprazolam is also with an intent to
22 distribute. It was 23 pills. So, again, the elements
23 that the State has to prove -- we have to prove each and
24 every element of every crime beyond a reasonable doubt.
25 It's our responsibility. It's something that we own,

1 and that we take responsibility for. But those
2 elements, again, would be possession, intent to
3 distribute, and the Alprazolam is a controlled
4 substance, which is a Schedule IV.

5 The possession of the oxycodone is a little
6 different. I'm not standing here saying to you or
7 arguing to you that he intended to distribute that pill.
8 He is charged for using that for his personal use. So,
9 the only two elements would be possession, and that the
10 oxycodone is a Schedule II controlled substance.

11 The last charge would be the possession of a weapon
12 during the commission of a violent crime. Now, I will
13 tell -- again, there are two elements: possession of
14 the firearm, pretty straightforward; and that he was, at
15 the time, committing a violent crime. That violent
16 crime in this case only relates to the trafficking of
17 cocaine. So, in order to find him guilty for this, you
18 would have to find him guilty of the trafficking of
19 cocaine, and that he possessed the firearm. So, it does
20 not apply to the possession with intent to distribute
21 the cocaine. So, once again, trafficking cocaine is
22 possession, plus the weight.

23 Now, let's talk about how possession is defined.
24 It is defined as the power and the intent to control the
25 use of, in this case, the controlled substance. There

1 are two ways that you can possess an item. They are
2 legally defined as actual or constructive. Now, actual
3 is what it means in everyday language. I am holding
4 something. It's in my hand. In this case, the
5 defendant, the drugs were in his pocket. The money was
6 in -- he was in actual, physical custody of those items.

7 But as lawyers do, we give things legal meanings.
8 That legal meaning, as it relates to in this case, is
9 constructive possession. And that relates to the drugs
10 and the firearm, because you can also have constructive
11 possession, which means you have dominion and control
12 over either the controlled substance, also the firearm;
13 or the property on which the drugs were found, meaning
14 the residence, the master bedroom.

15 So, constructive possession sometimes trips people
16 up, because, if you look at the defendant's knowledge,
17 and possession may be inferred when a substance or a
18 firearm is found under the defendant's control. Mere
19 presence is not enough. In other words, if I were to go
20 over to Ms. Wanda's recorder here, and I'm simply
21 standing by it, that's not enough. There's no evidence
22 that I -- it's mine, that I'm intending to control it,
23 or that I've touched it in any way. However, when you
24 have other indications, in this case, all of the other
25 belongings with Mr. Millidge, it's indicative of his

1 intent to control, and his ability to exercise dominion
2 and control of an item.

3 Now, as Judge Mullen said, she is going to send
4 back the law to you. She is going to send back the jury
5 instructions. There is nowhere in there that says, to
6 prove possession, that I have to prove that he leased
7 the property or owned it. You will not see the words
8 ownership or lease anywhere in that instruction.

9 Intent to distribute, again, we're talking about
10 the cocaine and the Alprazolam, that is based on acts or
11 conduct of the defendant, and you would look at the
12 other circumstances surrounding his possession. In this
13 case, with respect to the cocaine, we already know that
14 the legislature has said that anything over one gram or
15 more of cocaine is not for personal use. So, it would
16 inherently be intent to distribute.

17 MR. NEWMAN: Your Honor? It pleases the Court, I
18 have an objection. I don't know if you'd want us to
19 approach to handle it.

20 THE COURT: Go ahead and approach.

21 OFF-THE-RECORD BENCH CONFERENCE, OUT
22 OF HEARING OF JURORS. PRESENT: THE
23 COURT, MS. MUSSER, MR. NEWMAN.
24 END BENCH CONFERENCE.

25 THE COURT: All right. Your objection is

1 sustained.

2 BY MS. MUSSER:

3 MS. MUSSER: Ladies and gentlemen, I've said it
4 before, I will say it again. The State always has the
5 burden to prove each and every element beyond a
6 reasonable doubt. What I am referring to, and you will
7 hear language that says you may make an inference as
8 part of your consideration of all the evidence, the
9 amount; and if that amount is more than one gram, you
10 may consider what the statute and legislature has told
11 you, and give it evidentiary value as to intent to
12 distribute. And again, see, that's why I have in there,
13 fact to be taken into consideration. Okay.

14 Now, you then hear the charge about direct and
15 circumstantial evidence. And the legal definition of
16 direct evidence is, the testimony of a person who claims
17 to have actual knowledge of a fact, such as an
18 eyewitness. It is evidence which immediately
19 establishes a fact.

20 An example of that would be when the officer said,
21 I saw the large quantity of crack cocaine in the closet,
22 and I recovered it. That is direct evidence. It's what
23 the officer saw and is telling you. If you believe that
24 officer, then that immediately establishes that fact.

25 Circumstantial evidence is a little different.

1 It's proof of a chain of facts and circumstances
2 indicating the existence of a fact. It's based on
3 inference, and not on personal knowledge or observation.
4 An example of that I think everybody can relate to is,
5 if you go to the movies, and as you're driving, you see
6 it raining. You know it rained. But an example of --
7 say, you go to the same movie theater on a different
8 day. You go in, and it's bright and it's sunny. But
9 when you come out, it's overcast. There's water on the
10 ground. There's puddles. There's water on your
11 windshield, and it has stopped raining, but you know it
12 rained at some point, because when you went in, it was
13 dry, and when you came out, the ground was wet. You
14 know that it rained. In either case, either direct or
15 circumstantial evidence, you would know that it rained.

16 In using the term *proof beyond a reasonable doubt*,
17 it's the kind of doubt that would cause a reasonable
18 person to hesitate to act, meaning, we're not telling
19 you that you -- it's not hesitate to think. We'll go
20 back to that.

21 So, say you're going to go get a job or buy a
22 house. Buy a house is a good example. And what would
23 you consider when you're buying a house? Where is the
24 property located? You might look at your financial
25 situation; can I afford it? So, okay. Well, let's see.

1 My job is relatively secure; I haven't heard any news
2 about layoffs or don't think there's going to be any
3 change, selling of the company or what have you. So, as
4 a result of that, after giving it consideration, from
5 thinking it through, you decide to purchase the home.
6 Where, say, you had heard about, maybe, layoffs. That
7 might cause you to hesitate in buying a house. It
8 doesn't mean you didn't think it through. It just means
9 that, after some information, you've decided not to
10 proceed.

11 Reasonable doubt is not a hundred percent
12 certainty. It's not math. It's not a guarantee. It's
13 not beyond all doubt or any other possibility. It's
14 simply a way -- again, I don't have to prove everything
15 to a hundred percent certainty.

16 So, let's get to this case. There may be some
17 topics that come up back in the jury room as you're
18 deliberating, and there may be some questions that have
19 distracted you. Well, let's go through them. This case
20 is not about the defendant having or not having a
21 prescription for oxycodone. This case is not about
22 that. That is a distraction. It's smoke and mirrors.
23 The pill and the prescription allow you -- you may
24 remember the testimony where I objected to the witness
25 being shown the document, because I didn't have any way

1 to say that it was authentic. And then, you heard Ms.
2 Renita Berry, the chemist, look at it over my object --
3 and she was like, no, it doesn't match. It does not
4 match.

5 The point is, this defendant is not charged for
6 drugs that he had a prescription for. That's not part
7 of the case. That's not the goal. There's nothing that
8 is not straightforward about this. That's why such
9 drugs as Diazepam that were collected and tested, he had
10 a prescription for it. But it's not before you.
11 There's no tricks here.

12 The weight of the drugs, yet, another distraction.
13 You heard Officer Lindahl testify that, on-site, they're
14 using the digital scale. Not this one. Just like the
15 one that he had. They're using it, they're weighing it
16 as it is in its packaging. Those plastic bags weigh
17 something. Of course, they do. But that's why law
18 enforcement, in an effort to be thorough and accurate,
19 so that I can stand before here and say, absolutely, it
20 has been -- it has been tested. It is -- a scientist
21 that has extensive training and education has weighed it
22 and tested it. That's why it is sent to the lab. But
23 you have to understand, when the chemist weighs it,
24 they're very -- they're a sterile setting. They're not
25 at a crime scene. They put it on their calibrated --

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CLOSING - STATE

1 what did she call it? An analytical balance. That's
2 why, yes, of course, there is going to be a difference
3 in the weight, because the plastic bags -- remember, I
4 went through, and we counted how many bags? Well,
5 that's because those plastic bags weigh something. They
6 have to. They're not weightless. So, again, the whole
7 issue of the weight is a distraction.

8 The indictments. Mr. Newman asked some questions
9 of Officer Lindahl about the indictments in the original
10 charging documents. Yes, they were amended. They were
11 amended so that I could stand before you and say, hmm,
12 we're not trying to jack up charges or pull any fraud
13 and say he's guilty of something he's not. The
14 indictments were changed to get it right, based on what
15 the professional chemist told us.

16 Officer Lindahl didn't -- she was drafting the
17 arrest warrants and charging him, she didn't have the
18 benefit of that. But shouldn't law enforcement be given
19 credit for trying to do the right thing, and making the
20 right changes before it's submitted to you and presented
21 here in court?

22 The DNA. Officer Lindahl did what she was supposed
23 to. She sent that firearm off to be DNA tested. You
24 heard her say the results came back, there wasn't even a
25 sample to test on there. Well, we knew that somebody

1 had the gun, and we know that it was put in, but there's
2 no DNA. That's not a judgment that should be imputed to
3 the officer. That's just science. So, the DNA, again,
4 is another distraction, more smoke and mirrors.

5 Ladies and gentlemen, this case is not about other
6 people. It's about the defendant. It's about what he
7 had. His choices, his house, his closet, his clothes,
8 his drugs. It's about where he had it, and it's about
9 the other things that were co-mingled among all those
10 other items.

11 And lastly, ladies and gentlemen, this case is
12 about what he said, his words, the words that came out
13 of his mouth.

14 Now, I want to talk a little bit about how --
15 common examples of why -- we just did that. Okay.

16 So, my mother. Every Sunday, when she goes to go
17 to a potluck supper at church, she has a little -- like,
18 a labeling machine, and she puts her name on her
19 Tupperware. *Molly Miller*. All of her Tupperware has
20 *Molly Miller* on it. I go over when I visit, and she
21 sends me home with food. In my cupboard, there is
22 Tupperware that says *Molly Miller* on it. It doesn't
23 mean that my mother has access to my master bedroom;
24 that my mother has stuff in my drawers or in my closet.
25 It means -- in other words, it's a common example of why

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1 another person's name, one piece of mail in a bedroom
2 closet that's dated six or seven months before, January
3 25th of 2011. There can be other things. For anybody
4 that has grandchildren, you might have toys in your
5 house for your grandchildren to play with. That doesn't
6 mean your grandchildren control your master bedroom.
7 Yes, their things are there, but that doesn't mean that
8 they have dominion and control over your house.

9 So, let's talk about that. So, with ■ Miranda
10 Circle, we know, from the pictures, we have his
11 prescription bottle with his name on it. And again, all
12 the pictures are going to go back with you. Take a
13 look. It has his name on it, his prescription.
14 Obviously, prescriptions are something of importance.
15 We have his official DMV record. What's the name on it?
16 Trevin Millidge. What's his address? ■ Miranda Circle.
17 We have his bills on his wall, in the master bedroom.
18 Why? Because it's his bedroom. His bills, his
19 responsibility.

20 The thing I'd like to point out about the water
21 bill, when I asked one of the officers, okay, what's the
22 address on it? Well, the service was for another
23 property. But ladies and gentlemen, where does he want
24 that bill mailed? Where does he want to make sure he
25 gets the bill, so he can pay it for that other property?

1 He has it mailed to ■ Miranda Circle. Why? Because
2 that's where he was living.

3 You also see, in the middle picture, on the bottom,
4 where the gloves, and then there's a big bag of latex
5 gloves and money. There's also another piece of mail in
6 there. Again, I encourage you to look at the pictures.
7 His name, his address, scattered throughout this master
8 bedroom.

9 Dominion and control. Again, a legal phrase. But
10 how do we know? How do we know it's his? Well, again,
11 it's his words. It's what he told to Sergeant Michaud.
12 It's where he came home to. He had been out all night.
13 He comes home. He comes home to ■ Miranda Circle. And
14 again, that's his official driver's license photo, has
15 his address on it. His important mail, the tax bill for
16 the truck, and his water bill. Because, again, he wants
17 to make sure it's paid, so it comes to the right
18 address. Once again, we have other documents with his
19 address on it, and the prescriptions.

20 Now, ladies and gentlemen, let's take a look at his
21 words. Now, but before we do, I know there was an issue
22 made, and again, it's smoke and mirrors, with respect to
23 being videoed. Let's set the scene. It's not in a
24 sterile courtroom like it is here. We've heard it's
25 early morning. It's close to 5:00 o'clock. SWAT comes

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1 in. They're serving a search warrant. There's an
2 element of surprise. You come in, you detain the
3 people, you -- and you start to search. Immediately,
4 he's interviewed.

5 Now, his constitutional rights were protected.
6 There was no beating him, hitting him, pointing a gun at
7 him. He's read -- he's read the -- just like Sergeant
8 Michaud read it to you on the card, the right to remain
9 silent. That does not mean that the officers cannot
10 have the strategy of taking advantage of the element of
11 surprise. There is nothing wrong with them taking
12 somebody, catching them. He's caught red-handed. The
13 jig is up at that point. He's got drugs in his pocket.
14 There's nothing to say that the officers are required to
15 stop, let him have time to concoct a story. Because at
16 that point, you heard Sergeant Michaud. One of the
17 reasons they're interviewed on the spot is because
18 they're still searching the house. By the time they're
19 done searching the house, the case is over. So, you're
20 not going to transport him somewhere else after the
21 search is already done. It's simultaneous. Again,
22 there's nothing wrong with taking advantage, and it's
23 the strategy of talking to somebody when they're caught
24 red-handed.

25 So, let's look at what he said. He tells Sergeant

1 Michaud he left around 11:00 p.m. He came home, again,
2 home, which is corroborated with what we know, and the
3 physical evidence that's sitting right there, that it is
4 his home, around 5:00 a.m. He tells us he has been out
5 at a club called The Hut, and he was with a girl. The
6 fact that he's with a girl is corroborated by other
7 testimony that Ms. Higgins-Dunlap was present.

8 His words, he has cocaine in his closet, in his
9 white shorts, folded up. That is consistent with what
10 you heard from the officers that were simultaneously
11 searching the house, and lo and behold, they find drugs
12 where? In his closet, in his master bedroom, in white
13 shorts. He goes even further. Not only does he tell
14 Sergeant Michaud that it's in his room, he points it out
15 on the master -- in the diagram. He points to the
16 master bedroom.

17 Now, ladies and gentlemen, let me ask you, you're a
18 guest at somebody's home. You don't stay in the master
19 bedroom. The master bedroom, that's where the person
20 who owns the property, who stays there on a daily basis,
21 you have access to the bathroom right there. You're on
22 the other side of the house. He's not a guest there.
23 That's his house. He's paying the bills. It's common
24 sense, logic and life experience that I told you to
25 bring with you, and I'd ask that you use that when

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1 you're considering all of the evidence.

2 He also takes ownership of the drugs in his pants.
3 Okay. Well, you're caught red-handed. You're busted.
4 The drugs are in your pocket. He admitted that he was
5 out selling.

6 Now, ladies and gentlemen, the fact that he is out
7 selling, and what Sergeant Michaud told you that he
8 said, is corroborated by the large amount of money that
9 he had on him. He had \$385.00 in one pocket, and
10 \$443.00 in another. So, again, we're not just saying to
11 you, well, take the words alone. The statement is
12 corroborated by the physical evidence. And once again,
13 he admits selling to make extra money on the side.
14 Again, there's \$1,800.00 that are found on him and in
15 his house. Everything is corroborated. So, you have
16 story, plus physical evidence, equals guilt.

17 Ladies and gentlemen, drug dealing is lucrative.
18 There's lots of money in it. It's why people do it.
19 But just like every business, people have tools of the
20 trade. In this case, we have the crack and cocaine in
21 his pocket, on him. We have the crack and cocaine in
22 his closet, in his bedroom, in his house. We have the
23 money. We have gun, a gun and ammunition, a digital
24 scale, and scanner, a ledger, and a cutting agent. Now,
25 these things individually, maybe don't mean anything if

1 they're taken separately, but when you look at --
2 they're like pieces of a puzzle, and when -- just like a
3 puzzle that you put together, when the pieces come
4 together, the picture is clear. And again, it goes to
5 the defendant's guilt. Excuse me.

6 All right. So, let's look at -- this is all about
7 making money, because, again, he wants to make money on
8 the side. We have the drugs. That's pretty
9 straightforward. That's a businessman selling product.
10 A gun and ammo. How does that relate to drug dealers?
11 Well, drug dealing is dangerous. You have people that
12 want drugs; you have people that want money. You
13 protect your drugs and your money and your house with a
14 gun. The digital scale. When you're selling something
15 to a customer, you want to make sure they get what
16 they're supposed to get for their money. You don't want
17 to rip them off, because then, you're going to have an
18 unhappy customer. But you don't want to give away the
19 -- your expensive product for free, either. That's why
20 you weigh it, to make sure you're getting the
21 appropriate amount. You keep ledgers, kind of like when
22 you go to a -- go to a bar and you run up a tab, they
23 keep a tally. And it dawned on me, have you ever gone
24 to a bar where they make you turn over your credit card,
25 so they make sure you don't skip on your bill? Could be

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1 a reason that somebody's license is in the drawer.

2 The cutting agent. Now, you heard testimony from
3 the officer that Inositol, which is in evidence, it's a
4 cutting -- it's used to expand the product, cut the
5 cocaine with the Inositol, because it gives you more
6 volume. Does that help your profitability? Sure. Of
7 course, it does. That's why drug dealers use it. And
8 ladies and gentlemen, ask yourself, as a tool of the
9 trade, a police scanner, to know where the police are,
10 what they're doing, it's a helpful tool. So, again,
11 when you look at these items, maybe if you take one item
12 and take it aside, but when you put all of them
13 together, the picture is clear, and that is his guilt.

14 So, the drugs. So, three pictures. We have the
15 drugs that were found on him, the drugs in his closet,
16 in the white pair of shorts, folded up. Lo and behold,
17 just as he said they would be, and the 23 pills of
18 Alprazolam. We have his tools, the guns.

19 Now, ladies and gentlemen, I'd ask you to look at
20 the picture, because when you look at the pictures
21 altogether, you see everything that indicates that it
22 was his room. The addresses, the prescription, the
23 items. That gun is right on top, within easy access, to
24 protect him, the drugs, and the money.

25 We've got the digital scale with the white residue

1 on it. We've got the ledger sheet conveniently right by
2 the scale. We have the Inositol and the scanner. And
3 it leads us to the money, lots and lots of money.
4 Ladies and gentlemen, once again, this case is about
5 pieces of the puzzle.

6 It is simple. It is straightforward when you use
7 common sense and logic, and put aside distractions. The
8 evidence is clear. The evidence is overwhelming.
9 Trevin Millidge, he's guilty of trafficking cocaine. He
10 possessed it, and it weighed over ten grams. He's
11 guilty of possession with intent to distribute cocaine.
12 He's guilty of possession with intent to distribute the
13 Alprazolam. He's guilty of possessing the oxycodone,
14 and he's guilty of possessing a weapon while he
15 possessed the cocaine -- or, I'm sorry, the crack
16 cocaine base.

17 Ladies and gentlemen, this is a simple case, and I
18 would ask you to return a verdict of guilty on all
19 charges. Thank you.

20 THE COURT: Mr. Newman.

21 MR. NEWMAN: Thank you, your Honor.

22 THE COURT: Yes, sir.

23 CLOSING ARGUMENT ON BEHALF OF THE

24 DEFENSE, BY MR. NEWMAN:

25 MR. NEWMAN: Good morning.

1 RESPONSES FROM JURORS.

2 BY MR. NEWMAN:

3 MR. NEWMAN: You know, with the Super Bowl coming
4 up Sunday, whether you're a Pats fan or Seahawks, or
5 don't care about either one of the teams, just want to
6 watch football, there's a distraction that came up, and
7 that's this Deflategate. I don't know if any of you all
8 have heard about that or follow sports, where they're
9 alleging that the Patriots may have cheated a little bit
10 by taking about two pounds of pressure out of the ball,
11 easier for the quarterback to grip, using it for a
12 receiver's catch, supposedly. It's just an allegation.
13 This is a case of not deflation that gives an unfair
14 advantage. This is a case of over-inflation, the
15 allegation from the start is that Mr. Millidge is
16 responsible for more than he is. I believe, when I
17 talked to you, when we first came in, I mentioned that
18 this was a case about inflation and expansion. And
19 you're going to hear something out of the defense
20 attorney that you might not think you'd hear. Mr.
21 Millidge is guilty of what they found in his pocket. He
22 has admitted to that from day one. He would have pled
23 to that, but for the State saying, we want to over-
24 inflate these charges against you. You can't come into
25 this court and plead guilty to what you say you're

1 guilty of.

2 We first said you had 37.5 grams of cocaine, all
3 added up, hodgepodge, mish-mash, glued together. It
4 turns out, that wasn't right. It wasn't even close. It
5 was two-and-a-half times of what was all put together,
6 and that includes stuff they found on Mr. Jenkins, the
7 other person that -- one of the other people that lived
8 at their house, that they want to attribute to Mr.
9 Millidge.

10 Is he guilty of possession of cocaine? Yeah.
11 He'll tell you that. We tell you that now. We don't
12 shy away from that. He's waited three years. He's come
13 into court every day to man up and face this -- this is
14 what I did. This other stuff, they're trying to pin on
15 me, and it's not mine, and I'm not going to take it.
16 This also gives the State an unfair advantage, because
17 the State asked you to indulge in legal fictions, such
18 as this constructive possession. We can't really prove
19 he had it. Had to prove he knew about it, so help us
20 out on the legal fiction. Don't help us out on fact.
21 Help us out on inferences, these inferences that the
22 legislature says you may but don't have to infer. Help
23 us out. That's shorthand for, we don't have proof of.

24 I want to talk about, I guess, what the State would
25 tell you is their most damning evidence against Mr.

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1 Millidge, and that was the statement that he made, that
2 he was out selling drugs and all this other stuff. I
3 want to go over that statement a little bit.

4 And while that's not patently incredible, I asked
5 the officer, did Trevin admit to you that the drugs in
6 his pocket were his and that he was part of it. He
7 said, yeah, but he also said a bunch of other stuff.

8 Mr. Millidge denies that. Michaud would have you
9 believe that the Sheriff's Department, that has a
10 helicopter, SWAT teams, doesn't have a dad-gum recorder
11 to take a statement from a suspect? What was Michaud's
12 only job assignment during the execution of this search
13 warrant? What was his only assignment? To interview
14 Mr. Millidge. Said he was a trained investigator. He
15 comes empty-handed? Well, I didn't have a recorder.
16 Well, I have one, but I didn't take my car. There's no
17 video, no audio. The search was recorded. Of course,
18 the State didn't have the guts to show you any of the
19 recording of the search. That's not before you. That's
20 not in evidence. They have it. They didn't give it to
21 you. Why? I don't know. Have to ask them.

22 Point is, they have a camera on the scene that
23 could show you where certain things were found as they
24 were doing it. They didn't show you the video-taping of
25 that. But the video camera, they've got a video right

1 there. They're so worried about, well, we can't take
2 Mr. Millidge down to the station, because we're
3 executing a search, and all this stuff. Why don't you
4 use the dad-gum camera you brought?

5 Apparently, they read Mr. Millidge his rights. He
6 wasn't going to change his mind. He could have said,
7 no, I want a lawyer, guys; I'm not playing. He says, I
8 want to tell you, you caught me; you got me, but for
9 what I have on me. I asked Michaud, if he wasn't in his
10 car, if just about every marked unit of the Beaufort
11 County Sheriff's Department has audio/video recorders,
12 because, as he agreed, our laws on driving under the
13 influence in South Carolina require police officers --
14 they have to video- and audio-record field sobriety
15 tests and the reading of *Miranda* rights.

16 Why don't you just call a marked unit? Well, I --
17 the supervisor, I don't know, they might have been tied
18 up. You didn't do it. He told you that they spent 30
19 minutes together, he and Officer Whitney. I asked him
20 about an interview room, literally, right across the
21 street from this courthouse. He wasn't sure if, in
22 2011, if they had recording equipment, and he's an
23 investigator that does interviews? Sad.

24 There's no written statement. I asked him, pen and
25 paper? Have him write out a statement, or you write it

1 out. Just have Mr. Millidge say, yeah, that's my
2 statement, and sign it. He did not do that. Comes in
3 to tell you this incredibly, incredibly incriminating
4 statements, right to the crux of it, I was selling
5 drugs, and don't have a recording of it? Don't have the
6 guts to do it? They have the ability and the means. It
7 did not happen.

8 It's just like we saw in Columbia, where a police
9 officer shot a suspect on a traffic stop and said, I
10 thought he was coming at me. Lo and behold, they got
11 the video, and the suspect's got his arms up. The
12 officer forgot they was videoing that. There's no
13 video, there's no audio here, and there's a reason for
14 that, because Mr. Millidge never said any of that. He
15 admitted to what he had on him. He admits that today,
16 before you, before this court, and before God. There's
17 no *Miranda* form.

18 You know, there are a number of crimes,
19 constitutionally, such as the crime of treason. There
20 are a number of crimes mentioned in the *Bible*, before
21 you can be convicted of your own statement, there must
22 be two witnesses. The Sheriff's Department did that.
23 They brought a second witness, Officer Whitney. If
24 you're not going to record it, let's have a second
25 witness to back it up. The State did not bring Officer

1 Whitney. They didn't call her. There's two reasons why
2 they didn't call her. Either she doesn't remember it
3 the way that Michaud says he remembers it after three-
4 and-a-half years, or --

5 MS. MUSSER: Objection, your Honor.

6 THE COURT: Basis?

7 MS. MUSSER: There's nothing in the record --
8 Counsel doesn't know why the State did or did not call
9 Officer Whitney.

10 THE COURT: Okay. It's an argument. You can
11 continue, sir. Overruled.

12 MR. NEWMAN: Thank you, your Honor.

13 BY MR. NEWMAN:

14 MR. NEWMAN: The other reason is, inferrably,
15 Officer Whitney didn't want to get in this courthouse
16 and perjure herself. Why do you have a second witness
17 and don't call that witness? That's why.

18 Further implausibility of this interview of Mr.
19 Millidge, remember they said they had him secured? They
20 don't have time to get a recorder, but they had time to
21 make a diagram of the house, and then show it to Mr.
22 Millidge on the scene? And the diagram, that's not the
23 diagram. They said that was taken from the diagram they
24 made. Where is that original diagram? It doesn't
25 exist, or they'd have put it in evidence.

1 The absolute unlikelihood in there, Michaud didn't
2 even make notes, contemporaneous notes, to show you,
3 well, I was writing down everything he said. He said he
4 went and made a report a couple days later, and
5 remembers, supposedly, everything that happened between
6 three people in a 30-minute conversation.

7 Mr. Millidge secured in the patrol car, under
8 arrest. You'll have these photos with you in the jury
9 room, and the Solicitor showed you all of this. Mr.
10 Millidge isn't just leaning back with his hands behind
11 his back. He is handcuffed, and he's secured, and is
12 put in a patrol car. And when the State caught
13 themselves in their own fabrications, the officer sat
14 there and said, Mr. Millidge pointed out this room and
15 pointed out that room, and pointed out that room. How
16 in the world is he going to point out things on a
17 diagram when he's handcuffed behind his back? They
18 forget about that part of it when they were going over
19 it. Absolutely implausible. If you can figure out a
20 way to point out something handcuffed behind your back,
21 on a diagram, it did not happen. Wow. And they ask you
22 to believe that. He pointed things out to them.
23 Negative.

24 And this is State's 12, which is this value of not
25 14.7, still exaggerating the 13.85, .88 grams, found in

1 the closet that they want you to attribute to Mr.
2 Millidge while he's in the patrol car, handcuffed,
3 making statements, and pointing out things on the
4 diagram, while not being recorded, what was found in the
5 closet was not out in the open and visible. The State
6 must prove Mr. Millidge's knowledge, coupled with his
7 possession. Well, there's three versions about this
8 bag, State's Number 12, that they showed you. This was
9 the larger bag of the crack cocaine that was found
10 rolled up in the shorts. Well, we get to those by one
11 of three routes, and it's up to the State to do their
12 proof. Mr. Millidge has no burden in this case, as does
13 anybody on trial, because if you think about it, you
14 wouldn't be -- in many cases, you wouldn't be able to
15 prove your innocence. That's why we put the State to
16 these burdens. And the State's right, you don't have to
17 be a hundred percent convinced. I'd like to think you'd
18 like to be, but you don't have to be.

19 Version one, this is the Lindahl version, as to the
20 bag. If you'll recall her testimony, she came in, and
21 she's the case officer. Who did she come in with? Do
22 you recall? Right off. Came in with the dog, the K-9.
23 And what did she tell you? The dog alerted, alerted on
24 a pair of white pants, on the second shelf, in the
25 closet. The area was checked, and the plastic bag was

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1 located. All right. The dog, the dog found that bag.
2 Well, now, wait a minute. Don't have it on video.
3 Officer Squires testified that he found it. He's the
4 one, I think, with the bald head, or the one that said,
5 I was searching, and it just fell out, and I seized it,
6 and all that. Very good. Good officer. You do well
7 searching for hidden objects.

8 Version three is Michaud's version. Well, Mr.
9 Millidge told us exactly where it was, rolled up in a
10 pair of white shorts. And you see Mr. Millidge there,
11 he's a pretty big fellow. Did they ever pull out the
12 shorts and see what size it is, or see if any of those
13 clothes in there were Mr. Millidge's? No. They don't
14 want to know that. They don't want to know that,
15 because it doesn't help them, and that's not what the
16 government's about, just trying to look for evidence of
17 guilt. They're trying to look for evidence of fairness,
18 I would think. Maybe not.

19 None of them found in the closet or any of the
20 items, there's no DNA. The State tells you, well, we
21 tested the gun; there was no DNA on the gun. Where's
22 the report on that? Where is it? They didn't bring it.
23 Did that happen? I don't know. I hadn't seen any
24 report in this courtroom. What about fingerprints? Did
25 they try and fingerprint anything? No. Did they try

1 and DNA-test anything else, like baggies, things like
2 that? Scale, scanner? No. They either did and it
3 didn't match, or they didn't do it. They didn't bring
4 it before you, and they didn't explain it. Not our job.
5 We have zero burden in this.

6 You didn't hear Mr. Millidge testify. He didn't
7 need to testify. He's testifying to you that he is
8 guilty of what they found in his pocket. That's his
9 testimony here today, and he accepts his responsibility
10 to that. And he walked in this courthouse, and has been
11 walking in here for three years, to finally get his day,
12 and say, I will accept what I did. I will accept my
13 punishment like a man, and I will admit my guilt and my
14 wrong. Do my time, pay my debt. I don't fear it,
15 because that's my responsibility. I did wrong.

16 Another example of over-inflation by the State, and
17 you'll see a photograph in there, and they -- they
18 showed it to you. They've got all the money laid out on
19 the bed. That's what we call the trophy photo, the
20 displays. You know the old-time photos of hunters where
21 they kill a rhino or something, and they'd have their --
22 they'd have their foot up on the rhino, and the
23 Weatherby rifle in their hands, smiling over the prize
24 that they got. You've seen photos like that in the
25 paper, where they fan out the money and the drugs, and

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1 all that kind of stuff. That's the photo array, which
2 is nothing more than an over-inflation in this case.

3 Find a license in the drawer that they want to
4 ignore, John Schuster. State comes up with some kind of
5 maybe-iffy. And anytime the State says maybe, go, no,
6 you have the burden of proof. You can't tell us maybe
7 something happened. I've got to prove to you that
8 something happened. There was a license in there of Mr.
9 Schuster. They didn't even have the guts to admit it
10 into evidence. I had to ask them about it. They wanted
11 to keep that from you. That's the same place where the
12 gun was found. They put into evidence a crack pipe that
13 was found on a Mr. Tyrone Jenkins. What's that got to
14 do with Mr. Millidge? Tells you Mr. Jenkins probably
15 smokes crack. Is that Mr. Jenkins' crack, rolled up and
16 hidden in the back of that closet? I don't know. Not
17 my burden. It's the State's burden to disprove that.
18 Where is Mr. Jenkins, by the way? Where's Mr. Shabazz?
19 Where's Mr. Schuster? The State didn't explain anything
20 to you about any of those characters, did they? And
21 what their role in this was, and what they were charged
22 and not charged with, because they want to overstate and
23 pin everything on this man.

24 One of the things that I remembered from the
25 testimony, and if you remember it differently, you have

1 twelve collective minds, and I obviously have an
2 interest to protect my client, they said that a
3 photograph of what Lindahl thought was crack cocaine in
4 the bedroom, which they're also trying to attribute to
5 Mr. Millidge, to bump those numbers up, when she picked
6 it up, it granulated. Do you remember that? She had to
7 put it in something. And one of the reasons I asked the
8 evidence custodians about mixing, combining, and co-
9 mingling of evidence, and she goes, well, I don't know;
10 that's the officer's responsibility to get that
11 straight, one of the things that struck me, and I
12 believe it's State's 2, and this is the cocaine from Mr.
13 Millidge's front pocket. And he says, you got me.
14 There's a baggy in there of granulated -- in a different
15 kind of baggy -- of a granulated substance that turned
16 out to be cocaine. I would submit to you that they
17 didn't do quite a good enough quality control on where
18 they were putting all these baggies when they were
19 collecting this evidence. And again, on any of the
20 plastic baggies, no DNA. Either tested and they're not
21 his, or not tested at all, but they didn't bring it.
22 Another example of -- well, before I get to that, on the
23 no DNA on the gun -- you know, they never tested the
24 bullets that was found in the clip. And you know why
25 you test the bullets? You definitely got to touch

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1 those, because you've got to thumb those things in. You
2 can even test them for thumb prints, if any of you have
3 loaded an automatic weapon. But as to the gun on over-
4 inflation, they made a trafficking charge, because the
5 legislature says trafficking is a crime of violence.
6 Even though there's no violence used, it's just a
7 categorization. So, they make it a crime of violence.
8 Well, we also have a statute that says, possession of a
9 gun during a crime of violence. Well, if they don't
10 have the crime of violence, they don't have the gun
11 charge. Mr. Millidge never possessed that gun. Mr.
12 Millidge is not guilty in trafficking in cocaine, so I
13 ask you to pass on that indictment.

14 We get to Lindahl's statements as to over-
15 inflation. We know the drug report came in August 30th,
16 at the earliest, September 28th. She went to the Grand
17 Jury in October and swore under oath that Mr. Millidge
18 was trafficking more than 28 grams of crack cocaine,
19 35.7 grams, when she knew there was a drug report that
20 said that's false. The most we have is 13, which makes
21 it a different charge. Overcharged from day one. He
22 would have pled, except for being overcharged. Swore
23 that to the Grand Jury. They're adding what they found
24 on Mr. Jenkins to Mr. Millidge. Anything to do on the
25 old charge in the NFL called piling on. They never

1 connected the Xanax in any way to being in Mr.
2 Millidge's possession or knowledge. It's not associated
3 with any DNA, any fingerprints, anything else.

4 You know, when Christ was being questioned at his
5 trial, he was asked about a coin, he said, *render unto*
6 *Caesar that which is Caesar's*. Render unto Trevin that
7 to which he has admitted, and admits before you today.
8 He is guilty of possession of cocaine. Not trafficking,
9 not possession with intent to distribute, not on
10 OxyContin, not on Xanax, but to possession of cocaine.
11 Because of the way the State has over-inflated,
12 overstated, co-mingled, flat-out hid evidence in this
13 case, you can judge all of that. You can even find him
14 not guilty, if you want to, on everything. We're not
15 asking that. We're here to admit our guilt. Don't shy
16 away from it. We would have pled, but the government
17 did not let us. The government overcharged. Reasonable
18 doubt is the highest burden known to man. Solicitor
19 gave you an example about buying a house. Reasonable
20 doubt requires you to -- if you remember this case 25,
21 30 years from now, you look in the mirror and say, I was
22 confident in my verdict, because your verdict is like
23 pulling a trigger on a gun. Once you fire it, it can
24 never be brought back. The Judge makes a mistake,
25 somehow, on the law, maybe that can be looked at by a

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1 court. But not even the United States Supreme Court can
2 ever affect your verdict. When it comes to that, you're
3 the most powerful twelve people in this case. A verdict
4 is like getting married. Better not have any doubts for
5 which you can give a reason, because once you've
6 rendered your verdict, you will be married to it. 'Til
7 death do you part, you will be married to that verdict.

8 You know, Winston Churchill said that, in time of
9 peace, the most important service a citizen can serve
10 his country, and for a fellow countryman like Mr.
11 Millidge, is jury service. We know it's an imposition.
12 You don't want to be here. You're getting paid a token
13 sum of money to do that, but I've seen you all pay
14 attention, and this is the service that you're doing for
15 your country today. But today, you get to be the
16 government. You get to decide what charge Mr. Millidge
17 is guilty of, not all this over-inflated stuff. We're
18 asking you to accept his plea before this court, and
19 find him guilty of what the State proved, not all these
20 wacky inferences and illegal fictions, flat-out lies,
21 find him guilty of the solid one.

22 Madam Forelady, ladies and gentlemen, thank you all
23 very much for listening to us.

24 JURY CHARGE, BY THE COURT:
25

1 THE COURT: Madam Foreperson, members of the jury,
2 you have followed very patiently and listened very
3 attentively to the presentation of the evidence in this
4 case, and I want to thank you for that. It now becomes
5 the duty of the trial judge, under the constitution of
6 this state, to charge and instruct you on the law that's
7 applicable to this case. And it's your duty to accept
8 and apply the law as the Court will now state it to you.

9 As jurors, ladies and gentlemen, it is your
10 exclusive duty to decide all issues of fact in this
11 case. You must determine the effect, the value, the
12 weight, and the truth of the evidence. Both the State
13 and the defendant in this case have a right to expect
14 that you will carefully consider and evaluate the
15 evidence, and apply the law of the case to the evidence.
16 By doing so, both the State and the defendant will
17 receive and obtain a fair and impartial trial in this
18 case.

19 Now, ladies and gentlemen, the State of South
20 Carolina, by the bills of indictment in this case,
21 charge the defendant, Trevin Millidge, with trafficking
22 in cocaine base or crack cocaine, 10 to 28 grams;
23 possession with intent to distribute cocaine; possession
24 with intent to distribute a Schedule IV substance,
25 Alprazolam; and possession of a controlled substance,

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1 Schedule I through V, oxycodone; and lastly, possession
2 of a weapon during the commission of a violent crime.

3 Ladies and gentlemen, I remind you that the fact
4 that the defendant was arrested, charged, and indicted
5 in this case is not evidence in this case, and cannot be
6 considered by you as evidence of guilt in this case, nor
7 does it create any presumption or inference of guilt.

8 Ladies and gentlemen, this document is simply the
9 formal, written instrument which contains the charges
10 that are made against the defendant. It's the formal
11 document by which this case is brought into this
12 courtroom.

13 Now, ladies and gentlemen, the defendant has pled
14 not guilty to these indictments, and that plea puts the
15 burden on the State to prove the defendant guilty beyond
16 a reasonable doubt. Ladies and gentlemen, a person
17 charged with committing a criminal offense in South
18 Carolina is never required to prove himself innocent. I
19 charge you that it is an important rule of law that a
20 defendant in a criminal trial, no matter what the
21 seriousness of the charges may be, will always be
22 presumed innocent of the crime for which an indictment
23 was issued, unless guilt has been proven by evidence
24 satisfying you, the jury, of that guilt beyond a
25 reasonable doubt.

1 Ladies and gentlemen, this presumption of innocence
2 does not end when you begin your deliberations, but it
3 accompanies the defendant throughout the trial until
4 you, the jury, reach a verdict of guilt, based on
5 evidence satisfying you of that guilt beyond a
6 reasonable doubt. Ladies and gentlemen, the presumption
7 of innocence is like a robe of righteousness that is
8 placed about the shoulders of the defendant, and it
9 remains with the defendant until it has been stripped
10 away from him by evidence satisfying the jury of that
11 guilt beyond a reasonable doubt.

12 Ladies and gentlemen, the presumption of innocence
13 is not a mere legal theory. It's not just a legal
14 phrase we use. It is a substantial right to which every
15 defendant is entitled, unless you, the jury, are
16 satisfied from the evidence of the defendant's guilt
17 beyond a reasonable doubt.

18 Now, again, as I told you, the State has the burden
19 of proving the defendant guilty beyond a reasonable
20 doubt. Ladies and gentlemen, the term, reasonable
21 doubt, must be given its plain and ordinary meaning.
22 However, to the extent that I may define it for you,
23 ladies and gentlemen, a reasonable doubt is the kind of
24 doubt that would cause a reasonable person to hesitate
25 to act in their most important of personal decisions.

1 Now, ladies and gentlemen, the defendant is
2 entitled to every reasonable doubt arising in the case.
3 If, upon any issue of fact essential to conviction you
4 have a reasonable doubt as to how that issue should be
5 resolved, you must resolve that reasonable doubt in
6 favor of the defendant.

7 Now, ladies and gentlemen, some of you may have
8 served as jurors in civil cases, where you were told
9 that it was only necessary to prove that a fact is more
10 likely true than not true, or what we call, either by
11 the greater weight or the preponderance of the evidence.
12 Ladies and gentlemen, in criminal cases, the State's
13 proof must be more powerful than that. It must be
14 beyond a reasonable doubt. Now, ladies and gentlemen,
15 proof beyond a reasonable doubt is proof that leaves you
16 firmly convinced of the defendant's guilt.

17 Now, ladies and gentlemen, there are very few things in
18 this world that we know with absolute certainty, and in
19 criminal cases, the law does not require proof that
20 overcomes every possible doubt. If, based on your
21 consideration of the evidence, you are firmly convinced
22 that defendant and he's guilty of the crime charged, you
23 must find the defendant guilty. If, on the other hand,
24 you think there is a real possibility that the defendant
25 is not guilty, you must give the defendant the benefit

1 of the doubt and find him not guilty.

2 I remind you, ladies and gentlemen, that during
3 this trial, you and I have certain duties to perform.
4 As a judge, it's my responsibility to rule, as a matter
5 of law, whether or not certain evidence is admitted
6 during the trial of this case. Ladies and gentlemen,
7 you are to consider only to competent evidence that's
8 before you. You are to consider only the testimony
9 which has been presented from the witness stand, as well
10 as any exhibits which have been made a part of the
11 record in this case.

12 Ladies and gentlemen, I have the additional duty to
13 charge you on the law that's applicable to this case. I
14 am the sole judge of the law, and it's your duty, as
15 jurors, to accept and apply it as I will now state it to
16 you. Ladies and gentlemen, if you have any idea as to
17 what the law is, or what you think the law ought to be,
18 you must put that aside, ladies and gentlemen, because,
19 again, you are sworn to accept the law exactly as I give
20 it to you here, and apply it to the case, ladies and
21 gentlemen.

22 Now, in every case tried in this court before a
23 jury, the jury becomes the sole and exclusive judge of
24 the facts. A trial judge cannot intimate, comment on,
25 or make any statement to a trial jury about the facts in

1 the case. Ladies and gentlemen, since you, the jury,
2 are the sole judge of the facts in this case, you are
3 not to infer from what I've said during the progress of
4 this trial in ruling upon the admissibility of evidence
5 or otherwise, or anything that I say now, during the
6 course of this instruction to you, that I have any
7 opinion about the facts of this case. The law does not
8 allow me to have an opinion about the facts of this
9 case. I remind you, ladies and gentlemen, that this is
10 a matter solely for the jury.

11 Now, ladies and gentlemen, there are generally two
12 types of evidence that are generally presented during
13 the trial of the case. Those are direct evidence and
14 circumstantial evidence. Direct evidence directly
15 proves the existence of a fact, and does not require any
16 deduction. Ladies and gentlemen, circumstantial
17 evidence is proof of a chain of facts and circumstances
18 indicating the existence of a fact.

19 Ladies and gentlemen, crimes may be proven by
20 circumstantial evidence. The law makes absolutely no
21 distinction between the weight or value to be given to
22 either direct or circumstantial evidence. However, to
23 the extent that the State relies on circumstantial
24 evidence, all of the circumstances must be consistent
25 with each other, and when taken together, point

1 conclusively to the guilt of the accused beyond a
2 reasonable doubt. Ladies and gentlemen, if these
3 circumstances merely portray the defendant's behavior as
4 suspicious, the proof has failed.

5 Ladies and gentlemen, again, the State has the
6 burden of proving the defendant guilty beyond a
7 reasonable doubt, and this burden rests with the State,
8 regardless of whether the State relies on direct
9 evidence, circumstantial evidence, or a combination of
10 the two.

11 Now, ladies and gentlemen of the jury, it's your
12 duty to determine the credibility of the witnesses who
13 have testified in this case, and credibility simply
14 means believability. It becomes your duty as jurors to
15 analyze and evaluate the evidence, and determine which
16 evidence convinces you of its truth.

17 Ladies and gentlemen, in determining the
18 believability of witnesses who have testified in this
19 case, you may believe one witness over several
20 witnesses, or several witnesses over one witness. You
21 may believe a part of the testimony of a witness and
22 reject the remaining part of the testimony of that same
23 witness. You may believe the testimony of a witness in
24 its entirety, or reject the testimony of a witness in
25 its entirety.

1 And you may consider whether the witness has
2 exhibited to you any interest, bias, prejudice, or other
3 motive in this case. And you may also consider the
4 appearance and manner of a witness while on the witness
5 stand.

6 Now, ladies and gentlemen, the rules of evidence
7 ordinarily do not permit witnesses to testify to what we
8 call opinions or conclusions. Ladies and gentlemen, an
9 exception to this rule exists for witnesses that are
10 expert witnesses. A witness who, by education and
11 experience, has become an expert in some art, science,
12 or profession, may give an opinion as to the subject the
13 witness claims to be an expert in, and may also give the
14 reasons for their opinion.

15 Ladies and gentlemen, you should consider any
16 expert opinion given by a witness, and like any other
17 evidence, give it the weight you think it deserves. If
18 you decide that an expert witness's opinion is not based
19 on sufficient education and experience, or if you decide
20 that the reasons given in support of the opinion are not
21 sound, or that the opinion is outweighed by other
22 evidence, you may disregard the opinion entirely.

23 Ladies and gentlemen, an expert witness's testimony
24 is to be given no greater weight than that of any other
25 witness, simply because the witness is an expert. And

1 you do not have to accept an expert's opinion, even
2 though it goes uncontradicted.

3 Now, ladies and gentlemen, I instruct you and
4 emphasize, the fact that the defendant did not testify
5 in this case is not a factor to be considered by you in
6 any way of your deliberation, and in your consideration
7 on the question of the guilt or innocence of the
8 defendant. It must not be considered by you in any
9 manner whatsoever. The defendant has the constitutional
10 right to remain silent, and the assertion of this right
11 must not be considered by you in your deliberations. I
12 repeat, ladies and gentlemen, under your oath, you are
13 to draw no conclusion whatsoever from the fact that the
14 defendant in this case did not testify. The fact that
15 the defendant did not testify should not even be
16 discussed in the jury room.

17 I remind you, the burden of proof remains on the
18 State. The defendant is not required to prove his
19 innocence, and the burden of proof remains on the State
20 to prove guilt beyond a reasonable doubt.

21 Now, ladies and gentlemen, the defendant has been
22 charged with multiple offenses in this case. They are
23 each separate offenses, and you must decide each
24 separately. And now, I am going to go through and
25 explain to you each of the offenses, and any lesser

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1 included offenses that may be applicable to that
2 offense.

3 Now, first, ladies and gentlemen, the defendant is
4 charged with trafficking in cocaine base or crack
5 cocaine, more than 10 grams but less than 28 grams.
6 Now, cocaine base means in the alkaloidal cocaine or
7 freebase form of cocaine, which is the end product of
8 chemical alteration, whereby the cocaine, in salt form,
9 is converted to a form suitable for smoking. Ladies and
10 gentlemen, cocaine base is commonly referred to as rock
11 or crack cocaine.

12 Now, ladies and gentlemen, the State must prove
13 beyond a reasonable doubt that the defendant knowingly
14 sold, manufactured, cultivated, delivered, purchased, or
15 brought into this state, or provided financial
16 assistance, or otherwise aided, abetted, attempted, or
17 conspired to sell, manufacture, cultivate, deliver,
18 purchase, or bring into this state, or was knowingly in
19 actual or constructive possession, or who knowingly
20 attempted to become in actual or constructive possession
21 of more than 10 grams but less than 28 grams of cocaine
22 base, or crack cocaine, or any mixtures containing
23 cocaine.

24 Now, ladies and gentlemen, there are three elements
25 to the offense of trafficking in cocaine base or crack

1 cocaine, 10 grams to 28 grams, that the State must prove
2 beyond a reasonable doubt. Number one, that the
3 substance involved was, in fact, cocaine base, or crack
4 cocaine; second, that the defendant had possession of
5 that cocaine base, crack cocaine, either actual
6 possession or constructive possession; and that there
7 were, in fact, 10 grams or more, but less than 28 grams,
8 of cocaine base, or crack cocaine, involved, or any
9 mixtures containing cocaine, involved.

10 Ladies and gentlemen, actual possession occurs when
11 the controlled substance is found to be in the actual
12 physical custody of the person charged with possession.
13 Ladies and gentlemen, constructive possession is when a
14 person has dominion or control, or the right to exercise
15 dominion or control, over either the object or the
16 premises on which the object is located.

17 Mere presence is insufficient to prove constructive
18 possession. To prove constructive possession, the State
19 must show the defendant had dominion and control, or the
20 right to exercise dominion and control, over the object.
21 The State may establish constructive possession by
22 either circumstantial or direct evidence.

23 Ladies and gentlemen, possession may be inferred
24 from the circumstances, and may be imputed to anyone who
25 has the power and intent to control the disposition and

1 use of the object. In other words, possession of an
2 object or premises gives rise to an inference that the
3 person charged has both the power and intent to control
4 the use and disposition of the object.

5 However, ladies and gentlemen, this inference is
6 simply an evidentiary fact to be taken into
7 consideration by you, along with the other evidence in
8 the case, and to be given the weight you decide it
9 should have. And I remind you, again, mere presence of
10 a person in an area where the object is found is not
11 enough, in and of itself, to give rise to the necessary
12 inference.

13 Ladies and gentlemen, proof of possession requires
14 more than proof of mere presence at the place where the
15 controlled substance was found. The State must prove
16 the defendant had both the power, that is, actual or
17 constructive control, and intent to control its
18 disposition or use.

19 Now, ladies and gentlemen, in this case, if you
20 determine the State has not proven trafficking in
21 cocaine base or crack cocaine, 10 grams to -- I'm sorry
22 -- 10 grams to 28 grams beyond a reasonable doubt, you
23 must then consider whether the State has proven beyond a
24 reasonable doubt that the defendant is guilty of
25 possession with intent to distribute cocaine base or

1 crack cocaine.

2 Ladies and gentlemen, possession with intent to
3 distribute contains all of the elements of trafficking
4 except the amount of the crack cocaine or cocaine base.
5 In addition, ladies and gentlemen, the State must prove
6 beyond a reasonable doubt the defendant had the intent
7 to distribute the cocaine base or crack cocaine.

8 Ladies and gentlemen, distribute means to deliver,
9 other than by administering or dispensing a drug.
10 Intent, ladies and gentlemen, may be shown by acts and
11 conduct of the defendant, and other circumstances from
12 which you may naturally and reasonably infer intent.

13 Ladies and gentlemen, in determining whether the
14 defendant had the intent to distribute the cocaine base
15 or the crack cocaine, you may consider the circumstances
16 surrounding the defendant's alleged possession. You may
17 consider the amount of the substance alleged to have
18 been possessed, the manner in which it was allegedly
19 possessed, the place where it was allegedly possessed,
20 and other factors which you consider to be important.
21 Ladies and gentlemen, you must find that the defendant
22 did not intend to have the cocaine solely for his own
23 use.

24 Ladies and gentlemen, possession of more than one
25 gram of cocaine base or crack cocaine creates an

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1 inference that the defendant possessed the cocaine base
2 or crack cone -- crack cocaine, excuse me -- with intent
3 to distribute it. This inference does not relieve the
4 State from proving beyond a reasonable doubt that the
5 defendant had the intent to distribute. It is simply an
6 evidentiary fact to be taken into consideration by you,
7 along with the other evidence in this case, and to be
8 given the weight you decide it should have.

9 Now, ladies and gentlemen, if you find that the
10 State has failed to prove beyond a reasonable doubt the
11 defendant trafficked in crack cocaine, or possessed with
12 an intent to distribute crack cocaine, you must then
13 consider whether the State has proved beyond a
14 reasonable doubt that the defendant is guilty of simple
15 possession of cocaine base or crack cocaine.

16 Ladies and gentlemen, simple possession does not
17 require an intent to distribute the crack cocaine. To
18 prove simple possession, the State must prove beyond a
19 reasonable doubt that the defendant knowingly or
20 intentionally possessed crack cocaine. Ladies and
21 gentlemen, I remind you that knowingly means with
22 knowledge, consciously, not accidentally. And
23 intentionally means willfully, intending the result
24 which actually occurs, not accidentally or involuntary.
25 Ladies and gentlemen, intent may be shown by acts and

1 conducts of the defendant and other circumstances from
2 which you may naturally and reasonably infer intent.

3 Again, ladies and gentlemen, as I've stated
4 numerous times, I also remind you that a possession may
5 be either actual or constructive. Again, ladies and
6 gentlemen, as I previously defined for you, actual
7 possession occurs when the controlled substance is found
8 to be in the actual physical possession or custody of
9 the person charged.

10 Ladies and gentlemen, constructive possession is
11 when a person has dominion or control, or the right to
12 exercise dominion or control, over either the object or
13 the premises upon which the object is located. Again, I
14 remind you, ladies and gentlemen, that mere presence is
15 insufficient to prove constructive possession. To prove
16 constructive possession, the State must show the
17 defendant had dominion and control, or the right to
18 exercise dominion and control, over the object. Ladies
19 and gentlemen, the State may establish constructive
20 possession by either, again, circumstantial or direct
21 evidence.

22 Ladies and gentlemen, the defendant is next charged
23 with the offense of possession with -- to -- excuse me --
24 -- possession with intent to distribute cocaine, or known
25 a powder cocaine. Ladies and gentlemen, the State must

1 prove, to prove this charge beyond a reasonable doubt,
2 that the defendant possessed cocaine with the intent to
3 distribute it.

4 Now, ladies and gentlemen, to prove possession, the
5 State must prove beyond a reasonable doubt that the
6 defendant had both the power and the intent to control
7 the disposition or the use of the cocaine. And I remind
8 you again that possession may be either actual or
9 constructive.

10 Ladies and gentlemen, again, actual possession
11 means that the cocaine was in actual physical custody of
12 the defendant. Constructive possession means that the
13 defendant had dominion and control, or the right to
14 exercise dominion and control, over either the cocaine
15 itself or the property on which the cocaine was found.

16 And again, ladies and gentlemen, I remind you, mere
17 presence is insufficient to prove constructive
18 possession. To prove constructive possession, the State
19 must show the defendant had dominion or control, or the
20 right to exercise dominion and control, over the object.
21 Ladies and gentlemen, the State may establish
22 constructive possession, again, by either circumstantial
23 or direct evidence. Again, I remind you, mere presence
24 at a scene where drugs are found is not enough to prove
25 possession.

1 Ladies and gentlemen, the defendant's knowledge and
2 possession may be inferred when a substance is found on
3 the property under the defendant's control. Again, this
4 inference is simply an evidentiary fact to be taken into
5 consideration by you, along with all the other evidence
6 in the case, and to be given the weight you, the jury,
7 decides it should have.

8 Ladies and gentlemen, the State must also prove
9 beyond a reasonable doubt that the defendant intended to
10 distribute the cocaine. Again, distribute means to
11 deliver, other than by administering or dispensing a
12 drug. And intent, again, may be shown by acts and
13 conduct of the defendant and other circumstances from
14 which you may naturally and reasonably infer intent.

15 Ladies and gentlemen, determining whether the
16 defendant had the intent to distribute the cocaine, you
17 may consider the circumstances surrounding the
18 defendant's alleged possession, and you may consider the
19 amount of the substance alleged to have been possessed,
20 the manner in which it was allegedly possessed, the
21 place where it was allegedly possessed, and other
22 factors which you consider to be important. Ladies and
23 gentlemen, you must find the defendant did not intend to
24 have the cocaine solely for his own use.

25 Now, ladies and gentlemen, possession of more than

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1 one gram of cocaine creates an inference that the
2 defendant possessed the cocaine with intent to
3 distribute it. Now, again, this inference does not
4 relieve the State from proving beyond a reasonable doubt
5 that the defendant had the intent to distribute. Again,
6 it's simply an evidentiary fact to be taken into
7 consideration by you, along with other evidence in the
8 case, and to be given the weight you decide it should
9 have.

10 Ladies and gentlemen, as to this charge of
11 possession with intent to distribute cocaine, or powder
12 cocaine, if you find that the State has failed to prove
13 that the defendant is guilty of possession with intent
14 to distribute cocaine, you must also consider whether
15 the State has proved beyond a reasonable doubt that the
16 defendant is guilty of simple possession of cocaine.
17 Again, simple possession does not require an intent to
18 distribute the cocaine. Again, to prove simple
19 possession, the State must prove beyond a reasonable
20 doubt the defendant knowingly or intentionally possessed
21 the cocaine. Again, I remind you that knowingly means
22 with knowledge, consciously, not accidentally.
23 Intentionally means willfully, intending the result
24 which actually occurs, not accidentally or involuntary.
25 Ladies and gentlemen, intent may be shown by acts and

1 conduct of the defendant and other circumstances from
2 which you may naturally and reasonably infer intent.

3 Ladies and gentlemen, again, I also remind you that
4 possession may be actual or constructive, as I have
5 previously defined for you. Again, actual possession
6 occurs when the controlled substance is found to be in
7 the actual physical custody of the person charged with
8 possession. And constructive possession is when a
9 person has dominion or control, or the right to exercise
10 dominion or control, over either the object or the
11 premises upon which the object is located. Again,
12 ladies and gentlemen, mere presence is insufficient to
13 prove constructive possession. To prove constructive
14 possession, the State must show the defendant had
15 dominion and control, or the right to exercise dominion
16 and control, over the object. Ladies and gentlemen, the
17 State may establish constructive possession by either
18 circumstantial or direct evidence.

19 Now, ladies and gentlemen, the defendant is also
20 charged with possession with intent to distribute a
21 controlled substance, a Schedule IV drug, specifically
22 Alprazolam. Ladies and gentlemen, the State must prove
23 beyond a reasonable doubt the defendant possessed
24 Alprazolam with the intent to distribute it.

25 Ladies and gentlemen, again, to prove possession,

1 the State must prove beyond a reasonable doubt that the
2 defendant had both the power and the intent to control
3 the disposition or the use of the Alprazolam. And the
4 possession may be either, again, actual or constructive,
5 ladies and gentlemen.

6 Actual possession means that the Alprazolam was in
7 the actual physical custody of the defendant.

8 Constructive possession means the defendant had dominion
9 and control, or the right to exercise dominion or
10 control, over either the Alprazolam itself, or the
11 property on which the Alprazolam was found. I remind
12 you again, mere presence is insufficient to prove
13 constructive possession. To prove constructive
14 possession, the State must show the defendant had
15 dominion and control, or the right to exercise dominion
16 and control, over the object or the drugs.

17 Ladies and gentlemen, the State may establish
18 constructive possession by either circumstantial or
19 direct evidence. Again, I remind you, mere presence at
20 the scene where drugs are found is not enough to prove
21 possession. The defendant's knowledge and possession
22 may be inferred from a sub -- or when a substance,
23 ladies and gentlemen, is found on the property under the
24 defendant's control. However, this inference, again, is
25 simply an evidentiary fact to be taken into

1 consideration by you, along with the other evidence in
2 this case, and to be given the weight you decide it
3 should have.

4 Ladies and gentlemen, the State must also prove
5 beyond a reasonable doubt the defendant intended to
6 distribute the Alprazolam. Ladies and gentlemen, I
7 remind you, again, distribute means deliver, other than
8 by administering or dispensing a controlled substance.
9 And again, intent may be shown by acts and conduct of
10 the defendant and other circumstances from which you may
11 naturally and reasonably infer intent. In determining
12 whether the defendant had the intent to distribute the
13 Alprazolam, you may consider the circumstances
14 surrounding the defendant's alleged possession. You may
15 consider the amount of the substance alleged to have
16 been possessed, the manner in which it was allegedly
17 possessed, the place where it was allegedly possessed,
18 and other factors which you consider to be important.
19 You must find the defendant did not intent to have the
20 Alprazolam solely for his own use.

21 Now, ladies and gentlemen, if you find that the
22 defendant has failed to prove beyond a reasonable doubt
23 that the defendant is guilty of possession with intent
24 to distribute Alprazolam, you must then consider whether
25 the State has proved beyond a reasonable doubt that the

1 defendant is guilty of simple possession of Alprazolam.
2 And again, simple possession does not require an intent
3 to distribute the drug.

4 Again, I remind you that knowingly means with
5 knowledge, consciously, not accidentally. Intentionally
6 means willfully, intending the result which actually
7 occurs, not accidentally or involuntary, and intent may
8 be shown by acts and conduct of the defendant, and other
9 circumstances from which you may naturally and
10 reasonably infer intent.

11 Again, ladies and gentlemen, I remind you that
12 possession may be actual or constructive, as I have
13 previously defined for you. Again, actual possession
14 occurs when the controlled substance is found to be in
15 the actual physical custody of the person charged with
16 possession. Constructive possession is when a person
17 has dominion or control, or the right to exercise
18 dominion or control, either over -- excuse me -- over
19 either the object or drugs, or the premises upon which
20 the object or drugs is located. I remind you, yet
21 again, mere presence insufficient to prove constructive
22 possession. To prove constructive possession, the State
23 must show the defendant had dominion and control, or the
24 right to exercise dominion and control over the object.
25 The State must -- or, excuse me -- the State, again, may

1 establish constructive possession by either
2 circumstantial or direct evidence.

3 Ladies and gentlemen, possession of Alprazolam is a
4 crime unless the Alprazolam was obtained directly from
5 or through a valid prescription or order of a
6 practitioner acting in the course of professional
7 practice. And ladies and gentlemen, a practitioner is a
8 physician, dentist, veterinarian, podiatrist, scientific
9 investigator, pharmacy, hospital, or other person or
10 institution, licensed, registered, or otherwise
11 permitted to distribute, dispense, conduct research with
12 respect to, or administer a controlled substance in the
13 course of professional practice of research in this
14 state.

15 Now, ladies and gentlemen, the defendant is also
16 charged with possession of a controlled substance,
17 oxycodone, which is a Schedule II controlled substance.
18 The State must prove beyond a reasonable doubt that the
19 defendant knowingly or intentionally possessed a
20 controlled substance, and in this case, oxycodone.

21 Ladies and gentlemen, knowingly means with
22 knowledge, consciously, not accidentally; and
23 intentionally means willfully, intending the result
24 which actually occurs, not accidentally or involuntary.
25 Ladies and gentlemen, intent may be shown by acts and

1 conduct of the defendant and other circumstances from
2 which you may naturally and reasonably infer intent.

3 Now, to prove possession, the State must prove
4 beyond a reasonable doubt that the defendant had both
5 the power and the intent to control the disposition or
6 use of the controlled substance. And the possession,
7 again, ladies and gentlemen, may be actual or
8 constructive, as I have previously charged you.

9 Ladies and gentlemen, possession of oxycodone is a
10 crime unless the oxycodone was obtained directly from or
11 through a valid prescription or order of a practitioner
12 acting in the course of a professional practice. Again,
13 a practitioner is a physician, dentist, veterinarian,
14 podiatrist, scientific investigator, pharmacy, hospital,
15 or other person or institution licensed, registered, or
16 otherwise permitted to distribute, dispense, conduct
17 research with respect to, or administer a controlled
18 substance in the course of professional practice or
19 research in this state.

20 Now, lastly, ladies and gentlemen, the defendant is
21 charged with possession of a weapon during the
22 commission of a violent crime. Now, the State must
23 prove beyond a reasonable doubt that the defendant was
24 in possession of a firearm or visibly displayed what
25 appeared to be a firearm during the commission of a

1 violent crime.

2 Ladies and gentlemen, a firearm means any machine
3 gun, automatic rifle, revolver, pistol, or any weapon
4 which will, is designed to, or may be readily converted
5 to expel a projectile -- excuse me -- a projectile.
6 Now, ladies and gentlemen, in order to find the
7 defendant guilty of possession of a weapon during the
8 commission of a violent crime, you must first find the
9 defendant guilty of committing a violent crime.

10 Ladies and gentlemen, I tell you that the offense
11 of trafficking cocaine is a violent crime. Ladies and
12 gentlemen, the offenses of possession with intent to
13 distribute and simple possession of any drugs are not
14 violent crimes.

15 Ladies and gentlemen, the State must also prove
16 beyond a reasonable doubt that the weapon furthered,
17 advanced, or helped in the commission of the violent
18 crime.

19 Now, Madam Foreperson and members of the jury, as
20 you retire to begin your deliberations in this case, I
21 wish to express the hope that each of you are mindful of
22 the importance of your responsibility here today. We're
23 not called upon very often to serve as jurors, and the
24 proper performance of that duty requires that each of
25 you reach the height of freeing your mind of all

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1 improper influences.

2 Ladies and gentlemen, please don't get the idea
3 that I'm trying to intimate to you how you should decide
4 this case. As I've already told you, under the laws of
5 the State of South Carolina, you, the jury, are the sole
6 judge of all questions of fact, and it would be highly
7 improper for me to influence you in that duty.

8 However, ladies and gentlemen, as the presiding
9 officer of this court, I am vitally concerned that
10 whatever verdict you reach will be the result of you
11 going back into your jury room and confining your
12 consideration to the evidence and the law that you've
13 heard here in this courtroom, weighing it fairly and
14 impartially, as I have every confidence you will, ladies
15 and gentlemen.

16 Madam Foreperson, I remind you, your verdict must
17 be unanimous. It must be the verdict of all twelve
18 jurors, and to that end, my law clerk has prepared a
19 verdict form which has five questions on it, and a
20 number of them have sub-parts, ladies and gentlemen. I
21 remind you, ladies and gentlemen, that you have to
22 decide each charge separately, on its own, and it is
23 why, throughout my charge, I repeated certain things
24 that were applicable to different charges. Again, these
25 are each distinct, separate charges that you must pass

1 on, and you must, on each question, find either not
2 guilty or guilty.

3 Ladies and gentlemen, as far as the verdict form is
4 concerned, it simply has the caption of the case. It
5 says, the *State of South Carolina versus Trevin*
6 *Millidge*, and it says, *please answer each question*
7 *below*. And again, there are five questions, all of
8 which you must answer.

9 The first one says,

10 *As to Indictment Number 2011-01653,*
11 *for trafficking in cocaine base, or crack*
12 *cocaine, 10 grams to 28 grams, we, the jury,*
13 *find the defendant, Mr. Millidge,*
14 *either*
15 *not guilty or guilty.*

16 Ladies and gentlemen, please don't infer the order
17 that we put guilty or not guilty. Every trial, we just
18 reverse them in the order that we place them.

19 The next portion of that questions says,

20 *If you find the defendant is guilty of*
21 *trafficking in cocaine base or crack cocaine, 10*
22 *grams to 28 grams, you are to proceed directly to*
23 *Question Number 2.*

24 However, ladies and gentlemen, if you find that the
25 defendant is not guilty of trafficking in crack cocaine

1 or cocaine base, you must then consider whether he has
2 committed the lesser included offense of possession with
3 intent to distribute cocaine base or crack cocaine, and
4 then proceed to Question 2. So, you would consider the
5 possession with intent to distribute the crack cocaine
6 if you found him not guilty of the trafficking in crack
7 cocaine.

8 It then goes on to say, and this is still Question
9 Number 1, ladies and gentlemen,

10 *If you find the defendant is not guilty of*
11 *possession with intent to distribute crack cocaine,*
12 *you must then consider whether he's committed the*
13 *lesser included offense of that, which is simple*
14 *possession of crack cocaine.*

15 All right?

16 Next, Number 2,

17 *As to Indictment Number 2011-01564, for*
18 *possession with intent to distribute cocaine, or*
19 *powder cocaine,*

20 again,

21 *we, the jury, find him*

22 *either,*

23 *not guilty or guilty.*

24 And it goes through, again, ladies and gentlemen,
25 and asks,

1 *If you find the defendant is not guilty*
2 *of possession with intent to distribute powder*
3 *cocaine, or cocaine, you must then consider*
4 *whether or not he has committed the lesser*
5 *included offense of simple possession of*
6 *cocaine or powder cocaine.*

7 Number 3,

8 *As to the Indictment of 2011-01655, for*
9 *possession with intent to distribute Alprazolam,*
10 *a Schedule IV substance -- controlled substance,*
11 *again,*
12 *we, the jury, find*
13 *either,*
14 *not guilty or guilty.*

15 And if you don't find him guilty of the possession
16 with the intent to distribute on the Alprazolam, the
17 next question then, would be,

18 *Do you find him guilty of simple possession*
19 *of Alprazolam.*

20 All right?

21 Next, Number 4, only one portion of it, simply,

22 *Do you find, as to Indictment Number*
23 *2011-01656, as to the possession of a*
24 *controlled substance, --*

25 in this case, the oxycodone, which is a Schedule II

1 controlled substance, again, either,

2 *not guilty or guilty.*

3 And then, lastly, ladies and gentlemen,

4 *As to Indictment Number 2011-01657, for*

5 *possession of a weapon during the commission*

6 *of a violent crime,*

7 again,

8 we

9 either,

10 *find the defendant*

11 either,

12 *not guilty or guilty.*

13 Of that charge.

14 I remind you, on that last question, Number 5, you
15 can only find the defendant guilty of that charge if you
16 have also found him guilty of trafficking in crack
17 cocaine, as I defined before. That is the only charge
18 that you are considering that is considered a violent
19 offense. All right?

20 Madam Foreperson, there is then a line where you
21 certify that this is the unanimous decision of the
22 entire jury. When you reach your verdict, Madam
23 Foreperson, I'm going to ask that you knock on your jury
24 room door. We are going to accept you back into the
25 courtroom to receive your verdict, Madam.

1 At this time, ladies and gentlemen, and for the
2 very last time, I am going to send you back to your jury
3 room, and I am going to tell you not to begin discussing
4 the case or deliberating. The reason is, I'm going to
5 ask these lawyers if there's anything further on the law
6 that they want me to instruct them. If there is, I'm
7 going to bring you back out here, ladies and gentlemen,
8 and I am going to instruct you further.

9 If not, you are going to receive the verdict form,
10 Madam Foreperson. You are going to receive the jury
11 charge in written form, as well as all other evidence
12 that was entered in this case. That will be your signal
13 to begin your deliberations, and that we don't need to
14 bring you back out here. All right?

15 Ladies and gentlemen, I appreciate your
16 consideration. Thank you. Go back to your jury room,
17 and I hope to be with you very shortly.

18 JURORS LEAVE COURTROOM 11:48 A.M.

19 BAILIFF: Jury is clear, your Honor.

20 THE COURT: Thank you. You all may be seated. Any
21 exceptions or additions to the charge from the State?

22 MS. MUSSER: No, your Honor.

23 THE COURT: From the Defense?

24 RENEWED OBJECTIONS/MOTIONS

25 BY MR. NEWMAN; FINDINGS AND

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1 RULING, BY THE COURT:

2 MR. NEWMAN: Yes, we renew our objection on the
3 constructive possession charge. There are no additions.
4 However, the Defense, at this time, would renew its
5 motions for a directed verdict on the weapon charge,
6 based on your jury charge. State has offered absolutely
7 no proof that the gun was used in furtherance of
8 trafficking crimes. It was found concealed, in a
9 dresser drawer, in a home.

10 THE COURT: In the location where all the drugs
11 were found, which I think is plenty of circumstantial
12 evidence for this jury to infer that it's used in
13 furtherance of drug trafficking. Respectfully, I'm
14 denying your motion. Anything further?

15 MS. MUSSER: No, your Honor.

16 THE COURT: Have we been through everything? It
17 looks like you guys are very organized this morning, so
18 I'm very hopeful.

19 MS. MUSSER: I just don't like -- double-check it
20 real quick?

21 THE COURT: Certainly. Okay.

22 MR. NEWMAN: If there's -- for example, this was
23 State's I.D. --

24 COURT REPORTER: One second, please.

25 THE COURT: Ma'am.

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1 COURT REPORTER: You may have mis-spoke. You may
2 have said defendant, if you want me to check. You may
3 have said defendant when you should have said State,
4 when you were reading, in one little place. Do you want
5 me to check that?

6 THE COURT: Check it where, but?

7 COURT REPORTER: I mean --

8 THE COURT: Yeah.

9 COURT REPORTER: Okay.

10 THE COURT: You can check it.

11 COURT REPORTER: It won't take me just a second.

12 THE COURT: Okay. What portion of it was it? Do
13 you know?

14 COURT REPORTER: No, I just have where it was,
15 down. I can find it really quick.

16 THE COURT: Okay. You all, go through the exhibits
17 while she's looking at -- I want to make sure everything
18 is there.

19 MR. NEWMAN: I've been through them, before we came
20 in.

21 THE COURT: Thank you. Thank you.

22 Is the safety on the gun?

23 MS. MUSSER: I put it on, but I'm making sure.

24 THE COURT: Thank you.

25 MR. NEWMAN: It should have a gun lock to it.

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1 THE COURT: Yeah. It's back there? Yeah, it's
2 fine. It's -- the gun lock's on it. Sorry, I didn't
3 mean to call it the safety.

4 MR. NEWMAN: I think that section she's talking
5 about was when you were discussing that last charge.

6 COURT REPORTER: *If you find the defendant has*
7 *failed to prove beyond a reasonable doubt the defendant*
8 *is guilty.*

9 THE COURT: Oh. What portion of it? Well, I need
10 to know where. Because I say that many a times.

11 COURT REPORTER: Intent to distribute Alprazolam.

12 THE COURT: Alprazolam.

13 COURT REPORTER: So, you were talking about --

14 THE COURT: Okay. Attempt to -- okay. Possession
15 with intent to distribute Alprazolam. Okay. And so, I
16 said, *if defendant has failed to prove?* Okay.

17 COURT REPORTER: Yes.

18 THE COURT: I'm just going to bring them back out
19 here, and I'm just going to straighten it out. I think
20 they know, but. Okay. You all sit down.

21 MR. NEWMAN: Are you just going to say that if, I
22 may have mis-spoke, but just to be clear --

23 THE COURT: I'm just going to -- yeah. I just --
24 exactly.

25 MS. MUSSER: This was an extra copy of the picture

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1 that I passed around when I published it. It's not
2 labeled or -- it was just a duplicate.

3 THE COURT: Okay. It doesn't go in. Rick, let's
4 bring the jury back in. You all, don't move. Just for
5 those of you all that are here, when a jury is being
6 charged, you're not allowed to move or leave the
7 courtroom. So, if anyone tried to get up and you were
8 sent back to your seat, I'm not going to apologize.
9 It's just required that everyone keep their seats. I
10 think there may have been a gentleman back here in the
11 corner that tried to leave and got turned around.
12 That's just to explain. It certainly wasn't personal.
13 It's just, you're not allowed to leave the courtroom
14 while a jury is being charged.

15 COURT REPORTER: Have you all been through the
16 exhibits?

17 MS. MUSSER: Only partially.

18 COURT REPORTER: Okay.

19 THE COURT: So, tell me again what I said. I said,
20 the defendant must prove beyond a reasonable doubt?

21 COURT REPORTER: The defendant must prove --

22 THE COURT: Beyond a reasonable doubt.

23 COURT REPORTER: -- the defendant --

24 THE COURT: The defendant intended? Okay. Okay.

25 BAILIFF: The jury is entering the courtroom, your

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1 Honor.

2 THE COURT: Thank you.

3 JURORS ENTER COURTROOM 11:57 A.M.

4 CLARIFICATION OF JURY CHARGE,

5 BY THE COURT:

6 THE COURT: Thank you.

7 Ladies and gentlemen, my court reporter has been
8 with me for almost three years, and she pointed out to
9 me that I may have mis-spoke in a portion of one of my
10 statements. What I believe, and what I meant to state
11 with this, is that the State has to prove beyond a
12 reasonable doubt the defendant is guilty of something,
13 and I think you got that theme throughout. She brought
14 it to my attention that I may have, on the Alprazolam
15 charge, said, the defendant has to prove beyond a
16 reasonable doubt. The defendant, I'm sure -- and I'm
17 sure you all caught that -- I apologize, of course.

18 Always, the burden is on the State. They're the
19 ones that are required to prove every element of every
20 offense beyond a reasonable doubt, whether it is the
21 offense charged or a lesser included offense, if you are
22 considering that. All right?

23 I just wanted to make absolutely sure that you all
24 were clear and understood. I apologize for mis-
25 speaking. It happens every once in a while. So, with

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1 that said, ladies and gentlemen, we are sending you back
2 to your jury room. I am sending back the charge, which
3 is written correctly, even if I can't always speak it
4 correctly, and we'll be right back with you. Just let
5 me know. Okay? When you've reached a verdict, Madam
6 Foreperson. Thank you.

7 Thank you, Wanda.

8 BAILIFF: The jury is clear, your Honor.

9 JURORS LEAVE COURTROOM 12:00 P.M.

10 COURT REPORTER, MS. MUSSER, MR. NEWMAN
11 REVIEWING EXHIBITS.

12 ITEM IDENTIFIED AS SKETCH OF RESIDENCE
13 MARKED STATE'S EXHIBIT NUMBER 1,
14 ADMITTED AS EVIDENCE.

15 ITEM IDENTIFIED AS COPY OF SOUTH
16 CAROLINA COMMERCIAL DRIVER'S
17 LICENSE OF TREVIN MILLIDGE MARKED
18 STATE'S EXHIBIT NUMBER 3, ADMITTED
19 AS EVIDENCE.

20 ITEM IDENTIFIED AS PRESCRIPTION
21 SHEET MARKED
22 STATE'S EXHIBIT NUMBER 43, ADMITTED
23 AS EVIDENCE.

24 JURORS BEGIN DELIBERATION 12:05 P.M.

25 THE COURT: All right.

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1 I can cut them loose, can't I, Megan? They're not
2 trying anything more in civil court, are they?

3 BAILIFF: Your Honor.

4 ALTERNATE JURORS ENTER COURTROOM

5 12:05 P.M.

6 THE COURT: Thank you. Ladies, I want to thank you
7 so much for serving on this jury. I didn't lose anyone,
8 which is very unusual, because usually, we do. At this
9 time, I can go ahead and release you, and I'm going to
10 go ahead and release you for the remainder of the week.

11 Just a couple of caveats before I let you go. You
12 are now permitted to discuss this case, if you would
13 like. When you go home, you can talk to your family
14 members or friends. There's nothing wrong with that.
15 Again, sometimes the lawyers want to ask you what your
16 thought are and what you believe, and you know, that's
17 permissible, but you're not required, ever, to answer
18 any questions. If anyone persists, or is difficult in
19 any way, which they will not be, if they were, though,
20 please, just report it back to the Clerk of Court's
21 Office. I will take care of them. All right?

22 The only thing I do ask of you is that, if you have
23 become friends with some of the jurors that are in
24 there, I do not want you to speak with them until they
25 have reached a verdict. So, if, for some reason, this

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1 happens to go overnight, or I send them home, I just
2 want to make sure that you don't talk to them, anyway,
3 just because you're going to be what we call out, and
4 not having to be back there with them and sequestered.

5 So, if that's fine with you all, I appreciate it,
6 again, for you being here. Thank you so much. If you
7 need a work excuse, the bailiffs will go ahead and give
8 it to you. But at this time, you are now released from
9 your duties. All right? Thank you, ladies. It was a
10 pleasure.

11 ALTERNATE JURORS LEAVE COURTROOM

12 12:10 P.M.

13 OFF THE RECORD 12:11 P.M.

14 BACK ON THE RECORD 12:25 P.M.

15 FIRST NOTE FROM JURORS:

16 BY THE COURT:

17 THE COURT: The jury has sent a note. It says:

18 *Can we get the breakdown of how much*
19 *crack was in pocket and crack was in*
20 *Bedroom 1 versus cocaine?*

21 Apparently, they were listening to your closing
22 argument, Mr. Newman. It's in the evidence. I'm
23 assuming -- did we put in the drug analysis sheet?

24 MR. NEWMAN: I objected to that, and you sustained
25 my objection.

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1 THE COURT: All right.

2 MR. NEWMAN: My position on it is that, I don't
3 think you can charge anything, because that would be a
4 charge on the facts.

5 THE COURT: There's nothing to charge, number one.
6 Back off for a second.

7 MR. NEWMAN: Okay.

8 THE COURT: There's nothing to charge. They have
9 the evidence. If that is not on a piece of evidence
10 that's sitting down there and only came from testimony,
11 that is for them to remember what was in by testimony.
12 If they want to hear a particular person's testimony
13 again, they can. But there is nothing for me to charge
14 them on, or there's nothing for me to give them. So,
15 you have what's in evidence. And so, there is nothing
16 in there, and I don't know this, is there nothing, as
17 far as a breakdown?

18 MS. MUSSER: Nothing as far as -- they would have
19 to re-play Renita Berry's testimony again.

20 THE COURT: Okay. Okay. Okay. I just wrote down,

21 *I'm not permitted to break it down for*
22 *you. I can re-play a witness's testimony*
23 *if that will assist you.*

24 I said a witness's testimony.

25 *Just let me know.*

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1 Okay? Any objection from the State?

2 MS. MUSSER: No, your Honor.

3 THE COURT: From the Defense?

4 MR. NEWMAN: Unfortunately, none that I can think
5 of.

6 THE COURT: All right. Are we ready to take any
7 pleas?

8 MR. NEWMAN: May we be back at ease, your Honor?

9 THE COURT: Pardon?

10 MR. NEWMAN: May we be back at ease?

11 THE COURT: Absolutely.

12 ITEM IDENTIFIED AS FIRST NOTE

13 FROM JURORS MARKED

14 COURT'S EXHIBIT NUMBER 2.

15 OFF THE RECORD 12:27 P.M.

16 SECOND NOTE FROM JURORS MARKED

17 COURT'S EXHIBIT NUMBER 3.

18 JURORS REQUEST TO RE-HEAR THE

19 TESTIMONY OF RENITA BERRY, 1:32 P.M.

20 BACK ON THE RECORD 1:40 P.M.

21 BY THE COURT:

22 THE COURT: All right. We're going to go ahead and
23 bring the jury in. For those of you back here that are
24 in here, you're certainly welcome to be here. The only
25 thing I ask is, it's a little hard sometimes for the

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1 jury to hear when we're just playing something back by
2 audio tape. So, if you'll do me a favor, just don't
3 move around and don't leave, if you're here. I want to
4 make sure they can hear what the testimony is.

5 Also, the entire jury has requested that they be
6 able to take notes. So, we have provided all of them
7 with note pads and pencils to be able to take notes.

8 So, with that said, let's bring the jury in.

9 BAILIFF: Jury entering, your Honor.

10 JURORS ENTER COURTROOM 1:34 P.M.

11 BAILIFF: The jury is seated, your Honor.

12 THE COURT: Thank you. Ladies and gentlemen,
13 welcome back. Madam Foreperson, it's my understanding
14 you wanted to hear the testimony of Renita Berry, the
15 chemist that testified in the case. Is that correct?

16 MADAM FOREPERSON: Correct.

17 THE COURT: Additionally, ladies and gentlemen,
18 it's also my understanding through the bailiffs is you
19 wish to take notes or have pens and pencil. The
20 bailiffs have given you those. Ladies and gentlemen, I
21 do need to caution you when you take notes. The notes
22 are for your use and your edification. And I'm going to
23 remind you all that some people are better note takers
24 than others. I want to make sure that, when you go back
25 to your jury room for your deliberations, if someone's

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1 notes conflict with what you remember in your own head,
2 you aren't to give someone else's notes anymore due
3 weight than your own thought process and own memory and
4 recall. All right? I just want to make sure that you
5 understand that they're for your use. You will have
6 them back there for you to reflect on for you to look
7 at, and again, for to contribute during your
8 deliberation. All right?

9 I will also tell you, ladies and gentlemen, we're
10 going to go ahead and play the testimony of Renita Berry
11 for you. And afterwards, Madam Foreperson, I'm just
12 going to ask is that what you wanted to hear, and you
13 indicate say yes or no, or, if you want to hear other
14 testimony, we can also play that for you, as well.
15 Okay? Okay. All right. Thank you.

16 COURT REPORTER: If it's too loud, I can turn it
17 down.

18 PLAYBACK OF RENITA BERRY

19 TESTIMONY, 1:40 P.M.

20 COURT REPORTER: That's the end of Ms. Berry's
21 testimony.

22 THE COURT: Thank you. Madam Foreperson, is that
23 the testimony you wanted to hear?

24 MADAM FOREPERSON: Yes, ma'am.

25 THE COURT: Thank you. Ladies and gentlemen, I'm