

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Mark J. Hayes, II, Circuit Court Judge

Appellant Case No. 2020-00750

Earnest E. Vaughn,..... Petitioner,

v.

State of South Carolina,..... Respondent.

APPENDIX
VOLUME II

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Attorney for Respondent

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Donald B. Hocker, Circuit Court Judge

Case No. 2016-GS-24-539 and 2016-GS-24-541

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SC Court of Appeals

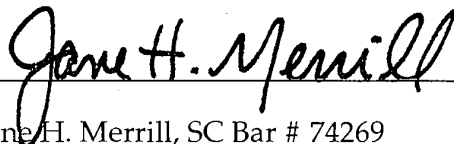
State of South Carolina, ...Respondent,

v.

Earnest Edward Vaughn, Sr., ...Defendant,

NOTICE OF APPEAL

Earnest Edward Vaughn, Sr. appeals his conviction and sentence in this case. The Honorable Donald B. Hocker imposed sentence on November 2, 2016, following a trial that began on October 31, 2016 and concluded on November 2, 2016.



Jane H. Merrill, SC Bar # 74269
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November 3, 2016

Other Counsel of Record:

Micah Black, Assistant Solicitor
Elizabeth P. White, Sr. Assistant Solicitor
Eighth Circuit Solicitor's Office
Suite 203, Park Plaza
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Donald B. Hocker, Circuit Court Judge

Case No. 2016-GS-24-539 and 2016-GS-24-541

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SC Court of Appeals

State of South Carolina, ...Respondent,

v.

Earnest Edward Vaughn, Sr., ...Defendant,

AFFIDAVIT OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by personally hand delivering a copy of the same to Asst. Solicitor Micah Black at the Greenwood County Courthouse.

Jane H. Merrill

Jane H. Merrill, SC Bar # 74269
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November 3, 2016

Accepted by

Micah Black
Eighth Circuit Solicitor's Office

Date: 11/3/16

FILED GENERAL SESSIONS
& JUDICIAL CIRCUIT
GREENWOOD, SC
2016 NOV -3 AM 11:45



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November 3, 2016

The Honorable Jenny A. Kitchings
Clerk of Court
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: State v. Earnest Edward Vaughn, Sr.

Indictment Numbers: 2016-GS-24-539 and
2016-GS-24-541

Warrant Numbers: 2016A2410200125 and
2016A2410100132

Dear Ms. Kitchings:

Enclosed please find the following:

1. The original and six copies of the Notice of Appeal and Affidavit of Service;
2. Copies of sentencing sheets (Indictment Numbers 2016-GS-24-539 and 2016-GS-24-541);
3. Copies of Indictment Numbers 2016-GS-24-539 and 2016-GS-24-541;
4. Copies of Warrants 2016A2410200125 and 2016A2410100132; and,
5. A copy of the letter appointing me to represent Mr. Vaughn.

Please file the original notice of appeal and affidavit of service and return one copy in the enclosed stamped envelope.

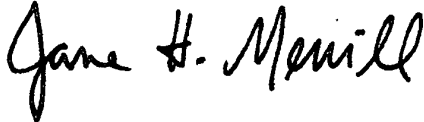
By copy of this letter and enclosures, I am advising the Office of Appellate Defense this appeal has been filed. The court reporter was Joy E. Holston. This case was tried before the Honorable Donald B. Hocker, and a jury from October 31-November 2, 2016 in Greenwood County.

By copy of this letter and enclosures to Assistant Solicitor Micah Black, and Sr. Assistant Solicitor Elizabeth P. White, I am advising the State this appeal is being filed.

Thank you for your attention to this matter.

Sincerely,

HAWTHORNE MERRILL LAW

A handwritten signature in black ink that reads "Jane H. Merrill". The signature is written in a cursive, flowing style.

Jane H. Merrill

cc: Mr. Earnest Edward Vaughn, Sr. (w/ enclosures)

Division of Appellate Defense, SC Commission on Indigent Defense (w/ enclosures)

Micah Black, Assistant Solicitor

Elizabeth P. White, Sr. Assistant Solicitor

Eighth Circuit Solicitor's Office (w/ Notice of Appeal and Affidavit of Service only)

Greenwood County Clerk of Court (w/ Notice of Appeal and Affidavit of Service only)

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Greenwood, SC 29646

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SC Court of Appeals

The Honorable Jenny A. Kitchings
The South Carolina Court of Appeals
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Columbia, SC 29211

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County

Honorable Donald B. Hocker, Circuit Court Judge

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DEC 06 2017
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EARNEST EDWARD VAUGHN, SR.,

APPELLANT

APPELLATE CASE NO 2016-002300

RECORD ON APPEAL

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Solicitor, Eighth Judicial Circuit

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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State of South Carolina)
) Court of General Sessions
 County of Greenwood)

2016-GS-24-00539, 540, 541

State of South Carolina)
) vs.) Transcript of Record
)
 Earnest Edward Vaughn, Sr.)
)
) Defendant)

October 31 - November 2, 2016
 Greenwood, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge

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

Elizabeth White, Senior Assistant Solicitor
 Micah Black, Assistant Solicitor
 Attorneys for the State

Jane Merrill, Esq.
 Attorney for the Defendant

Joy E. Holston
 Official Court Reporter

I N D E X O F W I T N E S S E S

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1 THE COURT: We will be starting a trial, we will
2 either start this afternoon or in the morning. We have
3 some pretrial matters that I need to deal with the lawyers
4 so we will make that determination when we start. We will
5 be starting the trial in the case of the State of South
6 Carolina versus Earnest Edward Vaughn, Sr. Mr. Vaughn, if
7 you would stand, please sir, and just face the panel for
8 just a second and then you can take your seat.

9 (Whereupon, the Defendant stood before the jury
10 panel.)

11 THE COURT: Very good, take your seat. Now, Mr.
12 Vaughn has been indicted and charged with three criminal
13 offenses. Now, let me explain to you what an indictment
14 is. An indictment is the charging document, and I have
15 got three indictments, or the charging documents to get a
16 case into where we are today to start a trial in the case.
17 The indictments are not evidence, they are not proof of
18 the allegations that the indictments contain. Mr. Vaughn
19 has exercised his constitutional right and has pled not
20 guilty to these three charges, these three indictments.
21 Consequently that plea of not guilty puts the burden on
22 the State of South Carolina to prove each and every
23 allegation contained in the indictments beyond a
24 reasonable doubt standard. So, the fact that he has been
25 indicted is just, is just the mechanism to get where we

1 are today and they are not to be considered as proof by
2 any means of the allegations which they contain. But I
3 will publish the indictments to you so you will have
4 somewhat of an understanding of the three charges that he
5 has been charged with and certainly there will be a fuller
6 discussion of these charges as we go through this trial.
7 The first indictment is indictment 16-GS-24-539 and it is
8 an indictment for trafficking in methamphetamine. It
9 alleges as follow, that Earnest Edward Vaughn, Sr., on or
10 about January 27th, 2016 in Greenwood County willfully,
11 unlawfully and knowingly traffic in methamphetamine and
12 that the said Defendant did sell, manufacture, deliver,
13 purchase or bring into this State or provide financial
14 assistance or otherwise aid, abet, attempt or conspire to
15 sell, manufacturer, deliver, purchase or bring into this
16 State or was in actual or constructive possession or did
17 knowingly attempt to become in actual or constructive
18 possession of 10 grams or more, but less than 28 grams of
19 methamphetamine in violation of section 44-53-375, code of
20 laws for South Carolina.

21 The second indictment which is 540 alleges as
22 follows, that Earnest Edward Vaughn, Sr., on or about
23 January 27th, 2016 in Greenwood County willfully,
24 unlawfully and knowingly possess with the intent to
25 distribute, dispense or deliver and/or did otherwise aid,

1 abet, attempt or conspire to possess with intent to
2 distribute, dispense or deliver marijuana, a scheduled one
3 controlled substance defined in schedule one, two or three
4 of the code of laws for South Carolina, section 44-53-370.

5 The third indictment which is an indictment 541, it
6 charges Mr. Vaughn with the unlawful neglect of a child.
7 It alleges as follows, that Earnest Edward Vaughn, Sr., on
8 or about January 27th, 2016 in Greenwood County willfully
9 and unlawfully while being a person who had charge or
10 custody of a child or who was the parent or guardian of a
11 child or who was responsible for the care and support of a
12 child, a one minor five years of age, did place
13 the said child at unreasonable risk of harm affecting the
14 child's life, physical or mental health or safety or
15 caused to be done unlawfully or maliciously any bodily
16 harm to the child so that the life or health of the child
17 was endangered or was likely to be endangered or willfully
18 abandoned the said child in violation of section 63-5-70,
19 code of laws for South Carolina.

20 Now, I will be asking you specific questions as
21 related to this case. And, again, the same rules apply,
22 if you want to respond to a question but are reluctant to
23 do so in front of everybody then I will give you an
24 opportunity as we did a moment ago to speak with me
25 privately. There will be several questions that I will

1 I am going to go ahead and release you from lunch and be
2 back at 2:30. We have got some pretrial matters I need to
3 deal with. Anybody you come into contact with over lunch
4 break, do not discuss anything about this case. Tell them
5 the Judge has told you you can't have any discussions.
6 Leave your cell phone in the car when you come back. You
7 are excused. Be back at 2:30.

8 (Whereupon, the jury was excused from open court for
9 a lunch break.)

10 THE COURT: We will take a lunch break, be back at
11 1:30 and we will start.

12 (Whereupon, a lunch break was taken.)

13 THE COURT: Okay. We're on the record this afternoon
14 and before we broke for lunch, had a discussion in
15 chambers concerning the timing of a suppression hearing.
16 The Defense wants the jury sworn in before I conduct the
17 suppression hearing. And, of course, the State wants it
18 pretrial before the jury is sworn. And in light of the
19 fact that double jeopardy does attach once the jury is
20 sworn, and I've kind of alluded to this a little bit, Ms.
21 Merrill, back in chambers. I think it would be unfair to
22 the State for me to procedurally bar them from appealing
23 an order, if I were to suppress whatever evidence, I
24 assume the drugs involved in this case. In light of the
25 fact that under the McKnight case, a pretrial ruling

1 granting suppression, if it does significantly impair the
2 State's case. And I think in this case, if I were to
3 suppress the drugs, that would have an effect on the
4 State's case, they would have the right to directly
5 appeal. So I don't think it's fair for me to procedurally
6 bar them from raising an issue if there is merit to their
7 issue. So I'm going to allow the suppression hearing and
8 any other pretrial matters to be heard by the Court before
9 I swear the jury. Okay. And I think he indicated that
10 there's a Jackson v. Denno matter, too, so whatever order
11 that you want to bring it up, Solicitor. But, Ms.
12 Merrill, anything you want on the record?

13 MS. MERRILL: If you don't mind, Judge, I know you
14 made your ruling. I am not arguing but--

15 THE COURT: Right. I understand.

16 MS. MERRILL: -- since a lot of that was in chambers,
17 if I can just put on the record kind of what we talked
18 about and my reasons for doing it.

19 THE COURT: Please.

20 MS. MERRILL: As you said, were the double jeopardy
21 and I was trying to be candid with the Court and with the
22 State in letting them know how I would prefer to proceed
23 with the motions.

24 THE COURT: Right.

25 MS. MERRILL: I also found several statutes which

1 explicitly require the motion to be made pretrial, such as
2 17-30-110, 17-19-90, which deals with sufficiency of the
3 indictment. So I think since our law specifically has
4 statutes on certain issues that the issue must be raised
5 pretrial, and there's not one--

6 THE COURT: Right.

7 MS. MERRILL: --that says these issues. So if I can
8 just put that on the record.

9 THE COURT: Sure.

10 MS. MERRILL: Thank you, Judge.

11 THE COURT: Thank you.

12 MS. MERRILL: I appreciate it.

13 THE COURT: All right. Solicitor, you ready to
14 proceed?

15 MR. BLACK: Yes, sir. Your Honor, I think the plan
16 is for the State is to call up the witnesses at this
17 point, and then argue once all of the witnesses have
18 testified.

19 THE COURT: Okay. And, I think, you've got about a
20 twenty-minute video?

21 MR. BLACK: I do, and I don't have to play that, Your
22 Honor, if you want to view it in chambers or if there is a
23 certain point you might want to view. We can do that.

24 THE COURT: You know, if you believe that my viewing
25 the video would be necessary to make my ruling or if Ms.

1 Merrill believes that my viewing would be necessary to
2 making a ruling, then I'll view it. Otherwise, if you
3 don't think it's necessary and Ms. Merrill doesn't think
4 it's necessary, then I don't need to see. I'm going to
5 have to leave that up to you guys.

6 MR. BLACK: Okay. I think the witnesses will be able
7 to testify to everything.

8 THE COURT: Okay. All right.

9 MR. BLACK: The State calls Josh Hood to the stand.

10 JOSH HOOD, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Black:

14 Q Mr. Hood, could you state your name for the record,
15 please?

16 A Josh Hood.

17 Q And you're employed with Greenwood County?

18 A Yes, I am.

19 Q How long have you worked there?

20 A Since February of 2007.

21 Q And have you, what kind of positions have you had at
22 the Sheriff's Department?

23 A I've been anywhere from uniformed patrol. I have
24 worked in the Drug Enforcement Unit for a couple of years
25 and assigned to the DEA Taskforce in Greenville for a

1 little over a year. And, currently, am a lieutenant on
2 the road and uniformed patrol.

3 Q Okay. And, Officer Hood, you were involved January
4 27th, 2016, about 5:00 o'clock with a matter with Mr.
5 Earnest Vaughn, is that correct?

6 A Yes, I was.

7 Q How did you become involved in that?

8 A I was assisting in a matter related to a traffic
9 stop. And I was in the area monitoring the radio traffic,
10 and they had located the vehicle that the Drug Unit was
11 attempting to locate. And, initially, I conducted a
12 traffic stop on the vehicle as it was pulling out of the
13 Bi-Lo on 25 North.

14 Q Okay. And when you arrived, had the vehicle already
15 been pulled over?

16 A The vehicle was stopped, yes.

17 Q Okay. And how did you get this information, you got
18 it from the radio, you said?

19 A Correct.

20 Q And who, and do you know who was on the radio
21 talking?

22 A I would imagine a number of Drug Enforcement Unit
23 officers, but I couldn't tell you exactly who was saying
24 what.

25 Q Okay. About how long, once you got the call, did it

1 take you to respond to that area?

2 A I was in the general area and when the vehicle was
3 located, I was actually, I mean, within a quarter of a
4 mile of where the vehicle was ultimately stopped.

5 Q Okay. And what kind of vehicle do you drive?

6 A At that time, I was driving a marked Tahoe, a fully
7 marked Tahoe.

8 Q Okay. And did you have a dog in your car at that
9 time?

10 A I did.

11 Q Okay. Which dog was that?

12 A It was my narcotics canine.

13 Q Okay. Is that a dog that you regularly kept?

14 A It was at the time.

15 Q And was your vehicle equipped with a video
16 surveillance/audio surveillance kind of footage?

17 A Right. It had mobile in-car video that would have
18 captured, videos from the front dash.

19 Q Okay. And what about the audio, how was that, how
20 could someone hear the audio that was playing?

21 A My video has a microphone in the video, as well as a
22 body mike I would wear outside of the vehicle.

23 Q Do you have to turn that audio mike on once the video
24 is activated, how does that work?

25 A Once the video is activated, it will automatically

1 turn on, and then, or I can manually activate it at the
2 same time.

3 Q Okay.

4 A So once the blue lights come on, it would
5 automatically start recording.

6 Q And the other vehicles that were out there, did they
7 have video surveillance capabilities?

8 A I don't believe any other vehicle out there had any
9 video.

10 Q Were they, they were unmarked, correct?

11 A To the best of my knowledge.

12 Q All right. What did you do when you made the stop,
13 when you helped assist in the stop?

14 A I made contact at the passenger side of the vehicle
15 and secured, assisted in securing Mr. Vaughn and patted
16 him down to make sure he didn't have any weapons with him.
17 I believe, another officer had stated he had saw him
18 stuffing something, is what I heard. And I don't know if,
19 at that time I didn't know if he meant in his clothing, or
20 in the seat, or under the seat or what. So I made sure he
21 didn't have any weapons on him and secured him.

22 Q And do you remember finding anything on him?

23 A I believe he had a knife, some change. He had a set
24 of scales --

25 Q Okay.

1 A -- and just various other small items in his pockets.

2 Q And after you got done searching him, did you turn
3 Mr. Vaughn over to someone else or do you remember?

4 A I would have, but I don't remember exactly who I
5 turned him over to.

6 Q And once you did that, did you go do something else
7 like assist searching the vehicle or something?

8 A Yeah, I assisted searching the vehicle. And, you
9 know, it wasn't my, necessarily, the case in the
10 beginning, so I just kind of assisted where I felt like I
11 was needed.

12 Q And if somebody is talking to an individual and
13 they're not near you, would that have picked up, would
14 that audio have picked up on your body mike and on the
15 video?

16 A And it just, it would really just all depend on how
17 close they were to me. But, you know, this just has a
18 very--

19 Q A small radius or something?

20 A Right. Yeah. Whatever the conditions are, traffic
21 around, wind.

22 Q So if you're on one side of the car, and then there's
23 somebody else on the other side, they wouldn't be able to,
24 you wouldn't be able to pick up a conversation?

25 A Probably not.

1 Q Okay. I'm going to show you what's been marked as
2 State's number 1.

3 MR. BLACK: May I approach, Your Honor?

4 THE COURT: You sure can.

5 Q Do you recognize this video?

6 A Yes.

7 Q Have you had a chance to partially review that?

8 A I did.

9 Q And can you tell us what that is?

10 A Okay. This is a copy of the video from my patrol
11 car, that video of the incident that you're speaking of.

12 Q Is that a fair and accurate representation of what
13 transpired out there on that day?

14 A Yes, it is.

15 MR. BLACK: Your Honor, for the purposes of this
16 hearing, the State moves State's number 1 in.

17 THE COURT: The tape will be number 1 for the limited
18 purposes of this hearing.

19 (Whereupon, State's Exhibit 1 was admitted into
20 evidence.)

21 Q Did you ever talk to Mr. Vaughn once you stopped him?
22 Did you question him or anything?

23 A I didn't question him. I probably asked him if he
24 had any weapons or anything like that on him and was
25 asking him, that's probably the extent of what I was

1 asking him.

2 Q Okay. Did you read, you didn't read him Miranda,
3 though, did you?

4 A I did not.

5 Q Okay.

6 MR. BLACK: I don't have any further questions of
7 this witness, Your Honor.

8 THE COURT: Ms. Merrill, any cross-examination for
9 this hearing?

10 MS. MERRILL: Beg the Court's indulgence.

11 CROSS-EXAMINATION

12 By Ms. Merrill:

13 Q Did you search the car at all?

14 A I did look in the vehicle a couple of times, yeah. I
15 did search parts of the vehicle, yes.

16 Q Okay. And did you assist in helping to, after drugs
17 were found, did you assist in counting any of that?

18 A Counting the money?

19 Q No, counting the drugs or inventorying them?

20 A I would have been standing there. I don't, I mean, I
21 don't know what you mean by counting or any, take
22 possession of them, is that what you're asking?

23 Q No, not like take possession, but were you there when
24 another officer was inventorying everything?

25 A I mean, I was standing right there in the area, yes.

1 Q Okay. What time was this when you responded?

2 A I would have to look at the report to give you
3 anything like that.

4 Q Now, the incident report says, time arrived, 17:26.
5 Does that sound about right?

6 A I would assume so.

7 Q Okay. Was it dark when you first stopped?

8 A No.

9 Q Did it get darker as y'all were out there?

10 A Yes. I, typically, any day would.

11 Q Okay. For what reason did you search Mr. Vaughn's
12 person?

13 A Well, I believe he had an arrest warrant as we began,
14 as well as there was probable cause based on the
15 information the Drug Enforcement Unit had obtained.

16 Q Did you have a copy of that arrest warrant to be
17 served on him with you?

18 A I didn't. I did not. I'm not sure if anybody else
19 did.

20 Q Did you have a search warrant?

21 A I did not.

22 MS. MERRILL: Thank you.

23 THE COURT: Solicitor, any redirect?

24 REDIRECT EXAMINATION

25 By Mr. Black:

1 Q When you were searching Mr. Vaughn, Officer Hood, did
2 you notice anything like falling out of his pockets or
3 anything?

4 A At one point, when I was getting items out of his
5 pocket, it seemed like there was a powder or some type of
6 something that didn't match what else was in the pocket
7 that was coming out. But I wasn't able to identify it for
8 sure, I mean, you know.

9 MR. BLACK: Nothing further.

10 THE COURT: Recross?

11 MS. MERRILL: No, sir.

12 THE COURT: Step down, sir. Thank you.

13 MS. WHITE: The State calls Whit Brooks.

14 WHIT BROOKS, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Ms. White:

18 Q Tell us your name for the record.

19 A Whit Brooks.

20 Q Were you employed with the DEU back in January of
21 2016, Mr. Brooks?

22 A I was.

23 Q And turning directly to January 27th of 2016, were
24 you working with an informant named Debbie Tucker?

25 A I was.

1 Q How did you come to be involved with Ms. Tucker?

2 A I came to be involved with Ms. Tucker after I had
3 initiated a traffic stop on the vehicle occupying Ms.
4 Tucker. During the course of that traffic stop, I found a
5 quantity of marijuana. Ms. Tucker was essentially working
6 off the marijuana charges for me.

7 Q Okay. And were you meeting with Ms. Tucker on the
8 27th?

9 A I did, kind of late afternoon.

10 Q Okay. You said she was working off the charges for
11 you. Was she doing anything towards that end on the 27th?

12 A She was.

13 Q And what did she do on the 27th?

14 A She communicated with Defendant, Mr. Earnest Vaughn,
15 and also Brandy Wilson and was arranging to purchase a
16 half ounce of methamphetamine from Vaughn and Wilson.

17 Q Okay. And were you present, how did she set up that
18 meeting?

19 A By phone call.

20 Q Were you present when she made that phone call?

21 A To the best of my memory, I was seated in a room with
22 Ms. Tucker when she made that phone call.

23 Q Okay. What were the arrangements for the deal?

24 A If I remember correctly, Ms. Tucker was speaking with
25 Ms. Wilson on the phone. The information that was being

1 passed to me by Ms. Tucker via this phone was that Ms.
2 Wilson and Mr. Vaughn were together. Ms. Tucker was
3 arranging to purchase a half-ounce of methamphetamine and
4 as the conversation progressed, the drug deal was set to
5 occur at the, around the carwash which is off Furman
6 Burton Drive, kind of right beside the Bi-Lo on the north
7 end of Greenwood.

8 Q So this, I guess, would be behind the convenience
9 store?

10 A There's a 7-Eleven on the corner. It's directly
11 behind it.

12 Q Did you know what sort of vehicle Mr. Vaughn and Ms.
13 Wilson would be in?

14 A Yes, ma'am.

15 Q What vehicle was that?

16 A I forget if it was dark navy blue or black, but it,
17 was a Chevrolet Tahoe.

18 Q Okay. And approximately what time were they supposed
19 to be at that location?

20 A If I remember correctly, about 5:30 in the evening.

21 Q Okay. Now, turning to --

22 MS. MERRILL: Your Honor, in hearing some of this,
23 some of this information I've not been provided.

24 THE COURT: Okay.

25 MS. MERRILL: Such as that she was working off a

1 marijuana charge. Other information like that. I'd just
2 like to put a general objection on the record, but I've
3 not been provided any of that information.

4 THE COURT: Okay.

5 MS. WHITE: I can flesh that out a little bit, Your
6 Honor.

7 THE COURT: Okay. Well, your objection right now is
8 noted and let's see what the Solicitor does with it, and
9 if we need to delve into this a little further we can
10 certainly do that.

11 Q As it stands here, she was working the marijuana
12 charge off at that point, is that correct?

13 A Yes, ma'am.

14 Q Has she subsequently picked up charges since that?

15 A Since that time? Honestly, I'm, in as far as has she
16 been charged individually?

17 Q Yes.

18 A She may have. Honestly, I don't recall.

19 Q Do you know if she ever received an offer from my
20 office?

21 A Not that I'm aware of.

22 MS. WHITE: Your Honor, do you want to take up that
23 particular issue right now or go on forward with this
24 witness, because I think Mr. Black and I can offer
25 information about the offer.

1 THE COURT: You want us to pursue this a little
2 further.

3 MS. MERRILL: Well, and, Judge, so it is clear. I
4 did get an email about this, Ms. Tucker having a
5 three-year offer that she, I believe the email said that
6 Mr. Black says that he believed that she rejected that
7 offer. And that was to resolve charges as I understood it
8 that happened, that occurred both before this incident as
9 well as after.

10 THE COURT: Okay.

11 MS. MERRILL: She's got several charges after. But
12 this part about the marijuana and working a charge off, I
13 did not know anything about.

14 THE COURT: Okay.

15 MS. MERRILL: So it was my understanding that there
16 was this, you know, three-year offer.

17 THE COURT: Okay.

18 MS. MERRILL: And if you want me to ask questions,
19 Your Honor, I mean, I can wait until she's finished. I'm
20 not sure how you want to take this up.

21 THE COURT: Let Solicitor White finish her direct,
22 and you can engage in cross, and then we'll just have to
23 kind of take it as it comes up.

24 Q Was she ultimately charged with that marijuana?

25 A No, ma'am.

1 Q Going back to Mr. Vaughn and Ms. Wilson, did you, had
2 you encountered them previous to January 27th of 2016?

3 A Yes, ma'am.

4 Q And in what circumstances was that?

5 A As far as the exact date, I don't recall. To the
6 best of my memory, it was the previous summer. It would
7 have been summer of 2015. We had received information
8 that Earnest Vaughn was going to be delivering a quantity
9 of drugs to an individual with Bare Bonz BBQ, which is
10 located on Emerald Road in Greenwood, South Carolina. We
11 set up surveillance in that area. Upon the arrival of Mr.
12 Vaughn, he'd exited his vehicle, went in the store. We
13 then convened on the location, took Mr. Vaughn into
14 custody, as well as Ms. Wilson, who was with him that day,
15 and recovered a significant quantity of methamphetamine.

16 Q From your information, was it common for Ms. Wilson
17 to be Mr. Vaughn's driver?

18 A Yes.

19 Q So you said, I'm sorry. What time was it that you
20 said they were supposed to be at the carwash?

21 A It was about 5:30 in the evening, if I remember
22 correctly.

23 Q Okay. What did the DEU do with that information?

24 A I notified other members of my unit. Also, we
25 notified a couple of members of the Criminal Investigation

1 Division. I requested for assistance. The plan that we
2 were enacting was to have several agents in the area of
3 that carwash surveilling the area. They were to be in
4 position about twenty or thirty minutes before the deal
5 was to take place. Myself and my supervisor, Lieutenant
6 Cox, were with the informant, Ms. Tucker. The other
7 agents had gone ahead of us to get in the area, take up
8 their position and set surveillance. Ms. Tucker was not
9 going to arrive in the area until closer until time for
10 the deal to take place. We were actually traveling on Old
11 Greenwood Road heading in the direction of the deal when
12 we received information over the radio that Mr. Vaughn and
13 Ms. Wilson had arrived early.

14 Q And do you recall what vehicle, the information you
15 had of what vehicle they were in when they arrived?

16 A It was that Tahoe, the dark black or navy blue Tahoe.

17 Q When you say they had arrived, where were they
18 specifically?

19 A If I remember correctly, agents observed them coming
20 through the parking lot of the Bi-Lo which connects to
21 that carwash.

22 Q And what did agents decide to do at that point?

23 A To go ahead and initiate a traffic stop on the Tahoe.

24 Q Now, were there any active arrest warrants for Mr.
25 Vaughn or Ms. Wilson?

1 A There were.

2 Q And did a member of your team have those in hand?

3 A Yes, ma'am. We had an accurate arrest warrant for
4 Earnest Vaughn for possession with intent to distribute
5 methamphetamine, and I don't remember specifically which
6 one of us had it, but we had that warrant with us.

7 MS. WHITE: Please answer any questions Ms. Merrill
8 has for you.

9 THE COURT: Ms. Merrill, any cross?

10 MS. MERRILL: Yes. Thank you, Your Honor.

11 CROSS-EXAMINATION

12 By Ms. Merrill:

13 Q I got a little confused there. You were talking
14 about summer of 2015. Did you use Ms. Tucker as a CI
15 then?

16 A No, ma'am.

17 Q Okay. Have you ever used Ms. Tucker as a CI before?

18 A Before the incident where Mr. Vaughn was arrested in
19 January?

20 Q Yes.

21 A Once before, yes ma'am.

22 Q When?

23 A I don't recall the specific date. It was within
24 pretty close proximity. I'll say a week or two before.

25 Q And was that involving Mr. Vaughn or someone else?

1 A Someone else.

2 Q Okay. When was she caught with this marijuana?

3 A Sometime early January 2016. I don't have that
4 report in front of me.

5 Q And you said she wasn't charged. So she wasn't
6 arrested?

7 A She was not.

8 Q Tell me a little bit more about that incident?

9 A I was conducting surveillance of a location that I
10 had received information regarding being involved in drug
11 activity. I observed the vehicle pull up to the house and
12 one of the occupants go inside the house, return back out
13 within two or three minutes and then leave. From my
14 training and experience, that is consistent with drug
15 activity. I then initiated a traffic stop on the vehicle
16 after it left the area. Ms. Tucker was one of the
17 occupants. A quantity of marijuana was also located in
18 the vehicle. I seized the quantity of marijuana. Ms.
19 Tucker indicated that she was willing to do work as an
20 informant in order to work off those charges. Based on
21 that I gave her my phone number. She left the scene. I
22 turned the drugs into evidence and filed an incident
23 report and documented and, essentially, that's, I think in
24 summary, that's what happened.

25 Q Do you have a copy of that incident report with you

1 today?

2 A No, I don't.

3 Q And in that marijuana stop you were just talking
4 about, was Mr. Vaughn in the car?

5 A No.

6 Q And what about Brandy Wilson?

7 A No. We're talking about when I stopped Ms. Tucker?

8 Q Yes.

9 A No, they were not in the car.

10 Q Okay. Do you have the case number for that stop?

11 A No, ma'am.

12 Q Okay. I didn't know if you knew it off the top of
13 your head.

14 A It would start with a 16 probably, and then be
15 several more digits.

16 Q Okay. But there should be an incident report that's
17 out there documenting this?

18 A Yes, ma'am.

19 Q Okay. And as I understand what you're saying today
20 is the promise to Ms. Tucker was that you would not charge
21 her with the marijuana if she assisted?

22 A I turned the drugs into evidence and filed an
23 incident report, which would be what would be required to
24 obtain an arrest warrant at a later date in time.
25 Essentially, she was offering to work as an informant for

1 me not to obtain the arrest warrant.

2 Q Okay. Did she get any other benefit?

3 A I think I paid her gas money on one occasion.

4 Q Do you know how much that was?

5 A \$10.00 or \$20.00.

6 Q Was that associated with Mr. Vaughn's arrest, the gas
7 money?

8 A No, it was not.

9 Q Okay. How many times has she worked as an informant
10 for you?

11 A For me, two times.

12 Q And the incident with Mr. Vaughn and Ms. Wilson that
13 Debbie Tucker worked with, was that the first or second
14 time she worked for you?

15 A The second.

16 Q Okay.

17 MS. MERRILL: Your Honor, may I approach?

18 THE COURT: You sure can.

19 Q All right. I'm going to hand you what the
20 Solicitor's office has provided me that I, and before we
21 finish up this hearing, I'd like to make it a Court's
22 exhibit. But this at the top, and I'm sorry I only have
23 one copy, so I'll have to read over your shoulder. But
24 that says CI Contact Sheet. Tell me about that sheet?

25 A It is a sheet that is part of a CI packet that we

1 use. It's got columns for the date, time, whether or not
2 the contact was in telephone or by person and a blank for
3 investigator's comments, which would just be a simple
4 summary of what the contact was.

5 Q Okay. And she signed up to be a CI in July, oh,
6 excuse me, June of 2013? And I think it's actually easier
7 to see.

8 A That's not on this form, but that's correct.

9 Q Right there on the first, and the first entry says,
10 Completed CI pack.

11 A I guess that's a, it looks like a seven.

12 Q It looked like a seven to me, but when I looked
13 there.

14 A Yes, ma'am.

15 Q That's kind of why I'm guessing. So, okay, the next
16 date listed on that is January 19, 2016, right?

17 A Yes, ma'am.

18 Q Did you write that?

19 A I believe that was written by my supervisor,
20 Lieutenant Cox.

21 Q Was it related to one these, more than two buys that
22 she helped you with, that Ms. Tucker helped you with?

23 A Yes, I believe it was.

24 Q Okay. And that one on January 19th says telephone
25 and personal contact?

- 1 A Correct.
- 2 Q Okay. And then there is one, it looks like January
3 20th?
- 4 A Yes, ma'am.
- 5 Q It says, telephone contact. And then it says, set up
6 drug buy?
- 7 A Correct.
- 8 Q Okay. And then the next one is dated January 2nd, so
9 it goes back in time. Is that an error?
- 10 A I didn't write it but, Ms. Merrill, I'm not sure.
- 11 Q Okay. Okay. So you don't know why that one says
12 that?
- 13 A It very easily could be an error, but I can't speak
14 to what someone else wrote.
- 15 Q Do you know who did write it?
- 16 A I don't.
- 17 Q Okay. So that January 19th, that contact, was that
18 related to Mr. Vaughn and Mr. Wilson's arrest or the other
19 one that she assisted you with?
- 20 A I believe it was in reference to the other one, not
21 to the previous one.
- 22 Q Okay.
- 23 A Like I said, that's not specifically written on
24 there, so I'm not certain.
- 25 Q All right. What about January 20th where it says

1 telephone contact.

2 A I believe that was also --

3 THE COURT: Y'all try not to talk over each other,
4 please.

5 A If I may, I believe January 19th where it indicates a
6 telephone and a personal contact, I believe we spoke by
7 phone, and then met in person. I believe we then
8 discussed the potential and again, this is the best of my
9 recollection, because it is not on here. I believe we
10 then discussed setting up the deal that is marked on here
11 as January 20th. And then we talked about it the day
12 before. It was set up the 20th, and then those two under
13 it with different dates, I'm not sure what those are.

14 Q Okay. Do you know who wrote those, the two that
15 you're not certain?

16 A Honestly, I'm not certain on who wrote any of these.
17 The facts are kept under lock-and-key. I don't know who
18 wrote these.

19 Q Do you generally fill these out or a supervisor does?

20 A It could be either/or. I did not sign up Ms. Tucker
21 as a confidential informant, and I did not make those
22 notes into that pack.

23 Q Okay. Okay. So in looking at this, who did sign her
24 up?

25 A Off of this sheet, I can't tell. I can see a

1 supervisor's signature.

2 Q Okay.

3 A I'm not certain who signed her up.

4 Q And then looking at this page that she signed, does
5 that look like her signature at the top?

6 A It does.

7 Q And then Riley Byrd's underneath?

8 A It kind of looks like L.R. Byrd, so I'm assuming
9 that's who that is.

10 Q Okay. When you say these are kept under
11 lock-and-key, when you do, when you are working with a CI,
12 do you pull this packet out?

13 A No, ma'am. Not other than if any paperwork needs to
14 be added to it. I don't just pull it out and carry it
15 around with me or set it on the desk. If I pull it out,
16 it's to add something to it, then it returns to the file
17 cabinet.

18 Q Okay. And would you typically do that once you've
19 completed the work, you'd go and document it in this
20 packet?

21 A Since I have been a member of the Drug Enforcement
22 Unit, it's been done, I guess, slightly differently at
23 different times. For the past, I guess at least for the
24 past year, we have put incident reports in with the CI
25 pack document or whatever the activity was that the report

1 was filed for.

2 Q So in saying that, should the incident report that
3 you referenced earlier, the January 16 marijuana arrest,
4 should that incident report be in here?

5 A It wasn't an arrest, it was a stop. But what I know
6 would be in there would be incident reports from the work
7 that she had done. If I may be, first my, that we talked
8 about, her drug deal. And then the case with Mr. Vaughn,
9 the incident reports from those would likely be in her CI
10 file, possibly not the stop of her.

11 Q And if you'll flip through that. And do you see any
12 incident reports in there?

13 A No, ma'am.

14 Q Thank you.

15 A You're welcome.

16 MS. MERRILL: Can I mark this? Do you want it
17 Defense exhibit.

18 THE COURT: It can be marked for identification. It
19 can be marked as a Court's exhibit is fine.

20 (Whereupon, Court's Exhibit No. 1 was marked for
21 identification.)

22 MS. MERRILL: And, I'm sorry, I only have one copy,
23 but I'll make another one in a second. Can we make a copy
24 so it doesn't have these holes in and let me give that to
25 you to mark?

1 Q How much information do you get about a CI's criminal
2 history when they're working for you?

3 A Typically, I run their NCIC criminal history or if,
4 it may not be me that runs it. It'd be run through
5 dispatch or whatever office signed that person up as an
6 informant. And, typically, that is also included all
7 within that file.

8 Q And what do you mean, all within that file, the CI
9 packet?

10 A Yes, ma'am.

11 Q Okay. And then that twelve-page document I showed
12 you earlier that we're marking as Court's Exhibit 1, was
13 there a criminal history in there?

14 A No, ma'am.

15 Q Once you stopped this car that Ms. Tucker was in in
16 January of 2016, did you run a criminal history then?

17 A To be honest, I don't recall. Had I made an arrest,
18 I would have run a criminal history.

19 Q Did you arrest anyone else in that car that day?

20 A No.

21 Q How many people were in the car?

22 A Two if I remember right.

23 Q Did Ms. Tucker admit the drugs were hers?

24 A If I remember correct, they were found near where she
25 was seated in the vehicle. She also, shortly after me

1 finding them, indicated her willingness to cooperate as an
2 informant.

3 Q What about the other person in the car, did they
4 offer to work as an informant?

5 A No.

6 Q And just to be clear, there's an incident report that
7 will be associated with that January 16 stop?

8 A With Ms. Tucker.

9 Q With Ms. Tucker?

10 A Correct; I wrote an incident report.

11 Q Okay. But there will not be any arrest warrants
12 associated with that stop, is that correct?

13 A I did not obtain an arrest warrant. I wrote an
14 incident report and submitted the drugs to our evidence
15 locker. And with that being in place, had I needed to
16 obtain an arrest warrant at a later date, I could. I did
17 not.

18 Q And you testified earlier she worked two times for
19 you. Did she work for you as a CI again after the
20 incident with Ms. Wilson and Mr. Vaughn?

21 A No, I've only used her those two times.

22 Q Okay. So were those two times sufficient, I guess,
23 to work off that charge?

24 A Yes, ma'am.

25 Q How much marijuana was found?

1 A Again, I don't have the report in front of me. It
2 was a small quantity. What I would consider to be a user
3 quantity. Something in the ballpark of a gram.

4 MS. MERRILL: Beg the Court's indulgence.

5 THE COURT: Sure.

6 Q Did you record any of these phone calls that Ms.
7 Tucker made when she was working as a CI for you?

8 A No, ma'am.

9 Q Did you get any phone records of those calls?

10 A No, ma'am.

11 Q Do you have the capability to record a phone call?

12 A I do.

13 Q And was Ms. Tucker primarily talking to Ms. Wilson or
14 Mr. Vaughn?

15 A To Ms. Wilson was my understanding.

16 Q Did you have the, did she have the phone on speaker
17 such that you could hear both sides of the conversation?

18 A I don't recall.

19 Q Do you ever recall Debbie Tucker calling Mr. Vaughn
20 and setting anything up when she was working for you as a
21 CI?

22 A No. My understanding was that the conversation took
23 place between Tucker and Wilson. That Wilson was with
24 Vaughn, that the drugs were Vaughn's, and that Wilson was,
25 essentially, at the time, I believe his girlfriend and the

1 go-between with him and Debbie or Ms. Tucker.

2 Q Did Ms. Tucker tell you that?

3 A That the drugs were Vaughn's?

4 Q Yes.

5 A That he was going to, the drugs, yes.

6 MS. MERRILL: Okay. Thank you, Officer Brooks.

7 THE COURT: Redirect?

8 MS. WHITE: No, thank you, Your Honor.

9 THE COURT: Okay. Thank you, sir. You can step
10 down, please.

11 MS. WHITE: The State calls Bryan Louis.

12 BRYAN LOUIS, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Ms. White:

16 Q Tell us your name for the record?

17 A Bryan Louis.

18 Q And how are you employed, Mr. Louis?

19 A I currently work in the Drug Unit at the Greenwood
20 County Sheriff's Office.

21 Q And were you working for the Drug Unit back on
22 January 27th, 2016?

23 A I was.

24 Q Turning to this deal with Mr. Vaughn and Ms. Wilson,
25 were you involved in setting up the area for that drug

1 deal?

2 A I was. Myself and Investigator Ricky Madden were in
3 his unmarked vehicle.

4 Q And where were y'all located?

5 A We were parked in the parking lot of Bi-Lo North.

6 Q All right. When you were parked in the parking lot,
7 did you, were you able to identify the vehicle you
8 suspected Mr. Vaughn and Ms. Wilson would be in?

9 A I did. We were actually in a parking spot facing
10 south. They entered the parking lot to our back right,
11 and then pulled right in front of us and then made the
12 right towards the carwash.

13 Q And what information did you have about what vehicle
14 they would be driving?

15 A They would be in a either black or dark blue Chevy
16 Tahoe. Basically, the one we dealt with as Mr., or Agent
17 Brooks discussed from the Bare Bonz BBQ.

18 Q So you had had a prior dealing with Mr. Vaughn and
19 Ms. Wilson in this vehicle?

20 A Yes, ma'am.

21 Q And could you identify them based by sight?

22 A I did. Yes. As they drove in front of me, I did.

23 Q And just to be clear, you knew who that was when you
24 saw them in the vehicle?

25 A Yes, ma'am.

1 Q Did you have knowledge of an arrest warrant that was
2 active for Mr. Vaughn?

3 A Yes, ma'am.

4 Q And how did you know that there was a warrant for Mr.
5 Vaughn?

6 A I signed that warrant.

7 Q And did someone in your group have that warrant on
8 them?

9 A I believe I had it. I'm not totally positive on
10 that. We did have the warrant in hand at that time.

11 Q What about Ms. Wilson, did you have knowledge that
12 there was a warrant out for her?

13 A I believe I was speaking to the Laurens County
14 Warrant Officer about a possible warrant for Ms. Wilson.

15 Q And did you have information that there was a warrant
16 for her?

17 A I was told there was a warrant for her.

18 Q Did that later prove to be not true?

19 A That is correct, it was not true.

20 Q But when you pulled the vehicle over, did you believe
21 that there was a warrant, an active warrant for her?

22 A Yes, ma'am.

23 Q About what time did the traffic stop take place, do
24 you recall?

25 A I want to say around 5:00 o'clock p.m., around about

1 that timeframe.

2 Q And you said they pulled through the Bi-Lo parking
3 lot. Where did it appear, where did the actual stop take
4 place?

5 A Just down south of the carwash.

6 Q And is that the carwash where the expected drug deal
7 was going to take place?

8 A Yes, ma'am.

9 Q Did you have any information as to who should be
10 driving that car?

11 A I was advised, or I just think through experience and
12 dealing with them in the past that Ms. Wilson would be the
13 driver of that. And as they drove in front of me when I
14 was in the parking lot, I did observe her driving the
15 vehicle.

16 MS. WHITE: Thank you, Agent Louis.

17 THE COURT: Okay. Ms. Merrill, any
18 cross-examination?

19 MS. MERRILL: Yes, sir.

20 CROSS-EXAMINATION

21 By Ms. Merrill:

22 Q On this night, January 27th, 2016, did Ms. Tucker
23 come to the Bi-Lo parking lot?

24 A I'm not sure on that. I was not with Ms. Tucker. I
25 was just the vehicle behind Ms. Wilson's and she wasn't,

1 Ms. Tucker wasn't with me.

2 Q Did you see Ms. Tucker there at all?

3 A I did not.

4 Q Okay. And you really didn't know beforehand who
5 would be driving?

6 A I did not.

7 Q Okay.

8 MS. MERRILL: Your Honor, may I beg the Court's
9 indulgence?

10 THE COURT: Sure.

11 Q Officer, when was the incident, where did the
12 incident occur that you said you had an arrest warrant
13 that hadn't been served yet?

14 A I'm not sure of the date. I know Deputy Owens, Steve
15 Owens was the one that took that report.

16 Q But you got the warrant, right?

17 A Correct. I was made aware of that report the next
18 morning, I believe, at which time I advised Mr. Owens,
19 Agent Owens, Investigator Owens that I'd be going, and I'd
20 received the warrant for him.

21 MS. MERRILL: Your Honor, may I approach the witness?

22 THE COURT: You can.

23 Q I'm going to hand you the arrest warrant from the
24 incident that occurred in November 23rd, 2015.

25 A Yes, ma'am.

1 Q Is that the one you're talking about?

2 A Yes, ma'am.

3 Q Okay. And is that your signature at the bottom
4 there?

5 A As serving it, no.

6 Q Do you know who did serve it?

7 A Whoever was 351, and I'm not sure who that is.

8 Q And do you know about if number 351 is in the Drug
9 Unit?

10 A I believe, yes. I believe it might be Agent Brooks.

11 MS. MERRILL: And, Your Honor, if I may, I'd like to
12 make this Court's Exhibit 2, but I'll make a copy of it in
13 just a minute.

14 THE COURT: Okay. That's fine.

15 (Whereupon, Court's Exhibit 2 was marked for
16 identification.)

17 Q Did you have any dealings with Debbie Tucker prior to
18 this?

19 A I have, yes.

20 Q When have you had dealings with her?

21 A Without the incident reports, I wouldn't be able to
22 tell you. I have had dealings with her in the past.

23 Q And have you been, have you ever used her as a CI?

24 A I don't believe I have used her.

25 Q Okay. So if you say dealings, maybe you've arrested

1 her or something like that?

2 A No, ma'am.

3 MS. MERRILL: Okay. Thank you.

4 THE COURT: Redirect?

5 MS. WHITE: No, sir.

6 THE COURT: Okay. Thank you, sir. You can step
7 down.

8 MS. WHITE: The State calls Chad Cox.

9 THE COURT: Okay.

10 CHAD COX, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. White:

14 Q And if you could, give us your name for the record?

15 A I'm Chad Cox.

16 Q How are you employed, Agent Cox?

17 A I'm a, work for the Greenwood County Sheriff's Office
18 as the Drug Commander for the Drug Enforcement Unit.

19 Q And were you the drug commander back on January 27th,
20 2016?

21 A I was.

22 Q Were you involved in this deal with Mr. Vaughn up in
23 the, at the carwash at the Bi-Lo?

24 A I was.

25 Q Turning to, I guess, were you present when the phone

1 call was made by Ms. Tucker to Ms. Wilson?

2 A I was in and out of the room, because we had, we had
3 different guys getting ready for the takedown, plus Agent
4 Brooks was in there waiting on the phone call.

5 Q After the phone call was placed and, I guess, when
6 everyone was disbursing, what did you do?

7 A Myself and Agent Brooks rode together to, after we --
8 he had prepared the CI to go to the location.

9 Q Initially, was the plan for her to actually make the
10 drug purchase?

11 A Correct.

12 Q And why did that not happen?

13 A Mr. Vaughn got there early, way early, and they went
14 ahead and took her down, took them down.

15 Q Did you have knowledge that Mr. Vaughn had an active
16 arrest warrant?

17 A I did.

18 Q And did you know that Ms. Wilson possibly had an
19 arrest warrant, also?

20 A I don't believe I was aware of that.

21 Q Had you ever used Ms. Tucker as a CI before?

22 A I don't think I personally did. I may, I think I was
23 with another agent who is no longer in the Drug
24 Enforcement Unit assisted in a couple of buys with that
25 person. But I don't believe that I personally did, but

1 I'd have to look back.

2 Q To your knowledge, had she given information that had
3 been proven to be reliable in the past?

4 A Yes.

5 Q Turning to, were you present when the initial stop
6 was made?

7 A I was not.

8 Q About how long was it before you came on scene?

9 A We heard over the radio they had already stopped the
10 vehicle. Myself and Mr. Brooks stopped short of the
11 location, retrieved our equipment, and so probably five,
12 maybe eight minutes.

13 Q Was Mr. Vaughn in custody when you arrived?

14 A Yes, he was.

15 Q And had anyone read him his rights before you got
16 there to your knowledge?

17 A Not to my knowledge.

18 Q Did you read him his Miranda rights?

19 A I did.

20 Q Is that recorded anywhere or written down anywhere?

21 A That would have been recorded on the uniformed patrol
22 vehicle, because we were standing in proximity of that.

23 Q Okay. So you were right in front of the dash cam
24 where you could record that?

25 A Yes, ma'am.

1 Q And when you read him his rights, did you read him
2 the full Miranda rights that we're all accustomed to?

3 A Yes.

4 Q Did he appear to be under the influence of anything?

5 A Not to my knowledge.

6 Q Did he appear to be unduly nervous?

7 A He was a little nervous.

8 Q Was it anything out of the ordinary, what you would
9 expect for the situation?

10 A Not for the situation. He, I think he knew what had
11 happened.

12 Q Did he ask for a lawyer after you read him his
13 rights?

14 A No, ma'am.

15 Q To your knowledge, did he ever ask for a lawyer on
16 the scene?

17 A No, ma'am; not to my knowledge.

18 Q And, again, how long had he been in custody,
19 approximately?

20 A I'd say five, eight minutes. I mean, I really don't
21 know. We had a long enough time to stop and get out and
22 get the equipment off the CI, get to our van and get up
23 there, which was, we were relatively fairly close.

24 Q Did he ultimately say anything incriminating to you
25 directly?

1 A Not that I recall.

2 Q And have you dealt with Mr. Vaughn before?

3 A I have.

4 Q So this is a process he's been through before?

5 A Yes, ma'am.

6 Q And when I said the process, the arrest, and Miranda,
7 and that process?

8 A Yes, ma'am.

9 MS. WHITE: Please answer any questions Ms. Merrill
10 has.

11 THE COURT: Ms. Merrill, any cross-examination?

12 MS. MERRILL: Yes, Your Honor.

13 CROSS-EXAMINATION

14 By Ms. Merrill:

15 Q When you were walking back and forth, I think we said
16 in the office where Agent Brooks was, you said the, could
17 you hear him talk on the phone?

18 A Could I hear him?

19 Q Excuse me. Could you hear Ms. Tucker talk on the
20 phone?

21 A I could hear what little conversation, I wasn't
22 really paying attention because Agent Brooks was handling
23 that.

24 Q Okay.

25 A I was just in and out.

1 Q And could you just hear her side of the conversation?

2 A Yes.

3 Q Did you know who she was speaking to?

4 A Yes, I did.

5 Q Who was she speaking to?

6 A My understanding she was talking to Ms. Wilson.

7 Agent Brooks had already informed me the, what we, the
8 plan was for the day.

9 Q Okay. In looking at this, what's been marked as
10 Court's Exhibit 1.

11 MS. MERRILL: Your Honor, may I approach?

12 THE COURT: You sure can.

13 MS. MERRILL: And, I'm sorry, I don't have another
14 copy.

15 THE COURT: That's fine.

16 Q Are you familiar with that, those forms?

17 A I am.

18 Q What did y'all use those forms for?

19 A The confidential informant forms.

20 Q So do you fill them out anytime you work with a
21 particular confidential informant?

22 A Yes. Everybody that works for us has a form or fills
23 out a form.

24 Q Okay. And does each CI have just that one packet or
25 are there multiple files, depending on the officer working

1 with them?

2 A No, there would only be one packet.

3 Q Only one packet. Okay.

4 A Unless, you know, somebody who say worked years and
5 years ago, we would update it to the new version.

6 Q Okay. If you'll look at, and just for the record, we
7 are looking at the sheet that at the top says, CI, Contact
8 Sheet. When is the first contact with Debbie Tucker as
9 recorded on that?

10 A It says 6, it looks like 6/17/14, she completed the
11 CI packet.

12 Q If you look at the front, the very first page, do you
13 see another date?

14 A Yeah, 6/6/13.

15 Q So do you think that's probably 6/6/13?

16 A Probably. That's probably a typo, clerical error.

17 Q Okay. What's the next date under there?

18 A 1/19/16.

19 Q You testified earlier that you worked with some of
20 the other folks with the CI before. Are any of those
21 dates on there that you worked with her?

22 A I'd have to, I don't have the file. You know, I'd
23 have to look back and see.

24 Q When you're talking about working with Agent Brooks
25 or other officers with Debbie Tucker as a CI?

1 A Other agents.

2 Q Okay. So if Officer Brooks testified that most of
3 those dates listed or at least the two that he could say
4 for certain that he worked those. By looking at that, can
5 you tell any other dates that you might have worked with
6 Ms. Tucker, the CI?

7 A Okay. And because I do believe the days I am
8 referring to is going to be on, it's going to be before
9 '16.

10 Q So it's going to be before 2016?

11 A Yes.

12 Q Is that what you mean? Okay. After the initial CI
13 or the top date of June the 6th, 2013, are there any other
14 dates in between that?

15 A You got a one, you got the 6/6 which we said was a
16 '13, which you believe, or 1/9/16 and 1/20/16. Looks like
17 a 1/2/16, and a 8/16/16.

18 Q So you'd agree with me there's no dates in between
19 what we think is probably June 6th, 2013 and the January
20 19th, 2016?

21 A Right.

22 Q But you're saying that sometime during that time you
23 did work with her, as a CI with another agent?

24 A I do believe so.

25 Q Okay. Why wouldn't that be documented there?

1 A These files are, it's just lackluster. Sometimes, we
2 make mistakes. The agent could not put that in there,
3 because most of the time what we do nowadays is we assign,
4 we put an incident report in there.

5 Q Okay. Okay. So an incident, if the CI works a case,
6 the incident report wouldn't have that CI's name in the
7 report, right?

8 A Correct.

9 Q But then what, let me make sure I understand it
10 right. You would then take that incident report and put
11 it in that CI's file?

12 A Correct.

13 Q Okay.

14 A Because the, the CI has a number. Each CI has a
15 number.

16 Q Okay. Okay. Are you aware if there's any incident
17 reports in the CI file for Ms. Tucker?

18 A I wouldn't believe there would be.

19 Q So you think this is not the whole file?

20 A I wouldn't say so. I'd have to look in her CI file.
21 I would say there is probably an incident report in there..

22 Q Okay. Thank you. Did you see, coming back to the
23 Bi-Lo parking lot January 27th, 2016, did you see Debbie
24 Tucker there?

25 A Did I see Debbie Tucker in the Bi-Lo parking lot?

- 1 Q Yes.
- 2 A No, ma'am.
- 3 Q Did you see her at all that day?
- 4 A That day?
- 5 Q Yes, January 27th, 2016?
- 6 A Mm-hmm.
- 7 Q Is that a yes? I'm sorry.
- 8 A Yes, ma'am.
- 9 Q When did you see her that day?
- 10 A She was in our office.
- 11 Q What time?
- 12 A I couldn't recall. Probably, it was after lunch
- 13 because we did this after lunch.
- 14 MS. MERRILL: Your Honor, may I approach the witness?
- 15 THE COURT: Sure.
- 16 Q I'm, again, going to hand you Court's Exhibit 1, the
- 17 CI Contact Sheet, we were just looking at.
- 18 A That's not on there, correct?
- 19 Q Well, I don't know. That's what I was going to ask
- 20 you. Could you tell from that if that meeting with Ms.
- 21 Tucker in the office was documented on that sheet?
- 22 A Well, the day in question of?
- 23 Q Of the incident date is January 27th, 2016.
- 24 A Well, that's not on here.
- 25 Q Okay. Thank you.

1 MS. MERRILL: That's all the questions I have, Your
2 Honor.

3 THE COURT: Redirect?

4 MS. WHITE: No further questions, Your Honor.

5 THE COURT: Okay. Thank you, sir. You may step
6 down.

7 MR. BLACK: The State calls Captain Jarvis Reeder.

8 JARVIS REEDER, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Black:

12 Q Captain Reeder, can you state your name for the
13 record, please?

14 A Jarvis Reeder.

15 Q And you work at the Sheriff's Department, correct?

16 A I do.

17 Q Captain of Investigations?

18 A Yes.

19 Q January the 27th of this year, were you involved in a
20 situation of a stop with Mr. Earnest Vaughn at the Bi-Lo
21 on 25?

22 A I was.

23 Q Okay. And you made a stop on the vehicle, is that
24 correct?

25 A I did.

1 Q Do you remember who else was with you?

2 A I was in the vehicle, I think, by myself. Josh Hood
3 was in the vehicle in close proximity of myself. Agent
4 Rick Madden and Bryan Louis, the vehicle behind the
5 stopped vehicle.

6 Q And y'all all kind of converged at the same time, is
7 that about right?

8 A Yes, sir.

9 Q How did you get the call to go ahead and make the
10 stop, do you remember?

11 A Well, I remember listening to the radio and hearing
12 that the vehicle had arrived into the parking lot early,
13 and it was actually exiting the parking lot.

14 Q And once the stop was made, what did you do?

15 A I approached the vehicle from the front side with my
16 blue lights initiated facing my vehicle. I observed Mr.
17 Vaughn as a passenger and Ms. Wilson driving. At that
18 point, I didn't know if they were going to stop or not, so
19 I removed my firearm from my holster, and I ordered them
20 to put their hands up.

21 Q And you clearly identified Mr. Vaughn and Ms. Wilson?

22 A Yes.

23 Q After the stop was made, there was a child in the
24 car, correct?

25 A Yes.

1 Q And you tended to the child, is that right?

2 A That's correct.

3 Q And then you came back to the vehicle?

4 A I did.

5 Q When you came back to the vehicle, did you speak to
6 Mr. Vaughn?

7 A I did.

8 Q Had you understood that his rights had been read?

9 A They were, and I also read him his rights again.

10 Q Okay. And do you remember where this occurred?

11 A Right in front of Sergeant Hood's vehicle.

12 Q Now, the car that you were in, did you, what kind of
13 vehicle were you in?

14 A I was in a Silver Tahoe with tinted windows.

15 Q Do y'all have a video camera in that car?

16 A We do not.

17 Q Do y'all have audio attached to that vehicle in any
18 way?

19 A We did not.

20 Q So you didn't have any video or audio in your
21 vehicle?

22 A No, sir.

23 Q And you didn't have a mike on your body?

24 A No, sir.

25 Q So when you had a conversation with Mr. Vaughn, it

1 was not recorded, is that right?

2 A No, sir.

3 Q When you read him Miranda, did you read him his
4 rights?

5 A Yes.

6 Q The standard Miranda?

7 A Yes.

8 Q Did he seem to understand it?

9 A He did.

10 Q And was he clear-headed?

11 A Yes.

12 Q And do you know Mr. Vaughn previously from previous
13 encounters --

14 A Yes.

15 Q -- because you'd dealt with him before? Was he kind
16 of, was he out of sorts in any way?

17 A Was he what, now?

18 Q Was he out of sorts in any way with his mind or
19 anything?

20 A No.

21 Q When you talked to him, did he end up talking, did he
22 end up giving you a statement or talking to you at all?

23 A Yeah, he did talk to me after I explained what was
24 going on and he indicated that he did have drugs on his
25 person.

1 Q Okay. And he told you that?

2 A Yes.

3 Q And did he tell you where they were?

4 A Yes.

5 Q And he was being truthful with you?

6 A Yes.

7 Q And you retrieved those drugs, is that right?

8 A I did.

9 Q At that point, did he give any other statements or
10 make any other kind of, any statements?

11 A Not that I recall.

12 Q And he was under arrest at that time, is that right?

13 A That's affirmative.

14 Q And y'all did take pictures of everything while this
15 was going down, is that right?

16 A We did.

17 MR. BLACK: I don't have any further questions.

18 Please answer any questions Ms. Merrill might have for
19 you.

20 THE COURT: Cross-examination?

21 MS. MERRILL: Thank you, Your Honor. May it please
22 the Court?

23 CROSS-EXAMINATION

24 By Ms. Merrill:

25 Q Captain Reeder, when Mr. Vaughn was searched, was he

1 still in front of Officer Hood's car?

2 A He was, facing Officer Hood's vehicle, but he was to
3 the left side of his car on the passenger side.

4 Q Okay. So you couldn't see the search from the
5 camera, is that right?

6 A That's correct.

7 Q Okay. And you didn't have on a mike?

8 A No, ma'am.

9 Q Okay. So have you watched the video?

10 A Yes, I've watched it.

11 Q Okay, So can you hear yourself and Mr. Vaughn
12 talking?

13 A No.

14 Q Okay. Why did you move him out from the dash cam?

15 A Because when we got ready to retrieve their drugs, to
16 the side of the vehicle, there was his vehicle parked. We
17 was trying to conceal him from the public's eye.

18 Q Okay.

19 A Because he had those drugs concealed in his pants.

20 Q And then when y'all took pictures, where was he
21 standing when you took pictures?

22 A He was to the, between the apex and the front door
23 panel of Agent Hood's vehicle.

24 Q Did you have any involvement in setting up this drug
25 buy?

1 A I did not.

2 Q Have you ever worked with Debbie Tucker as a
3 confidential informant before?

4 A No.

5 Q Are you currently working in the Drug Unit?

6 A No, I'm over Criminal Investigations.

7 Q How long have you been over there?

8 A I been over at the Sheriff's Office since, I think,
9 2013.

10 Q And why were you called in on this one if you aren't
11 in the Drug Unit?

12 A We learned that they needed extra manpower to conduct
13 a buy/bust operation.

14 MS. MERRILL: Thank you. That's all I have.

15 THE COURT: Any redirect, Solicitor?

16 MR. BLACK: No, sir, Your Honor.

17 THE COURT: All right. Thank you, Captain Reeder.
18 Any further witnesses?

19 MR. BLACK: I believe that's it, Your Honor.

20 THE COURT: Okay. All right. Ms. Merrill, do you
21 have any motions to make?

22 MS. MERRILL: I do, Your Honor. There is testimony
23 about incident reports and other information that would be
24 in this confidential source packet and we'll mark it as a
25 Court's exhibit and I can hand it up. But I have twelve

1 pages here. Most of them have blanks you fill in. I knew
2 nothing about what Officer Brooks was testifying about,
3 about working off a marijuana charge. I have requested
4 but had not yet received and don't have a copy of Ms.
5 Tucker's criminal history. So I had gone online to the SC
6 Court's website in an attempt to get as much information
7 and be as prepared as possible. But, of course, the way
8 he testified about that marijuana charge, that's not on
9 here. So I had no idea what she was working off, how she
10 was working it off in order to have her criminal history
11 or these incident reports that are referenced that should
12 be in this confidential informant pack. And I will tell
13 the Court, the Solicitor told me last week this was
14 available. But once he gave it to me, the offer would be
15 off the table. So I did specifically ask that he hang
16 onto it, because I had a meeting scheduled with Mr. Vaughn
17 on Tuesday, and then I actually scheduled another meeting
18 with Mr. Vaughn. So they got it to me on Thursday, which
19 was at my request that they hold onto it, so that he and I
20 could discuss the offer a little bit more. But all I
21 received was this twelve-page Court exhibit, Court's 1. I
22 didn't receive any of this other information that the
23 officer just testified about regarding Debbie Tucker
24 working as a CI. And there has also been testimony that
25 she worked as a CI more than is listed here, and I don't

1 have those incident reports. So I don't know exactly what
2 work she has done.

3 THE COURT: Are you raising some Brady violation, Ms.
4 Merrill, or what is the --

5 MS. MERRILL: Well, yes, sir. It would be that and
6 also as far as, yes sir. I do think I should have that
7 information. I think it's material to a defense in a case
8 like this. And I also am discussing this because I think
9 to be able to, for this evidence to be admitted, the
10 reliability of the CI is important. And, you know,
11 Officer Brooks testified she worked for him before, but we
12 don't know how many other things she'd done and what if
13 some of information that shows she wasn't reliable. But
14 we don't have those incident reports to look at.

15 THE COURT: I know, before I hear from the State, I
16 know that you're ultimately going to move to suppress the
17 drugs, correct?

18 MS. MERRILL: Yes, sir.

19 THE COURT: All of this is kind of a precursor to
20 that motion. But we've got an outstanding arrest warrant.
21 So where does the reliability issue or unreliability issue
22 of the CI factor in when there is an outstanding arrest
23 warrant against the Defendant?

24 MS. MERRILL: Well, the incident report that I
25 received talks about that we set it up with the CI.

1 THE COURT: Right.

2 MS. MERRILL: This arrest warrant was not even
3 discussed until they were on the scene. So that wasn't
4 their, the reason for their stop. And they've testified
5 that the reason was because they set up this buy and
6 that's why I think the CI is reliable.

7 THE COURT: Right. Well, they set up the buy through
8 the informant. But the actual stop was made pursuant to
9 the arrest warrant because they elected, because the
10 Defendant arrived, allegedly arriving early, they went
11 ahead and a stop to effect the arrest warrant. So, again,
12 I'm just trying to figure out the, you know, how important
13 is this reliability factor of the CI?

14 MS. MERRILL: And, your Honor, I'm looking through,
15 and if I could also make this, the incident report Court's
16 Exhibit 3. It does not describe the reason for their stop
17 was this arrest warrant. That's never mentioned in here.
18 Now, it is mentioned on the video, which I have a copy of.

19 THE COURT: Okay.

20 MS. MERRILL: But that's mentioned almost after the
21 fact. It is never mentioned in there that that's why
22 we're stopping him.

23 THE COURT: Right. And I understand what you're
24 saying.

25 MS. MERRILL: It has to do with the initial reason

1 for the stop.

2 THE COURT: Right. But I've got to make my ruling
3 based upon this hearing and what's been testified to.
4 Now, if there is a discrepancy between what the testimony
5 is and the incident report, well, I mean, you can
6 cross-examine them on that. But I've got to base my
7 ruling on what was testified to at this hearing and not
8 because the incident report has left, allegedly left
9 something out, if that makes any sense.

10 MS. MERRILL: Yes, sir.

11 THE COURT: Okay. All right. Basically, what your
12 complaint is that you never knew that the, Ms. Tucker was
13 working off a potential marijuana charge. And I think the
14 testimony was that there was never an actual charge.
15 There could be if she didn't do what she promised to do.
16 So working off a potential marijuana charge. That's your
17 complaint, you never knew about that.

18 MS. MERRILL: Yes, sir. I did not know that, and I
19 also don't have the incident reports that two different
20 agents said would be stored with the CI packet.

21 THE COURT: Right. And that the State never provided
22 you with the criminal history of Ms. Tucker, even though I
23 think you just indicated maybe you've been able to get
24 that? Did you tell me that or not?

25 MS. MERRILL: I'm not certain I have everything. I

1 did go and look at Greenwood County.

2 THE COURT: Okay.

3 MS. MERRILL: But I don't know what else she may have
4 in other counties.

5 THE COURT: All right. Before you go further let me
6 hear from the State.

7 MR. BLACK: Yes, Your Honor. Just to address the
8 criminal history. I made a criminal history available.
9 It got put into the file. And I made it available to Ms.
10 Merrill and I opened it up a while ago and it wasn't the
11 criminal history on this Debbie Tucker, the CI that we
12 were referring to. I've got a copy of that now and I plan
13 on giving that to Ms. Merrill.

14 THE COURT: Okay.

15 MR. BLACK: As far as the arguments are concerned,
16 Judge, I kind of agree with what you were stating. The
17 fact that she doesn't have this other information, it has
18 nothing to do with the fact that there was an active
19 arrest warrant. I believe the testimony was that Bryan
20 Louis identified both Mr. Vaughn and Ms. Wilson in the
21 vehicle as the driver and the passenger. And Mr. Vaughn
22 had an arrest warrant and that, they went ahead and took
23 the stop down or made the stop. Judge, there's also a
24 case that's, 374 S.C. 129, State v. Willard. This talks
25 about an informant's tip. If they have reasonable

1 suspicion to make the stop, they can go ahead and do that.
2 And in addition to the arrest warrant they also had
3 reasonable suspicion to make the stop because of the CI
4 making the call, setting up the buy, it being at that
5 particular location that they had set up. I believe the
6 parties had gotten there about twenty, thirty minutes
7 early as the testimony reflected. But there is case law
8 on this that they can go ahead and make the stop and
9 that's not a problem at all.

10 THE COURT: Let me just stop you just a second.
11 Reliability of a confidential informant would be more
12 applicable if it were a situation where Ms. Tucker told
13 the police officers the Defendant has drugs in the car.
14 And then as a result of that tip from the confidential
15 informant the stop is made. That's where your reliability
16 factor comes in. But she's making a, she's just setting
17 things up. And it turns out that the Defendant and Ms.
18 Wilson arrived at the scene and there's outstanding arrest
19 warrants. So I'm not real concerned about this
20 reliability factor. Go ahead, Solicitor.

21 MR. BLACK: Yes, sir. And I intent to agree with you
22 there. In full disclosure, I believe the phone call was
23 set up to, I think Mr. Brooks testified to buy a
24 half-an-ounce, I believe, is what his testimony said.
25 But, absolutely, there was an arrest warrant that was

1 outstanding. And just speaking to that, the reliability
2 factor. If Your Honor were to determine that it was
3 important and there are these other reports out there, the
4 State feels that, you know, the Defense has every
5 opportunity to cross-examine the officers about it. They
6 have every opportunity to cross-examine the CI. She's
7 going to testify in this case. Ms. Tucker, they can ask
8 her about all of these particular questions. But the
9 State has a major concern about all these other reports if
10 there are. I think there were a couple that were
11 testified that this, that Ms. Tucker was a CI for. If the
12 Defense were to get a hold of that, it would put other
13 people in jeopardy. And the State has a great concern
14 weighing that as well. So I just wanted to put that on
15 the record, as well, Your Honor.

16 THE COURT: Okay. Solicitor, have you seen an
17 incident report in the CI package?

18 MR. BLACK: I believe that there were incident
19 reports, Judge, but I didn't think that they were
20 necessary. I didn't think they were pertinent to the
21 case.

22 THE COURT: Right.

23 MR. BLACK: Because the testimony was, I believe,
24 that Mr. Cox said that they had used her or somebody in
25 the Drug Unit had used her years ago and she was reliable.

1 And then the testimony here was that she was reliable in
2 this particular situation, as well. And the fact is that
3 there are other people that Ms. Tucker had been buying
4 from. If that were to get into the hands of the Defense,
5 I think that that could pose problems, Judge.

6 THE COURT: Right. Well, I mean, if there's any
7 relevancy of that incident report or if you think there is
8 more than one incident report in that CI package. And I
9 think the incident report that you were concerned about
10 was the one related to the stop where no charge was made,
11 where Ms. Tucker volunteered to serve as a confidential
12 informant. I think Officer Brooks said it was the first
13 of January.

14 MR. BLACK: I believe so, Your Honor.

15 THE COURT: Is that the incident report that you were
16 concerned about?

17 MS. MERRILL: Yes, sir.

18 THE COURT: Okay. All right.

19 MR. BLACK: And I've talked to, they have the report.
20 We can get that and give that to her tonight.

21 THE COURT: Yeah. Let's do that. I don't think that
22 incident report would cause any concern as you've just
23 eluded to.

24 MR. BLACK: No, sir, Your Honor.

25 THE COURT: All right. Well, let's get her that

1 incident report and you got the criminal history. Get
2 that to Ms. Merrill. And then if you still want to make
3 an issue on that, Ms. Merrill, then you can certainly do
4 that once you've had an opportunity to see those two
5 documents. And you can certainly cross-examine Ms. Tucker
6 concerning why she was serving as a confidential
7 informant. But, again, I don't think her reliability is
8 crucial in this particular fact pattern. Are you going to
9 move to suppress or anything else we need to put on the
10 record?

11 MS. MERRILL: Yes, Your Honor. If I could just put
12 on the record.

13 THE COURT: Okay.

14 MS. MERRILL: The case they reference, I would just
15 argue and understand reliability is not the, the major
16 concern. Just so the record is complete, that in that
17 case, there were also recorded phone calls that were
18 provided. So there was a lot more detailed information
19 that the Court could look at to see that this person had
20 been reliable. And I understand it goes to, you know,
21 this would be more cross-examine material. But, you know,
22 the officer has testified he has used her before and she's
23 reliable. But then nothing is documented in their own
24 records showing these times she supposedly did that. And
25 in this State v. Willard case there was actual recordings

1 of phone calls and things provided to the Defendant. And,
2 Your Honor, I'd just move to suppress the, well, we've
3 kind of talked over the reliability argument. So I've got
4 to move to suppress based on that and that the arrest
5 warrant was pretext for, you know, trying to get around
6 not having a reliable CI. And I would say that the stop
7 and the search violates his constitutional rights
8 particularly in the Fourth Amendment and ask that the drug
9 be suppressed.

10 THE COURT: Okay. All right. Thank you very much,
11 Ms. Merrill. I will deny your motion to suppress. I find
12 that the search was conducted pursuant to a lawful arrest
13 of, due to the existence of an unchallenged, therefore,
14 presentably legal arrest warrant. So I'll deny your
15 motion to suppress. And concerning the statement made to
16 Captain Reeder, I assume, are you making any motions
17 related to that, Ms. Merrill?

18 MS. MERRILL: I beg the Court's indulgence. Your
19 Honor, we'd just request that the statement be suppressed
20 based on his being in custody and not being voluntarily
21 made.

22 THE COURT: Okay. All right. I find that the
23 statement made to Captain Reeder was voluntarily made and
24 that there were no Miranda violations. Miranda was
25 properly given, I think, as he even indicated giving it

1 two times by two different officers. So we'll deny your
2 motion to suppress the statement. Okay. Anything else on
3 the record before we go take a little short break and
4 bring the jury out? Anything else from the State?

5 MR. BLACK: Nothing from the State, Your Honor.

6 THE COURT: Ms. Merrill, do you have anything on the
7 record before we bring the jury out?

8 MS. MERRILL: Not at this time, Your Honor.

9 THE COURT: Okay. We are going to take a ten-minute
10 break. If you think of something, you can certainly let
11 me know. Let me see the lawyers for just a second.

12 (Whereupon, a bench conference was held.)

13 (Whereupon, a short break was taken.)

14 THE COURT: We are back on the record. Ms. Merrill,
15 we have had some conversations in-chambers with the
16 Solicitors, anything I need to address.

17 MS. MERRILL: Your Honor, there is one issue that my
18 client, that Mr. Vaughn wanted me to bring up during the
19 suppression motion. I am not sure it is appropriate to
20 bring it up but I have told him that if he wishes to
21 address the Court on that issue that he may and that he
22 would be doing it against my advice.

23 THE COURT: Okay. Mr. Vaughn, if you would stand and
24 I need to have you sworn in. Madam Clerk, would you swear
25 Mr. Vaughn, please.

1 EARNEST VAUGHN, being
2 first duly sworn, testified as follows:

3 THE COURT: Mr. Vaughn, what would you like to tell
4 me as it relates to the suppression matter?

5 MR. VAUGHN: Well, Your Honor, it is possible
6 tampering with the evidence that they claimed that they
7 seized from me where there is issue about how much they
8 seized and then they added to it later on. They said
9 there was like five bags in one bag or four bags in one
10 bag. And if you count they are lying about the evidence
11 that they seized.

12 THE COURT: Anything else?

13 MR. VAUGHN: And I would like to put that on the
14 record, to preserve it for a later review with direct
15 appeal or whatever.

16 THE COURT: Do you have any evidence that the police
17 officers, I think your position is that they increased the
18 amount of drugs at some point and time?

19 MR. VAUGHN: It is on the record, yes sir.

20 THE COURT: Do you have any evidence that they did
21 that?

22 MR. VAUGHN: Yes sir, it is in the discovery.

23 THE COURT: Okay. Well, I am sure, Ms. Merrill, if
24 that needs to be brought out during this case then I am
25 sure she will bring it out, whatever evidence that you may

1 have. It doesn't necessarily go to the issue of
2 suppression or not. Okay. But as far as the amount of
3 drugs it could be relevant concerning the charge itself.
4 But whether or not the Court should suppress, I have
5 already made a ruling and that really would not go on that
6 issue. Okay.

7 MR. VAUGHN: The evidence that they claim they seized
8 from me is not the evidence they sent to SLED.

9 THE COURT: I understand, I understand. But the
10 suppression dealt with whether or not there was an illegal
11 search and seizure of that evidence. So the amount really
12 would not be determinable of that particular issue. Do
13 you understand, sir?

14 MR. VAUGHN: Yes, sir.

15 THE COURT: Okay. The Court, Mr. Vaughn, has had a
16 lot of concern as far as your demeanor this entire day as
17 far as appearing that you are very sleepy. I have noticed
18 starting at 10:00 o'clock, when we had the panel out all
19 the way to now there have been numerous times where you
20 had your eyes closed. It looks like to me you were dozing
21 off to some extent. And so I am going to have you drug
22 tested to see if there is anything in your system that
23 would cause that. So, and I have asked Agent Williams
24 from the probation office to do that. And I am going to
25 ask that Officer Warren and Officer Douglas escort the

1 Defendant and Agent Williams to the appropriate place
2 where you normally have this done. So if you will go with
3 them, Mr. Vaughn. We will be in recess until that is
4 done.

5 (Whereupon, a short break was taken.)

6 THE COURT: Ms. Merrill, you have something you want
7 to put on the record?

8 MS. MERRILL: Yes, Your Honor, I would just object to
9 the Court's request regarding Mr. Vaughn to take a drug
10 test.

11 THE COURT: Okay, thank you very much. All right,
12 Agent Williams, did you have an opportunity to conduct the
13 drug test?

14 AGENT WILLIAMS: Yes, Your Honor.

15 THE COURT: And you have the results?

16 AGENT WILLIAMS: Yes, Your Honor. Mr. Vaughn was, he
17 was negative for all drugs except for amphetamines.
18 Positive for amphetamines.

19 THE COURT: Okay. Thank you very much for assisting
20 the Court. All right, we had a sidebar while Mr. Vaughn
21 was being tested. We decided to not start the case until
22 in the morning, correct?

23 MR. BLACK: Yes sir, Your Honor.

24 THE COURT: Is that correct, Ms. Merrill?

25 MS. MERRILL: Yes, sir.

1 consider anything that you may read or hear about this
2 case outside of this court. It is very important, ladies
3 and gentlemen, that you keep an open mind and not decide
4 any issue in this case until all of this evidence has been
5 presented, the lawyers have made the closing arguments,
6 and I have instructed you on the law in this case. It is
7 your solemn responsibility to determine the guilt or the
8 innocence of the Defendant and your verdict must be based
9 solely on the evidence as it is presented to you in this
10 trial and the law as I instruct you. Does the State have
11 any objections or exceptions to the Court's preliminary
12 instructions?

13 MR. BLACK: No, Your Honor.

14 THE COURT: And from the Defense?

15 MS. MERRILL: No, sir.

16 THE COURT: Okay. Thank you very much. All right.
17 Ladies and gentlemen, the lawyers will give their opening
18 arguments to you. Their opening arguments are not
19 evidence in this case. It's just going to be their
20 statements of what they believe the case is about and what
21 they believe the evidence will show or not show. Is the
22 State ready?

23 MR. BLACK: Yes, sir, Your Honor.

24 THE COURT: All right. You may proceed.

25 MR. BLACK: May it please the Court?

1 THE COURT: Yes, sir.

2 MR. BLACK: Good morning, ladies and gentlemen. On
3 January 27th of this year, 2016, about 5:00 o'clock in the
4 afternoon, officers with the Greenwood County Sheriff's
5 Department, you're going to hear from a bunch of those
6 guys here in a few minutes, made what they call a
7 buy/bust. You're going to hear about this term, a
8 buy/bust. Essentially, what it is is they use a
9 confidential informant to set up a drug buy and at that
10 point, the officers are conducting surveillance and they
11 move in while this goes on, and they make an arrest.
12 You're going to hear the officers testify about this.
13 You're going to hear that on January the 27th of this
14 year, the officers utilized the confidential information
15 and they attempted to make a buy/bust from the Defendant
16 in this case, Mr. Vaughn, and his girlfriend at the time,
17 Ms. Brandy Wilson. Now, folks, you're going to hear that
18 it didn't quite go according to plan. You're going to
19 hear that the officers did what they typically do, they
20 get there a little bit earlier to conduct surveillance,
21 kind of set up. But in this particular instance, you're
22 going to hear that Mr. Vaughn got there early, as well,
23 and at this point, law enforcement went ahead and made the
24 stop and arrested Mr. Vaughn. You're going to hear that
25 when they stopped him, they found some drugs and you're

1 going to hear that they also found someone else. Now,
2 during the course of this trial, pay close attention to
3 everything that you hear. You're going to see a video.
4 You're going to hear evidence. You're going to hear
5 testimony. But pay close attention to where the drugs
6 are. Pay close attention to who else was with Mr. Vaughn,
7 and who else was with Ms. Wilson that day, because all of
8 this is very important to make a determination of guilt or
9 innocence at the end of the trial. Now, folks, the Judge
10 mentioned a while ago and I'm sure y'all, all of y'all
11 have seen some kind of a court documentary or some kind of
12 T.V. show like Law and Order, and the Judge mentioned
13 that, you know, this whole process is completely different
14 than what you see on T.V. When you watch a show like Law
15 and Order, there's a crime that's committed, there's an
16 investigation that occurs, they solve the crime, and they
17 have a jury trial and all that's wrapped up nice and neat
18 and packaged all within one hour. And as you found out
19 yesterday, you guys were here for a good portion of the
20 day, and we just picked the jury. This crime occurred in
21 January so, obviously, we've already moved past that one
22 hour, so this is kind of how the court system works. It's
23 not what you see on T.V. It's a little bit different.
24 But we just ask that you bear with us. We ask that you do
25 your job and you listen to everything that you're supposed

1 to listen to. Pay close attention to everything.
2 However, what those T.V. shows and what this particular
3 instance does have in common is the burden of proof that
4 the State has. In any criminal case in America, in any
5 criminal case on T.V. that you see, you see that the State
6 has the burden to prove its case beyond a reasonable
7 doubt. I'm sure all of you are familiar with this, have
8 heard this before. So in this particular case, there's
9 three charges, and we have to prove Mr. Vaughn guilty of
10 three different things. We have to prove him guilty of
11 possession with intent to distribute marijuana,
12 trafficking in methamphetamine, between 10 and 28 grams,
13 and unlawful neglect of a child. Those are the three
14 things that we have to prove. And like the Judge stated,
15 he read the indictments yesterday. I'm going to touch
16 back on this at the end of the trial. The Judge is going
17 to read you the law at the end of the trial, as well, but
18 don't focus on those three charges. Focus on the facts.
19 Your job at this particular junction is to be the finder
20 of the facts, what happened on that night of January 27th,
21 2016. And the second part of that in proving our case, we
22 have to prove those three crimes beyond a reasonable
23 doubt. Now, what is beyond a reasonable doubt. Beyond a
24 reasonable doubt is not beyond all doubt. It's not beyond
25 all possible conceivable doubt. It's not beyond a shadow

1 of a doubt. It's beyond a reasonable doubt. It's being
2 firmly convinced of something. At the close of the trial,
3 if you're firmly convinced that Mr. Vaughn committed these
4 acts, you have no choice but to find him guilty. That's
5 our burden of proof, beyond a reasonable of doubt. Not
6 beyond all doubt, but beyond a reasonable doubt, being
7 firmly convinced of something. Now, folks, jury duty is
8 very important. Judge Hocker mentioned yesterday that
9 serving on a jury is one of the most important civic
10 duties we have other than serving in the military. Next
11 week, we got a chance to vote. Those are some of the
12 highest civic duties we have in this country. And as a
13 member of this jury, I personally think the most important
14 thing you guys have is your common sense. Every day,
15 today, possibly tomorrow, you're going to come here to
16 this courthouse. You're going to drive from wherever you
17 live in Greenwood County. You're going to walk down the
18 stairs, through the front door, walk upstairs, and you're
19 going to sit here and listen to the testimony, listen to
20 the evidence, but the most important thing you bring is
21 your common sense. What we do is not rocket science.
22 This isn't rocket science at all. Use your common sense
23 when you listen to the testimony and you see the evidence.
24 When you watch the video, when you see the pictures and,
25 ultimately, use that at the end of this trial to find that

1 man, Earnest Vaughn, guilty of these three crimes. Thank
2 you.

3 THE COURT: Thank you, Solicitor. Ms. Merrill, you
4 ready?

5 MS. MERRILL: Yes, sir. May it please the Court.
6 Mr. Vaughn is 57 years old. He has a problem with
7 breathing. He has to use an inhaler to get breathing
8 treatments for COPD. And the government wants you to
9 believe that he's a drug trafficker. I want you to keep
10 in mind three things while you're listening to evidence in
11 this case, who, when, and why? Who; who's involved in
12 this case. Who makes the phone call with this
13 confidential informant. It's not Mr. Vaughn. Who's
14 driving the car when they're stopped. It's not Mr.
15 Vaughn. Who picked up the child. It's not Mr. Vaughn.
16 Who picked up the child before Mr. Vaughn was even in the
17 car. Pay attention to who is involved in this case and
18 who did what, and that applies to everybody. When, pay
19 attention to when pieces of information became available.
20 When did we hear about this or when was this provided.
21 And then think about why. Why are certain witnesses
22 telling you what they're telling you. Do they have some
23 motivation. Are they themselves in trouble and they want
24 to get out of trouble. Did they already get out of
25 trouble because they're talking to you today. So think

1 about why, why they are sitting up in this witness stand
2 and why they are telling you what they are. Throughout
3 this case consider who, when, and why and at the close of
4 the evidence and considering those things, find Mr. Vaughn
5 not guilty. Thank you.

6 THE COURT: Thank you, Ms. Merrill. Is the State
7 ready to call its first witness?

8 MS. WHITE: Yes, sir. The State calls Whit Brooks.

9 THE COURT: Okay. Come around, please, sir.

10 WHIT BROOKS, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Ms. White:

14 Q Good morning, Agent Brooks.

15 A Good morning.

16 Q If you could introduce yourself for the jury, please.

17 A My name is Whitfield Brooks. I work for the
18 Greenwood County Sheriff's Office.

19 Q And how long have you been with the Sheriff's Office?

20 A The Greenwood Sheriff's Office for eight years. I
21 had two years in law enforcement prior to Greenwood
22 County.

23 Q All right. And within the Sheriff's Office, what are
24 your current duties?

25 A I am currently an agent assigned to the Narcotics

1 Division or the Drug Enforcement Unit. We investigate
2 drug-related crimes, drug dealing, drug trafficking,
3 things of that nature.

4 Q And how long have you been with the Drug Enforcement
5 Unit?

6 A Almost two years now.

7 Q Have you ever worked at the Drug Unit previous to
8 this current stretch?

9 A Before being assigned to the Drug Unit, I was in the
10 Criminal Investigation Division on the Violent Crime
11 Taskforce. We often had, there were often cases where our
12 duties overlapped and we would work together.

13 Q Agent Brooks, are you familiar with the term,
14 confidential informant?

15 A I am.

16 Q And if you would just tell the jury what is a
17 confidential informant?

18 A A confidential informant is an individual typically
19 who is involved in criminal activity themselves who is
20 recruited by law enforcement to act as an informant on a
21 confidential basis. It helps us gain insight,
22 information, and evidence regarding criminal activities,
23 in this case drug activities, that we would not ordinarily
24 be able to gain by ourselves.

25 Q And you mentioned that it's somebody typically a

1 criminal themselves. Why would you want to use a criminal
2 in prosecuting or in investigating?

3 A Specifically, to drugs, it's been my experience that
4 non-criminals aren't involved in criminal activities. I
5 hope that sums it up.

6 Q And why, typically, does someone agree to help you in
7 that way?

8 A More often than not it's because they have been
9 caught themselves and either with drugs or some other type
10 of crime. In this case, in drug investigations, often
11 they have been caught with drugs themselves.

12 Q Now, and how many over the course of the past two
13 years or in your time in law enforcement, a rough estimate
14 of how many times you've used a confidential informant to
15 make a case?

16 A Probably a few dozen to twenty, thirty, something
17 like that.

18 Q Are you familiar with an individual named Debbie
19 Tucker?

20 A I am.

21 Q And who is Ms. Tucker?

22 A She is the confidential informant in this case.

23 Q Okay. How did you come to be using Ms. Tucker as an
24 informant?

25 A I caught her with a small quantity of marijuana and

1 subsequent to that, she expressed interest to that, she
2 would cooperate in exchange for not being prosecuted on
3 the marijuana charge.

4 Q Okay. So was she working with you on January 27th,
5 2016?

6 A Yes, she was.

7 Q About where were, where did you, let me withdraw
8 that. About what time did you meet with her that day?

9 A Mid-to-late afternoon on the 27th, if I remember
10 correctly.

11 Q And without getting into anything anyone may have
12 said, what did Ms. Tucker do when you met with her?

13 A She placed a phone call to an individual in this
14 case, well, she placed a phone call to an individual that
15 she could acquire drugs from.

16 Q And did they set up, was it your understanding that a
17 deal was set up?

18 A Yes, ma'am.

19 Q And where was that deal supposed to take place?

20 A At, I forget the name of the carwash, but there is a,
21 like a self-service carwash off Furman Burton Road. It's
22 right beside the Bi-Lo on the north end of Greenwood kind
23 of behind the 7-Eleven. It's off of Northside Drive.

24 Q And, approximately, what time was that deal supposed
25 to take place?

1 A About 5:30 in the evening.

2 Q Was there any specific vehicle that she was supposed
3 to be looking for?

4 A Yes, ma'am.

5 Q And what was that?

6 A I forget if it was black or dark navy blue, but it
7 was a Chevrolet Tahoe, a very dark Chevrolet Tahoe.

8 Q What, if anything, did agents do with that
9 information?

10 A We gathered the agents from my unit. Well, also we
11 requested some assistance from the Criminal Investigation
12 Division just for additional manpower. We had a briefing
13 to fill everybody in on the information we received and
14 what we planned to do with it. Everyone with the
15 exception of myself and my supervisor went to that area in
16 unmarked vehicles, set up in the area to go ahead and get
17 surveillance on the location where the drug deal was to
18 take place.

19 Q What were you and your supervisor doing?

20 A We were with the confidential informant, Ms. Tucker.

21 Q Okay. And what did you do with Ms. Tucker?

22 A Outfitted her with audio, video, recording equipment
23 so that the deal could be recorded in realtime as it
24 happened. Also we would be able to monitor the audio
25 portion from a distance. We then had her in her vehicle

1 traveling in the area, to the area where the deal was to
2 take place. Myself and my supervisor were in a separate
3 vehicle just in front of Ms. Tucker. The plan was once we
4 got closer, we were going to pull over, turn on the
5 equipment, and then let her proceed to where the deal was
6 to take place.

7 Q Is that what happened?

8 A No.

9 Q Okay. What, actually, happened?

10 A The dealer in this case arrived early.

11 Q And was the decision to go on and make a traffic
12 stop?

13 A It was. Agents in the area conducting surveillance,
14 once they observed the suspect vehicle and were able to
15 identify the suspects in it, and they decided to go ahead
16 and initiate a traffic stop.

17 Q Now, so, I guess, you were not present when the
18 actual stop took place?

19 A I was not. I was probably a half-mile away.

20 Q Did you, what did you do when the stop was taking
21 place?

22 A We pulled over as soon as we found, knew what was
23 going on, we pulled over, which prompted the informant to
24 pull over behind us as well. We exited our vehicle. Went
25 back to the informant, removed the audio and video

1 surveillance equipment from the informant and quickly
2 explained to her, hey, the dealer already showed up. You
3 can just leave. We'll be in touch with you later. We're
4 handling this another way.

5 Q After you cut her loose, what'd you do from there?

6 A Myself and my supervisor in our, in the vehicle
7 together proceeded to the site where they had stopped the
8 suspect vehicle.

9 Q Okay. Who was present other than Sheriff's Office
10 employees, who was present on the scene when you got
11 there?

12 A Other than the suspect vehicle and its occupants, all
13 of the remainder were Sheriff's Office employees. In the
14 suspect vehicle was Earnest Vaughn, and Brandy Wilson, and
15 a young child. I can't remember the child's name, but a
16 young child.

17 Q Do you remember how old the child was?

18 A Probably five or, I don't remember the exact age, but
19 about five, I would say.

20 Q You said Earnest Vaughn was present. Is Mr. Vaughn
21 present in the courtroom today?

22 A He is.

23 Q Can you identify him for us?

24 A He's seated at the Defense table beside Ms. Merrill.

25 MS. WHITE: Your Honor, let the reflect he's

1 identified the Defendant.

2 THE COURT: Let the record so reflect.

3 Q When you arrived on-scene, what did you do next? Did
4 you do anything?

5 A I did. I spoke with the officers who were on-scene
6 just to kind of figure out at what point they were in the
7 traffic stop. I then assisted by helping with the search
8 of the vehicle.

9 MS. WHITE: May I approach the witness, Your Honor?

10 THE COURT: You sure can.

11 MS. WHITE: Let me get these numbered first.

12 (Whereupon, State's Exhibit 2, 3, 4, 5, 6 and 7 were
13 marked for identification.)

14 Q And, actually, before I show you these, I wanted to
15 ask a few more questions.

16 A Yes, ma'am.

17 Q When you searched the vehicle, did you find anything
18 of note?

19 A I did.

20 Q What did you specifically find?

21 A A opened package of syringes, needles. Also an
22 individual needle appeared to have been used, a spoon with
23 what appeared to be drug residue on it. If I remember
24 correctly also like a clear plastic baggie was there with
25 that other evidence.

1 Q Where in the vehicle did you locate those?

2 A If I remember right, it was in two separate bags like
3 luggage or pocketbook type bags in the back seat.

4 Q And was anyone taking pictures while you were there?

5 A Yes, ma'am.

6 MS. WHITE: May I approach the witness, Your Honor?

7 THE COURT: You sure can.

8 Q I want to show you what's been marked for
9 identification as State's Exhibits 2 through 7. Do those
10 appear to be fair and accurate depictions of what the
11 scene looked like that day?

12 A Yes, ma'am.

13 Q And are those pictures of the items you collected as
14 you found them?

15 A 2 through 6 are of the items I found and 7 is a
16 picture of a vehicle where I'm kind of in the back area
17 searching it.

18 MS. WHITE: The State moves Exhibits 2 through 7 into
19 evidence at this time, Your Honor.

20 THE COURT: And what says the Defense?

21 MS. MERRILL: Subject to our prior objection, Your
22 Honor.

23 THE COURT: Certainly, so noted. 2 through 7 is in
24 evidence on behalf of the State.

25 (Whereupon, State's Exhibit numbers 2 through 7 were

1 admitted into evidence.)

2 MS. WHITE: All right. Permission to publish, Your
3 Honor?

4 THE COURT: Sure.

5 Q All right. Agent Brooks, I'm going to show you
6 State's 7 first.

7 A Yes, ma'am.

8 Q Can you see from where you're sitting?

9 A Yes, ma'am.

10 Q Okay. What is this a picture of?

11 A That is the rear side of the Chevrolet Tahoe, the
12 suspect vehicle, and that is me in the back passenger
13 door.

14 Q Now, looking at this picture, where would the carwash
15 be in reference to that?

16 A Kind of off the back driver's side corner.

17 Q Is that off in this direction?

18 A Yes, ma'am. The carwash would kind of be to the
19 photographer's left.

20 Q Okay. And over here would be the convenience store?

21 A That's correct.

22 Q And now I'm going to show you State's Exhibit number
23 2. Can you identify that for me?

24 A That is a picture looking, I believe, down in one of
25 the bags I was speaking of towards, I believe that's the

1 open bag of syringes.

2 Q And State's 3, can you identify that for me?

3 A That's the open bag of syringes after having been
4 removed from the pocketbook or luggage.

5 Q All right. This is State's Exhibit 4. Can you
6 identify that for me?

7 A Oh, that's the plastic baggy, along with you can see
8 part of the spoon and the single syringe there.

9 Q And then State's Exhibit 5?

10 A Oh, that's a better view of the spoon with residue
11 and the baggie with residue and the syringe.

12 Q And did you say that that syringe appeared to have
13 been used?

14 A It did. I was basing that off of it was removed from
15 the packaging from the others, and it was also found with
16 other paraphernalia that appeared to have been used.

17 MS. WHITE: May I approach the witness again, Your
18 Honor?

19 THE COURT: You sure can.

20 (Whereupon, State's Exhibit number 8 and 9 were
21 marked for identification.)

22 Q I'm going to show you what has been marked for
23 identification as State's 8 and 9.

24 A Yes, ma'am.

25 Q Can you identify both of those for me?

1 A State's 8 is the open pack of syringes that was in
2 the picture from the scene. And State's 9 is the plastic
3 bag, spoon with residue and single syringe.

4 Q And are those the items you collected from the
5 vehicle on January 27th?

6 A They are.

7 Q How do you know that that's what you collected?

8 A In my handwriting on the outside of the baggie is the
9 case number, the date, my initials, and a kind of brief
10 description of where the items were collected from.

11 Q After you collected the items, who did you turn them
12 over to?

13 A The Sheriff's Office Evidence Technician, Greg
14 Allison.

15 Q Was he on the scene that night?

16 A He was.

17 Q And the location where all of this took place, is
18 that in Greenwood County?

19 A It is.

20 MS. WHITE: Please answer any questions Ms. Merrill
21 has for you.

22 THE COURT: All right. Cross-examination.

23 MS. MERRILL: Thank you, Your Honor.

24 \ CROSS-EXAMINATION

25 By Ms. Merrill:

1 Q That phone call Ms. Tucker made was to Brandy Wilson,
2 is that right?

3 A Yes, ma'am.

4 Q And that occurred in your office, you said the same
5 day that they were arrested, the 27th of January?

6 A Yes, ma'am.

7 Q Is that right?

8 A Yes, ma'am.

9 Q And did you record that conversation?

10 A No, ma'am.

11 Q Do you have the ability to record a conversation?

12 A I do.

13 Q Did you get any record, written record of that
14 telephone call?

15 A No, ma'am.

16 Q Okay. And when you worked, you described a little
17 bit of the process about working with confidential
18 informants. Had you ever worked with Ms. Tucker as a
19 confidential informant before?

20 A On one prior occasion.

21 Q Okay. And was that also related to this arrest for
22 marijuana?

23 A I have not arrested Ms. Tucker for marijuana.

24 Q I'm sorry. The incident with marijuana that you
25 referenced on January 19th?

1 A Yes. I had caught her with marijuana and subsequent
2 to that, I utilized her as an informant in this drug deal
3 and one other drug deal.

4 Q Okay. And as part of using a CI, CI's fill out some
5 information for your office, is that right?

6 A Yes, ma'am.

7 Q Some basic information like name, address,
8 date-of-birth, right?

9 A Yes, ma'am.

10 Q And there's also a section in there where the officer
11 signing them up indicates they've run a criminal history,
12 is that right?

13 A Correct.

14 Q When you used her as a confidential informant, you
15 were aware of her criminal history?

16 A I was.

17 Q There is also a section in there about pending
18 charges in that packet, is that right?

19 A Yes, ma'am.

20 Q And you were aware of she had pending charges?

21 A I know that Ms. Tucker has had some dealings with the
22 criminal justice system. As far as exactly what she had
23 pending at that time, I don't recall. I know that I had
24 caught her with marijuana and that was the charge that she
25 was attempting to cooperate with to work off for me.

1 Q Okay. So you didn't know if she had any other
2 pending charges at that time?

3 A I had no reason to think she didn't I, as far as if
4 you're asking me specifically from instance what they
5 were, I don't recall that. I hadn't previously arrested
6 her on charges.

7 Q Did you try to find out if she had any pending
8 charges?

9 A Again, I'm not doubting that she did. I didn't look
10 into that further.

11 Q And I was just asking you if you, you didn't look
12 into that further?

13 A As to whether or not they had pending charges or
14 exactly what they were?

15 Q Right.

16 A No, ma'am.

17 Q Okay. Thank you. And when you deal with a
18 confidential informant, you also document each contact
19 with that confidential informant, is that correct?

20 A We typically document each activity that results in a
21 case being made or an incident report or anything of that
22 nature. I don't document every time they call me or
23 something.

24 Q But something like meeting with her for this phone
25 call, you would document that?

1 A On the day that this case occurred?

2 Q Yes.

3 A It was, I did. It was documented by the incident
4 report subsequent to Mr. Vaughn and Ms. Wilson's arrest.

5 Q Did you document the Confidential Informant Packet
6 about that contact?

7 A That report was placed in the Confidential Informant
8 Packet or in the confidential informant file with the CI
9 packet.

10 Q Do you have a --

11 MS. MERRILL: Your Honor, may I approach the witness?

12 THE COURT: You sure can.

13 Q Let me ask you a little bit about this, first.

14 A Sure.

15 Q I understand what you are saying. If we picked up
16 the file folder you might have the basic information the
17 confidential informant has filled out in that file folder,
18 is that correct?

19 A Correct.

20 Q And then you're saying if you work with that
21 confidential informant, a report made from that particular
22 incident is also added to that file?

23 A I would add it to that file; yes, ma'am.

24 Q Okay. In that same information packet, is there a
25 form that you or other officers fill out when you have

1 contact with the confidential informant?

2 A As part of the CI packet, there is a CI contact sheet
3 that has a spot for that to be essentially logged.

4 Q Okay. And so you log telephone or personal contact
5 with the CI, is that right?

6 A I didn't log anything in there. I added the reports
7 to the file. I'm aware that there are some notations in
8 there. None of them were made by me.

9 Q And you said also in that room with you, for the
10 phone call, was your supervisor?

11 A I don't know that he was in the room for the phone
12 call. He was, I was in the room with the informant.
13 Other officers were arriving to be briefed about the
14 operation. And Lieutenant Cox, my supervisor, was kind of
15 back and forth making sure everything was running
16 smoothly.

17 Q Okay. So on the CI contact sheet, you didn't
18 document anything about that meeting?

19 A I didn't. I generated, a report was written
20 subsequent to this case, and I added that to the CI file.

21 Q And on a listing that, with that information, you
22 didn't document, I am making sure we are straight, right?

23 A I'm sorry. Could you ask that question again?

24 Q Your CI contact sheet, it's not documented there?

25 A I don't believe I documented anything on that CI

1 contact sheet. I documented the contact by adding the
2 report to the file.

3 Q Okay. Let's talk about your stop of Ms. Tucker in
4 which marijuana was found. Ms. Tucker was also with
5 someone else in the car, is that right?

6 A She was.

7 Q And you searched this car and found the marijuana, is
8 that right?

9 A I did.

10 Q And was it a lot of marijuana?

11 A No. It was a very small amount.

12 Q And you also located a gun in that search, is that
13 right?

14 A No, ma'am.

15 MS. MERRILL: Your Honor, may I approach the witness?

16 THE COURT: You certainly can.

17 Q Did you find, let me correct that question. Did you
18 find a case for a glock gun in that car?

19 A I did find a gun case. I did not find a gun.

20 Q Okay. And in that same case did you find two loaded
21 magazines?

22 A I believe so; yes, ma'am.

23 Q Okay. So you did not locate a gun, is that correct?

24 A That is correct.

25 Q Okay. And after that, you didn't arrest either of

1 those, either of the people in that car, did you?

2 A I did not.

3 Q And, in fact, you released both of those suspects
4 from that scene?

5 A I did.

6 Q And you didn't charge either one of them with
7 possession of marijuana?

8 A I did not.

9 Q Are you aware of who was driving the dark Tahoe that
10 was at the carwash or did you arrive after?

11 A I believe all the occupants had been removed by the
12 time I arrived.

13 Q Okay. So you didn't see who was driving?

14 A I'm aware who was driving. Not because I saw it with
15 my own two eyes, but I spoke to other officers there and
16 watched the videos. So I do know who was driving. I did
17 not see who was driving.

18 MS. MERRILL: I think that's all the questions I
19 have.

20 MR. BROOKS: Yes, ma'am.

21 THE COURT: Redirect, Solicitor?

22 MS. WHITE: No, sir.

23 THE COURT: Thank you, sir. You can step down. Do
24 you have another witness before we take a morning break?

25 MR. BLACK: Yes, sir, Your Honor.

1 THE COURT: Okay.

2 MR. BLACK: The State calls Debbie Tucker.

3 DEBBIE TUCKER, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Black:

7 Q Ms. Tucker, can you state your name for the record,
8 please?

9 A Debbie Tucker.

10 Q Okay. And let me jump right into it. In January of
11 2016, were you stopped for possessing marijuana?

12 A Yes.

13 Q And who were you stopped by?

14 A Officer Brooks.

15 Q Okay. Officer Brooks back here?

16 A Yes.

17 Q And you had a little bit of marijuana. Do you
18 remember how much it was?

19 A It was a blunt. Just like \$5.00 worth.

20 Q Okay.

21 THE COURT: You need to sit up close to the
22 microphone, ma'am. Thank you.

23 Q And did you get charged for having that blunt?

24 A He asked me did I want to work it off, and I told him
25 yes.

1 Q Okay. And what do you mean by that or what did he
2 mean by that?

3 A If I wanted to get somebody to get that off of me, I
4 could.

5 Q Like be a confidential informant?

6 A Yes.

7 Q Okay. And so you agreed to do that on that day?

8 A Yes.

9 Q Let's fast-forward to January the 27th. Were you
10 working as a confidential informant on that date?

11 A Yes.

12 Q All right. And did you meet with officers from the
13 Sheriff's Department?

14 A Yes, I did.

15 Q And where did you meet with them at?

16 A In their office.

17 Q Okay. And who was at that meeting, do you remember?

18 A It was Chad Cox, Josh Reeder, I want to say Brooks
19 was there, and we was setting it up.

20 Q Okay. And what did you do, did you make a phone
21 call?

22 A Yes, I did.

23 Q And who did you call?

24 A I called Brandy Wilson's phone.

25 Q Okay. And who answered?

1 A She did.

2 Q And what was the nature of that conversation?

3 A That we was setting up to buy a half-ounce of ice
4 from them, and they was going to meet me at the carwash on
5 25 North.

6 Q Okay. And just breaking that down, a half-ounce, do
7 you know about how much that is?

8 A I don't even know what it weighs.

9 Q Okay. But it's a half-a-ounce of?

10 A Ice.

11 Q Okay. And ice is what?

12 A Meth.

13 Q All right. And do you know how much you were going
14 to be paying for that?

15 A \$750.00 dollars.

16 Q And it was supposed to take place you said at the
17 Bi-Lo, right, or the --

18 A Yes.

19 Q -- carwash?

20 A At the carwash.

21 Q And where is that; can you describe that?

22 A On 25 North.

23 Q Is that in Greenwood County?

24 A Yes.

25 Q And do you know about what time you had this meeting

1 at the Sheriff's Department?

2 A It was late in the afternoon just, it was like
3 between 4:00 and 6:00, something like that. I don't
4 remember, really remember the time.

5 Q And do you know about how long that you were supposed
6 to meet them at the carwash, and then how long it was
7 supposed to take?

8 A They was on their way there, and I was supposed to
9 have went and give them the money and everything, but they
10 got there early.

11 Q Okay. And so before you get into all that, you said
12 you made a phone call, is that right?

13 A Yes.

14 Q Were you on speaker phone? Did you have it on
15 speaker phone?

16 A Yes.

17 Q And do you know if it was on speaker phone on
18 Brandy's phone or could you tell?

19 A I don't know. I couldn't tell.

20 Q And you spoke with Brandy?

21 A Yes.

22 Q Did you ever speak with Earnest?

23 A No.

24 Q Okay. Could you hear anybody else on the other, on
25 the other line or was it just Brandy?

1 A You could hear him talking, but I didn't know what he
2 said.

3 Q You couldn't make it out --

4 A No.

5 Q -- but you could hear him talking? Did the officers
6 hook you up with like a camera and some wiring at the
7 office before y'all left?

8 A Yes.

9 Q All right. And was that, when did that happen, right
10 after the phone call?

11 A Yes. Right after the phone call, I went ahead and
12 they did their little thing with the wires and stuff. And
13 I left and they left.

14 Q Okay. So y'all left about the same time?

15 A Yes.

16 Q Were you following them or they following you?

17 A They were following me.

18 Q Okay. And y'all are driving from their office to the
19 Bi-Lo?

20 A Yes.

21 Q Did you ever go to the Bi-Lo?

22 A No, I never made it to the Bi-Lo.

23 Q Never made it to the carwash or the Bi-Lo?

24 A No.

25 Q What happened?

1 A They had got there early, so they went ahead and got
2 them.

3 Q Who is they?

4 A Josh Reeder I think called Chad and them. Chad and
5 them come around me and stopped me and took everything off
6 and said that they already had them.

7 Q Okay. And then what did, at that point, did you just
8 leave?

9 A Yes, they told me to leave.

10 Q Okay. Were you ever charged with that marijuana
11 charge --

12 A No.

13 Q -- or having that blunt?

14 A No, I was never charged.

15 Q But you have been charged before, correct, for other
16 things?

17 A Yes.

18 Q 1997, obtaining goods by false pretense. Does that
19 sound familiar?

20 A Yes.

21 Q Were you convicted of that?

22 A Yes.

23 Q Do you remember what happened, did you get probation?

24 A Yes, I did.

25 Q 2000, it looks like you were convicted of breach of

1 trust, under \$1,000.00 dollars?

2 A No, I was not.

3 Q You don't remember that?

4 A I was incarcerated at that time.

5 Q Did you plead guilty to that?

6 A No, I didn't. Dale Boyer took care of that.

7 Q Okay. About the same time, what about breaking into
8 motor vehicles?

9 A I had got probation for that.

10 Q Okay. That was 2000?

11 A Mm-hmm.

12 REPORTER: Can you say yes or no, please?

13 A Yes. In the year 2000, I was incarcerated from 1999
14 to 2002. There is no way I could have got any car.

15 Q What was that for?

16 A Violation of probation.

17 Q Okay. So while you were on probation you didn't do
18 what you were supposed to --

19 A No.

20 Q -- and then you got sent to prison?

21 A Yes.

22 Q It looks like you got a marijuana conviction from
23 2010, a simple possession of marijuana?

24 A Yes.

25 Q Does that sound right? What'd you do on that, pay a

1 fine?

2 A I paid it.

3 Q It looks like 2014, attempting conspiracy of a drug
4 law?

5 A Yes.

6 Q What's that?

7 A I want to say where you got turned down in a buy, I
8 am not really sure.

9 Q Is that buying too much pseudoephedrine?

10 A Yes.

11 Q You can only buy so much in a certain amount of 30
12 days, is that right?

13 A Yes.

14 Q And what happened on that one, do you remember?

15 A No, I don't really, I don't recall.

16 Q You didn't go to prison for that, did you?

17 A No.

18 MR. BLACK: Beg the Court's indulgence.

19 THE COURT: Sure.

20 Q Ms. Tucker, you got some pending charges, don't you?

21 A Yes, I do.

22 Q Do you know how many you have?

23 A Not right off hand, I don't. I know some of them's
24 supposed to be coming off of me.

25 Q Well, let's look here. You got a shoplifting. Does

1 that sound familiar?

2 A Yes.

3 Q And that's still pending. And you got a, it looks
4 like you got a drug trafficking meth charge, does that
5 sound right?

6 A Yes.

7 Q Pseudoephedrine charge, manufacture or possession of
8 pseudoephedrine, does that sound right?

9 A Yes.

10 Q Unlawful disposal of meth waste, does that sound
11 right?

12 A Yes.

13 Q Another one of those attempt to conspiracy --

14 A Yes.

15 Q -- buying too much pseudoephedrine? And those look
16 like they were from 2014, is that right?

17 A Yes.

18 Q It looks like you got a burglary charge right now --

19 A Yes.

20 Q -- still pending? A petit larceny under \$2,000.00?

21 A Yes.

22 Q Malicious injury to property?

23 A Yes, sir.

24 Q A manufacturing of meth or PWID, it's under the same
25 statute, possession with intent?

1 A Yes.

2 Q Over a gram of meth?

3 A Yes.

4 Q And then a FTC fraud, right?

5 A What is that?

6 Q It's a financial identity fraud.

7 A Yes.

8 Q Using somebody's card or something?

9 A Yes.

10 Q Those are pending, right?

11 A Yes.

12 Q Now, on the old charges, the 2014 charges, did you

13 ever have an offer on those charges from the prosecutor

14 that's handling that case?

15 A No.

16 Q You never did?

17 A Yes, I did.

18 Q And who was that prosecutor, Mr. Maxie, does that

19 sound familiar?

20 A I want to say it was.

21 Q And what was that offer?

22 A Three years.

23 Q Three years. You rejected that offer, right?

24 A Actually, I took it, but one of my trafficking's was

25 dismissed in July.

1 Q Okay. But you didn't plead on that, right?

2 A No.

3 Q And then you have some of these newer property
4 crimes, is that right?

5 A Yes.

6 Q Did you ever get an offer after that --

7 A No.

8 Q -- for those charges?

9 A No.

10 Q Okay. And you know that Mr. Maxie doesn't work for
11 our office anymore?

12 A I heard he didn't.

13 Q Mr. Andrews has the case, right?

14 A I, yes.

15 Q Do you have an attorney for these charges?

16 A Yes.

17 Q And you've spoken to your attorney about these?

18 A Yes.

19 Q And she hasn't communicated any kind of offer to you

20 --

21 A No.

22 Q -- that you're aware of?

23 A Not yet.

24 Q Did we have a meeting; me and you and your attorney a
25 couple of weeks ago? Do you remember that?

- 1 A Yes.
- 2 Q And I talked to your attorney about your charges?
- 3 A Yes.
- 4 Q And were you made any promises to come testify today?
- 5 A No.
- 6 Q And no promises about these pending charges?
- 7 A No.
- 8 Q You realize that somebody else is handling those
- 9 charges?
- 10 A Yes.
- 11 Q Was the only promise you had to be a confidential
- 12 informant was for that blunt?
- 13 A That was it.
- 14 Q And that was made by Agent Brooks, is that correct?
- 15 A Officer Brooks.
- 16 Q And you were never charged for that?
- 17 A No.
- 18 Q Ms. Tucker, just going back to January the 27th on
- 19 the day when this all happened, you made the phone call
- 20 from where, the Sheriff's Department, from their office?
- 21 A The office of Chad Cox and them.
- 22 Q And then you were, were you going to the scene to
- 23 make the buy?
- 24 A Yes.
- 25 Q Did you ever make it to the scene?

1 A No.

2 Q Did you ever touch the drugs?

3 A No.

4 Q Did you ever see those drugs?

5 A No.

6 Q Did you ever see Mr. Vaughn that day?

7 A No. I never made it to the carwash.

8 Q Okay. Did you ever see Ms. Wilson that day?

9 A No.

10 Q Never made it to the carwash?

11 A No.

12 Q Did you ever see those drugs?

13 A No.

14 MR. BLACK: No further questions. Please answer any
15 questions that Ms. Merrill might have for you.

16 THE COURT: Cross-examination.

17 MS. MERRILL: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 By Ms. Merrill:

20 Q You had a trafficking charge dismissed last year?

21 A Yes.

22 Q And that was dismissed by this same Solicitor's
23 Office, is that right?

24 A All I know is it was dismissed in July, a trafficking
25 and ephedrine and disposal.

1 Q Okay. And were, those charges were in Greenwood
2 County?

3 A Yes.

4 Q And the Solicitor's Office was prosecuting that case?

5 A Yes.

6 Q And all the pending charges that Mr. Black just
7 talked about, the same office is prosecuting those cases,
8 is that right?

9 A Yes.

10 Q You have sixteen different criminal convictions on
11 your criminal history, is that right?

12 A Yes.

13 Q And of all these pending charges, some of them go
14 back to 2014?

15 A Yes.

16 Q There's one from August of '14, is that right?

17 A Yes.

18 Q October of '14?

19 A Yes..

20 Q I think there's three from October of '14. And then
21 you've got some from 2016, is that correct?

22 A Yes.

23 Q And you're hoping your testimony is going to benefit
24 you, right?

25 A No.

1 Q You're not hoping it is?

2 A Well, I, yeah. I mean, I reckon, yeah. I hope it
3 does.

4 Q And on this day you did this phone call with Brandy
5 Wilson, you didn't talk on the phone to Mr. Vaughn, did
6 you?

7 A No.

8 Q You mentioned something about some of them and you
9 were talking about these pending charges. Some of them
10 are supposed to be coming off me. What'd you mean by
11 that?

12 A The burglary, the credit card is coming off of me.

13 Q Is that coming off for your testimony here today?

14 A No.

15 Q How is that coming off of you?

16 A Because I didn't do it.

17 Q You know some of these police officers pretty well,
18 don't you?

19 A No.

20 Q You referred to them by first name several times?

21 A Everybody refers to them by their first name.

22 Q And you've had other charges that the police have
23 helped you out with, is that right?

24 A Yes.

25 Q Didn't you say Dale Boyer helped you out and took

1 care of that?

2 A I was in prison when that come up. There is no way I
3 can get out of prison and get a breach of trust.

4 Q But that officer took care of that?

5 A He talked to the Judge. He come back and told me
6 that it was dismissed.

7 Q And they could have charged you after something
8 happened even if you were in prison, is that right?

9 A Yes, evidently they can.

10 Q You would agree with me a simple possession of
11 marijuana charge carries a lot less time and less
12 penalties than trafficking, is that right?

13 A Yes.

14 Q And for this simple possession of marijuana from
15 January of '16, you did two different drug buys?

16 A Yes.

17 Q Are you hoping that other drug case is going to help
18 you with your current charges?

19 A What do you mean by that?

20 Q The other buy that you did?

21 A No.

22 Q So you're testifying here today and you don't expect
23 any help?

24 A No.

25 Q But you're hoping it'll help you?

1 A Not really.

2 Q You don't want it to help you with all of these
3 pending charges?

4 A I got in trouble. Why I got to do that? I mean, if
5 they pending, they still pending. Now, I hope that I get
6 whatever my lawyer gets me, but I have not asked nobody to
7 help me do it.

8 MS. MERRILL: Thank you. That's all the questions I
9 have.

10 THE COURT: Anything on redirect?

11 MR. BLACK: Nothing further, Your Honor.

12 THE COURT: Okay. Thank you, ma'am. You can step
13 down. Ma'am, you're free to leave or you're welcome to
14 remain with us. All right. Ladies and gentlemen, we're
15 going to take about a ten-minute morning break. Again, I
16 remind you, no discussion among yourselves about anything
17 related to this case, and we'll start back shortly. And
18 the candy that is on your table, it's all sugar-free, so
19 if you're conscience about sugar, then you're good to go,
20 okay?

21 (Whereupon, the jury was excused from open court for
22 a break.)

23 THE COURT: Mr. Vaughn, I just want to note you are
24 doing a lot better this morning. Keep it up, okay?

25 MR. VAUGHN: Yes, sir.

1 THE COURT: All right. We'll be in recess about ten
2 minutes.

3 (Whereupon, a short break was taken.)

4 THE COURT: Let's bring the jury in.

5 (Whereupon, the jury came into open court at
6 approximately 11:42 a.m.)

7 THE COURT: All right. Let the record reflect the
8 jury is back in. Is the State ready to call its next
9 witness?

10 MS. WHITE: Yes, sir.

11 THE COURT: Okay.

12 MS. WHITE: The State calls Bryan Louis.

13 BRYAN LOUIS, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Ms. White:

17 Q All right. If you would introduce yourself for the
18 jury?

19 A Bryan Louis.

20 Q And how are you employed, Agent Louis?

21 A I'm a drug agent with the Greenwood County Sheriff's
22 Office.

23 Q And how long have you been working in the Sheriff's
24 Office as a drug agent?

25 A Three years approximately.

1 Q Were you involved in this incident that occurred near
2 the carwash on January 27th, 2016?

3 A Yes, ma'am.

4 Q We've heard about, I guess, a pre-operations
5 briefing. Were you involved in that briefing?

6 A Yes, I was.

7 Q And where did you go from there?

8 A I went to the parking lot at Bi-Lo North within
9 Greenwood County.

10 Q And whereabouts in the parking lot were you?

11 A I was, if you're entering the parking lot from 25
12 North, I was to the right side facing South.

13 Q Okay. So you were kind of closest to the convenience
14 store?

15 A Yes, ma'am.

16 Q About what time did you get there?

17 A I want to say around 5:00 p.m., right there in that
18 time frame.

19 Q And what were you there looking for?

20 A Looking for the suspect vehicle which was a dark
21 either navy or black Chevy Tahoe and the occupants.

22 Q And who were the occupants supposed to be?

23 A It's supposed to be Ms. Wilson and Mr. Vaughn.

24 Q While you were sitting there, did you see the suspect
25 vehicle?

1 A Yes, I did. It, like I had mentioned before, I was
2 facing South. It entered to my back right into the Bi-Lo
3 parking lot. It actually went in front of our vehicle. I
4 was in the vehicle with Investigator Ricky Madden. I was
5 a passenger in that vehicle. I did observe Ms. Wilson
6 driving and Mr. Vaughn in the passenger seat.

7 Q And where was the vehicle headed?

8 A As it came by us, it made a right headed towards the
9 carwash.

10 Q Did the vehicle make it to the carwash?

11 A It went past the carwash and a traffic stop was
12 conducted of the vehicle.

13 Q Were you one of the vehicles involved in the traffic
14 stop?

15 A I was, we were the first one that arrived at the rear
16 of the suspect vehicle.

17 Q Were there other vehicles that also were involved?

18 A Yes, ma'am. I believe it was Captain Reeder and Josh
19 Hood arrived before we did.

20 Q Now, where, with regards to the Tahoe, where were you
21 in relation to it?

22 A I was at the rear of it.

23 Q And were there other cars at the front?

24 A There was. I believe Jarvis Reeder was the one that
25 conducted the stop, and then Josh Hood arrived at the

1 front, as well.

2 Q So did y'all kind of have it blocked in?

3 A We did.

4 Q You said that you had identified Ms. Wilson as the
5 driver?

6 A Correct.

7 Q And Mr. Vaughn was in the passenger seat?

8 A Yes, ma'am.

9 Q Did you see anyone else in the vehicle as it was
10 driving by?

11 A I could not.

12 Q Once the traffic stop was initiated, what did you do?

13 A Exited out of the vehicle, weapon drawn, approached
14 the vehicle. At that time, I was advised, I believe, by
15 Captain Reeder that there was a child in the rear of the
16 vehicle. At that time, I opened the door, had the child
17 exit and put him in a safe distance away from the vehicle.

18 Q Do you remember the child's name?

19 A I do not.

20 Q Do you know approximately how old the child was?

21 A I want to say, I don't. I want to guess maybe five
22 or six years old.

23 Q And he was in the rear of the vehicle?

24 A Yes, ma'am.

25 Q After y'all removed the child from the scene, what

1 did you do then?

2 A Conducted a search of that vehicle.

3 Q Were Ms. Wilson and Mr. Vaughn placed into custody?

4 A They were. I had an active arrest warrant for Mr.
5 Vaughn from a previous incident.

6 MS. MERRILL: Objection, Your Honor.

7 THE COURT: Okay. Let me see the lawyers for just a
8 minute.

9 (Whereupon, a bench conference was held in the
10 presence of the jury but out of the hearing of the
11 jury.)

12 THE COURT: Ladies and gentlemen, I have a legal
13 issue that I need to discuss with the attorneys outside
14 your presence. So if you'll go to the jury room.
15 Hopefully, it won't be long. Again, no discussion about
16 this case among yourselves, and we'll get you back out
17 shortly.

18 (Whereupon, the jury was excused from open court.)

19 THE COURT: Okay. Ms. Merrill, do you have an
20 objection to put on the record, Ma'am?

21 MS. MERRILL: Yes, Your Honor. I object to there
22 being any mention whatsoever of an active arrest warrant.
23 And I know yesterday I was told by both Ms. White and Mr.
24 Black that they would not plan to be getting into that.

25 THE COURT: Right.

1 MS. MERRILL: I don't say that to say that it was
2 intentionally elicited.

3 THE COURT: Right.

4 MS. MERRILL: But I was told that, that would not be
5 an issue, and so we would not even have to deal with that.

6 THE COURT: Right. And that was my understanding.
7 Certainly, it was brought out and was, played a large role
8 as far as the suppression hearing goes. But that was my
9 understanding. And, again, I'm confident that it was not
10 intentional on the part of the State. It's just something
11 that's come out. Before hearing from the State, is there
12 any relief that you are seeking as a result of this
13 objection?

14 MS. MERRILL: Your Honor, at this time, I would move
15 for a mistrial, because I believe it's highly prejudicial.
16 If the Court would give me just a few minutes to do a
17 little research. I'm trying this case by myself and don't
18 have a cocounsel.

19 THE COURT: All right. Well, let's just take a few
20 minutes off the record, and we kind of do a little
21 studying on this.

22 (Whereupon, a break was taken.)

23 THE COURT: All right. Let's go back on the record.
24 Ms. Merrill, I'll be glad to hear any arguments and
25 certainly a response from the Solicitor. I'm not, just to

1 be candid with you at the outset. I'm not inclined to
2 grant a mistrial in this case, but I'll be glad to hear
3 from you.

4 MS. MERRILL: Your Honor, I would just, I understand
5 that what you're, you're not inclined to grant the
6 mistrial. But I think given the situation, the amount of
7 time that Mr. Vaughn is facing if he is convicted, that
8 he, his right to a fair trial is no different than anyone
9 else. But his trial being fair and as transparent as
10 possible. I think that giving that information to the
11 jury certainly gives them reason to convict him other than
12 the actual evidence and it's improper evidence to come in,
13 Your Honor, and I'll just cite the cases so the record is
14 complete, if I may?

15 THE COURT: Okay.

16 MS. MERRILL: Specifically, State v. Craft, 222 SC
17 139. In that decision that the trial court did not abuse
18 its discretion ordering a mistrial where the State
19 introduced improper evidence. And I would also say under
20 Rule 403 that the danger of unfair prejudice or misleading
21 the jury outweighs any probative value.

22 THE COURT: Okay. All right. Thank you very much.
23 Solicitor, you want to briefly respond?

24 MS. WHITE: Yes, sir. Very briefly, Your Honor. For
25 the purposes of the record, first of all, this is

1 obviously not an intentional, I did not intentionally
2 elicit that.

3 THE COURT: We know that.

4 MS. WHITE: It was because of the confusion between
5 yesterday where the arrest was very much a part of the
6 suppression hearing and today when we were trying to skirt
7 around it. I think that was the reason for the confusion.
8 Setting that aside there are two cases that, for the
9 record, I believe justify the Court's ruling. State vs.
10 Thompson and State vs. Counsel. The situation is very
11 similar to State vs. Thompson where there was a reference
12 to an outstanding, two outstanding warrants. The State
13 did not attempt to elicit any further testimony about
14 that. And the Court found that testimony being so vague
15 where the State did not attempt to prove that any farther,
16 that the Court was, did not abuse its discretion in
17 refusing to grant the mistrial.

18 THE COURT: Right. And I'm going to deny the motion
19 for a mistrial. I am going to give a brief curative
20 instruction to the jury that the last testimony that was
21 objected to concerning an active arrest warrant is to be
22 totally disregarded by the jury. That we're here only on
23 the three charges and not any other previous or potential
24 charges that we know nothing about. And I think that
25 should take care of any prejudice that could otherwise

1 result to the Defendant. Of course, we know the standard
2 is absolute necessity or the ends of justice dictate
3 granting a mistrial. And the fact that it is
4 discretionary with the Court, the motion is respectfully
5 denied. All right. Let's bring the jury back out.

6 (Whereupon, the jury came into open court at
7 approximately 12:02 p.m.)

8 THE COURT: All right. Let the record reflect the
9 jury is back out. Ladies and gentlemen, the last
10 testimony offered that was objected to by Defense that
11 there was an active arrest warrant. The existence of that
12 should not be considered by you at all. It should not
13 even come up during your deliberations, and it should not
14 even be discussed in the jury room when you begin your
15 deliberations. That is not evidence for you to consider.
16 We are here on three charges and three charges only, and
17 it's those three charges that you are to consider and
18 nothing else. All right. Solicitor, you ready to
19 continue with this witness?

20 MS. WHITE: Yes, sir, Your Honor.

21 CONTINUE DIRECT EXAMINATION

22 By Ms. White:

23 Q All right. Agent Louis, you said that you searched
24 the vehicle?

25 A Yes, ma'am.

1 Q Did you find anything of note when you were searching
2 the vehicle?

3 A I located, I believe, it's four bags, small bags of
4 marijuana and another bag with a syringe, and I think some
5 Q-tips.

6 (Whereupon, State's Exhibit numbers, 10, 11 and 12
7 were marked for identification.)

8 MS. WHITE: May I approach the witness, Your Honor?

9 THE COURT: You sure can.

10 Q I'm going to hand you what's been marked for
11 identification as State's 10, 11, and 12. Can you
12 identify those for me?

13 A Ten is a black bag containing, it looks like, a clear
14 plastic baggie which had small, four smaller bags of
15 marijuana in it. Number 11 is just the plastic bag itself
16 containing the marijuana. And then number 12 is going to
17 be a bag of marijuana and Ms. Wilson's driver's license
18 also in the picture.

19 Q Are all of those fair and accurate depictions of what
20 you found that day?

21 A Yes, ma'am.

22 MS. WHITE: The State offers Exhibits 10 through 12
23 into evidence at this time, Your Honor.

24 THE COURT: What says the Defense?

25 MS. MERRILL: Subject to my prior objection, Your

1 Honor.

2 THE COURT: Okay. So noted. 10, 11, and 12 into
3 evidence for the State.

4 (Whereupon, State's Exhibit numbers 10, 11 and 12
5 were admitted into evidence.)

6 MS. WHITE: And may I publish, Your Honor?

7 THE COURT: Sure.

8 Q Can you see that CD from where you're sitting?

9 A I can.

10 Q All right. Showing you State's 10. What is that
11 again?

12 A It's going to be a black bag containing a larger
13 clear bag containing four smaller bags of marijuana.

14 Q And where in the car did you find that bag?

15 A It was in between the front seats, the console area.

16 Q So between the driver and the passenger seat in the
17 front?

18 A Yes, ma'am.

19 Q And Exhibit 11, what is that?

20 A That's going to be the four bags of marijuana, and a
21 larger bag, as well.

22 Q So you can see, I guess, where it's been opened then
23 you can make out the smaller bags?

24 A Yes, ma'am.

25 Q And then Exhibit 12?

1 A It's going to be the same picture of the marijuana.
2 This one has Ms. Wilson's driver's license which was
3 located in the front of the vehicle, as well.

4 Q Was Ms. Wilson charged with all of the same crimes
5 that Mr. Vaughn was charged with?

6 A Yes, ma'am.

7 (Whereupon, State's Exhibit number 13 was marked for
8 identification.)

9 MS. WHITE: May I approach the witness again, Your
10 Honor?

11 THE COURT: Sure.

12 Q I'm going to hand you what's been marked as State's
13 13. Can you identify that for me?

14 A It's four small bags of marijuana.

15 Q Is that the marijuana that you found in that bag in
16 the vehicle?

17 A Yes, ma'am.

18 Q How do you know that?

19 A My name is written on here being identified by
20 myself.

21 Q And what, after you found the marijuana, what did you
22 do with it?

23 A I believe I gave it to our evidence tech that was on
24 the scene, Greg Allison.

25 (Whereupon, State's Exhibit number 14 was marked for

1 identification.)

2 Q All right. I'm going to hand you what's been marked
3 for identification as State's 14. Can you identify that?

4 A It's a small black bag containing several Q-tips and
5 a syringe.

6 Q Is that the bag you testified about a few minutes ago
7 that you found in the vehicle?

8 A This is a different bag.

9 Q Oh, okay. Where did you find that?

10 A The front passenger side of the vehicle.

11 Q And what did you do with that after you found it?

12 A The same as the marijuana, it was given to our
13 evidence tech.

14 Q Did you actually search Mr. Vaughn or was that
15 handled by somebody else?

16 A Somebody else did that.

17 Q And were you even present when that happened?

18 A No, ma'am. I was searching the vehicle.

19 MS. WHITE: Please answer any questions, Ms. Merrill
20 has.

21 THE COURT: Cross-examination.

22 MS. MERRILL: I have no questions, Your Honor.

23 THE COURT: Okay. Thank you, sir. You can step
24 down.

25 MR. BLACK: Your Honor, the State calls Josh Hood.

1 THE COURT: Okay.

2 JOSH HOOD, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Black:

6 Q Officer Hood, can you state your name for the record,
7 please?

8 A Josh Hood.

9 Q And you work at the Sheriff's Department?

10 A That is correct.

11 Q How long have you been there?

12 A Since February of 2007.

13 Q And what kind of responsibilities have you had since
14 you've been at the Sheriff's Department?

15 A I began my work in Uniformed Patrol Division. I've
16 worked in the Drug Enforcement Unit for a couple of years,
17 Criminal Investigations Unit, Drug Enforcement.

18 Q And what's your current role right now?

19 A I am a lieutenant on the Uniformed Patrol.

20 Q And do you have any special duties right now as a
21 lieutenant on Uniformed Patrol?

22 A Not, I currently am assigned to the narcotics canine
23 if that's what you're referring to.

24 Q And explain to the jury what you do with this dog?

25 A Typically, prior to right now, I don't have him in

1 the vehicle that I'm driving right now. But prior to
2 right now, he came to work with me on a daily basis to
3 assist in narcotics investigations. He was used when we
4 had search warrants or anytime that, a suspicion of
5 narcotics was somewhere. Where I was allowed to be, the
6 dog was allowed to do a free air sniff of the area in
7 order to detect the presence of the odor of narcotics.

8 Q Okay. And let's move on to January the 27th of this
9 year. Were you involved in this particular incident, this
10 case?

11 A Yes, I was.

12 Q And how did you become involved?

13 A I was involved to assist with possible traffic stop
14 on the vehicle or just being in the area to assist with
15 manpower.

16 Q And in this particular case, did you use your dog at
17 all?

18 A I did not.

19 Q Okay. The vehicle that you drive, that you were
20 driving in January of this year, can you describe the
21 vehicle for us, please?

22 A It is a fully-marked patrol car like the ones you see
23 visibly with the equipment, audio and video recording, and
24 a canine cage in the back.

25 Q Okay.

1 A It's a Tahoe.

2 Q You had a audio and video recording?

3 A I did.

4 Q Where was the video recording positioned in this
5 particular vehicle?

6 A It'd be directly out the front windshield.

7 Q So that you have to look out of it straight ahead?

8 A Correct.

9 Q Okay. Do you remember what time that you arrived on
10 scene?

11 A It'd be a guess, but between 5:00 and 5:30, I'm
12 assuming. I don't know for sure.

13 Q Okay. But it was later afternoon?

14 A Yeah, late afternoon.

15 Q And did you happen to record this particular instance
16 when you were involved?

17 A Yes.

18 MR. BLACK: Your Honor, may I approach the witness?

19 THE COURT: Sure.

20 Q I'm showing you what's been marked as State's number
21 1. Can you identify this for us, please?

22 A Yes'. This is a copy of the in-car video from my
23 vehicle from that day.

24 Q Have you had a chance to review that?

25 A I have.

1 Q And did you, when did you review that?

2 A Yesterday.

3 Q Did you, is that your initials on the CD?

4 A It is.

5 Q Is it a true and accurate representation of what
6 occurred at the scene that day?

7 A Yes.

8 MR. BLACK: Your Honor, at this point, the State
9 moves State's Exhibit number 1 into evidence and would
10 like to publish that to the jury.

11 THE COURT: All right. And what says the defense?

12 MS. MERRILL: And subject to the prior objection,
13 Your Honor.

14 THE COURT: Okay. All right. So noted, and number 1
15 will be into evidence for the State.

16 (Whereupon, State's Exhibit number 1 was admitted
17 into evidence.)

18 MR. BLACK: And, Your Honor, if Officer Hood wants to
19 step down and whatever would be easier for him.

20 MR. HOOD: I'm okay from here.

21 THE COURT: All right. Is it your plan to
22 periodically stop the video and ask Officer Hood questions
23 or play it in full and then ask him?

24 MR. BLACK: Yes, sir. Play it in full, and then ask
25 him questions.

1 THE COURT: Okay. All right.

2 MS. MERRILL: Your Honor--

3 THE COURT: Ms. Merrill, you had something?

4 MR. BLACK: And, Judge, I think we worked it out.

5 I'm going to ask Officer Hood a few more questions.

6 THE COURT: Before you play the video?

7 MR. BLACK: Yes, sir.

8 THE COURT: Okay. And then you'll play the video
9 in-full, and then follow up with any questions you feel
10 like are necessary?

11 MR. BLACK: Yes, sir.

12 Q Officer Hood, while she's cueing up this video, when
13 you arrived, were there other vehicles, other officers on
14 the scene?

15 A Yes.

16 Q And who were those, do you remember?

17 A I would rather wait until I see it to be for sure.
18 But I know Captain Reeder was there. The, I can't
19 remember how, I don't remember who all was on-scene.
20 Because there was multiple vehicles and I couldn't see
21 everyone.

22 Q Okay. And where did you, where did you park?

23 A When I pulled in, the vehicle was in front of the
24 carwash. And I turned off of Northside Drive in front of
25 the vehicle, and there was one vehicle stopped in front of

1 and due to oftentimes people will try to flee, I pulled to
2 the left of that vehicle to try to seal off any exits.

3 Q And what did you do when you arrived?

4 A I exited my vehicle and walked over to the passenger
5 side of the vehicle and assisted in securing Mr. Vaughn.

6 Q Okay. Is Mr. Vaughn here in the courtroom?

7 A Yes, he is.

8 Q And can you identify him, please?

9 A He's in the black shirt, longer hair.

10 Q Okay. And this was the person you talked to, is that
11 right?

12 A Yes, it is.

13 Q And what did you do when you talked to Mr. Vaughn?

14 A I placed him in the handcuffs and had him exit the
15 vehicle and began to do a search of his person to make
16 sure he didn't have any weapons or anything. There was a
17 mention that he had been reaching and stuff, and so
18 there's a concern that he may have been placing weapons or
19 something else in his waistband or the general area.

20 Q And do you know how long it took you to search him?

21 A Just a minute or two.

22 Q Okay. And after you searched him, did you turn him
23 over to somebody else?

24 A Yes, I did.

25 Q And do you remember who that was?

1 A I believe it was Captain Reeder.

2 Q And then what did you do after you turned Mr. Vaughn
3 over to Captain Reeder?

4 A I walked over to the vehicle and tried to see if I
5 could assist them with searching the vehicle or just, in
6 general, anything they needed done.

7 Q And was the video recording on your vehicle playing
8 the whole time?

9 A Yes, it was.

10 Q Now, your car also is equipped with audio, is that
11 right?

12 A That's correct.

13 Q So you have a microphone?

14 A That's correct.

15 Q Where is the microphone?

16 A There is a microphone that's worn on my vest, and
17 there is also one inside the vehicle.

18 Q And how is the, how is the microphone activated?

19 A As soon as the blue lights come on, the microphone
20 would be activated or I can manually turn it on in case
21 I'm outside of the vehicle. And the blue lights weren't
22 running and I realize I need it, I can turn it on
23 manually.

24 Q Okay. So you have access to turn it on manually?

25 A Yes.

1 Q In this case, did you turn it on at the very
2 beginning or do you remember?

3 A The video was turned on when the blue lights were
4 activated as we were turning in. So, yes, it was
5 activated immediately.

6 Q And do you know if there is like a delay or something
7 when the blue lights come on and when the microphone comes
8 on?

9 A Right.

10 Q If you remember?

11 A What happens is the actual video footage backs up for
12 one minute prior to when the blue lights are initiated.
13 So they'll be approximately one minute without audio, and
14 then in the video that you're talking about, there's also
15 going to be time where I'm outside the vehicle that you
16 will not hear the audio as I'm speaking, because the body
17 mike was on the charger. And I have to return back to my
18 vehicle and put it on my vest, and then you'll start
19 hearing my audio.

20 Q Okay. And so if a person were to be around you, then
21 you could pick up the audio from your microphone, is that
22 correct?

23 A That's right.

24 Q About how far do they have to be?

25 A Depending on the outside conditions, wind, traffic,

1 and other things, maybe ten feet or so.

2 Q Okay. What about if somebody is on the other side,
3 could you pick up audio from your mike on them?

4 A Not likely, unless they were hollering or something.

5 Q Okay. So they'd kind of have to be in close
6 proximity to you?

7 A Typically.

8 Q All right. I may have already asked this question,
9 but did you say you found anything on Mr. Vaughn, you were
10 searching for weapons, is that right?

11 A That's right. Mr. Vaughn had a knife in his pocket
12 and a set of, I believe he had a set of scales, some
13 various change, a couple of loose dollar bills, and his
14 wallet, I believe, is the items that were pulled from his
15 pockets.

16 Q And all these items, what did you do with the items
17 once you found them?

18 A I had placed them on the hood of the patrol vehicle
19 in front of the vehicle.

20 Q And were those signed into evidence to someone?

21 A All of the evidence was collected by the Evidence
22 Technician, Allison.

23 Q And he was out there that night?

24 A He was.

25 Q He took possession of all the evidence?

1 A Is my understanding.

2 MR. BLACK: Your Honor, at this point, the State
3 moves State's number 1 into evidence and we'd like to
4 publish that to the jury.

5 THE COURT: I think one is already into evidence.
6 You've already moved.

7 (Whereupon, a video was published to the jury
8 starting at 12:20 p.m., ended at 12:40 p.m.)

9 Q Officer Hood, just a couple of follow-up questions.
10 It looked like y'all kind of got there about the same
11 time, is that right?

12 A That's correct.

13 Q And when you were searching Mr. Vaughn at the very
14 beginning, you said something to the effect of it looks
15 like some white powder. Can you describe what that was?

16 A Yeah. When I was pulling things out of his pocket,
17 just a little bit of powder seemed to come out. And I
18 wasn't sure if it was drugs or what it was. That's why I
19 asked him about it. I was never able to get enough that I
20 could see or to be able to determine for sure what it was.

21 Q You just made a note of it, I guess?

22 A Right, basically.

23 Q And you, eventually, turned Mr. Vaughn over to the
24 custody of Mr. Reeder, is that correct, Captain Reeder?

25 A That's correct.

1 Q And then you, we saw that you stepped away, is that
2 right?

3 A That's correct.

4 Q And you assisted with searching the vehicle?

5 A Right, just whatever needed to be done.

6 Q Now, you, well, let me back up. Eventually, was Mr.
7 Vaughn taken off camera?

8 A He was.

9 Q And where exactly did he go, do you remember?

10 A I believe he was just to the, well, if you are
11 looking at the camera's view, it would have been just to
12 the right, kind of right beside my front passenger side
13 door.

14 Q Okay. Was he between a couple of cars?

15 A That's right.

16 Q And what did you do when he was taken over there?

17 A I was standing, I was, I was right there close to
18 where they were. But I guess I was just off camera view,
19 as well.

20 Q Okay. And did you observe Captain Reeder and Chad
21 Cox search the Defendant?

22 A Yes.

23 Q Okay. And where were you standing, how far from when
24 that happened?

25 A I mean, I was just a couple of feet away.

1 Q And you observed what they did?

2 A I did. They pulled the baggies that you saw put on
3 the hood, they pulled them out of his pants, and then
4 placed them on the hood.

5 Q So they searched Mr. Vaughn's person?

6 A That's correct.

7 Q And the baggies that you're referring to, they were
8 tossed onto the hood of the car?

9 A That's, that came from his pants.

10 Q Was that on the right side of the video?

11 A That's right.

12 Q Okay.

13 A It was on the right side of the car.

14 Q Okay.

15 A The passenger side.

16 Q That's right. And did you observe what was in those
17 bags?

18 A I looked. I don't remember if it was crystal or
19 powder.

20 Q But you looked and saw what it was?

21 A Yes, it was, I could --

22 Q Can you describe what it looked like?

23 A Methamphetamines, ice.

24 Q We saw an individual taking pictures of the stuff
25 that was on the hood of the car, who was that? Can you

1 just identify him? Do you remember?

2 A I believe that was Sergeant Cox was taking some
3 pictures.

4 Q He was the one in the red shirt, is that right?

5 A That's correct.

6 MR. BLACK: Your Honor, may I approach?

7 THE COURT: Sure.

8 (Whereupon, State's Exhibit number 15 was marked for
9 identification.)

10 Q And before we get to the State's number 15, you said
11 there was some stuff in Mr. Vaughn's pants, the stuff that
12 you were referring to that got thrown on the hood?

13 A That's correct.

14 Q Where in his pants, do you remember seeing it?

15 A Where was that, I mean, there was something in every
16 pocket probably.

17 Q Well, I'm talking about before you searched him.
18 After, when he was taken off camera, you said that I
19 believe Captain--

20 A -- oh, he was, the bags were taken out from basically
21 not any of his pockets, in his under, he had stuffed them
22 inside of his pants in his groin area, in the crotch area.

23 Q The front or back?

24 A I think, I think they, I don't know. I don't know
25 exactly. I mean, I guess it would be in the, right

1 underneath him in the center.

2 Q Okay. I showed you what was marked as State's number
3 15. Can you identify that for us, please?

4 A These are the, this is the contents of his pockets
5 that I pulled out.

6 Q Was that at the very beginning of the video?

7 A That's correct.

8 Q That's all the stuff you laid out on the hood?

9 A Yes.

10 Q And can you identify what exactly is in that packet
11 and there is some knives, I think.

12 A There is pocketknives, four of them; a set of digital
13 scales, a lock, and change.

14 Q And the digital scales, is that, what color is that?
15 Is it in a box or something?

16 A The box is blue. It looks like almost the size of
17 like a cigarette pack.

18 Q Okay. And in your training and experience as a law
19 enforcement officer, what are those scales typically used
20 for?

21 A Typically used --

22 MS. MERRILL: Objection, Your Honor. He is asking
23 for an opinion.

24 THE COURT: Okay. I'm going to overrule the
25 objection. He can base it upon his experience as a law

1 enforcement officer. You may proceed.

2 Q And you worked in Narcotics, right?

3 A I did.

4 Q In training and experience, what are those scales
5 used for?

6 A Used to weigh up amounts of narcotics to get, for
7 sale.

8 Q Like drugs or something?

9 A Yes.

10 MR. BLACK: Your Honor, at this point, the State
11 moves number 15 into evidence.

12 THE COURT: What says the defense?

13 MS. MERRILL: May I just see, please, Your Honor? I
14 didn't see it before it was presented to the witness.

15 THE COURT: Oh, okay. Sure, by all means.

16 MS. MERRILL: Thank you. Subject to the same
17 objection, Your Honor.

18 THE COURT: Okay. So noted. Number 15 is in
19 evidence for the State.

20 (Whereupon, State's Exhibit number 15 was admitted
21 into evidence.)

22 Q And, Officer Hood, you said you threw that on the
23 hood of your vehicle, correct?

24 A That's correct.

25 Q And at the end of the video, we saw an individual

1 taking everything and putting them into bags. Who was
2 that?

3 A It was Deputy Allison, the evidence technician.

4 Q He is the evidence tech for Greenwood County?

5 A That's correct.

6 Q And you gave him these items that you found that day?

7 A That's correct.

8 Q You turned them over to him on the scene?

9 A That's correct.

10 MR. BLACK: I don't have any further questions.

11 Please answer any questions Ms. Merrill might have for
12 you.

13 THE COURT: Okay. Cross-examination?

14 MS. MERRILL: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 By Ms. Merrill:

17 Q The microphone that picks up the audio recording, you
18 said it's in your pocket?

19 A No it was, it's on my vest about either right here or
20 right here.

21 Q And does that have a cord on it?

22 A Have a cord, no it does not. It's held on with a
23 clip similar to like something a pager would have.

24 Q So it's wireless?

25 A That's correct.

1 Q Okay. And you said when Officer Reeder was searching
2 Mr. Vaughn that you were just a couple of feet way, is
3 that right?

4 A That's correct.

5 Q Were you just a couple of feet away the whole time he
6 was being searched?

7 A I don't know. I don't know if I stood there the
8 whole entire time or after they, once they got the stuff
9 out or what. I'm not, I don't know how long I stood
10 there.

11 Q So you don't know at what point you went, you walked
12 away?

13 A No.

14 Q What did you do after you, or after they searched
15 him?

16 A You can see in the video when they are getting the
17 bags out and they placed them on the hood, I come, I'm
18 right there on the edge of the frame and I stood there,
19 right there at them. But I don't know exactly when I
20 walked away.

21 Q How close was he, were they searching Mr. Vaughn.
22 You said it was to the right. If you're looking through
23 the camera to the right of your car, is that right?

24 A The passenger side.

25 Q The passenger side. Were they fairly close to the

1 car?

2 A Yeah, pretty close.

3 Q About how close?

4 A I mean, they were between, as you saw when we pulled
5 in, there was Captain Reeder's Tahoe on the right. And I
6 pulled to the left and they were, they were there between
7 those two vehicles.

8 Q Okay. And so during the time he was searched, you
9 were a few feet away either watching his search or putting
10 things on the hood, is that right?

11 A I didn't put anything on the hood when he was
12 searched on the side of the car. The only thing I ever
13 put on the hood was in the beginning.

14 Q So after they were searched, after he was searched,
15 what did you do?

16 A I stood there. I helped search the vehicle, helped
17 do the tow sheet, did various miscellaneous things that
18 they needed done.

19 Q Did you put anything on the hood from the vehicle?

20 A Only in the beginning.

21 Q But you put things on the hood of the vehicle?

22 A Yes.

23 Q Okay. Thank you.

24 THE COURT: Any redirect?

25 MR. BLACK: Nothing from the State.

1 THE COURT: Thank you, sir. You can step down. All
2 right. Ladies and gentlemen, I think this would be a good
3 time to take our lunch break, and I want to ask that you
4 be back at 2:15 prompt. And I think I mentioned this to
5 you yesterday, if you are going to be out in public, a
6 local restaurant, wear your juror badge so these folks can
7 recognize you. No communication among yourselves or no
8 discussion about this case or anyone that you come into
9 contact with. Have a good lunch, and we'll see you back
10 at 2:15.

11 (Whereupon, the jury was excused from open court for
12 a lunch break.)

13 MS. MERRILL: Your Honor, may I place one thing on
14 the record?

15 THE COURT: You sure can.

16 MS. MERRILL: I didn't want to object in front of the
17 jury about your curative instruction. And I also, I knew
18 it would be overruled, but if I can just state my
19 objection to the curative instruction. Thank you.

20 THE COURT: All right. We'll be in recess until
21 2:15.

22 (Whereupon, a lunch break was taken.)

23 THE COURT: Let's bring the jury in, please.

24 (Whereupon, the jury came into open court at
25 approximately 2:29 p.m.)

1 THE COURT: All right. Let the record reflect the
2 jury is back in. Solicitor, are you ready to call your
3 next witness.

4 MS. WHITE: Thank you, Your Honor. The State calls
5 Chad Cox.

6 CHAD COX, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Ms. White:

10 Q Good afternoon.

11 A Good afternoon.

12 Q If you could introduce yourself to the jury, please?

13 A My name is Chad Cox. I'm employed with the Greenwood
14 County Sheriff's Office.

15 Q And in what capacity are you employed with the
16 Sheriff's Office?

17 A I'm a lieutenant over the Drug Enforcement Unit.

18 Q How long have you been the lieutenant over the Drug
19 Enforcement Unit?

20 A About a year.

21 Q Were you, I guess you would have been the lieutenant
22 back in January of 2016?

23 A Yeah, promoted was somewhere right in there.

24 Q Were you involved in a case we've been here about
25 today up at the carwash on 25 North?

1 A I was.

2 Q Were you present when Agent Brooks met with Debbie
3 Tucker?

4 A I was. I was in and out of the room as they
5 discussed the issue.

6 Q And what were you, you said you were in and out of
7 the room. What else were you doing?

8 A We had a group of guys as, we was doing a buy/bust
9 and had a group of guys in another room getting prepared
10 to go to different locations to set up surveillance.

11 Q So you were kind of overseeing everything?

12 A Yes, ma'am.

13 Q After everyone left your office, what did you do
14 next?

15 A I assisted Agent Brooks with Ms. Tucker in making
16 sure, he had wired up and everything was there. And we
17 were headed up to the location to do the buy/bust.

18 Q And were you riding with Agent Brooks?

19 A I was.

20 Q So were you present when the actual traffic stop
21 occurred?

22 A I was not.

23 Q About how long after the stop occurred would you say
24 you got there?

25 A It wasn't long. We stopped, retrieved our equipment

1 from Ms. Tucker and went onto the scene.

2 Q When you got on the scene, who, other than agents and
3 employees of the Sheriff's Office, who did you observe on
4 the scene?

5 A Ms. Brandy Wilson, Mr. Vaughn, and then there was a
6 child.

7 Q Were they all already out of the vehicle?

8 A They were.

9 Q Did, where was Mr. Vaughn when you arrived?

10 A When I arrived, I believe he's in front of Lieutenant
11 Hood's marked vehicle.

12 Q And were you in here earlier when we watched the
13 video of that?

14 A I was.

15 Q And were you the guy in the red shirt --

16 A I was.

17 Q -- in that video? What did you do, you said Deputy
18 Hood had Mr. Vaughn, was in front of the vehicle. What,
19 if anything, did you do at that point?

20 A I read Mr. Vaughn his Miranda rights, making sure he
21 understood, making sure he was coherent, understood what
22 we were talking, what we were going to talk about and what
23 was going on.

24 Q When you say his Miranda rights, what are those?

25 A State law; we do Miranda rights. You have the right

1 to remain silent. If you give up the right, anything you
2 say can and will be used in a court of law. You have the
3 right to an attorney.

4 MS. WHITE: Wait, slow down just a tad. She's got to
5 keep up.

6 MR. COX: I'm sorry.

7 Q Okay.

8 A As I continued on, I made sure Mr. Vaughn knew that
9 he could talk to us with or without his lawyer present.

10 Q Did he appear to understand those rights?

11 A He did. I'll ask Mr. Vaughn his age, you know, if he
12 went to school. So he, to make sure he's understanding
13 and make sure he's coherent and make sure he understands
14 what's going on.

15 Q Did he appear to be under the influence of anything
16 when you spoke to him?

17 A Not to my knowledge.

18 Q Did he ask for a lawyer at any point?

19 A No, ma'am.

20 Q Did he say anything; did he give you any statements?

21 A No, not that I recall.

22 Q Now, ultimately, was he searched by another agent on
23 the scene?

24 A Mine is--

25 Q Wait a minute, I'm sorry. That wasn't a specific

1 question. I guess Deputy Hood searched him when he first
2 got out of the vehicle, correct?

3 A Correct.

4 Q Was he further searched after that?

5 A He was.

6 Q And were you present for that search?

7 A I was.

8 Q What were you doing while he was being searched?

9 A I was, as Captain Reeder was preparing to search him,
10 I was doing photos.

11 MS. WHITE: May I approach the witness, sir?

12 THE COURT: You sure can.

13 (Whereupon, State's Exhibits 16, 17, 18, 19, 20, 21,
14 22, 23, 24 and 25 were marked for identification.)

15 Q I'm going to hand you first what's been marked for
16 identification as State's 16 through 25. Are those
17 pictures you took that evening?

18 A Yes, ma'am.

19 Q And are those accurate depictions of the search as it
20 was taking place?

21 A Yes, ma'am.

22 Q Now, was Mr. Vaughn's search directly in front of the
23 vehicle?

24 A No, ma'am. We, Captain Reeder, I think, is the one
25 that come up with, let's move him over between the two

1 vehicles to give some cover and concealment to, so where
2 the drugs were located.

3 Q And, and I guess it's obvious, but without, why would
4 you need him to be concealed because of where the drugs
5 were located?

6 A They were down in his pants in his crotch area.

7 Q So did you have to undress him somewhat?

8 A We had to take, undo his belt, his button for his
9 blue jeans to get down in there.

10 MS. WHITE: Your Honor, State enters Exhibits 16
11 through 25 at this point.

12 THE COURT: And what says the Defense?

13 MS. MERRILL: I'm sorry. Can I see them.

14 THE COURT: Sure, take a look.

15 MS. MERRILL: Just subject to my prior objection,
16 Your Honor.

17 THE COURT: Okay. So noted. 16 through 25 into
18 evidence on behalf of the State.

19 (Whereupon, State's Exhibits 16 through 25 were
20 admitted into evidence.)

21 MS. WHITE: Thank you, Your Honor.

22 Q All right. You said that y'all had to undo his belt
23 and kind of unfasten his pants. Is that what we see on
24 Exhibit 16?

25 A Yes, ma'am.

1 Q And Exhibit 18, has his belt been removed in that
2 picture?

3 A I don't believe so. I believe, I don't really see a
4 belt. I can't tell. It looks like he's still standing in
5 front of Lieutenant Hood's vehicle.

6 Q Okay. So this is prior to the search?

7 A Yes.

8 Q And Exhibit 19, what is that?

9 A That's just a picture showing that who we are fixing
10 to search, showing you the clothing description that he
11 has on.

12 Q And the person you searched that day, is he in the
13 courtroom today?

14 A Yes. He's sitting over there in the black shirt.

15 THE COURT: All right. Let the record reflect that
16 the witness has identified the Defendant.

17 Q All right. Exhibit 20, can you identify that for us?

18 A I believe that would be the first picture we took
19 after I unbuttoned his pants, and his belt, and looking
20 down in there. As you can see, the baggies are what we'll
21 be pulling out, what we pulled out.

22 Q And Exhibit 21, what is that a picture of?

23 A That would be the bag that Captain Reeder pulled out
24 and placed on the hood of the car. Those would be Captain
25 Reeder's hands with rubber gloves on.

1 Q And I think I've been going through these sort of in
2 backwards order, but Exhibit 25, what is that?

3 A That's just another picture looking down. As you can
4 see, I think that is his small finger on the glove.
5 There's another baggie looking down in his private
6 section.

7 Q Okay. Once Captain Reeder pulled those baggies out,
8 what did he do with them?

9 A Placed them on the hood of the car or the vehicle.

10 Q Were you still taking pictures at that point?

11 A I think I took a, I think I took a couple of more of
12 them being on the vehicle hood, if I'm not mistaken.

13 MS. WHITE: May I approach the witness, Your Honor?

14 THE COURT: Sure.

15 (Whereupon, State's Exhibit No. 26, 27, 28, 29, 30,
16 31, and 32 were marked for identification.)

17 Q I'm handing you now State's 26 through 32. What are
18 those primarily a picture of?

19 A 27 is a picture of just where we're unbuckling his
20 belt. 26 is some of the bags that we retrieved from
21 inside Mr. Vaughn's person on the hood of the patrol
22 vehicle.

23 Q And are all of those the pictures that you took that
24 evening?

25 A Yes, ma'am.

1 Q And are they accurate depictions of what you were
2 taking pictures of?

3 A Yes, ma'am.

4 MS. WHITE: The State moves numbers 26 through 32
5 into evidence.

6 MS. MERRILL: Subject to the same prior objection.

7 THE COURT: So noted. Into evidence 26 through 32
8 for the State.

9 (Whereupon, State's Exhibit number 26 through 32 into
10 evidence.)

11 (Whereupon, State's Exhibit number 33 and 34 were
12 marked for identification.)

13 Q I'm going to also hand you 33 and 34. Can you
14 identify those for me?

15 A It's the same baggie. It's just pictures of them
16 after we retrieved them from Mr. Vaughn's pants on the
17 hood of the patrol vehicle.

18 Q Now, does it appear to be the same substance in all
19 of the baggies?

20 A Wait a minute. Can I see that one more time. No,
21 ma'am. I mean, and the same picture, yes. You got
22 methamphetamine on one side, and that appears to be a
23 green plant substance, which I would assume was marijuana.

24 Q And are these accurate depictions?

25 A Yes, ma'am.

1 MS. WHITE: The State moves 33 and 34 into evidence.

2 MS. MERRILL: Subject to the same objection.

3 THE COURT: So noted. 33, 34 into evidence for the
4 State.

5 (Whereupon, State's Exhibit 33 and 34 were admitted
6 into evidence.

7 Q Do you recall how it was packaged when Captain Reeder
8 pulled those items from Mr. Vaughn's pants?

9 A In plastic, little plastic bags.

10 Q Looking at Exhibit 34, what is that?

11 A You have two plastic bags to the upper left which has
12 smaller bags inside of those bags. The same way on bottom
13 right which is the upper is methamphetamine; the bottom
14 right is your marijuana. And it also has smaller bags of
15 marijuana inside.

16 Q All right. So this bag at the top contained, I
17 guess, smaller bags of larger quantities, is that correct?

18 A Yeah, more methamphetamine.

19 Q And were these smaller bags in this bag here?

20 A Correct. You have a larger bag with smaller bags
21 inside.

22 Q And State's 31, is that what it looked like when
23 y'all first pulled it out?

24 A Yeah. That's pulled out where he had, it was rolled
25 up. And what you saw before is where we had laid it out

1 to get a better picture of it.

2 Q And, again, where did all of these items come from?

3 A From inside Mr. Vaughn's pants, around his crotch
4 area.

5 Q To your knowledge, was any methamphetamine located on
6 the person, Brandy Wilson, that night?

7 A Not to my knowledge.

8 Q What do, are you aware of what happened to the drugs
9 after they were pulled out of Mr. Vaughn's pants?

10 A The evidence tech, Greg Allison, would have took
11 possession of them.

12 Q And is that who we saw on the video earlier packaging
13 everything up?

14 A It was.

15 Q Was all of that done on the scene?

16 A Yes, it was.

17 MS. WHITE: Please answer any questions, Ms. Merrill
18 has.

19 THE COURT: Cross-examination?

20 MS. MERRILL: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 By Ms. Merrill:

23 Q You've worked with Debbie Tucker as a confidential
24 informant before, right?

25 A Yeah.

1 Q And she's been a CI for a little while, since 2013?

2 A I think that's correct. I don't remember the exact
3 date.

4 Q And you didn't sign her up, do the initial package
5 information, did you?

6 A No, I don't believe so.

7 Q Those pictures that we were just looking at, you were
8 taking those with an Iphone?

9 A Yes, ma'am.

10 Q So you could have taken a video of this search if you
11 wanted to?

12 A Yes, ma'am. If it, the phone would have let me and I
13 didn't, it wasn't actually my phone.

14 Q So the phone would let you take pictures?

15 A Yes. I'm sure it should have let me take video
16 pictures, but it wasn't my phone. So we just took
17 pictures. We usually don't take videos.

18 Q Okay. But to your knowledge, you could have taken
19 videos?

20 A Yes, to my knowledge.

21 MS. MERRILL: Thank you.

22 THE COURT: Redirect?

23 MS. WHITE: No, sir.

24 THE COURT: You can step down, sir. Okay.

25 Solicitor, is this, are we at a point what we discussed

1 in-chambers a moment ago?

2 MR. BLACK: Yes, sir, Your Honor.

3 THE COURT: All right. Ladies and gentlemen, I've
4 got a legal issue that I need to discuss with the lawyers,
5 and so I'll need for you to go back to the jury room
6 again. Remind you no discussion about this case among
7 yourselves and, hopefully, won't be too long, we'll get
8 you back out.

9 (Whereupon, the jury was excused from open court.)

10 THE COURT: Okay. Ms. Merrill, I think you need a
11 little time to review these letters that we have discussed
12 with your client since he now has a pair of glasses?

13 MS. MERRILL: Yes, sir.

14 THE COURT: Okay. All right. We'll be in recess for
15 just a little bit. Let me just, before we go off the
16 record. At my request, I had asked that a copy of the
17 subject letters that we're going to have to discuss a
18 little bit, those portions that are in dispute, whether or
19 not to redact or not, help me out a little bit. You've
20 got just like part of a word like on page one highlighted.
21 Where does it, where does the portion stop that's in
22 dispute?

23 MR. BLACK: Your Honor, on that particular page I
24 think it begins with, look.

25 THE COURT: Look.

1 MR. BLACK: Ms. Merrill was going to go over that
2 with her client, I believe.

3 THE COURT: So I'll just go off on discussing what
4 portions are in dispute until Ms. Merrill talks with Mr.
5 Vaughn.

6 MR. BLACK: Yes, sir, Your Honor. Just for the
7 record, though, the portions that we had provided to you
8 that are actually crossed out, those are the ones we have
9 agreed to take out, to redact. Our office is going to
10 have to do that, but we were going to wait and do the
11 redaction until we got, until we decided in-full what to
12 do.

13 THE COURT: Okay. All right. Well, my question is,
14 all right, on page one, look, is highlighted. And then
15 the next highlight is the word, so, on the fourth page.

16 MS. MERRILL: It's not all that, Judge. When I got
17 these, I think that they got them towards the end of last
18 week, so I got them towards the end of last week, as well.
19 I had a brief meeting with Mr. Vaughn, but not a lengthy
20 one because of the timing.

21 THE COURT: I guess my point is, when it's all said
22 and done if there is any portions of the letters that are
23 still in dispute as far as redaction or not, highlight the
24 whole thing.

25 MS. MERRILL: We will; yes, sir.

1 THE COURT: Okay. And highlight the whole portion
2 that's in dispute. If you'd do that for me, I'd
3 appreciate it.

4 MR. BLACK: Okay. Thank you.

5 THE COURT: All right. We'll be in recess.

6 (Whereupon, a short break was taken.)

7 MS. MERRILL: Your Honor, can I put something on the
8 record.

9 THE COURT: Go ahead.

10 MS. MERRILL: I put three exhibits with the State's
11 agreement as Court's exhibits 3, 4 and 5. Exhibit 5,
12 Court's exhibit 5 has a first page that none of us, the
13 State nor I saw until today. The State and I have agreed
14 that that page will just be left out completely. But
15 those are the full letters without redactions as Court's
16 exhibits.

17 THE COURT: That is exhibit numbers what now?

18 MS. MERRILL: Court's exhibits 3, 4 and 5.

19 (Whereupon, Court's Exhibits 3, 4 and 5 were marked
20 for identification only.)

21 THE COURT: All right, so it is my understanding that
22 the letters, the complete letters are Court's exhibits 3,
23 4 and 5. And then what is going to be put into evidence
24 for the jury's consideration are redacted portions of
25 letters all allegedly handwritten by the Defendant. And I

1 think both the State and the Defense have agreed in full
2 as to what is to be redacted. Is that correct?

3 MS. MERRILL: That is correct, sir.

4 THE COURT: Okay. Anything else before we bring the
5 jury out.

6 MS. MERRILL: Your Honor, briefly if I can put on the
7 record, my client does not agree that anything should be
8 redacted but I think to protect his interest what we have
9 done is the right thing. Thank you.

10 THE COURT: Very good, Ms. Merrill. Let's bring the
11 jury out, please.

12 (Whereupon, the jury came into open court at
13 approximately 3:36 p.m.)

14 THE COURT: Let the record reflect the jury is back
15 out. Solicitor, your next witness, please.

16 MR. BLACK: The State calls Brandy Wilson.

17 BRANDY WILSON, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Black:

21 Q Could you please state your name for the jury,
22 please.

23 A Brandy Wilson.

24 Q Ms. Wilson, let's just jump right into it. You
25 previously dated Mr. Earnest Vaughn, is that correct?

1 A Yes, I did.

2 Q Okay. And January the 27th of this year, were you
3 dating Mr. Vaughn?

4 A Yes, I was.

5 Q Okay. When did you start dating Mr. Vaughn?

6 A November of 2015.

7 Q Okay. Are you still dating Mr. Vaughn?

8 A No, I'm not.

9 Q On January the 27th, that afternoon, do you recall
10 receiving a call from a Ms. Debbie Tucker?

11 A Yes, I do.

12 Q And what was that call related to?

13 A It was related to her buying a half-ounce from us.

14 Q And --

15 THE COURT: Can you sit closer to the microphone,
16 please, Ms. Wilson.

17 Q Did she call you on your cell phone?

18 A Yes.

19 Q And a half-a-ounce, do you know about how much that
20 is?

21 A That is 14 grams.

22 Q And what were y'all asking for that half-ounce?

23 A I think he quoted her \$700.00 dollars.

24 Q And you said he. Who are you referring to?

25 A Earnest Vaughn.

1 Q Is Earnest Vaughn here in the, is he in the courtroom
2 today?

3 A Yes, he is.

4 Q Will you identify him, please?

5 A He's sitting right there.

6 Q Is he by Ms. Merrill, the --

7 A Yes.

8 Q -- Defense Counsel?

9 THE COURT: And let the record reflect she's
10 identified the Defendant.

11 Q Thank you, Ms. Wilson. When you received this phone
12 call, where were y'all at?

13 A We were in Honea Path.

14 Q Were you with Mr. Vaughn?

15 A Yes.

16 Q When you received the phone call, did you have the
17 phone on speaker phone or anything?

18 A Yes, I did.

19 Q And who was around you?

20 A It was me, and him, and his son, and his son's
21 ex-wife.

22 Q In Honea Path?

23 A Yes.

24 Q And where was Mr. Vaughn in relation to you when you
25 were on the phone?

1 A He was right beside me.

2 Q He was very close?

3 A Yes.

4 Q Two or three feet?

5 A Closer; I could touch him.

6 Q Okay. Do you know what time that you were supposed
7 to meet Ms. Tucker?

8 A Not the exact time, but I know we met her before 7:00
9 o'clock because I was being booked in at 7:00.

10 Q And you said you were booked in. Did you get charged
11 with this incident?

12 A Yes, I did.

13 Q Do you remember what you were charged with?

14 A Trafficking ice and possession of, I mean, possession
15 of marijuana with intent to distribute and unlawful
16 neglect to a child.

17 Q So you got charged with the same thing he got charged
18 with?

19 A The same thing.

20 Q Where was this meeting supposed to take place with
21 Ms. Tucker?

22 A Originally, it was supposed to take place at
23 McDonald's and she had called and changed it to the
24 carwash at Bi-Lo.

25 Q Is that on Highway 25?

1 A Yes, sir.

2 Q Is that in Greenwood?

3 A Yes, sir.

4 Q Greenwood County?

5 A Yes, sir.

6 Q What kind of vehicle were you driving?

7 A A 2004 Chevy Tahoe.

8 Q Whose vehicle was that?

9 A Mine.

10 Q Was that a vehicle that you, that you typically

11 drove?

12 A Yeah.

13 Q Just wherever?

14 A Yeah.

15 Q Okay. Did you ever see Ms. Tucker at the Bi-Lo that

16 day?

17 A No, sir; I didn't.

18 Q Did you ever see her at any point that day?

19 A No, sir; I didn't.

20 Q And the only conversation you had was on the phone?

21 A Yes, sir.

22 Q And when was that, sometime that afternoon?

23 A It had to be after lunch.

24 Q You don't remember the exact time-period?

25 A No.

1 Q Now, when you were stopped, do you remember who
2 stopped you?

3 A Jarvis Reeder.

4 Q And he's here in the courtroom, is that right?

5 A Yes.

6 Q And where did he stop you at again?

7 A He stopped us at the little road right behind the
8 7-Eleven in front of the carwash.

9 Q And who was in the car with you?

10 A Earnest and his grandson, minor

11 Q And his grandson is minor Is that minor

12 A Yes.

13 Q How old is he?

14 A Seven.

15 Q He's seven now?

16 A Yeah, I believe so. He may have been six then.

17 Q Do you know when his birthday is by any chance?

18 A No.

19 Q So he was five, six, or seven --

20 A Yeah.

21 Q -- at that time in January?

22 A Yes.

23 Q When Jarvis Reeder stopped, were there any other
24 police vehicles that were there, as well?

25 A I'm really not sure. I just seen his because his was

1 in front of me.

2 Q So you don't remember if there were other police
3 officers?

4 A I mean, there was later, but not like right at the
5 time of him pulling me, I don't know. I don't know if
6 there was one behind me or not because I just seen his.

7 Q And when you got stopped, what did you do, did you
8 pull the car, did you just stop immediately?

9 A I stopped immediately, put it in park, and held my
10 hands up. They ain't nothing else you can do.

11 Q At that point did they place you under arrest?

12 A Yes, sir.

13 Q Going back to the conversation that you had with Ms.
14 Tucker. You said it was 14 grams, half-ounce?

15 A Yes.

16 Q And the price was how much?

17 A I think he said \$700.00, if I'm not mistaken.

18 Q And that he was Mr. Vaughn?

19 A Yes.

20 Q Do you know who communicated that to Ms. Tucker, was
21 it you, or Mr. Vaughn?

22 A It was me.

23 Q And is that, Mr. Vaughn who's sitting right there?

24 A Yes.

25 Q Did he tell you that number, that amount?

1 A Yes, I asked him because I didn't know what he wanted
2 to do.

3 Q Okay. When you and Mr. Vaughn were pulled over,
4 y'all were separated, is that right?

5 A Yes, sir.

6 Q Did you ever come back in contact with Mr. Vaughn at
7 the scene?

8 A Yes. I believe he gave me a kiss right before he got
9 into the truck with, I'm not sure who he got in the truck
10 with.

11 Q Do you remember who you got in the truck with?

12 A I got in the car with Bryan Louis and Ricky Madden, I
13 believe.

14 Q And where did they take you?

15 A Greenwood County Detention Center.

16 Q They took, did they take you straight there?

17 A Straight there.

18 Q And then you said you got booked at 7:00, right?

19 A Well, somewhere around in there, yeah.

20 Q So you were in jail at that point?

21 A Yeah.

22 Q Just right over here at the Detention Center?

23 A Right over here.

24 Q Okay. But after that little brief encounter with Mr.
25 Vaughn you never had any other contact with him?

1 A No.

2 Q That day, I guess?

3 A That day, no.

4 Q Ms. Wilson, Mr. minor or minor was in the car with
5 you guys, is that right?

6 A Yes, sir.

7 Q Why did y'all have minor that day?

8 A We were planning on taking him out to eat, and we
9 wasn't even planning on coming to Greenwood until she
10 called.

11 Q When did y'all first get minor do you remember when
12 you picked him up?

13 A It was after he had got out of school. I'd say
14 roughly around 4:30.

15 Q Was Mr. Vaughn with you when you picked him up?

16 A Yes. We took his son and his ex home to her mother's
17 house, and we picked up minor while we were taking them
18 there.

19 Q So where did you get minor again?

20 A In Honea Path.

21 Q At school or at his--

22 A -- at his grandparents house. His other grandparents
23 house.

24 Q And then after that, you came to Greenwood?

25 A Yes.

1 Q And was Mr. Vaughn with you the whole time when y'all
2 had him?

3 A Yes.

4 Q When the car got stopped, there were some drugs in
5 the vehicle, is that right?

6 A Yes.

7 Q Where were the drugs at?

8 A As far as I know, he had them in his pocket.

9 Q Did you have the drugs?

10 A No.

11 Q You never had possession of the drugs those days,
12 that day?

13 A No, sir.

14 Q What about the marijuana, did you have any possession
15 of the marijuana?

16 A No, it was in the console.

17 Q The center console?

18 A Yeah.

19 Q Between the two of you?

20 A Yeah, like where the cup holders were.

21 Q You stated earlier that you saw Jarvis Reeder pull
22 you guys over, is that correct?

23 A Yes.

24 Q Did Mr. Vaughn see Jarvis Reeder pull you over, as
25 well?

1 A Yes, he did.

2 Q And how do you know that?

3 A Because I think he said like, oh shit, or something

4 like that.

5 Q And did he do anything with his hands?

6 A He was fidgeting and moving, and I guess he tucked.

7 I don't know.

8 Q He tucked. What do you mean by that?

9 A Like stuffed stuff in his pants, I guess, or in his

10 pockets or whatever.

11 Q Was that the drugs that he had?

12 A I'm assuming, yeah, because according to the

13 pictures, yeah.

14 MR. BLACK: May I approach the witness, Your Honor?

15 THE COURT: Sure.

16 (Whereupon, State's Exhibit number 35 and 36 were

17 marked for identification.)

18 Q Ms. Wilson, I'm showing you what's been marked as

19 State's number 35 and 36.

20 A Yes.

21 Q Can you identify that, please, for us?

22 A This is a statement I wrote.

23 Q Do you know when you wrote that statement?

24 A 3/9/16.

25 Q So it was March 9th, 2016?

1 A Yes, sir.

2 Q And, I believe, you signed it, is that right?

3 A Yes, sir.

4 Q And did you actually write this letter?

5 A I did.

6 Q And let's talk about the first one. I believe that's

7 number 34, is that right?

8 A 35.

9 MS. MERRILL: Your Honor, I'm sorry to interrupt.

10 Can you tell me which one you are using for which. Okay.

11 Q 34, who is that addressed to?

12 A I don't have 34. I got 35 and 36.

13 Q Well, I'm sorry. 35, who is that addressed to?

14 A To whom it may concern.

15 Q And you penned this letter, is that right?

16 A Yes, sir.

17 Q And do you know who you wrote it to; do you remember?

18 A I wrote this and sent it to Earnest.

19 Q Okay. And then after that you don't know what

20 happened to the letter?

21 A No.

22 Q And can you just briefly describe the contents of

23 what you wrote?

24 A I wrote that I was pleading guilty to the trafficking

25 first offense and the possession with intent to distribute

1 marijuana first offense. And saying that he had no
2 knowledge of anything that was in the vehicle.

3 Q So you wrote, you basically claimed responsibility,
4 is that right?

5 A Yes, sir.

6 Q And you claimed that Mr. Vaughn didn't have any idea
7 about the drugs, is that right?

8 A Yes, sir.

9 Q And you said you mailed that to Mr. Vaughn?

10 A Yes, sir.

11 Q Well, let's talk about the next letter, number 36.
12 Who is that one addressed to?

13 A It's addressed to his lawyer, Aaron Taylor.

14 Q And who wrote that letter?

15 A I did.

16 Q And when did you write that letter?

17 A I also wrote it on 3/9/16.

18 Q So you wrote it on the same day?

19 A Yes, sir.

20 Q And what did you tell Mr. Taylor at the time or what
21 did you write to him that day?

22 A I told him that I had wrote a statement to Mr.
23 Earnest and that who my public defender was. And that if
24 he needed to, I had told him that I'd wrote a, To whom it
25 may concern, letter to Earnest and that he could contact

1 me or Patricia if he needed me to do anything else.

2 Q You were basically telling Mr. Taylor that you wanted
3 to give a statement?

4 A Yes.

5 Q And was the statement the one that you wrote on the,
6 to whom it may concern, letter?

7 A Yes.

8 Q And did you have an attorney at the time?

9 A I had just been appointed Patricia.

10 Q Ms. Bolen?

11 A Yes.

12 Q And did you give her, did you talk to her about this
13 letter at all?

14 A Not until after I wrote it.

15 Q So you had already written this letter?

16 A Yes.

17 Q And then, I guess, Ms. Bolen got a copy of it?

18 A Mm-hmm.

19 Q Ms. Wilson, if you can just answer yes or no, because
20 this lady right here is writing down everything we say and
21 she's got to preserve the record. So just answer yes or
22 no, please.

23 A Okay.

24 Q Thank you. You have got to say yes or no.

25 A Yes.

1 Q All right, Ms. Wilson.

2 MR. BLACK: Your Honor, at this point, the State
3 moves 35 and 36 into evidence.

4 THE COURT: Okay. And what says the Defense?

5 MS. MERRILL: No objection, Your Honor.

6 THE COURT: All right. Without objection, 35 and 36
7 into evidence for the State.

8 (Whereupon, State's Exhibit number 35 and 36 were
9 admitted into evidence.)

10 Q And, Ms. Wilson, where were you writing these letters
11 out of?

12 A Greenwood County Detention Center.

13 Q So you were in the jail at the time?

14 A Yes, sir.

15 Q Thank you.

16 MR. BLACK: May I approach the witness, Your Honor?

17 THE COURT: You sure can.

18 Q I'm showing you what's been marked as State's number
19 37. Can you just flip through those just for a brief
20 minute, Ms. Wilson?

21 A Yes.

22 Q Have you had a chance to look at them?

23 A Yes.

24 Q Now, before we get into the contents of these
25 letters, the letters that we have just talked about, the

1 one where you wrote to Mr. Taylor, to whom it may concern.

2 A Yes, sir.

3 Q Were the contents of that letter, well, those two
4 letters, was that the truth?

5 A Of 35 and 36?

6 Q Yes, ma'am. The ones that I just showed you.

7 A No, that wasn't true.

8 Q 35 and 36?

9 A No, that wasn't true.

10 Q You can take a look at them if you want to look at
11 them again. You said they weren't true?

12 A No.

13 Q Why did you write those statements?

14 A I don't, I don't really know.

15 Q Were you still dating Mr. Vaughn at the time?

16 A Yes.

17 Q Let's talk about these other letters that you just
18 looked at. I believe it's 30, what number is that you
19 have?

20 A 37.

21 Q Who are these letters addressed to?

22 A They're addressed to me.

23 MS. MERRILL: Your Honor, I'm going to object to
24 talking about the contents of something that's not yet in
25 evidence.

1 THE COURT: I'm not sure if Solicitor Black has
2 gotten into the contents. I think all she has said that
3 they were letters addressed to her, correct?

4 MR. BLACK: Yes, sir.

5 THE COURT: Have you gotten into any content yet?

6 MR. BLACK: No, sir.

7 THE COURT: Okay. All right. I'll overrule the
8 objection at this time.

9 Q Now, you've had a chance to look at these letters,
10 right?

11 A Yes.

12 Q I believe there are seven pages?

13 A Yes, sir.

14 Q And how many different letters are there?

15 A It looks like to be three, which you're missing a
16 page on one of them.

17 Q Do you recognize that handwriting?

18 A Yes.

19 Q Whose handwriting is it?

20 A Earnest.

21 Q And how do you know that?

22 A Because I've received several letters from him.

23 Q Y'all have written each other back and forth before?

24 A Yes, sir.

25 Q You're familiar with his handwriting?

1 A Yes, sir.

2 Q I believe that these letters are signed, what are
3 they signed?

4 A Oh yea.

5 Q Who's, Oh yea?

6 A That's Earnest.

7 Q Is that a nickname or something?

8 A Yes, it is.

9 Q Why is that his nickname?

10 A Because after every question I would ask him he would
11 say, Oh yea. Oh yea.

12 Q And this happened while y'all were dating?

13 A Yeah.

14 Q So that's kind of y'all's special thing?

15 A Yeah.

16 Q I believe he addressed the letters, Hey, Baby doll,
17 is that correct?

18 A That is.

19 Q Is that how he referred to you typically?

20 A Yes, sir.

21 Q Now, it looks like the first two letters, there's not
22 a date on it, is that correct?

23 A Yes, you are correct.

24 Q Do you remember what date, what those dates were or
25 do you not? If you don't know, that's fine. I'm just

1 wondering if you know.

2 A No, I don't recall when the first one is.

3 Q What about the last one, is there a date on that?

4 A 3/3/16.

5 Q March 3rd?

6 A Yes, sir.

7 Q So you received that letter before you wrote to Mr.
8 Taylor and to whom it may concern?

9 A Yes, sir.

10 Q You received this from Mr. Vaughn prior to that, you
11 writing those letters?

12 A Yes, sir.

13 Q Do you remember if you had received the other two
14 letters before you wrote the one to Mr. Taylor and to whom
15 it may concern?

16 A I'm wanting to say yes on the first one, but I'm not
17 exactly sure, because it states about my ex and he was
18 incarcerated with him at the time.

19 Q What about the second one, do you remember that one?

20 MS. MERRILL: Objection, Your Honor. May we
21 approach?

22 THE COURT: Okay.

23 (Whereupon, a bench conference was held in the
24 presence of the jury but out of the hearing of the
25 jury.)

1 THE COURT: Okay. You may proceed, Solicitor.

2 MR. BLACK: Thank you, Your Honor. At this point,
3 the State moves, I believe it's number 37 into evidence.

4 THE COURT: Okay. And what says the Defense?

5 MS. MERRILL: Your Honor, I'd object on authenticity,
6 as well as Rule 403.

7 THE COURT: Okay. All right. I think she has
8 identified, even though it may be a little uncertain as to
9 the exact dates. Two of the letters or maybe one of the
10 letters was written. But she has identified these letters
11 as being in the handwriting of the Defendant. So I'm
12 going to overrule the objection and allow them into
13 evidence. Now, based upon conversations I've had with the
14 lawyers and I'll explain this to the jury. There have
15 been portions of this, of these letters, what we call
16 redacted, meaning taken out. And I don't want you to
17 place any significance into that. By way of conversation
18 and agreement, apart from the objection Ms. Merrill just
19 raised, there were portions of these letters that we felt
20 like were not relevant at all to the issues in this case.
21 The only evidence that is relevant is admitted for your
22 consideration. And so there were portions that we felt
23 like and the lawyers felt like were not relevant. So you
24 will see on several of the pages there's going to be some
25 kind of blanks but, again, don't place any significance

1 whatsoever to the fact that this was done. You give
2 whatever consideration you want to give to the contents of
3 this letter as you can see in the letters. And don't give
4 it any significance of whatever portions were actually
5 taken out, okay. So over the objection of Ms. Merrill,
6 I'm going to allow 37 into evidence on behalf of the
7 State.

8 (Whereupon, State's Exhibit number 37 was admitted
9 into evidence.)

10 Q Ms. Wilson, I'm going to go through these letters
11 with you. I'm going to hit a couple of the highlights.

12 A Okay.

13 Q The first page on that, on that that you have in
14 front of you, three lines from the bottom, it starts with,
15 You need. This is a letter to you, correct?

16 A Yes.

17 Q And it's from Mr. Vaughn, you've already stated that,
18 correct?

19 A Yes, sir.

20 Q And what does that, what does that line say?

21 A It says, You need to get your lawyer to bring it up
22 in your preliminary hearing.

23 Q And what's the next sentence?

24 A Then, it will help me.

25 Q Okay. And what's he referring to? Just can you give

1 the jury a brief summary as to what he's talking about?

2 A The Fourth Amend---

3 MS. MERRILL: Objection, Your Honor.

4 THE COURT: Okay.

5 MS. MERRILL: It calls for speculation.

6 THE COURT: Okay. If it's not stated in the letter,
7 then she would have to speculate his intent. If there is
8 no direct reference to something, then I believe that she
9 would be required to speculate on what he means by
10 whatever words are in the letter. So I'm going to sustain
11 the objection.

12 Q Ms. Wilson, halfway up the page, the sentence that
13 begins with, look, and there is a comma there, do you see
14 that?

15 A Yes.

16 THE COURT: Come up, Solicitor.

17 A Yes, I see it.

18 THE COURT: Point it out.

19 A I see it. I got it.

20 THE COURT: You got it?

21 A I got it.

22 Q Can you read that, please, for the jury?

23 A And it says, Look, you need to tell your lawyer that
24 you was detained because of your charge in Laurens.

25 Keep going?

1 Q Yes, ma'am.

2 A But you was out on bond on that charge, therefore, it
3 was an illegal stop. They did not know I was in the
4 vehicle until after they stopped you. That should get
5 both of our charges dismissed. They detained you in
6 violation of your Fourth Amendment rights. The stop was
7 illegal. The cop admitted to this when my lawyer talked
8 to him in the courtroom. That is why I waived my
9 preliminary hearing.

10 Q And keep going.

11 A Then, it says, You need to get your lawyer to bring
12 it up in your preliminary hearing, then it will help me.

13 Q So at this point, he's trying to help you out, is
14 that right?

15 MS. MERRILL: Objection, Your Honor, leading.

16 THE COURT: Okay. Rephrase.

17 Q And what was the purpose of that?

18 MS. MERRILL: Objection, Your Honor. It calls for
19 speculation.

20 THE COURT: Okay.

21 MS. MERRILL: As I understand the question, he's
22 asking what Mr. Vaughn's purpose was. Did I misunderstand
23 the question?

24 THE COURT: Right. I'll sustain.

25 MR. BLACK: I'll let it be. Let's move on.

1 Q Let's talk about the second letter, and do you see
2 that it begins on page one?

3 A Yes.

4 Q And it goes to page three, is that right?

5 A Yes.

6 Q And there is no date on this one?

7 A No.

8 Q Can you start from the top and please read this
9 letter all the way through, Ms. Wilson.

10 A It says, I got two letters from you today. I also
11 got to see you today. That made me feel better, but I
12 wanted to hold you and just cuddle. Well, that would lead
13 to--

14 Keep going?

15 Q Yes, ma'am.

16 A -- fucking and yes --

17 MS. MERRILL: Objection, Your Honor. May we
18 approach?

19 THE COURT: Okay.

20 (Whereupon, a bench conference was held in the
21 presence of the jury but out of the hearing of the
22 jury.)

23 THE COURT: Okay. Solicitor, you may want to tell
24 her to start back whatever she was reading.

25 Q Ms. Wilson, can you just start from the top and just

1 read it all the way through?

2 A Okay.

3 Q Thank you.

4 A I got two letters from you today. I also got to see
5 you today. That made me feel better, but I wanted to hold
6 you and just cuddle. Well, that would lead to fucking and
7 yes, I wanted to fuck you, baby. But, you know, I would
8 want to eat your pussy first. Your pussy is just good.
9 It took me a long time to get in it and now I want to stay
10 in it. We have got to get out. My lawyer, Aaron Taylor,
11 109 Court Avenue, Greenwood, South Carolina, 29646, phone
12 number 864-229-2229. He asked me today if you was going
13 to throw me under the bus on this. I told him no. So
14 yes, you are the only one that can help me. You can do it
15 without admitting any guilt yourself. You can write Aaron
16 a letter and tell him this. That I was not present when
17 Stacey put minor in your car. That you picked me up on
18 your way to Greenwood. That I was not responsible for the
19 contents of the vehicle. That Debbie Tucker sold us a
20 camper. And the drugs was left in the camper and she
21 called you to bring them back to her. That's what you was
22 doing. They are saying that I was supposed to supply the
23 drugs to be sold. I never heard anyone talk about selling
24 drugs. Baby doll, what you said Robbie wrote you is a
25 damn lie. The only thing I talked to Chad Cox about is

1 \$95.00 dollars that they took from me and your debit card
2 that I thought was in my wallet. I told him I wanted to
3 release it to your mom. So then he called you up front
4 and I was sent back to my pod. I told my lawyer that I
5 never talked to Debbie Tucker that day. You will not be
6 lying if you wrote my lawyer and told him what I said in
7 this letter. If you will do this for me, you need to do
8 it as soon as you get this letter. If you do it, I might
9 get a bond next month. You are getting to get a bond
10 regardless. Brandy, I don't know how you feel, but it's
11 like we grew to love each other. But when I stuck my dick
12 in you, damn, girl, I cannot explain what your pussy feels
13 like, like no other. The morning when I woke up and we
14 started fucking, you got my heart, but I love you as
15 Brandy. I do not love you just because you got good
16 pussy. Look, you need to get a divorce. I am going to
17 get mine as soon as possible. I have plans for us. I
18 want a life sentence with you. I want us to grow old
19 together. I have no desire for anyone else, not Emily,
20 not Whitney, not Josie or anyone else in my past. I love
21 you, girl. Well, I want to get this in the mail so you
22 will get it ASAP. I still didn't get the \$70.00 dollar
23 money order Ernie was supposed to mail to me. I was
24 supposed to get a, I want us to get a three-way call. I
25 love you, Oh, ^yea.

1 Q Now, let's go back to the first page. I just want to
2 highlight a couple of things. Where it says one, two and
3 three and four, do you see that?

4 A Yes.

5 Q Can you read number 1?

6 A That I was not present when Stacey put minor in your
7 car.

8 Q And was that true?

9 A No. I mean, he was present when minor was put in the
10 car.

11 Q Who is, he, Mr. Vaughn?

12 A Mr. Vaughn.

13 Q Number two says that, That you picked me up on your
14 way to Greenwood. Is that true?

15 A He was already in the vehicle.

16 Q So y'all, were y'all already together?

17 A Yes.

18 Q Number three, I think it, can you read number 3 for
19 us?

20 A That I was not responsible for the contents of the
21 vehicle.

22 Q And the, I, is referring to Mr. Vaughn, is that
23 right?

24 A Yes.

25 Q Is that true?

1 A I mean, we were in there together, so I think we were
2 both responsible for what was in the vehicle.

3 Q Well, I'm not talking about legally. I'm talking
4 about who had the meth?

5 A He did, I didn't.

6 Q What about the marijuana?

7 A It was in the middle console.

8 Q What about number 4?

9 A That Debbie Tucker sold us a camper.

10 Q Did she sell y'all a camper?

11 A Yes, she did.

12 Q Were the drugs left in the camper?

13 A Not to my knowledge.

14 Q Let's go to the third letter. What's the date on
15 that?

16 A 3/3/16.

17 Q Now, that first page, I'm going to get you to read
18 the first page and you see the second page. Can you flip
19 to the second page?

20 A Yeah.

21 Q Can you end at the first period is after, me. Just
22 read that first page, and then the first couple of lines
23 on that second page or the first couple of words on the
24 second page.

25 A Okay. I am trying to work my quickest way back to

1 you. I am very happy holding you in my arms. If you only
2 knew how holding you feels. I surely don't want to lose
3 you so soon or ever. I wish a thousand times we would
4 have just stayed at home that day, but we can't turn time
5 back. Well, I don't know what you have done so far or
6 what you said or if you gave a statement on my behalf.
7 All I know is that you said you would help me all you can
8 to get me out. I have made some suggestions on what you
9 need to say under the circumstances and that you need to
10 write it to my lawyer. Aaron Taylor, 109 Court Avenue,
11 Greenwood, South Carolina, 29646. What you say to anyone
12 else won't be put in my defense. I don't get to write you
13 as much as you write me, but I bet I love you more than
14 you love me. I say that because of the way my heart feels
15 about you. I'm not saying you don't love me.

16 Q That's good, Ms. Wilson. Thank you. Ms. Wilson, I
17 kind of want to take a detour for a moment. I'm going to
18 take that letter from you if you don't mind. How old are
19 you, Ms. Wilson?

20 A I'm 38 years old. I just turned 38.

21 Q And you've been arrested before, isn't that right?

22 A Yes, sir.

23 Q I got a copy of your rap sheet right here. Do you
24 have a conviction in 1997 for possession of alcohol by a
25 minor?

1 A I was found acquitted for that.

2 Q Okay. Well, it shows that I, it's a conviction.

3 Maybe you pled guilty or something.

4 A Oh, I think it was time-served. My bad.

5 Q Yes, ma'am. That was 1997. How old were you then?

6 A I think I was 17.

7 Q 17?

8 A Yeah.

9 Q And I don't see anything else on your rap sheet as a
10 guilty anywhere, is that right?

11 A That's right.

12 Q Your record is relatively clean, is that right?

13 A Yes, sir.

14 Q But you have, you have a bunch of pending charges
15 right now, is that right?

16 A Yes, sir.

17 Q And do you know about how many you have?

18 A I haven't counted them up lately.

19 Q But you've been arrested a couple of times?

20 A Yes.

21 Q Do you remember when that first arrest happened?

22 A March the 25th, 2015.

23 Q March 25th, 2015?

24 A Yes, sir.

25 Q So what is that about a year-and-a-half ago?

1 A Yes, sir.

2 Q What did you get arrested for?

3 A I got arrested for possession of meth less than a
4 gram and possession of a controlled substance.

5 Q What was the controlled substance?

6 A Two Lortabs that I didn't have in my bottle.

7 Q A couple of pill charges?

8 A Yeah. I mean, it was just two Lortabs that were---

9 Q Pills?

10 A Yeah. Two pills that were, I didn't have in a bottle
11 that were, they were prescribed to me.

12 Q Okay. Do you remember if you had some marijuana on
13 you, too?

14 A No, but I think there was a marijuana pipe in the
15 car.

16 Q Okay.

17 A Unless you're talking about May 7th.

18 Q I'm not talking about May 7th.

19 A Okay.

20 Q On May 6th it looks like there is a possession of
21 marijuana charge, possession of a controlled substance
22 charge, another possession of a controlled substance, and
23 a possession of meth like you referred to, is that right?

24 A Yes.

25 Q And that's May 6th, 2015?

- 1 A Yes, sir.
- 2 Q And those charges are currently still pending, right?
- 3 A Yes, sir.
- 4 Q And then it looks like January 27th, 2016, you have
- 5 three charges, is that right?
- 6 A January 27th?
- 7 Q Yes, ma'am.
- 8 A Yes.
- 9 Q Trafficking meth?
- 10 A Yes.
- 11 Q Possession with intent to distribute marijuana?
- 12 A Yes, and unlawful neglect to a child.
- 13 Q The same charges that he's charged with?
- 14 A The same charges.
- 15 Q And you were with Mr. Vaughn that day?
- 16 A Yes, sir.
- 17 Q You were driving the car?
- 18 A Yes, sir.
- 19 Q And then it looks like you got a couple of other
- 20 charges, August 29th, 2016. Does that sound right?
- 21 A What's the charge?
- 22 Q Possession of meth.
- 23 A Yes.
- 24 Q Then, you got a burglary second, is that right?
- 25 A Yes, sir.

1 Q That's July 15th?

2 A Yes, sir.

3 Q 2016?

4 A Yes, sir.

5 Q Petit Larceny, I guess, is attached with that, is
6 that right?

7 A Yes, sir.

8 Q What was that all about? Was that a, what was taken
9 there?

10 A I believe some insulation.

11 Q At a house or something?

12 A Yeah.

13 Q It looks like there's another burg third. That
14 arrest was August the 25th?

15 A Yes.

16 Q And a petit larceny with that?

17 A Yes.

18 Q Was that a washing machine or something that was
19 taken?

20 A I got them backwards. The July was the washing
21 machine, and I was just giving them a ride for that. And
22 then the other was the insulation.

23 Q So other people were charged with you?

24 A Yes.

25 Q It's not just you, there's other co---

- 1 A It's not just me. There is other codefendants.
- 2 Q Okay. Ms. Wilson, did you go to college?
- 3 A Yes, sir; I did.
- 4 Q What kind of degree you got?
- 5 A I have three.
- 6 Q What are they?
- 7 A I have a degree in Pharmacy Tech, and I have a
- 8 applied, Associate's Degree in Applied Health Science, and
- 9 a Medical Coding and Billing Degree.
- 10 Q Where did you go to school?
- 11 A Piedmont Tech.
- 12 Q When did you get those degrees?
- 13 A I got them in, I think I graduated in January of
- 14 2013.
- 15 Q January of 2013?
- 16 A Yes, sir.
- 17 Q And you've had jobs in the past, is that right?
- 18 A I've worked my whole entire life.
- 19 Q Ms. Wilson, you've got a possession of alcohol by a
- 20 minor in 1997. That's the only conviction you have,
- 21 right?
- 22 A That's right.
- 23 Q And then you started getting arrested May the 6th,
- 24 2015. What happened?
- 25 A On March the 25th, 2015 was my first arrest.

1 Q May of 2015. What happened?

2 A I lost my daddy.

3 Q When did your dad die?

4 A He died January the 14th, 2014.

5 Q So what did you start doing?

6 A I started using drugs.

7 Q What kind of drugs?

8 A Meth.

9 Q And you're, when is the last time you used meth?

10 A I would say over probably 40 days now.

11 Q And when you started using meth, is that when you
12 started getting in trouble?

13 A Yes, sir.

14 Q Started getting arrested?

15 A Yes, sir.

16 Q Now, all those charges are still pending, is that
17 right?

18 A Yes, sir.

19 Q And you've got an attorney?

20 A Yes, sir.

21 Q Ms. Bolen?

22 A Yes, sir.

23 Q And, Ms. Wilson, you've been made an offer for your
24 testimony, is that right?

25 A Yes, sir.

1 Q Do you know what that offer is?

2 A Yes, sir.

3 Q Can you tell the jury what it is?

4 A It is a cap of five with a possession with intent to
5 distribute meth, unlawful neglect to a child, and burglary
6 third. And if the Judge appoints me probation, then I
7 have to pay \$3,800.00 dollars restitution, \$300.00 to
8 Greenwood and \$3,500 to Laurens.

9 Q And I, you've got some charges in Laurens County,
10 too?

11 A Yes, sir.

12 Q That's a grand larceny or a larceny?

13 A Yes, sir.

14 Q So you're pleading to three charges, is that right?

15 A Yes, sir.

16 Q And you said possession with intent to distribute
17 meth?

18 A Yes, sir.

19 Q Unlawful neglect of a child?

20 A Yes, sir.

21 Q And that's from the January 27th incident with Mr.
22 Vaughn, is that right?

23 A Yes, sir.

24 Q And then one of those burglaries that we talked
25 about?

- 1 A Yes, sir.
- 2 Q And you said the cap is going to be five years?
- 3 A Zero to five is what I was told.
- 4 Q And the Judge is going to make a decision?
- 5 A Yes, sir.
- 6 Q And everything else will be dismissed?
- 7 A Yes, sir.
- 8 Q And it's a straight-up plea, is that right?
- 9 A Yes, sir.
- 10 Q What does that mean? What do you take that as to
- 11 mean?
- 12 A I give my testimony, and then I leave it up to the
- 13 Judge.
- 14 Q But you're pleading guilty to those charges, right?
- 15 A I'm pleading guilty to them.
- 16 Q Ms. Wilson, going back to January the 27th, did you
- 17 ever have those drugs in your possession?
- 18 A No, sir.
- 19 Q The meth, did you ever---
- 20 A No, sir.
- 21 Q ---have it in your possession?
- 22 A No, sir.
- 23 Q Was it in your pockets?
- 24 A No, sir.
- 25 Q Was it ever in your purse?

1 A No, sir.

2 Q Was it in your, was it in your side pouch of your
3 vehicle?

4 A No, sir.

5 Q Who had those drugs?

6 A Earnest.

7 Q Now, the proceeds that y'all were going to get from
8 that sale, how much was that again?

9 A I think \$700.00.

10 Q And who was going to get that money?

11 A He would.

12 Q Would you get any of it?

13 A No. I mean, I'd get money spent on me, but I mean,
14 not like actually handed to me, no.

15 Q Like gas money or something?

16 A Yeah. I mean, you know, a present or something. I
17 mean, just different things.

18 Q Ms. Wilson, why are you here testifying today?

19 A Because I know it's the right thing to do. And I
20 can't sit here and tell my son to tell me the truth and
21 then I lie. So I have to clear it.

22 Q You came up here and put your hand on the Bible, is
23 that right?

24 A Yes, I did.

25 Q You swore to tell the truth?

1 A Yes, sir; I did.

2 Q Everything you told the jury today is the truth?

3 A Yes, it is. As bad as it hurts; yes, it is.

4 MR. BLACK: I've got nothing else. Please answer any
5 questions Ms. Merrill might have for you.

6 THE COURT: Before we start into cross, let's take a
7 short break. Ladies and gentlemen, I'm going to ask that
8 you go back to the jury room and, again, no discussion
9 about this case. We'll get you back out shortly and
10 conclude with Ms. Wilson's testimony.

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: Ms. Wilson, I should have at the outset
14 of your testimony, in light of the fact that you have
15 pending charges, I should have inquired of you if you have
16 had full opportunity to discuss with your attorney, Ms.
17 Bolen, who has been in the courtroom, the potential
18 consequences of your testimony and the fact that you have
19 the right to claim the protections of the Fifth Amendment
20 and remain silent and not testify. Have you had full
21 opportunity to discuss that with Ms. Bolen?

22 MS. WILSON: Yes, I have.

23 THE COURT: And has she answered any questions that
24 you may have had concerning the potential consequences of
25 your testimony and that can be used against you by the

1 State?

2 MS. WILSON: Yes, sir.

3 THE COURT: Okay. And you fully understand all of
4 your rights?

5 MS. WILSON: Yes, sir; I do.

6 THE COURT: And your decision to testify today,
7 understanding the potential consequences of your
8 testimony, has been made freely, voluntarily, and
9 intelligently?

10 MS. WILSON: Yes, it has.

11 THE COURT: Okay. Thank you very much. All right.
12 Ms. Merrill, you had a couple of matters you brought up at
13 the sidebar. And I'll give you an opportunity now to put
14 those on the record. Quite candidly, I'm not, I can't
15 remember exactly what those were. I'm sure you do.

16 MS. MERRILL: I'm trying to do the same thing, Your
17 Honor.

18 THE COURT: Okay.

19 MS. MERRILL: I wrote one of them down in my notes.
20 I was objecting to the letter being read as cumulative and
21 more prejudicial than probative. And the Court overruled
22 that. And then I also had written down, I'm not sure you
23 explicitly ruled on my objection to Exhibit 37. I know
24 you did as far as authenticity, but I'm not sure if you
25 made a specific ruling about the 403. I'm not, because I

1 objected on both grounds. And I assumed it was overruled
2 on both, but just wanted that on the record.

3 THE COURT: Right. Concerning publication of
4 portions that Ms. Wilson read into the record, the fact
5 that the letter is in evidence and can be read as many
6 times as the jury may want to read, the State would have
7 the right to have certain portions, for whatever purpose,
8 certain portions read by this witness. So I denied your
9 motion on that ground. And secondly, I thought I
10 determined that the probative value of the letter
11 outweighed any prejudicial effect, as well as the letter
12 being authentic as having been identified by Ms. Wilson
13 being written by the Defendant. Okay. All right. Let's
14 take a, just a really short break. But I want the lawyers
15 to come back in-chambers for just a minute, please. Step
16 down and don't talk to anybody about your testimony.

17 (Whereupon, a short break was taken and the Court and
18 Attorneys had a meeting in-chambers.)

19 THE COURT: All right. Ms. Merrill, there was one
20 other sidebar conference that you had a concern about the
21 use of Ms. Wilson's reference to incarceration as, with
22 respect to the Defendant and maybe one other individual,
23 and you wanted to put something on the record on that?

24 MS. MERRILL: Thank you for reminding me, Judge.
25 Yes, sir. That was my other sidebar. I would just make

1 that objection based on 403.

2 THE COURT: Okay. Right. Well, I think the
3 reference, I mean, there was not a time factor involved.
4 The jury does know that the Defendant was arrested which
5 would be incarceration. So I don't think there is really
6 any resulting prejudice there, so I would deny whatever, I
7 would overrule your objection.

8 MS. MERRILL: I appreciate it.

9 THE COURT: Okay. All right. Now, let's bring the
10 jury out, please.

11 (Whereupon, the jury came into open court at
12 approximately 4:40 p.m.)

13 THE COURT: All right. Let the record reflect the
14 jury is back in. Ms. Merrill, you ready for
15 cross-examination?

16 MS. MERRILL: Yes, sir.

17 CROSS-EXAMINATION

18 By Ms. Merrill:

19 Q When officers searched your car in January of 2016,
20 they found marijuana in your purse, right?

21 A Well, it was in a bag in the middle console. And I
22 mean it could have been put in there at any time.

23 Q Well, I've got information that --

24 MS. MERRILL: Your Honor, may I approach the witness
25 and see if this refreshes her recollection?

1 THE COURT: Sure.

2 Q If you'll look at but not read out loud, please, what
3 I've underlined in pen there.

4 A Yeah.

5 Q Thank you for reading that. Does that refresh your
6 recollection?

7 A I mean, the black bag is mine, but, I mean, all
8 contents may have not been put in by me. It was open in
9 the middle console, and it had probably been there maybe
10 the whole day, if not two days. I mean, it's not
11 something that I would grab out of the car every time I
12 got out of the car.

13 Q Ms. Wilson, I'm going to show you State's Exhibit 12.
14 Can you see that?

15 A Yes.

16 Q Is that a yes?

17 A Yes, ma'am.

18 Q And you see your driver's license --

19 A I do.

20 Q -- beside that bag of marijuana?

21 A I do.

22 Q Now, let's talk about your pending charges a little
23 bit. You've got a lawyer for those charges, is that
24 right?

25 A Yes, ma'am; I do.

1 Q And you know what you're charged with, is that right?

2 A Yes, ma'am; I do.

3 Q And your lawyer has talked about possible penalties
4 with you?

5 A Yes, ma'am; I have, she has.

6 Q So on your Greenwood charges, you've got possession
7 of meth, is that right?

8 A Yes, ma'am.

9 Q And that would carry up to 3 years?

10 A Yes, ma'am.

11 Q All right. You've got a burglary 2nd degree. That
12 would carry up to 15 years?

13 A Yes, ma'am.

14 Q And you've got a petit larceny. That would carry 30
15 days, is that correct?

16 A Yes, ma'am.

17 Q You got another petit larceny. That would also be 30
18 days, is that right?

19 A Yes, ma'am.

20 Q And a burglary, third. That would carry 5 years, is
21 that right?

22 A Yes, ma'am.

23 Q And a trafficking charge, that would carry---

24 MR. BLACK: Objection.

25 THE COURT: Okay.

1 MR. BLACK: Can we approach.

2 (Whereupon, a bench conference was held in the
3 presence of the jury but out of the hearing of the
4 jury.)

5 THE COURT: Ladies and gentlemen, if you'll just bear
6 with the Court for just a minute to see if I can make a
7 ruling concerning the State's objection by looking up a
8 particular, some law. So just stay where you are and sit
9 back and relax for a minute, and let's see if we can deal
10 with it without having to send you out.

11 (Whereupon, the Court takes a break.)

12 THE COURT: Ladies and gentlemen, I think I am going
13 to need to send you back to your jury room. I appreciate
14 your patience. When I have to do this, it's necessary,
15 and so if you'll just go back to the jury room and let me
16 deal with this with the lawyers and try to get you back
17 out as soon as we can.

18 (Whereupon, the jury was excused from open court.)

19 THE COURT: Okay. Let's go back on the record. It
20 looks like State vs. Gracely, and it cites just State vs.
21 Brown, which pretty much on point the way I read it and in
22 quoting part of State vs. Brown. The Court says, we
23 reject the State's argument that inquiry into the
24 punishment was properly excluded because it would have
25 allowed the jury to learn of the Defendant's own potential

1 sentence if convicted. We conclude Appellant tried to
2 meaningful cross-examination outweighs the State's
3 interests. So unless you can convince me, Solicitor, that
4 I'm not reading Gracely or Brown correctly, it appears
5 that, and I think, Ms. Merrill, you're just wanting to
6 touch on the maximum for the various offenses which she
7 has been charged with and the Defendant's on trial for,
8 even though Gracely dealt with the mandatory minimum. The
9 trial court allowed the evidence as to the maximum and
10 that was really never at issue.

11 MS. MERRILL: Yes, sir. I would like to at least
12 note or be able to have her testify that it does have a
13 minimum, a mandatory minimum.

14 THE COURT: Well, under Gracely, I think you can
15 bring out maximum and mandatory minimum. You can bring
16 out under Brown maximum that or whatever the Defendant is
17 looking at if, in fact, he is convicted. So, Solicitor,
18 anything you want to put on the record?

19 MR. BLACK: No, sir, Your Honor. I don't think the
20 State would like to put anything on the record.

21 THE COURT: Okay.

22 MR. BLACK: We've looked at the cases and while we do
23 think that they are somewhat distinguishable, I think the
24 range in the Gracely case, the individuals, what they were
25 eligible to receive and what they received was grossly

1 different. I think the offer here in this case, zero to
2 five, I think it falls within the three to ten range which
3 the charge that Ms. Wilson is looking at on the
4 trafficking first charge, I don't think that's so grossly
5 --

6 THE COURT: Right.

7 MR. BLACK: -- different that they should, that that
8 should actually fall under this particular analysis.

9 THE COURT: I understand your point, and I'm going to
10 overrule the objection and allow Ms. Merrill to engage in
11 the cross-examination concerning the maximum for the
12 various offenses involved and any minimums.

13 MR. BLACK: Yes, sir. And while Ms. Merrill is going
14 through that, Judge, we would just ask that I think she
15 said burglary second is what she charged, she's actually
16 charged with burg second, non-violent, which carries ten.
17 I think she's misleading the jury here. We'd ask that to
18 be corrected.

19 THE COURT: Okay.

20 MR. BLACK: If not, we can do it on
21 cross-examination.

22 THE COURT: Well, I felt like he would, but Ms.
23 Merrill, you agree with Solicitor Black and make that
24 correction?

25 MS. MERRILL: I absolutely will if I did the wrong

1 thing. I'm sorry. I thought I checked on the CDR code
2 before I wrote those down and I must have misread that
3 one.

4 THE COURT: That's okay.

5 MS. MERRILL: Yes, Judge. I apologize. I just
6 looked at the--

7 THE COURT: No problem.

8 MS. MERRILL: -- I don't know if my eyes skipped or
9 something, but I will correct that. I'll go back and
10 correct that.

11 THE COURT: Okay. All right. Now, let's bring the
12 jury out, please.

13 (Whereupon, the jury came into open court at
14 approximately 5:01 p.m.)

15 THE COURT: Okay. Let the record reflect the jury is
16 back in. Ms. Merrill, if you'll start back where you
17 were, please?

18 MS. MERRILL: Thank you, Your Honor.

19 CONTINUE-CROSS-EXAMINATION

20 By Ms. Merrill:

21 Q Ms. Wilson, let me go back on one thing. One of your
22 burglary charges is a burglary second. It is actually not
23 a fifteen year maximum. It's actually a ten year, is that
24 right?

25 A Yes.

1 Q Now, your trafficking charge, you're looking at up
2 ten years for that?

3 A Yes, ma'am.

4 Q And that one actually has a mandatory minimum meaning
5 you would have to serve three years if you were convicted
6 of that, right?

7 A Yes, ma'am.

8 Q And you also have an unlawful neglect of a child
9 charge and that carries ten years?

10 A Yes, ma'am.

11 Q And your possession with intent to distribute
12 marijuana carries five years?

13 A Yes, ma'am.

14 Q You got a possession of controlled substance. I
15 think you said two Lortabs. That would be six months?

16 A Yes, ma'am.

17 Q And another possession of meth charge and that'd be
18 three years?

19 A Yes, ma'am.

20 Q And then a possession of a schedule two drug and
21 that'd be two years?

22 A Yes, ma'am.

23 Q So looking at the offenses for years, three and ten
24 would be thirteen, plus five is eighteen years,
25 twenty-eight, thirty-eight, forty-three.

1 A Right.

2 Q So of these charges, you're looking at forty-eight
3 years and we've got the six months and we got two thirty
4 days. So if we combine all that, you would be looking,
5 if you are convicted and received the maximum, you'd be
6 looking at forty-eight years and eight months?

7 A Yes, ma'am. You going to do time-served.

8 Q But that would be the maximum, does that sound right?

9 A Yeah, but I've served time, too. You're neglecting
10 to put that on there.

11 Q Well, I'm just asking, that would be the possibility?

12 A Well, I mean, we're doing math and I'm not meaning no
13 disrespect, but I mean you're not adding the time that
14 I've already served. You're not taking it off of the
15, forty-eight years and eight months.

16 Q Do you know how long you served?

17 A I served four months from January until April.

18 Q Okay. So we take off four months.

19 A And, I mean, in and, I've been incarcerated right now
20 for twenty-something days.

21 Q Okay. So do you know, twenty, how many?

22 A I mean, do you know how many I've served?

23 Q No, ma'am.

24 A I mean, I don't know exactly how many. I mean, I
25 figured.

1 Q So why don't we just give you the benefit of the
2 doubt and we'll say you've served thirty days. So then if
3 we take that off, you're looking at forty-eight years and
4 then take out, and three months. Is that what you're
5 saying?

6 A I mean, if that's all of the days that I've served,
7 yes. But see, I mean, you took the time to come up with
8 that, but you didn't take the time to figure out the time
9 that I've served.

10 Q Well, I don't know all the time you've served, right.
11 But basing it on your testimony, you're saying that's what
12 you've served. So if we take that off, it's forty-eight
13 years?

14 A I mean, it's probably more than that that I've
15 served. I mean, I don't know the exact dates. I know
16 I've been incarcerated for twenty days right now. I'm
17 doing thirty days. My release date is November the 6th.
18 I know I did four months from January until April. I have
19 did days in between them, too. So, I mean, but you, I
20 mean, you didn't take the time to do the days that I've
21 served. I was just wondering, I was just wondering why.

22 Q Well, in this situation, I get to ask the questions.
23 Would you agree with me that that's the maximum you're
24 looking at?

25 A If convicted of that, yes.

1 Q And now the State has made you an offer?

2 A Yes, ma'am.

3 Q And your offer would be, as I understand it, they
4 would recommend a cap of five years, is that right?

5 A Yes, ma'am.

6 Q And so you could get anywhere from time served to
7 five years, is that right?

8 A Yes, ma'am.

9 Q And you could get probation?

10 A Yes, ma'am.

11 Q And you've got, let's see, it looks like eleven
12 pending charges, and your offer is to plead to three of
13 those, and the State would dismiss the rest?

14 A Yes, ma'am.

15 Q And one of those would be a reduction of the charge,
16 is that right?

17 A Yes, ma'am.

18 Q Now, let's talk about these letters. The letter you
19 wrote to Mr. Taylor. After you sent that, you had to give
20 some handwriting samples?

21 A Yes, ma'am.

22 Q You gave handwriting samples to compare to see if you
23 actually wrote that letter, is that right?

24 A Yes, ma'am.

25 Q And it's your understanding that they determined you

1 wrote that letter?

2 A Yes, ma'am. I never denied writing the letter.

3 Q And the letters, I believe it's State's Exhibit 37
4 that you say are from Mr. Vaughn, you just gave those to
5 the State last week, correct?

6 A Yes, ma'am.

7 Q And you didn't give them any envelope or anything to
8 give a postmark for those letters?

9 A No, ma'am.

10 Q And you're not dating Mr. Vaughn anymore, is that
11 right?

12 A That's correct.

13 Q And you're dating his son now?

14 A That is correct.

15 MS. MERRILL: That's all I have, Judge.

16 THE COURT: Solicitor, you have any redirect?

17 MR. BLACK: Yes, sir, briefly, Your Honor.

18 REDIRECT EXAMINATION

19 By Mr. Black:

20 Q Ms. Wilson, when did you decide to testify against
21 Mr. Vaughn, was it last week?

22 A It's been coming on for a while. I finally come to
23 the decision last week, yes.

24 Q Okay.

25 A But it wasn't like just brought up spur of the moment

1 last week, just boom, yeah. It's been thought about.

2 Q You've been thinking about it?

3 A Yes.

4 Q But you made a final decision last week?

5 A Yes, ma'am.

6 Q And you, I guess you talked to your lawyer about
7 this?

8 A Yes, sir.

9 Q And it was Monday or Tuesday, is that when it
10 happened?

11 A Yes, sir.

12 Q Ms. Merrill talked about all of these days. I think
13 she, you've seen this. You can see the board, right?

14 A Yes.

15 Q Possession of meth, it carries zero to three, is that
16 right?

17 A Yes.

18 Q The burg is zero to ten?

19 A Yes.

20 Q Zero to thirty days?

21 A Yes.

22 Q Zero to thirty days?

23 A Yes.

24 Q Five days on the burg third, zero to five years,
25 right?

1 A Yes.

2 Q I believe this one was the trafficking charge, is
3 that right?

4 A Yes.

5 Q But you said that carries, did she say three to ten,
6 was that what she said?

7 A She said I'd have to serve at least three years.

8 Q Okay. Now, the State, we've reduced that, right?

9 A Yes.

10 Q Possession with intent to distribute to meth,
11 correct?

12 A Yes.

13 Q And you're pleading to zero to five on that, right?

14 A Yes.

15 Q That was a part of the deal?

16 A Yes.

17 Q And you realize that it's a straight-up plea?

18 A I do.

19 Q The Judge can give you five years if he wants to.
20 You realize that?

21 A I do realize that.

22 Q So you're looking at going to prison for five years?

23 A Yes, I understand.

24 Q And the rest of these charges that you got pending,
25 zero to ten, right?

1 A Yes.

2 Q And zero to five?

3 A Yes.

4 Q It's zero to six months on the controlled substance

5 charge?

6 A Yes.

7 Q Zero to three years on the possession of meth charge?

8 A Yes.

9 Q Zero to two years on the other controlled substance

10 charge?

11 A Yes.

12 Q And the only thing on you record is, currently is a

13 possession of alcohol by a minor, is that right?

14 A Yes.

15 Q And nothing else?

16 A Nothing else.

17 Q And you've looked at your rap sheet, right?

18 A Yes.

19 Q There's nothing else on here, is there?

20 A No.

21 Q Ms. Wilson, is that your crotch?

22 A No, sir; it's not.

23 Q Whose is it?

24 A Earnest.

25 Q Earnest Vaughn?

1 A Yes.

2 Q That man right there?

3 A That man right there.

4 MR. BLACK: No further questions.

5 THE COURT: Any recross.

6 RECROSS-EXAMINATION

7 By Ms. Merrill:

8 Q As we sit here today, you haven't pled guilty to
9 anything, have you?

10 A No.

11 THE COURT: Thank you, ma'am. You can step down.

12 MR. BLACK: The State calls Jarvis Reeder to the
13 stand.

14 THE COURT: Okay.

15 JARVIS REEDER, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Black:

19 Q Captain Reeder, can you please state your name for
20 the record?

21 A Jarvis Reeder.

22 Q And where are you employed?

23 A The Greenwood County Sheriff's Office.

24 Q And your rank, sir?

25 A I'm a Captain.

1 Q And what, you're a captain over investigations, is
2 that right?

3 A That's correct.

4 Q Well, what kind of duties do you have as Captain over
5 Investigations?

6 A I supervise investigations and daily operations at
7 the Greenwood County Sheriff's Office.

8 Q You basically supervise all of the investigators?

9 A Yes, sir.

10 Q About how many are there?

11 A I think it's eleven.

12 Q Let's talk about January the 27th of this year. Did
13 you respond to a, out on the Bi-Lo, 25 North where that
14 carwash is?

15 A I did.

16 Q Do you remember about what time that was?

17 A Somewhere around 5:00, between 5:00-5:30.

18 Q Okay. And you've been in here today, is that right?

19 A Yes, I have.

20 Q And you've viewed the video today, is that right?

21 A I have.

22 Q And you remember everything that happened that day,
23 is that right?

24 A I do.

25 Q Who was the first person to stop that vehicle?

1 A Me.

2 Q And who was with you, do you remember?

3 A I don't recall. I think I was either by myself or,
4 maybe Greg Allison was riding with me.

5 Q You were driving?

6 A I was.

7 Q And how did you pull the vehicle over?

8 A I was, heard through the radio that the vehicle was
9 exiting the parking lot. And I stopped the vehicle faced,
10 or pulled in front of the vehicle to stop it.

11 Q I'm sorry. So you were in front of the vehicle?

12 A Yes, I was facing the vehicle.

13 Q And when you got out of the car and pulled the
14 vehicle over what did you do?

15 A I drew my weapon.

16 Q Okay. And is that you on the video that we all
17 notice with the weapon drawn?

18 A Yes.

19 Q All right. And what happened after the stop?

20 A I drew my weapon because as I was initiating the
21 stop, I noticed Mr. Vaughn, right here, fidgeting around,
22 moving his hands up and down.

23 Q And when you're saying he was fidgeting, can you
24 describe the motions he was making?

25 A As I was initiating the stop, I could tell that he

1 was, I didn't know what he was doing. I just know that
2 his hand was not visible and he was moving around in the
3 vehicle.

4 Q Can you kind of, can you demonstrate to the jury what
5 he was doing with his hands?

6 A Yes. As I was approaching him, I could see him
7 moving up and down with his hand placed below the
8 dashboard.

9 Q Like maybe he was concealing something?

10 A Yes.

11 Q And Mr. Vaughn was eventually taken out of the car,
12 is that right?

13 A He was.

14 Q Who else was in that vehicle?

15 A Brandy Wilson.

16 Q Was there anybody else in the vehicle?

17 A Yes, there was a juvenile.

18 Q And do you remember the juvenile's name?

19 A minor

20 Q Okay. How, about how old was he?

21 A He was five.

22 Q And on the video, it looks like somebody goes over
23 and talks to the juvenile, is that right?

24 A Yes.

25 Q Who is that?

1 A That was me.

2 Q And what was the nature of that conversation?

3 A When we stopped that vehicle, we wasn't expecting a
4 child to be in there. So immediately once we removed the
5 occupants from that vehicle and I saw that child there, I
6 immediately went to comfort him.

7 Q And the child, you and the child eventually were
8 off-camera, is that right?

9 A That's correct.

10 Q Where did y'all go?

11 A While I was comforting him, he, his nerves was tore
12 up and he told me he had to use the restroom. So as you
13 saw on the video, I picked him up and I ran next-door to
14 the store, I took him in the bathroom and let him use the
15 restroom.

16 Q You said his nerves were tore up?

17 A Yes.

18 Q And the store, was that the 7-Eleven?

19 A Yes.

20 Q About how long were y'all in there?

21 A We were in there maybe ten minutes, five to ten
22 minutes.

23 Q Kind of hard to say?

24 A It is. After he used the bathroom, he told me he was
25 hungry, so I bought him a pack of crackers and we went

1 back out.

2 Q Okay. And you eventually came back to the scene, is
3 that right?

4 A That's correct.

5 Q And what did you do when you come back, when you came
6 back?

7 A Once I came back to the scene, then I let the child
8 go, and I immediately started talking with Eddie Vaughn.

9 Q Okay. And did you initially talk with him in front
10 of Mr. Hood's vehicle, Officer Hood's vehicle?

11 A I did.

12 Q Okay. And who was with you when you were talking to
13 him?

14 A Lieutenant Cox.

15 Q And did you go over Mr. Vaughn's rights with him at
16 that point?

17 A I did.

18 Q Were you made aware that Mr. Cox had read him his
19 rights?

20 A I didn't know until after the fact.

21 Q Okay.

22 A It's just customary that I read someone their rights.

23 Q So you read Miranda rights to him?

24 A Yes.

25 Q And you, those rights, can you tell them to us?

1 A You have the right to remain silent. Anything you
2 say can be used against you in the court. You also have
3 the right to an attorney, have him present while
4 questioning. At any time, you may stop and consult an
5 attorney.

6 Q Slow down a little bit.

7 A I'm sorry. You have the right to remain silent.
8 Anything that you say can be used against you in a court.
9 You also have the right to have an attorney here, have him
10 present during questioning. You also have the right to
11 answer any questions I may ask you without an attorney
12 present. At any time, you may stop to consult an
13 attorney.

14 Q And those are the rights that you read to Mr. Vaughn?

15 A Yes.

16 Q Standard, correct?

17 A Yes.

18 Q At that point, did he agree to talk to you?

19 A He did.

20 Q Was Mr. Hood, was Officer Hood around when he agreed
21 to talk to you or do you remember?

22 A Looking back at the video, I see where Lieutenant
23 Hood had walked away but at that time, I was really more
24 focused on Mr. Vaughn and the issues at hand.

25 Q And when you talked to Mr. Vaughn, what was the

1 nature of that conversation?

2 A I, basically told him that I had observed him moving
3 his hands in a concealing way. And asked him, you know,
4 to cooperate if he had the drugs on him. And finally he
5 told me he did have drugs on his person.

6 Q And did he indicate where the drugs were?

7 A He did.

8 Q Where were they?

9 A They were in, he told me that they were in his, near
10 his testicles.

11 Q All right. And once he told you that, what did you
12 do?

13 A I went back to my vehicle and retrieved rubber
14 gloves, placed those rubber gloves on. And before we
15 removed the contents from his person, I instructed
16 Lieutenant Cox to take pictures of Mr. Vaughn as he was
17 before we removed those drugs from his person.

18 Q And these gloves, I guess, are they black in color?

19 A Yes, they were black latex gloves.

20 Q And, I guess, you keep a pair of these in your
21 vehicle at all times?

22 A I keep a box in my vehicle.

23 Q At this point, you moved Mr. Vaughn away from the
24 front of the vehicle, is that right?

25 A I did.

1 Q And why did you do that?

2 A We were out in the public, and there were vehicles
3 going and coming through the parking lot. And I wanted to
4 conceal his privacy, you know, while we removed those
5 drugs from him.

6 Q And where exactly did you take him?

7 A If you noticed on the video, you'll see Lieutenant
8 Hood's vehicle to the left of my vehicle. So what I did
9 was I opened my front driver's side door. I opened
10 Lieutenant Hood's passenger side door to make a V, back
11 him away between the wheel wells and took those contents
12 from his person.

13 Q So if I'm picturing it right, it looks like we got
14 two vehicles in between each other and two doors open, so
15 it kind of creates a box like a privacy area?

16 A Yes.

17 Q That's exactly what happened?

18 A Yes.

19 Q And at this point, you conducted a search of Mr.
20 Vaughn?

21 A Yes.

22 Q Now, can you describe to the jury what you found?

23 A And once he told me he had it on his person, like I
24 said earlier, I instructed Lieutenant Cox to take pictures
25 of Mr. Vaughn as he was. And we took pictures

1 step-by-step. I think I removed his belt or I loosened
2 his belt, then I unbuttoned his pants. And then at that
3 point, I pulled his underwear from his stomach area. And
4 I could observe plastic bags up under his testicles.

5 Q And I'm going to show you what's been marked and
6 already entered into evidence as State's number 24. Is
7 this the picture, is this what you're referring to when
8 you removed the belt and kind of unbuttoned, and then
9 pulled it open on his person?

10 A Yes, and you will see my hand kind of pulling it
11 back, as well.

12 Q Is this your hand with the black glove, I'm guessing?

13 A Yes, it is.

14 Q And who is taking that picture again?

15 A I think it was Lieutenant Cox.

16 Q And I'm going to show you what's already been marked
17 as State's 25 and entered into evidence. Is that where
18 the drugs were located?

19 A Yes. On one side. They were on both sides.

20 Q Okay. How many, how many bags were on him?

21 A I think I removed two plastic bags.

22 Q Two bags. I'm showing you State's number 20. It's
23 another picture that's already been admitted into
24 evidence. Are those two of the other bags that you saw?

25 A Yes.

1 Q And once you received these drugs or these items,
2 what did you do with them?

3 A I placed them on the hood of Lieutenant Hood's
4 vehicle.

5 Q And can you see that on the video?

6 A Yes. Well, you can see part of the bag come flying
7 on the vehicle where I threw it up on the vehicle.

8 Q About how close were you to Lieutenant Hood's hood of
9 the vehicle?

10 A Next to it.

11 Q Just right beside of it?

12 A Yeah.

13 MR. BLACK: May I approach, Your Honor?

14 THE COURT: You sure can.

15 MR. BLACK: Your Honor, may I approach the witness?

16 THE COURT: You can.

17 Q Captain Reeder, I'm going to show you what's been
18 marked as State's number 9. Can you identify that for us,
19 please?

20 A It's a spoon and looks like it has a filter in it and
21 also a syringe.

22 Q Okay. And you submitted that to the evidence tech,
23 is that correct?

24 A Yes.

25 Q I'm going to show you State's number 8. I'll take

1 this one from you. Can you identify that for us, please,
2 sir?

3 A Bags of syringes.

4 Q And you also submitted that to the evidence tech?

5 A Yes.

6 Q Was that placed on the hood of Officer Hood's
7 vehicle?

8 A Yes.

9 Q State's number 14, can you identify this for us, sir?

10 A It's a black pouch and it had the contents of the
11 syringes, as well as Q-tips. They use the Q-tips for the
12 filter to inject the drugs into the syringe.

13 Q And you signed this one over to Greg Allison, the
14 evidence tech, as well?

15 A Yes.

16 Q And State's number 13, can you identify this for us,
17 sir?

18 A Four individually wrapped clear plastic bags
19 containing a green plant-like substance, the marijuana.

20 Q Okay. And you also signed this over to Greg Allison,
21 is that right?

22 A Yes.

23 Q State's number 38.

24 A Also clear baggies individually wrapped contained
25 green plant-like substance which I believed to be

1 marijuana.

2 Q Where, do you remember where those were found?

3 A They were in a regular Ziploc bag.

4 Q Okay. And State's number 39, can you just identify
5 that for us, sir?

6 A Can I take it, open it?

7 Q Yes.

8 A It seems to be several bags of clear crystal-like
9 substance, which is believed to be methamphetamine.

10 Q Okay. And those are the drugs that you pulled out of
11 Mr. Vaughn's pants, is that right?

12 A Yes.

13 Q And, I guess, the packaging is different now from the
14 day that you retrieved them from his pants, is that right?

15 A Yes. They were in a sandwich bag.

16 Q And you signed all this evidence over to Mr. Greg
17 Allison, is that right?

18 A Yes.

19 Q I'm showing you what's marked as State's number 34.
20 Do you see that, Captain Reeder?

21 A Yes, I can see it.

22 Q And can you just identify what those items are?

23 A The bag on the right is a clear plastic sandwich bag
24 containing individually wrapped bags of marijuana. The
25 next bag to the left of that is a clear sandwich bag

1 containing and individually packaged contents of
2 methamphetamine, known as ice. And the next bag is a
3 bigger quantity, I think probably 8-ball quantities of
4 methamphetamine.

5 MS. MERRILL: Your Honor, I'm going to object to
6 identifying what's in the bags, and that's not into
7 evidence.

8 THE COURT: Okay. I think he could testify based
9 upon experience that it appears to be, based upon his
10 experience, and not for him to testify conclusively that
11 it is, but that it appears to be based upon his experience
12 in the field.

13 Q And, Captain Reeder, at one point, you were over the
14 Drug Enforcement Unit, is that right?

15 A I was.

16 Q When was that?

17 A 2009 through 2013.

18 Q Okay. And these items, all the evidence, they were
19 placed on the hood of Officer Hood's vehicle?

20 A Yes.

21 Q Okay. And then you signed all of them over to Greg
22 Allison, is that right?

23 A Yes.

24 Q And, ultimately, I guess, the drugs are sent off and
25 tested, is that right?

1 A That's correct.

2 Q Okay.

3 MR. BLACK: I beg the Court's indulgence.

4 THE COURT: Solicitor, in line with Ms. Merrill's
5 objection and my ruling, you may want to rephrase your
6 question as far as what are in those bags.

7 MR. BLACK: Yes, sir.

8 Q And, Captain Reeder, while you were over the Drug
9 Enforcement Unit, you made drug cases, is that right?

10 A I did.

11 Q That's primarily what you worked in?

12 A Yes.

13 Q I'm going to hand you what's been marked as State's 9
14 which you've already identified. Do you remember where
15 that particular item was found?

16 A It was inside the vehicle, Brandy Wilson's vehicle.

17 Q Okay. Was it in Brandy's contents, that you
18 remember?

19 A I'm not sure. I don't recall.

20 Q And based on your experience and training as a law
21 enforcement officer, can you describe the significance of
22 the spoon and the syringe and how that all works together?

23 A Basically, on the street, they call a syringe a rig.

24 THE COURT: Can you spell that for us?

25 A R-I-G, rig.

1 THE COURT: Okay.

2 A And they use a spoon to place the methamphetamine in
3 it. Take a lighter or torch, heat it, melt it down, and
4 take a piece of cotton or something to that nature. Stick
5 a needle in it and to retrieve the liquid form of the
6 methamphetamine before injecting it into the veins.

7 Q So and they're actually shooting it up, is that
8 right?

9 A That's correct.

10 Q And that's what the syringe would be used for?

11 A Yes.

12 Q Was any methamphetamine found on Brandy Wilson?

13 A Not to my knowledge.

14 Q The methamphetamine that you identified or that you
15 think is ice, based on your training and experience, where
16 were all those, where were the contents of that found?

17 A All the methamphetamine that, all the contents that I
18 believed to be methamphetamine were removed from the
19 private area of Mr. Vaughn.

20 Q And this is Mr. Vaughn sitting here in the courtroom
21 today beside Ms. Merrill, is that right?

22 A That's correct.

23 Q Just going back, one brief question. The demeanor of
24 minor when the stop was initially made, can you just
25 describe how that, how he was?

1 A Yes, I can. It was a surprise that he was in that
2 vehicle. I guess as a law enforcement officer, when you
3 stop a vehicle, you're not expecting to have your weapon
4 drawn on a child. At that point when he was removed from
5 that vehicle, it seemed differently, that it was a child
6 there during a drug deal.

7 Q It seemed like your primary focus at that point was
8 for minor is that right?

9 A That's correct.

10 Q And you did take care of him?

11 A Yes. I took care of minor because I have a
12 five-year-old child of my own that I adopted that was born
13 addicted to methamphetamine.

14 Q And where did minor end up going that night?

15 A I transported, I actually had a car seat in my
16 vehicle. He told me that he was hungry, so we made
17 contact with his father and mother. And I think they were
18 in Anderson at the time. So I took him back to, actually,
19 I took him to McDonald's, bought him a Happy Meal. Took
20 him back to the office, in my office, and he sat and
21 played at my table until his mother and father got there.

22 Q And they got there later that night?

23 A Yes.

24 MR. BLACK: No further questions. Please answer any
25 questions Ms. Merrill might have for you.

1 THE COURT: Ms. Merrill, cross-examination?

2 MS. MERRILL: Thank you.

3 CROSS-EXAMINATION

4 By Ms. Merrill:

5 Q These items you believed drugs, they were found in
6 clear bags, right?

7 A Yes.

8 Q You could see through those bags?

9 A Yes, ma'am.

10 Q And you're familiar with the CI process, confidential
11 informant?

12 A I am.

13 Q And you're aware that Debbie Tucker has been a CI for
14 many years?

15 A Yes.

16 Q And the two officers who signed her up to be a CI are
17 currently indicted?

18 MR. BLACK: Objection, Your Honor.

19 THE COURT: Wait, don't answer yet. Objection?

20 MR. BLACK: Yes, sir.

21 THE COURT: Okay.

22 MR. BLACK: It's not relevant to this case.

23 THE COURT: Okay. The question again, Ms. Merrill,
24 without--

25 MR. BLACK: Your Honor, can we approach?

1 THE COURT: Okay.

2 (Whereupon, a bench conference was held in the
3 presence of the jury but out of the hearing of the
4 jury.)

5 MS. MERRILL: Thank you, Your Honor.

6 Q And you said Officer Cox was the one taking pictures
7 of what you believed to be drugs on the hood of the car?

8 A Yes.

9 Q And you've seen those pictures, is that right?

10 A I have.

11 Q Okay. And those pictures are accurate as far as what
12 you put on the hood of the car?

13 A Yes.

14 Q Okay. Thank you.

15 THE COURT: Any redirect?

16 MR. BLACK: No, sir, Your Honor.

17 THE COURT: Okay. I need you to stay right there.
18 Solicitor, I think probably, I know you have one more
19 witness for today.

20 MS. WHITE: We'll probably go past when Your Honor
21 needs to leave.

22 THE COURT: Okay. Let's go ahead and break then.
23 Ladies and gentlemen of the jury, it's about twenty till
24 6:00. You've worked pretty hard today, so I think it is a
25 good time to go ahead and break for the evening. Because

1 THE COURT: Okay. All right. Okay. That's all I
2 need to know. Thank you, ma'am.

3 (Whereupon, Juror 29, Jean Carter was excused to the
4 jury room.)

5 THE COURT: All right. Y'all need to approach?

6 MS. WHITE: No. I just, I'd had the thought before
7 she came out, and I'm assuming I think Mr. Willingham is
8 pretty good about telling them this. But I just wanted to
9 make sure she hadn't been back there discussing that.

10 BAILIFF: I did.

11 MS. WHITE: I knew you had, but I wanted to make
12 sure.

13 THE COURT: He's one step ahead of you, Solicitor.
14 Okay. All right. Let's bring the jury in.

15 (Whereupon, the jury came into open court at
16 approximately 11:05 a.m.)

17 THE COURT: All right. Let the record reflect the
18 jury is back in. Good morning, ladies and gentlemen. I
19 hope you're ready to get back to work. We're still in the
20 State's case. Solicitor, you ready to call your next
21 witness?

22 MS. WHITE: Yes, sir. The State calls Greg Allison.

23 THE COURT: Okay.

24 GREG ALLISON, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

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By Ms. White:

Q Please introduce yourself to the jury, please?

A My name is Deputy Allison. I'm a crime scene investigator at the Greenwood County Sheriff's Department.

Q As part of being a crime scene investigator, are you also responsible for the evidence?

A The evidence, yes ma'am; I am.

Q Before we get started, tell me is, who has access to the evidence room at the Sheriff's Office?

A Myself, Wes Love, and one other that I know of.

Q So can a random deputy just walk in there and just start looking at evidence?

A No, they cannot.

Q Now, turning to January 27th of 2016, were you the evidence technician on that date?

A Yes, ma'am; I was.

Q Did you go out to the scene near the carwash where this traffic stop occurred?

A Yes, ma'am. I rode with Captain Jarvis Reeder.

Q And what were your duties while you were on the scene?

A My duties was to assist with whatever the Captain needed me to do, which pretty much was evidence tech to collect evidence and maintain the chain-of-custody.

1 Q Are you the individual we saw on the video kind of
2 bagging everything up and writing on it?

3 A That is correct.

4 Q Were you involved in searching the vehicle at all?

5 A I did, ma'am. I started off with searching the
6 vehicle after the officers got the suspects into custody.
7 I found one item which was a bag with a glass pipe down in
8 the fuse box of the vehicle.

9 (Whereupon, State's Exhibit number 40 was marked for
10 identification.)

11 MS. WHITE: May I approach the witness, Your Honor?

12 THE COURT: You can.

13 Q I'm going to hand you what we've marked for
14 identification as State's 40. Is that the pipe you're
15 talking about?

16 A Yes, ma'am; it is.

17 Q And is that a, it's a Crown Royal bag with it?

18 A Yes, ma'am; it is.

19 Q And is this, is State's 40 the item you collected
20 that day or the items you collected that day?

21 A Yes, ma'am, as well.

22 Q Were these, have these been in your care, custody,
23 and control as the evidence technician since January 27th?

24 A Yes, ma'am.

25 Q Has anything been done to alter this in any way?

1 A No, ma'am; has not.

2 MS. WHITE: The State moves Exhibit 40 into evidence,
3 Your Honor.

4 THE COURT: What says the Defense?

5 MS. MERRILL: No objection.

6 (Whereupon, State's Exhibit number 40 was admitted
7 into evidence.)

8 Q And you said you found this is in the fuse box.
9 Where is that exactly in the vehicle?

10 A If you opened the driver side door, there is a
11 compartment on the dash and it has a inlay button. And if
12 you pop that button that door would come off and that is a
13 very safe haven for a lot of your drug paraphernalia,
14 drugs as well.

15 Q All right. So you actually found this Crown Royal
16 bag and pipe. The rest of the evidence that was collected
17 that day, who was the submitting officer on that, do you
18 recall?

19 A The submitting officer on the evidence was Jarvis
20 Reeder.

21 Q So did you collect everything from Captain Reeder,
22 and then put it into evidence?

23 A Once he turned it over to me, I inventoried
24 everything to make sure it was correct. And it was
25 correct, and I took possession of it.

1 Q All right. I'm going to split this up into smaller
2 chunks.

3 MS. WHITE: May I approach the witness, Your Honor?

4 THE COURT: Sure.

5 Q I'm going to hand you what's been marked as Exhibits
6 8, 9 and 14.

7 A Yes, ma'am.

8 Q Did you receive all of those from Captain Reeder on
9 the scene?

10 A Let me get my focus.

11 Q Sure.

12 A Everything was turned in and once it was turned over
13 to him, it was turned over to me. That's correct.

14 Q Okay. And have those three exhibits been in your
15 care, custody, and control since January the 27th of 2016?

16 A Yes, ma'am; they have.

17 Q Have any of those been altered or changed in any way?

18 A No, ma'am; they have not.

19 MS. WHITE: The State moves numbers 8, 9 and 14 into
20 evidence, Your Honor.

21 THE COURT: What says the Defense?

22 MS. MERRILL: Just subject to our prior objections,
23 Your Honor.

24 THE COURT: Okay. All right. So noted. 8, 9, and
25 14 into evidence on behalf of the State.

1 (Whereupon, State's Exhibit numbers 8, 9 and 14 were
2 admitted into evidence.)

3 MS. WHITE: May I approach the witness again, Your
4 Honor?

5 THE COURT: Sure.

6 Q I'm going to hand you 38 and 39. Can you identify
7 those for me?

8 A This package here is the Best Pack which contains the
9 crystal-like substance that was collected at the crime
10 scene. One has four in it, the larger packages. The
11 other one has one large package with 13 small packages in
12 it.

13 Q And you're, I think you're talking about which
14 number?

15 A One and two.

16 Q No, I'm sorry.

17 A Oh, I'm sorry.

18 Q 39?

19 A 39, yes ma'am.

20 Q And who did you receive Exhibit 39 from?

21 A Jarvis Reeder.

22 Q And what, if anything, did you do with Exhibit 39?

23 A Exhibit 39, what we do is once we get a, we get
24 evidence that appears to be possibly meth or anything like
25 crack cocaine, it's requested by the investigator or the

1 captain to send it to SLED. So I prepare it with a Best
2 package to go to SLED for analyzation. And I also deliver
3 that to SLED, and I also, I am the one who returns it
4 back.

5 Q Now, when you say you prepare it to go to SLED, how
6 is that done?

7 A What I do is I inventory it a second time to make
8 sure it's accurate. Make sure the weights are the same,
9 and I also do a pre-admission through our website with
10 SLED to let them know that it is available and we are
11 bringing it to them. Then, I make an appointment to go to
12 them there to deliver it.

13 Q Now, you said it's a Best Pack a minute ago. What is
14 a Best Pack?

15 A A Best Pack is simply a packet in which we take to
16 SLED. And if you'll notice it's, it is issued by SLED,
17 and it has their logo on it and we package it. Then, once
18 we seal it, we cannot open it again. The next time it's
19 opened, it'll be in court, at the discretion of the Court.

20 Q And is it obvious if you, once you seal it, if it's
21 been tampered with, is that obvious?

22 A Yes, ma'am; it is. You'll see that you have ribbons
23 on each side of it. And it is sealed and if that ribbon
24 is cut, you will be able to identify it as being opened.

25 Q All right. And with regards to, I think it's Exhibit

1 39, did you take that down to SLED yourself?

2 A Yes, ma'am; I did.

3 Q Do you recall what date you took that to SLED?

4 A Not exactly. I had the packaging date on it where I
5 actually packaged it on March the 2nd. But it should be
6 on these submission forms with the paperwork. I initially
7 try to go twice a month, so it's not every day or every
8 case. My job duty is more complex than just one case or
9 crime scene investigation. I am over a large mass of
10 items which I have to return to victims who also come in
11 and they need their items back from other cases.

12 Q Now, if I hand you the chain-of-custody, would that
13 refresh your recollection on the dates?

14 A Yes, ma'am. Here we show that I did deliver it on
15 the 2nd month, the 8th day of 2016.

16 Q Thank you. Between January, I guess, 27th and
17 February the 8th, where would that item have been sitting?

18 A This item, in particular here, would be sitting in,
19 probably spent most of the time in the lab in the SLED
20 box, which I keep it separate from all the other evidence.
21 So when I get ready to prepare this item for SLED, I can
22 go directly to the SLED box, prepare it, and then send it
23 to SLED, and it is in a secure area.

24 Q And, again, you sealed this on February 2nd, it looks
25 like?

1 A That's correct.

2 Q Now, you mentioned counting it again to make sure the
3 inventory is correct. Did you have an issue when you
4 recounted this one?

5 A Yes, ma'am; I did. I was off on one package of one
6 that was, had three in it. And it actually had four which
7 was initially from the drug stop. And the other one was
8 the one with the 14 packs in it, I was missing a small one
9 which was a .34. The missing part was a logging error
10 when I was doing, when I was doing the counts and I was
11 doing the weights. It never left the office. It never
12 was lost. It wasn't on the floor. It just wasn't logged
13 in. It was already processed, packaged, and it was also
14 labeled.

15 Q So was that just an error in counting?

16 A It was a, yeah, it was a writing error on my behalf
17 and that's the reason I always do a second one.

18 Q And when you did the second one, did you come up with
19 the same numbers that SLED had?

20 A Yes, ma'am. I did come up with the additional
21 numbers and the additional packs, which was at the scene
22 with everything with the incident report.

23 Q Now, do you weigh the substances as part of when
24 you're packaging it up?

25 A Yes, ma'am. I weigh for accuracy on the weights. A

1 lot of, not only do I do my own, but I do the other road
2 deputies as well to make sure they stay in compliant with
3 what the actual weights are being submitted into evidence.

4 Q And when you weigh it in the evidence room, are you
5 weighing the packaging, as well?

6 A I wouldn't, I weigh it exactly as it comes in.

7 Q So you're, you don't remove it from the package and--

8 A No, I don't.

9 Q -- put whatever?

10 A If that evidence comes in, and a lot of times they
11 do, I can have a half-a-gram, seems to be marijuana. And
12 it'll have plastic so I'll weigh it as it is because I
13 don't change the originality on anything.

14 Q Can you see the screen from where you're sitting?

15 A Yes, ma'am; I can.

16 Q I want to show you what's been marked as State's 32.

17 A Yes, ma'am.

18 Q So you're saying that you would have weighed each of
19 these individual little packages as they were?

20 A That's correct. And they were listed as such.

21 Q And the same thing with these larger ones?

22 A Exactly.

23 Q Now, what's the number on that exhibit you still
24 have?

25 A 38.

1 Q Who did you receive that item from?

2 A I received that from Jarvis Reeder as well.

3 Q And what, if anything, did you do with that?

4 A I just, packaged it individually and labeled it and /
5 sealed it for storage purposes.

6 Q And who would that, do you analyze marijuana for the
7 Sheriff's Office?

8 A No, ma'am; I cannot.

9 Q Who analyzes the marijuana for the Sheriff's Office?

10 A Wes Love.

11 Q And did you submit that to Wes Love for analysis?

12 A Yes, ma'am.

13 MS. MERRILL: Your Honor, I have a matter of law I
14 need to take up, please.

15 THE COURT: Okay. All right. Mr. Foreman and ladies
16 and gentlemen of the jury, I have a matter of law that I
17 need to take up with the lawyers. If you will go back to
18 the jury room and, hopefully, we'll get you back out
19 shortly. No discussions.

20 (Whereupon, the jury was excused from open court.)

21 THE COURT: Okay, Ms. Merrill.

22 MS. MERRILL: Thank you, Judge. Before we went too
23 far down this path, in the discovery I received, I do have
24 the chain-of-custody information about the two bags that
25 went to SLED, and I have the SLED internal chain and their

1 information. I do not have documents showing how and when
2 the marijuana was logged in and when the marijuana left
3 the evidence room to be tested. So I'm not sure if it
4 exists and perhaps I told Micah, their electronic system I
5 have not been getting notifications from. But and perhaps
6 I'm just missing it and if that's the case, I will look at
7 what I have.

8 MS. WHITE: Your Honor, our system is showing that
9 discovery was viewed or sent on June 27th of 2016. It was
10 analyzed on June 7th of 2016.

11 MS. MERRILL: Now, I do have, I'm sorry, to make it
12 clear. I do have the marijuana analysis report. I have
13 been provided that. What I don't have is any sort of
14 chain-of-custody documents on the marijuana, specifically.

15 THE COURT: All right.

16 MS. WHITE: The chain I'm relying on, Your Honor, is
17 from the incident report, the marijuana analysis and the
18 testimony.

19 THE COURT: Okay. So there is no document--

20 MS. WHITE: Right.

21 THE COURT: -- that would have been furnished to Ms.
22 Merrill concerning chain-of-custody?

23 MS. WHITE: Correct.

24 MS. MERRILL: Okay. That's what I was just wanting
25 to clarify. If I should have something.

1 THE COURT: Okay.

2 MS. MERRILL: So now I do have that report.

3 THE COURT: Okay.

4 MS. MERRILL: Thank you.

5 THE COURT: Okay. You're welcome. Okay. Let's
6 bring the jury out.

7 (Whereupon, the jury came into open court at
8 approximately 11:23 a.m.)

9 THE COURT: Let the record reflect the jury is back
10 in. Solicitor?

11 MS. WHITE: Thank you, Your Honor.

12 Q We were talking about Exhibit 38.

13 A Yes, ma'am.

14 Q And did that remain in your care, custody, and
15 control until Officer Love tested it?

16 A Yes, ma'am. Wes Love is also the officer who's my
17 alternate when I'm on vacation or I'm out. He is the one
18 that takes over evidence and also, he is the one that
19 analyzes all the marijuana in-house. We do it in-house.
20 SLED does not analyze marijuana.

21 MS. WHITE: May I approach the witness again?

22 THE COURT: You sure can.

23 Q Now, I'm going to swap with you --

24 A Yes, ma'am.

25 Q -- State's 13. Can you identify that for me?

1 A Yes, ma'am. And this is the one pack that contained
2 the four packages of what's believed to be marijuana. And
3 that one was by Bryan Louis.

4 Q And what did you do with that when you received it
5 from Bryan Louis?

6 A It went through the same process with the rest of it.
7 Once I collected everything, I put it in one of the bags
8 and I transported it back to the Sheriff's Office to
9 process it.

10 Q And so would that have also remained in the evidence
11 room until Officer Love analyzed it?

12 A That is correct.

13 Q Did anybody with regards to State's 13 or 38, would
14 these have been tampered with or altered in any way while
15 they were in your possession?

16 A No, ma'am; other than being analyzed by Wes Love.
17 That's the only time.

18 Q When you were out there or when you were handling
19 State's 13 and 38, well, let me back up. Are you familiar
20 with the odor of marijuana from your experience as a law
21 enforcement officer?

22 A Yes, ma'am; I am.

23 Q In handling Exhibits 13 and 38, did these smell to
24 you like marijuana?

25 A Yes, ma'am.

1 Q Turning back to Exhibit 39, I did have one more
2 question about that.

3 A Yes, ma'am.

4 Q When I look at some of the individual bags, it says
5 January 26th instead of January 27th. Can you explain
6 that?

7 A Yes, ma'am. A lot of times, I deal with a lot of
8 dates from 1978 all the way up to the current dates, and I
9 also process the day after evidence which my evidence
10 starts 7:00 in the morning until I finish. A lot of
11 times, I do get the dates mixed up.

12 Q So is that just a mistake in writing down?

13 A It's a common error on my part; yes, ma'am.

14 Q And when you collected all of this evidence, did you
15 take it back to the Sheriff's Department that night?

16 A Yes, ma'am. It was in my custody for the duration
17 and I also started processing it that night, as well.

18 Q And would it have been under lock-and-key from that
19 point until today, essentially?

20 A Yes, ma'am. It has been.

21 Q Just generally speaking, when one of the drug agents
22 makes a case and they turn drugs into your custody, how is
23 that done?

24 A It's done through the locker system. We have a lobby
25 that's down in our Evidence Department where there are

1 lockers kind of like the ones you have in high school, but
2 they're a little smaller. And, well, it's just put in
3 there and it's locked into evidence with our tracking, a
4 tracking system. Once it's locked, no one gains access to
5 it but me.

6 Q So once, say, Agent Brooks puts something in the
7 locker, he can't get that back out, is that correct?

8 A Not unless he, not unless he signs for it.

9 Q But he would have to come to you to do that?

10 A He would have to come to me and he would have to sign
11 for me to release it, which would be in that evidence
12 file, as well.

13 Q So if they wanted to, once the evidence is locked in,
14 there is no way they can do anything to it, is that
15 correct?

16 A No, ma'am. They cannot. No, ma'am. Not without my
17 knowledge.

18 MS. WHITE: Please answer any questions Ms. Merrill
19 has.

20 THE COURT: Ms. Merrill, any cross-examination?

21 MS. MERRILL: Yes, sir.

22 CROSS-EXAMINATION

23 By Ms. Merrill:

24 Q When the evidence comes into the evidence room, do
25 you note that on a form?

1 A It's admitted on the form. It's noted in the
2 computer, ma'am.

3 Q In the computer system?

4 A Yes, ma'am.

5 Q So any time evidence comes in and out, that's where
6 it's logged?

7 A Yes, ma'am. Even evidence that is to be destroyed
8 has to be, has to have a tracking number.

9 MS. MERRILL: Your Honor, may I approach the witness?

10 THE COURT: You sure can.

11 Q Do you recognize that?

12 A Yes, ma'am.

13 Q What is it?

14 A This is the log in of the computer which tells us
15 exactly what's on file in that case.

16 Q Okay. So that's the computer program you were
17 talking about?

18 A Yes, ma'am.

19 Q And is that like a screen shot of your computer
20 screen, I guess?

21 A Yes, ma'am; it is.

22 Q Okay. And then it tells if the evidence is in or if
23 it's checked out, for example, to SLED?

24 A Yes, ma'am. It will show, it won't show on, yeah, it
25 will show on here as well just like you have your

1 disposals right here.

2 Q Okay. So from here, like from this screen, can you
3 click on one of these items and you'll have more detail
4 about --

5 A Yes, ma'am; you will.

6 Q -- exactly when it was entered and all of that?

7 A Yes, ma'am.

8 Q Okay.

9 A That's just the first page.

10 Q Okay. Thank you.

11 A Yes, ma'am.

12 MS. MERRILL: Beg the Court's indulgence, please.

13 THE COURT: Sure.

14 MS. MERRILL: Your Honor, may we approach?

15 THE COURT: Sure.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 Q Okay. So that screen shot I just showed you, you
20 said it's kind of --

21 A Yes, ma'am.

22 Q -- it's kind of got a listing, right?

23 A Yes, ma'am.

24 Q And if you click on one of these, it will tell you
25 the details for each particular?

1 A Yeah, it will show if it was checked out or not.

2 Q Okay.

3 A But depending on when that screen shot was taken, we
4 also enter it back in once it's returned.

5 Q Right. Okay.

6 A Just like a chain-of-custody, we have a
7 chain-of-custody, we have a chain-of-custody also from the
8 SLED Department. We have a chain-of-custody that goes
9 down, it comes back and that's just, that's an inventory,
10 as well.

11 Q Okay. And from this inventory sheet, by clicking on
12 it, you could give the exact chain-of-custody for any
13 particular item?

14 A That's correct.

15 Q And this is just kind of a summary of what's in
16 evidence?

17 A That's your front screen shot just showing your
18 inventory and letting you know, in general, where the item
19 is located. It will tell you the shelf number, it will
20 tell you if it's been disposed. And it will also tell you
21 where it's located. If Captain Jarvis Reeder was to
22 request some of the evidence and I turned it over to him,
23 the proper authority, then he would have to sign off on it
24 and it would also be in that computer verifying Jarvis
25 Reeder has that evidence with the weight. And I will

1 weigh it again once it comes back to make sure it was
2 exactly as when it left.

3 Q Okay. So if after you testified there was a few of
4 these that I'd like to see the specific details about
5 items, you would be able to do that?

6 A Yes, ma'am.

7 Q Okay. Thank you. Is it typical for you to be called
8 out to a scene like you were on this case?

9 A Yes, ma'am. I'm also the driver of the S.W.A.T team,
10 so we do do warrants where I am called out to a drug bust.

11 Q Okay. But in this one you were called out just to
12 log evidence?

13 A Yes, ma'am. I am listed under Investigations, and I
14 am called out for anything they will ask me to do.

15 Q When you take any evidence to SLED, do you then have
16 to sign something noting that you're leaving it into their
17 custody at that time?

18 A Yes, ma'am. I also get a custody sheet back from
19 SLED which is a copy from SLED with my signature on it and
20 also the submitting officer from SLED. It also comes to
21 me.

22 Q And then when something comes back from SLED?

23 A It's the same thing. I have a general listed, and I
24 have each item return slip, as well, that goes into the
25 evidence log once I return back from SLED.

1 Q Okay. When you count, were counting the packages on
2 January 27th outside on the hood of the car, were you able
3 to weigh them there?

4 A No, ma'am; I was not.

5 Q Okay. So in this initial report where it talks about
6 weighing them, were you just gathering the evidence then?

7 A And when I was out on the crime scene, I just
8 actually did a count for the actual packages. And then
9 put them back in their original state or more or less
10 counted in the package and left them in their original
11 state where I can get an accuracy on the notation of it.

12 Q Okay. And then you go back to your office, I guess,
13 and that's when you did the--

14 A We returned it back to the evidence room at the
15 Greenwood County Sheriff's Department where I began to
16 process it.

17 Q Okay. And then I know you said there was a mistake
18 on your part with different amounts?

19 A Actually, yes, ma'am. It was, the amount is also, I
20 was lacking one in each of the crystal-like substance /
21 packs.

22 Q Okay. And, I guess, I'm just trying to figure out
23 when was the first time you weighed it was that day back
24 at your office?

25 A Yes, ma'am. It was actually during the processing of

1 the evidence back at the Sheriff's Department.

2 Q Okay. And then the next day you did another count
3 for accuracy?

4 A Yes, ma'am. I was getting it prepared to go to SLED.

5 Q Okay. That's, so that's when you did the second.
6 Okay. That's what I was trying to figure out when you did
7 the second one. And then the difference, as I understand
8 you recorded, was that in your initial inventory, the
9 weight of one bag was 7.66 grams, and then you discovered
10 a fourteenth packet and the weight went to 8 grams, is
11 that right?

12 A That's correct. It was .34 was the actual weight of
13 that. It was over sighted and not logged in.

14 Q Okay. And then the other bag, when you did the
15 inventory the second time, you had 10.62 grams, and then
16 it became 14.22 grams, is that right?

17 A That's correct. That particular bag weighed out at
18 3.6 grams.

19 Q And you did that report discussing those changes on
20 January 29th, so just a few days after the incident?

21 A That is correct. Once I had noticed, once I noted
22 the oversight that I had made, I contacted my supervisor
23 immediately and let him know what the situation was. And
24 then I proceeded with the supplemental and went forward
25 with the processing of the evidence.

1 MS. MERRILL: Okay. I think that's all the questions
2 I have subject to being able to ask him.

3 THE COURT: All right. Any redirect?

4 MS. WHITE: Very briefly, Your Honor.

5 REDIRECT EXAMINATION

6 By Ms. White:

7 Q When you did the initial count on the 27th, I think
8 you said one bag was 10.62 grams?

9 A That's the total weight of that whole bag, not that
10 particular one that was missing.

11 Q And then the other one was 7.66, is that correct?

12 A And that's also the total weight of that bag with the
13 other missing envelope.

14 Q And the cutoff for trafficking marijuana is how many
15 grams, I mean, excuse me, methamphetamines? I'm sorry.

16 A I don't have a clue. That's not my department.

17 Q The marijuana, if it never left the evidence room,
18 would there have been a notation in the computer about it
19 being checked out?

20 A Yes, ma'am; it would. It would be taken out just
21 like it was anything else. Anything, even items that are
22 being disposed of is logged as going out.

23 MS. WHITE: Thank you.

24 THE COURT: Okay. Recross?

25 MS. MERRILL: Not at this time, Your Honor.

1 THE COURT: Okay. All right. Officer Allison, can
2 you leave and go get those requested documents that Ms.
3 Merrill is looking for and bring them back. And he would
4 be subject to re-call, if necessary. Thank you, sir. All
5 right. Solicitor?

6 MS. WHITE: The State calls Wes Love.

7 WES LOVE, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Ms. White:

11 Q Introduce yourself to the jury, please.

12 A I'm Wes Love and am employed with the Greenwood
13 County Sheriff's Office as an investigator.

14 Q How long have you been employed with the Sheriff's
15 Office?

16 A Approximately over, a little over eight years.

17 Q And what are your current duties? I'm sorry.

18 A I am currently an investigator with the Investigation
19 Division.

20 Q Have you ever held any other duties with the
21 Sheriff's Office?

22 A Prior, I did do evidence technician that currently
23 Greg Allison is doing.

24 Q And are you one of the people who he just testified
25 about who also has access to the evidence room?

1 A Correct. Only when he is, you know, on vacation or
2 currently, you know, not available.

3 Q As part of your duties with the Sheriff's Office, are
4 you, have you ever been trained in the analysis of
5 marijuana?

6 A Yes.

7 Q Approximately, when were you first, well, what sort
8 of training do you have to go through for that?

9 A You go to the State Law Enforcement Division and you
10 have, you're required to, at one-hundred percent test 50
11 unknown samples at one-hundred percent. And also as well
12 as pass a written exam. And then once that is done, you
13 can be certified to test marijuana.

14 Q How long ago did you complete that?

15 A In 2013.

16 Q And since 2013, have you ever been qualified as an
17 expert in the field of marijuana analysis?

18 A Yes.

19 Q And approximately how many times?

20 A One time.

21 Q And was that in General Sessions?

22 A Yes.

23 Q How many, in addition to your training, how many
24 analyses would you say you've performed, just kind of a
25 ballpark?

1 A Probably, approximately about 1,025.

2 MS. WHITE: Your Honor, the State offers Deputy Love
3 as an expert in the field of marijuana analyses.

4 THE COURT: Okay. Ms. Merrill, do you have any
5 questions concerning qualifications or do you have an
6 objection to Officer Love being found to be an expert in
7 that area?

8 MS. MERRILL: If I may just ask a few questions.

9 THE COURT: Sure, concerning qualifications, yes.

10 MS. MERRILL: Thank you.

11 CROSS-EXAMINATION

12 By Ms. Merrill:

13 Q How is your work supervised by others? Are other
14 analysts looking at your work after its being done?

15 A I'm currently the only one certified to test
16 marijuana through the Greenwood County Sheriff's Office.

17 Q So is there, other than within your own agency, like
18 possibly where you trained, did they review any of your
19 prior reports for accuracy?

20 A Not to my knowledge, they didn't. You would just
21 recert with SLED, so SLED would be the only other agency.

22 Q So how often do you do a recertification?

23 A It'd be every three years.

24 Q Okay. So have you done a recertification?

25 A So by December 31st of this year, I'd have to be

1 recertified.

2 MS. MERRILL: Okay. Thank you, Your Honor. I have
3 no objections to him being qualified.

4 THE COURT: Okay. All right. Officer Love is found
5 to be an expert in the area of marijuana analysis. Let me
6 explain. Ladies and gentlemen of the jury, typically,
7 witnesses are only permitted to testify as to things that
8 they actually see or hear, things of that nature.
9 However, the law does allow for individuals who are found
10 to be an expert in a particular area by virtue of
11 education, experience, training and the like is to
12 actually render opinions concerning the matter or matters
13 that they are found to be an expert in. I have found
14 Officer Love to be an expert in the area of marijuana
15 analysis, and he will be permitted to render opinions in
16 that area concerning this case. However, just because I
17 have found Officer Love to be an expert, that doesn't
18 necessarily mean that you have to believe his testimony.
19 You can give his testimony whatever weight that you feel
20 like it properly deserves, as you do with any other
21 witness. You may proceed, Solicitor.

22 MS. WHITE: Thank you, Your Honor.

23 By Ms. White:

24 Q I'm going to hand you first what's been marked as
25 State's Exhibit 38. Did that exhibit ever come into your

1 possession?

2 A It did.

3 Q Do you recall when that came into your possession?

4 A In June.

5 Q And who did you receive that from?

6 A Greg Allison.

7 Q What did you do with the contents of that exhibit?

8 A Once requested, you know, I tested it, you know, to
9 see if it test positive for the actual marijuana.

10 Q Before you tested it, did the packaging appear to
11 have been tampered with or did the contents appear to be
12 altered in any way?

13 A No.

14 Q I am going to approach you with what's been marked as
15 State's 13. The same questions for that. Who did you
16 receive State's 13 from?

17 A The same person, Greg Allison.

18 Q And would that have been at the same time you
19 received, I believe, it was State's 38?

20 A Yes.

21 Q And did you also analyze that at the same time?

22 A I did.

23 Q Did that appear to have been altered or changed in
24 any way?

25 A It did not.

1 MS. WHITE: Your Honor, State offers 38 and 13 into
2 evidence at this time.

3 THE COURT: Okay. What says the Defense?

4 MS. MERRILL: Your Honor, I'd object at this time,
5 although I do believe Officer Allison is getting that
6 information now that would have a record of documentation
7 of checking in and out of this evidence.

8 THE COURT: All right. Are you saying that you want
9 to have the opportunity to review those documents that
10 Officer Allison is actually getting, in the process of
11 obtaining for you before you take a position on this?

12 MS. MERRILL: Yes, sir; if I may.

13 THE COURT: Okay. All right. Okay. All right.
14 What I will do is I will conditionally admit 13 and 38
15 into evidence, subject to Ms. Merrill's view of those
16 documents that Officer Allison is getting. Now, if there
17 is an objection, we'll deal with it. If we have to call,
18 re-call Officer Love, we can do that, as well. Okay.

19 (Whereupon, State's exhibit numbers 13 and 38 were
20 conditionally entered into evidence.)

21 Q Before we go any farther, there was some testimony
22 about the computer system. Do you know if there would
23 have been a notation when this came into your possession?
24 Well, where did you perform the analysis?

25 A The analysis was performed in evidence, the actual

1 evidence room itself because that's where all the
2 equipment is.

3 Q So did you, would you have ever notated anything in
4 the computer about checking this out or anything of that
5 affect?

6 A No, it never left. It would never leave evidence in
7 that secured location.

8 Q Do you prepare any sort of written report when you
9 analyze marijuana?

10 A Yes, there is a written report of the analysis of the
11 marijuana.

12 Q And is that something you do as part of the course of
13 business working with the Sheriff's Office?

14 A Yes.

15 MS. WHITE: May I approach the witness, Your Honor?

16 THE COURT: Yes.

17 Q I'm handing you what's been marked as State's 41. Is
18 that the report that you prepared after analyzing those
19 exhibits?

20 A It is.

21 Q And what tests did you perform on Exhibits 13 and 38?

22 A There would be a microscopic test and a chemical
23 test.

24 Q And what were the results of those tests?

25 A Both tests tested positive for marijuana.

1 Q Is there any other substance that would render a
2 positive on both of those tests?

3 A No.

4 Q Also in working with marijuana with the Sheriff's
5 Office, are you familiar, does it have an odor?

6 A It does.

7 Q Did these items appear to smell like marijuana?

8 A It did.

9 Q Has that document been altered or changed in any way
10 since you prepared it?

11 A It has not.

12 MS. WHITE: The State offers Exhibit 41 into
13 evidence, Your Honor.

14 THE COURT: And the same issue?

15 MS. MERRILL: Yes, sir.

16 THE COURT: Do you want to see the documents from
17 Officer Allison first?

18 MS. MERRILL: Yes, sir.

19 THE COURT: Okay. 41 will be conditionally admitted
20 into evidence for the State.

21 (Whereupon, State's Exhibit 41 was conditionally
22 admitted into evidence.)

23 Q Can I borrow that back from you? When you test
24 marijuana, do you also lay it out?

25 A I do.

1 Q Are those weights noted on State's 41?

2 A They are.

3 Q Now, are you weighing these items with the packaging
4 or without?

5 A Without.

6 Q So would there, would you expect it to weigh a little
7 bit less than the way the officers got in the field?

8 A Yes.

9 Q Now, how many bags were there total?

10 A Eleven.

11 Q And were they each in roughly the same weight?

12 A Yeah. I mean, roughly they were roughly the same
13 size.

14 Q Within a tenth or two-tenths of a gram of being at
15 right at a gram?

16 A Yeah.

17 Q The weight is written, I noticed on one of these,
18 there are weights written on the outside. Did you write
19 that or did Deputy Allison write that?

20 A I didn't write that, no.

21 Q So these are the actual weights once everything's
22 been tested and just the marijuana itself?

23 A Correct.

24 (Whereupon, State's Exhibit No. 42 was marked for
25 identification.)

1 Q I'm going to hand you what's been marked as State's
2 42. What is that a picture of?

3 A That is the test samples from all of the bags.

4 Q And did you take that picture?

5 A I did.

6 MS. WHITE: The State offers Exhibit 42 into
7 evidence, Your Honor.

8 THE COURT: The same issue?

9 MS. MERRILL: Yes, sir.

10 THE COURT: Okay. 42 will be conditionally admitted
11 into evidence for the State.

12 (Whereupon, State's Exhibit 42 was conditionally
13 entered into evidence.)

14 Q All right. And it looks like those are kind of a
15 purple color. Is that the color it turns if it's
16 marijuana?

17 A Correct.

18 Q And did you have, now, you've got numbers one through
19 eleven. Is that a sample from each bag?

20 A Yes.

21 Q And it, how much would you say you take to test? It
22 looks like a small amount is there.

23 A It only takes a small sample.

24 MS. WHITE: Begging the Court's indulgence.

25 THE COURT: Sure.

1 Q Do you keep a, I think Deputy Allison testified that
2 there is a computer printout of the chain-of-custody on
3 evidence, is that correct?

4 A Yeah.

5 Q Would that show when it was checked out and when it
6 was checked back in?

7 A It should.

8 MS. WHITE: May I approach the witness, Your Honor?

9 THE COURT: Sure.

10 Q And will this refresh your recollection as to the
11 dates that everything occurred?

12 A Yeah.

13 Q Who checked the marijuana out and on what date? It
14 should be that front page, I think.

15 A Greg Allison.

16 Q All right. And you tested it on 6/7 or, excuse me,
17 what date was that checked out?

18 A On 6/6.

19 Q And your analysis was performed on 6/7, is that
20 correct?

21 A Correct.

22 Q And then when was it checked back in?

23 A Immediately after or the 13th.

24 Q And was that by Greg Allison again?

25 A Yes.

1 Q And then the next time it was checked out was when?

2 A Now.

3 Q To come to court?

4 A Correct.

5 MS. MERRILL: And, Your Honor, at this time, only
6 subject to my prior objection to pretrial motion, I have
7 no other objections to those being conditionally admitted.

8 THE COURT: All right. So 13, 38, 41 and 42 are
9 fully into evidence on behalf of the State. Thank you.

10 (Whereupon, State's Exhibits 13, 38, 41 and 42 were
11 admitted into evidence.)

12 MS. WHITE: Thank you, Your Honor. Please answer any
13 questions Ms. Merrill has.

14 THE COURT: Cross-examination.

15 MS. MERRILL: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 By Ms. Merrill:

18 Q By you still have the analysis there or do I need to
19 give it to you?

20 A I don't have it right now.

21 MS. MERRILL: May I approach the witness, Your Honor?

22 THE COURT: Sure.

23 Q I'm going to hand you State's Exhibit 41. When these
24 came to you, were they all packaged, all these smaller
25 bags, were they packaged in one bag or two?

1 A They were packaged in the two bags.

2 Q And how did you differentiate in this report here
3 which one came from what bag?

4 A I just started with the, just started just count,
5 just counted them all out and started just going by one by
6 one.

7 Q Okay. Which bag did you test first, the one that had
8 seven or the one that had four?

9 A I believe it was the one with seven bags and then
10 just went through.

11 Q Okay. So in your analysis here looking at bag one
12 through bag seven, that would have all come from one bag?

13 A Correct.

14 Q And then eight through eleven would have come from
15 the other bag?

16 A Correct.

17 MS. MERRILL: Thank you, Your Honor.

18 THE COURT: Okay. Anything on redirect?

19 MS. WHITE: No, sir.

20 THE COURT: Thank you, sir. You can step down. All
21 right. I think even though it's 12:00 o'clock, we will
22 call this a morning break, ladies and gentlemen. So about
23 a ten-minute break. If you'll go back to the jury room.
24 I understand we have some smokers on the jury. If you'd
25 like to take a smoke break and I typically tell juries

1 that I'm not advocating your habit, however, if you want
2 to take a smoke break, we'll give you an opportunity to do
3 that, too, okay?

4 (Whereupon, the jury was excused from open court for
5 a break.)

6 THE COURT: Okay. We'll be at recess about ten
7 minutes.

8 (Whereupon, a short break was taken.)

9 THE COURT: Bring the jury in, please.

10 (Whereupon, the jury came into open court at
11 approximately 12:17 p.m.)

12 THE COURT: Let the record reflect the jury is back
13 in. Solicitor, call your next witness, please.

14 MR. BLACK: The State calls Lynn Black to the stand.

15 LYNN BLACK, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Black:

19 Q Ms. Black, will you introduce yourself to the jury,
20 please?

21 A My name is Lynn Black. I'm a drug analyst in the
22 Drug Analysis Department in the Forensic Services
23 Laboratory at the South Carolina Law Enforcement Division,
24 commonly known as SLED.

25 Q And, Ms. Black, we share the same last name, don't

1 we?

2 A Yes, we do.

3 Q We're not related, are we?

4 A Not that I know of.

5 Q We've had a conversation about it, and we can't
6 figure out any relationship, can we?

7 A That's true.

8 Q Okay. I just wanted to clarify that. How long have
9 you been employed at SLED?

10 A I've worked there for a little over eight years.

11 Q And did you work anywhere before that?

12 A I did. Prior to that, I worked for about eight years
13 at the Georgia Bureau of Investigation in Atlanta,
14 Georgia.

15 Q And is that kind of the same thing like SLED is?

16 A Yes, it is. I was a drug analyst there, as well.

17 Q And you said you worked there for eight years?

18 A Correct.

19 Q Can you tell us a little bit about your education and
20 your training and experience?

21 A Yes. I have a Bachelor of Science Degree in
22 Chemistry from Kentucky Wesleyan College, a Certificate of
23 Medical Technology from the University of Louisville, and
24 a Master of Science Degree in Forensic Science from
25 Marshall University. I also have been trained in drug

1 analysis at both GBI and at SLED.

2 Q And you've been working at GBI and SLED for sixteen
3 years combined about, roughly?

4 A Correct.

5 Q And while you were in the State of Georgia, did you
6 ever testify in court?

7 A Yes, I did.

8 Q And how many times did you testify?

9 A Approximately a hundred times.

10 Q And since you've been working at SLED, about how many
11 times have you testified in Court?

12 A About twenty-seven.

13 Q You're a forensic chemist, is that right?

14 A That's correct.

15 Q What kind of duties do you have as a forensic
16 chemist?

17 A Receive and analyze substances brought in by law
18 enforcement personnel, and I test them to determine if
19 they are controlled substances or not.

20 Q And when you testified in court previously, were you
21 qualified as an expert?

22 A Yes, I was.

23 Q And what was that area of expertise?

24 A Forensic Chemistry.

25 MR. BLACK: Your Honor, at this point, the State

1 moves to place, would like to present Ms. Lynn Black as an
2 expert in Forensic Chemistry.

3 THE COURT: All right. Ms. Merrill, any questions
4 concerning qualifications? Any objection?

5 MS. MERRILL: No, sir. No objection.

6 THE COURT: All right. Without objection, Agent
7 Black is deemed to be an expert in the field of Forensic
8 Chemistry.

9 Q Ms. Black, getting started, can you go through the
10 process of how drugs are received through SLED to you when
11 you are at SLED, can you explain that process for us?

12 A Yes. Typically, law enforcement personnel bring in
13 their drug evidence to SLED into our evidence control
14 department and we at SLED provide them with a means to
15 submit that drug evidence. We have a BEST kit and BEST is
16 an acronym for Best Evidence Sample Testing, and it's
17 basically all things that they need to submit drug
18 evidence. It comes in a large manila envelope and inside
19 that is a tamper evident plastic evidence bag and also the
20 paperwork that they will need to fill out when they bring
21 the evidence in, so all that the officer then has to do is
22 get that tamper evident bag, place the evidence into that,
23 peel off the strip. And then it's got a sticky substance
24 on it that when they fold it over, it sticks, and then if
25 somebody tried to open that up again, it would be very

1 evident that they were, you know, tampering with it.
2 That's why it's called tamper evident. So they bring that
3 to SLED. Usually, they keep it in the manila envelope and
4 also on both of these, on the envelope and on that tamper
5 evident bag, there's this little barcode and number that's
6 called a BEST kit number or a B number. And it's kind of
7 a way to track what evidence is in that bag. And they
8 bring that in and the forensic technicians in our evidence
9 control will take possession of those pieces of evidence,
10 and they will enter all the information from the sheets,
11 the papers that they brought in, the submission papers and
12 enter all of the information and the suspect name and law
13 enforcement agency and all that information into our
14 computer system. And then they'll generate a unique crime
15 lab case number, and it will be like in a barcode form.
16 So from then on, we can scan that barcode and it will
17 track where that piece of evidence goes in SLED. So
18 anywhere, anybody who touches it, it gets scanned to that
19 person. Then as soon as the log in person creates that
20 bar scan, excuse me, that barcode and places it on that
21 envelope, then she'll scan it to herself, so then that
22 barcode or that evidence is in her possession. When she
23 is finished with all of that, she will scan it to the
24 vault, and then they put it in a particular place in there
25 for drug evidence. But then when I come down to pick up

1 some evidence, I also have a barcode, and so that evidence
2 is scanned to me. So in our internal chain-of-custody,
3 that evidence will show up as in my possession. So then I
4 take it upstairs to the drug analysis department and
5 either I will start testing the, do my analysis then or I
6 may place it in our drug vault upstairs until I'm ready to
7 test it.

8 Q And, Ms. Black, just going back to kind of what you
9 were talking about. When is this specific lab number
10 generated, typically?

11 A When the evidence is brought in and log in, the
12 forensic technicians enter the information into the, our
13 computer system, that's when they generate the, enter a
14 barcode number.

15 Q So right when the evidence is typically received?

16 A Correct.

17 Q And these forensic technicians, is there a certain
18 group, is there a designated number of people that
19 actually do this?

20 A Yes. Currently, we have four of them, four ladies
21 who do this and that's their sole job is they receive
22 evidence and they keep track of it and place it in the
23 vault, and then they return evidence as well.

24 Q And this evidence, it's not just coming from
25 departments like Greenwood, it's coming, is it coming from

1 all over the State?

2 A That's correct. And it's not just drug evidence,
3 it's all sorts of evidence, you know, drugs, firearms,
4 DNA. You can name it, we get it.

5 Q Anything that's coming to SLED for the purposes of
6 being tested?

7 A Correct.

8 Q Okay.

9 MR. BLACK: Your Honor, may I approach the witness?

10 THE COURT: Sure.

11 Q I'm showing you what's been marked for identification
12 purposes as State 43. Do you recognize this form?

13 THE COURT: What exhibit number, Solicitor?

14 MR. BLACK: 43.

15 A Yes, I do.

16 Q And tell us what that is, please?

17 A Well, this looks to be a copy of the, our internal
18 chain-of-custody that was prepared for this particular
19 case.

20 Q Is that an internal chain-of-custody like you were
21 referring to previously?

22 A Yes, it is.

23 Q And does every case that comes into SLED, do they
24 receive an internal chain?

25 A Yes. Once they come in, that internal chain starts

1 and then, as I said, it tracks where that piece of
2 evidence goes until it's returned to the agency that it
3 came from.

4 Q And that internal chain is kept in the regular course
5 of business at SLED?

6 A Yes, it is.

7 MR. BLACK: Your Honor, at this point, the State
8 moves Exhibit number 43 into evidence.

9 THE COURT: Ms. Merrill?

10 MS. MERRILL: Only subject to my prior pretrial
11 objection.

12 THE COURT: All right. So noted. 43 is in evidence
13 on behalf of the State.

14 (Whereupon, State's Exhibit number 43 was admitted
15 into evidence.)

16 Q I'm going to ask you a couple of questions about that
17 particular document. On that chain-of-custody form, who
18 is identified as the individual bringing this particular
19 item to SLED that was tested by you?

20 A And according to this, it was submitted by Greg
21 Allison with the Greenwood County Sheriff's Office.

22 Q And is there a date associated with that?

23 A Yes, it's February the 8th, 2016.

24 Q And who received that package after that, after Greg
25 Allison brought it to SLED?

1 A Now, it was received by forensic technician, Doris
2 Yarborough.

3 Q And she works at SLED?

4 A Yes.

5 Q And what's her job title?

6 A She's a forensic technician in the Evidence Control
7 Department.

8 Q Is she one of those ladies that receives evidence
9 like you perceived previously?

10 A Yes, she is.

11 Q And how long have you known Doris?

12 A I've known her the whole eight years that I've been
13 at SLED.

14 Q And she's worked there the entire time since you've
15 been there?

16 A Yes.

17 Q So you're very familiar with her?

18 A Yes, I am.

19 Q What did she do with the package after that?

20 A She placed it in the Evidence Room, which, again, is
21 the large vault that we have to place evidence in and
22 specifically put it in an area that's called the Drug
23 Evidence Intake Storage, so that they keep all our -- the
24 drug evidence in one area. They keep different
25 departments just until they can easily retrieve it.

1 Q And at that point, is it assigned once it's placed
2 into that big vault like you're talking about?

3 A No. It's assigned later on. Lab supervisor assigns
4 it probably either later that day or possibly the next day
5 depending.

6 Q Did anybody retrieve the item after Doris Yarborough
7 received it?

8 A Yes. Jackie Davis, forensic technician, Jackie Davis
9 retrieved it the following day on February the 9th of
10 2016.

11 Q And you know Jackie Davis, is that right?

12 A I do.

13 Q And she works at SLED?

14 A Yes. She's a forensic technician there, too.

15 Q How long has she been employed by SLED?

16 A She's been there approximately two years, I believe.

17 Q Okay. And then after Jackie had the items, what did
18 she do with the items?

19 A She gave it to me.

20 Q Okay. And at that point, you began the process of
21 the analysis, I'm assuming?

22 A I believe I started the analysis at a later date. If
23 I can refer to my notes, I can be certain.

24 Q Yes, ma'am.

25 A Because I received it on February the 9th, 2016, and

1 well, actually I did open it up February the 9th of 2016.

2 Q On February the 9th and when you open it up, what do
3 you do with it typically when you receive it?

4 A Oh, when I receive it, typically I, I'd look at the
5 tamper evidence bag to make sure that it has not been
6 tampered with. I look at the all edges and the seals and
7 everything and once I'm satisfied that it has not been
8 tampered with or doesn't have any holes in I, then I will
9 probably print out a worksheet that goes along with it.
10 And I have to write down that, I told y'all about that
11 BEST kit number. I write that down on my worksheet to
12 make, and make sure that it agrees with what's on the
13 tamper evident bag which is also what's on the envelope
14 that it came in, the BEST kit manila envelope. And then
15 once I do that, I cut open into the bag. Usually, it's
16 away from the seal that the officer did and that's
17 typically very evident. We've had several different bags
18 made lately, sometimes it's a red seal at the top;
19 sometimes it's green. I think for a time they didn't have
20 any color on it, but I always cut at the bottom of that
21 bag to take the evidence out. And then I compare what the
22 evidence I had to what's written on the BEST request form
23 which is, like I said, is what the law enforcement folks
24 will fill out and they put a copy of that in the tamper
25 evident bag. And I make sure that everything, what they

1 say on there is what I got in the bag, and then I will
2 proceed with my analysis. I can go further into detail if
3 you would like.

4 Q Well, let's stop there just for a minute before you
5 get into your analysis. You talked about a bag possibly
6 being tampered with. In this particular case, did you
7 notice any tampering with the bag?

8 A No, I did not.

9 Q If there were to be tampering, do you have any
10 policies or procedures, notations that you make?

11 A At the time of this analysis, well, I believe we were
12 returning evidence that had been tampered with, and then
13 the agency would have to address that their way. Now, we
14 have a policy where we will accept it, and then we will
15 make a note of it on their worksheet. And then depending
16 on the type of tampering or if it just has, the bag just
17 has a hole in it, it may or may not show up on a report,
18 but it definitely will show up on, you know, I will write
19 something on the worksheet.

20 Q And this particular bag, there was no evidence of
21 tampering, is that right?

22 A No, there was not. The seal was intact.

23 Q When did you complete your analysis of this item?

24 A All I can tell you is when I issued the report and
25 that's pretty much the completion of the analysis, which

1 was February 23rd, 2016.

2 Q All right. Now, Ms. Black, can you talk or can you
3 kind of explain to the jury the process of how you go
4 about testing items, is there a specific method that you
5 use?

6 A I have a general method of testing. You know, I'll
7 take the items out and, usually, in this particular case,
8 you know, if it's something that needs to be weighed, I
9 will weigh it. I usually take a net weight depending on
10 what the item is and how many bags there are of it, taking
11 that weight. And then I take a small piece of the
12 particular substance and I do a color test that will give
13 me, and it's a preliminary test that gives you an
14 indication of what the substance could be. It doesn't
15 tell you exactly what it is. It just kind of gives you a
16 class of drugs that could be in. And then I go from there
17 to decide on what instrument I'm going to run this sample
18 on. In this particular case, when I have something that
19 looks like a crystal substance, I usually use an
20 instrument called, it's a big long word for you, Fourier
21 Transform Infrared Spectroscopy and we say FTIR for short,
22 because it's a lot easier to say. I typically do that on
23 this kind of crystal substance. The other instrument I
24 could also use is called a Gas Chromatography Mass
25 Spectrometry, and then you can shorten that to GCMS. They

1 are very different instruments, but they both can tell you
2 the same thing. They can identify a compound. So those
3 are two tests, plus the color test that I would use.

4 MR. BLACK: Your Honor, may I approach the witness?

5 THE COURT: Sure.

6 Q I'm showing you what's been marked for identification
7 purposes as State's Exhibit 39. Ms. Black, do you
8 recognize what's in that package?

9 A I do.

10 Q And what is in the package?

11 A This is the evidence in this particular case that
12 we're talking about today. And I recognize it by, the
13 crime lab case number, that's in a barcode form, the shell
14 sticker. Inside this bag is what we call the BEST kit
15 bag, that tamper evident bag that's inside here. And you
16 can see it's got blue trimming on it and with that and
17 back here are the different bags. Some of it was not
18 tested for this case.

19 Q And what is the, what's the color of the items that
20 are in the bags, is it that crystal-like substance that
21 you were referring to?

22 A Yes.

23 Q And you, ultimately, tested several of the items in
24 that bag, is that correct?

25 A That's correct.

1 Q And which methods did you particularly use in testing
2 the items on the ones that you did test?

3 A I did a color test on each of them and also the FTIR.

4 MR. BLACK: Your Honor, at this point, the State
5 moves, I believe it's, 39 into evidence.

6 THE COURT: Ms. Merrill?

7 MS. MERRILL: Just subject to my prior objection.

8 THE COURT: Okay. All right. Very good. 39 will be
9 into evidence on behalf of the State.

10 (Whereupon, State's Exhibit number 39 was admitted
11 into evidence.)

12 Q I'm going to leave this up here with you, Ms. Black,
13 in case you need to explain something else.

14 A Okay.

15 Q About how long did it take you to run all of these
16 tests, Ms. Black?

17 A The FTIR is a very fast technique, so I was actually
18 probably finished with this case on the 9th of February.
19 I didn't, that's not including writing it up, but just the
20 actual analysis was probably done that day.

21 Q Okay. And you ultimately issued a report, is that
22 correct?

23 A That's correct.

24 Q I'm showing you what's been marked as State's number
25 44. Do you recognize that report, Ms. Black?

1 A I do.

2 Q And who issued that report?

3 A I issued this report.

4 Q Okay. And when exactly did you issue it?

5 A On February 23rd of 2016.

6 Q And the test you used to test the items again, I
7 believe you said the chemical test and an infrared?

8 A Correct; the chemical or color test and the FTIR.

9 Q And what were your findings, Ms. Black, on the items
10 that you tested?

11 A And would you like me to just read what's here or
12 explain or?

13 Q Yes, ma'am. If you could read it and explain it to
14 the jury, if you can.

15 A Inside the tamper evident bag, there were two Ziploc
16 bags. One of them was labeled number one and one was
17 labeled number two. The first one, the first bag that I
18 actually got into to test, items, well, the Ziploc number
19 two, it had four Ziploc bags inside that and each of those
20 Ziploc bags had another plastic bag in there that
21 contained the crystal substance. So, essentially, four
22 plastic bags that had crystal substance in them. And I
23 tested each one of those and each of those,
24 methamphetamine was found in each of those.

25 Q And what was the exact weight on that, in that

1 particular bag of those four different items that you
2 tested?

3 A Now, the total net weight which is all four of them
4 together was 13.51 grams.

5 Q And was there a confidence level based on your
6 testing?

7 A There, there is. The 13.51 is what they weighed, and
8 then we also have what we call the measurement of
9 uncertainty, which is plus or minus .02 grams. And then
10 the confidence level goes with the weight, that weight.
11 And the confidence level is 99.7 percent.

12 Q And that's just the weight of the drugs?

13 A Correct.

14 Q And so there is really no doubt about what the drugs
15 are once you do the test?

16 A That's correct.

17 Q When you're actually weighing these particular drugs,
18 are you weighing them in the packing that they are
19 received in or are you weighing them separate and apart
20 from the packaging?

21 A I'm weighing them apart from the packaging. These
22 are net weights. So that means that I took, say if you
23 get plastic bag number one, and so I place a piece of
24 weight paper on the balance. And then I hit the button
25 that says tear, and so that zero's out that weight paper.

1 shows. The weight of the weight paper has no, you know,
2 is not listed on here. It says zero. So then I take the
3 contents of that plastic bag and place it on that weight
4 paper, and that gives me the net weight. So what's what I
5 did with all four of those.

6 Q And this is a procedure that you always typically
7 use?

8 A Yes, that's correct.

9 Q Let's talk about the other bag, the baggie. What was
10 in that particular baggy that you tested then?

11 A The other Ziploc bag, this is what's called number
12 one, it had 14 Ziploc bags. And each of those had the
13 plastic bag that had the crystal stuff. And so,
14 essentially, 14 plastic bags with crystal substance in
15 them. So for that one, I weighed one of them, and then I
16 did a net weight on one of them and that was 3.44 grams.
17 and did the testing on that bag and methamphetamine was
18 found. And then the other 13, I did weigh each of those
19 separately net weights without the bags. But I did not do
20 any testing on those, and those altogether weighed 3.11
21 grams.

22 Q And so in the first bag, in the second bag that was
23 actually labeled as bag number one, what was the total
24 weight of the drugs in that bag?

25 A The total weight of the drugs that I tested was 3.44,

1 and then the other, as I said, the other 13 weighed 3.11
2 grams in weight.

3 Q And the bag that you tested, did you use the same
4 testing that you did in the previous bag?

5 A Yes, I did.

6 Q The same exact type of testing?

7 A Yes.

8 Q So the total weight with the one that you tested, and
9 then I believe you said there were 13 other bags that you
10 did not test?

11 A Correct.

12 Q Okay. And what was the weight of the other 13 that
13 you didn't test?

14 A 3.11 grams.

15 Q So that weight of those drugs combined would be 6.55,
16 is that right?

17 A Wait a minute. Which one are you speaking of now?

18 Q In Item 1.2 that's listed on the report.

19 A 1.2; we had 3.44, and then I test, and 3.11 that I
20 did not test. My notes 6.55, yes.

21 Q And then in the first bag that we were talking about
22 previously, what was the total weight of that again?

23 A 13.51 grams.

24 Q So the total weight would have been, for all of the
25 crystal-like substance would have been 13.51 plus 6.55?

1 A Correct.

2 MR. BLACK: Your Honor, at this point, the State
3 moves the report which I believe is number 44 into
4 evidence.

5 THE COURT: Ms. Merrill?

6 MS. MERRILL: Just subject to my pretrial objection.

7 THE COURT: So noted. 44 is in evidence for the
8 State.

9 (Whereupon, State's Exhibit number 44 was admitted
10 into evidence.)

11 Q Ms. Black, just a couple of more questions. The
12 items that you didn't test, how many baggies, again, were
13 those?

14 A There was 13.

15 Q Thirteen baggies and the total weight of that was
16 13.11?

17 A 3.11.

18 Q 3.11, I'm sorry. What were the size of this
19 particular crystal-like substance, was it big or small or?

20 A If I may refer to my notes?

21 Q Yes, ma'am.

22 A The 13 bags that I did not test were all, all weighed
23 less than a gram each, whereas the very first bag that I
24 tested and that was 3.44 grams. So a substantial size
25 difference between those, so they were much smaller than

1 that first bag.

2 Q As an expert in forensic chemistry, any doubt that
3 the items in that bag was meth?

4 A No, sir.

5 MR. BLACK: That's all the questions I have. Please
6 answer any Ms. Merrill might have for you.

7 THE COURT: Cross-examination.

8 MS. MERRILL: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 By Ms. Merrill:

11 Q Item 1.2, the remaining 13 that you didn't test, you
12 can't say if that was methamphetamine?

13 A I did not test them to prove that it was
14 methamphetamine, but based on my experience and the way
15 that they looked, I would say it's a pretty good chance
16 that they are methamphetamine.

17 Q But there was no scientific testing done to prove
18 that on those 13?

19 A No, there was not.

20 Q Okay. And as far as the weight, do you do an initial
21 weight with the packaging and without or only weigh them
22 without the packaging?

23 A I usually weigh, you know, if I'm reporting this
24 weight, it's going to be a net weight and sometimes, I do
25 weigh things as a gross weight. But like the 13, I could

1 have weighed those as a gross weight, but I wanted to show
2 exactly how much they weighed to make sure that they did
3 not, the total weight of all of the substance in this case
4 did not go up to the next threshold which is 28 grams.

5 Q So maybe I misunderstood you. Did you, the 13 that
6 you were talking about from Item 1.2, that was gross
7 weight or net weight?

8 A Those were net, everything was net weights, yes.

9 Q Okay. The report said net weight. Maybe I misheard.

10 A Yes.

11 Q I just wanted to, do you then weigh the packaging?

12 A No, I do not weigh the packaging.

13 Q So looking at numbers from them being weighed out in
14 the field, if one, the Item 1.2 was 8 grams, by your
15 calculation, it was 6.55 total?

16 A Correct.

17 Q And that made a difference of 1.45 grams?

18 A Yes.

19 Q Okay. So more than ten percent difference?

20 A Okay. Yeah.

21 Q And then Item 1.1, the gross weight as it was weighed
22 in the field was 14.22, and then your net weight was
23 13.51?

24 A Yes.

25 Q So that would be a good less difference than the

1 items in 1.2?

2 A That's probably, it was probably weighed with the
3 bags. It would be my opinion, but I don't know, since I
4 wasn't there.

5 Q Right. You mean the field weight would be weighed
6 with the bags?

7 A Correct.

8 Q Okay. And as a forensic chemist, you're aware of
9 methamphetamine's effects on the body?

10 A Yes.

11 Q And what are some of those effects, weight loss?

12 A Weight loss --

13 MR. BLACK: Your Honor, at this point, I would
14 object. I don't know if --

15 THE COURT: Well, I mean, this is cross-examination.
16 Ms. Merrill asked Agent Black if she was aware of the
17 effects and she, you know, she can testify. Go ahead,
18 respond.

19 A As I said, I'm not a forensic toxicologist, but, you
20 know, I have read numerous articles and I've seen lots of
21 pictures of people who have been allegedly on
22 methamphetamine. And some of them are pretty horrific and
23 weight loss, teeth rotting, just sores all over your body.
24 Those are the things that really come to mind for me.

25 Q And sometimes are people fidgety --

1 A Yes.

2 Q -- and kind of on edge?

3 A Because methamphetamine is a stimulant, so it's going
4 to hype you up.

5 MS. MERRILL: Thank you. No further questions.

6 THE COURT: Anything else in redirect, Solicitor?

7 MR. BLACK: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 By Mr. Black:

10 Q Going back to Item 1.2. You tested one of those
11 items, is that correct?

12 A That is correct.

13 Q How was that particular, the one that you tested, how
14 was that packaged?

15 A It was all the bags in this item. It was a Ziploc
16 bag that contained a plastic bag that contained a crystal
17 substance, so the other 13 were packaged the exact same
18 way.

19 Q So the other 13 also were wrapped in plastic bags?

20 A Yes, and they were all in another plastic bag inside
21 the Ziploc bag.

22 MR. BLACK: No further questions.

23 THE COURT: Re-cross?

24 MS. MERRILL: No, thank you.

25 THE COURT: Agent Black, the full name of both of the

1 tests, does that appear in the report for benefit of our
2 court reporter? If not, when, if you'd just hang around
3 for a few minutes.

4 MS. BLACK: Okay.

5 THE COURT: So you can provide that spelling for her.

6 MS. BLACK: I'm not sure if they get the, there is a
7 third page of the report that has that on there. But I'm
8 not sure, do you have that, Micah? I don't know. I don't
9 have that part.

10 MR. BLACK: I do. Can I approach the witness?

11 THE COURT: Sure.

12 MS. BLACK: Actually, what I said was Fourier
13 Transform Infrared Spectroscopy.

14 THE COURT: Can you provide that to the court
15 reporter?

16 MS. BLACK: Yes.

17 THE COURT: Okay. Thank you.

18 MS. BLACK: Certainly.

19 THE COURT: You can just step down, but just stay
20 with us for a minute, please.

21 MS. BLACK: Sure.

22 THE COURT: Solicitor, any further witnesses?

23 MR. BLACK: At this point, the State rests, Your
24 Honor.

25 THE COURT: Okay. All right. Mr. Foreman and ladies

1 and gentlemen of the jury, I believe this would be a good
2 time for y'all to get some lunch. If you can be back here
3 about 2:15 and, again, I'll remind you to not discuss
4 anything about this case with anyone that you may come
5 into contact with and also keep your button on if you're
6 out in public. Have a good lunch and we'll see you back
7 in just a little bit.

8 (Whereupon, the jury was excused from open court for
9 a break.)

10 THE COURT: All right. Ms. Merrill, do you have any
11 motions that you would like to place on the record?

12 MS. MERRILL: Yes, sir, Your Honor. At this time,
13 the Defendant would move for a directed verdict. As far
14 as the indictment for the unlawful neglect of a child,
15 that statute requires that the person either be the parent
16 or guardian or who's responsible for the care and support
17 of the child. There has been no testimony that he was
18 responsible for the care and support of a child other than
19 I believe Ms. Wilson's testimony that he was in the car
20 that she was driving when they picked up the child. So
21 that's the only testimony you've heard regarding that.

22 THE COURT: I believe that there was testimony from
23 Ms. Wilson that they were planning to take him out to eat
24 supper, I think.

25 MS. MERRILL: Yes, sir; she did say that.

1 THE COURT: And that, was there any testimony about
2 the child's parents? You're going to have to help me
3 remember that line of, there was something about his
4 parents. }

5 MR. BLACK: I believe his parents were in Honea Path.
6 If I'm not mistaken, I believe that was testified to, and
7 that they had taken the child, they had gotten the child
8 from Honea Path and were bringing him to Greenwood for
9 the, and it is Mr. Vaughn's grandchild.

10 THE COURT: Right.

11 MR. BLACK: I believe it's his son's--

12 THE COURT: So, Ms. Merrill, wouldn't, just by virtue
13 of the fact that it's his grandchild, the grandchild was
14 in his custody or not in his custody but in his
15 possession, would that not fit within the statute? Would
16 he not then be responsible for the care of the child while
17 the child is with him?

18 MS. MERRILL: Well, it says care and support of the
19 child, Judge, and I think she's, she was the one driving.
20 She's the one who picks up the child, and that's all of
21 the testimony.

22 MR. BLACK: Judge, I believe the statute says it is
23 unlawful for a person who has charge or custody of a
24 child, and he definitely had charge of the child.

25 THE COURT: Right.

1 MR. BLACK: And he's responsible for the welfare
2 while the child is in his possession, in his custody.

3 THE COURT: Yeah. It says charge or custody. I
4 think by virtue of the grandchild being in his possession,
5 I think probably there would be enough to send this case
6 to the jury on that particular charge.

7 MS. MERRILL: And I'll just note for the record that
8 I, the language outside is what the State has put in their
9 indictment. So the charge language and such is not, the
10 language in the indictment and that was language to which
11 I was referring. On the other two, the possession of
12 marijuana with intent to distribute and trafficking in
13 methamphetamine. I'd make a directed verdict motion for
14 my client, Your Honor, on the basis of the sufficiency of
15 the evidence.

16 THE COURT: Okay. All right. Viewing the evidence
17 in the light most favorable to the State, I'm not
18 concerned with the weight of the evidence. I'm only
19 concerned with the existence of any evidence. And I will
20 deny your motion on all three charges. Okay. If you've
21 not already explained to Mr. Vaughn my instructions to him
22 concerning testifying, if you'll do that at this time, and
23 I will be pulling it up on my computer. Madam Clerk,
24 would you swear Mr. Vaughn in, please, for me.

25 EARNEST VAUGHN, being

1 first duly sworn, testified as follows:

2 THE COURT: Mr. Vaughn, at this time, I'm going to
3 explain to you, sir, of your rights. If you do not
4 understand anything I say, please let me know. If you
5 want me to explain anything in more detail, please let me
6 know that, as well. Do you understand, sir?

7 MR. VAUGHN: Yes, sir.

8 THE COURT: We have now reached the stage of the
9 trial where you may present your defense. You have the
10 right to claim the protections given to you by the Fifth
11 Amendment through the Constitution of the United States
12 and this amendment states in part, no person shall be
13 compelled in any criminal case to be a witness against
14 himself. This means that you cannot be required to
15 testify in this case. You have the right to testify in
16 your own behalf; however, no one can make you testify.
17 This is a personal right and no one can waive this right
18 except you. If you decide to testify, you'll be subject
19 to the same rules that govern other witnesses and you may
20 be examined and cross-examined on any relevant issue in
21 this case. In addition, if you have any convictions
22 involving dishonesty, or false statement, or for crimes
23 punishable by imprisonment for more than one year and this
24 court determines that the probative value of admitting
25 this evidence outweighs it's prejudicial effect to you the

1 Solicitor would be able to introduce your record to attack
2 your credibility. If you decide to testify, this decision
3 on your part must be freely, voluntarily, and
4 intelligently made with knowledge of the protections given
5 to you by the Fifth Amendment and the consequences of your
6 decision to testify. If you decide not to testify, this
7 decision, as well, must be freely, voluntarily, and
8 intelligently made by you with the same knowledge of the
9 protections given to you by the Fifth Amendment. If you
10 decide not to testify, I will instruct the jurors in my
11 final charge that they cannot give the fact that you did
12 not testify any consideration whatsoever and that there is
13 to be absolutely no prejudice to you because you did not
14 testify. It's left entirely up to you whether or not you
15 testify. I know you've already discussed this with Ms.
16 Merrill, and you have the right to further discussions
17 with her, your family, friends, anyone else, but the final
18 decision, of course, sir, is yours alone. Have you
19 understood everything I've explained to you, sir.

20 MR. VAUGHN: Yes, sir.

21 THE COURT: Do you have any questions about what I've
22 explained to you?

23 MR. VAUGHN: No, sir.

24 THE COURT: Sir?

25 MR. VAUGHN: I understand.

1 THE COURT: Have you had ample time to discuss this
2 issue with your lawyer and anyone else that you've elected
3 to discuss it with?

4 MR. VAUGHN: Yes, sir.

5 THE COURT: Okay. Are you in a position now to tell
6 the Court whether or not you'll testify?

7 MR. VAUGHN: Yes, sir.

8 THE COURT: Okay. What is that decision?

9 MR. VAUGHN: I won't testify.

10 THE COURT: Will not testify. Is that decision made
11 by you freely, voluntarily, and intelligently?

12 MR. VAUGHN: Yes, sir.

13 THE COURT: Thank you very much, sir. You can have a
14 seat. Okay. We will start back at 2:15. I have a rough
15 draft of a charge that we will mail to you three lawyers
16 over lunch break and we'll go from there. Okay. All
17 right. Everybody have a good lunch.

18 MR. BLACK: Thank you, Judge.

19 (Whereupon, a lunch break was taken.)

20 THE COURT: Okay. Ms. Merrill, I think you had a
21 couple of things you wanted to put on the record, is that
22 correct?

23 MS. MERRILL: Yes, Your Honor. Thank you. Back in
24 chambers during the charge conference, I had requested
25 that the Court charge the, hesitate to act, language of

1 the reasonable doubt standard. And I understand Your
2 Honor will not do that.

3 THE COURT: That's correct. But so noted for the
4 record.

5 MS. MERRILL: Thank you. And I wanted to clear up
6 yesterday when I was proffering testimony toward the end
7 of the day, when I was proffering testimony of Officer
8 Reeder, I believe we talked about at the sidebar. But I'm
9 not sure it got on the record that my argument was that it
10 went to the credibility of the CI process and that this CI
11 being signed up when the officers were working there at
12 that time.

13 THE COURT: Right. Okay. So noted for the record,
14 as well.

15 MS. MERRILL: Thank you.

16 THE COURT: Okay. All right. Are the attorneys
17 ready to make their closing arguments. I'll have you rest
18 on the record in the presence of the jury, but ready for
19 closing?

20 MS. MERRILL: Yes, sir. And should I go ahead and
21 renew my motions after resting, for now?

22 THE COURT: Let's go ahead and do it now, even though
23 you've not officially rest. And, I mean, it'd just be
24 more practical to go ahead and renew your motions.

25 MS. MERRILL: Yes. I'll just renew all the motions

1 I've made from pretrial to now.

2 THE COURT: Okay. So noted and denied.

3 MS. MERRILL: Thank you.

4 THE COURT: Okay. Bring the jury out, please, Mr.
5 Willingham.

6 (Whereupon, the jury came into open court at
7 approximately 2:40 p.m.)

8 THE COURT: And let the record reflect the jury is
9 back in. The State has rested its case. The Defense?

10 MS. MERRILL: Your Honor, the Defense rests.

11 THE COURT: Okay. All right. The evidentiary record
12 in this case is now closed. Ladies and gentlemen, what
13 this means is now the lawyers will give you their closing
14 arguments. I will charge you on the law in this case, and
15 then after that is done, I will give you instructions to
16 begin your deliberations. But there, no more evidence
17 will be received in this case, okay. All right. So, Ms.
18 Merrill, are you ready, ma'am?

19 MS. MERRILL: I thought the State would close first,
20 Your Honor.

21 THE COURT: You're right. I don't know what I was
22 thinking. Solicitor, you ready?

23 MR. BLACK: Yes, sir, Your Honor.

24 THE COURT: Okay.

25 MR. BLACK: If it please the Court? Folks, I just

1 want to thank you from the outside for being here, for
2 serving on this jury, for paying attention to everything
3 that was said, all the witnesses, all the testimony, all
4 the evidence that you guys have viewed. I've looked at
5 every one of you and all of you have been paying
6 attention. I just want to go ahead and thank you for your
7 service thus far. I'm going to try to be as brief as
8 possible but, as you've heard, there is a lot of evidence,
9 there's a lot of witnesses that you guys heard from. So
10 I'm going to try to cover all that over the course of the
11 next several minutes. But first I want to start with the
12 law. You heard at the very beginning of this case that
13 the Defendant, Mr. Vaughn, is charged with three different
14 crimes. He is charged with trafficking in
15 methamphetamines, between 10 and 28 grams; possession with
16 intent to distribute marijuana, and then unlawful neglect
17 of a child. But first, I want to show you the law,
18 because I don't know if you guys are like me, but I like
19 to see things as opposed to being read to, and the Judge
20 is going to read the law here in just a minute. The first
21 charge is unlawful conduct and unlawful neglect of a
22 child, and it's code 63-570. That's the law, that's the
23 statute number. But it states that it is unlawful for a
24 person who has charge or custody of a child who is the
25 parent or guardian of a child, who is the parent or the

1 guardian of a child or who is responsible for the welfare
2 of a child to one, place the child at an unreasonable risk
3 of harm affecting the child's life, physical, mental
4 health, or safety; two, do or cause to be done unlawfully
5 or maliciously any bodily harm to the child so that the
6 life or health of the child is endangered or likely to be
7 endangered; or, three, willfully abandon the child.
8 Obviously, number three, that's out. That's not what
9 we're alleging here. Number two is also out. We're not
10 alleging that. But number one, placing the child at an
11 unreasonable risk of harm affecting the child's life,
12 physical, or mental health for safety. That's the charge.
13 I'm going to talk about that a little bit later, but
14 that's what it is. That's what it is in black and white.
15 Let's talk about the drug charges. The first charge is
16 possession with intent to distribute marijuana. You've
17 got the evidence that you're going to be able to view if
18 you so choose. But, basically, possession with intent to
19 distribute marijuana is exactly what it is, is the person
20 has possession of these items with the intention to not
21 use them for themselves but to have someone else take it,
22 to distribute it, possession with intent to distribute
23 marijuana, that's the charge. Now, typically, the law in
24 South Carolina is 28 grams is kind of threshold for
25 marijuana. Anything under 28 grams is considered

1 possession, personal use. In this case, I think the
2 testimony is that it's well under 28 grams. So you might
3 be saying how can they charge him with possession with
4 intent to distribute marijuana considering the fact that
5 the marijuana is under 28 grams. That's undisputed. When
6 you view this package, when you view these packages, look
7 at how they're packaged. It's all about the packaging
8 here in this case, and it's all about an item that Mr.
9 Vaughn had in his possession when he was stopped.
10 Remember, the digital scales that you're going to have and
11 you're going to see, as well. He's possessing this
12 marijuana with the intent to distribute. Why else would
13 it be packaged in individual packaging between .8 and 1.2
14 grams of marijuana. So succinctly, so nice, so neat,
15 ready to be sold on the open market. That's possession
16 with intent to distribute. It's all about the packaging
17 here folks. And, finally, we have the trafficking in
18 methamphetamine. This is the law for trafficking
19 methamphetamine. I want to go ahead and post that up
20 there.. The section number 44-53-375. Possession,
21 manufacturing, trafficking methamphetamine and/or cocaine
22 base and other controlled substance. This is the section
23 that applies, a person who knowingly sells, manufactures,
24 delivers, purchases, or brings into this state or who
25 provides financial assistance or otherwise aides, abets,

1 attempts, or conspires to sell, manufacture, deliver,
2 purchase, or bring in this state or who is knowingly in
3 actual or constructive possession or who knowingly
4 attempts to become in actual or constructive possession of
5 10 grams or more of methamphetamine or cocaine base as
6 described, as designed is guilty of a crime which is known
7 as trafficking in methamphetamine or trafficking in
8 cocaine base. Now, this is a little, I think it's a
9 little convoluted, so what I have done is I have,
10 basically, taken that same section and marked it up so
11 that you guys can kind of see what I think is important
12 and what is important to this particular case. If you
13 notice, according to this law, there's a bunch of fours in
14 there and I circled those in a blue pen, and I've
15 highlighted what's important, what Mr. Vaughn actually did
16 based on the evidence and the testimony that you guys have
17 heard starting yesterday and carrying over today. A
18 person who knowingly sells, manufactures, or delivers.
19 Where was Mr. Vaughn going? What time was he supposed to
20 be there? Who was he supposed to meet, and what was he
21 supposed to bring with him? He's delivering. Or who
22 brings in this State or provides financial assistance or
23 otherwise aides, abets, or attempts to sell. Just think
24 about the conversation that was had with Ms. Debbie
25 Tucker. Attempting to sell. You heard price, you heard

1 time, you heard a destination, you heard a place. Or
2 deliver. Let's state it again, he was trying to deliver
3 it. Or bring into this state or this section right here,
4 who is knowingly in actual or constructive possession.
5 And then down here, 10 grams or more of methamphetamine.
6 According to the statutes in the State of South Carolina
7 being in actual possession of between 10 and 28 grams
8 automatically means you're guilty of trafficking
9 methamphetamine. That he's in actual possession. What
10 does actual possession mean. Well, let's see here.. I got
11 my cell phone on me. It's in my pocket. This is actual
12 possession. It's in my pocket, it's in my custody, it's
13 in my control. No one else has access to this but me. My
14 cell phone. This is actual possession. Think about where
15 these items were found. Think about where these items
16 were found. Think about the weight of the items. It was
17 over 10 grams. Folks, this is the law. This is what the
18 State has to prove beyond a reasonable doubt. We have to
19 prove these crimes, possession with intent to distribute
20 marijuana, trafficking methamphetamine, and unlawful
21 neglect of a child beyond a reasonable doubt. What is
22 beyond a reasonable doubt. Like I said in the beginning,
23 it's not beyond all doubt. It's not beyond a shadow of a
24 doubt. It is beyond a reasonable doubt. Being firmly
25 convinced that what we're saying, what we're alleging

1 happened, actually happened. So let's start from the top.
2 I briefly kind of talked about the facts a little bit.
3 But what happened. You heard first from Agent Whitfield
4 Brooks who's sitting back here. He was the first person
5 to testify. January 27th after lunch, Debbie Tucker was
6 working as a confidential informant for law enforcement.
7 She showed up at their office. She made a call.
8 Detective Brooks was sitting there. Sergeant Cox was
9 there, as well. They were in and out, Sergeant Cox was in
10 and out of the room and you heard testimony. The
11 conversation, the call was made. Who was the call made
12 to, Brandy Wilson. You heard from Brandy. What did Brady
13 say. Yes, I received a call. It was on my cell phone.
14 Yeah, it was on my cell phone. I had it on speakerphone.
15 Ms. Tucker stated she wanted to buy how much, half-ounce.
16 A half-ounce is about 14 grams. The conversation
17 occurred. She was quoted a price. What did Ms. Tucker
18 say the price was, \$700-\$750? What about the testimony of
19 Ms. Wilson? How did she know what to quote? Because
20 Earnest was right there, right beside her. How close I
21 asked? Well, he could touch me. He was right there. Was
22 it on speakerphone. Yes. And so what did you tell her?
23 What did you tell Ms. Tucker? \$750 because that's what
24 Earnest told me to tell her. So, at this point, they are
25 in Honea Path. They get in the car, and they load up, and

1 they start heading to Greenwood. At that point, Detective
2 Brooks, Detective Cox, and a host of other law enforcement
3 officials are kind of in a room beside there, and they're
4 going through a briefing because we are about to have a
5 buy/bust. You heard that term, a buy/bust. What is that?
6 A drug deal is going to go down. The intention is that
7 we're going to have agents in place. When the drug deal
8 goes down, we're going to move in, and we are going to
9 take all of the parties down. But you heard that the plan
10 didn't exactly go according to what they thought was going
11 to happen. Because what happened. As the agents were
12 getting into place, as they were arriving at the location
13 here in Greenwood County, at the carwash right beside
14 Bi-Lo on 25 North, here in town right off Northside Drive,
15 what did you hear. About thirty minutes before it was
16 supposed to happen, about 5 o'clock this Tahoe that Ms.
17 Wilson would be driving rolled through a little bit early.
18 Now, why would they do that? Well, they're scoping out
19 the area. To be honest, this isn't rocket science. Like
20 I said in my opening, this is very simple stuff. This is
21 very commonsense-related. So they arrive early. They're
22 scoping out the area. Law enforcement is trying to get in
23 position. Agent Bryan Louis, who's sitting right here,
24 identified Mr. Vaughn in the passenger seat and Ms. Wilson
25 who you heard testify earlier, is the driver. They're on

1 their radios. They're all talking. Let's move in, let's
2 go ahead and take them down. Folks you saw the video. If
3 you want to watch the video you can. The Judge will allow
4 you if you want to view it, but all of those cars converge
5 about the same time. The first person to make the stop is
6 Captain Jarvis Reeder sitting right here. When Officer
7 Hood pulled up, whose camera that we have to view, Jarvis
8 Reeder, Captain Reeder is already out of the car with gun
9 drawn. The vehicle was already stopped. Agent Louis, who
10 initially saw them, pulled up behind them. He jumped out
11 of the car, as well, and made the stop on the vehicle, and
12 what happened after that. You heard testimony that Agent
13 Brooks here and Sergeant Cox were with the confidential
14 informant, Ms. Debbie Tucker. They were on their way to
15 the location, because it wasn't quite time yet. They were
16 still at the office. They were hooking her up with the
17 wire, you know, all the necessary equipment that they have
18 to use, so they were running a little bit behind while
19 everybody else was getting into place, conducting
20 surveillance on the Defendant. So they immediately pull
21 over, take the wiring off Ms. Tucker and tell her
22 basically, get lost, they've already got them. So a
23 little bit later, Agent Brooks and Sergeant Cox arrive, as
24 well, and you saw them on the video. You saw Agent Brooks
25 searching the vehicle. It was all captured on video. You

1 saw Sergeant Cox show up in the red shirt. He read
2 Miranda right in front of Officer Hood's car. All that
3 was captured on video. Mr. Vaughn was placed in cuffs.
4 He was arrested. Read Miranda and he was searched.
5 Debbie Tucker, the confidential informant made the call.
6 She never showed up to the scene. Never touched the
7 drugs. Never saw the drugs. Never saw Mr. Vaughn. Never
8 saw Ms. Wilson. Never saw any of the parties involved at
9 all. She went home. Officer Hood is the first one to
10 take custody of the Defendant, Mr. Vaughn. Now, before we
11 get into what happened with Mr. Vaughn, let's think about
12 what happened with Captain Reeder, the individual that
13 first made the stop. Somebody wasn't supposed to be there
14 that was there, a little five-year-old boy named minor
15 wasn't supposed to be in that car. Nobody was
16 expecting minor to be in that car. As the guns were drawn
17 on the Defendant and Ms. Wilson in their vehicle, they
18 opened the back and to everyone's surprise, a
19 five-year-old boy jumps out. He's quickly ushered off to
20 the side. Captain Reeder immediately notices this and you
21 see on the video immediately walks over there and starts
22 talking to the boy. Captain Reeder on the stand got up
23 here. When I asked about the little boy's demeanor, I
24 said, well, what was his demeanor like and Captain Reeder
25 said, he was tore up. His nerves were all shot and they

1 were all tore up. You see him go off the video. Captain
2 Reeder's testimony is that they go in the convenience
3 store. He had to go to the bathroom real bad. His nerves
4 were shaken and he was all tore up inside. He went to the
5 bathroom. Captain Reeder bought him a pack of crackers to
6 try to calm him down. Eventually, brought him back to the
7 scene, and then Captain Reeder took over questioning the
8 Defendant. That little boy was brought to the Bi-Lo and
9 the carwash to the 7-Eleven where that drug deal was
10 supposed to take place. There were no other adults
11 around. He was with Earnest Vaughn and Brandy Wilson.
12 And Jarvis Reeder, after he had finished taking care of
13 this little boy, he then started talking to Mr. Vaughn.
14 But before Captain Reeder talked to Mr. Vaughn, Officer
15 Hood searched Mr. Vaughn. What did he find? He found all
16 this stuff. This is State's number 15. Why is this
17 important? All this is in his pockets, all in his
18 pockets. It looks like four knives, a little black book,
19 and this nice, looks like some loose change, and a nice
20 little box of, which is digital scales. Digital scales,
21 what are those used for? What are these knives used for?
22 Maybe to cut up, to weigh out drugs? That'd be my guess.
23 Jarvis Reeder gets there. He starts talking to the
24 Defendant. Officer Hood goes back. He can't hear what's
25 going on anymore because Officer Hood has the microphone

1 which is hooked up to his vehicle. None of the other
2 undercover Tahoe's have any video capabilities at all.
3 They're undercover Tahoe's. Officer Hood steps back. He
4 searches the car. Captain Reeder is questioning the
5 Defendant, Mr. Vaughn, and ultimately, Mr. Vaughn is read
6 Miranda again. He's read Miranda by Captain Reeder. He
7 was read it by Captain Cox or Sergeant Cox, excuse me,
8 which is on the video. Jarvis Reeder testified, I read
9 them again. That's my habit. That's standard police
10 protocol. Captain Reeder has been doing this, that's, he
11 said I always just do it out of precaution. So he read
12 him Miranda again. At that point he said, Mr. Vaughn,
13 where are the drugs at? I saw you stuffing something in
14 your pants. I saw you stuffing something. Where are the
15 drugs at? At that point, Mr. Vaughn says, They're in my
16 pants. So the officers, thankfully, take Mr. Vaughn
17 between two Tahoe's, between Officer Hood's Tahoe which is
18 marked and Captain Reeder's Tahoe, which is unmarked.
19 They pull two doors out to kind of create a screen, so
20 that the public doesn't have to view what's going on, and
21 they conduct a search. Now, what do they find? As you
22 heard Sergeant Cox's testimony, he was taking pictures.
23 He snapped one of the Defendant, Mr. Earnest Vaughn, right
24 there in that picture, the same guy that's sitting over
25 here and they begin the process of searching him. And I'm

1 sorry that I have to show these pictures. I really am,
2 but this is part of the evidence, and this is what you
3 guys have to view. This is what we have to show to prove
4 our case beyond a reasonable doubt. So he began searching
5 him. There's another picture of the pants and his shirt.
6 They do this step-by-step, until we get to that one.
7 State's number 18, this picture right here, he's still
8 wearing the Dale Earnhardt cut-off shirt with the blue
9 jeans with the belt. State's number 16, they begin taking
10 the belt off. And at that point, they retrieve the items
11 from his pants. Several little baggies tucked up in his
12 groin region containing what is later to be discovered as
13 marijuana and methamphetamine. Those items if you'll
14 remember from the video, about halfway through the video,
15 Captain Reeder, his hands are in these black gloves like
16 he testified to, took those items out and tossed them on
17 the hood of the video as you can see on the bottom right
18 corner when the video is playing. Exhibit number 26 shows
19 some of the items that are placed onto the hood of the
20 vehicle. And here is another picture of State's number 31
21 with all three packages. It appears that we have a
22 package of marijuana, the top right corner, a package of
23 methamphetamine, and another package of methamphetamine.
24 Retrieved from the pants of Mr. Earnest Vaughn. Not from
25 his pants, from his groin region, touching his skin. Not

1 out of his pocket. Not, well, they weren't my pants. I
2 don't know. They weren't my pants. No. They were
3 actually touching his skin. At that point, you see
4 numerous people coming in and out of focus on the video.
5 Many of the officers who are sitting back here, as well as
6 Greg Allison, evidence technician, very important job at
7 the Sheriff's Department. He came out to the scene and
8 collected all of the evidence. Captain Reeder had all of
9 the evidence. He turned it over immediately and Greg
10 Allison with the Sheriff's Department, he immediately
11 bagged all those items up. They inventoried everything,
12 they're signing stuff, they're writing stuff down and
13 making sure that they have everything, everything is
14 accounted for. Greg Allison takes possession of all those
15 items and takes them back to the Sheriff's Department as
16 the testimony showed, and logged them into evidence where
17 really only one person has access to it, Greg Allison, and
18 if he's not there, the other person is Wes Love, the
19 former evidence technician, who's sitting right beside
20 him. Those are pretty much the only people that have, the
21 only people that have access to it, other than John Long.
22 I think John Long is another individual at the Sheriff's
23 Department that has a role, I believe, and you heard
24 testimony about that, has a supervisory role. Those are
25 the only people that have access to it. Agent Brooks

1 can't get in there once the evidence is submitted. Bryan
2 Louis can't get in there once the evidence is submitted.
3 Jarvis Reeder can't get back in there and mess with the
4 evidence once it's submitted. Nobody can but Greg
5 Allison. Under lock-and-key. You heard that on, in the
6 beginning of February, Greg Allison took that evidence, as
7 well as other evidence that he has collected from crimes
8 that occurred in Greenwood during this time-period and
9 drove it down to SLED and turned it over to an evidence
10 technician where all of the evidence is given a specific
11 lab number so it can be identified. It's checked in by
12 the forensic technicians down there. They take control of
13 this and they send it to an analyst. Lynn Black came
14 today and testified about what she found. You can view
15 this if you want to. She noticed crystal-like substance
16 in all of the material that she received. She did some
17 tests that I don't know anything about. I'm not a
18 forensic chemist. I took biology in college, which I
19 passed, but I don't know anything about chemistry. She
20 conducted two tests on these and a one-hundred percent
21 methamphetamine, one-hundred percent methamphetamine. She
22 issued a report that you guys will have as State's number
23 44 to examine and Item 1.1 and Ziploc bag number 2. There
24 were four Ziploc bags, each containing a bag containing a
25 crystal substance. It was methamphetamine. It was found.

1 There were four that were tested. The net weight was
2 13.51 grams of methamphetamine. The confidence level for
3 the weight is 99.7 percent. So one-hundred percent meth,
4 the weight is 99.7 percent accurate. Item 1.2, she tested
5 a Ziploc bag which was actually labeled number 1 contained
6 14 Ziploc bags containing the same crystal-like substance.
7 It was methamphetamine. Only one item was tested. That
8 weight it looks like it was 3.44 grams, one-hundred
9 percent methamphetamine. The confidence level for that
10 weight was also 99.7. So we have a quick calculation, the
11 3.44 and the 13.51 equals 16.95 grams of meth. And by the
12 way, in addition to that, there was another set that was
13 not tested. It was this 3.11 grams. She weighed it, but
14 didn't test it. Those were the 13 other bags. The small
15 quantities. The .3, I believe she testified, .3534 grams
16 that each of those little individuals were wrapped into.
17 Total weight 20.06. Tested by the forensic chemist 16.95.
18 Well within the 10 to 28 grams that the State has to
19 prove, and Mr. Vaughn had in his actual possession on
20 January the 27th. Folks, those are the facts of the case.
21 Now, in a minute Ms. Merrill is going to address you, and
22 I really don't know exactly what she's going to say, but
23 I'm sure she's going to talk about Debbie Tucker and
24 Debbie Tucker is a confidential informant. And she has a
25 record. There's no doubt about it. We talked about it

1 when we were examining her up here on the witness stand.
2 Debbie Tucker has a record. She was acting as a
3 confidential informant because she got pulled over for a
4 roach, like you heard testimony about. She didn't want to
5 get charged with that. So Agent Brooks said do a little
6 work, we'll take care of this charge, we're not going to
7 charge you, so that's what happened. Do I wish that we
8 didn't have to call confidential informants? Sure. Do I
9 wish that my Sunday School teacher could set up these drug
10 deals or Judge Hocker, or Ms. Holston, the court reporter,
11 absolutely. But that's not how this works. Debbie Tucker
12 uses meth. We got to have somebody that uses meth to be
13 the confidential informant. So what if she has a criminal
14 record. She didn't even show up that day. She never even
15 showed up to the carwash. What did she do? She made a
16 call. I want a half-ounce. Can you do it. Yes, we can
17 do it. Let's do it at the carwash on 25 North, Greenwood
18 County about 5:30. So what happened? Brandy, the person
19 she called showed up with Earnest, the person that was
20 bringing the meth. They showed up. They got there about
21 25 minutes early. Did they have a half-ounce of meth?
22 Yes, they did. Debbie Tucker wasn't even there. She just
23 set it up. Law enforcement did their job. What about
24 Brandy Wilson? I'm sure that Ms. Merrill's going to want
25 to talk about Brandy. Let's talk about Brandy. Brandy

1 was driving. Brandy received the call. Yeah, that
2 happened. Absolutely, it happened. But let's really
3 think about Brandy, and let's think about the evidence
4 that was collected. State's number 9, drug paraphernalia.
5 You heard how the spoon and syringe are used to take the
6 meth and injects meth. Where was this found? What about
7 this pipe Greg Allison found that he testified to? I
8 believe it's State's number 40. Where was this found, a
9 pipe in a Crown Royal bag? What's the pipe used for? To
10 smoke meth. To smoke marijuana. Found in the fuse
11 compartment of the vehicle by the driver's door, right
12 where Brandy was. Brandy's a user. What about this
13 little pouch with some syringes. It looks like maybe a
14 woman's pouch. This is Brandy's to shoot the meth up.
15 What about one of the bags of marijuana? State's number
16 38, this bag was found inside Mr. Vaughn's pants. This
17 bag of marijuana was found in the center console right
18 between Brandy. It was right between the Defendant, Mr.
19 Vaughn. She's got access to this marijuana. She's a
20 user. She uses drugs. Talking about Brandy, this
21 picture, that's not Brandy. That's Earnest Vaughn.
22 Actual possession between 10 and 28 grams of
23 methamphetamine. Let's talk a little bit more about
24 Brandy, two letters. State's 35, a to whom it may concern
25 letter. You're going to have this. You can look at this.

1 What's the date on that, 3/9/16. Brandy's saying yes, I'm
2 guilty. Yes, I'm guilty. I'll take the charges,
3 possession with intent to distribute, trafficking meth,
4 unlawful neglect. They're all mine. Earnest Vaughn had
5 no idea. Did she write that letter, absolutely. What
6 about this letter, State's number 36, to Aaron Taylor, Mr.
7 Vaughn's prior attorney. What's the date on that, 3/9.
8 The same day. What's she say in this letter? She's
9 saying, Mr. Taylor, you need to come over and see me. I
10 want to give a statement. Nobody's taking my statement.
11 Let me give a statement. Why are these letters important?
12 You can look at these letters. What's the date, 3/9,
13 3/9/16. When I asked Brandy about these letters when she
14 actually testified, Brandy, did you write these letters.
15 Yeah, I wrote them. Was it the truth? No, it wasn't the
16 truth. Everything that you testified today, is that the
17 truth? Yeah, this is the truth. So why did she write
18 those letters. She wrote those letters because of these
19 letters, State's 37, which you're going to have a chance
20 to look at again. I'm not going to read these again, and
21 I'm sorry that we had to listen, that you guys had to
22 listen to this, but this is important. There's no date on
23 the first letter, but she identified it as definitely
24 being the Defendant's handwriting, Oh, yea. That's how he
25 signed it. That's his name, that's his nickname. The

1 second letter, that's important, but there's no date on
2 it. But the third letter, what's that date, 3/3/16.
3 What's he doing in all of these letters. You heard that
4 letter that got read in front of the jury, in front of you
5 guys here in open court. It said how much I love you,
6 talking about a bunch of other stuff, about how much he
7 loves her and professing his love to her, and then starts
8 laying out the groundwork one, say this, two, say this,
9 three, say this, four, say this, get in touch with my
10 lawyer; oh, baby, I love you; oh, baby, I love you.
11 Manipulating her. Manipulating her. Absolutely,
12 manipulating her. You got to do this for me, baby.
13 That's what those letters are all about. What's the date
14 on those letters? And what did Brandy do? She came up
15 here and told the truth. She said she told the truth, and
16 she swore on the Bible she told the truth. We talked
17 about Brandy's record, 1997, possession of alcohol by a
18 minor. That's all she's got, and then her father died.
19 When did her father die, the end of 2014, and then the
20 downward spiral began. Yeah, she's got a bunch of pending
21 charges. She's getting a deal by testifying, absolutely.
22 She's looking at five years. She's pleading on the
23 burglary, possession with intent to distribute. She's
24 pleading on a PWID meth, which is a step below the
25 trafficking, and the unlawful neglect. She's pleading on,

1 she's pleading on some charges. She's looking at five
2 years. She's pleading straight-up. She came in here and
3 told the truth. Nothing on her record. Father died. She
4 gets hooked up with the wrong crowd, starts doing a little
5 bit of meth, the downward spiral began. It truly is a
6 shame. Brandy's a user. Earnest Vaughn, this gentleman
7 right here, this guy right here, he's the drug trafficker.
8 Don't view Earnest Vaughn as him sitting here today. Him
9 sitting over here in court. View him as the Earnest
10 Vaughn in these letters, the manipulator, the drug
11 trafficker, the individual that's responsible for what
12 happened January the 27th. That's the Earnest Vaughn.
13 Folks, when I came in here Monday or, I guess, we started
14 Tuesday, I said the most important thing that you've got
15 with you is your common sense, and you've got to use that
16 over the course of this trial to ultimately make a
17 determination as to what happened. Folks, this isn't
18 rocket science. What we do isn't rocket science. Use
19 your common sense. Find him guilty of all three charges,
20 not because I'm asking you to, but because he's actually
21 guilty of all three of these crimes. Thank you, so much.

22 THE COURT: Thank you, Solicitor. Ms. Merrill, you
23 ready?

24 MS. MERRILL: Yes, sir. Thank you. When I had the
25 opportunity to talk to you the other morning, I told you I

1 wanted you to think about the who, the when, and the why.
2 First off, who? We've got a career criminal confidential
3 informant. What's her when/why? She's got sixteen
4 criminal convictions, twelve pending charges now. Some of
5 those she's gotten since then and since this incident when
6 she set this buy up. She claims she has no offer now,
7 although at some point, she had a three-year offer, but
8 you might recall her saying other charges are supposed to
9 be coming off of her, too. She's working off a simple
10 possession of marijuana charge. Think about that. That's
11 a very low-level offense. She's got a pending
12 trafficking, but she's willing to do this work off a
13 simple possession of marijuana charge? And what happened
14 to that trafficking charge? It gets dismissed this
15 summer. She called Brandy Wilson. She didn't call Mr.
16 Vaughn. She called Brandy Wilson to set up a drug buy,
17 and she said it was for \$750.00. Officer Brooks was
18 sitting there when she called Brandy Wilson. He didn't
19 say anything about hearing Mr. Vaughn. There is nothing
20 documented in this CI pack about all she's done or hasn't
21 done. There's not even documentation about this day, so
22 we have to take her word for it. It happened just days
23 after officers or the officer found marijuana in her car,
24 and she was never charged. Let's look at the next, who.
25 Ex-girlfriend, Brandy Wilson. She only has one criminal

1 conviction and it's from a long time ago. She got a
2 pretty good record, one minor thing. I think she said she
3 was a teenager or early twenties. She's got twelve
4 pending charges now and some of those she's gotten since
5 this time. Since January of '16, she's gotten more
6 charges. And we went through and she's looking at 48
7 years if she were to be convicted and receive the maximum
8 sentence for all those and you remember her up here asking
9 about her time-served. She's worried about that time.
10 She knows that's a lot of time, so she wants to make sure
11 she gets credit for any time she might have been in jail.
12 She wants to make sure that's included, and she's worried
13 about that time, and she knows it's a lot of time. What's
14 her offer. Zero to five years on three charges and
15 dismiss all the others, zero to five. Not five years.
16 They could have offered her a straight five years. Nope,
17 zero to five. She has a possibility of never going to
18 jail. She might get probation, but that's what they've
19 offered her. But she's not pled guilty yet to anything,
20 and this offer was just recently made. When was it made?
21 Just recently. But she's not pled guilty. They couldn't
22 let her plead guilty to anything beforehand. They had to
23 hold it over her head to make sure she performed here.
24 Then, they might let her plead to this. If they had let
25 her plead and she'd been charged with that and she came

1 here and changed her mind, the deal would be done. How
2 much does the State trust their own witness. Let's talk
3 about the car. When they were stopped, who's driving the
4 car, Brandy Wilson? Who's car is it, Brandy Wilson.
5 Who's driver's license picture is right beside marijuana,
6 Brandy Wilson. Let's talk a little bit here, too, about
7 the child. It was Brandy who said she went and picked up
8 the child. She said Mr. Vaughn, the child's grandfather,
9 is in the car, but it was she who picked up the child.
10 We've got these letters to lawyers and the to whom it may
11 concern letter. I think the State has shown you those.
12 Let's see, it's State's Exhibit 35 and 36. We've got
13 these letters. And she said yeah, after I did those,
14 after I wrote those letters, I had to do handwriting
15 samples and they compared it and yeah, they confirmed I
16 wrote that. Again, I ask you how much do they trust her.
17 But then she presents these letters just last week, just
18 last week these new letters. We just have to take her
19 word for it that Mr. Vaughn wrote them. The State could
20 have taken these, compared it to his handwriting. Had
21 more than just her word, but they didn't take the time to
22 do that, and it's interesting, she just brought those
23 letters last week when she got this offer. And notice
24 that these letters, the only one that is dated is the one
25 that's right before she, six days before she says she

1 wrote these. Well, if he would have wrote them, when we
2 write things, we kind of do it the same way. If you write
3 a letter and put your date at the end or at the beginning,
4 but no. That's the only time you see that. It's kind of
5 haphazardly thrown there at the top and all we got to take
6 for is her word about who wrote these letters. We don't
7 have envelopes with postmarks, with addresses. We don't
8 have anything except her word. We talked about that. We
9 talked about that it matched her handwriting and we've got
10 these ones from Mr. Vaughn, but we don't have any
11 handwriting. Who's her new boyfriend. She's broken up
12 with Mr. Vaughn and now dates his son. It'd be awfully
13 convenient if he's in prison, so she can be with his son,
14 he's out of the way. Ask yourself, who set up the drug
15 deal? Who drove the car? Who owned the car? Who faces
16 48 years in prison? Let's talk about the officers.
17 There's a lot of officers in that video. There's a lot of
18 officers here. We got the first car. It's got a video
19 camera and at times, you can hear Officer Hood talk about
20 how, you know, you can hear him. He also said you can
21 hear probably within about ten feet of him. Then, later
22 he testified and said, well, he was within probably about
23 two feet of Officer Reeder when Officer Reeder read Mr.
24 Vaughn his rights or told him his rights and he admits to
25 having drugs, but you don't hear that at all on the audio.

1 He's within two feet. He said he worked to probably about
2 ten but yet, you don't hear any of that. They take him
3 off camera to search him and they claim they do that for
4 privacy reasons. But an officer is taking pictures. An
5 officer could have just as easily videoed that and we
6 would have known what was said exactly, but they didn't do
7 that. The government makes a lot of noise about these
8 Miranda warnings, but if you notice when both of those
9 officers were sitting on that stand saying them, the Court
10 Reporter had to ask them to slow down because they read
11 them so quickly. They said them so quickly. And they
12 said when they pulled up they saw Earnest, Mr. Vaughn
13 stuffing something in his pants. They could see this. I
14 want you to think about how Mr. Vaughn is dressed that
15 day. I'm going to show you State's Exhibit 19. It's
16 January 27th. He's wearing a T-shirt with the sleeves
17 cutoff. The officers have testified his pockets were
18 full. Is he really going to go to a drug deal, he has no
19 coat on, nowhere to put these. Is he just going to have
20 these drugs in his hand and, where's he going to put them?
21 Is he really dressed like he's going to, how is he going
22 to hide them, in his pockets, where would you put them.
23 Let's look next at the evidence techs and analyst. Weight
24 is an issue in this case and the State has talked about
25 that some, but the weight kind of changes. All of this

1 stuff was found in clear bags. The officers testified
2 yeah, you could see through them. Let's talk about the
3 first weight. 10.62 grams of, in one bag, 7.66 grams in
4 the other bag. That's what was weighed that day, that
5 evening on the hood of the car where you can see them
6 counting it and in these clear bags. The next day, that
7 weight jumps up a good bit, because somehow even in these
8 clear bags, two other bags were missing or, I mean, he
9 found two other bags, so it jumps up to there. And
10 they've got a third weight. Now, the first and second
11 weights were test, it is testified that those were weighed
12 with the bags. The third weight is the SLED weight, and
13 so she described it, I believe, as the net weight of the
14 drugs. 13.51, 6.55, that jumps a good bit more, but she
15 did not even test 3.11 grams and the Solicitor says she
16 testified one-hundred meth, it's all one-hundred percent
17 meth, but she didn't even test that much. She said it
18 looked like meth. Well, if that's all we needed her to do
19 was look at it, why would she test the others. She didn't
20 even test that. She also testified about the effects of
21 meth. It causes weight loss because it's a stimulate.
22 You might have sores on your body. You're kind of hyped
23 up. I think if you look at Mr. Vaughn, he's not real
24 hyped up, and he's not the skinniest person, and he
25 doesn't have sores on his body. But that's the effects of

1 meth that their witness told you. If you have reasonable
2 doubt, you have to find Mr. Vaughn not guilty. And like
3 we've talked about, who, when why? What are the
4 motivations of these people who are up here? They have
5 something to gain by testifying. They talked about Mr.
6 Vaughn supposedly manipulating Brandy Wilson, and she was
7 so manipulated. I think Brandy Wilson is our master
8 manipulator. She's looking at 48 plus years. Now, she's
9 got an offer of maybe nothing up to five years. She's
10 dating the son. She's getting a lot of charges thrown out
11 and she wants, she's got an education. She's got things to
12 protect. I think she's our master manipulator. When you
13 get in that jury room, keep in mind if you have reasonable
14 doubt, that means you must find him not guilty and
15 sometimes reasonable doubt we define as hesitate to act,
16 something that would make a reasonable person hesitate to
17 act. And I ask when you go to the jury room to find Mr.
18 Vaughn not guilty of all three charges. Thank you.

19 THE COURT: Thank you, Ms. Merrill. Ladies and
20 gentlemen, we're going to take a very short break before
21 we get into the Court's charge, so if you'll just go back
22 to your jury room. Again, don't start any deliberations,
23 and we'll get you back out in just a little bit. We all
24 need to take a little breather before we start into the
25 Court's charge.

1 (Whereupon, the jury was excused from open for a
2 short break was taken.)

3 (Whereupon, a short break was taken.)

4 THE COURT: Bring the jury in, please.

5 (Whereupon, the jury came into open court at
6 approximately 3:52 p.m.)

7 THE COURT: Let the record reflect that the jury is
8 back with us. Mr. Foreman and ladies and gentlemen of the
9 jury, I now will charge you on the law applicable to this
10 case and you must consider the charge as a whole and not
11 focus on some portions to the exclusion of other portions.
12 As I have already explained to you, there are three
13 indictments to charge the Defendant with the following
14 offense, trafficking methamphetamine, possession of
15 marijuana with intent to distribute and unlawful neglect
16 of a child. I remind you that the fact the Defendant was
17 arrested, charged and indicted in this case is not
18 evidence in this case and cannot be considered by you as
19 evidence of guilt in this case, nor does it create any
20 presumption or inference of guilt. These documents are
21 simply the formal written instruments which contains the
22 charges made against the Defendant. They are the formal
23 documents by which this case is brought into this court.

24 The three indictments are numbered as follows,
25 2016-GS-24-539, that is trafficking methamphetamine; 540,

1 possession of marijuana with intent to distribute; and
2 541, unlawful conduct towards a child. Each indictment
3 charges a separate and distinct offense. You must decide
4 each indictment separately on the evidence and the law
5 applicable to it uninfluenced by your decision as to the
6 other indictments. The Defendant may be convicted or
7 acquitted on any or all of the offenses charged. You will
8 be asked, and I will show you a form, Mr. Foreman, at the
9 conclusion of this charge, you will be asked to place your
10 verdict as to each indictment separately, guilty or not
11 guilty.

12 Now, as you are aware, we discussed the Defendant has
13 pled not guilty to these indictments. And that plea puts
14 the burden on the State to prove the Defendant guilty. A
15 person charged with committing a criminal offense in South
16 Carolina is never required to prove himself innocent. I
17 charge you that it is an important rule of the law that
18 the Defendant in a criminal trial, no matter how serious
19 the charge or charges may be, will always be presumed to
20 be innocent of the crime for which the indictment was
21 issued unless guilt has been proven by evidence satisfying
22 you of that guilt beyond a reasonable doubt. This
23 presumption of innocence does not end when you begin your
24 deliberations but it accompanies the Defendant throughout
25 unless you reach a verdict of guilt based on the evidence

1 satisfying you of that guilt beyond a reasonable doubt.
2 This presumption of innocence is like a robe of
3 righteousness placed about the shoulders of the Defendant
4 which remains with the Defendant unless it has been
5 stripped from the Defendant by evidence satisfying you of
6 the Defendant's guilt beyond a reasonable doubt. Now,
7 this presumption of innocence is not a mere legal theory.
8 It is not just a legal phrase that we use. It is a
9 substantial constitutional right to which every Defendant
10 is entitled unless you, the jury, are satisfied from the
11 evidence of the Defendant's guilt beyond a reasonable
12 doubt.

13 Now, concerning reasonable doubt. Some of you may
14 have served as jurors in civil cases where you were told
15 that it is only necessary to prove that a fact is more
16 likely true than not true, such as by the greater weight
17 or preponderance of the evidence. However in criminal
18 cases, the State's proof must be more powerful than that.
19 It must be beyond a reasonable doubt. Proof beyond a
20 reasonable doubt is proof that leaves you firmly convinced
21 of the Defendant's guilt.

22 Now, ladies and gentlemen, there are very few things
23 in this world that we know with absolute certainty. And
24 in criminal cases the law does not require proof that
25 overcomes every possible doubt. If based on your

1 consideration of the evidence, you are firmly convinced
2 that the Defendant is guilty of the crimes charged you
3 must find the Defendant guilty. If on the other hand, you
4 think there is a real possibility that the Defendant is
5 not guilty you must give the Defendant the benefit of the
6 doubt and find him not guilty.

7 Now, as I explained to you at the outset and I will
8 remind you once again, during this trial you and I have
9 certain duties to perform. As the trial Judge it has been
10 my responsibility to preside over the trial of this case.
11 And I have also had the duty to rule on the admissibility
12 of the evidence offered during this trial. You are to
13 consider only the competent evidence before you. If there
14 was any testimony ordered stricken from the record in this
15 case during this trial, you must therefore disregard that
16 testimony. You are to consider only the testimony which
17 has been presented from the witness stand, any exhibits
18 which have been made a part of the record in this case and
19 any stipulations of counsel.

20 I have the additional duty to charge you the law
21 applicable to this case as I am doing now. As the
22 presiding Judge, I am the sole Judge of the law of the
23 case. As I told you on Tuesday, it is your duty as jurors
24 to accept and apply the law as I now state it to you. If
25 you already have any idea as to what the law is or what

1 the law ought to be and it does not agree with what I now
2 tell you the law is, you must abandon your idea because
3 you are sworn to accept and apply the law exactly as I
4 state it to you. As I also told you, in every case tried
5 in this court before a jury, the jury becomes the sole and
6 exclusive judge of the facts in a case. A trial Judge
7 cannot intimate, state, comment on, or make any statement
8 to a trial jury about the facts in a case. Since you, the
9 jury, are the sole judge of the facts in this case, you
10 are not to infer from what I have said during the progress
11 of this trial in ruling upon the admissibility of
12 evidence, or otherwise, or anything that I say now during
13 the course of this instruction to you that I have any
14 opinion about the facts in this case. The law does not
15 allow me to have an opinion about the facts in this case.
16 This is a matter solely for you, the jury, to determine.
17 As jurors, it is your duty to determine the effect, value,
18 weight, and truth of the evidence presented during this
19 trial.

20 Now, ladies and gentlemen, there are two types of
21 evidence which are generally presented during the trial,
22 that being direct evidence and circumstantial evidence.
23 Direct evidence directly proves the existence of a fact
24 and does not require deduction. Circumstantial evidence
25 is proof of a chain of facts and circumstances indicating

1 the existence of a fact. Crimes may be proven by
2 circumstantial evidence. The law makes no distinction
3 between the weight or value to be given to either direct
4 or circumstantial evidence. However, to the extent the
5 State relies on circumstantial evidence, all of the
6 circumstances must be consistent with each other. And
7 when taken together point conclusively to the guilt of the
8 accused beyond a reasonable doubt. If these circumstances
9 merely portray the Defendant's behavior as suspicious, the
10 proof has failed. Once again, the State has the burden of
11 proving the Defendant guilty beyond a reasonable doubt and
12 this burden rests with the State regardless of whether the
13 state relies on direct evidence, circumstantial evidence,
14 or some combination of the two.

15 As the sole Judge of the facts necessarily you must
16 determine the credibility of witnesses who have testified
17 in this case. Credibility simply means believability.
18 It becomes your duty as jurors to analyze and to evaluate
19 the evidence and determine which evidence convinces you of
20 its truth. In determining the believability of witnesses
21 who have testified in this case, you may believe one
22 witness over several witnesses or several witnesses over
23 one witness. You may believe a part of the testimony of a
24 witness and reject the remaining part of the testimony of
25 that same witness. You may believe the testimony of a

1 witness in its entirety or reject the testimony of a
2 witness in its entirety. You may consider whether any
3 witness has exhibited to you any interest, bias,
4 prejudice, or other motive in this case. You may also
5 consider the appearance and manner of a witness while on
6 the witness stand.

7 Now, as I have already told you and I will explain to
8 you again about expert witnesses. And the rules of
9 evidence ordinarily do not permit witnesses to testify as
10 to opinions or conclusions. An exception to this rule
11 exists for witnesses we call expert witnesses. A witness
12 who by education and experience, has become expert in some
13 art, science, profession, or calling may state an opinion
14 as to relevant and material matter in which the witness
15 claims to be an expert, and may also state the reasons for
16 the opinion. You should consider any expert opinion
17 received in evidence in this case and like any other
18 evidence give it the weight you think it deserves. If you
19 decide that the opinion of an expert witness is not based
20 on sufficient education and experience, or if you conclude
21 that the reasons given in support of the opinion are not
22 sound, or that the opinion is outweighed by other
23 evidence, you may disregard the opinion entirely. An
24 expert witness' testimony is to be given no greater weight
25 than that of other witnesses simply because the witness is

1 an expert. Furthermore, you are not required to accept an
2 expert's opinion, even though it is not contradicted.

3 Mr. Foreman and ladies and gentlemen of this jury, I
4 instruct you and emphasize that the fact the Defendant
5 elected not to testify is not a factor to be considered by
6 you in any way in your deliberations and in your
7 consideration on the question of the guilt or the
8 innocence of the Defendant. It must not be considered by
9 you in any manner whatsoever. A Defendant has the
10 constitutional right to remain silent. And the assertion
11 of this right must not be considered by you in your
12 deliberations. I repeat, under your oath that you took,
13 you are to draw no conclusion whatsoever from the fact
14 that the Defendant in this case did not testify. The fact
15 that this Defendant did not testify should not even be
16 discussed in the jury room. The burden of proof, as I
17 have already stated to you several times is on the State.
18 The Defendant is not required to prove his innocence. The
19 burden of proof remains on the State to prove guilt beyond
20 a reasonable doubt.

21 Now, there is a statement alleged to have been made
22 by the Defendant and that has been admitted into evidence
23 in this case. While this Court has determined that the
24 statement is admissible, I instruct you that you make the
25 ultimate decision of whether or not the Defendant made the

1 statement. If the Defendant did make the statement, you
2 must determine whether the statement was made by the
3 Defendant voluntarily and of his own free will. This
4 means that the statement was not caused by pressure,
5 force, fear, threats, coercion, or intimidation, or by
6 hope or a promise of leniency or a reward of any kind. In
7 determining whether the statement was voluntary, you
8 should consider both the characteristics of the Defendant
9 and the details of the questioning. Some of the factors
10 that you must consider are, the age of the Defendant;
11 Defendant's education or lack thereof; the Defendant's
12 mental ability or capacity; the Defendant's IQ or
13 intelligence; the Defendant's background and environment;
14 the place and length of detention; the nature of the
15 questioning; the advice, or lack thereof, to the Defendant
16 of his constitutional rights including but not limited to,
17 the right to remain silent; that any statement could be
18 used against him in a court of law; the right to have a
19 lawyer present; that if he could not afford a lawyer, a
20 lawyer would be appointed to represent him without any
21 cost; and that he could stop making a statement at any
22 time. You must carefully consider all of the surrounding
23 circumstances before you give any weight to his statement.
24 The State has the burden of proving beyond a reasonable
25 doubt that the statement was voluntary. If you determine

1 it was, you may give the statement any further
2 consideration that you deem proper. You must decide what
3 weight, if any, should be given to this alleged statement.
4 If you determine the alleged statement was not a free and
5 voluntary statement of the Defendant, you should not
6 consider it at all.

7 Now, in order to establish criminal liability,
8 criminal intent is required. For example, the mental
9 state required to be proven by the State for a particular
10 crime might be purpose, intent, knowledge, recklessness,
11 or criminal negligence. Criminal intent must be proven by
12 the State beyond a reasonable doubt. Criminal intent is
13 always a matter that must be determined by the jury from
14 the circumstances surrounding the situation. There is no
15 way to prove intent to a mathematical certainty. There is
16 no way medical science can dissect a person's brain and
17 determine what the person had in mind. So what the law
18 says is that criminal intent may be inferred from the
19 circumstances shown to have existed. This is how you make
20 a determination of whether or not the element requiring
21 intent was present. It is not necessary to establish
22 intent by direct and positive evidence, but intent may be
23 established by inference in the same way as any other fact
24 by taking into consideration the acts of the parties and
25 all the facts and circumstances of the case. Criminal

1 intent is defined as a mental state, a conscious
2 wrongdoing. It is up to you to determine what the
3 Defendant intended to do based on the circumstances shown
4 to have existed. Criminal intent can arise from action or
5 a failure to act. It may arise from negligence,
6 recklessness, or an indifference to duty or to
7 consequences that is considered by the law to be the
8 equivalent of criminal intent.

9 Now, let me discuss with you the three charges.
10 First is trafficking in methamphetamine. The State must
11 prove beyond a reasonable doubt that the Defendant
12 knowingly sold, manufactured, cultivated, delivered,
13 purchased, brought into this State, provided financial
14 assistance or otherwise aided, abetted, attempted, or
15 conspired to sell, manufacture, cultivate, deliver,
16 purchase, or bring into this State or was knowingly in
17 actual or constructive possession, or knowingly attempted
18 to become in actual or constructive possession of
19 methamphetamine. The State must also prove beyond a
20 reasonable doubt that the amount of the methamphetamine
21 was 10 grams or more, but less than 28 grams.

22 The second charge is possession with intent to
23 distribute marijuana. The State must prove beyond a
24 reasonable doubt that the Defendant possessed marijuana
25 with the intent to distribute it. 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 the
3 disposition or use of the marijuana. Possession may
4 either be actual or constructive. Actual possession means
5 that the marijuana was in the actual physical custody of
6 the Defendant. Constructive possession means that the
7 Defendant had dominion and control, or the right to
8 exercise dominion or control over either the marijuana
9 itself or the property on which the marijuana was found.
10 Mere presence at the scene where the drugs were found is
11 not enough to prove possession. The Defendant's knowledge
12 and possession may be inferred when a substance is found
13 on the property under the Defendant's control. However,
14 this inference is simply an evidentiary fact to be taken
15 and considered by you, along with the other evidence in
16 the case and to be given the weight you decide it should
17 have. I instruct you that two or more persons may have
18 joint possession of a drug. The State must also prove
19 beyond a reasonable doubt that the Defendant intended to
20 distribute the marijuana. Distribute means to deliver,
21 other than by administering or dispensing a drug. Intent
22 may be shown by acts and conduct of the Defendant and
23 other circumstances from which you may naturally and
24 reasonably infer intent. In determining whether the
25 Defendant had the intent to distribute the marijuana you

1 may consider the circumstances surrounding the Defendant's
2 alleged possession. You may consider the amount of the
3 substance alleged to have been possessed, the manner in
4 which it was allegedly possessed, the place where it was
5 allegedly possessed, and other factors which you consider
6 to be important. You must find that the Defendant did not
7 intend to have the marijuana solely for his own use.

8 The third charge is unlawful conduct towards a child.
9 The State must first prove beyond a reasonable doubt that
10 the Defendant had charge or custody of the child, was the
11 parent or guardian of the child, or was responsible for
12 the care and support of the child. A person responsible
13 for a child's welfare includes the child's parent,
14 guardian, or foster parent; an operator, employee, or
15 caregiver of a public or private residential home,
16 institution, agency, or child day care center facility; or
17 an adult who has assumed the role or responsibility of a
18 parent or guardian for the child, but does not necessarily
19 have legal custody of the child. This does not include,
20 however, a person whose only role is as a caregiver and
21 whose contact is only incidental with the child such as a
22 babysitter. The State must also prove beyond a reasonable
23 doubt that the Defendant placed the child at unreasonable
24 risk of harm affecting the child's life, physical or
25 mental health or safety. And also, finally a child means

1 a person under the age of eighteen years.

2 Now, there are two possible verdicts concerning each
3 indictment, either guilty or not guilty and your verdict
4 as to each indictment must be unanimous among the twelve
5 of you. When you have reached a verdict as to each
6 indictment you are to notify the Bailiff by knocking at
7 the door and we will receive your verdict. Now, that was
8 a lot that I just told you. I recognize that. Since it
9 is a lot that I just read to you I am going to give you a
10 copy of what I just read to you that you can use in
11 whatever way you want to, Mr. Foreman, during your
12 deliberations. Okay. Now, I am going to come down and
13 just show you the verdict form, it is very simple. This
14 verdict form must be completed by you at the time that you
15 have reached your verdict as to the indictments. This top
16 part just as the identifying information, the State of
17 South Carolina versus Earnest Edward Vaughn and the
18 indictment numbers. And the first section is the
19 trafficking in methamphetamine. The first indictment
20 which charges the Defendant with trafficking in
21 methamphetamine, either initial guilty or not guilty.
22 Okay. And the order of guilty or not guilty is of no
23 significance. One has to go before the other. And you do
24 the very same thing concerning possession of marijuana
25 with intent to distribute. You put the initials on the

1 guilty line or not guilty, depending on your verdict. And
2 then the unlaw conduct towards a child. The same thing,
3 your initials and sign and date. Again, your verdict as
4 to each indictment must be unanimous involving the twelve
5 of you. Now, I am going to send the fourteen of you back
6 in your jury room, do not begin your deliberations. I
7 need to talk to the lawyers to make sure that there are no
8 corrections or changes or amendments to my charge. If
9 there is we will bring you back out and we will do that.
10 If not then two things will happen. One, is that Mr.
11 Willingham will bring to you the exhibits in this case.
12 He will not bring you the drug exhibits. If at any time
13 during your deliberations you want to, any of you want to
14 view, inspect the drugs exhibits just let us know and we
15 will bring you out and let you do that, but the drugs will
16 not go back into the jury room along with the other
17 exhibits. So, when he brings you the other exhibits then
18 two things will happen, I will need my two alternates to
19 exit the jury room, come out here for further instructions
20 and then you can begin your deliberations. So, exhibits,
21 other than the drug exhibits, the verdict form and a copy
22 of my charge will come back to you. Don't start your
23 deliberations yet and if the fourteen of you will go back
24 to the jury room.

25 (Whereupon, the jury was excused from open court.)

1 THE COURT: Does the State have any exceptions of
2 objections?

3 MR. BLACK: Your Honor, I was just looking at the
4 trafficking methamphetamine section on page 15 of your
5 instructions. And I was comparing that to the statute
6 which I actually pulled from the website that identifies
7 the code sections, I believe that is on SC Courts. Your
8 Honor, half way down there are a lot of or's that are
9 shown in the statute. And in your jury instructions, I
10 believe there is a couple of or's that are specifically
11 shown. In the statute though, right before where it talks
12 about who is knowingly in actual or constructive
13 possession, there is an or there. In your jury
14 instructions there is just a comma, I hate to fight over
15 prepositions. But I would ask for that or to be placed
16 into your jury instruction like it is.

17 THE COURT: Right after State?

18 MR. BLACK: Yes sir, between State and was knowingly
19 in actual or constructive possession.

20 THE COURT: Okay. I can do that.

21 MS. MERRILL: Can you tell me where, I am sorry.

22 THE COURT: It is fifth line, this State, or was
23 knowingly in actual or constructive possession.

24 MR. BLACK: Yes sir, and that is what the website
25 identifies.

1 THE COURT: That's fine. Is that the only thing,
2 Solicitor?

3 MR. BLACK: Yes, sir.

4 THE COURT: Ms. Merrill, any objections or exceptions
5 other than the hesitate to act, reasonable doubt request?

6 MS. MERRILL: No sir, if you will give me just a
7 second to do my due diligence and check the statute. But
8 otherwise, no sir.

9 THE COURT: What I am inclined to do, instead of
10 rereading this statute, bring the jury out and just point
11 out that I have actually inserted the word or, in that
12 particular place. Is that satisfactory, Solicitor?

13 MR. BLACK: Yes sir, Your Honor.

14 THE COURT: Let's go ahead, while they are out, if
15 the lawyers will get with the Court Reporter concerning
16 exhibits. We are off the record.

17 (Whereupon, a short break was taken while the
18 Attorneys and the Court Reporter go over exhibits.)

19 THE COURT: Let's bring the jury out. I will point
20 out that I pinned in the word, or.

21 MS. MERRILL: Your Honor, can I put one thing on the
22 record about that before you bring them out. I have
23 looked at the statute and I am fine with adding the or,
24 because that goes into compliance with the statute. I
25 would just ask that you include it in the written charge

1 and not point it out to them.

2 THE COURT: You don't want me to point it out to
3 them?

4 MS. MERRILL: Yes sir, I think it would be more
5 appropriate to put the or in the written one.

6 THE COURT: Which I have done.

7 MS. MERRILL: As opposed to and then not point it
8 out.

9 THE COURT: Do you have any problems with that?

10 MR. BLACK: Are you planning on reading it again?

11 THE COURT: No, not even telling them. Giving it
12 back to them.

13 MR. BLACK: That is fine, Judge.

14 THE COURT: Let's bring the jury out, please.

15 (Whereupon, the jury came into open court at
16 approximately 4:23 p.m.)

17 THE COURT: Ladies and gentlemen, just to point out
18 once again, the drug exhibits, syringes, all of that is
19 going to stay out here. But if at any time, at the
20 beginning, middle, end or not at all, if anybody wants to
21 see this just let us know and we will bring everybody back
22 out to do that. Okay. You now are free to begin your
23 deliberations. I know that some of you want to take a
24 smoke break, so wait for the smokers to come back before
25 any discussion is had because deliberations has to be with

1 all twelve. Two alternates, stay with me.

2 (Whereupon, deliberations started at approximately
3 4:33 p.m.)

4 (Whereupon, the two alternates were excused from the
5 trial of the case.)

6 (Whereupon, the jury came into open court at
7 approximately 4:57 p.m.)

8 THE COURT: Let the record reflect the jury is back
9 out. Mr. Foreman, I have a, I take it is two questions
10 from the jury. First and I am just going to read it. Can
11 we see the code of laws or the code of law on the
12 marijuana with intent to distribute. The charge that the
13 Court gave you verbally and the written charge contains
14 all the necessary law applicable to this case. Okay.

15 And the second, weight of the marijuana. You are to
16 consider the evidence that was presented to you by way of
17 testimony and by way of the exhibits that have been placed
18 into evidence in this case. With that said if you will go
19 back to the jury room and continue with your
20 deliberations. Thank you very much.

21 (Whereupon, the jury continued deliberations at
22 approximately 4:59 p.m.)

23 (Whereupon, Court's Exhibit 6 was marked for
24 identification only.)

25 (Whereupon, the Court and the Granddaughter from

1 November 1st had a conversation.)

2 THE COURT: Haley, come on up here. Come up here.
3 Now, I am going to release you, okay. But I hope that you
4 have understood the seriousness of what you have done.

5 MS. DIEVOLT: I didn't know.

6 THE COURT: I don't know if anything is going to
7 happen as a result of this. Law enforcement may
8 investigate it, I am not going to be further involved with
9 it. But what you did was extremely serious.

10 MS. DIEVOLT: I am done with my mom, my mom got you
11 upset and I am sorry.

12 THE COURT: No, no, no. That wasn't, no, what got me
13 upset was the fact that I learned that you approached a
14 juror and was trying to talk with a juror. That is what
15 got me upset.

16 MS. DIEVOLT: I didn't know, I really didn't know.

17 THE COURT: All right. So you are free to go.

18 MS. DIEVOLT: Thank you.

19 (Whereupon, a break was taken until the jury has a
20 verdict.)

21 THE COURT: Okay, I understand we have a verdict.
22 Anything we need to put on the record before we receive
23 the verdict.

24 MS. MERRILL: Judge, if I can use my last token for,
25 put one more thing on the record.

1 THE COURT: Okay.

2 MS. MERRILL: I just want to have my client talk
3 about the offers that he had. Mr. Vaughn, when I first
4 met with you I conveyed to you the offer that the State
5 had made on the case which was 15 years. Is that correct?

6 MR. VAUGHN: That's right.

7 MS. MERRILL: And in fact I had in writing and an
8 email and I showed it to you in writing, is that right?

9 MR. VAUGHN: Yes.

10 MS. MERRILL: And then last week the Solicitor's
11 office held that offer open until we got the confidential
12 informant information. Right?

13 MR. VAUGHN: Yes.

14 MS. MERRILL: And you and I met on one day and then I
15 got some additional information and we met on another day
16 and I specifically waited to get that information so that
17 you could continue to consider the 15 year offer. Is that
18 right?

19 MR. VAUGHN: Yes.

20 MS. MERRILL: And you did not want to take that
21 offer. Is that right?

22 MR. VAUGHN: Yes, ma'am.

23 MS. MERRILL: Okay, thank you, Judge.

24 THE COURT: And just let the record reflect that Mr.
25 Vaughn is still under oath because he was placed under

1 oath earlier in the day when I advised him of his rights
2 concerning testimony. Okay. Let's bring the jury in.

3 (Whereupon, the jury came into open court with the
4 verdict at approximately 5:30 p.m.)

5 THE COURT: Let the record reflect that the jury is
6 back in with us. Mr. Vaughn, if you would please stand,
7 sir. Mr. Foreman, it is my understanding that you have
8 reached a verdict on all three indictments. Is that
9 correct?

10 MR. FOREMAN: Yes sir, we have.

11 THE COURT: And without telling me what the verdicts
12 are, are the verdict unanimous, were they and are they now
13 unanimous among all twelve of you?

14 MR. FOREMAN: Yes, they are.

15 THE COURT: As to each indictment?

16 MR. FOREMAN: Yes, sir.

17 THE COURT: Would you hand the verdict form to Mr.
18 Willingham, please.

19 (Whereupon, the Foreman handed the verdict form to
20 the Bailiff.)

21 THE COURT: All right, Madam Clerk, would you publish
22 the verdict, please.

23 CLERK OF COURT: State of South Carolina, the County
24 of Greenwood in the Court of General Sessions, Eighth
25 Judicial Circuit. The State of South Carolina versus

1 Earnest Edward Vaughn, indictment 2016-GS-24-539,
2 2016-GS-24-540, 2016-GS-24-541.

3 As to indictment number 2016-GS-24-539 which charges
4 the Defendant with trafficking in methamphetamines,
5 guilty.

6 As to indictment number 2016-GS-24-540 which charges
7 the Defendant with possession of marijuana with intent to
8 distribute. We, the jury, find the Defendant not guilty.

9 As to indictment number 2016-GS-24-541 which charges
10 the Defendant with unlawful conduct towards a child. We,
11 the jury, find the Defendant guilty.

12 Signed Foreman, Gary Jones, November 2nd, 2016.

13 THE COURT: Mr. Foreman and ladies and gentlemen of
14 the jury, if that is your verdict please indicate by
15 raising your right hand.

16 (Whereupon, all jurors raised their hand.)

17 THE COURT: Let the record reflect that all twelve
18 has raised their right hand. Does either side wish
19 individual polling of the jury?

20 MR. BLACK: Not from the State, Judge.

21 MS. MERRILL: Yes, please.

22 THE COURT: Individual polling. Madam Clerk, can you
23 handle that: When your name is called out the Clerk will
24 ask you is that your verdict to all three indictments.
25 Guilty on the trafficking of methamphetamine; not guilty

1 of the possession with intent to distribute; and guilty on
2 the unlawful conduct towards a child. When your name is
3 called out she will ask you that and you will indicate.

4 CLERK OF COURT: Gary Jones.

5 THE COURT: Is that your verdict as to all three
6 indictments?

7 MR. JONES: Yes, sir.

8 THE COURT: Okay.

9 CLERK OF COURT: Andrew Todd.

10 MR. TODD: Yes.

11 CLERK OF COURT: Ashley Walker.

12 MS. WALKER: Yes.

13 CLERK OF COURT: Roderickcas Tucker.

14 MR. TUCKER: Yes.

15 CLERK OF COURT: Shumichael Aiken.

16 MS. AIKEN: Yes.

17 CLERK OF COURT: Patrick Dorn.

18 MR. DORN: Yes.

19 CLERK OF COURT: Joyce Matthews.

20 MS. MATTHEWS: Yes.

21 CLERK OF COURT: Jean Carter.

22 MS. CARTER: Yes.

23 CLERK OF COURT: Bernard Towns.

24 MR. TOWNS: Yes.

25 CLERK OF COURT: Cheryl Goode.

1 MS. GOODE: Yes.

2 CLERK OF COURT: Shat Yana Bridges.

3 MS. BRIDGES: Yes.

4 CLERK OF COURT: Tina Rapley.

5 MS. RAPLEY: Yes.

6 THE COURT: Ladies and gentlemen, let me thank you
7 for your jury service. The verdict that you reached in
8 this case concerning the charges really does not mean
9 anything to me, I don't really care what your verdict is.
10 What I do care about is that you performed your duty
11 serving on this jury fairly, conscientiously and you have
12 done that. I told you on Tuesday, I think it was, that I
13 don't permit jurors to take notes therefore you would have
14 to be very attentive throughout this whole process. And
15 you have been. One thing is that a Judge does, is that
16 the Judge keeps his eyes or her eyes on the jury during
17 the course of the trial. So I do that. And every time I
18 looked at you you were paying attention, you were
19 listening to what was going on in this proceeding and that
20 is what you are required to do. So, I thank you for your
21 service. Serving on a jury is not an easy task and I
22 think all of you can now appreciate that, that it is a
23 very difficult task. But it is a very important one. And
24 I also told you it is a very high civic responsibility
25 that we all have. So, I hope you have found this to be a

1 good experience in the sense of learning something, being
2 educational, maybe you met some or made some good friends.
3 And that maybe down the road sometime, if you have an
4 opportunity either in the criminal arena or in the civil
5 arena that you will have an opportunity to sit on a jury
6 again. We are, we have no further jury work this week so
7 you are excused for the remainder of the week. You will
8 be mailed a check probably next week sometime for your
9 jury service. As I told my two alternates, don't make big
10 plans with that check. If you do then you may be
11 disappointed. But I like to shake the hands of my jury,
12 so if you need to go in and get your things. Mr. Foreman,
13 you need to stay for just a second because you need to
14 sign the back of the indictment. Everybody else is free
15 to go.

16 (Whereupon, the jury was excused at approximately
17 5:36 p.m.)

18 THE COURT: Okay, this is the sentencing phase in the
19 case of State of South Carolina versus Earnest Edward
20 Vaughn, Sr. Mr. Vaughn having been found guilty of two of
21 the three charges. Guilty on trafficking of
22 methamphetamine, 10 grams to 28 grams; apparently this
23 would be a third or subsequent offense.

24 MR. BLACK: Yes, sir.

25 THE COURT: Is that correct, Solicitor?

1 MR. BLACK: Yes sir, Your Honor.

2 THE COURT: Which carries 25 to 30 years plus a
3 \$50,000.00 dollar fine or more.

4 And the unlawful neglect of a child, I believe that
5 carries 10 years, is that correct, Solicitor?

6 MR. BLACK: Yes, sir.

7 THE COURT: I will be glad to hear from the State
8 first concerning sentencing. And then, Ms. Merrill, I
9 will be glad to hear anything from your side concerning
10 sentencing.

11 MR. BLACK: Yes sir, Your Honor. I think you have
12 heard the facts so I am not going to touch on the facts at
13 all. But I am going to go into his record just a little
14 bit, Your Honor.

15 THE COURT: Okay.

16 MR. BLACK: May of 1977 is when he was first arrested
17 for arson charge. He plead to a burning not subject to
18 arson where he received a six year sentence and that was
19 suspended to 15 months confinement followed by probation.

20 He has got a public disorderly in 1979; it looks
21 there was an auto breaking and a grand larceny in '79
22 which ultimately plead guilty in 1980; another public
23 disorderly in 1980; he has got several public drunks that
24 are on his record, Judge, during this time period; he has
25 got DUI from 1983; 1983 he has also got a simple

1 possession of marijuana charge; some more public drunks and
2 open containers, Your Honor; he has got a driving under
3 suspension, looks like in 1997; he has got a possession of
4 marijuana and a drug paraphernalia conviction from 2005;
5 he has got a possession of a controlled substance from
6 2012; he has got a possession of meth charge from 2010; it
7 looks like he has got another possession of marijuana
8 charge from 1989; breach of peace charge from 1989; he has
9 got a forgery from 1991; simple possession from 1991;
10 receiving or forgery charge, it looks like 1991; and he
11 had a bunch of failure to appear at that time as well.
12 Driving under suspension, 1994; he was revoked on
13 probation in 1995; 1997 he was actually tried and
14 convicted, I believe it was in Anderson County on a
15 possession with intent to distribute marijuana, or
16 methamphetamine. Judge, that charge ultimately got
17 overtured on a PCR so there was no conviction for that.
18 He has got several other possession of marijuanas from the
19 1980's, mid 80's. Stealing from houses in 1988; he has
20 got a criminal domestic violence charge from 1989. Judge,
21 I have also made a Court exhibit of a document that Ms.
22 Holston has made a Court exhibit. And I can count that up
23 for Your Honor. These are just his prior drug
24 convictions. 1/28/2008 he plead guilty in Greenwood
25 County on a possession of meth charge and I have got

1 certified copies of the sentencing sheets. He has got a
2 possession of a controlled substance, schedule one through
3 five. This is from Pickens County and it appears this
4 occurred, the sentence date was February the 28th of 2012.
5 And there is a possession of meth charge which he pled to
6 at the same time, this was a second offense where I
7 believe he did 90 days on this charge, also from February
8 28th, 2012.

9 THE COURT: Ms. Merrill, would you stipulate that the
10 documents that has been marked as Court's exhibit 7 would
11 in fact cause this conviction to be a third or subsequent.

12 MS. MERRILL: Yes sir, Mr. Vaughn and I have
13 discussed that.

14 THE COURT: Has the sentencing range of 25 to 30
15 years, 25 minimum, mandatory 30 years max plus on
16 \$50,000.00 dollars or more fine.

17 MS. MERRILL: Yes, sir.

18 (Whereupon, Court's Exhibit 7 was marked for
19 identification only.)

20 THE COURT: Anything further from the State?

21 MR. BLACK: No sir, Your Honor.

22 THE COURT: Ms. Merrill, I will be glad to hear from
23 you and Mr. Vaughn. If you want to say anything to the
24 Court I will be glad to hear from you at the appropriate
25 time.

1 MS. MERRILL: Thank you, Your Honor, I just ask that
2 you consider his age and health in sentencing. I
3 understand you have no discretion as far as the 25 minimum
4 on the third offense. If you will consider running the
5 other charge concurrent.

6 THE COURT: All right, Mr. Vaughn, anything you would
7 like to say.

8 MR. VAUGHN: No, sir.

9 THE COURT: Everybody be at ease for just a moment.
10 How many days in jail, I know he has been in jail during
11 this trial because I revoked bond. Do you know, Ms.
12 Merrill.

13 MS. MERRILL: I am sorry, Judge, I should have
14 figured that out but I really forgot about it.

15 THE COURT: You want to take a few moments, it will
16 take me a couple of minutes to fill out the sentencing
17 sheets.

18 MS. MERRILL: Yes, sir.

19 (Whereupon, a short break was taken.)

20 THE COURT: Ms. Merrill, you have a credit day
21 amount?

22 MS. MERRILL: Yes sir, I calculate it at 71 days.

23 THE COURT: 71 days.

24 MS. MERRILL: Yes, sir.

25 THE COURT: Okay. Mr. Vaughn, on indictment

1 16-GS-24-539, the sentence of the Court is you to be
2 committed to the State Department of Corrections for a
3 period of 30 years plus pay a fine of \$50,000.00 dollars
4 plus cost and assessments.

5 On indictment 541, sentence of the Court is you be
6 committed to the State Department of Corrections for a
7 period of 10 years plus cost and assessments. Those
8 sentences to run consecutive. Good luck to you, sir.
9 This matter is adjourned.

10 MS. MERRILL: Your Honor, throughout the trial Mr.
11 Vaughn has been falling asleep. It was notified by the
12 Judge on the first day of trial as well as the second day
13 of trial. I looked into, I did research last night into
14 possibly moving for a competency hearing. This morning I
15 spoke with Captain Downing at the jail, I spoke with him
16 in three different times and got reports that his behavior
17 was not the same at jail, that he was not doing that. And
18 that this morning during his breathing treatment with the
19 nurse he was joking and laughing. So I chose not to make
20 any motion about competency. Additionally, my
21 interactions with him throughout this trial, when he
22 disagreed with something he was quite vocal about it and I
23 felt like he was certainly assisting throughout the trial.

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
25

WITNESSES

E W Brooks
Greenwood County Sheriff

WARRANT NUMBER

2016A2410200125

True Bill

H. C. ...

Foreman of the Grand Jury

Date: *5-6-16*

VERDICT

Guilty

Foreman

11/2/16

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

May Term, 2016

Indictment # 16GS24- *0539*

THE STATE

vs.

Earnest Edward Vaughn Sr.

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE
§ 44-53-0375

CDR: 0451

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S.C.

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF GREENWOOD

TRAFFICKING IN METHAMPHETAMINE
§ 44-53-0375

At a Court of General Sessions, convened on the 6th day of May, 2016, the Grand Jurors of Greenwood County present upon their oath:

That Earnest Edward Vaughn Sr., on or about January 27, 2016, in Greenwood County, willfully, unlawfully, and knowingly traffic in methamphetamine, in that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of 10 grams or more, but less than 28 grams of methamphetamine, in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Assistant Solicitor

WITNESSES

E W Brooks
Greenwood County Sheriff

WARRANT NUMBER

2016A2410200132

Travis Bill
Scott
Foreman of the Grand Jury
Date: 5-6-16

VERDICT

Guilty
11/2/16
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

May Term, 2016

Indictment # 16GS24- 0541

THE STATE

vs.

Earnest Edward Vaughn Sr.

INDICTMENT FOR

UNLAWFUL NEGLECT OF CHILD
§ 63-05-0070

CDR: 2481

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S. C.

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

UNLAWFUL NEGLECT OF CHILD

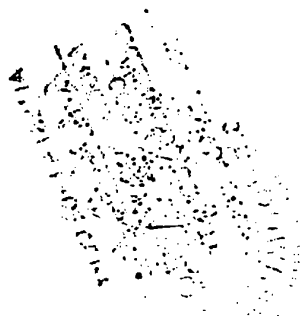
§ 63-05-0070

At a Court of General Sessions, convened on the 6th day of May, 2016, the Grand Jurors of Greenwood County present upon their oath:

That Earnest Edward Vaughn Sr., on or about January 27, 2016, in Greenwood County, willfully and unlawfully while being a person who had charge or custody of a child, or who was the parent or guardian of a child, or who was responsible for the care and support of a child, one [REDACTED] five (5) years of age, did place the said child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; or caused to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child was endangered or was likely to be endangered; or willfully abandoned the said child, in violation of the provisions of Section 63-5-70 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

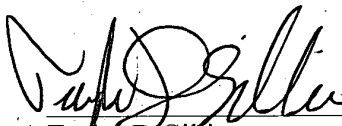


Assistant Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 6th day of December, 2017.

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1 ask you that I will instruct, do not respond in front of
2 everybody but speak with me privately, if you need to
3 respond to that question. Is there any member of the jury
4 panel related by blood or marriage, either now or formerly
5 to either Earnest Edward Vaughn, Sr., or Victim [REDACTED] If
6 so please stand.

7 (No response.)

8 THE COURT: Any member of the jury panel have or had
9 in the past a close, personal or social relationship with
10 either Earnest Edward Vaughn, Sr., or Victim [REDACTED] If so
11 please stand.

12 (No response.)

13 THE COURT: I am going to publish a list of possible
14 or potential witnesses in this case. It doesn't mean that
15 they will definitely testify but they might and I may
16 duplicate the names, if I do there is no significance to
17 that whatsoever. The following possible witnesses are,
18 Debbie Tucker, Whit Brooks, Bryan Louis, Jarvis Reeder,
19 Lynn Black, Josh Hood, Ricky Madden, Greg Allison, Chad
20 Cox, Wes Love, Doris Yarbrough, Jackie Davis, Gail Heath,
21 Aaron Taylor, Brandy Wilson, Danny Rogers, Teresa Rogers,
22 Stacey Vaughn, Earnest Vaughn, Jr., Joe Craig, Ricky
23 Gunnells, Victoria Davenport, Bryan Louis, Eric Attaway.
24 Any member of the jury panel related by blood or marriage
25 either now or formerly to any of those individuals I have

1 just listed or any member of the jury have or had in the
2 past a close, personal or social relationship with any of
3 those people I have just listed. If so please stand.
4 Yes.

5 JUROR: Andrea Coley, juror number 39. Bryan Louis
6 is a next-door neighbor.

7 THE COURT: You have a Bryan Louis who is a next-door
8 neighbor?

9 JUROR: Correct, he is a police officer.

10 THE COURT: That would be the same Bryan Louis. The
11 fact that a possible witness, Bryan Louis, is a next-door
12 neighbor of yours, would you still be able to be fair and
13 impartial to both the State and the Defendant in this
14 case?

15 JUROR: Yes, sir.

16 THE COURT: Okay. Thank you. Yes ma'am, your name
17 and number.

18 JUROR: Annette Whitley, 168.

19 THE COURT: Okay.

20 JUROR: Aaron Taylor and Bryan Louis.

21 THE COURT: You know Aaron Taylor.

22 JUROR: I do.

23 THE COURT: You have, are you related to Aaron Taylor
24 or have or had in the past a close personal or social
25 relationship with him.

1 JUROR: Social relationship.

2 THE COURT: Okay. The fact that you have a social
3 relationship with Aaron Taylor, can you still be fair and
4 impartial to both sides?

5 JUROR: Yes.

6 THE COURT: Now, you mentioned another witness.

7 JUROR: Bryan Louis.

8 THE COURT: Bryan Louis who is in law enforcement as
9 I understand. The fact that you have a social
10 relationship with Bryan Louis, can you still be fair and
11 impartial to both sides in this case?

12 JUROR: Yes.

13 THE COURT: Okay. Thank you. Yes ma'am, your name
14 and number.

15 JUROR: 137, Elaine Sproch, Greg Allison. I used to
16 work with him.

17 THE COURT: How long ago was that roughly.

18 JUROR: In 2005 or later than that. It has been a
19 while, I see him every one in a while.

20 THE COURT: And that is Greg Allison?

21 JUROR: Yes.

22 THE COURT: The fact that you used to work with Greg
23 Allison, ten plus years ago, and the fact that you see him
24 occasionally, can you still be fair and impartial to both
25 sides?

1 JUROR: Yes, sir.

2 THE COURT: Have a seat. Yes sir, your name and
3 number.

4 JUROR: 34, Donald Ciosek. Is there just a one
5 Taylor on the list?

6 THE COURT: Let me look, there is a Aaron Taylor and
7 that is the only Taylor.

8 JUROR: Aaron?

9 THE COURT: Aaron, A-A-R-O-N who happens to be an
10 attorney in this city.

11 JUROR: I am sorry.

12 THE COURT: Thank you, sir. I am going to give the
13 attorneys involved in this case a chance to introduce
14 themselves and I know these attorneys very well and I can
15 tell you that they are excellent attorneys. And,
16 Solicitor, you want to begin first.

17 MR. BLACK: My name is Micah Black, I am a prosecutor
18 here, primarily in Greenwood and Abbeville Counties. This
19 is Elizabeth White, she is also a prosecutor, she will be
20 assisting me in this case. Thank you for being here.

21 THE COURT: Ms. Merrill.

22 MS. MERRILL: I am Jane Merrill, I practice law here
23 in Greenwood. I have an office over on Main Street.

24 THE COURT: Any member of the jury panel ever been
25 represented by any of the attorneys involved in this case

1 or anyone in there respective offices or law firms, if so
2 please stand.

3 (No response.)

4 THE COURT: Any member of the jury panel related by
5 blood or marriage, either now or formerly or have or had
6 in the past a close, personal or social relationship with
7 any of the attorneys involved in this case or anyone in
8 their respective offices or law firms. If so please
9 stand.

10 (No response.)

11 THE COURT: Any member of the jury panel formed or
12 expressed any opinion about any issue or matter involved
13 in this case. If so please stand.

14 (No response.)

15 THE COURT: Any member of the jury panel aware of any
16 biased or prejudiced towards either the State of South
17 Carolina or the Defendant, Mr. Vaughn, in this case.

18 (No response.)

19 THE COURT: Any member of the jury panel who is a
20 member of or a contributor to any group which has as its
21 primary concern the promotion of law enforcement or
22 victims rights and these groups would include but
23 certainly not limited to and I will give you the acronyms,
24 MADD, SADD or CAVE or any member of the jury panel a
25 contributor to or a member of the National Rifle

1 Association commonly known as the NRA. If any of that
2 applies to you please stand.

3 (No response.)

4 THE COURT: Any member of the jury panel knows anyone
5 who currently works in the Eighth Circuit Solicitor's
6 Office or any law enforcement agency in Greenwood County,
7 other than those few individuals who stood and indicated
8 that they know Bryan Louis. Other than those, you don't
9 need to stand again. Anybody know anyone who works in the
10 Solicitor's Office for the Eighth Circuit or anybody who
11 works in law enforcement in Greenwood County. Yes sir,
12 your name, number.

13 JUROR: Joshua Holladay, 75. I know some guys in
14 Ninety-Six Police Department.

15 THE COURT: Would that prevent you from being fair
16 and impartial to both sides?

17 JUROR: No.

18 THE COURT: Thank you, sir.

19 Okay, we know that you know a lot of law enforcement
20 because of working in the Greenwood City Police
21 Department, correct.

22 JUROR: Yes.

23 THE COURT: Okay. You believe, would your occupation
24 prevent you from being fair and impartial to both sides?

25 JUROR: No, sir.

1 THE COURT: You stay with us, okay. Her number is
2 147, Gwendolyn Thomas.

3 Any member of the jury panel who has ever campaigned
4 for or contributed to any candidate for sheriff or
5 Solicitor David Stumbo. Campaigned for or contributed to
6 anybody who has run for the office of sheriff for
7 Greenwood County or Solicitor David Stumbo.

8 (No response.)

9 THE COURT: Any member of the jury panel or any of
10 your close family members or relatives or close friends
11 ever been a civilian or military law enforcement officer.
12 If so please stand.

13 (No response.)

14 THE COURT: The next five questions, if you need to
15 respond do not stand up, just keep a good mental note of
16 the question and your response and I will speak with you
17 privately. Question one, any member of the jury panel,
18 any close family member or relative or close family friend
19 ever been a victim of a crime. Question one.

20 Question two, as you already know because I have
21 published the indictments. This case involves allegations
22 about drugs. Any member of the jury panel feel that the
23 subject matter is such that you would not be able to be
24 fair and impartial to both sides in this case. That is
25 question two.

1 Question three, any member of the jury panel suspect
2 that the Defendant, Mr. Vaughn, is guilty just because he
3 has been accused of a crime or crimes. That is question
4 three.

5 Question four, every United States citizen has the
6 right not to testify in his or her own trial. Any member
7 of the jury panel, anyone feel that you would need to hear
8 from the Defendant in order to make a decision in this
9 case. That is question four.

10 And the fifth question, any member of the jury panel
11 feel that the Defendant would be hiding something if he
12 chose not to testify in his own defense. Question five.

13 And the last question before I speak with anybody
14 privately, any member of the jury panel know of any reason
15 whatsoever why he or she should not serve as a juror in
16 this case with particular emphasis being placed on your
17 ability to be fair and to be impartial to both the State
18 and the Defendant. And, ladies and gentlemen, that is the
19 key. We want jurors who are completely and absolutely
20 fair and impartial to both sides in this case. That is
21 the primary qualification among many qualifications but
22 the primary qualification to sit on a trial jury where you
23 can be completely fair, completely impartial for both
24 sides. But you feel like there is something that would
25 cause you to be unable to be fair and impartial then I

1 would need to speak with you privately as well. So, at
2 this point form a line, whoever needs to speak with me and
3 I will be glad to talk to you. Got one. What is your
4 name.

5 JUROR: I have a hardware store and there are a lot
6 of issues with methamphetamine, individuals in this
7 community trade in my store and I would not want to be,
8 figure out that I sold to any of them. I cannot say for
9 sure.

10 THE COURT: Okay. Thank you. Yes, Ma'am.

11 JUROR: Number 27, Dugarri Caldwell. I just last
12 week was appointed to be a Guardian Ad Litem.

13 THE COURT: Have you met with him.

14 JUROR: Not met with him but my office has been in
15 touch with him which is probably why I didn't stand, we
16 haven't met.

17 THE COURT: Okay.

18 JUROR: I wanted to let y'all know that, his name
19 sounded familiar so just wanted to let you know.

20 THE COURT: The fact that you have let them know and
21 then they can deal with it accordingly. Thank you.

22 Does the State have any objections to the Court's
23 voir dire or any additional voir dire to be asked of the
24 panel?

25 MR. BLACK: No sir, Your Honor.

1 THE COURT: The Defense?

2 MS. MERRILL: No, sir.

3 THE COURT: Thank you. All right, ladies and
4 gentlemen, what will happen next, if your name is called,
5 bring with you any personal belongings that you have. You
6 will come down to the front and you will face the
7 attorneys tables. And then they will decide whether or
8 not to select you as a member of the jury or not select
9 you. They will use words like seat the juror or we accept
10 the juror or swear the juror, or excuse the juror, words
11 to that effect. If you are not selected, if your name is
12 called out and you come down to the front and one decides,
13 does not accept that, don't take that personally. The
14 lawyers have certain reasons and basis for selecting
15 people to sit on a jury. It is nothing personal against
16 you, it is no indication that you couldn't do a good job,
17 I am sure all of you could do a good job. They have their
18 certain reasons for selecting certain individuals and not
19 selecting other individuals. We have got five and five
20 and let's go with two alternates.

21 Before we start jury selection, Ms. Merrill, you
22 want a chance to take a look at that?

23 MS. MERRILL: Yes, sir.

24 THE COURT: Everybody be at ease.

25 (Whereupon, a short break was taken while Ms. Merrill

1 looked at the jury sheet.)

2 MS. MERRILL: Thank you, Judge.

3 THE COURT: Madam Clerk, you may proceed.

4 CLERK OF COURT: 85, Gary Jones. What says the
5 State.

6 MR. BLACK: Please present the juror.

7 CLERK OF COURT: What says the Defense.

8 MS. MERRILL: Please seat the juror.

9 CLERK OF COURT: 173, Phillip Willingham. What says
10 the State.

11 MR. BLACK: Please seat Mr. Willingham.

12 CLERK OF COURT: What says the Defense.

13 MS. MERRILL: Please excuse this juror.

14 CLERK OF COURT: Number 152, Andrew C. Todd. What
15 says the State?

16 MR. BLACK: Please present Mr. Todd.

17 CLERK OF COURT: What says the Defense?

18 MS. MERRILL: Please seat Mr. Todd.

19 CLERK OF COURT: Number 161, Ashley G. Walker. What
20 says the State?

21 MR. BLACK: Please seat Ms. Walker.

22 CLERK OF COURT: What says the Defense?

23 MS. MERRILL: Please seat the juror.

24 CLERK OF COURT: Number 115, Ronald Pardue. What
25 says the State?

1 MR. BLACK: Please excuse Mr. Pardue.

2 CLERK OF COURT: Number 15, Roderickas Tucker. What
3 says the State?

4 MR. BLACK: Please present Mr. Tucker.

5 CLERK OF COURT: What says the Defense?

6 MS. MERRILL: Please seat Mr. Tucker.

7 CLERK OF COURT: 155, Cassidy Travis. What says the
8 State?

9 MR. BLACK: Please excuse Ms. Travis.

10 CLERK OF COURT: 5, Shumichael Aiken. What says the
11 State?

12 MR. BLACK: Please present Ms. Aiken.

13 CLERK OF COURT: What says the Defense?

14 MS. MERRILL: Please seat Ms. Aiken.

15 CLERK OF COURT: 27, Dugarri Caldwell. What says the
16 State?

17 MR. BLACK: Please excuse Mr. Caldwell.

18 CLERK OF COURT: 49, Patrick Dorn. What says the
19 State?

20 MR. BLACK: Please present Mr. Dorn.

21 CLERK OF COURT: What says the Defense?

22 MS. MERRILL: Please seat Mr. Dorn.

23 CLERK OF COURT: 102, Joyce Matthews. What says the
24 State?

25 MR. BLACK: Please present Ms. Matthews.

1 CLERK OF COURT: The Defense?

2 MS. MERRILL: Please seat Ms. Matthews.

3 CLERK OF COURT: 168, Annette Whitley. What says the
4 State?

5 MR. BLACK: Please present Ms. Whitley.

6 CLERK OF COURT: The Defense?

7 MS. MERRILL: Please excuse Ms. Whitley.

8 CLERK OF COURT: 18, Cheryl Blackwell. What says the
9 State?

10 MR. BLACK: Please present Ms. Blackwell.

11 CLERK OF COURT: What says the Defense?

12 MS. MERRILL: Please excuse Ms. Blackwell.

13 CLERK OF COURT: 95, Jennifer Ebert. What says the
14 State?

15 MR. BLACK: Please present Ms. Ebert.

16 CLERK OF COURT: What says the Defense?

17 MS. MERRILL: Please excuse Ms. Ebert.

18 CLERK OF COURT: 29, Jean Carter. What says the
19 State?

20 MR. BLACK: Please present Ms. Carter.

21 CLERK OF COURT: What says the Defense?

22 MS. MERRILL: Please seat the juror.

23 CLERK OF COURT: 134, Kyle Sitarz. What says the
24 State?

25 MR. BLACK: Please excuse the juror.

1 CLERK OF COURT: 154, Bernard Towns. What says the
2 State?

3 MR. BLACK: Please present the juror.

4 CLERK OF COURT: What says the Defense?

5 MS. MERRILL: Please seat the juror.

6 CLERK OF COURT: 61, Cheryl Goode. What says the
7 State?

8 MR. BLACK: Please present Ms. Goode.

9 CLERK OF COURT: What says the Defense?

10 MS. MERRILL: Please seat Ms. Goode.

11 CLERK OF COURT: 24, Shat Yana Bridges. What says
12 the State?

13 MR. BLACK: Please present the juror.

14 CLERK OF COURT: What says the Defense?

15 MS. MERRILL: Please seat Ms. Bridges.

16 CLERK OF COURT: 124, Tina Rapley. What says the
17 State?

18 MR. BLACK: Please present Ms. Rapley.

19 CLERK OF COURT: What says the Defense?

20 MS. MERRILL: Please seat Ms. Rapley.

21 THE COURT: Two alternates.

22 CLERK OF COURT: 170, Susan Wienshienk. What says
23 the State?

24 MR. BLACK: Please present the juror.

25 CLERK OF COURT: What says the Defense?

1 MS. MERRILL: Please seat the juror.

2 CLERK OF COURT: 137, Elaine Sproch. What says the
3 State?

4 MR. BLACK: Please present Ms. Sproch.

5 CLERK OF COURT: What says the Defense?

6 MS. MERRILL: Please excuse this juror.

7 CLERK OF COURT: 158, Louise Tumblin. What says the
8 State?

9 MR. BLACK: Please present Ms. Tumblin.

10 CLERK OF COURT: The Defense.

11 MS. MERRILL: Please seat the juror.

12 THE COURT: We have a jury of twelve selected and two
13 alternates. Ladies and gentlemen, what I am going to ask
14 you to do is go back to the jury room which is right here,
15 that will give you an opportunity to get to know each
16 other for just a few moments. We will get you back out
17 with instructions on when we are going to start the trial
18 of this case. I am going to tell you something that you
19 will hear me tell you throughout this whole procedure. Do
20 not begin any discussion among yourselves about anything
21 related to this case. You know very little, I understand
22 that. But anything you have seen, anything I have told
23 you, don't begin any discussions. Those discussions
24 cannot start until I tell you to start your deliberations
25 at the end of the case. Once all of the evidence is in,

1 the lawyers have made their closing arguments and I have
2 instructed you on the law applicable to this case. So,
3 before I tell you to begin your deliberations you are
4 prohibited from having any discussion among yourselves.
5 That will also apply and I will remind you of this again,
6 when you are excused for a lunch break or at the end of
7 the day, no discussions among anybody that you come into
8 contact with, whether it is family members or friends or
9 whomever. That is so very, very important. So please
10 keep that in mind. Go back to the jury room for just a
11 few moments and we will get you back out shortly.

12 (Whereupon, the jury was excused from open court.)

13 THE COURT: Does the State have any exceptions or
14 objections to jury selection?

15 MR. BLACK: No sir, Your Honor.

16 THE COURT: From the Defense?

17 MS. MERRILL: No, sir.

18 THE COURT: All right, ladies and gentlemen of the
19 remaining jury panel, I assume, at least some of you are
20 disappointed that you were not selected, some of you are
21 probably glad you were not selected. We are not done with
22 you yet, we may very well start a second trial later on in
23 the week. What you will need to do, on the information
24 sheet is a phone number, it is a call in number. After
25 6:00 o'clock this evening call that number and there will

1 be a recording and it will tell you what to do. Chances
2 are it is going to tell you to call in again after 6:00
3 o'clock tomorrow evening but I can't promise that to you.
4 You just follow the instructions on when to be back. If
5 it gives you an instruction on when to come back then you
6 be sure to come back at the time indicated. Okay. You
7 are free to go.

8 (Whereupon, the remaining jury panel was excused from
9 open court.)

10 THE COURT: We have got some pretrial matters. Do
11 you have a rough idea how long that may take.

12 MR. BLACK: Judge, I didn't know if you wanted to
13 watch the video or not, we have cut the video down to
14 about 21, 19, 21 minutes. I am ready to go, I need to
15 check on that, Judge.

16 THE COURT: We will take a break, ten minutes, get a
17 feel for how long that will take. Kind of what I am
18 thinking is go ahead and do pretrial matters, break for
19 lunch and then have them come back at 2:00, 2:30. Let's
20 take a break.

21 (Whereupon, a short break was taken.)

22 THE COURT: Let's bring the jury in.

23 (Whereupon, the jury came into open court at
24 approximately 12:15 p.m.)

25 THE COURT: Ladies and gentlemen, here is the plan.

1 THE COURT: Let's bring the jury out, please.

2 (Whereupon, the jury came into open court at
3 approximately 3:39 p.m.)

4 THE COURT: All right. Let the record reflect the
5 jury is back out. Ladies and gentlemen, first of all,
6 thank you for your patience. We have been working on some
7 legal issues ever since about 1:30 and we've worked all
8 the way up until now. And so I just want you to
9 understand that we haven't been sitting back in the office
10 drinking coffee. We have been working. We've decided
11 that we are going to wait until in the morning to actually
12 start this case. And so we are going to start at 10:00
13 o'clock. In Laurens, I operate in Drug Court, and we have
14 Drug Court every other Tuesday at 8:30, so allow me enough
15 time to do that, to get here. So we'll start a little bit
16 later than we normally would, so 10:00 o'clock. Make sure
17 you're prompt and, again, no discussion with anybody about
18 this case and, also, and I'll explain this more tomorrow,
19 too. It may be tempting to go on the Internet, social
20 media to try to figure out something about this case, and
21 we have a wealth of information readily available to us
22 and you cannot. You're prohibited from doing any
23 independent research of any kind concerning anything
24 related to this case. And the reason for that is your
25 decision has to be based one-hundred percent on what is

1 brought out in this courtroom by way of the facts,
2 evidence, and the law. And so if you start doing some
3 independent research, it may not be correct, number one;
4 And number two, that would be something outside of this
5 courtroom. So you're prohibited from doing any of that
6 whatsoever. So please follow my instructions. So have a
7 good restful evening, and we'll see you back here at 10:00
8 o'clock in the morning. Okay. Thank you.

9 (Whereupon, the jury was excused from open court for
10 the day.)

11 THE COURT: Okay. Mr. Vaughn, in light of the fact
12 that you have tested positive for amphetamines and coupled
13 with your demeanor throughout the whole day, I'm going to
14 revoke your bond. Sheriff, if you'll take Mr. Vaughn into
15 custody. All right. We'll be at recess until 10:00
16 o'clock in the morning.

17 MS. WHITE: Your Honor, he has an ankle monitor, and
18 Captain Reeder was just asking does he need to leave that
19 on?

20 THE COURT: Yes.

21 MR. REEDER: I just wanted to put it on the record.

22 THE COURT: Yeah. Let's just leave it on.

23 (Whereupon, the trial will resume the next day at
24 10:00 a.m.)
25

1 November 1, 2016.

2 THE COURT: Okay. We are on the record to start the
3 trial, the case of State vs. Earnest Edward Vaughn, Sr.
4 Just to kind of recap what took place yesterday. Because
5 of, Mr. Vaughn, your appearance the entire day insofar as
6 at least you appearing to be dozing off, you had your eyes
7 closed repeatedly throughout the day, I felt like it was
8 necessary to have you tested for drugs. You were tested
9 by the probation office, and they determined that you
10 tested positive for amphetamines. Consequently, we did
11 not go forward with the start of the trial yesterday. I
12 also revoked bond and put you into custody. I have
13 noticed just a few minutes that I have been on the bench,
14 Mr. Vaughn that you are displaying that same kind of
15 appearance insofar as closing your eyes, looking like you
16 may be dozing off. I would emphasize and impress with
17 you, sir, how important it is that you be very, very
18 attentive throughout this proceeding to enable you to
19 assist Ms. Merrill in whatever fashion that she feels like
20 she needs. So I would encourage you to be very attentive.
21 And also, if you continue to kind of display that same
22 appearance insofar as appearing to look like you are
23 dozing off, falling asleep, that sort of thing, you run
24 the risk of possibly the jury getting that, having a bad
25 impression. I'm just saying running the risk. I'm not

1 going to say it would happen, but I think you would run
2 the risk. So I just encourage you to be very
3 clear-minded, attentive, and avoid any appearance of that
4 you falling asleep, okay?

5 MR. VAUGHN: It's due to a medical condition, though.

6 THE COURT: Okay. Well, I don't have any medical
7 evidence before me, sir. So I'm not going to give that
8 any consideration. If you had a medical condition that
9 would prevent you from going forward with this trial, then
10 I need it. And you have not provided it to your attorney,
11 nor have you provided it to the Court. So I'm not going
12 to give that any recognition whatsoever, sir. And, again,
13 you testified positive for amphetamines, sir. All right.
14 Is the State and Defense ready for this trial to start?

15 MR. BLACK: Yes, sir, Your Honor.

16 THE COURT: Okay. All right.

17 MS. MERRILL: Your Honor, may I just put one thing on
18 the record. Earlier the Solicitors and I went back in the
19 Grand Jury room and with the evidence technician, Greg
20 Allison, opened up the evidence. The State needed it
21 separated as far as how they were going to present it, but
22 I was there the entire time. I have no concerns that
23 there was any issue with that evidence. I just want to
24 put on the record that I was present for all of that.
25 There were four little bags of marijuana that were not in

1 that box. It is my understanding that the evidence
2 technician was checking with the officer who does that
3 testing to see if it was still in his possession. But I
4 have no concerns that anything was changed from that box
5 being opened today.

6 THE COURT: All right. Very good. Solicitor?

7 MS. WHITE: And, Your Honor, Evidence Technician
8 Allison just came in. He did find those four bags.

9 THE COURT: Okay.

10 MS. WHITE: They were with the officer who tested it,
11 and they were opened such that the jury would have been
12 able to get the marijuana out. So I asked him to put a
13 piece of tape across the top.

14 THE COURT: Sure.

15 MS. WHITE: That would be the only change from how it
16 was in his possession.

17 THE COURT: Okay. All right. Very good. Thank you.
18 All right. Let's bring the jury out, please.

19 (Whereupon, the jury came into open court at
20 approximately 10:21 a.m.)

21 THE COURT: All right. Let the record reflect the
22 jury is back out. Good morning, ladies and gentlemen. I
23 hope you had a good, restful evening and ready to get to
24 work. We are going to start the trial in this case. We
25 have a couple of housekeeping matters that we need to tend

1 to first. The first is that you need to be sworn in as
2 the trial jury. So, Madam Clerk, would you take care of
3 that, please?

4 (WHEREUPON, the jury was sworn at approximately 10:22
5 a.m.)

6 THE COURT: The second matter we need to tend to is I
7 need to appoint a foreperson of the jury. Now, if it is a
8 man, it's a foreman. Makes sense. If it is a female, it
9 is forelady. Now, the foreperson of the jury will wear
10 several different hats. But, first of all, I want to
11 emphasize with you that the vote of the foreperson carries
12 no greater weight than the vote of the remaining members
13 of the jury. All votes are equal. But I need someone to
14 wear several hats. As I said, one, I need someone to
15 serve as the spokesperson between the jury and the Court.
16 If there was a concern that arises while we are going
17 through this trial or even after you begin your
18 deliberations, if there is a question that needs to be
19 posed to the Court, then I need someone to serve as that
20 spokesperson. Secondly, I need, and this is really
21 everybody's responsibility but maybe, primarily, that of
22 the foreperson. I need to make sure that all of my
23 instructions are being followed. For example, I've
24 already instructed you about not discussing anything
25 related to this case among yourselves and other

1 instructions that I have given you or will give you, I
2 need someone to make sure that those instructions are
3 being strictly followed. Thirdly, when I do give you the
4 case to begin your deliberations, I need someone to start
5 the process, organize the process, get the deliberation
6 process going. Now, I am confident that all fourteen of
7 you would make excellent forepersons of the jury, however,
8 I can only have and only need one. So I've decided on Mr.
9 Jones, and you are seated in the correct seat. That seat
10 will be your seat throughout the entire proceeding, okay.
11 Now, the two alternates, you are seated in the correct
12 seats where you are. Everybody else can sit wherever you
13 like. Now, I've already noticed, if I can remember, I
14 think maybe some of you are keeping the same seat. That's
15 fine. That's totally up to you, the jury, if you want to
16 maintain the same seats or switch it up a little bit.
17 It's kind of like sometimes you have the same pew at
18 church and you don't, you know, you sit there and nobody
19 else better sit in that same pew, but that's left entirely
20 up to you. Now, let me explain to you the two alternates.
21 Your role is very important. It's not unusual for one of
22 the members of the twelve to have to be excused for some
23 reason in the middle of the trial, sickness, an emergency
24 at home, that sort of thing. So I need someone that has
25 sat through and has listened to all of the evidence that

1 can just step right into the shoes of that excused juror.
2 So your role is very important. Naturally, if we get to
3 the deliberation stage and there has, I've not excused
4 anybody, of course, the two alternates would not
5 participate in the deliberations, but your role is very
6 important. Okay.

7 What I will do is give you a short preliminary
8 instruction, and then the lawyers will give their opening
9 arguments to you. Before we begin the trial of this case,
10 I want to explain to you certain matters. First of all, I
11 want to tell you that this trial probably will be
12 different from what you might expect. Many people don't
13 have the chance to attend actual court sessions as you are
14 doing right now and may think from watching television, or
15 movies, or reading books that trials are always full of
16 high-drama, intense action and riveting circumstances.
17 While all of these things may be true at times, this trial
18 is not for entertainment. It is a fundamental part of our
19 democracy, a search for the truth, and an effort to make
20 sure that justice is done between the parties before the
21 Court. Searching for the truth and making sure that
22 justice is done is often slow, deliberate, and repetitive,
23 the opposite of what you may have seen on television, or
24 in movies, or read in books. This courtroom, ladies and
25 gentlemen, is a place of honor dedicated to the protection

1 and preservation of citizens rights to what many have
2 called to be, and I mentioned this yesterday to you and
3 I'm confident this is absolutely true, the greatest
4 justice system ever created. We have that in our country.
5 The attorneys appearing before you are advocates for the
6 parties they represent. But, first and foremost, they are
7 officers of the Court sworn to uphold the integrity and
8 fairness of our judicial system and to help you in the
9 search for the truth. You should expect them to be
10 professional, competent, and ethical in the representation
11 of their client's interest, which I'm certain that they
12 will be. You're also expected to be professional,
13 reasonable, and ethical, as well. Let me, once again,
14 thank you for accepting this very important responsibility
15 of jury service and for your contribution today and for
16 whatever other days this week that we will be
17 participating in this trial, your contribution to our
18 justice system. These remarks that I'm giving you now are
19 not a charge on the law in this case. I will instruct you
20 on the law applicable to this case at the end of the trial
21 before you are instructed to begin your deliberations.
22 This is merely just kind of an overview and general
23 explanation of how this trial will be conducted and give
24 you maybe a little better understanding of what you might
25 will expect. First of all, it is extremely important for

1 you to be very attentive, very clear-minded, very
2 open-minded throughout this procedure because you are not
3 permitted to take any notes, okay. So you'll have to
4 listen very carefully to everything that goes on, so then
5 when you do begin your deliberations, then you'll have a
6 good memory of what has been presented in this case. As I
7 told you yesterday, the Defendant, Mr. Vaughn, has been
8 indicted with three criminal offenses and at the
9 conclusion of this case when I instruct you on the law, I
10 will explain these offenses to you very clearly. As I
11 told you yesterday, the indictments in this case are
12 simply the charges by which this case is brought into
13 court, and they aren't in any sense whatsoever evidence of
14 any of the allegations the indictments contain. The
15 Defendant, as I told you yesterday, has exercised his
16 constitutional right and has pled not guilty to these
17 three indictments, these three charges. Therefore, that
18 plea of not guilty has put the burden on the State to
19 prove each and every element of the charges contained in
20 the indictments beyond a reasonable doubt standard, and
21 I'll explain that to you, as well, at the conclusion of
22 the case. And it will be your duty, ladies and gentlemen,
23 to decide whether or not the State has met their burden of
24 proof at the conclusion of the case. Your purpose as
25 jurors is to find and determine the facts. You are the

1 sole judge of the facts in this case. If at any time
2 during the course of this trial I make any comment
3 regarding the facts, you must disregard that comment. You
4 are to determine the facts from the testimony you hear and
5 the other evidence introduced in court. It will be up to
6 you to determine the inferences which you feel may
7 properly be drawn from the evidence. It is especially
8 important that you perform your duty of determining the
9 facts diligently, conscientiously because ordinarily,
10 there is no way to correct an erroneous determination of
11 the facts by a jury. Now, on the other hand, the same law
12 that makes you the sole judge of the facts in this case,
13 makes me the sole Judge of the law. The law is given by
14 the Court as the only law that you can consider. You must
15 accept and follow it even though you might disagree with
16 it. I can't tell you what the facts are, and you can't
17 tell me what the law is or should be. Your job is to take
18 the law as I give it to you at the end of a case and apply
19 it to the facts as you find them from the testimony of the
20 witnesses and any other evidence that is introduced.
21 After doing that, ladies and gentlemen, you will render
22 your verdict, a verdict under the solemn oath that you
23 just took as jurors. And, once again, up until the time I
24 tell you to begin your deliberations, you are prohibited
25 from having any discussion among yourselves about anything

1 related to this case. And as I also instructed you, don't
2 discuss anything related to this case with any family
3 members or anyone you come into contact with during
4 breaks. And, also as I explained to you, you are
5 prohibited from doing any independent research into
6 anything related to this case via the Internet, social
7 media, or the like. Now, there may be times during this
8 trial that one of the lawyers will say, Judge, I have an
9 objection, or Judge, I have a matter of law to take up
10 with the Court. And we will try to resolve that
11 particular issue by what we call a sidebar conference.
12 That's when the lawyers come up to the bench. Sometimes,
13 we can resolve it that way. Sometimes, I'll have to say,
14 ladies and gentlemen, I need for you to go back to the
15 jury room for a period of time so I can discuss this
16 issue, or the objection, or the legal matter with the
17 lawyers and that's done for several reasons. One primary
18 reason is that I may need to discuss the facts with the
19 lawyers to make a ruling on that particular legal issue.
20 And I certainly don't want to discuss the facts in your
21 presence because, again, you, ladies and gentlemen, are
22 the sole judge of the facts in the case. Now, I don't
23 know if there is going to be any media coverage of this
24 case in the newspaper, or on the radio, or of the like,
25 but if there is, you cannot consider that. Do not

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County
Honorable Donald B. Hocker, Circuit Court Judge

ORIGINAL

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DEC 07 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EARNEST EDWARD VAUGHN, SR.,

APPELLANT

APPELLATE CASE NO 2016-002300

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in failing to declare a mistrial based upon the mention of an active arrest warrant in Appellant's name which was unrelated to his trial and improperly influenced the jury to decide the case on prejudice instead of the evidence presented?

STATEMENT OF THE CASE

Appellant was indicted for trafficking methamphetamine, unlawful neglect of a child, and possession with intent to distribute marijuana by a grand jury in Greenwood County during the May 2016 term of court. R. 378 – 381. The State, represented by Elizabeth White and Micah Black, called the case for trial on October 31, 2016 before the Honorable Donald B. Hocker and a jury. R. 1. Jane Merrill represented Appellant. After a three-day trial, the jury found Appellant not guilty on the possession of marijuana with intent to distribute. R. 361, ll. 6 – 8. The jury found Appellant guilty on the trafficking methamphetamine and unlawful neglect of a child. R. 361, ll. 3 – 11.

Judge Hocker sentenced Appellant to thirty years' imprisonment on the trafficking methamphetamine charge and ten years' imprisonment on the unlawful neglect of a child charge. R. 369, ll. 1 – 9. The sentences were imposed to run consecutively. R. 369, ll. 7 – 8.

This brief follows.

ARGUMENT

The trial court erred in failing to declare a mistrial based upon the mention of an active arrest warrant in Appellant's name which was unrelated to his trial and improperly influenced the jury to decide the case on prejudice instead of the evidence presented.

Relevant facts

On January 27, 2016, Greenwood County Sheriff's Agent Whitfield Brooks had informant Debbie Tucker arrange a controlled buy. R. 85 – R. 89. Tucker arranged for the buy to take place at a car wash in Greenwood around 5:30 in the evening. R. 88, l. 19 – R. 89, l. 1. Brooks claimed that the individual who Tucker called, Brandy Wilson, was going to be driving a dark Chevrolet Tahoe. R. 88, ll. 2 – 7. Wilson was Appellant's girlfriend at the time. R. 169, ll. 2 - 8. According to Brooks, the Tahoe arrived at the car wash early. R. 90, ll. 7 – 10. The police pulled the Tahoe over and "cut [Tucker] loose." R. 90, l. 11 – R. 91, l. 8. Tucker never spoke with Appellant. R. 107, ll. 22 – 23.

Appellant was in the Tahoe, along with Brandy Wilson and Appellant's five-year-old grandchild, Minor. R. 91, ll. 9 – 24; R. 334, ll. 8 – 9. Also allegedly located in the Tahoe was a syringe, a spoon with drug residue, and four clear plastic bags containing drug residue. R. 92, l. 20 – R. 93, l. 3. Wilson and Appellant were arrested. R. 95, ll. 2 – 16; R. 125; ll. 3 – 5; R. 132, ll. 12 – 20; R. 174, ll. 11 – 12.

At Appellant's trial, Tucker testified that she set up the buy to purchase a half-ounce of "ice" from Brandy Wilson and Appellant.¹ R. 105, l. 20 – R. 106, l. 24. Tucker never spoke with Appellant. R. 107, ll. 22 – 23.

Following Tucker's testimony, the State called Officer Bryan Louis, a drug agent with the Greenwood County Sheriff's Office. R. 121. On direct examination, Louis was asked whether Ms. Wilson and Appellant were placed into custody following the traffic stop. He answered: "They were. I had an active arrest warrant for [Appellant] **from a previous incident.**" R. 125, ll. 3 – 5. (emphasis added). Counsel for Appellant immediately objected. R. 125, l. 6. The jury was excused, and counsel again objected: "I object to there being any mention whatsoever of an active arrest warrant." R. 125, ll. 21 – 22. Counsel requested a mistrial due to the "highly prejudicial" nature of an arrest warrant from a previous incident being mentioned. R. 126, ll. 14 – 18.

[G]iven the situation, the amount of time that [Appellant] is facing if he is convicted ... his right to have a fair trial is no different than anyone else. ... I think that giving that information to the jury certainly gives them reason to convict him other than the actual evidence and it's improper evidence to come in...

R. 127, ll. 4 – 14.

To support her request for a mistrial, counsel cited State v. Ravencraft, 222 S.C. 139, 71 S.E.2d 798 (1952), a case in which "the trial court did not abuse its discretion ordering a mistrial where the State introduced improper evidence." R. 127, ll. 16 – 21. Counsel also cited Rule 403, SCRE, and correctly asserted that the danger of unfair prejudice or misleading the jury greatly outweighed any probative value. R. 127, ll. 16 – 21.

¹ "Ice" was described by Tucker as methamphetamine. R. 106, ll. 6 – 20.

The trial court denied the motion for a mistrial and offered a brief curative instruction. R. 128, l. 18 – R. 129, l. 5. The curative directive instructed the jury to disregard any testimony regarding an active arrest warrant:

Ladies and gentlemen, the last testimony offered that was objected to by Defense that there was an active arrest warrant. The existence of that should not be considered by you at all. It should not even come up during your deliberations, and it should not even be discussed in the jury room when you begin your deliberations. That is not evidence for you to consider. We are here on three charges and three charges only, and it's those three charges that you are to consider and nothing else.

R. 129, ll. 8 – 19.

Defense counsel objected to the curative instruction. R. 152, ll. 16 – 19. The trial proceeded, and Appellant was found guilty on two out of three charges. R. 361, ll. 3 – 11. He was sentenced to a total of forty years' incarceration. R. 368, l. 25 – R. 369, l. 9.

Discussion

Appellant received a “mere presence” jury charge—namely, that “[m]ere presence at the scene where the drugs were found is not enough to prove possession.” R. 350, ll. 10 – 11. The informant, Tucker, never talked to Appellant. R. 118, ll. 4 – 7. Tucker testified that she hoped her testimony was going to benefit her. R. 117, l. 23 – R. 118, l. 3. Agent Brooks indicated that Tucker was “attempting to cooperate with [him] to work off [potential pending charges.]” R. 98, ll. 20 – 25.

Wilson was charged with the same crimes as Appellant—trafficking methamphetamine possession of marijuana with intent to distribute, and unlawful conduct towards a child. R. 171, ll. 10 – 19. In total, Wilson had eleven charges pending during Appellant's trial, including possession of methamphetamine, burglary in the second degree, two counts of petit larceny, possession of a controlled substance, and various others. R. 210, l. 22 – R. 211, l. 22; R. 215, l. 21 – R. 216, l. 22.

If sentenced to the maximum, Wilson faced forty-eight years' worth of incarceration. R. 218, ll. 10 – 25. She had an offer from the State: plead guilty to three of the eleven pending charges, and the State would dismiss the rest. R. 219, ll. 11 – 14. In exchange, the State would recommend a maximum of five years' incarceration. R. 219, ll. 3 – 10.

“The right to a fair trial by an impartial jury in a criminal prosecution is guaranteed by the Sixth Amendment to the U.S. Constitution and by Article I, § 14, of the S.C. Constitution.” State v. Stewart, 278 S.C. 296, 303, 295 S.E.2d 627, 630-631 (1982). “[T]he very heart of a ‘fair trial’ embodies a disciplined courtroom wherein an accused’s fate is determined solely through the exercise of calm and informed judgment.” Id. at 303, 295 S.E.2d at 631.

Although the decision to grant or deny a mistrial is within the sound discretion of the trial court, the appellate court must reverse the ruling if the decision was an abuse of discretion amounting to an error of law. State v. Dial, 405 S.C. 247, 257, 746 S.E.2d 495, 500 (Ct. App. 2013)(citing State v. Wiley, 387 S.C. 490, 495, 692 S.E.2d 560, 563 (Ct. App. 2010)). While a mistrial should be granted only when “absolutely necessary” and when a defendant can show error and resulting prejudice, a mistrial must be ordered when the incident “is so grievous that the prejudicial effect can be removed in no other way.” Id.

Another way of describing when a mistrial must be granted is when there is “manifest necessity.” State v. Bilton, 156 S.C. 324, 153 S.E. 269 (1930). “The less than lucid test is ... whether the mistrial was dictated by manifest necessity or the ends of public justice, the latter being defined as the public’s interest in a fair trial designated to end in just judgment.” State v. Prince, 279 S.C. 30, 32-33, 301 S.E.2d 471, 472 (1983).

Factors to be considered when a mistrial is requested include: the character of the testimony, the circumstances under which it was offered, the nature of the case, the other testimony in the case,

and “perhaps other matters.” State v. Thompson, 276 S.C. 616, 620, 281 S.E.2d 216, 218, (1981) (citing State v. Singleton, 167 S.C. 543, 166 S.E.2d 725 (1932)).

In State v. Ravencraft, appellant “moved for a mistrial when the state produced testimony to the effect that the appellant had on the same night entered another home in the same community.” 222 S.C. at 142, 71 S.E.2d at 800. Similarly, in Appellant’s case, Officer Louis testified that he had an active arrest warrant for Appellant “from a previous incident” when simply asked whether Appellant was placed into custody. R. 125, ll. 3 – 5. In both instances, the State produced testimony which tended to paint a defendant as a criminal in unrelated manners.

As argued by defense counsel, Louis’ testimony contained no probative value and therefore violated Rule 403, SCORE:

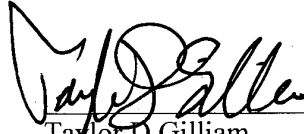
Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

The probative value of an unrelated arrest warrant is substantially outweighed by the dangers of unfair prejudice and misleading the jury. Appellant had been referred to as a “dealer” on multiple occasions prior to Louis’ mention of the arrest warrant. R. 90, ll. 9 – 10; R. 91, ll. 1 – 4. Therefore, the introduction of a prior arrest warrant only served to strengthen the notion that Appellant was a drug dealer.

The trial judge erred in failing to order a mistrial based on the gratuitous mention of an active arrest warrant for an incident unrelated to Appellant’s trial. Furthermore, the dangers of unfair prejudice and misleading the jury substantially outweighed the probative value of the testimony.

CONCLUSION

For the reasons listed above, Appellant respectfully requests this Court reverse his convictions and remand for a new trial.

A handwritten signature in black ink, appearing to read "Taylor D. Gilliam", is written over a horizontal line.

Taylor D Gilliam
Appellate Defender.

ATTORNEY FOR APPELLANT

This 7th day of December, 2017.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 7, 2017



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STATE OF SOUTH CAROLINA
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APPEAL FROM GREENWOOD COUNTY
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Appellate Case No. 2016-002300

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THE STATE,

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v.

ERNEST EDWARD VAUGHN, SR.,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2016-002300

THE STATE,

Respondent,

v.

ERNEST EDWARD VAUGHN, SR.,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge abuse his broad discretion in declining to grant a mistrial after a single mention was made of an active arrest warrant in Appellant's name which was unrelated to the Appellant's current trial, when the reference to the arrest warrant was vague and only mentioned once by a single witness, and was followed by a curative instruction to the jury immediately thereafter, and when overwhelming evidence of the Appellant's guilt was subsequently presented to the jury?

STATEMENT OF THE CASE

In May 2016, the Greenwood County Grand Jury indicted Appellant for one count of trafficking in methamphetamine greater than ten grams but less than twenty-eight grams, one count of possession with intent to distribute marijuana, and one count of unlawful neglect of a child. On October 31, 2016 to November 2, 2016, a jury trial was held in the Greenwood County Court of General Sessions with the Honorable Donald B. Hocker, circuit court judge, presiding. Appellant was represented by Jane Hawthorne Merrill, Esquire. The Respondent (the State) was represented by Assistant Solicitor Micah Black and Assistant Solicitor Elizabeth White of the Eighth Circuit Solicitor's Office. At the conclusion of trial, the jury convicted Appellant of one count of trafficking methamphetamine greater than ten grams but less than twenty eight grams and one count of unlawful neglect of a child, and acquitted Appellant of one count of possession with intent to distribute marijuana. Following the verdict, the trial judge deemed that Appellant's trafficking conviction would be his third offense and sentenced Appellant to a term of thirty years' imprisonment, as well as an additional consecutive term of ten years' imprisonment for Appellant's unlawful neglect of a child charge, for an aggregate sentence of forty years' imprisonment. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

On January 27, 2016, officers with the Greenwood County Sheriff's Office utilized the services of a confidential informant, Debbie Tucker, to arrange a controlled buy of methamphetamine. (R. 88). Tucker made a phone call to Brandy Wilson and arranged to purchase a half ounce of methamphetamine from Appellant and Wilson at a car wash in Greenwood that evening. (R. 105-6). Police were told by Tucker that they should be looking for a dark colored Chevrolet Tahoe. (R. 89). Law enforcement arrived early to set up surveillance at the buy location. Before Tucker could arrive, a dark colored Chevy Tahoe arrived driven by Wilson. (R. 90). Appellant was in the passenger seat, and Appellant's five-year-old grandchild was in the back. (R. 227). Law enforcement called off the controlled purchase and initiated a traffic stop on the Tahoe. (R. 90, 109). Appellant was seen "fidgeting" by law enforcement, and it appeared to Captain Jarvis Reeder that Appellant was attempting to hide something. (R. 226-27). Appellant was read his *Miranda* rights and made a statement to law enforcement admitting that he did have drugs in his pants near his testicles. (R. 229-31). Law enforcement then searched Appellant's person and located two plastic bags of suspected drugs underneath Appellant's testicles. (R. 233). Appellant was then placed under arrest.

At trial officers Josh Hood, Chad Cox, and Jarvis Reeder each testified about finding drugs in Appellant's crotch area. (R. 145-46, 158, 233). Furthermore, Captain Reeder testified that Appellant made a *Mirandized* statement admitting he had drugs inside his pants. (R. 229-31). Wilson also testified Appellant sent her a letter after the arrest encouraging her to make statements to Appellant's attorney regarding Appellant's lack of culpability. (R. 192-93). Appellant specifically urged Wilson to tell his attorney that Tucker had sold them a camper with drugs inside of it, and that they were merely returning Tucker's drugs to her. (R. 192-93).

Officer Bryan Louis testified about his involvement with the arrest as well. Louis was asked by the State: "Were Ms. Wilson and Mr. Vaughn placed into custody?" (R. 125, line 3). Louis responded: "They were. I had an active arrest warrant for Mr. Vaughn from a previous incident." (R. 125, line 4-5). Appellant immediately objected, and the objection was sustained. After a short conference outside the presence of the jury, the trial judge issued the following curative instruction:

Ladies and Gentlemen, the last testimony offered that was objected to by Defense that there was an active arrest warrant. The existence of that should not be considered by you at all. It should not even come up during your deliberations, and it should not even be discussed in the jury room when you begin your deliberations. This is not evidence for you to consider. We are here on three charges and three charges only, and it's those three charges that you are to consider and nothing else.

(R. 129). The State did not mention the active arrest warrant for the rest of the trial nor did it attempt to do so. The jury found Appellant guilty on two of three counts. Appellant then filed his appeal.

ARGUMENT

I.

The trial judge did not abuse his broad discretion by declining to grant a mistrial in Appellant's case because the active arrest warrant was only mentioned one time and no details about the content of the arrest warrant were given, and the trial judge provided a thorough curative instruction that cured any possible prejudice to Appellant. Finally, any alleged error is harmless considering the overwhelming evidence of Appellant's guilt presented at trial.

A. Lack of prejudice to Appellant

Appellant contends that the trial judge abused his discretion by refusing to grant a mistrial after a witness made a single mention of an active arrest warrant for Appellant that was not related to the charges for which Appellant was on trial. Appellant contends the reference to the warrant improperly influenced the jury to decide the case based on prejudice instead of the evidence presented at trial. The State contends the trial judge did not abuse his discretion in declining to grant a mistrial because there was only one vague reference to an outstanding warrant, after which the trial judge provided an immediate curative instruction advising the jury not to consider the existence of the warrant in its deliberations. Additionally, any error that may have occurred is harmless in light of the overwhelming evidence presented against Appellate at trial.

Our appellate courts have consistently held that the standard of review for determining whether a mistrial should have been granted is an abuse of discretion. "The decision to grant or deny a mistrial is within the sound discretion of the trial judge." State v. Thompson, 352 S.C. 552, 560, 575 S.E.2d 77, 82 (Ct. App. 2003). "The court's decision will not be overturned on appeal absent an abuse of discretion amounting to an error of law." Id. "The power of a court to declare a mistrial ought to be used with the greatest caution under urgent circumstances, and for

very plain and obvious causes” stated into the record by the trial judge. Thompson, 352 S.C. at 560, 575 S.E.2d at 82, *citing* State v. Kirby, 269 S.C. 25, 28, 236 S.E.2d 33, 34 (1977). “A mistrial should not be granted unless absolutely necessary.” State v. Council, 335 S.C. 1, 13, 515 S.E.2d 508, 514 (1999). Instead, the trial judge should exhaust other methods to cure possible prejudice before aborting a trial. Id. In order to receive a mistrial, the defendant must show error and resulting prejudice. Id.

In this case, the solicitor asked a yes or no question to a law enforcement witness, and the witness gave an unsolicited response that mentioned an unrelated active arrest warrant for Appellant. (R. 125). No details were given about the arrest warrant by the witness. The trial judge immediately sent the jury out in order to have an *in camera* conference with the attorneys. The trial judge remarked that “I’m confident that it was not intentional on the part of the State. It’s just something that’s come out.” (R. 126, lines 9-11). The trial judge issued a curative instruction as soon as the jury returned. (R. 129). The arrest warrant was not mentioned again for the rest of the trial, and the State never attempted to introduce any evidence relating to it.

The facts in this case are very similar to the facts in State v. Thompson, 352 S.C. 552, 560, 575 S.E.2d 77, 82 (Ct. App. 2003). In Thompson, the solicitor asked an open ended question of a law enforcement witness about what police officers were trying to ascertain when they approached the defendant’s residence. The witness answered, “We were trying to ascertain if the suspect, the defendant at the time that we knew had warrants, Mr. Thompson, if he was actually at the residence or not.” Thompson, 352 S.C. at 560, 575 S.E.2d at 82. Like the current case before the Court, Thompson featured a single, vague reference to outstanding arrest warrants against the defendant. No details were given about the nature of the warrants, and the reference to the warrants was not solicited by the State. The Court found that “vague reference to

a defendant's prior criminal record is not sufficient to justify a mistrial where there is no attempt by the State to introduce evidence that the accused has been convicted of other crimes." Id. at 561, 575 S.E.2d at 82. In the case at bar, the reference to the warrant was also vague, and there was no attempt by the State to introduce evidence of other crimes.

The facts of this case stand in contrast to the case cited by Appellant. In State v. Ravencraft, 222 S.C. 139, 71 S.E.2d 798 (1952), the defendant was on trial for a second time after a mistrial had already been declared on a previous occasion because the State introduced evidence of the defendant making entry to another house the same night as the incident for which he was on trial. Ravencraft, 222 S.C. at 140, 71 S.E.2d at 799. The State repeated the same error in the second trial. Our Supreme Court determined that the reference to the previous crime was clearly intentional on behalf of the State. The Court remarked: "It was clearly an attempt to get this testimony before the jury and the motive could hardly be said to be with the intention of aiding the appellant." Id. at 142, 71 S.E.2d at 800. In addition to the reference being intentional, it was also very specific. The State specifically mentioned the defendant had committed the same crime he was on trial for, just a few hours earlier.

The case currently before the Court is clearly different from the facts presented in Ravencraft. In our case, the trial judge acknowledged that he believed the reference was not intentional on the State's part. (R. 126, lines 9-11). Furthermore, the State did not provide any details about the pending warrant. The situation might have been different had the witness made clear reference to a drug related warrant or an unlawful neglect of a child warrant. However, without any detail about the nature of the warrant, there was no way for the jury to draw a clear correlation between the active warrant and the charges Appellant faced. Accordingly, Appellant

was not prejudiced by the single mention of a vague arrest warrant, and the trial judge was within his discretion not to declare a mistrial. Appellant's convictions and sentences should be affirmed.

B. Curative Instruction

Appellant contends that the single mention of an unrelated arrest warrant improperly influenced the jury to decide his guilt based on prejudice instead of the evidence presented at trial. However, the trial judge's curative instruction eliminated any possible prejudice to Appellant. "A curative instruction is generally deemed to have cured any alleged error." State v. Dial, 405 S.C. 247, 258, 746 S.E.2d 495, 500 (Ct. App. 2013). "If the trial judge sustains a timely objection to testimony and gives the jury a curative instruction to disregard the testimony, the error is deemed to be cured." State v. George, 323 S.C. 496, 510, 476 S.E.2d 903, 912 (1996).

In the current case, the trial judge sustained Appellant's objection and issued a curative instruction. (R. 129). The trial judge clearly explained to the jurors that they were not to consider anything regarding the existence of another arrest warrant, nor were they to even discuss it in their deliberations. (R. 129).¹ Furthermore, in the trial judge's closing instructions to the jury, he instructed jurors to disregard any testimony that was stricken from the record. (R. 342, lines 13-16). Therefore, absent any showing to the contrary, any error that may have occurred is deemed to be cured. Appellant's convictions and sentences should be affirmed.

¹ It is worth noting that Appellant did not object to the sufficiency of the curative instruction until after another witness had testified. State v. Moyd, 321 S.C. 256, 263, 468 S.E.2d 7, 11 (Ct. App. 1996) (noting an objecting party is required to contemporaneously object to the sufficiency of a curative instruction or the issue is not preserved for appeal). Appellant eventually did provide an objection to the curative instruction later in the trial. (R. 152)

C. Harmless Error

Appellant contends that the single mention of an unrelated arrest warrant improperly influenced the jury to decide his guilt based on prejudice instead of the evidence presented at trial. However, considering the overwhelming evidence of Appellant's guilt, any error that resulted from the jury hearing about the unrelated arrest warrant which was not cured by the judge's instructions was harmless.

"Whether an error is harmless depends on the circumstances of the particular case." Thompson, 352 S.C. at 562, 575 S.E.2d at 83. "No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case." State v. Mitchell, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985). "Where a review of the entire record establishes the error is harmless beyond a reasonable doubt, the conviction should not be reversed." Thompson, 352 S.C. at 562, 575 S.E.2d at 83. "Error is harmless when it could not reasonably have affected the result of the trial." Mitchell, 286 S.C. at 573, 336 S.E.2d at 151 (quoting State v. Key, 256 S.C. 90, 180 S.E. 2d 888 (1971)).

The evidence presented against Appellant at trial was overwhelming. Law enforcement utilized a confidential informant to set up a controlled purchase of methamphetamine from Appellant through his codefendant, Brandy Wilson. (R. 105-6). Law enforcement located Appellant with Wilson in the same vehicle that Tucker said they would be driving. (R. 227) Captain Reeder testified Appellant appeared to place something in his pants after police had stopped his vehicle. (R. 226-27). Captain Reeder also testified Appellant made a *Mirandized* statement admitting he had drugs in his pants. (R. 229-31). Multiple law enforcement witnesses testified Appellant had bags of methamphetamine in his crotch area near his testicles. (R. 145-46, 158, 233). Finally, Wilson read a letter to the jury from Appellant, in which Appellant

encouraged Wilson to claim that they were returning drugs to Tucker and that Appellant did not know his grandson would be in the car when they left to deliver the drugs. (R. 192-93).

When considering the record as a whole, the prejudice to Appellant of a single reference to an unrelated arrest warrant pales in comparison to the evidence against Appellant. There was abundant evidence in the record for a reasonable jury to conclude Appellant was guilty. The State submits the jury was convinced of Appellant's guilt by the Appellant's actual possession of drugs and Appellant's attempt to get his codefendant to lie about his culpability for the drugs, rather than by a single, vague reference to a warrant that the trial judge told it to ignore. Therefore, any error resulting from the witness' reference to an outstanding warrant is a harmless one. Appellant's convictions and sentences should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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December 11, 2017

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2016-002300

RECEIVED

DEC 11 2017

SC Court of Appeals

THE STATE,

Respondent,

v.

ERNEST EDWARD VAUGHN, SR.,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies the Final Brief of Respondent complies with Rule
211(b), SCACR

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ATTORNEYS FOR RESPONDENT

December 11, 2017

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Earnest Edward Vaughn, Sr., Appellant.

Appellate Case No. 2016-002300

Appeal From Greenwood County
Donald B. Hocker, Circuit Court Judge

Unpublished Opinion No. 2018-UP-409
Submitted September 1, 2018 – Filed November 7, 2018

AFFIRMED

Appellate Defender Taylor Davis Gilliam, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jonathan Scott Matthews, both of
Columbia; and Solicitor David Matthew Stumbo, of
Greenwood, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Dial*, 405 S.C. 247, 257, 746 S.E.2d 495, 500 (Ct. App. 2013)
("The decision to grant or deny a mistrial is within the sound discretion of the trial

court." (quoting *State v. Wiley*, 387 S.C. 409, 495, 692 S.E.2d 560, 563 (Ct. App. 2010)); *id.* ("The trial court's decision will not be overturned on appeal absent an abuse of discretion amounting to an error of law." (quoting *Wiley*, 387 S.C. at 495, 692 S.E.2d at 563)); *State v. Thompson*, 352 S.C. 552, 561, 575 S.E.2d 77, 82 (Ct. App. 2003) ("[A] vague reference to a defendant's prior criminal record is not sufficient to justify a mistrial where there is no attempt by the State to introduce evidence that the accused has been convicted of other crimes."); *State v. George*, 323 S.C. 496, 510, 476 S.E.2d 903, 911-12 (1996) ("If the trial [court] sustains a timely objection to testimony and gives the jury a curative instruction to disregard the testimony, the error is deemed to be cured.").

AFFIRMED.¹

LOCKEMY, C.J., and THOMAS and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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November 27, 2018

The Honorable Chastity Copeland
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REMITTITUR

Re: The State v. Earnest E. Vaughn, Sr.
Lower Court Case No. 2016GS2400539, 2016GS2400541
Appellate Case No. 2016-002300

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
Taylor Davis Gilliam, Esquire
Jonathan Scott Matthews, Esquire
David Matthew Stumbo, Esquire